From Grievance to Attack: The Modus Operandi of Judicial Attackers, with Tips for Your Protection

By John F. Muffler

Be an active participant in your own survival. That is how I begin every safety presentation, whether to judges, hospital staff, or undergraduate students. Being actively engaged means you are not relying on someone else to help you; that you, alone, are aware of your environment, of what "feels off" or "doesn't fit," enabling you to make appropriate life-saving decisions.

To be a good judge, you must hear courteously, answer wisely, consider soberly, and decide impartially.[1] This is embodied in the image of a blindfolded Lady Justice outside courthouses. But to navigate your safety and security, that blindfold must be removed, or you will never see the escalating threat right in front of you or the potential risk around the corner, or react accordingly in developing pre-incident indicators of violence that may befall you.

It is incumbent on you to understand that you must be your own protector. Security, bailiffs, law enforcement, or whomever you rely on for protection are not going home with you, commuting with you, or escorting you to your vehicle (in most cases)—all of which are locations where most judges have been targeted for attack—especially the home, *where all attacks occurred on judges and/or their loved ones cited in this article*.

I will specifically focus on the targeted attacks to the Honorable Judges Esther Salas, Julie Kocurek, and Joan Lefkow.

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The Courtroom Outburst

Violence can be divided into two types: impromptu and premeditated. As a judge, you may see reactive or emotional violence in your courtrooms. This is defensive violence and can be driven by a perceived threat like an unexpected decision, feeling their voice was not heard or feeling they were treated unfairly, or emotionally charged victim and offender (to include families) were in proximity in the courtroom, as just a few examples. Some other drivers can include mental instability, anxiety, or drugs and alcohol and should be treated with the utmost dignity and respect by the court.

This type of affective violence is often detectable and, therefore, preventable if one is aware of the behavioral cues. While we have seen judges and staff get hurt in these court fight scenarios, especially when security personnel are disarmed during a melee, it is still a safer environment overall and not a location where a premediated attack would normally occur. In short, someone lashing out is likely to be stopped by court personnel or security, if not you.

To mitigate an emerging threat in your courtroom, consider the advice of your colleagues from across the country with these 10 tips: use de-escalation techniques, actively listen, let them talk, do not be the cause of someone losing their dignity, take a recess during times of heightened tension, coordinate with security, come up with a predetermined benign code word that allows you and your staff to covertly warn of potential trouble, have an escape plan and practice it, separate opposing parties in the gallery and have them leave the courtroom at separate times, and do not ever be afraid to use your duress button.

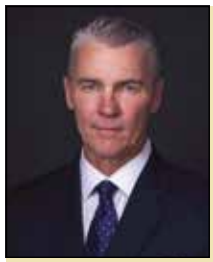
A Fair Exchange Ain't No Robbery

A Philadelphia La Cosa Nostra witness who I protected during testimony of a high-profile racketeering case once told me, in terms of street law, that "a fair exchange ain't no robbery." In other words, if someone felt they were wronged, whether a real or imagined grievance, they had the right to exact whatever punishment they deemed necessary. This usually meant a physical assault or murder to even the exchange.

In examining the modus operandi of judicial attackers, we see them follow a pathway to violence.[2] These steps include grievance, ideation, research and planning, pre-attack preparation, probing and breaching, and then the attack. This follows a pattern of premeditation, the second type of violence.

- *Grievance*—the first step along the pathway because of your decision. Their grievance is specific to the court case before you. To the judicial pursuer, it does not matter if your decision was legally sound. What matters is they get to decide if they were wronged in some way. Thus begins the "fair exchange."
- *Ideation*—the ruminating and thinking of getting even by someone influenced by your decision. While U.S. Supreme Court Justice Brett Kavanaugh would not have known his potential attacker, the individual who sought to carry out his violent attack did so because of his disagreement with his opinion. That said, it is more likely that you will know your attacker because they were in a case before you.
- *Research and planning*—exploiting personally identifiable information (PII) on the internet as well as looking at your social media accounts for any PII about you, or your family. Kocurek's attacker used her son's Instagram account to track him and knew they would be at a high school football game on a Friday night. He laid in wait outside her home, placed a bag of leaves in the driveway to make the car stop, and shot her four times, point-blank, in front of her family.
- *Pre-attack preparation*—in most incidents, this equated to obtaining a weapon. But some instances included developing an explosive parcel delivered to the home, such as the devices that killed Federal Appeals Judge John Vance and injured his wife; and a week later, unrelated, Maryland Circuit Judge John Cordeman, nearly killing him; or making poisoned chocolates, delivered to U.S. District Court Judge Charles Brieant's home, nearly killing his wife.
- *Probing and breaching*—depending on the pursuer, this can be the first or second overt act in furtherance of their plan. They will probe areas of vulnerability—a soft target like your home, a kid's soccer game, your favorite lunch spot, your assigned

Put "what if" plans in place now to protect your home, private information, and places you normally visit.



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parking spot—and breach this location after exploiting social media posts and careful planning. This is so they can understand the playing field and see what, if any, security you may have and if they can approach without notice and escape without capture. Kocurek's, Lefkow's, and Salas's attackers all engaged in physical surveillance on multiple occasions of their target location well before carrying out the attack.

- *The attack*—the final step along the pathway. The attack can be a compressed period of days or weeks or take years to develop. It all depends on the individual and their inhibitors and triggers. Relatively speaking, pathway timeframes for Salas's, Kocurek's, and Lefkow's attackers were compressed. In June 2022, Juneau County, Wisconsin, Circuit Court Judge John Roemer, who retired in 2017, was murdered in his residence by a litigant he had not seen in over 15 years. That is not an uncommon delay for an attack on a judge, from my experience.

Pathways to Safety

The grievance step may be mitigated if you follow your colleagues' advice above. Conversely, it can be the catalyst that propels them.

While some states, as well as the federal government, have passed legislation to protect your PII, most have not. In an interview with Judge Salas for this article, she states:

> State judges face all the same threats that federal judges do, and violence against the courts also threatens state court systems. I am very pleased by the example New Jersey has set, and I certainly think other states should consider similar laws. To my knowledge, at the state level, there is no current way to track the number of inappropriate communications received by state judicial officers. Much remains to be done to protect judges at all levels of government. With the passage of the federal legislation, the law now authorizes a state grant program to incentivize states to establish or expand programs to protect and prevent disclosure of judges' PII. We need to make protecting our democracy a priority in this country, and it starts by ensuring that ALL judges are free to do their jobs without fear of reprisal, retribution, or death.[3]

It is not wise for you to rely solely on those responsible for your safety at the court.

Be mindful, even if your PII is protected, they can still follow you from the courthouse and obtain information for a future attack. They will also scan your loved one's social media posts for information. Opt out and scrub the internet using open-source platforms[4] and stay on it. Data aggregators will constantly update and share your information.

It stands to reason you might recognize your attacker. Seeing, understanding, and acting on baseline changes in your environment are cornerstones to being actively engaged. Report anything suspicious to law enforcement so they can determine intentions of what you feel "doesn't fit." For example, a litigant who is not from your community ends up sitting behind you in your place of worship or a bullet found placed on your front step are just two examples of intimidation I have investigated.

We have heard the campaign "See Something, Say Something," which has worked well in stopping intended violence. However, before seeing it, you may receive an intuitive signal that something is not right, or, as Salas told me, "if you feel something, do something."[5]

Countering an unknown, possible future attack does not have to be daunting. Have open and honest discussions about the risk you face with loved ones and law enforcement and put "what if" plans in place now to protect your home, private information, and places you normally visit.

Because the pursuer will eventually mobilize to action, they will tip their hand projecting intentions. Good awareness, home[6] and vehicle security, protecting PII, and changing your daily routines must all be practiced. Security expert Gavin de Becker, in his book *The Gift of Fear*, states, "In fact, assassination not only can be prevented, it is prevented far more than it succeeds. Though assassins have a few advantages over their victims, there are many more factors working against them. Literally, thousands of opportunities exist for them to fail. And only one slender opportunity exists to succeed."[7]

Typologies and Commonalities Across Three Attacks

It is extremely rare that they will advance a threat (a promise) to you about their intentions and then carry it out. They will hunt, not howl,[8] as they do not want to be caught.

Pathway behaviors are but one of the warning behavior typologies[9] and existed in all the cases listed above. While judicial attackers do not check every warning behavior box in each individual attack case, they can present others, individually and/or collectively, such as last resort, fixation, leakage, energy burst, novel aggression, and a directly communicated threat.

I do not know of any judicial pursuer who did not project blame[10] onto a judge for their decision. This, again, speaks to

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the "fair exchange" mindset and an initial justification for attacking. This mindset is one of four elements that can be evaluated by threat assessors to help predict violence: perceived justification, perceived alternatives, perceived consequences, and perceived ability—or JACA."[11]

Salas's attacker exhibited a pathological fixation, possibly driven by misogynistic beliefs; an energy burst by conducting drive-bys of her home; and novel aggression by committing a murder beforehand[12] to possibly ready himself for his act of vengeance against the judge.

Kocurek's assailant also exhibited a pathological fixation, likely driven by his desire to continue his criminal enterprise, an energy burst by following her while she drove to work, driving by her residence numerous times, jogging through her neighborhood, and even peering into her home window. Leakage[13] and a directly communicated threat (that is then carried out) are rare for a judicial pursuer. It is disturbing to know that her protectors dismissed these two signals, and the elements of JACA, as the attacker's girlfriend warned law enforcement of the death threat one week prior to the assassination attempt.

The murderer of Judge Lefkow's mother and husband left a note for his landlord to take care of his cat and dog because he was not returning, an act of last resort, before embarking on his plan to right his perceived wrong. He, too, became fixated as his medical malpractice case did not achieve the financial outcome he had hoped for.

Salas's and Lefkow's attackers committed suicide, more common among active shooters in school and workplace settings, while in pursuit of other judges they were targeting after their initial judicial act, as noted by the hit lists found on their bodies.[14]

Be an Active Participant

It is not wise for you to rely solely on those responsible for your safety at the court. As de Becker states, decrease an attacker's chances by increasing your own. Avoid self-inflicted mistakes like being predictable, advertising on your vehicle that your child is an honor student at the local school, or driving with vanity plates. At speaking engagements, I often hear someone yell out, dismissively, "If they want to get me, they'll get me." This parochial thinking will only guarantee a successful attack.

Challenge your court and legislature about the grant program in the Daniel Anderl Act to close safety and security gaps at the state and local levels. Converse with your protectors on ideas to better protect you, but please speak with your colleagues about their safety plans, in and out of court. I have learned from many of them, and so can you.

Be safe. ■

Endnotes

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