2020 was a year of change for everyone. For the author, it was a time of professional realignment. For nearly 20 years, I have practiced law in Richmond, Ky., as part of a typical small-town civil practice. In the past few years, I took on some part-time duties teaching undergraduate law courses at Eastern Kentucky University (EKU). In 2020, I began a transition to full-time teacher and part-time practitioner. At the same time, the pandemic was realigning our world and the practice of law.

To try to understand the impact on our shared profession, I approached the Kentucky Bar Association (KBA) about the possibility of conducting an online survey of bar members in early 2021 making use of EKU’s Qualtrix survey resources. My hope was to learn about how the pandemic was changing the practice of law in Kentucky. I had my own questions about what worked and what didn't work. I also wanted to create some sort of a historical record of how Kentucky lawyers and courts had adapted to these historic events. That the court system kept operating throughout 2020 was an impressive feat that was the culmination of no small effort by thousands of judges, lawyers, court personnel, and staff across the Commonwealth.

Personally, practicing during the pandemic was a great change. Gone were regular civil motion dockets and the associated collegiality with the local bar. Instead, court took place by video conference. For most of 2020, client meetings were by Zoom, telephone, or while separated by masks and a long conference table. Fist-bumps replaced handshakes. Daily chats with courthouse staff, bailiffs, and colleagues were replaced by the occasional waive separated by a few layers of plexiglass. We all lived these changes.

Previously unheard-of ideas like social distancing, zoom court, and video depositions have become part of the normal day-to-day for Kentucky’s legal community. This disruption is still being sorted out daily in law offices and courtrooms throughout the Commonwealth as we return to normal in 2021.

**ABOUT THE SURVEY**

Survey results were collected over four days in January 2021. Bar members were sent the survey link by email twice during the survey period. Overall, the response rate from Bar membership was extraordinary. Over 2,300 members of the Bar took part in the anonymous online survey. Respondents included Bar members from all areas of expertise in both public and private practice. Similarly, responses came from across the Commonwealth, representing nearly every county and judicial circuit. Participants took about 10-15 minutes each to give insight into their experiences practicing during the pandemic. Kentucky Bar members provided candid, thoughtful responses on a wide range of topics related to the pandemic’s impact, access to justice, collegiality, and quality of life. The membership responded at a very high rate for an online survey, with over 11% of total statewide membership participating. Full survey results and raw responses are available at www.kybar.org/pandemicsurvey.

The survey generated a huge amount of data, and members are encouraged to view the entirety of the results on their own. This article surveys just a few of the more notable patterns and highlights from this study.

**A COMMON EXPERIENCE**

No part of life was free from disruption by the pandemic and the practice of law was no different. Even as we begin the slow return to jury trials in mid-2021, the practice is still adapting and far from finding its “new normal.”

For the most part, responses to the survey were consistent across geographic and practice areas. Some of the notable outliers and exceptions are mentioned later in this article. However, concerning the pandemic’s impact on practice, the state’s Bar really were, in the parlance of our time, “all in this together.”

Like many Bar Associations across the country, KBA’s Bar is, to be delicate, distinguished and experienced. About 39% of the overall Bar membership has been practicing longer than 25 years. This distribution isn’t unusual and is consistent with nationwide trends for many professions. The demographics of the Bar are the result of any number of factors, from Baby Boomer demographics and finances to changing ideas and notions about retirement. Survey respondents generally mirrored the overall make-up of the Bar by geography, age, and practice, meaning that the results give a meaningful and telling insight into the pandemic’s impact.

**OVERALL BAR MEMBERSHIP**

<table>
<thead>
<tr>
<th>Admitted 2 years or less</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admitted 3-5 years</td>
<td>681</td>
<td>590</td>
<td>1271</td>
</tr>
<tr>
<td>Admitted 6-10 years</td>
<td>1545</td>
<td>1138</td>
<td>2683</td>
</tr>
<tr>
<td>Admitted 11-15 years</td>
<td>1428</td>
<td>1029</td>
<td>2457</td>
</tr>
<tr>
<td>Admitted 16-20 years</td>
<td>1133</td>
<td>884</td>
<td>2017</td>
</tr>
<tr>
<td>Admitted 21-25 years</td>
<td>1218</td>
<td>790</td>
<td>2008</td>
</tr>
<tr>
<td>Admitted over 25 years</td>
<td>5672</td>
<td>1864</td>
<td>7536</td>
</tr>
</tbody>
</table>

**Total**

12442 | 6854 | 19296
OVERALL IMPACT
No survey was required to know that the overall impact of a world-changing pandemic was negative. About 2/3 of respondents statewide agreed that the pandemic had a negative impact on their personal practice. However, considering the scope of the pandemic’s reach and impact, this is probably a relatively, “good sign.” While courts were closed or moved online, law firms themselves were generally spared from lockdown orders. And, unlike some industries, most firms readily adapted to online work. By use of Zoom, social distance, and staggered staffing, most firms and organizations continued to work and practice while some parts of the economy were generally shuttered.

The negative impact was slightly worse in rural areas (70%) versus urban (62.5%). This rural/urban divide also showed up in outcomes in terms of perceived access to justice, as discussed below. Due to reasons of infrastructure or some other factors, it appears that rural areas generally were harmed more than smaller cities or urban areas. By practice area, the criminal justice system appears to have suffered the worst. Over 81% of public defenders and 73% of prosecutors agreed that the pandemic had a negative impact on their practice experience in 2020. It was a continuing trend across all areas surveyed that criminal practice attorneys had the worst of it both professionally and personally during the pandemic. Without jury trials to force a conclusion to prosecutions, caseloads have grown and grown, slowing down and nearly overloading the system. In the survey’s open responses defense attorneys bemoaned difficulties in contacting clients while prosecutors lamented the inability to advance cases.

In terms of financial impact, about half of responding attorneys agreed the impact was negative for their personal practice. Most everyone believed their personal practice fared better than other attorneys and firms in their community. When asked about the overall financial impact on their communities as a whole outside of the legal system, the respondents’ views were nearly 90% adverse. This isn’t surprising the pandemic of 2020 was an unprecedented economic disruption for everyone. Between illness, death, and lockdowns, the disruption on the U.S. and world economies was unprecedented in recent times.

Many attorneys noted their firms or organizations were running “lean,” since the disruptions began. It appears that at some of these efficiencies will carry forward to the future. About one-third of firms indicated that they had or would reduce staffing going forward. While videoconference may achieve efficiencies, it is unclear what the result will be for practices built on pre-covid business models.

“I’M NOT A CAT.”
A Texas prosecutor rose to notoriety when an errant Zoom “cat filter,” turned a routine hearing into a national meme. On the whole, the Kentucky Bar’s transition to online practice appears to have been a good deal smoother than that. While no doubt the move to online court has led to its share of curious moments in the Commonwealth1, the Bar on the whole appears to have adapted well to the changing technological needs.

Over 88% of Bar members agreed generally that their organization or firm had provided them with the technology necessary to practice successfully during the pandemic. Over 93% of members agreed that technology was a key part of their practice now. While multiple different videoconference methods were used in 2020, Zoom was the clear winner. Before the pandemic, less than 10% of practices ever used Zoom. Since the pandemic began, 90% of attorneys have used Zoom on a regular basis as part of their practice. Still, just over 50% of attorneys agreed that technology was a source of stress in their practice. This number did not vary greatly between the ages of different practitioners, meaning that everyone was equally frustrated at times by our new virtual norms.

Seventy-two percent of respondents reported participation in court dockets conducted by videoconference since the start of the pandemic. Of those who had participated in virtual dockets or hearings, attorneys rated video dockets as follows:

- Just as effective as in-person 36.41%
- Not as effective as in-person 47.77%
- More effective than in-person 13.19%

### Please Describe the Impact of the Pandemic Overall

| Negative (Your community) | 51.5% |
| Somewhat negative (Your community) | 38.1% |
| Neither Positive or Negative (Your community) | 6.3% |
| Somewhat positive (Your community) | 0.6% |
| Positive (Your community) | 0.2% |
| Prefer not to answer/No Opinion or Not Applicable (Your community) | 3.2% |
| Negative (A typical law firm in your community) | 27.9% |
| Somewhat negative (A typical law firm in your community) | 47.3% |
| Neither Positive or Negative (A typical law firm in your community) | 11.5% |
| Somewhat positive (A typical law firm in your community) | 2.0% |
| Positive (A typical law firm in your community) | 0.4% |
| Prefer not to answer/No Opinion or Not Applicable (A typical law firm in your community) | 10.9% |
| Negative (Your firm) | 20.1% |
| Somewhat negative (Your firm) | 29.9% |
| Neither Positive or Negative (Your firm) | 26.8% |
| Somewhat positive (Your firm) | 8.3% |
| Positive (Your firm) | 5.8% |
| Prefer not to answer/No Opinion or Not Applicable (Your firm) | 9.1% |
Workers compensation was the notable exception. Unlike other areas, workers compensation appears to have benefitted, or at least not suffered, from the temporary move online. Among those practicing primarily in that field, 60% believed that online dockets were just as effective. Anecdotally, many workers compensation attorneys reported greater efficiency and convenience by switching to video hearings. Similarly, probate practitioners were also more favorable to online proceedings, with a majority approving of this as “just as effective” and another 20% actually finding online probate hearings more effective. For at least these areas, it may make sense to have a conversation about to what extent video proceedings should remain part of “the new normal.”

With regard to video depositions, 67% of attorneys believed they were not as effective as the in-person examinations that were prevented by social distancing. Again, workers compensation practitioners disagreed, with 45% of respondents from that practice area believing that video depositions could be just as effective and about 10% finding video depositions more effective.

Given the circumstances and challenges faced by the rapid move online, it is a testament to the professionalism and work of the Bar, judiciary, and court administration that a profession built on personal contact and relationships to so rapidly transition to the “new normal” of 2020.

**ACCESS TO JUSTICE**

Through the tremendous efforts of judges, clerks, and staffers across the Commonwealth, courts did remain open throughout the worst of 2020. However, the vast majority of attorneys agreed that the pandemic had adversely impacted access to legal services in their community.

A similar majority agreed that client or constituent communication suffered during the pandemic. The problems of access to services and communication were viewed as worse by significant margins for those practicing in rural areas compared to the rest of the state. Similarly, about 45% of attorneys agreed that the pandemic made it significantly harder to meet and be hired by new clients. This number was markedly higher (rising to 55.6%) in rural communities. It remains to be seen what downstream economic impact this disruption will have on private practices in coming years. It may well be that the worst of the economic disruption is yet to come as the pipeline for future work narrows over the coming months as a result of the 2020 intake disruption.

| Agree (The pandemic has adversely impacted the access of citizens to the justice system.) | 24.4% |
| Somewhat agree (The pandemic has adversely impacted the access of citizens to the justice system.) | 32.1% |
| Neither agree nor disagree (The pandemic has adversely impacted the access of citizens to the justice system.) | 20.3% |
| Somewhat disagree (The pandemic has adversely impacted the access of citizens to the justice system.) | 14.3% |

Disagree (The pandemic has adversely impacted the access of citizens to the justice system.) 3.6%  
Strongly disagree (The pandemic has adversely impacted the access of citizens to the justice system.) 1.0%  
Strongly agree (The pandemic has made contact and communication with clients more difficult.) 14.7%  
Agree (The pandemic has made contact and communication with clients more difficult.) 25.6%  
Somewhat agree (The pandemic has made contact and communication with clients more difficult.) 23.0%  
Neither agree nor disagree (The pandemic has made contact and communication with clients more difficult.) 12.8%  
Somewhat disagree (The pandemic has made contact and communication with clients more difficult.) 9.9%  
Disagree (The pandemic has made contact and communication with clients more difficult.) 11.1%  
Strongly disagree (The pandemic has made contact and communication with clients more difficult.) 2.8%  
Strongly agree (The pandemic has made it more difficult for potential clients to find attorneys.) 7.6%  
Agree (The pandemic has made it more difficult for potential clients to find attorneys.) 19.9%  
Somewhat agree (The pandemic has made it more difficult for potential clients to find attorneys.) 17.1%  
Neither agree nor disagree (The pandemic has made it more difficult for potential clients to find attorneys.) 36.9%  
Somewhat disagree (The pandemic has made it more difficult for potential clients to find attorneys.) 9.5%  
Disagree (The pandemic has made it more difficult for potential clients to find attorneys.) 7.0%  
Strongly disagree (The pandemic has made it more difficult for potential clients to find attorneys.) 2.0%  

These difficulties in client contact and communication were not limited to the Commonwealth. An American Bar Association member survey echoed these same difficulties:

| Getting Business from New Clients | 52% |
| Setting Up Client Meetings | 33% |
| Getting Decisions from Clients | 30% |
| Your Productivity on Client Matters | 30% |
| Getting New Business from Existing Clients | 29% |
| Your Responsiveness to Client Requests | 10% |

“Access to justice,” is a tough concept to define. It probably involves some indeterminate mix of the ability to get legal counsel, the ability to receive meaningful advice, and a chance to have access to the courts or some other process to obtain remedies. To some extent,
it is one of those concepts, “you know it when you see it.” With regard to the access to justice, KBA members believed:

- Overall, 76.8% believe the pandemic has adversely impacted the access of citizens to the justice system
- This jumps to 86.8% for criminal law and 88.3% for immigration practice
- This jumps to 82.4% for those defining themselves as working in rural areas (all practice areas)
- Overall, 63.3% believe the pandemic has made contact and communication with clients more difficult
- This jumps to 70.6% for those defining themselves as working in rural areas (all practice areas)
- Overall, 44.6% believe the pandemic has made it more difficult for clients to find potential attorneys
- This jumps to 55.6% for those defining themselves as working in rural areas (all practice areas)

Looking at these results as a whole, it appears that, at least in Kentucky, that the worst impacts to access justice may have fallen on some of those least able to bear them—our citizens living in rural, economically-disadvantaged areas. Indeed, for much of Appalachia this may sound like a familiar tale—traditional problems with infrastructure and education have long-made economic downturns and natural disasters, such as recent flooding, hit harder, with a longer and tougher road to recovery. The pandemic was apparently no different.

**CHALLENGES**

Personal health and quality of life have been recognized as challenges to our profession. The practice of law is stressful in the best of times and the 2020 pandemic was not “the best of times,” for many. 28.4% of responding Kentucky attorneys reported that they became depressed frequently. This is entirely consistent with a prior peer-reviewed studies which indicated that 28% lawyers self-reported a major depressive episode within the past year. These numbers show the Bar suffers depressive episodes at about four times the rate of the general population. It may be some small comfort that despite a world-altering pandemic, these numbers did not worsen. However, mental health of Bar members remains a challenge that all of us must help address.

Approximately 48% of attorneys indicated they were aware of other attorneys dealing with mental health issues. Thirty-nine percent indicated they were aware of other attorneys dealing with alcohol or substance issues. Again, rates were notably higher among public defenders, who responded at a 58% rate.

About a quarter of respondents indicated that they were drinking more during the pandemic. The rate was higher for attorneys working for larger law firms, who agreed with this statement at a rate of 40%. No doubt that this uptick in alcohol consumption was not confined to just the legal profession. Research has shown that alcohol sales as a whole grew nationwide by 34% from April to June in 2020 vs. 2019.1 Liquor stores were deemed “essential” and remained open during the worst of the lockdowns. Many liquor store owners described, “every day as a Fourth of July weekend,” as the pandemic raged.

Certainly, the legal profession was not alone in drinking more during the massive disruptions of 2020. However, given our profession’s traditional struggles with alcohol abuse, this uptick should not merely be written-off as part of a larger trend.

**STRESS BY THE NUMBERS**

On the whole, about three-quarters of respondents agreed that practice has become more difficult and more stressful during the pandemic with notable impacts on family and other relationships. With regard to stress, members responded as follows:

- 74.4% of attorneys agreed that practice has become more stressful during the pandemic
- 76.9% agreed practice has become more difficult during the pandemic
- 57.1% agreed that the demands of their practice interfere with my home and family life
- 46.5% agreed that their practice of law has put a strain on my family
- 64.2% agreed they bring stress home with them
- 42.8% exercise less than before the pandemic

These findings are not surprising nor were they limited to the Commonwealth. The American Bar Association’s surveys show similar stresses:

**COMPARED TO A YEAR AGO, ABA MEMBERS MORE OR MUCH MORE OFTEN:**

- Miss Seeing People at the Office 73%
- Feel it is Hard to Keep Home and Work Separate 51%
- Feel Disengaged from your Firm/Employer 49%
- Find your Work is Disrupted on Account of Family and Household Obligations 47%
- Feel Overwhelmed with All of the Things You Have to Do 46%
- Have Trouble Taking Time Off from Work 43%
- Think Your Day Never Seems to End 41%
- Experience Stress About Work 40%
- Think It Would be Better to Work Part-Time not Full-Time 35%
- Think it Would be Better to Stop Working 33%

On a hopeful note, nearly 80% of Kentucky respondents reported that they did have someone they could talk to regarding the stresses of practice. This belief in a support system was about 10% lower among public defenders and members of the judiciary and 7%
lower for attorneys in rural areas. On the whole, 72% of attorneys felt that they had resources available to help them deal with the stresses of practice. Keeping with the trend from other responses, this rate was significantly lower for those involved with a criminal law practice—only 58% of prosecutors and defense attorneys agreed that resources were available to them. While these are positive signs, these results still leave a significant portion of the Bar behind.

One of the more troubling results was that 58.3% agreed the pandemic has made it hard to maintain positive relationships with other attorneys. In litigation in particular, respondents bemoaned the loss of a regular motion docket gathering with colleagues. Particularly in smaller communities, the camaraderie and fellowship of meeting other attorneys at a motion docket is one of the more rewarding and productive parts of practice.

Person to person connections are invaluable to the practice of law and without a doubt the events of 2020 have diminished human contact throughout the Bar. There is a value to seeing and getting to know colleagues in-person as opposed to via a tiny video window. Parent or not, we have all heard stories and anecdotes concerning the need for Kentucky’s students to return to face to face learning for socialization. The Kentucky Bar needs a return to this socialization as well.

All in all, over 76% of Bar members agreed with the statement, “I enjoy practicing law.” Overall, 60% reported that they enjoyed practice more prior to the pandemic. The impact of the pandemic on enjoying practice was significantly more severe for younger attorneys. Unfortunately only 50% of those with less than two years in the practice of law reported being satisfied with the practice of law since the pandemic. There may be a need to reach out to our newest lawyers and find out the source of this displeasure lest we risk losing a generation of colleagues.

LOOKING AHEAD

The disruptions from the COVID-19 pandemic are not over. As the pandemic appears to fade, the Bar must adjust again. The return of jury trials in 2021 is one of many steps along the way to a return to normalcy. Even so, the lasting effects of the pandemic will continue to be felt. The Bar will need to continue to show the same resiliency and adaption as we move forward. No doubt some changes, such as the effective use of video proceedings and depositions, will be here to stay.

While this article discusses some of the survey highlights and findings, members are encouraged to take a moment to review the full survey results. Bar members provided thousands of thoughtful comments and insights regarding our shared experience of the past year. This survey isn’t an answer, but instead a starting point for the conversation about how the Bar has and should continue to adapt. Thanks to all who participated in this study, probably the largest of its kind ever conducted in the Commonwealth. Your time and input will help the entire Bar understand the impact of the events of 2020 on our shared calling. As the data is further analyzed, additional pieces regarding the impact in specific areas may be presented in the Bench & Bar. All members are encouraged to view the survey results themselves and draw their own conclusions. All results are available at www.kybar.org/pandemicsurvey.

ENDNOTES

2 The American Bar Association conducted its own survey on pandemic impacts by email in September-October 2020. https://www.americanbar.org/content/dam/aba/administrative/digital-engagement/practice-forward/practice-forward-survey.pdf, retrieved May 20, 2021. The ABA data was gathered from an online survey using the same software and general methodology as the Kentucky survey. The ABA gathered data from 4,200 members over two months, or approximately 1% of its 400,000 members. In contrast, 2,300 KBA members, or over 11% of the membership, responded to its survey. KBA members should be congratulated on their help in responding and preserving a record of how the 2020 pandemic impacted our profession and communities.
4 Kentucky Lawyer Assistance Program’s 24 Hour Helpline- (502) 226-9373.