1997

Lifting the Bar : Leadership in the attorney-client relationship

Dennis C. Barghaan

University of Richmond

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Lifting the Bar: Leadership in the
Attorney-Client Relationship

by

Dennis C. Barghaan, Jr.

Senior Project
Jepson School of Leadership Studies
University of Richmond

April, 1996
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Dennis C. Barghaan, Jr.
April 24, 1996
Dr. William S. Howe
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Foreword

"The first thing we do, let's kill all the lawyers"
-Shakespeare, *Henry VI*

Although this comment was penned during the European Renaissance, much of its sentiment and emotion still hold true today. We are inundated with television commercials advertising the services of personal injury attorneys claiming that they will take any and all measures to gain our business. The past year will be forever remembered for the trial of football great O.J. Simpson, where defense attorneys Johnnie Cochran and F. Lee Bailey utilized what many would call questionable techniques to obtain a verdict of not guilty from the jury. Undoubtedly, many have had negative experiences with attorneys during their lifetime, and, as a result, the profession as a whole has acquired a rather suspect status within the culture of our nation. The title of this piece, then, may actually confuse the reader at first glance. How could I, a student and scholar of leadership, assign the title "leader," one which normally brings with it a noble and virtuous stature, to a group of individuals who have long carried the slang name "schiester?" "Let's kill all the lawyers" -- though the sentiment is extreme, it certainly strikes a chord in the American consciousness.

The thoughts and feelings of the American public about the legal profession, given the research conducted as a part of this paper, are stereotypical in that primarily the old cliché of "a few bad apples spoil the bunch" appears to apply. It is unfortunate, of course, that the majority of Americans have only one opportunity from which to view the profession and subsequently make a judgment -- the television. Those members of the legal community who are depicted via
this medium are most certainly the exception rather than the rule.

Indeed, many representatives of the legal community have recognized this troubling situation, and a limited dialogue has begun on a search for a solution. Virginia State Senator Mark Earley, a lawyer by trade, addressed the Norfolk-Portsmouth Bar Association in October 1995, and claimed that the profession, in order to survive, must engage in both serious talk and sincere action (Earley, 1996). He stated that the profession has "a need for reform that must not nibble around the edges of public relations, but go deep to the heart of who we are, what we do and why we do it" (ibid.).

It is my opinion that if all attorneys would understand their role as leaders in the attorney-client relationship as described in this study, the beginning of this major reform might take place. By comprehending the diverse issues involved with the study of leadership, and how they are applicable to the practice of law, attorneys might avoid many of the difficulties the currently have in working with clients, and the focus of "lawyering" might once again be placed on people, rather than on the pursuit of the attorney's internal desires. Moreover, examining the relationship between leadership and the practice of law will encourage lawyers to focus not simply on public relations but also on the roles they assume and why they acquire such roles. Not only will such a self-examination almost inevitably lead to more successful relationships, but it will compel members of the legal profession to consider more carefully the obligation they have to those who become their clients. As a result, much of the negative feeling about lawyers within American society will begin to change as the public sees attorneys for what they should be -- leaders in their everyday interactions with clients. It is with this desire to enact change within the legal community that the following project has been undertaken.
Dennis Barghaan
Introduction

"The lawyer who acts for himself has a fool for a client"
-Anonymous

The following project is a research-based study which will attempt to integrate both the theoretical and pragmatic sides of the leadership process with a common phenomenon within the legal world. This phenomenon is the attorney-client relationship, an interaction which has long puzzled various people, including legal scholars, the courts, the media, and even the lay public. Difficulties have arisen from attempts to define the relationship, attempts to determine the most effective way for both the attorney and the client to interact within such an association. Many different definitions and potential techniques have been offered along the way, though one particular view of this complex relationship has been curiously ignored -- leadership.

My purpose in completing this project is several fold. Its origin can be found in the summer of 1995, while I was completing my internship for the Jepson School of Leadership Studies at the Office of the Attorney General for the Commonwealth of Virginia. As a legal assistant to three Assistant Attorneys-General during this time, I was thrust into the life of a lawyer, performing many of the tasks that these overworked individuals would be accomplishing if time were available, including the important task of interacting with a varied clientele. It became immediately apparent to me in my daily activities that my undergraduate education in leadership studies and understanding of the leadership process were constantly assisting me, especially when dealing with clients (in this situation the employees of Virginia's Department of Corrections). As a result, I began to consider both how leadership was pertinent to such operations and whether or not attorneys could benefit from the education that I had received --
given, of course, that they had not received such previously. Further, I have been concerned for
three years now about how to integrate my degree in leadership studies with my future graduate
education in law and, furthermore, my anticipated career as an attorney. All too often, I have
observed, students move on to graduate/professional school without even the slightest
remembrance of the studies to which they committed themselves at the undergraduate level.

Also, I hope that the following project will illuminate the thoughts of faculty, students, and
practitioners of both leadership studies and the law, to the point of understanding that these two
disciplines have been segregated for entirely too long. Thus, the project seeks to provide yet
another dimension to leadership studies for discussion between scholars, students, and
practitioners. Continuing with the same motif, the project will also attempt to open up another
line of discourse within the legal community upon which action and change can occur.

The curriculum goals of the Jepson School of Leadership Studies, under the auspices of
which this project has been undertaken, will certainly be furthered with the completion of the
following study. First, by attempting to join the concepts inherent in the study of leadership with
the practice of law, something which is presently lacking within the curriculum and literature of
leadership studies, said project "appl[ies] the modes of inquiry and knowledge bases of many
disciplines to the study and practice of leadership." Next, by asking attorneys to take a serious
look at the way they interact within the attorney-client relationship, the project will "help others
exercise leadership ... ". Finally, by calling for change within the present status of attorney-client
relations through a greater understanding and knowledge of the process of leadership, the project
"imagine[s] worthwhile visions of the future and inspire[s] others to join in bringing about change
when desirable or necessary."
In attempting to determine whether or not the relationship between attorney and client is one of leadership, one must determine if the activities which are normally conducted by both parties within the relationship bear any significant relation to the varied and diverse concepts which have been associated with the process of leadership. The results of this research indicate that such a relation most certainly does exist. As a result, the project will aspire to articulate said relation between certain issues known to be significant to the leadership process with the practices and procedures found to be central to the attorney-client relationship.

Many of these "leadership issues" will be examined in the following pages. Understanding that there are an exhaustive number of ways in which to look at the leadership process, this project will simply focus on one such model. The Jepson School of Leadership Studies, through its curriculum and specifically through its introductory course, *The Foundations of Leadership*, views leadership as the function of three distinct, but related concepts: leader, follower, and context. The interaction of these concepts has been excellently visualized by Hughes, Ginnett, and Curphy in *Leadership: Enhancing the Lessons of Experience* (See Figure 1).

![Figure 1. An Interactional Framework for Understanding Leadership (Hughes, et al., 1993)](image-url)
As Hughes, et al., argue, it is only when all three "circles" which comprise the model are accounted for that the leadership process exists. We will examine the attorney-client relationship through this lens.

First, we will look at the often over-emphasized role of leader, specifically in light of the expertise which allows attorneys to assume such a role in their relationships with clients. Second, we will discuss the expertise of the follower, or client, something which is essential to the ultimate success of the relationship. The focus here will draw primarily the notion of participative leadership, or more popularly, empowerment. We will answer the question of why "active followership" on the part of the client is so significant, and how, in light of tremendously difficult circumstances, the "attorney-leader" encourages such participation. We then turn to the third portion of Hughes, et al.'s heuristic -- the context. Obviously, the practice of law differs depending upon the area of law being practiced and the work environment of the attorney, but what are the implications for such diversity in attorney-client relations? Further, what impact do these differences have on the strategies/practices of the attorney-leader? Finally, the practice of leadership also requires knowledge and perhaps even mastery of certain skills which the Jepson School terms "competencies." Here we will discuss the immensely important skill of conflict resolution. Conflict is almost expected in the attorney-client relationship, and we will discuss ways in which it can be resolved or ameliorated.

This project, then, will attempt to ascertain the present status of attorney-client relations, compare those relations to leader-follower relations, determine similarities and differences between those two sets of relations. and then draw conclusions and project the potential implications for the practice of law. In addition, I will offer some of my own ideas and thoughts.
as to where the practice of law can improve in its understanding and application of leadership
concepts, thus creating a normative model of sorts for practicing attorneys to consider. Needless
to say, I am not a lawyer and lack experience with and expertise in the law. As such, I ask some
latitude in the suggestions I will make..

**Methodology**

"Learning is acquired by reading books; but the much more necessary learning, the
knowledge of the world, is only to be acquired by reading men and studying all the various
editions of them"
- Lord Chesterfield, 1752

The methodology utilized in this project was developed in order to adequately explore
diverse and complex issues involved in the relationship between leadership and the legal
profession. Very little has been written in the literature of either discipline (legal
practice/scholarship or leadership studies) with regard to this relationship, and, as a result, a
separate section discussing the limited literature is unnecessary. In place of a full literature
review, then, citations from the literature, which primarily treats the various leadership topics
related to the attorney-client relationship (e.g. expert power and participative leadership), will be
woven into the text that follows.

The majority of research for this project, it should be noted, stems from personal
interviews with 12 attorneys-at-law and 1 judicial officer, a sample that, though not necessarily
representative of the profession at-large, is substantial enough to provide useful data. Each
member of the sample was asked identical questions, which can be found, along with the
reasoning behind such questions, in Appendix A. All of these individuals are currently practicing
in Richmond, Virginia, or its surrounding suburban areas. In order to assure a fair and accurate
cross-section of the Richmond legal community, the sample of attorneys called upon for
interviews come from a great variety of practicing fields and, differing work environments. The
breakdown of the sample along practice area can be found in Figure 2.

<table>
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<tr>
<th>Practice Area</th>
<th>Caucasian Male</th>
<th>Caucasian Female</th>
<th>African-American Male</th>
<th>African-American Female</th>
<th>Totals</th>
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<td>3</td>
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<td>Government</td>
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<td>1</td>
<td></td>
<td>3</td>
<td>6</td>
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<tr>
<td>Judiciary</td>
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<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>2</strong></td>
<td><strong>1</strong></td>
<td><strong>3</strong></td>
<td><strong>1</strong></td>
<td></td>
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*Figure 2. Breakdown of Research Sample According to Area of Practice.*

The sample includes the present Commonwealth's Attorney (known as District Attorney in most
other jurisdictions) and Public Defender for the City of Richmond; Corporate Counsel with both
Ukrop's Supermarkets and Reynolds Metals Company; an attorney with a large, private firm as
well as a self-employed private practitioner; a former Attorney General and two Assistant
Attorneys-General for the Commonwealth of Virginia. Not only did such a sample increase the
potential generalizability of the results collected from the interviews, but it also assisted with the
analysis of the segment of the project which discusses the impact of differing contexts on
leadership in the attorney-client relationship. Without such a diverse group of individuals in terms
of their areas of practice, neither of these goals in my research could have been met.

Another way of looking at the diversity of the sample is in terms of its racial and gender-
based differences. Due to limited access to area attorneys, it became rather difficult to ensure the
kind of racial and gender diversity I sought, yet the individuals who were interviewed represented
good splits in this regard, as Figure 3 demonstrates.
Table 1. Breakdown of Research Sample According to Race and Gender.

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<tr>
<th></th>
<th>Male</th>
<th>Female</th>
<th>Totals</th>
</tr>
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<td>3</td>
<td>6</td>
</tr>
<tr>
<td>African-American</td>
<td>5</td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>Totals</td>
<td>8</td>
<td>4</td>
<td>12</td>
</tr>
</tbody>
</table>

Figure 3. Breakdown of Research Sample According to Race and Gender.

Of particular note here is the Caucasian/African-American balance to be found in the interview sample -- i.e., 6 and 6. Further, the fact that one-third of the sample is comprised of women deserves note. Should this study have been undertaken twenty years ago, such a sample would in all likelihood have been impossible to bring together. The fact that these individuals of minority status are within the profession and are available to share their thoughts, ideas, and practices is a true testament to the commitment on the part of the legal community to changing its ways of defining eligibility for membership.

The majority of those interviewed are either presently within or have graduated from the prestigious Leadership Metro Richmond (LMR) program. Of the sample of interviewees, eight have been associated or are presently with the LMR program. More interestingly, and unbeknownst to me until after the data had been collected, six of seven male members of the sample are either graduates or present students of LMR, whereas only two of five females have had a similar background. The implications for the LMR program's impact on this study will be explored in the Conclusions section below.

What was going to be the second section of the project entailed a much more intricate methodology. As above, there had been practically no scholarly literature written about the subject of leadership education within the law school experience. Nonetheless, there have been a
few pieces which have skimmed the surface and dealt with some of the issues which were to be considered herein. Further, interviews were to be conducted with the Associate Dean of the T.C. Williams School of Law at the University of Richmond, as well as the Dean of the University of Virginia. Also, in order to explore the possibility that leadership concepts/skills are already being taught within the present legal education in courses entitled "Lawyering Skills" or the like, interviews were to be conducted with Associate Dean and Professor of Lawyering Skills at the University of Richmond, Ann Gibbs, as well as a Professor of the Legal Skills program at the Marshall-Wythe School of Law at the College of William & Mary.

A survey, which can be found in Appendix B of this paper, was developed to get at many of the issues discussed within the project, and was sent out to 50 law school deans across the nation. In order to generate a fair and objective means of selecting the 50 schools that would constitute the sample for this second part of the study, the rankings within the March 20, 1995 issue of *US News and World Report* have been utilized. The surveys were distributed with a letter of explanation and encouragement from the faculty sponsor of the project, Dr. William Howe, and a self-addressed stamped envelope to further promote participation. Each survey was identical and no outward distinguishing marks were included to show which institution was responding, so that anonymity could be retained if desired. Finally, so that all aspects of the legal education could be examined, I was going to sit in on meetings of both study group and extra-curricular organizations, as well as a classroom setting.

The majority of this second part of the research was never conducted. Unfortunately, the survey, which was to be my primary means of gathering data on this subject, proved to be an utter failure. As a result, this project will not include any student with similar interests. Further
explanation of this can be found in the "Conclusion" section. With this as background for understanding, I take up the project itself.

"Leadership in the Attorney-Client Relationship"

The word "leadership" has rarely been used in the same breath with that of "attorney," let alone in the course of a discussion concerning the complex relationship between attorney and client. Indeed, when attorneys within the research sample were asked whether or not they viewed themselves as leaders within their relationships with clients, their answers were rather varied. Eight individuals stated that they believed they were actually leaders in the attorney-client relationship, yet many of these positive responses were also quite guarded. For instance, many of those who answered "yes" to the question took a long period of time to ponder, then prefaced their remark with something to the effect of "I guess so." Many were not at all comfortable about assigning to themselves this type of status, and others only saw themselves as leaders in certain situations (Quinn, Roberts, Jackson). Further, two individuals clearly stipulated that they certainly did not believe that they were leaders; Chuck Ellsworth, corporate counsel with the Reynolds Metals Company claims that he is simply an "advisor," and further that his response to such a question would most likely be echoed by most attorneys (Ellsworth). The results obtained with regard to this inquiry clearly prove, regardless of the specific answers, that the legal community has not given much thought to the possible connection between leadership and attorney-client relations. Thus, the study must take the reader through the entire association in a logical pattern in order to prove that such a relationship does in fact exist. With that in mind, I
begin with what is often considered (perhaps incorrectly) the most important entity of any leadership relationship and especially that of attorney and client -- the leader.

**The Leader -- The Potentially Dangerous Power of Expertise**

"Knowledge is the knowing that we cannot know"

-Ralph Waldo Emerson

The leader or leaders within any situation, whether legal or otherwise, are all too often given the highest status, which can frequently lead to future difficulties in accomplishing group goals. Within the attorney-client relationship, (although some -- including both attorneys and the lay public -- would disagree), most conceptualize the attorney as the leader, mainly due to his/her knowledge of law. To question and potentially validate this assumption, I asked the attorneys in the sample why they felt clients came to them for services.

In general terms, most of us can easily envision how the relationship between an attorney and client begins; many of us have had such an experience. People come to attorneys because they have a problem which they cannot solve alone, and, in addition, because the difficulty in question requires the assistance of one with legal knowledge. This can occur within the relationship of a private citizen and a private attorney, though it can also occur within a company where an employee seeks advice on the legal ramifications of a business practice, or where a community looks to a prosecutor to ensure that justice is done. What each of these situations has in common, is that one (whether an individual or another entity) who does not have the expertise to solve a problem goes to another who has such knowledge. Again this may seem rather obvious, though it is probably understood more subconsciously than (see "Common Sense"
below). If individuals could solve their own legal difficulties, there would be no need for lawyers and, thus, no attorney-client relationships would be initiated.

The interviewees who comprised the sample overwhelmingly confirmed this through their answers. When asked why clients came to them for services, almost all responded with an answer which referred to some form of expertise, and such explanations did not depend upon the attorney's field of practice. Frank Brown, a self-employed private attorney, claimed that individuals came to him because of his proven "competence," and Colleen Marea Quinn, with Cantor, Arkema, and Edmonds (a private firm) stated that she is sought as an attorney because she is "aggressive" and "know[s] what [she] is doing" (Brown, Quinn). An identical situation can be found within the corporate world, even though individuals within the company have a separate department which deals with the legal matters of the company. Ellsworth asserted that the process at Reynolds is for a legal problem/issue to come to the legal department as a whole, and if they do not have an attorney with the special expertise to handle it, they will look to an outside firm for assistance (Ellsworth). For instance, if the organization is embroiled in major litigation in California, and the main legal department is located at the corporate headquarters in Virginia, there obviously can be no individual within the department who has the appropriate knowledge to handle such a situation (Ellsworth). In all of these circumstances, we can see that without this concept of expertise, no relationship between attorney and client will be founded. If clients do not feel that their attorneys are knowledgeable and skillful in what they do, they will look elsewhere for assistance, knowing well that their problems cannot be solved without such expertise.

Also, the concept of expertise not only launches the relationship, it perpetuates the association as well. If, during the duration of the relationship, the attorney does not show to the
client that he/she has the experience to end the client's troubles or reach the goals that were envisioned, the affiliation will disintegrate. This possibility is closely connected to the concept of client satisfaction, which is, in turn, closely connected with the Path-Goal Theory of Leadership.²

Having argued the importance of expertise in the attorney-client relationship, let us now turn our attention to the way in which various leader-follower relationships are established. In other words, how does one become a leader? One of the most frequent ways in which individuals emerge as leaders is that of expert power, which has been defined as "the power of knowledge" (Hughes, et al., 1993). One emerges as a leader because the group with which he/she is involved believes that the leader is knowledgeable enough to bring the goals of the group to fruition. Further, according to Yukl, "the more important a problem is ... the greater the power derived by the [leader] from possessing the necessary expertise to solve it" (Yukl, 1994). Applying this statement to legal practice, problems having their basis in the law are often very important, where ramifications can include financial distress, incarceration, or the rupturing of a family structure. It is for this reason that the concept of expert power plays such a significant role in the attorney-client relationship. As a result of this power, the attorney automatically seems to emerge as leader in the relationship, as he or she is looked to for knowledge in order to avoid the negative effect of some problem, like those stated above, that can become reality if such expertise is not present. As we will see later, however, the question of where the role of leader is actually located is somewhat open to argument.

Having stated that the attorney, as a function of his or her expert power, assumes the leadership role in the association with clients, is he/she the only person with expertise? Since the presence of expert power may create a leadership situation, then does it not follow that if the
client brings expertise to the relationship then he/she could also assume the role of leader?

Hughes, et al. (1993) place this type of condition on the presence of expert power as a method of assuming leadership. They write that "expert power is a function of the amount of knowledge one possesses relative to the rest of the group" and that "it is possible for followers to have considerably more expert power than leaders in certain situations" (Hughes et al., 1993).

Whereas the attorney has the legal expertise, there is only one individual who has the ultimate knowledge about the facts surrounding the problem for which the relationship was established in the first place -- the client. As a result, when the topic of factual information regarding the problem is at the forefront, the client should emerge as leader, and when those facts must be applied to the proper legal doctrine as well as other matters of procedure, the attorney assumes the same role.

Followers -- The Art of Empowerment and Participative Leadership

"Now tell this to me like I'm two years old."
-Denzel Washington (in the role of attorney), Philadelphia

In any given variation of a leadership context, we are often confronted with a situation in which the use of expert power is abused or where the leader assumes that he/she can "do it all" without the assistance of his or her followers. Obviously, most individuals, whether well versed in the study of leadership or not, can easily understand the drawbacks of such a situation, as followers are the "life-blood" of the group. Without their contributions, there can truly be no realistic way for the group to meet its goals and objectives. Indeed, the leadership relationship between an attorney and client seems to lend to an even greater emphasis on this fact. It is not hard to imagine an attorney exuding the aura of an individual who has had three years of law
school, possesses a Juris Doctor degree, passed the bar exam, and has a great deal of experience in the practice of a specific area of law. Further, a client is very likely to take this expertise to heart and assume that he or she is worthless to the relationship (except to write checks) and that the attorney can handle any and all matters that arise. Nothing could be further from the truth, as most attorneys within the research sample have indicated.

**Empowerment/Participative Leadership**

One of the newest models of leadership reflecting this understanding of the importance of followers is Participative Leadership. Coinciding with this model is one of the most popular new "catch words" within the study of leadership, "empowerment." In order to exercise participative leadership and empower one's followers, a leader must give followers an opportunity to "play an active and constructive role [in] collaborating with leaders in solving problems" (Hughes et al., 1993). In other words, leaders need to delegate the authority to make important decisions for the group in the course of the relationship, thereby, permitting them to assume a leadership role of sorts.

If the leader, though, has the greater expertise in the relationship, would not the group be better served if this individual were making the decisions? Further, in the attorney-client relationship, the client comes to the attorney because of his or her expertise, almost expecting the attorney to consistently assume the role of leader. The answer to this often asked question is no, as followers almost always have "relevant information" which leaders need in order to make the correct decision in a given situation (Hughes et al., 1993). In fact, Yukl writes that the "stereotype of 'heroic leader' undermines effective leadership because the individual cannot live up to such a billing without the assistance of followers" (Yukl, 1994).
Further, many frequently overlook the fact that the followers are those who will be implementing the decisions once made. Yukl describes delegation as the process by which others "take responsibility for" matters usually dealt with by the leader (Yukl, 1994 -- emphasis added). The leaders are generally not those who are on the factory floor, in the small towns -- it is the followers, the workers and citizens who will be charged with the responsibility for carrying out the decisions which are made. Thus, it makes logical sense that the followers be allowed, with the guidance of the leader's expertise, to take custody of those decisions. They are the sole individuals who can accurately comprehend their abilities, the situation in which they reside, and the actual goal they want to achieve. As a result, they are in the best position to give information about the proper ends which needs to be reached.

In this manner, the leader utilizes the expertise of his/her followers, just as followers look to the leader's expertise to direct them. The issue of utilizing the model of participative leadership, then, boils down to whether a follower can emerge as leader at certain times during the relationship. As the situations in which followers can and do possess the requisite expertise in order to assume the role of leader are virtually endless, it then appears that the use of participative leadership and empowerment procedures is generally the most logical and efficient choice for those presently in positions of leadership to utilize.

Even still, there are additional benefits to the process of participative leadership other than simply reaching the correct decision. As stated above, a leader needs his/her followers in order to be able to reach the goals for which the leader was chosen. By empowering them to make decisions and take an active role in the relationship, followers gain a "heightened [sense] of self-confidence .. [they] feel stronger and more powerful at the very same time they willingly
subordinate themselves to the leader" (Hughes et al., 1993). Indeed, via a study performed by Lasswell and Rubenstein on another professional context, that of psychiatry, it was found that a greater sharing of decision-making power by doctors and staff in a mental ward increased the self-confidence and respect of patients (Rosenthal, 1970). The situation within the mental ward, as will be shown, is quite analogous to that found in the attorney-client relationship. Also, if followers have significant input and/or ownership in the manner or substance of a decision, their commitment to the outcome of the decision will be greatly increased (Yukl, 1994). This is of utmost importance in the attorney-client relationship, as what good can come from the relationship if the client does not carry out decisions made therein?

How, though, can an attorney empower his client, especially considering the amount of expertise needed in order to realize the needs of the client which resulted in professional services? The law itself, realizing the potentially damaging situation caused by expertise, has implanted a type of empowerment and obligatory participation into the regulations surrounding the attorney-client relationship. The law stipulates, for example, that nearly all decisions which need to be made pursuant to a legal matter must be made by the client (something which was assented to by nearly all members of the sample). According to David Johnson, the Public Defender for the City of Richmond, there are four main decisions which the client must make in the context of criminal allegations: whether to plead guilty or not guilty, whether to involve a judge or jury, whether or not to testify at trial and whether or not to appeal a particular ruling or verdict (Johnson). Frank Seales, Senior Assistant Attorney General for the Commonwealth of Virginia, claims that he cannot make decisions with regard to a particular course of action, because in his area of the law such decisions involve public policy matters which are reserved for elected legislators (Seales).
Civil cases and legal matters are not immune from this distinction either. Brown states that "the case is always the client's .. never the attorney's" (Brown - emphasis added). Further, Pamela Boston, Associate General Counsel for Virginia Commonwealth University, claims that the client must "dictate yea or nay" on a given issue (Boston). Finally, the most clear example of the decision-making power of the client is shown within the world of business, in the role of the "in-house counsel." Ellsworth, with Reynolds Metals, says that his clients (the employees of the company) come to him virtually knowing what they want to do, and his job is solely to determine whether or not such a decision is legal, and if not, to find other ways to accomplish the goal within the framework of the law (Ellsworth).

The reasoning behind these regulations is simple, according to those attorneys interviewed as part of the sample, and such logic directly correlates with that which justifies the use of participatory leadership. The clients will be the ones who are forced into dealing with the ramifications and implications of their decision, not the attorney, unless such a decision carries with it some sort of illegal activity (whereupon the attorney will face punishment). Johnson claims that this comprehension takes on a much more solemn stature when dealing with criminal defense work. If the decision which the client makes turns out badly for them, it is very likely that they will be spending large amounts of time in a penitentiary or even face the death penalty (Johnson). As a result, since the client will be responsible for the results the decision produces, it must be this entity, rather than the attorney, which makes the final determination. Although the consequences of decisions made within the context in which he works are truly not as severe, Wendell Charles Roberts, Assistant County Attorney for Chesterfield County, believes this aspect to be just as important for his work. If, for instance, he gives advice to the Division of Human
Relations on whether they can legally terminate an employee, the actual procedure of firing that individual will be performed by the employer (Roberts). As a result, when Roberts lays out the legal options available to the client, since "he/she must live with the decision he/she makes," it must be this entity to make the final call (Roberts). In other words, the attorney will not be held accountable for the decision to terminate the employee, so the power to make the choice should not lie with him/her. As Ellsworth stated, the only role the attorney should play in these situations is that of advisor -- taking the action which is desired or has already been taken and determining the legal ramifications on each possibility for each potential method of action (Ellsworth).

Such procedures, as stated above, directly relate with the process of empowerment within any type of leadership situation. As an example, in developing manufacturing procedures for industry, the executive will not be performing these new practices. Thus, it is necessary to get input, and possibly even allow the factory workers to make the decision regarding these procedures so that they can calculate how their work will be impacted, utilizing the executive to gauge the effect their idea will have on the company as a result. Here, as before, we see an immediate connection between the process of leadership and the attorney-client relationship.

It can be argued rather conclusively, however, that since the law obliges attorneys to allow their clients to make such decisions the true methodology of participative leadership is not met. This is to say that if one of the purposes of empowerment is to raise the self-confidence and worth of one's followers, how can this realistically occur when the attorney only allows clients to make decisions because the law compels him/her? Indeed, the mere concept of empowerment seems to connote going "above and beyond" what is required of a leader in moving a group to the realization of shared goals. So, the question is asked once again -- how does the attorney do this
when the very reason the relationship was initiated was due to his/her apparent expertise?

With regard to such an inquiry, one must also remember the often underestimated intelligence and aptitude of followers. The word "follower" often times connotes a "lowly" figure who must rely on the knowledge of another to realize goals. Nothing could be further from the truth, and this realization undermines the potential for decision-making as obliged by the law to be utilized as a means to enact participative leadership. Yukl states that "sometimes what appears to be participation is actually pretense" (Yukl, 1994). Followers are generally intelligent enough to see through false attempts at empowerment. Clients, in their relationships with attorneys, have the right, by law, to be told that the law obligates them to make the majority of decisions. As a result, the attorney has not relinquished any of his/her authority in allowing for such decisions to be made, and thus, the client does not feel any more important to the relationship than he/she did prior. Attempts at participatory leadership must be genuine, or the beneficial effects of such procedures will never be realized. For the attorney-leader, though, this can be incredibly difficult. In order to yield to a more participatory style, the attorney must be very patient and tolerant, when it would probably be much more efficient (yet not as "effective" -- important distinction) for him or her to have total control over the relationship (Rosenthal, 1970).

Another problem also becomes apparent. Consider: where can the client assume leadership within the context of decision-making? Clients, provided they are not attorneys themselves, do not have the expertise to devise trial strategy, deal with a judicial officer, or develop a questionnaire in preparation for a deposition. They do, however, possess another type of expertise -- one which has already been mentioned.

The attorneys interviewed as part of the sample were all asked if they felt that there was
any possible way for the client to assume the role of leader. All stated that this was possible, the majority putting forth that the client must be the leader in that he/she has to make the major decisions related to their case. Whereas some said that the possibility for leadership on the part of client ended here, many went further and stipulated something to the effect that they attempt to utilize the client's expertise. The client, it should go without saying, knows much more about the circumstances surrounding the problem for which he/she is seeking assistance. Without knowing exactly what happened to the client, the attorney has no chance of applying the correct legal doctrine to the situation, something which will almost certainly lead to an unsuccessful outcome for the client. As such, by actively requesting clients to provide him/her with the information that they currently possess, or even by persuading them to obtain further details on their own, clients become aware that they are actually an important part of the relationship -- even with someone who holds a JD. By creating such an environment, the client is much more likely to listen to the attorney's advice and work with the attorney as the relationship progresses.

Some examples from the attorney sample might illuminate this potentially complex topic. Brian Jackson, general counsel with Ukrop's Supermarkets, relayed an extremely appropriate story about how it is essential for him to empower his clients to give him information about the problems they are seeking assistance with:

"The Transportation Department [at Ukrop's] will come to me and identify a situation involving transportation issues about which I'm clueless. In terms of regulations or just the way things work in the trucking part of our business ... and I have to sort of follow them and get educated. Or they may present legal issues in their own area ... and suggest to me ways of helping them prevent legal issues from occurring .. so they're taking the leadership role" (Jackson).

Through this example, one can easily see the impact such a process will have on the confidence of
the client. The attorney, the individual who attended law school and passed the bar -- the individual to whom I am going for help -- wants me to educate him/her. There can be no doubt that this will elevate the client's assessment of his/her own worth in the relationship. Further, Jackson will ask his clients to do some "homework" for him -- he often requests them to develop a memo about certain components of the particular situation (Jackson). Through these procedures, the clients (or followers) truly obtain a sense that they are significantly contributing to the solution to their problem and are therefore more likely to abide by decisions made during the course of the relationship. Undeniably, this will create a much more positive situation for the client in a variety of ways.

The end product of the model of participative leadership, then, seems to develop an active partnership or team between the leader and followers. Once a group can work as a team, with each entity exerting power and authority in differing circumstances, the relationships between group members become more conducive to a working atmosphere, and as a result group goals are realized in a more timely and effective fashion.\(^3\) The question then to be asked within the context of this discussion is whether an active partnership is indeed feasible within the attorney-client relationship, and further, if attorneys are presently seeking such a "team-like" environment.

The answer to the inquiry as to whether it is practical for an attorney and his/her client to work as a team, and if such a partnership is beneficial, has already been answered through a doctoral dissertation written at Yale University in 1970 by Douglas Rosenthal entitled *Client Participation in Professional Decisions: The Lawyer-Client Relationship in Personal Injury Cases.* Rosenthal studied the amount of client participation present within personal injury cases to determine whether such participation positively affected the outcome of the case. He claims
that there are two major models of how the relationship can be facilitated: first, traditional, where the client is passive, trusting, and delegates all responsibility to the attorney, and second, participatory, in which the client is active, questions total delegation to the attorney and works to create mutually agreeable choices (Rosenthal, 1970). Rosenthal theorizes that the only way the traditional model will be effective in the attorney-client relationship is if the legal issues are beyond comprehension by the client and if the attorney does not need any information from the client with regard to the difficulty for which they are soliciting his or her services (ibid.). Even if the first part of Rosenthal's test is correct, and an understand of legal doctrine is beyond the intelligence of clients, which is a debatable inference, it is undeniably essential for the lawyer to have the facts surrounding the client's problem, as the attorneys in the sample have stipulated. Thus, if Rosenthal's theory is correct, and it is indeed hard to refute, then the participatory model of leadership should lead to better relationships.

Rosenthal's research led to exactly this conclusion. Through closely observing numerous personal injury cases from start to finish, he found a "moderately strong correlation between the rank order measure of amount of client participation and the rank order measure of case result [in dollars awarded]" (Rosenthal, 1970). Such a result should not come as any surprise to anyone, though, as it makes sense that the more a client participates in giving information and checking up on the work performed by the attorney the better the quality of legal work performed. As a result, then, it would seem to behoove both attorney and client to seek such a participatory and team oriented type of relationship.

Having confirmed the applicability, validity and usefulness of the participatory model to the attorney-client relationship, the inquiry with which we must now concern ourselves is whether
attorneys are actively seeking such a relationship. Two-thirds of those interviewed enthusiastically relayed that they either look to create an active partnership with their clients or believe that the relationship should be an equal alliance. Of the four individuals not exactly making this strong a statement, only one stated that he did not feel an attorney can go so far as to make the relationship a team effort (Hicks). Quinn said that she attempts to help her clients work with her, especially if they seem reluctant to do so (Quinn). Such a hesitation towards working with the attorney is not an uncommon occurrence, according to Stanley Clawar, in his text *You and Your Clients*. He writes that clients come to an attorney in need of help, and want that problem eradicated -- as quickly and painlessly as possible (Clawar, 1988, Jackson, Terry). Further, they harbor numerous fears regarding both loss and the legal system, so getting a client to interact within a participatory system may be difficult (Clawar, 1988, Johnson).

There is reason to believe, however, that such a trend is actually changing. Jackson notes that "because clients are starting to figure out that they can save money on legal costs if they ... develop this partnership ... and work at some prevention ... in their legal problems," many clients are opening up to such team relationships with their attorney (Jackson). Roberts goes even further in stating that the client has a responsibility to actively participate in the relationship -- and this responsibility will directly affect the outcome that the client can expect (Roberts). He says that the relationship can best be described as "garbage in, garbage out," meaning what the client gets out of the association will be reflective of what he/she puts in (Roberts). The only individual interviewed from the sample who strongly stated that the relationship could not be a partnership was David Hicks, Commonwealth's Attorney for the City of Richmond. Yet this response could easily be a function of the area of the law in which he practices, that of criminal
prosecution.

The Context -- Understanding the Subtle Differences

"A man may speak very well in the House of Commons, and fail very complete in the House of Lords. There are two distinct styles requisite."
-Benjamin Disraeli

Our discussion of the leadership process, and concurrently, the attorney-client relationship, cannot be complete without an exploration of the enormously important aspect of context. Comprised of "situational variables," content underscores the fact that leadership does not occur in a vacuum -- the environment in which the process takes place directly effects "how the leader and followers interact in [that] given situation" (Hughes et al., 1993). As such, leaders need to tailor their actions towards followers to reflect situational factors (ibid., 1993). In Leadership studies, scholars researching the impact of contextual variables on the leadership process have found that factors such as "the nature of the task, the economic environment ... [and] the lack of resources" seriously influence the interaction between a leader and his or her followers (ibid., 1993). Applying this research to the more specific example of leadership within the attorney-client relationship, most attorneys as well as members of the lay public would recognize that the legal world is certainly not uniform. The most obvious distinctions can be found in the type of law practiced (coinciding with the proven significance of "task nature") -- be it criminal prosecution or defense, civil litigation, corporate law as an in-house counsel, or any number of other varieties. In today's large and complex legal world, the number of subtle intricacies in the area of practice is enormous.

The research conducted on the impact of situational variables alluded to earlier has yielded
three ways in which such factors can impact the leadership process. Two of these, identified as "demands" and "constraints," play a particularly significant role in the process of leadership as found within the attorney-client relationship. "Demands," according to Yukl, are those matters dictated by the setting which "anyone who holds the [position] must do or risk sanctions or loss of the position" (Yukl, 1994). As the practice of law is, for most within the legal community, a job entered into in order to make a living and fulfill survival needs, these "demands" become evident. All attorneys, whether working in a corporation or as an elected official such as the Commonwealth's Attorney, must perform well and satisfy those who are paying their salary or they could possibly be subject to termination or election out of office.

Such is the case with any job; it does not occur solely within professional realms. These circumstances, however, are substantially magnified for private legal practitioners. Attorneys in private practice do not have set salaries as those affiliated with the government or a corporation do; the pay they receive is entirely contingent upon the number of clients they attract. As a result, the private attorney often behaves differently from other lawyers in his/her relationships with clients. Many of the attorneys interviewed within the research sample indicated this as a major difference between private practice and other areas of the law. Jackson, now a corporate counsel yet formerly in private practice, echoed this judgment. Due to the need for constant business as a result of economic considerations, attorneys in this context perform a function dubbed "client development" -- otherwise known by the slang term "rainmaking" (Jackson). Presumably, the concept of participative leadership will be of particular interest to these individuals. Referring back to one of the noted outcomes of empowerment, that of raising the self-worth of the follower, if an attorney needs to retain business in order to remain employed, it seems logical that an
individual who feels respected within the association (an oddity to them), he or she would remain
with that attorney if future needs arise.

Jackson further states that lawyers are willing to perform activities in attorney-client
relationships initiated in the private sphere (so that business remains constant) that they may not
perform in other contexts (Jackson). As such, reputation within the community becomes very
significant for those in this area of the law, as many attorneys reflected during the interviews.

Earlier (in the "Leader" section) some of the various responses to the question asked regarding
why clients came specifically to these attorneys were given. Many lawyers interviewed mentioned
that it was because clients heard about their effective representation of others; one specifically
that she was aggressive (Quinn). Reputation does not carry as much importance in the other
areas of practice mentioned, and as a result, private attorneys must make their behavior within
relationships with clients reflect this situational demand.

Yuki also mentions that another contextual demand on leaders is the "deadlines for work
which must be met." (Yuki, 1994). For Ellsworth, this is one of the most severe differences
which must be taken into consideration when analyzing the practice of law in diverse areas. He
claims that corporate attorneys are constantly inundated with work which needs to be done, as are
lawyers affiliated with private firms. Yet the main difference herein is that those who need the
work done within the corporate context will be going home from work at five or six at night, and
they do not expect the attorney to work until midnight or beyond to get something done "post
haste." On the other hand, private clients, because they are paying such a large sum for the legal
work being performed, do expect a quick turnover on the work needed to be completed
(Ellsworth). Such practices within the private legal domain directly coincide with the need to
keep clients, as quick and efficient work can certainly help one's reputation.

Due to such demands on the private attorney's time, the personal time with clients so fundamental to empowerment and leadership in general is impaired. As a result, attorneys in this context must find other methods to help keep in constant contact with clients. Further, Ellsworth stipulates that because of the financial windfall possible within private firms, the firm will require an associate to perform all kinds of research in conjunction with a particular client's case, all of which can be billed to the client. Within a corporation, since the attorney works for the company in question and is hired to only do their legal work without the consideration of said "billing wars," such work becomes much more efficient, without the need to do such worthless research as is present in the private world (Ellsworth). This type of demand appears to force attorneys in private practice to pay specific consideration to issues other than money, lest clients become worried over another issue than that which brought them into the relationship.

"Constraints" are another way in which the context in which the leadership process occurs can impede the efficiency of both leaders and followers. Constraints have been defined as "characteristics of the organization and external environment limiting" the actions of the leader (Yuki, 32). The epitome of how constraints apply to the attorney-client relationship can be found in David Hicks, Commonwealth's Attorney for the City of Richmond. As the chief criminal prosecutor for the city, he has a great number of competing "clients" or followers, including the citizens of the Commonwealth of Virginia and the City of Richmond, the victim(s) of the crime which he is prosecuting, and that which must be his highest concern, the system of justice. Each of these different entities want him as an attorney to take different actions within the same situation. The problem for him, then, is how to reconcile these differing interests. In answering
such a difficult question, he stated that he likes to utilize a "lighthouse principle," one which he can go to at all times so that at least some sense of objectivity is consistently obtained. His guiding principle is to make sure that "like people are treated for like offenses in the same manner." Further, he is also charged, as an elected public official, to react not only to what these various interests want, but also to determine what they should want -- utilizing his own moral and pragmatic code as a guide. As is obviously apparent, Hicks truly has an impossible job. It would plainly be easier for him personally to take only one of these interests to heart when he acts, disregarding the others. Due to the context in which he leads, however, he must alter his behavior to view all concerns equally, and as such, we easily see a contextual constraint on efficient attorney-client relations (Hicks).

Frank Seales, with the Office of the Attorney General for the Commonwealth of Virginia, also occupies a government post, yet within a different type of situation. He heads the Antitrust Division for the Commonwealth, and formerly worked with the United States Department of Justice under the Attorney General of the United States, where, he claims, his actions did not directly affect the status of public policy as the practices which he employs now do with the Commonwealth of Virginia. As a result, he feels that he must constantly be sensitive to legislative concerns in his relations with his client, the Division of Consumer Affairs. Thus, these legislative concerns "constrain" the actions he can logically take (Seales).

Throughout the course of this section, we have been discussing context in terms of the area of law in which an attorney practices. The impact of the particular context on the leadership process, however, can also turn on the type of client with whom one is dealing. Quinn relates with two different kinds of clients in her work — both individuals and corporations. She claims
that her individual clients are often not used to long, drawn out litigation, and as a result are frightened because they do not know what to expect. Further, as their case goes longer and longer into the future without resolution, they tend to panic, as often times the troubles they bring to the attorney are psychologically difficult and trying. Corporations, on the other hand, are constantly involved in legal difficulties, they understand the process, and as a result, the troubling emotions found with individual clients are not found here. Due to this, the attorney must take time to assist the individual client through these emotions, which takes time away from the legal work the attorney needs to perform in conjunction with the case (Quinn). Further, the emotional nature of the individual client appears to work against the attorney's attempts to get him/her to participate in the relationship by gathering information and making decisions.

Finally, the contextual impact on the attorney-client relationship can be a function of both the area of law and the type of client. David Johnson, Public Defender for the City of Richmond, appears to be the quintessential case study for this concept. With the realm of criminal defense, an attorney needs to understand the emotional status of his clients and in so doing must realize the stakes involved. With civil litigation, one is looking at the possibility of loss of money or property, which can no doubt be upsetting and unnerving. Johnson's clients, if they are unsuccessful, are looking at long periods of incarceration or, in the Commonwealth of Virginia, the death penalty. As a result, extreme emotions of fear and panic appear within his clients, and because of this, he considers it part of his job description to deal with and extinguish such emotions (Johnson). Again, here we see the appearance of constraints as imposed by the context in which one is working as significantly effecting the attorney-client relationship.

Contextual variables, however, do not always have to enact a negative effect on the
attorney-client relationship. Often times, the situation in which the relationship is initiated makes for smoother and more effective connections. Within the attorney sample, the context where this was most evident was that of the in-house counsel for a corporation. There were three corporate counsels within the sample, and each of these individuals stated that the context in which they work assists in making the attorney-client relationship much more effective. The reasoning behind such a stipulation is that within the corporate arena, both the attorney and the client in the relationship work for the same company. As a result, they are automatically on the same "team," by virtue of wanting the company to succeed.

Further, as opposed to private attorneys, the client normally knows and has worked with the attorney at some point in the past. Due to this, as well as the understanding that the motives behind actions taken by both entities will be in their best interest (that of the company), there is a spontaneous trust involved between the two entities (Bass, Ellsworth, Jackson). Due to this rapport, it becomes much easier to develop the partnership which can be so key to a successful relationship. The trust which comes automatically with corporate relationships must be worked at by other types of attorneys. Johnson claims that one of the most important parts of his work, before dealing with emotions, is getting clients to trust him (Johnson). The individuals with whom he deals have not often been able to trust others, have been victims of abuse from the system, and, as a result, he must work extra hard to gain this trust (Johnson). Without that level of trust, the relationship is doomed from the very beginning (Johnson). As such, we see that certain contexts within the larger world of legal practice are more conducive to effective attorney-client relations than others, and for those attorneys in less advantageous environments, they must become aware of this difficulty and work against its effects.
Leadership Competencies - The Skills of Lawyering
Conflict Resolution

"In a crisis, be aware of the danger -- but recognize the opportunity"
-Richard M. Nixon

Another component of the Jepson School curriculum is that of leadership competencies, or in other words, the skills necessary to lead. Having already described the rather substantial connection between the leadership process and the attorney-client relationship, the necessity to possess such skills as conflict resolution should also not come as any surprise. Indeed, the technique of resolving conflict is just as important to the attorney as to the general leader -- and just as leaders must adapt their own particular strategy in this light to reflect the context in which they are located, the specific situation present within the attorney-client relationship forces the "attorney-leader" to do the same. With this as a form of introduction, we now turn to the immensely significant topic of conflict resolution in the attorney-client relationship.

Conflict is a fact of life; rarely a day goes by in either our professional or personal lives in which we do not experience some form of conflict. Indeed, "disagreeing is a natural consequence of joining a group" (Forsyth, 1990). Whether it be with a colleague, friend, or family member, conflict can become extremely harmful to the particular relationship if not dealt with and resolved quickly. Further, due to its inevitability, it seems futile to complain or even worry about the existence of conflict in our lives. Rather, we must find a way either to prevent its frequent recurrence or to extinguish it in a particular situation. Such a process usually falls upon the leader in the group -- for our discussion the attorney -- to facilitate.
Before jumping directly into differing ways in which attorneys can, and through the data obtained through the research sample have, resolved conflict, it is important to discuss briefly the general concept of conflict, and further, specific types of conflict which may confront both attorney and client in the course of their relationship. That which presents itself in this relationship is best described as "intra-group" conflict, occurring between members of the same "team" or "work group," especially if we accept the prior notion of the attorney-client relationship as an "active partnership" (Lewicki, et al., 1994). The specific forms of conflict found herein do not much differ from those found in any other leadership relationship.

The research sample confirmed such an assumption. Boston states that there can be conflicts of interest, as she related a story concerning a situation where she was asked to represent a client who was believed to be a member of the same community organization to which Boston belonged (Boston). She had to convince this individual that it would not be a problem for her to legally represent her, even though the client did not perceive this to be the case and a problem ensued (Boston). Of course, there is always the rather prevalent issue of fees which come along with the services available through private practice, which not uncommonly cause a great deal of conflict between attorney and client. Indeed, Rosenthal stipulates this as one the main issues which attorneys and clients must work through together (Rosenthal, 1970). Yet the most common conflict in any context is that of the client either not agreeing with the legal advice given by the attorney or, even further, doing something contrary to what the attorney sanctioned (Jackson, Seales, Roberts). Two of the individuals who gave such a response are considered corporate counsel, individuals who, as argued above, would seem to encounter less conflict because they as attorneys are supposedly fighting for the same cause and believe in the identical
mission as their clients. Such a positive situation certainly leads to a great minimizing of conflict within such groups, yet the fact that such conflict transpires at all makes one realize the inescapable nature of conflict within the attorney-client relationship.

Conflict occurring under the auspices of the attorney-client relationship, however, is definitely not confined to the instances described above. As in any leadership scenario, conflict can arise from almost any configuration of circumstances. Such a statement is eloquently proved by a story relayed by David Johnson, Public Defender for the City of Richmond:

"I had a client who was charged with capital murder. And the more that I investigated the more ... 19 years old ... I realized that if we went to trial he was going to die. No question about it. It was a terrible case, terrible facts. Devoted a lot of time towards trying to get the prosecution to offer a sentence of incarceration as opposed to the death penalty. Finally got the offer, and when I took it to the client, it absolutely hit a wall. I'm not going to take that .. I'd rather die type thing. That's the scary, nightmare scenario. That was an incredible conflict" (Johnson).

Here can be shown in the most general fashion the manner in which conflict both is instituted and harms the leadership relationship: where someone or something comes between the leader and follower (attorney/client) and impedes the group's progress towards their decided upon goal (typically the best interest of the accused/client). Now that it is clear how significant the issue of conflict is and how frequently it can occur within the attorney-client relationship, let us turn to the more important question: how do attorneys resolve, both for themselves and just as importantly, for their clients, different conflicts which may arise.

The literature within the field of leadership studies abounds with varying methods which
leaders have and do in fact use when attempting to extinguish conflict. Actually, Hughes et al. (1993) do an excellent job of neatly "packaging" these different techniques. According to their text, there are five different ways in which leaders go about resolving conflicts -- 1) Competition ("achieving one's own ends at the expense of" another); 2) Accommodation ("giving in to [another's] concerns without" any concern for their own); 3) Sharing (compromise); 4) Collaboration ("fully satisfy both parties"); and 5) Avoidance ("indifference to the concern of both parties") (Hughes, et al., 1993). Competition, at least in the post-industrial paradigm of leadership, is certainly regarded as unacceptable, as it does not allow for any input from followers, something which is contrary to our modern notion of leader-follower relations (as described above). As such, it seems that such a method would also be unacceptable to the attorney, given the tremendous importance imparted to the client's role in the relationship. This is especially true with regard to their broad power to make decisions.

The second concept, that of accommodation, presents a rather interesting issue for both leadership in general and the same as exhibited in the context of the attorney-client relationship. Many believe that leaders are simply "slaves" to followers (which does present an interesting paradox with the more historical notion of leadership) -- the leader's only role being to assist them in realizing the goals of the group. Much the same, lawyers are often considered to be at the mercy of their followers (regularly associated with the fact that clients pay for attorney services), merely advising them with their legal expertise, yet doing only what the client wants in the end. As a result, accommodation seems to be the logical choice; if the follower/client does not want to take a particular course, that is simply his/her decision and the leader/attorney cannot do anything about it.
In my opinion, however, this approach certainly neglects to consider two distinct roles of the leader. First, it entirely forgets one of the main reasons why individuals appoint/elect/select certain individuals as leaders (especially in the context of attorney and clients) -- expertise. It is obligatory for the leader to utilize his/her expertise to influence followers to make the "right" decision for the group, especially when such a decision requires expertise (i.e., devising trial strategy). Indeed, this is the reason attorney-client relationships are conceived in any context 99 out of 100 times. In the same way, when discussing issues of fact, as stated above, the client truly assumes the role of leader by virtue of his/her expertise. By simply "accommodating," the attorney could be dismissing his/her duty to do everything in his/her power to protect his/her client from harm. The client is likewise harming the relationship by not giving his/her all to have his/her expertise heard in the conflict.

This issue also goes to the heart of what exactly a leader is. By virtue of his/her position, the leader is a member of the group: he/she represents its values and goals to whoever is watching. As a result, it is imperative that the leader truly share the feelings of group members as to issues of vision, mission, and goals. Without such a concurrence, how can an individual stand up as his/her group's leader? Surely, every group member will not agree on each question before it, but in order for the leader to be truly looked at as the head of the group, he/she must feel as though his/her interests are a part of its general philosophy. Otherwise, the leader should not feel comfortable representing the group in such a manner, and followers should not feel comfortable with such a situation. Likewise, the attorney must feel as though he/she has a purpose in assuming the role which he/she does -- if the client refuses to listen to anything which the attorney is telling them, why is the lawyer retained in the first place? As such, by relinquishing all rights to
have one's interests considered when conflicts are being resolved, the attorney/leader ceases to be a leader. Through this discussion, one can get a rather good sense of the equality necessary to facilitate an effective attorney-client relationship -- both entities must be heard and understood throughout.

As a result, we have left ourselves with the technique of "collaborating," which appears to be the best method in both leadership generally and in the attorney-client relationship. Collaborating connotes a joint problem-solving process, where both leader and follower, attorney and client can bring their interests to the table, and have them heard and included into the final decision which is reached (Hughes, et al., 1993, Ury, et al., 1991). In such a process, both parties included in a conflict can actually see that they are on the same page and fighting for the same cause. Such "same page" issues are also known as "common interests" and are explained in depth by Ury, Fisher, and Patton, in their classic work, Getting to Yes (ibid., 1991). They write that behind the opposing positions which are always a part of conflicts -- such as "I want to pay you only $100 per hour" and "Well, that would be nice, but my time is certainly worth more than $300 per hour" -- "lie shared and compatible interests" and that these common interests "serve as the building blocks for a wise agreement" (ibid., 1991). For instance, in the conflict over fees set out above, if the attorney and client sat down and attempted to see what it was that they had in common, there can be no doubt that they both had an interest in getting quality legal work done, only that the method of obtaining such a goal is disagreed upon. Such a technique almost always allows for at least a lessening of tensions which caused the conflict to begin, so that at this point, both parties can now think rationally about how they can come up with a fair method to achieve the identified interests which they both share.
As a result, it should not come as any surprise that this has been put forth by the Jepson School as the "normative" model of conflict resolution -- and for good reason. By finding common interests, leaders and followers make a re-commitment to the goals and visions of the future upon which the relationship was founded, only serving to make the association stronger in the long run. In this manner, neither party (leader or follower) has to truly "give up" anything, as they are offered the opportunity to bring all the various issues they have to the table once the strong emotions have settled and logical thinking has resumed.

Such a formula for resolving conflict and making reasonable decisions stemming from conflict seems rather philosophical and romanticized at best. What makes for a good technique for resolving conflict in theory may in fact be useless in practice. This statement points to the reasoning behind the Jepson School's purpose to integrate leadership theory with practice. Can one imagine an attorney sitting down with an emotionally distraught client and saying "Let's talk about our common interests?" The answer is certainly no. Such a procedure may be useful for those clients who have the patience and whose problem is not terribly severe, but the vast majority of such individuals could not be expected to take such a process seriously, as admittedly it does seem rather fabricated. As a result, it was not unexpected that the members of the research sample did not cite this procedure in its pure form as the way in which they tend to resolve conflict. Yet in the true spirit of the Jepson School, many of the attorneys interviewed did cite a more realistic version of such an action, truly creating a bridge in their own minds between the concepts of theory and practice.

The most common answer to come from the sample was that of education, in that attorneys who experienced conflict -- especially that which was derived from disagreement over
advice or a particular stance taken -- would attempt to show the client why they had come to such a conclusion (Johnson, Bass, Boston, Jackson). Such a procedure actually assists the client in understanding that the leader does have their best interest at heart. Indeed, many conflicts occurring between attorneys and clients, as well as leaders and followers in any context, occur over perceptions -- that which we believe is real but truly is not. Ury, Fisher, and Patton directly point at this phenomenon in writing: "[people] tend to pick out and focus on those facts that confirm their prior perceptions and to disregard or misinterpret those that call their perceptions into question" (Ury, et al., 1991). Clients, when receiving bad news, or upon obtaining advice that does not put forth exactly what they are looking for, often jump to conclusions and immediately believe that the attorney is simply working against them (Roberts). By educating the client as to the reasoning behind the decision reached, the attorney can show him/her the benefit to come from such an action, and as a result, that they are truly aiding rather than harming them. As stated above, by getting back on the same page by identifying and proving the common interests which are shared between attorney and client -- that each wants to either give or receive quality legal assistance -- frustrating conflict can be broken and active problem-solving can begin.

The process of educating and informing clients in order to extinguish conflict within the attorney-client relationship can become a futile effort, though, particularly if the client does not believe the information which he/she has been given. Thus, in order for education to be a valid methodology, the information must be perceived as valid, a concept which both Yukl and Ury, Fisher, and Patton discuss in their separate works. Yukl terms this idea "us[ing] rational persuasion to bolster you position" (Yukl, 1994). Ury and his partners utilize a different designation, "insist on using objective criteria," but the message is the same, use your expertise
Two caveats must be placed on this advice. First, do not overemphasize expertise. As earlier discussed, if the attorney places too much emphasis on his/her expertise, this will diminish the perceived worth of their follower, something which can easily harm the effectiveness of the relationship. Secondly, the information used from the attorney's expertise must at least be understandable to the client, lest it not have its desired effect of substantiating the conclusion reached. Using "flowery," technical language may in fact make clients believe that their attorney is indeed trying to harm them, and attempting to cover up such a motive by using this technical language. The theory behind this often used and terribly damaging technique is that again it underestimates the knowledge of the client. Clients want to know and understand what is happening to them and why a certain action pursuant to their needs is being taken. If the information given to the client is logical, comprehensible, and has legal backing (it may help to show the client the specific code or case law in question) it will be believed, and the client will then understand that the attorney is indeed looking out for their own best interests.

The same holds true for leaders of any kind. Imagine the time when you went into your boss' office looking for a substantial raise -- clearly a situation which could bring along a great deal of conflict. If he/she could articulate why you would not receive the raise, quoting the company's financial status (with hard data as evidence), explaining that there were a number of individuals ahead of you in seniority, and other substantial reasons, this would sound much more believable than if he/she were to say, "well, it's just a bad time for the company, and well, you weren't the only one to ask." The former portion of the preceding statement also suggests the major problem inherent in utilizing subjective criteria -- what is "bad times?" It may mean
something totally different for your boss than for you, yet if specific figures were given with standards established through the history of the company which defined the term financial distress, such would be much more convincing and lead us to believe that our boss was speaking the truth and not trying to cover up a hidden agenda. In short, then, education can be seen as the pragmatic version of looking for common interests, but must be applied in the correct manner in order to be effective in the attorney-client, or any leadership relationship.

What most of the leadership literature and texts glaringly omit (although Hughes, et al., 1993 provide an extensive discussion), possibly due to the difficulty in articulating and further researching such a topic, is creativity. Such a concept is inherent in leadership, and thus in the attorney-client relationship. The fact is obvious that such ready-to-use strategies will not always work, as different followers require different tactics. Leaders must have "the ability to adapt to unexpected changes" (Hughes, et al, 1993). As a result, attorneys as well as all leaders need to be creative in altering such packaged strategies to fit the people involved, and the conflict. Such can be easily demonstrated by finishing the story begun earlier related by David Johnson:

"I] finally used what I thought was a little creative process to overcome because one of the walls we were hitting was ... 'well the only reason that their going after me like this ... you're telling me this is because you're court appointed. If I could afford a real lawyer, I'd be walking out of here. This stinks.' I heard that and heard that and I finally at one point I went back down there and said, alright, let's just pretend something right now ... pretend you had all the money in the world and you could hire any lawyer in town that you wanted. And he named one of the big names in town. I left, I went back to my office, I called the guy, who I know, he's a good guy - and explained what the situation was, asked for a few hours of his time, went through the file with him, took him down to the jail, and introduced him to my client, and basically said 'listen, you ask him any questions
you want, he's read the file, and then ask him what his opinion is.' And when he asked the lawyer, the lawyer said, 'you're going to die -- no question -- your team of lawyers has done things here I wouldn't have even thought of -- extremely good level of representation -- amazing that they were able to get this offer from the Commonwealth -- if you don't take it you're going to die.' And that broke the conflict (Johnson).

Attorneys or other leaders should not feel constrained by the established techniques which are promulgated through leadership texts or lawyering skills manuals. In the heat of the moment, one should use creative tendencies to derive a method that will suit the facts of the situation in which one is presently working, provided of course that such practices do not violate any known ethical standard or legal code. Walton and Mackenzie have found through their research on conflict resolution that the success of integrative problem-solving (the classic win-win situation) depends, among other matters, on "the creativity of the parties" (Yukl, 1994). Indeed, such a statement seems to be a microcosm of the entire process of leadership, where leaders need to adapt their behavior to the contextual factors as presented. Such a statement is certainly not meant to condemn or lessen the effectiveness of the more well known techniques as explained above, rather, it is to draw attention to the applicability of the famous adage "drastic times call for drastic measures."

One can easily extend the concept of creativity to other areas of the leadership process, and thus, the attorney-client relationship as well. It is imperative that both leaders and followers bring their creative ideas to each and every aspect of the association. Creativity gets people excited about doing normally undesirable but necessary tasks to further the realization of group goals. For instance, assume that the floor manager for a major manufacturing company has to make sure that the actual floor is clean every day upon the close of the plant, and that the only
people able to perform such a task are the engineers, as they stay the latest during the day. Obviously, the engineers will feel that such a task is extremely undeserved and not worthy of their talents and intelligence. The floor manager, though, can derive a creative way to motivate these individuals to do this necessary task -- something along the lines of splitting the engineers into teams, and having a competition between teams as to which group can get the floor done quickly and most effectively. Along the same lines, attorneys, as stated above, in their efforts to gain client participation, may indeed run into difficulties as many clients just want their problems ended without any further work on their part (Terry, Jackson). Comprehending that such participation is indeed key to the success of the relationship, attorneys in these situations must come up with creative ways to spark such participation. A deduction of fees (if possible or applicable) could be one answer. Another would be a colorful presentation at the beginning of the relationship regarding the attorney-client relationship, the rules and regulations regarding such, and how clients can and do get involved in the process. Such a technique could potentially excite clients to get involved, if they know it will be relatively painless and will bear fruits in the long run. Thus, the attorney-leader must always be thinking of new and different ways to carry out the relationship with the client-follower, as they can never be assured that the typical techniques will always be a success.

In sum, conflicts occur in all groups, causing a great deal of difficulty for the leaders of such groups who have been charged with the task of bringing about the realization of the entity's goals. Conflict often steers groups off the track that was going to make their vision a reality, as they concentrate solely on the problem which led to the conflict rather than continue on with the activities carried out prior to the hostility. It then often becomes the leader's responsibility to
move their followers to the point of agreement so that the group can once again focus on that which is necessary to be successful. Attorneys are certainly not immune from such difficulty, and the conflict arising from the attorney-client relationship can and often is more damaging to the fulfillment of the goal of ending the problem which is plaguing the client than the problem itself is. As such, it becomes imperative that the attorney understand conflict resolution techniques just as any other leader because they are often responsible for breaking the conflict and getting "back on track" -- after all, who is one going to blame if the relationship ends unsuccessfully, the leader or the follower? This answer is and should be obvious.

**Conclusions**

"Progress always involves risks. You can't steal second base and keep your foot on first."
-Frederick B.W. Crop

**Summary**

As we draw to the end of our discourse, we shall review the terrain we have traversed. Such a reexamination will serve to separate the major points in the paper from the side ideas and musings which hopefully allowed the project to be enjoyable to read while at the same time informative and worthwhile academically. The main point of the paper was to prove that the relationship between attorney and client is one of leadership and that, as a result, much of the activities occurring within such an association relate rather well with previously observed phenomena surrounding the process of leadership. Placing all potential bias aside (with I recognize is nearly impossible), it seems as though such a thesis has indeed been found to be valid.

First, within the attorney-client relationship, there is a leader -- the attorney (admittedly, as
with any leadership scenario, multiple leaders are possible in the case that more than one counsel is assigned to a case). These individuals attain such a status in much the same fashion as most leaders, due to the extreme amount of expertise they hold with respect to the types of problems in which they become involved themselves. Indeed, as the research sample clearly indicated, it is for this reason that attorneys are sought out; individuals have a legal problem (such as divorce, criminal indictment, etc.) which needs attention, and only a lawyer has the requisite knowledge to assist in solving such a dilemma. Further, once the relationship is established, it is rather clear that the majority of clients look to their attorney as the leader in their relationship, asking such questions as "What are my chances for obtaining the settlement I want" or "What do you think that I should do in this situation." These inquiries are usually made without the understanding that all decisions must be made by the client.

Secondly, there is (are) a follower(s) -- the client(s). As stated above, most clients automatically assume such a role, as it is only the rare person who understands the power they possess in the relationship to make decisions. Yet as in any leadership scenario, followers are incredibly significant to the success of the relationship. As it is typically followers who begin the pursuit toward a shared goal by forming a group and then appointing a leader, their ideas and feelings must be taken into account when formulating strategy and tasks to reach such objectives. Further, followers form the manpower base for the group, providing the labor necessary for certain activities to be undertaken successfully. In the attorney-client relationship, attorneys need their followers to perform various functions in attempting to realize the underlying common goal of ending the legal difficulty. Such functions can include, but are not limited to, providing essential background information about the problem, seeking out further facts and evidence, and
providing feedback as to whether their goals were being met during the process. As a result, it also seems apparent that the leader is at the mercy of his/her followers, and to an extent they certainly are — especially within the context of the attorney-client relationship. Without one’s client, an attorney has no case, and without that client playing an active role, success becomes nearly impossible. Yet not all clients will be willing to take on such a role, so attorney-leaders must stress the client’s importance to the relationship and encourage active followership. To this end, various strategies for implementing these suggestions were also discussed.

Finally, leadership does not and cannot occur in a vacuum, and as a result, the context in which one is leading must always be taken into consideration, and adaptations made. Just as the Director of a local neighborhood watch group would utilize different techniques than the President of the United States, for instance, so do attorneys need to be sensitive to the subtle (and sometimes not so subtle) situational differences which can present themselves through the various facets of the legal profession. As an example, an attorney who deals with adoptions, such as Colleen Marea Quinn, will need to operate differently than would a prosecutor such as David Hicks. There are many factors which make up the general category of context as related to attorney-client relations, including, but not limited to, place of employment (government/corporation/private firm), knowledge base of the client with regards to law or specific area encompassing the problem, and the emotional status of the client. When formulating strategies and time-tables for the completion of projects and tasks, it becomes immensely important for the attorney to take these aspects into account, as the success of the relationship may hang in the balance.

Potential Research Problems
Many arguments can be made against both the findings and the implications for my research as put forth and analyzed through this paper. Returning back to the very beginning of the discussion, I put forth that the topic of leadership in the attorney-client relationship was one to which very few attorneys had given much thought. Such was the reason, I continued, that the legal profession held such a grim status in American society, as it seemed that attorneys were looking out simply for themselves and not for their clients. A return to the concepts of leadership studies, I concluded, would attenuate these evils by, among other things, returning the focus of the relationship to the client and his/her needs. Such an argument obviously rests rather heavily upon the assumption that attorneys had not given much thought to, or were not well versed in leadership studies. It seems, through the course of this paper, though, that the attorneys in the research sample answered rather positively to the questions asked, and as such, would lend credence to the notion that they did in fact understand and were using the concepts of leadership within their present practice.

In response, as one can plainly see through the questionnaire (Appendix A) which was uniformly administered to all members of the sample, only three questions distinctly use the word "leadership." Further, no attorney interviewed discussed any of these varied topics in light of leadership; actually, all of the concepts brought forth from the interviews were discussed separately, without any connection to one another or the broader notion of leadership. Many of the questions, as well, visibly prompted a great deal of thought on the part of the attorney, as if they had never pondered such ideas before. Indeed, after a question was asked, it was rather often that an explicit response of "I've never thought about that before" or something to that effect was stated.
Here, it is proper to relay that before each interview, I felt it appropriate to discuss the auspices of the project, which always included my statement that the paper was attempting to prove that the attorney-client relationship was one of leadership. Such an overt explanation of the thesis upon which the research was based could very well have led to a potential bias on the part of the attorneys to guide their answers towards an answer which might sound like "leadership," regardless of its validity to their practice. Many participants actually stated upon the completion of the interview that they did not believe that they had actually assisted me in my research, or in other words, that they had absolutely no idea what the questions asked had to do with leadership. Further, participants could have exaggerated their own practices in order to appear as if they were doing the "right thing" with regard to my topic. Finally, it bears explaining the implications for the use of LMR participants for this study. Although LMR students are not immersed in leadership thought/theory as are Jepson students, they do in fact briefly cover such concepts. Also, the discussion of leadership involves an understanding of the importance of followers in the relationship, which I have put forth as of the ultimate importance to leadership. It cannot be underestimated the impact that this could have had on their actions in the attorney-client relationship, thus leading to their positive responses. As a result, the attorneys in the sample may have indeed had a "leg up" on their peers in this regard.

Let us assume that the attorneys were answering truthfully as to their own experiences -- something which I have absolutely no qualms doing. If this is the truth, then a question is begged: if they are performing activities which are assumedly based in leadership thought, then what difference does it make whether or not one calls it leadership? Such a question points to a very interesting point of inquiry, one to which the present leadership literature and scholarship does not
provide an answer. It has been my experience, as well as that of my peers, that simply utilizing the term "leadership" within open discussion as well as thought seems to bring the exchange to a higher level. When including simply the word leadership, the discussion or thought process of the particular individual seems to be raised to a loftier plane.

The term "leadership" is most often compared and contrasted to "management." When examining both terms, it appears that management connotes an emphasis on the non-personal aspects of a situation, whereas leadership indicates an emphasis on people. This is to say that individuals act differently when they consider themselves a leader than when they see their position as more like that of a manager. Thus, leaders tend to be more likely to concentrate on their relationships with their followers, whereas managers are more focused on the task at hand. As such, it seems conclusive that there is a marked significance to the term leadership -- especially if such thoughts of the importance of followers and people in general are evoked through its use.

Surely, though, if attorney-leaders already understand the importance of the client-follower, it still should not make much of a difference whether the word is used or not. Yet the term leadership, and the understanding that one is a leader, seems also to make one think of his/her position in a much more serious light. The title of leader indicates that you have been given added responsibility over and above members of the group, even if you were the one who was considered to be in charge of the association. The added responsibility "assumed" with the title of leader also then directs the individual to take upon a higher ethical and moral responsibility in such a role. As a result, the term leadership seems to be quite a powerful word, one which has the capacity to truly change the behavior of an individual. To be sure, these are only personal observations and have not been conclusively proven through any specific research methodology,
thus affording a perfect opportunity for further research. In light of the conclusions reached in the first part of the paper stipulating the prime significance of the role of the client in the attorney-client relationship, however, it then seems important that the term leadership is used so that attorneys clearly understand that their role as leaders obliges them not only to interact rather closely with followers but to further assure that they comprehend the extreme moral and personal obligation they have toward their client.

As further evidence that the attorneys in the sample did not understand leadership through the "Jepsonian" lens (which has been the conceptualization of leadership utilized throughout the paper), I submit the answers to the first question posed through the interview process. The question was "define leadership in your own words." Eleven out of twelve members of the sample started their response with the words "the ability." The Jepson School, while not advocating the use of any one definition of leadership, certainly promotes a view of leadership as "process." Again, it appears as if we are confronted with another semantic argument, and this may very well be the case. Even so, however, such an argument in this situation bears a great significance to the thought process of the attorneys who were a part of the research sample. The use of the term "ability" in a definition of leadership definitely suggests a belief that leadership is possessed by solely one individual, as if leadership is an ability that resides in the individual, not the group. "Process" is a much more inclusive term, seemingly allowing the presence and worth of other parties, regardless of position or status in the group. Indeed, it suggests that "leadership involves something happening as a result of the interaction between a leader and followers" rather than the result of one man/woman's actions (Hughes et al., 1993). The previous discussion about the work of the attorney and the role of the client would definitely lend itself to a use of the word
"process" as described above, as effective attorney-client relations can only occur when there is a sense of equality and thus collaboration between the two entities. Thus, if attorneys in the sample used the word ability, it would suggest to us that they feel that in holding leadership (if even considered leaders), they can act effectively without much influence or effort from followers or others. As already discussed, such is a rather risky proposition to the effectiveness of the attorney-client relationship, given the importance of the client. Through all of the above reasons, it seems as though the original assumption that attorneys really, although they may be exhibiting certain types of leadership, do not understand the concept fully, and thus my original assumption stands firm.

Finally, it bears noting that it may seem through this paper that all attorneys answered the questions positively towards the thesis herein. This was not the case, however. The conclusion reached were the result of piecing together responses from different attorneys within the sample. So, as it is true that many attorneys understood the concept of leadership within their interpretation of the attorney-client relationship, none totally articulated the interaction leader, follower, and context, as well as the distinct role conflict resolution plays. As a result, the attorneys in the sample could still benefit from a broader base of knowledge. The premise which began this project would seem to remain intact.

"Common Sense"

An argument can be made, this time against the worth of these findings, by claiming that they are simply "common sense." Indeed, what is contained herein is nothing earth-shattering or incredibly scholarly. Most, presumably, can see that attorneys are leaders in their relationships with clients, that it is important to get them involved with the process for the various reasons
given above, and that attorneys operate differently according to the area of the law in which they work. So is this paper telling us what we already know? Surely, the ideas about leadership discussed here are things of which most are aware. I would question, however, the use of the phrase "common sense." Something which is common sense are things that are inherent in our general knowledge, but not necessarily that which we readily recognize and then are able to consciously put into practice at all times. Often, it is essential for us to be made aware of something before that which is common sense can even be used on a regular basis.

A perfect example of this is shown in quite possibly the most influential "patriot" pamphlet during the revolutionary era, *Common Sense*, by Thomas Paine. Here Paine advocated the concept of independence for the first time to the disillusioned colonists (Tindall, et al., 1992). One can only attempt to decipher the meaning behind Paine's title, but it appears that he meant to claim that the prudence of such an action was common sense, yet that the American populous simply did not realize it. Indeed, the publication of *Common Sense*, in the words of George Washington, "work[ed] a powerful change in the minds of men" (ibid., 1992).

Without being made aware of something which is "assumed" to be common sense, an individual may never realize that it exists. Such is the purpose of this project. I fully understand that these concepts are known by the great majority of attorneys, but it is doubtful that they have ever assimilated these ideas with regard to their practice of law or with the process of leadership. Such a statement is definitely substantiated by the course which a great deal of the conducted interviews took. Many attorneys answered the questions with a great deal of hesitation before coming to any sort of definitive answer. This would seem to indicate that the members of the sample comprehended the concepts about which they spoke, especially because of the breadth of
their knowledge of the varied subjects. It simply took someone asking pointed questions, however, to actually bring forth such knowledge. We must initiate the common sense within each of us by never taking for granted that such things are known just as a "matter of course," and further by making others aware of certain thoughts around us. If nothing else, it is my hope that the previous discourse will "awaken the sleeping giant" of information stored deep within the attorney, so that it can be utilized for the good of both lawyer and client.

Further Research

It is rather obvious that not each and every aspect of the lawyer as leader within their relationships with clients has been discussed herein. Surely, there are other concepts inherent within the study of the process of leadership which bear at least a slight relation to the topic at hand. Problems of time and space have precluded such an inclusion of other equally relevant ideas. I am hopeful, however, that another student, scholar, and practitioner who is similarly interested in this subject will continue this discourse where I have left off, and, further, will correct any and all misconceptions or even add contradicting results to the newly initiated dialogue.

Any attorney or legal scholar reading this paper will undoubtedly note the glaring omission of ethics. Such a topic is central to the life of any leader and takes on a special meaning when considering the work of the legal practitioner. Indeed, one of the major debates within the leadership studies community today revolves around the subject of ethics, questioning whether the term "leader" is even applicable to anyone who is not ethical. The subject is one of prime importance for the attorney, both because of the regulations surrounding the work of the lawyer, and further because of his/her newly found status (through this work) as leader. Each law student
must enroll in a course typically known as "professional responsibility," which explores the ethical obligations of the attorney. Taking into account the now added role of leader, are the ethical regulations promulgated by various entities sufficient to guard the attorney-client? What role does and should personal ethics play in the decision-making or strategy forming of the attorney-leader? These questions only scratch the surface of an incredibly significant topic of extreme relevance to this discussion.

In reading the above sections entitled "Introduction" and "Methodology," one will realize that leadership in the attorney-client relationship was not the sole topic which this project intended to explore. At first, I intended to extend the paper's parameters to include whether or not law schools were presently teaching leadership within their curriculum, operating from the premise that if an understanding of leadership was essential to the effectiveness of the attorney, as well as the rejuvenation of the legal profession, then such should be ingrained into the minds of future lawyers before they could be "corrupted" by the true community of attorney-leaders.

I proceeded with my primary research vehicle, a survey constructed with the assistance of my advisor, which was then sent to the deans of the fifty top law schools in the country as recognized by *U.S. News and World Report*. Much to my dismay, only 15 of those surveys were ever returned, which would not lend a great deal of reliability to any data gathered. Further, many of those which were returned expressed a great deal of contempt at the form and content of the questions asked. Specifically, they wrote that some of the questions relied on dubious assumptions and facts that were simply not true. These "false" inquiries seemed to anger many of the potential research participants a great deal, and understandably so, as many of the questions pointed at aspects of a legal education which were certainly negative and that I simply *assumed*
were correct. A copy of the original survey can be found in Appendix B. Further, a piece of correspondence referring to this survey is located in Appendix C.

One would, at this point, typically consider such research a complete failure. I neglected to do this, understanding that many lessons could be derived from this seemingly terrible state of affairs. First, I learned that any research instrument must be carefully examined to remove any and all questions or words which may point to bias or assume anything that may or may not be true. The former portion of this statement was certainly realized through the assistance of my advisor, as the survey is nearly completely free of any bias regarding the subject of the project. However, there were, as previously written, a great number of statements in the survey which I simply assumed were true, such as distant relationships between faculty and students, or an extremely competitive atmosphere between students. Such thoughts were sparked through a reading of Scott Turow's (author of *Presumed Innocent*) book, *One L*, which is a true story documenting his first year at Harvard Law School. In taking bits and pieces from this text, I committed two major blunders: I failed to realize that it was written in 1975 and that the world of Harvard Law does not equate to other legal institutions. Through this major mistake, I learned that when discussing a topic about which I have little experience or little knowledge, I must go to the true authorities to assure my information is correct. In the present situation, I should have taken the survey to the administration of the T.C. Williams School of Law here at the University of Richmond to check its validity. In so doing, I would have realized the problems with my research vehicle, fixed them, and presumably a better and less enraged response would have been received. Secondly, I was thus able to devote a greater portion of time to the exploration of the significant topic which has now become the focus of the project.
Undoubtedly, however, the issue of leadership in legal education continues to be one of extreme importance. The Honorable Kimberly O'Donnell, Chief Judge of the Richmond Juvenile Court, recently told me that she felt that such a curriculum change was in order at the law school level, and she would like to assist in such being instituted at the University of Richmond (O'Donnell). This subject would then certainly make a great project for anyone else motivated by the issue.

On the subject of possibilities for future research, I feel that the previous discussion should lead to many opportunities for other students and scholars. Foremost among these ideas is the link between professionals and leadership. If lawyers, by the work and interactions they have as a result of their career are leaders, then what about physicians? Psychologists? Auto-Body Mechanics? A logical extension of the conclusions derived here could potentially be that anyone with a greater amount of expertise in any type of relationship is a leader. Is this the truth, or is such a distinction reserved for certain types of professionals? As an example, teachers at the University of Richmond are known for their open-door policy and willingness to establish rapport with students. They would receive no greater pay if they simply shut their door and confined their exposure to students to the classroom. Yet by offering their friendship, professors tell their students that they look upon them as colleagues rather than students, in the pursuit of learning together. For this reason, students at the University of Richmond, like followers within effective leadership relationships, feel that they have worth, and are more willing to learn and explore new and diverse topics both in and outside of the classroom. Further, if it is proved that doctors do work within the leadership process in their relationships with clients, then it also should be explored whether or not medical schools are or should be teaching leadership. Indeed, according
to the Center for Creative Leadership's *Leadership Education Sourcebook*, which chronicles all leadership education programs in the country, both the University of Arkansas for Medical Sciences and the University of Illinois at Chicago have programs which teach leadership to health care providers (not necessarily physicians) (CCL, 1996).

**Implications for the Legal Profession**

In looking at the data and the conclusions derived from it, one would be right in asking the true implications for the legal profession. As earlier cited, it seems as though Senator Earley had this project in mind when writing his extremely significant piece, as he states that any reform within the legal community must "go deep to the heart of who we are, what we do and why we do it" (Earley, 1996). For many attorneys, the conclusions reached herein will be cause for a major overhaul of their practices within the relationships they enact with clients. As a result, the repercussions for the legal community as a whole may take some time to occur, since change is something that most regard with fear. Many individuals are frightened by the aura of change as it represents a failure and requires an alteration from their own status quo, a routine with which they have been familiar for quite some time. Change represents uncertainty -- something that most individuals do not freely enter into. First of all, we have already stated that most of these conclusions are common sensical, that it just requires awareness to be able to apply such knowledge to one's everyday life. As a result, attorneys should not look at their previous techniques for carrying out a relationship with a client as a failure because there was no reason for them to know of the more effective way of looking at the relationship in terms of leadership.
Now that attorneys have been made aware of this new conceptualization, they should feel comfortable in adopting such a "cutting edge" method, especially knowing that these procedures should result in better relations with their clients.

As to the problem of uncertainty, this is certainly a grave stumbling block that the bar will have to overcome before it can raise itself up from the problematic status it now holds. The old paradigm of attorney-client relations stressing less collaboration with the client, and that which was extremely attorney-centered, has been ingrained into the minds of lawyers from their days in law school. For those who have been practicing now for 20 or more years, these practices have guided the relationships that they have held with clients for their entire tenure on the bar, and with these they feel rather comfortable. It is rather natural that they could feel frightful in abandoning such principles which have brought them such great success over the years in favor of an uncertainty, especially with regard to something which is essential to one's livelihood. As a result, in order for this new paradigm of attorney-client relations emphasizing leadership thought and practice to become a true part of the legal community, a small percentage of presently practicing attorneys must adopt these principles. After utilizing them in several different contexts and relationships, they must report the successes (hopefully) which they have experienced to the membership of the bar as a whole. Upon learning of the success of this new line of thought, attorneys who were once skeptical will take these statistics of sorts from their colleagues as proof that such a change is no longer such a risk, and will be willing to attempt and witness for themselves. Further, in order to infuse this type of thinking on each and every practicing attorney, it will be necessary to utilize this new paradigm in the teaching which occurs at the law school level. Only then can it be assured that all attorneys understand their role as leaders and the
ramifications for such on their relationships with clients.

To conclude, I return to the classic view of the attorney as a determined advocate, one who looks out for the interests of their client at every turn. It appears to me at least that the legal profession (generally speaking) has deviated somewhat from this interpretation of the lawyer's role. What once was a purely selfless profession is now dominated by the almighty buck, where client emotions and fears are not of concern, where the only matter of interest is whether you can pay the often exorbitant fee associated with legal representation. By advocating a style of attorney-client relations that mirrors that suggested by the field of leadership studies, I urge a return to the more personal side of the law. This is exactly what leadership is about -- people.

The study of leadership is centered around understanding, recognizing, and motivating people. George Eliot once wrote, "The law and medicine should be very serious professions to undertake, should they not? People's lives and fortunes depend on them" (Reay-Smith, 7). This is an aspect that our practitioners of law seem to have forgotten. The practice of law is not only a career, it is a profession -- defined by its dedication to assisting those in need. Attorneys have the unique opportunity to help people, to give them worth when they see themselves as having no value. The practice of leadership is synonymous with this purpose -- raising individuals to levels which they never thought attainable. By remembering the power and importance of the individual, members of the legal community can finally come together and "lift the bar."
NOTES

1 It is important to note that not everyone agrees with Senator Earley's assessment. Mary Sue Terry, former Attorney General of the Commonwealth of Virginia, and present adjunct professor of political science at the University of Richmond, has another view on the problem which the legal profession faces. She believes that television has harmed the public image of attorneys so greatly that leadership within their relationships with clients will not suffice as a method of remedy. She contends that attorneys need to be leaders in the community — little league coach, volunteer at the blood bank, etc. Only when the public-at-large can see that attorneys are indeed normal, everyday people who care about others will this problem ever be eradicated (Terry).


3 For more substantial information on teams, as well as practical methods of creating such atmosphere along with illustrative case-studies, see Wilson, Jeanne, George, Jill, and Wellins, Richard, with Byham, William (1994) Leadership Trapeze: Strategies for Leadership in Team-Based Organizations. Jossey-Bass: San Francisco.
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Survey -- Created by Dennis Barghaan with Assistance from William S. Howe III.

Terry, Mary Sue, Former Attorney General -- Commonwealth of Virginia, and Adjunct Professor of Political Science -- University of Richmond. *Personal Interview*. 21 March 1996.


Williams, W. Clark, Associate Dean -- T.C. Williams School of Law, University of Richmond. *Personal Interview*. 6 March 1996.


**Author's Notes:**

1. Interview responses are cited throughout the text simply by placing the individual's last name into parenthesis -- i.e., (Quinn)

2. In order to facilitate a smoother text, parenthetical citations referring to members of the research sample have been utilized sparingly, but without sacrificing the obligation to give proper credit. In paragraphs where only one member of the sample is cited, the citation is placed at the end of all statements referring to his/her responses therein.

3. All distinct quotes have been taken from the two quotation reference texts referred to in the "References" section, with a few exceptions: Disreali/Nixon (Hughes et al., 1993), and Washington (*Philadelphia*).
Questionnaire for Attorney Interviews

1. Define Leadership in your own words.
   - This will allow an insight into whether or not the interviewee has any background or understanding of leadership studies, something which will be helpful in the second part of the project.

2. Do you personally see yourself as a leader in your everyday activities with clients?
   - Personally, I think there is definitely a correlation between the effectiveness and technique utilized by someone if they believe they are or are not a leader. Whether or not this is a positive influence or not is up for debate, but it is definitely something worthy of discussion.

3. Why, in your opinion, do clients come to you for services?
   - Obviously, the answer here will most likely be something along the lines of "because I have expertise in the law" or "I am an attorney," which is what I am getting at, in discovering the role that expert power plays in establishing the leadership relationship inherent here. However, I may receive a different response such as "personality," or "reputation," which could lend credence to a charismatic leadership situation or the role which traits play in the leadership process here.

4. Do you believe, having established that the relationship between attorney and client is indeed one of leadership, there is any way for a client to assume the position of leader? Do you encourage this? If so, how? How important is it to the success of the relationship?
   - Here I am attempting to discern the ways in which the leadership process is unique in the attorney-client relationship, in that the follower (client) almost always assumes the leader role in one way or another, due to the contractual nature of the relationship, as well as ethical and procedural requirements as set down by the courts. Further, one of the main "buzzwords" of leadership studies today is empowerment, getting followers involved in making key decisions for the group so that they feel more significant in their role. The extent to which attorneys facilitate this process (i.e. garnering information) could further the contention that they do indeed serve as leaders.

5. How significant is client satisfaction to the relationship? If so, what actions do you take in order to obtain this feeling of fulfillment? Does this alter your strategy in a particular case?
   - The purpose herein is to possibly apply theory to practice, one of the goals of the Jepson School. Specifically, my experiences have led to infer that the path-goal theory will most likely form the best application. From my knowledge, an attorney
models his/her behavior and strategy both based on what he/she observes as the needs and expectancies of the client as well as the particulars of the case at hand in order to seek the necessary client satisfaction.

6. Are decisions which need to be made in conjunction with a case decided on by both yourself and the client, just yourself, or both, dependant upon the situation? Is this dictated by law? How much persuasion must you use for a client to see a matter in your way, or do you attempt to persuade?

-Here I am trying to establish how attorneys make decisions within the leadership process. Research shows that the relationship becomes much more effective when followers have a say in the process of decision making which effects them personally (i.e. Vroom/Yetton Model). By showing that attorneys do indeed make decisions which effect others, I will show that they are in fact leaders, and through the methods they utilize, they are either effective or non-effective.

7. Have you ever experienced conflict in dealing with a client? In what ways do you extinguish those conflicts? What are they over? Are there times in which you must simply break off the relationship because of conflict?

-This question addresses the process of conflict resolution which leaders must undergo in any situation, as there will always be conflicting interests and methods when two or more individuals get together to meet goals. The way in which attorneys go about this task can allow for an analysis of their leadership ability as well as whether or not they are assuming a leadership role in attempting to relieve the apparent tension. Possibly, the client actually works with the attorney to work out the differences, which would be the best possible situation, leading to another correlation with the leadership process.

8. Define the term "client" for me.

-Such an explanation may go a long way in determining what role he or she plays in the relationship. A response such as a co-worker in the process of winning a law suit (which I do not expect to receive) could indicate quite a comprehension of leadership concepts. Yet the more common answer of "someone or a group who contracts out my expertise for their use," could lead to a totally different analysis.

9. Have you ever worked in another area of the law (i.e. Attorney General, Prosecutor's Office, Corporate Counsel, Private Firm)? Do you feel the Attorney-Client Relationship to be any different when you change contexts? How?

-This attempts to get at the common conception in leadership studies that the process of leadership is different in differing contexts and situations. Although the law is a field unto itself, it is rather broad. Not only are there different subject matters, but there are also different levels of analysis for leadership, such as whether or not an attorney who works for the Attorney General or the Public Defender considers the citizens of the state itself to be their "clients." Whether or not they formulate their behaviors and techniques differently because of this understanding will allow for an analysis of the contextual differences as applied to the legal world.
10. How much does *personal* ethics play into your own actions as part of the relationship?  
   - Ethics and leadership, as we know, are inseparably intertwined. One cannot, according to Burns, be a leader without being ethical. Such a question will thus lead to an interesting discussion about the implications for certain actions within the leadership relationship. If an attorney is not ethical in his dealings, how would a client be willing to follow his advice? The distinction between personal and institutional ethics is necessary due to the numerous regulations as found in the case law and Federal Code of Civil Procedure.

11. In your opinion, what is the key to a successful attorney-client relationship?  
   - In asking such a question, I hope to gain a sense of what practicing attorneys feel is necessary for leaders to do within the relationship. Hopefully, such knowledge can be compiled as a "guide" to effective leadership within the attorney-client relationship. Further, many of these concepts are quite likely to coincide with known aspects of leadership, lending further reliability to the notion that the attorney-client relationship is indeed one of leadership.
APPENDIX B

Survey - Senior Project
Dennis Barghaan - Jepson School of Leadership Studies
University of Richmond

1. What, according to your school of law, would be the proper definition for the term "client?"
   a. one who, in order to solve a complex problem, requires the assistance of an expert
   b. one who enters into a contract for professional services
   c. Both
   d. Other (please specify) _______________________

2. Law schools are generally considered highly competitive environments. To what extent do you believe that such competition may effect a student's ability to interact effectively and exercise collaborative relations with clients and colleagues in the future? (Please Circle One)

   Strongly Agree
   5 4 3 2 1 0

   Strongly Disagree
   1 2 3 4 5

3. Many law schools have taken steps to eliminate competition between and among students. Has your institution done anything along these lines? If so, what?

4. Law schools are at times criticized because of the often distant, "emotionless" relationships that students share with faculty. Would you agree that this could lead to distant, "emotionless" relationships between these same students and clients or colleagues? (Please Circle One)

   Strongly Agree
   5 4 3 2 1 0

   Strongly Disagree
   1 2 3 4 5

5. Please place your institution on the basis of its primary philosophy. (Please Circle One)

   Lawyering Skills
   5 4 3 2 1 0

   Legal Scholarship
   3 4 5

6. What, in your opinion, does the best job in educating students about the intricacies of acting as a leader (individual who facilitates the realization of group goals) in a legal setting with a client?

   a. Clinical Placements
   b. Required Course with Title Resembling "Legal Skills"
   c. Course work within the Classroom
   d. Other (Please Specify) _________________________
7. The pressure to perform within the classroom, literally, is enormous, especially when one is asked to "state the case." How does this help students in the future? (Circle all that apply)

- Helps students think on their feet
- Helps students understand the immense pressure an attorney feels "on the job," whether with a client or in front of a judge
- Helps students strive for success in their course work and beyond
- Other (Please Specify) ___________________

8. Below you will find a listing of various concepts/skills which are often associated with the study of leadership. Please rate (circle) each in terms of its importance to the practice of law. (5 = High)

- Conflict Resolution 1 2 3 4 5
- Ethics 1 2 3 4 5
- Change Agent 1 2 3 4 5
  (Leaders are often recognized as those who facilitate change for society)
- Communication 1 2 3 4 5
- Expert Power 1 2 3 4 5
- Empowerment 1 2 3 4 5

If you feel these concepts/skills are significant to the attorney's work, are you currently teaching these to students? What programs, if any, at your institution teach them to students?

9. What impact will emerging technology (i.e. Internet) have, if any, on the Attorney-Client relationship? What programs do you have in place to provide for this emerging technology?

10. How receptive would you be to a proposal to enact a leadership development program within a legal education? (Please Circle One)

<table>
<thead>
<tr>
<th>Very Receptive</th>
<th>Not Receptive</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 4 3 2 1 0 1 2 3</td>
<td>4 5</td>
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</tbody>
</table>

Should you have any further comments, please feel free to utilize the space provided below.
Recently I received a cover letter from you and a survey project from your student Dennis Barghaan regarding law school atmosphere. I am certainly interested in cooperating with Dennis and am interested in the results.

Unfortunately, however, on reading the first two questions, I found them to be so flawed that I was tempted to toss the survey away. Instead, I thought I would write and let you have my comments. We are in the business of teaching and learning, and I believe that this is a good way to instruct a student on how to improve on his work.

The first question is so ambiguous that it makes it impossible to give an answer other than "Other," and to give a complex answer. What follows is the best I can do. A "client" is an individual (or organization) who believes that he or she has what may be a legal problem (whether simple or complex), and who obtains the agreement of an attorney (whether under a contract or not, or whether for pay or on a pro bono basis) to advise that individual.

The second question is badly flawed. When one is asked to state his or her agreement with a statement, there must be a clear statement. The student should have asked, "To what extent do you agree that such competition may affect a student's ability to interact effectively . . . ?" If that were the question, my answer would be strongly disagree (#5).

Question 5 is unclear. If we believe that both are equally vital and both very important, are we to answer "0"? We have done so on that assumption.

Question 6 is ambiguous. What is the the "group" whose goals are being realized? The answer is likely to be quite different if one is talking about a class action suit for injuries due to a defective product, the drafting of a contract between two major companies, the decision whether to let a criminal defendant take the witness stand, or the writing of a person's will.
Question 7 is based on assumptions that are not necessarily accurate. For example, I have taught Civil Procedure to first-year law students for many, many years. Yet I cannot recall when I last asked a student to "state the case." Nor do I believe that the pressure is "enormous" in most classes. To the extent that pressure is applied, it induces students to prepare thoroughly so that they can recite accurately. It enforces the importance of preparation and may, to a limited extent, assist students to think on their feet.

I have answered as best I can the other questions. I hope I've been helpful.