

**Options and Obstacles  
A Survey of the Studies  
of the Careers of Women Lawyers**

**American Bar Association  
Commission on Women in the Profession**

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**prepared for the Commission  
by  
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# **PART ONE: EXECUTIVE SUMMARY**

## **I. Background**

In 1988, the American Bar Association Commission on Women in the Profession issued a Resolution and Report,<sup>1</sup> subsequently adopted by the ABA House of Delegates, which identified the issues and concerns facing women in the legal profession. This Report supported much of the Commission work that followed and became the definitive statement on the status of women in the legal profession.

In 1993, the Commission decided it was time to update that report and reassess the status of women in the profession, and embarked on a career path study with multiple goals: to determine where women are in our profession, whether women and men are making different career choices and, if so, whether women's choices are affirmative choices or responses to continuing gender bias in the profession. The first step in the study, before beginning a Commission-sponsored survey, was to examine the information which already exists on women's careers.

We found that the volume of material on the subject of women's legal careers is so extensive that "step one" became a project in and of itself. This is the report on that project, a delineation of what we know and—of equal significance—what we do not know about the careers of women lawyers. This report is offered in the interest of both informing the profession and aiding those interested in further research on women lawyers. The findings include descriptions of what we learned and recommendations as to the directions future research might take.

## **II. Methodology and Findings**

The Commission examined the existing data to identify the career options and choices of women attorneys and to ascertain what prompts their career decisions. We hoped there would be more than simple demographic information about where women practice law and that the information would reveal any obstacles to women's career progress.

Over the last several years, many state and local bar associations and judiciary-sponsored gender bias task forces have reported on the "status" of women lawyers. They have conducted studies to determine areas of practice, distribution among practice settings, geographical location, salary distribution, marital and parental status, promotion statistics such as years to partnership, and disparate or differential treatment. These studies have themselves generated additional law review articles and journal reports.

The amount of information examined was considerable, including exhaustive analyses of state bar surveys, gender bias surveys, satisfaction surveys, law review articles, doctoral dissertations and

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<sup>1</sup>ABA COMMISSION ON WOMEN IN THE PROFESSION, REPORT TO THE HOUSE OF DELEGATES (June 1988).

books,<sup>2</sup> and from it we know a great deal. The majority of the studies focus on just two points in a legal career—the first job, and the one after that. For the purposes of this report, the Commission organized the data around several stages of a career: the decision to attend law school; the first job; and subsequent career changes. This study also highlights data concerning career dissatisfaction and family choices.

The Commission hoped that the voluminous material reviewed would provide a single, clear picture of the career paths of women lawyers. The picture that emerged, however, is multi-dimensional and quite complex, leaving the issue of the underlying causes unexamined. In other words, the career decision-making process, i.e., the way in which individuals, female and male, make their career decisions, remains largely unknown. Attempts to explain why women have made their choices are theoretical and sometimes conflict from one study to another.

We found that the employment market for women has changed dramatically since women began entering the profession in significant numbers. A 1963 *Harvard Law Record* survey reported that “women were among the least wanted recruits in firms of every size and specialty regardless of their law school performance.”<sup>3</sup> Fifteen years later women began breaking into firms as token representatives. Thirty years later, many of the entry-level employment gaps between women and men are being closed, particularly for white women law school graduates. The change, however, is less dramatic beyond first jobs, as employment disparities widen.

The data on this changing employment picture focus primarily on where women lawyers practice and the differences in where they and their male colleagues are employed, and allow for valuable observations. The analysis of these data lead to several conclusions and can be used to direct future investigation:

## 1. Women and Varied Career Paths

**Finding:** There is no typical linear career path or single identifiable career trend attributable to women lawyers. The legal profession is changing, but as Cynthia Fuchs Epstein writes, “by no means does this mean that the changes are consistent.”<sup>4</sup> Instead, women have now reached sufficient numbers in the profession that we cannot assume that the market affects all women similarly and/or that all women succeed or fail as an undifferentiated unit.

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<sup>2</sup> See Bibliography at Appendix 2.

<sup>3</sup>HARV. L. REC., March 26, 1963, at 1, col. 2, cited in Epstein, *infra* note 4, at 370.

<sup>4</sup>Cynthia Fuchs Epstein, *Rationales and Realities: Social Change, Women and the Law*, 37 DEPAUL L. REV. 367 (1988).

**Recommendation:** Future studies should investigate the various career paths that lawyers, particularly women lawyers, take over a period of time. Longitudinal studies<sup>5</sup> would afford the profession the most accurate view of the choices and the reasons underlying them.

## 2. Career Choices: Women versus Men

**Finding:** Women and men make different career choices, although there is only the barest anecdotal information to explain this phenomenon. It is possible that in some instances women actually are paving the way for new career options.

**Recommendation:** Future studies should ascertain the meaning of the differences, and why women and men choose certain career paths. Are the choices women make positive ones, or do certain paths appear to be foreclosed? An analysis of career decision-making is predicated upon an investigation of goals, steps taken to achieve goals, and the reassessment of goals and strategies. While practice settings or specialty areas may be elements of the decision, they must not be confused with the decision-making process itself.

## 3. False Assumptions and Stereotypes About Women

**Finding:** Throughout this study, mention is made of assumptions and stereotypes about women lawyers that are impeding full and equal participation in the profession. These assumptions include: (1) women have an affinity for certain areas of practice, which explains their overrepresentation in some and underrepresentation in others; (2) women, particularly those with children, are not as committed to the practice of law as men; and (3) women are leaving the practice of law in large numbers. None of these is supported by the data.

**Recommendation:** Future studies should proceed with caution, aware that assumptions and stereotypes can create obstacles to career development. In this study, the Commission indicates instances where assumptions are not supported by the data, in the hope that future investigations will explore the underlying premises.

## 4. Career Satisfaction

**Finding:** Women report greater, and increasing, dissatisfaction with the practice of law than do men. For example, a study of the 1983 graduates of twenty law schools found that 26 percent of women, compared to 15 percent of men, expressed general career dissatisfaction.<sup>6</sup> It did not matter whether the respondents graduated from a particular school, or were drawn from sparsely

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<sup>5</sup>“Longitudinal studies” are those that follow the participants over a period of years, rather than merely taking a “snapshot” at a moment in time, as most of the studies in this report do.

<sup>6</sup>Marilyn Tucker, Laurie Albright & Patricia L. Busk, *Whatever Happened to the Class of 1983?*, 78 GEO. L.J. 153 (1990).

populated states or large metropolitan cities.<sup>7</sup> Further examples of this dissatisfaction were noted in two ABA Young Lawyers' Division surveys. In 1984, 29 percent of female lawyers compared to 14 percent of male lawyers reported general career dissatisfaction. Six years later, 41 percent of women as opposed to 28 percent of men expressed dissatisfaction with their careers.<sup>8</sup>

**Recommendation:** Future studies should explore the extent of career dissatisfaction: the bases for it and how it affects career decision-making; whether the dissatisfaction leads women to choose certain legal jobs over others; or if the dissatisfaction leads women to leave the profession entirely.

## 5. Multicultural Women: Double Barriers

**Finding:** For white women many of the disparities in hiring at the entry levels in the profession are narrowing. However, barriers continue to exist for women attorneys of color, even at the entry levels. The employment discrepancies between women of color and all men in general and white women are considerable. The fact of being a woman and a minority creates an obstacle greater than being either one. The negative impact of this double impediment can be traced throughout the career data.

However, statistics on women of color are scarce for two reasons. First, their numbers in the profession are low. In addition, most studies do not create a separate category for "women of color," apart from "women" in general or "minorities" in general.

**Recommendation:** Future studies should address the unique issues facing women of color. More accurate statistical data would be a help and future studies should delineate statistics by race and gender. Without this information, the negative impact of the double barrier is buried in the statistics on women or minorities, and an unrealistic employment picture emerges.

## 6. No Evidence That Women Are Leaving the Law

**Finding:** There has been recent media attention on the subject of women leaving the legal profession, but little supporting statistical information. The reports that conclude women are leaving the practice generally reach that conclusion by extrapolating from evidence that women are dissatisfied with the practice. The reports of women leaving the law have fueled the assumption that women are less committed than men to the practice of law.

**Recommendation:** Future studies should investigate this supposed phenomenon. Studies should focus on specific questions about women leaving the practice, e.g., are they leaving at

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<sup>7</sup>Female law students, when surveyed about their reactions to law school, also indicate a far greater level of dissatisfaction with the law school experience than is true for male students. This trend has been observed through internal studies at Georgetown University Law Center.

<sup>8</sup>ABA YOUNG LAWYERS DIVISION, THE STATE OF THE LEGAL PROFESSION 1990, Executive Summary at 2 (1990).

different rates than men, why are they leaving, where are they going, and are they leaving permanently or just temporarily? The data should be put in context and accompanied by underlying rationales.

## **7. Families and Careers: Enhanced Satisfaction**

**Finding:** Women lawyers who have or are planning to have children are the subject of numerous studies. Some studies conclude that family responsibilities actually enhance women's satisfaction with their legal careers. Nonetheless, many conclude that women's dual commitment to career and family leads to increased dissatisfaction with and, by inference, decreased commitment to the practice of law.

**Recommendation:** Studies of women lawyers and studies of quality of life issues should more thoroughly explore the impact of children on career choices and the economic ramifications on both women and men of having a family.

## **8. Women and the Definition of Success: Voluntary or Involuntary Choices?**

**Finding:** Research on the career choices, and the decision-making process itself, for both women and men, is limited. Most studies do not distinguish between career decision-making issues and employment categories.

For example, an underlying factor, unaddressed in the studies, but which may indeed impact women's career decision-making, is how women define their own success. Success in the law traditionally has been measured by money, title, and prestige. Given this, the statistics indicating that women are less likely to practice in law firms—generally the most lucrative and prestigious positions—appear distressing. However, if women do not value the traditional paradigms of success, their personal career assessment might be more positive than a straight comparative study would have us believe. On the other hand, women may make career choices because the doors to the male success models were closed to them. We need to understand more about women's choices, not just what the choices are but why they are made, in order to truly understand women's underrepresentation in the traditionally prestigious positions of the profession.

**Recommendation:** Future studies should explore whether differences exist in the definition of success and whether these differences represent affirmative decision-making.

## PART TWO: CAREER PATHS

### I. The Decision to Attend Law School

#### A. Introduction

An initial question in career path research is why individuals embark on specific types of professional training—why they seek to enter a specific profession—and beyond that why they seek certain practice areas within that profession. The Commission found that two assumptions, neither supported by the statistical data, impact on conclusions drawn about this issue which can negatively affect women lawyers throughout their careers. The first is that whatever motivates people to enter the legal profession continues to motivate them consistently throughout their legal career and is the basis for their career decision-making. The second is that women and men are differently motivated.

It is often suggested that women are “drawn to” or have an “affinity for” certain types of practice and that disparities between women and men in practice settings and substantive areas are the product of a natural selection process driven by women’s interests or disinterest. Those who follow this line of reasoning, the “motivational approach” theory, suggest that women are not being excluded from any practice area, but rather that the distribution is simply a reflection of women’s own interests.

These hypotheses depend, in part, on proving that women and men are differently motivated to attend law school. Empirical research focused on motivations or interests upon entry, and reflections of those interests after graduation, however, is limited and occasionally contradictory.

#### B. Survey Analyses

In 1967, when there were relatively few women in the profession, James J. White undertook one of the first empirical studies of differences between female and male attorneys.<sup>9</sup> He specifically addressed the issue of motives for attending law school, including the suggestion that “women are really social workers.”<sup>10</sup> In this national study, there was not a statistically significant difference<sup>11</sup> between the percentage of women (59%) and the percentage of men (53%) who cited “desire to help society” as important or very important considerations in this decision. However, the percentage of women who indicated that “good remuneration” was important or very important exceeded the

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<sup>9</sup>James J. White, *Women in the Law*, 65 MICH. L. REV. 1051 (1967).

<sup>10</sup>*Id.* at 1069.

<sup>11</sup>Throughout our study, references to the statistical significance of research results are the conclusions of those conducting the studies under discussion; we have done no independent statistical analysis of these research results.

percentage of males who felt that remuneration was important (70% to 60%); twice as many women as men stated that remuneration was a “very important” reason to attend law school.<sup>12</sup>

A 1990 Minnesota survey found that women were somewhat more motivated than men by a desire to contribute to the social good (56% women, 42% men).<sup>13</sup> However, the Minnesota study also noted three other statistically significant motivations to attend law school: “The ability to direct one’s own career (79% women, 80% men); desire for advanced degree (61% women, 51% men), [and ability to] earn high income (33% women, 41% men).”<sup>14</sup>

Apparent inconsistencies between the White study and the Minnesota study may be attributable as much to the survey syntax as to an evolution in women’s motives from 1967 to 1990. Unlike White’s study, which asked about “good remuneration,” Minnesota’s income inquiry asked about “high income.” Men admit to seeking *high* income more frequently than women do; women seek, instead, what they believe is a “good” or “reasonable” income. What may be more significant is that women and men equally seek *control* of their careers.

These statistics also support the suggestion that women pursue an advanced education because they believe that they need these credentials to level the playing field. In other words, the law degree is seen as a key to obtaining equal advantage in the employment market.

A 1988 Stanford survey of current students and graduates appeared to support the “motivational difference” approach.<sup>15</sup> More female graduates (81.5%) than male graduates (69.3%) indicated that “a desire to serve society” had motivated them, and “further education in order to obtain a job” was reported by 50.0 percent of women, but only 31.4 percent of men. In addition, 31.1 percent of men but only 17.7 percent of women indicated an interest in going into business as a reason for going to law school. The “desire to make money” was an incentive for 49.5 percent of male graduates compared to 38.0 percent of female graduates and for more male than female law students, as well.<sup>16</sup>

However, the “motivational difference” is not verified by a 1990 study by the Indiana State Bar Association Commission on Women in the Profession. Its findings revealed no significant differences between the motivations of women and men in choosing law as a profession,<sup>17</sup> and challenged the assumption that differing motives explain the difference in job distribution. This

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<sup>12</sup>*Id.*

<sup>13</sup>Paul W. Mattessich & Cheryl W. Heilman *The Career Paths of Minnesota Law School Graduates: Does Gender Make a Difference?*, 9 LAW & INEQ. J. 59, 66 (1990).

<sup>14</sup>*Id.* at 65-66.

<sup>15</sup>Janet Taber et al., *Gender, Legal Education, and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates*, 40 STAN. L. REV. 1209, 1238 (1988).

<sup>16</sup>*Id.*

<sup>17</sup>INDIANA STATE BAR ASSOCIATION, REPORT OF THE COMMISSION ON WOMEN IN THE PROFESSION 17 (October 18, 1990).

study noted that women and men equally rank service to others as an important factor in choosing law as a profession. It also acknowledged that “[t]his is contrary to the commonly held perception that women are more service oriented and that this greater desire to provide service to others accounts for more women in public interest and government jobs.”<sup>18</sup> Given its findings, the study recommended questioning why women are disproportionately represented in certain types of law practice and areas, such as family law.

In a recent study of students at Harvard, Robert Granfield found that “there is little doubt that law schools are attracting a more diverse pool of women,”<sup>19</sup> and it is no longer possible to speak about women’s motivations as if they were identical. He noted that just as many if not more women in the sample (46%) entered law school for reasons such as money, job security and advancement as did men (43%).<sup>20</sup> Also, only a slightly greater proportion of women entered for altruistic reasons (25%) than did males (22%).

Based on these and other statistics, Granfield concluded that this “strongly suggests the presence of gender contradiction,”<sup>21</sup> that is, differences among women themselves. Granfield’s commentary supports the premise that women, now between 40 and 50 percent of the law school population, cannot be seen as a single group. Rather they arrive with different backgrounds, motivations and concerns.

### **C. Summary**

It is clear, as Granfield noted, that one cannot attribute to all women a single motivation to enter the profession. Women’s disproportionately high representation in any practice area should not be attributed to their “affinity” for that area. The various studies, analyzed together, indicate that men are as motivated to enter the profession by the altruistic factors as are women. Further, women indicate as much desire to obtain advantages in the employment market as do men.

The Commission urges caution in arriving at any universal conclusion about what motivates people to attend law school. Future research might more fully explore the decision-making process women engage in even regarding the decision to pursue a legal career.

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<sup>18</sup>*Id.*

"ROBERT GRANFIELD, MAKING ELITE LAWYERS 101 (1992).

<sup>20</sup>*Id.*

<sup>21</sup>*Id.* at 101-102.

## II. The Impact of Law School

### A. Introduction

Lawyers intrinsically believe that legal education has a profound effect upon all who are exposed to it. Recent data support this belief by suggesting that the law school experience impacts future career choices and also that students' goals may be changed by the experience. The data do not reveal whether the effects are the same for women and men or if aspects of legal education affect women differently than men, but they raise significant questions.

### B. Disparate Treatment/Different Experiences

Many lawyers can remember when women were singled out for embarrassing and degrading comments or questions in the classroom, such as "Ladies' Days" when faculty would call only on women, often in intentionally demeaning ways.<sup>22</sup> Such overt, disparate treatment has subsided; however, gender bias and hostility both inside and outside the classroom continue to be significant problems in some law schools.

Disparate treatment has insidious side effects. The 1988 Stanford study<sup>23</sup> found that male students are more likely to participate in class than female students, but noted several different interpretations of this finding:

- women feel less comfortable speaking in class, i.e., they may not want to participate;
- professors, as has often been alleged, call on women less frequently than men;
- women chose not to participate because they are more interested in cooperation than in competition or discussion dominance.<sup>24</sup>

The discrepancy in classroom participation may demonstrate a preference or a barrier. It is tempting, as the study suggests, to combine this finding with other information to draw conclusions:

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<sup>22</sup>See CYNTHIA FUCHS EPSTEIN, WOMEN IN LAW 65-67 (1983) ("[A] 1965 graduate reported that [the professor] sat in the audience and asked questions in a 'humorous' tone of the women who were exhibited on the podium rather like performing bears." A 1969 woman graduate recalled that "[f]or the professors and the male students, Ladies' Day was an entertainment, a show put on at our expense.").

<sup>23</sup>Taber et al., *supra* note 15, at 1242.

<sup>24</sup>*Id.* See DEBORAH TANNEN, PH.D., YOU JUST DON'T UNDERSTAND (1990), for a discussion of gender-based differences in linguistic approach.

The lower [in-class] participation rate among women may be both a symptom of a larger feeling of exclusion and a problem in its own right. Our conclusion that female students and graduates were more likely than were male students and graduates to experience stress during law school also supports the hypothesis that the law school experience is in some ways more unpleasant and uncomfortable for women than it is for men.<sup>25</sup>

Some women law students report being treated differently from men in law school—such as not being called upon in class, being asked different questions, or being evaluated differently—which dramatically affects their educational experience.<sup>26</sup> However, not all women experience this difference. Granfield posited that “women react in sharply different ways to their legal education depending on the values with which they entered.”<sup>27</sup> His categories of women students were limited—he referred to “careerists” and those “committed to social justice.” (One might think that, since he noted the diversity of the female student body, he would have seen more than two possibilities.) He suggested that women experience law school very differently based upon these values: “Those that entered with a commitment to social justice tended to experience the school as a sexist and dehumanizing institution, while those who entered with primarily careerist goals described an aggressive but fair learning experience.”<sup>28</sup>

The Commission also gathered anecdotal information from students and faculty regarding student interactions with one another. There are reports of students consistently segregating themselves by gender within the classroom and while participating in extracurricular activities. This is troublesome for two reasons. First, legal education requires an exchange of ideas. That exchange is often most meaningful when it occurs between those with differing views and life experiences. If students are not engaging in this free exchange, their educational experience is not as full. Second, individuals who choose not to interact are, in fact, creating their own stereotypes or assumptions about others. These stereotypes, if unchallenged, will carry over into the work environment, continuing, rather than eliminating workplace bias.

### C. Competency

There is an emerging issue within legal education which is of particular concern. More women than men feel less competent and less intelligent following their legal education than they did when they began. Granfield found that 60 percent of women and 73 percent of men felt that law school had made them more competent.<sup>29</sup> Again, there were further differences based upon the woman’s motivation to attend law school. Most women who entered law school for reasons such as high income potential, job security, or job advancement reported having become more competent than

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<sup>25</sup>*Id.* at 1256.

<sup>26</sup> MYRA & DAVID SADKER, *FAILING AT FAIRNESS: HOW AMERICA’S SCHOOLS CHEAT GIRLS* 186-189, 187 (1990) (concluding that the law school classroom is where women “learned silence”).

<sup>27</sup>GRANFIELD, *supra* note 19, at 95.

<sup>28</sup>*Id.* at 106.

<sup>29</sup>*Id.* at 97.

their altruistic counterparts,<sup>30</sup> likely because their legal education offered them “essential skills to compete in the job market.”<sup>31</sup> The study indicates, however, that a significant number of women who were motivated by social justice pursuits believed themselves to have been adversely affected by their law school training.<sup>32</sup>

A 1993 study undertaken by the Ohio supreme Court and Bar Association Task Force on Gender Bias in the Courts confirmed that the law school experience has a negative impact on women’s sense of their own competence. “About 40 percent of the women who responded said they felt less intelligent and articulate as law students than they did before entering law school, while 16 percent of the men said they felt less intelligent.”<sup>33</sup>

These outcomes are cause for concern. The very education, which is to prepare students to be effective practitioners seems to be decreasing the most basic success predictors: feelings of competence and intelligence. Legal education should be a positive force for change—effectively integrating women into the profession. These studies indicate that in significant, gender-based instances, this education has the opposite of its intended effect.

#### **D. Knowledge About the Profession**

There is continuing discussion regarding the effectiveness of legal education in preparing students to enter the legal profession. This issue has given rise to a recent report of the ABA Task Force on Law Schools and the Profession, *Legal Education and Professional Development—An Educational Continuum* (the MacCrate Report). The report was particularly critical of the preparation individuals have for the career choices which they must make:

Prospective law students generally are not knowledgeable about the profession: what certain jobs entail; what different paths for entry into the profession may be; how students should prepare for their careers; and how law schools may differ in the preparation they offer. Law students tend to be passive consumers of legal education; they simply assume that the law school experience adequately prepares them for practice.<sup>34</sup>

The MacCrate report challenges the legal community—law schools, the profession and individuals—to take a more active role in teaching students about the “realities of practice and the potential paths

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<sup>30</sup>*Id.* at 103.

<sup>31</sup>*Id.*

<sup>32</sup>*Id.*

<sup>33</sup>OHIO SUPREME COURT AND BAR ASSOCIATION TASK FORCE ON GENDER BIAS IN THE COURTS, THE ELEPHANT IN OHIO LAW SCHOOLS: A STUDY OF PERCEPTIONS (1993), *quoted in* Ken Myers, *Study Says Women Still Feeling Gender Differences in Academia*, NAT’L L. J., Nov. 22, 1993 at 4, column 3.

<sup>34</sup>TASK FORCE ON LAW SCHOOLS AND THE PROFESSION, SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, AMERICAN BAR ASSOCIATION, PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM 228 (1992).

to a variety of careers within the profession.”<sup>35</sup> It further suggests that much of the dissatisfaction among those in the legal profession is due to a lack of understanding of the profession, including “inadequate information regarding a life in the law.”<sup>36</sup> In other words, the very institutions which should be preparing individuals for practice are contributing to the wide-ranging dissatisfaction within the profession.

## **E. Summary**

The data available about the law school experience, unlike the extant data about later career points, afford some insight into gender distinctions. In light of the recent findings of the MacCrate report, the data focus attention on the role of law schools in preparing students to enter the profession. From these findings, the Commission suggests that the legal profession and, specifically, law schools work toward eliminating barriers to women’s learning and professional development.

# **III. First Career Choices**

## **A. Introduction**

Significant data have been collected from recent law school graduates about similarities and differences between women’s and men’s first jobs in private practice, government, public interest, business and other settings. The information obtained from graduation surveys has been augmented by the data collected in many bar association surveys.

As previously noted, knowing where women are does not necessarily give insight into why women have chosen such positions. In short, there is a good bit known about *what* jobs law school graduates choose, but very little known about *why* they make these choices. Future research should address the career decision-making process of lawyers (female or male): how law students make choices, how they obtain career-relevant information, and what effect personal values, skills, and interests have on these choices.

## **B. Survey Analyses**

### **1. NALP Survey, Bar Studies and Other Commentaries**

For twenty years, The National Association for Law Placement (NALP) has gathered information on law school graduates’ first jobs, providing the most definitive data on first jobs collected from any

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<sup>35</sup>*Id.* at 235-36.

<sup>36</sup>*Id.* at 227.

source.<sup>37</sup> As with most other surveys mentioned in this report, the NALP survey does *not* ask respondents any questions regarding the reasons for selecting the first position nor does it inquire further into the career decision-making process.

The NALP data confirm some trends referenced in other literature and also raise questions and present troubling new issues. The NALP data cast doubt on the traditional view that women still are dramatically underrepresented in entry-level private practice positions and concomitantly overrepresented in government and public interest entry-level positions. The trends for non-minority women, particularly in private practice, no longer demonstrate the substantial disparities once anticipated.<sup>38</sup> The data distribution for minority women, however, demonstrate a clear double impact of gender and minority influences.

In addition to the data from NALP, a number of state and local bar associations and other authors have obtained information on first job choices. Several surveys have included information regarding specialty areas and some have attempted to explore *reasons* behind the choices made.

Again, caution should be exercised in interpreting this information. Many bar studies relied on very small samples. By their very definition, these studies are geographically limited, and a state bar's population may not be representative of the profession as a whole. In addition, the bar studies often consist of data from a portion of the market which the NALP data do not investigate and illustrate, factors which the NALP data have not isolated or explained. These statistics are included in this report to provide an understanding of the significance of the work which many groups have undertaken, to discuss trends which have emerged, and to demonstrate that, even with substantial effort, there are many unanswered questions.

The majority of bar studies have confirmed disparities between women and men entering various types of employment, often in greater proportion than those reported in the NALP data. A portion of this apparent discrepancy results from the fact that the bar surveys capture data from later points in lawyers' careers than do the NALP data, which are collected within six months of graduation when some individuals have not yet obtained their first position. There is no indication as to whether the individuals who obtain employment later would substantially alter the distributions. Bar surveys also are likely to define first jobs as subsequent to any judicial clerkship obtained.<sup>39</sup> There may well be a substantial (albeit unknown) number of individuals who obtained clerkships and then moved into private practice, thereby explaining some of the wider variations in firm entry-level statistics found in bar surveys.

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<sup>37</sup>For this report, the NALP staff compiled statistics from the past ten years (those years for which comparable data are available). See Appendix 1.

<sup>38</sup>Note, however, that the differences, although smaller than anticipated, are statistically significant. In statistical terms, this means that the differences cannot be caused by pure chance. The first job choices of non-minority men and non-minority women do, indeed, reflect a difference which appears to be attributable to gender.

<sup>39</sup>See, e.g., Mattessich & Heilman, *supra* note 13, at 70, n. 25.

## 2. Practice Settings

For the sake of clarity, this report considered the NALP data from 1983 through 1992 and compares three years in detail: 1983, 1988 and 1992.<sup>40</sup> The 1988 data are included to demonstrate the high point of private practice hiring before the beginning of the recession.

### a. Private Practice

According to the NALP data, the total percentages of law students entering private practice directly from law school are quite consistent over time, fluctuating only from a low of 59 percent in 1983 to a high of 64 percent in 1988 (the height of the large firm growth spurt) and edging back down to 59 percent in 1992. Thus, the entry-level hiring pattern does not demonstrate substantial fluctuation, even in a changing economy.

#### Percentage of Law Students Entering Private Practice Upon Graduation—NALP

	1983		1988		1992	
	Min.	Non-Min.	Min.	Non-Min.	Min.	Non-Min.
Men	49.3	61.6	57.9	67.2	51.7	63.6
Women	40.6	57.3	52.5	62.3	45.4	57.2
Total	58.9		64.3		59.0	

The disparities between white women and white men entering private practice over the last ten years is less substantial than anticipated. During this period, white women have started their careers in private practice at rates between 57 percent and 64 percent (although total private practice hiring declined in 1989, the individual percentages continued to rise slightly); white men have started in private practice at rates between 62 percent and 69 percent. While this is a gap, it is by no means as dramatic as expected. Therefore, there is reason to believe that white women are closing the entry-level gap in what has been considered one of the least open areas of the profession.

It is noteworthy that bar surveys confirm a difference between the percentages of women and men entering private practice and demonstrate wider disparities than do the NALP data. For example, a Minnesota study indicated that women appear significantly less likely than men to enter law firms (49% women, 66% men);<sup>41</sup> Liefland found that law firms drew a higher percentage of men (66%) than women (53%).<sup>42</sup>

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<sup>40</sup>Information for this report was gathered during 1993 and early 1994. At that time, NALP statistics were available only through 1992. See Appendix 1 for recently published 1993 statistics not discussed in this report.

<sup>41</sup>*Id.* at 71.

<sup>42</sup>Linda Liefland, *Career Patterns of Male and Female Lawyers*, 35 BUFF. L. REV. 601, 604 (1986).

The employment patterns for minorities, particularly minority women, show substantially smaller percentages entering private practice (approximately 40-45 percent for minority women compared to 57 percent for non-minority women for this same 10-year period). This documents the “double impact” of minority status and gender. A disparity exists between all minorities and non-minorities, but there is a clear, consistent and substantial gulf for minority women. Smaller percentages of minority women are finding entry-level positions in the most high-powered, high profile areas of the profession than any of their colleagues.

As law firm hiring accelerated in the late 1980s, women, including minority women, did continue to increase their presence in private practice. Women even improved their relative percentages in 1989, when private practice hiring began to decline. However, even in the heyday of firm recruiting, the gap between women and men, minorities and non-minorities did not close.

NALP also compiles statistics regarding distribution of new graduates in various sizes of law firms (see Appendix 1). These statistics indicate that most women enter private practice at the extremes: either very small firms (2-10 attorneys) or, increasingly, at firms of 100 or more attorneys. Historically, women have entered small firms at a significant rate, often joining other family members.<sup>43</sup> Beginning in 1981, large firms began hiring women in significant numbers. The firms in the middle ranges, though, have offered fewer opportunities for women.

The bar studies also indicate that within private practice, women are not found in similar percentages in all sizes of firms. Women are more likely to go into solo practice as a first job than are men.<sup>44</sup> Similar percentages enter very small firms, but larger percentages of men enter medium and large firms.<sup>45</sup> This is consistent with the trend White first identified in 1967, where women were noted to find significant opportunity in the smallest firms (one to four attorneys).<sup>46</sup> The most recent bar studies, which would be most likely to reflect the recent increase in women’s employment in large firms, have not addressed this issue thoroughly.

Although larger firms consistently offer opportunities for minorities, this has not been the case for smaller firms. The statistics also indicate that minority men continue to enjoy higher percentages of employment in firms of every size than minority women. Clearly, gender and minority status combine to affect hiring at every firm size.

### **b. *Judicial Clerkships***

Clerkships receive great attention as credential builders and for creating networking opportunities which enhance career progress. Although these are terminal positions, they are high-prestige, high-

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<sup>43</sup>White, *supra* note 9, at 1060.

<sup>44</sup>Liefland, *supra* note 42, at 605.

<sup>45</sup>*Id.*

<sup>46</sup>White, *supra* note 9, at 1057.

visibility positions. Women have apparently seized these opportunities with enthusiasm and are successful candidates even as the positions become increasingly competitive,

**Percentage of Law Students Entering Judicial Clerkships Upon Graduation—NALP**

	1983		1988		1992	
	Min.	Non-Min.	Min.	Non-Min.	Min.	Non-Min.
<b>Men</b>	9.9	10.4	8.2	11.5	12.4	12.0
<b>Women</b>	10.8	20.7	11.8	15.1	13.8	15.5
<b>Total</b>	11.9		12.7		12.4	

For each of the ten years of NALP data presented, greater percentages of white women accepted clerkships than the national average. In every year except three, minority women also outpaced the national averages. Non-minority men and, to a substantial extent, minority men are accepting these positions in smaller-than-average percentages. Given that these positions are presumed to be prestigious and visible, and that women are judges in smaller proportion to their population in the profession, it is curious that women and minorities have been so successful in obtaining clerkships.<sup>47</sup> The data do not reveal if men, faced with other opportunities (particularly higher-paying firm positions) declined to pursue clerkships or if women were more successful applicants.

Future investigation should specifically track the progress of judicial clerks through subsequent positions to determine if these positions open doors for women, as is presumed. Currently, there are no data to indicate that women leave the clerkships to enter private practice or that they are even positioned to make such a move.

**c. Government**

The Commission expected to find women generally overrepresented in the entry-level positions in the public sector. However, this assumption was borne out in the last ten-year period only for minority women. In other words, at the entry levels, the government statistics for white women again disprove assumptions that women are “naturally attracted” to a particular practice setting. However, much more investigation is necessary to give full meaning to the statistics on minority women: is their overrepresentation in this area due to free choice, a lack of barriers in the government or greater employment barriers elsewhere?

According to NALP, the proportion of the total graduating class entering government in the previous ten years has been remarkably consistent. The disparity between white women and white men is much smaller than expected, and indeed, in some years (1983 and 1987) a higher percentage of non-minority men than non-minority women have accepted government positions.

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<sup>47</sup>There has been an attempt to focus minorities on clerkships as evidenced by the joint publication, JUDICIAL ADMINISTRATION DIVISION TASK FORCE OF NALP & ABA ON OPPORTUNITIES FOR MINORITIES, THE COURTS: AN EXCELLENT PLACE FOR MINORITY ATTORNEYS TO LAUNCH THEIR CAREERS (1990).

### Percentage of Law Students Entering Government Employment Upon Graduation—NALP

	1983		1988		1992	
	Min.	Non-Min.	Min.	Non-Min.	Min.	Non-Min.
<b>Men</b>	22.1	12.6	18.9	11.0	19.8	11.7
<b>Women</b>	23.4	8.3	19.8	11.7	21.7	13.7
<b>Total</b>	12.8		12.0		13.4	

Bar studies, however, report that women continue to enter government (state, local and federal) in greater proportions than men (22% women, 12% men in Minnesota<sup>48</sup> and 22% women, 17% men in Liefland's study).<sup>49</sup> There may be great variations in the career paths of lawyers in federal jobs in Washington as compared to those in positions in state and local government, but we have no data to illustrate what these variations are. It is clear, though, that various forms of government employment are still very attractive to women.

NALP data show that the disproportionately high entry of minorities, female and male, into government positions is dramatic. Minority women are beginning their careers in government in percentages ranging from 18 percent to 23 percent while non-minority women have entered government in percentages ranging from 8 percent to 13 percent. (In 1990 a greater percentage of white women than minority women entered the government, but this year seems to have been an anomaly.)

#### d. *Public Interest*

Women are often assumed to be “naturally attracted” to public interest as a practice setting, much as they are assumed to be “attracted” to the government sector of employment. Therefore, the expectation is that women lawyers enter public interest careers in disproportionately high numbers. Unfortunately, it is difficult to analyze this employment category, particularly at the entry level, because of the relatively small size of the total population entering this segment of the profession (according to the NALP data only approximately 3% of law school graduates enter public interest employment).

### Percentage of Law Students Entering Public Interest Careers Upon Graduation—NALP

	1983		1988		1992	
	Min.	Non-Min.	Min.	Non-Min.	Min.	Non-Min.
<b>Men</b>	4.2	1.0	5.0	2.2	3.6	1.3
<b>Women</b>	10.7	2.3	8.5	3.7	7.6	2.7
<b>Total</b>	2.8		3.1		2.4	

<sup>48</sup>Mattessich & Heilman, *supra* note 13, at 71.

<sup>49</sup>Liefland, *supra* note 42, at 604.

NALP data and the bar studies indicate that women enter public interest careers in greater percentages than men. The low percentages make these statistics difficult to evaluate. However, Liefland asserts that the discrepancy is as large as 12 percent of the women to 4 percent of the men.<sup>50</sup> Compared to the NALP data, the bar studies often reflect a very high proportion of lawyers in public interest positions. This disparity in findings suggests that Liefland may be including as “public interest” some segments of the population that fall into other survey categories in the NALP data.

Future studies should investigate whether more women enter public interest than men because of greater interest, greater opportunity, or because this field offers a path of least resistance. While the existing data indicate some observable trends in the entry-level statistics, it is essential to focus on the small percentages and avoid making sweeping conclusions, particularly as they perpetuate a stereotype of women.

However, one should not ignore the continued disparity between minority and non-minority statistics, particularly as demonstrated in the NALP statistics. Both minority women and minority men are more likely to enter public interest employment than are non-minority women and men. Minority women are dramatically more likely to enter public interest than minority men and all non-minorities. Although there is a disparity between non-minority women and non-minority men, the total percentages are much smaller than the disparity between non-minority and minority. As in other areas of this study, it is unknown whether the difference is attributable to interest or to relative ease of access.

#### *e. Academia*

NALP surveys law graduates entering academia in two quite different subgroups: (1) individuals employed in an academic environment, possibly a law school, and (2) individuals pursuing an advanced degree. These data shed little light on women’s career paths for three reasons. First, because the category combines two distinct subgroups, almost no generalizations may be made from the data. Second, tenure-track law faculty are rarely hired directly from law school, so the figures reveal little about who will eventually become law faculty. The data are more likely to reflect legal research and writing positions, often specifically defined as one- or two-year positions without possibility of reappointment or from which it is almost impossible to transfer to a tenure-track position. Third, there is no indication whether persons in the second subgroup are pursuing an advanced degree in order to enhance their law careers or to switch career paths entirely.

Results from another survey give rise to additional questions concerning minorities in law teaching. While the percentage of individuals joining law school faculties is small, this limited sample indicates that less than 17% of minority women, compared to almost 33 percent of minority men, began teaching at the rank of Associate Professor. These women, who taught at “less

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<sup>50</sup>*Id.*

prestigious institutions,” were more likely to teach “low status courses such as legal writing or trusts and estates,”<sup>51</sup> regardless of their own prestigious appellate clerkships or law review membership.

Additional research is needed to distinguish law faculty from lawyers seeking an advanced degree to enhance their legal effectiveness, or pursuing an advanced degree to re-direct their careers. Academia is a significant career option which should be more fully explored in terms of career decision-making.

**f. Business and Non-Law Jobs**

The NALP data include in the business category those who have established their own non-law business, those who are employed in non-law positions such as management, as well as those who are employed in non-law positions such as waitress and bartender. The NALP data for the past 10 years do not indicate significant differences in the percentages of women and men, or minorities and non-minorities, entering business positions. This defies another assumption: that women and minorities would enter “business” in smaller percentages than men and non-minorities, respectively. Future studies into this area should distinguish business and non-law to give the data more meaning, and to make a clearer picture of non-law versus business options.

**Percentage of Law Students Entering Business Upon Graduation—NALP**

	1983		1988		1992	
	Min.	Non-Min.	Min.	Non-Min.	Min.	Non-Min.
<b>Men</b>	9.9	11.3	8.8	7.3	9.0	8.9
<b>Women</b>	9.6	7.7	5.8	6.0	7.2	8.0
<b>Total</b>	10.1		6.9		8.9	

Non-minority women have entered business positions in percentages smaller than the national average in each year; however, the differences are comparatively small. It is difficult to say that the difference between 8 percent and the national average of 9 percent is substantial enough to call a gap. The NALP statistics may show that over the past 10 years business opportunities are as available to women as men; to minorities as non-minorities. It is more likely that the data demonstrate that equal percentages of women and men, minorities and non-minorities, are not finding traditional legal jobs. However, since the data do not reflect preferences or wishes it is impossible to determine whether this category is explained by choice or market forces.

In addition, bar surveys also contradict the assumption that women take non-law jobs in greater numbers than men. “[W]omen are *not* overrepresented in non-law occupations in their first jobs.”<sup>52</sup>

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<sup>51</sup>Deborah J. Merritt & Barbara F. Reskin, *The Double Minority: Empirical Evidence of a Double Standard in Law School Hiring of Minority Women*, 65 S. CAL. L. REV. 2301 (1992).

<sup>52</sup>Mattessich & Heilman, *supra note* 13, at 70.

Indeed, they are often the starting place for more men than women (5% men and 1% women).<sup>53</sup> As with the NALP data, however, this category is ill-defined by most researchers. In some cases an attempt is made to define the category as those positions which utilize the law degree outside of traditional practice. For many other researchers, this is synonymous with the “other” category—those individuals whose responses fit nothing else. This category may become increasingly important, but there is currently very little specific data addressing these positions.

### **g. Corporations**

Bar studies and other survey instruments indicate that similar numbers of women and men are entering corporations (approximately 5% of each).<sup>54</sup> These statistics are not necessarily representative of overall trends, since most corporations do not hire at the entry level. However, it is encouraging to see similar percentages, albeit small ones.

There is additional information about women in the corporate sector in the section entitled “Subsequent Job Changes” located at page 23.

## **C. Summary of First Job Data**

The data reviewed demonstrate that there are continuing differences in entry-level positions obtained by women and men. However, for white women, these differences are far less dramatic than anticipated, and, indeed, some of the gaps in entry-level employment may be closing. Far more troubling are the significant disparities between minority and non-minority women’s positions. If all women and all men are surveyed together, there exists a greater disparity along gender lines. However, the NALP data suggest that the better analysis is a combination of gender and minority status—to look at one without the other provides only a partial and misleading picture. Minority women are entering private practice in lower percentages than non-minority women or men, and they are disproportionately represented in both government and public interest positions.

Several cautionary notes are advised in the analysis. The surveys do not ask graduates where they wanted to practice or whether the position accepted was the position sought. Therefore, the statistics do not indicate whether the first employment positions of recent law graduates were their first choice, or, at least, their preferred choice.

In addition, the statistics do not suggest that the variations can be entirely explained by personal preferences. It is much more likely that a combination of socioeconomic factors are involved. Again, it is the underlying motivations which the Commission seeks in a career path analysis and those remain missing throughout this data. For example, until recently, government positions were considered “easier” to obtain (less competitive). Government also was perceived to be open to both women and minorities. Thus, it is easy to cast government employment as a path of least resistance

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<sup>53</sup>Liefland, *supra note* 42, at 605.

<sup>54</sup>*Id.*

for those who are having a difficult time entering the profession or who believe they will meet resistance in other practice areas.

## IV. Career Changes

### A. Introduction

A great deal of research follows lawyers through their first legal job and even into their second position. It shows that today's lawyers are unlikely to remain in their initial jobs for more than two to five years. For example, in 1985 the median stay in a first legal job for both sexes was 2.1 years compared to a decade earlier when the median stay was 4.9 years.<sup>55</sup>

While this movement is attributable to both genders, the pattern has been negatively associated with women and often has been used to support the stereotype that women are less committed to the practice of law than their male colleagues. Therefore, future data should seek to identify career paths and recognize career trends by understanding the underlying motivations for change, i.e., investigate the decision-making process, and continue investigations beyond second jobs.

### B. Changing the First Job

#### 1. Statistical Review

It is interesting that the intention to leave a first legal job within two years is sometimes expressed as early as law school and, clearly, is not related to the actual conditions of the job. An overwhelming number of today's law students expect to remain in their first legal position for only a few years. They articulate that intention very clearly, which may indicate that the difficult career decision-making process is less onerous if one keeps the options open and makes only short-term rather than major "Who am I?" and "What do I want to be?" choices.

One of the most comprehensive studies of lawyers and legal careers, the 1986 Harvard Law School Program on the Legal Profession, observed that only 50 percent of the Class of 1981 respondents remained with the organizations in which they began their careers.<sup>56</sup> The same year, another study conducted with 1983 graduates of 20 law schools across the nation found that only 53 percent of male respondents and 43 percent of female respondents intended to remain in their current positions; in fact, 24 percent of men and 39 percent of women planned to move soon<sup>57</sup> More recently, similar results were obtained in the Minnesota study, which revealed that over the last 15

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<sup>55</sup>Mattessich & Heilman, *supra* note 13, at 77.

<sup>56</sup>LEONA M. VOGT, HARVARD LAW SCHOOL PROGRAM ON THE LEGAL PROFESSION, FROM LAW SCHOOL TO CAREER: WHERE DO GRADUATES GO AND WHAT DO THEY DO? 28 (May 1986).

<sup>57</sup>Tucker et al., *supra* note 6, at 163-164.

years the percentage of new graduates who anticipate remaining in their first jobs has declined steadily.<sup>58</sup>

## 2. Reasons for the First Change

Many of the empirical studies do not specifically investigate the reasons lawyers move from their initial jobs and never question lawyers about how the change fits into their long-term career plans. Rather, respondents are usually asked about their motivation for changing jobs in general. Consequently, the reasons why respondents move from their first legal positions after law school are not always differentiated from the reasons for making subsequent job changes. Additionally, the findings often are not reported by gender. Even the Harvard Northeast Career Path Study, which is indisputably of major importance in understanding legal careers, did not report all findings by gender. Therefore, one should proceed cautiously when drawing any conclusions which distinguish women's motivations in changing first jobs from those of their male colleagues.

The Harvard Career Path study classified respondents' reasons for leaving their first job after law school as positive job-related reasons (i.e., increase in responsibilities or salary); negative job-related reasons (i.e., not challenged, limited advancement potential); neutral job-related reasons (i.e., wanted to do different work or change type of organization) and personal reasons (i.e., family or health considerations). Approximately 33 percent of the respondents left their first organization for "negative" reasons, 25 percent for "growth" potential, 25 percent for "neutral job-related" reasons, 11 percent for "personal" reasons, and the remainder (7%) for reasons they did not specify.<sup>59</sup>

When expressly asked about reasons for making a first job change, women and men indicate different motivations. Like their male colleagues, women may be motivated to change jobs for career or financial advancement, but they also mention additional reasons, including: family considerations, unrelenting time demands, difficulty of functioning in a male-oriented workplace, excessive political intrigue, lack of intellectual stimulation, lack of respect, lesser financial reward, and impersonal work environment. Future studies need to investigate the prominence of these factors in career decision-making.

According to the Liefland study,<sup>60</sup> a much larger proportion of men state that they change from their first to a second legal position for reasons such as "advancement and salary considerations." Women change jobs because of dissatisfaction including "discrimination" and "other" reasons. Women surveyed as part of the Minnesota Career Path Study were more likely than men (62% versus 41%) to report dissatisfaction with their first jobs and again these women were less likely to give advancement-related reasons for changing jobs.<sup>61</sup>

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<sup>58</sup>Mattessich & Heilman, *supra* note 13, at 77.

<sup>59</sup>VOGT, *supra* note 56, at 31.

<sup>60</sup>Liefland, *supra* note 42, at 606.

<sup>61</sup>Mattessich & Heilman, *supra* note 13, at 84-85.

The chart that follows shows the results of a Wisconsin Bar Association study. Once more career advancement and professional growth reasons were more likely to be mentioned by male respondents. Forty percent of the men, compared to 26 percent of the women, left their first job for career advancement reasons and 36 percent of the men versus 27 percent of the women left for professional growth reasons.<sup>62</sup>

	<b>Men</b>	<b>Women</b>	<b>Minorities</b>
<b>Professional Growth</b>	36%	27%	38%
<b>Career Advancement</b>	40%	26%	42%
<b>Compensation</b>	35%	20%	33%
<b>Change Practice Area</b>	12%	13%	25%
<b>Family Considerations</b>	12%	12%	10%
<b>Limited-Term Appointment</b>	8%	11%	8%

There are two additional items of interest on this chart. As indicated, in both this study and the Liefland study, family considerations were of equal importance, regardless of respondents' gender. Also, an interesting and inexplicable difference between minority and non-minority respondents in this survey is the disparity in citing "Changing Practice Area" as a reason to leave the first job. Since many studies indicate disparities in the employment distribution of minority and non-minority lawyers, future studies also should investigate whether the reasons for leaving first jobs are disparate.

### **C. Subsequent Job Changes**

Unlike NALP which collects data on new graduates, David Chambers at the University of Michigan has conducted a comprehensive study of Michigan alumni at five and seven-to-ten years after graduation from law school. He found significant gender differences in practice settings:<sup>63</sup> Men were found predominantly in the private sector while women were more likely to be practicing in all other settings.

Chambers learned that while approximately the same percentage (29% female v. 26% male) of graduates left law firms there was a dramatic gender difference in whether the respondents went to another law firm (37% female v. 73% male).

	<b>Women</b>	<b>Men</b>
<b>Firm or Solo Practice</b>	44%	70%
<b>Government</b>	15%	9%
<b>Legal Services</b>	6%	2%
<b>Corporate</b>	14%	10%
<b>Other Practice</b>	2%	1%
<b>Not in Law</b>	15%	9%
<b>Full-time Parent</b>	4%	0%

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<sup>62</sup>Christy Brooks, *Research Survey Report of the State Bar's Special Committee on the Participation of Women in the Bar*, WIS. B. BULL., Mar. 1987, at 8. The percentages add up to more than 100 percent because the question permitted choosing several answers. Women were more likely to select one of the first three reasons as the motivating force in their leaving a first job; men and minorities selected more than one of the same three reasons as the motivating force. Nonetheless, it is worth noting that within each gender group an equal percentage of respondents chose family considerations.

<sup>63</sup>DAVID L. CHAMBERS, UNIVERSITY OF MICHIGAN, *TOUGH ENOUGH: THE WORK AND FAMILY EXPERIENCES OF RECENT WOMEN GRADUATES OF THE UNIVERSITY OF MICHIGAN LAW SCHOOL 18-19* (1987).

As mentioned previously, after *reviewing* hundreds of bar association studies and task force reports and the NALP data on first jobs, there appears to be a greater gender disparity in practice settings beyond the initial job. In 1988 the New Hampshire Bar Association Task Force on Women observed the following gender patterns in a study of second jobs:<sup>64</sup>

	Women	Men
Private Practice	68%	80%
Government	11%	7%
Legal Services/Public Defender	7%	3%
Corporate	5%	3%
Judiciary	1%	3%
Academia	1%	2%
Inactive	7%	2%

Again, women were less likely to accept a second job in the private sector and, consequently, more likely to be in all other settings.

Similarly, a 1991 survey conducted by the North Carolina Bar Association found that “[m]ales who planned to change their employment were more likely to transfer to a smaller law firm, to go into solo practice, or to leave practice and go into business. Females changing their employment were more likely to become in-house counsel or government lawyers, or to quit working.”<sup>65</sup> The study found that the percentage of females and males increased both in the corporate sector and in solo practice between first job and current setting, while the percentages of both genders decreased in state and local government. However, women remained in greater numbers in government legal jobs and seemed to seek out the bureaucratic rather than the entrepreneurial forms of practice.<sup>66</sup>

Stacy Caplow and Shira Scheindlin made another finding regarding subsequent job changes in their 1987 survey of women who graduated in 1975 and 1976. They found that 23 percent of the respondents had more than three jobs since graduation from law school, 30 percent were in their third job, another 30 percent in their second job, and only 13 percent were in the job they had held since graduation.

Close to 50 percent of women in the Caplow and Scheindlin study left jobs in order to change specialties.<sup>67</sup> The researchers observed that 19 percent of the women left litigation, 17 percent left corporate/business practice, 15 percent left public interest and/or constitutional law, and 11 percent left criminal law. There were no male respondents as a basis for comparison in the Caplow &

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<sup>64</sup>*Report of the New Hampshire Bar Association Task Force on Women in the Bar*, 29 N. H. B. J. 217, 232 (1988).

<sup>65</sup>NOEL DUNIVANT, NORTH CAROLINA BAR ASSOCIATION, FINAL REPORT OF THE QUALITY OF LIFE SURVEY OF NORTH CAROLINA ATTORNEYS 24 (1991).

<sup>66</sup>Ann J. Gellis, *Great Expectations: Women in the Legal Profession*, A Commentary on State Studies, 66 IND. L. J. 941, 943 (1991).

<sup>67</sup>Stacy Caplow & Shira A. Scheindlin, *Portrait of a Lady: The Woman Lawyer in the 1980s*, Symposium on Women in the Lawyering Workplace: Feminist Considerations and Practical Solutions, 35 N.Y.L. SCH. L. REV. 391 (1990), at 07.

Scheindlin study, however, in the Wisconsin study, female and male respondents in equal percentages left a job in order to change specialties. This finding was unexpected since so many lawyers anecdotally report feeling they have been “pigeon-holed” and are not able to change specialties. It also was noteworthy in the Wisconsin survey that minority respondents were twice as likely to seek out jobs in order to change specialties.

Women also have an advantage with financial corporations as confirmed by a 1990 California study. Financial corporations seek attorneys with government experience because of the highly regulated nature of the work. Many women have had government experience and are likely to have been exposed to business-related courses such as finance, banking, securities, and tax, in law school or through a previous work environment. The positive result of this is that women have established a presence in the corporate legal departments, and in particular, with small financial corporations.<sup>68</sup>

Although the hiring practices of corporations indicate a positive change, a deeper investigation reveals that the picture is not altogether rosy in the corporate sector. A recent survey by Ernst & Young for the Association of the Bar of the City of New York and the American Corporate Counsel Association compared the average salaries by job category and number of years out of law school for 3,600 lawyers working for 500 corporate law departments. The study revealed that female lawyers are paid less than men for the same work. “For example, the average salary paid to 296 male general counsel was \$205,097, compared with the average salary paid to 36 women of \$152,412.”<sup>69</sup> The Commission highlights this fact as an example of how important it is to reach beyond the simple demographic information to fully understand how women are doing in the profession.

#### **D. Race/Ethnicity and Legal Jobs**

As evidenced throughout the discussion of first jobs, there are continuing disparities in the employment of minority lawyers which are cause for concern. A Wisconsin study,<sup>70</sup> which does not break down minority data by gender, reports huge discrepancies. Only 23 percent of the minority respondents were employed in private practice as compared to 68 percent of males and 54 percent of females; 60 percent of the minorities were employed in government positions as compared to 11 percent of males and 22 percent of females.<sup>71</sup>

A Georgia study also indicated major employment differences directly out of law school. White lawyers were more likely than minority lawyers to accept a first job in the private sector (72% whites versus 51% minorities). Seventy-three percent white men and 71 percent white women were more likely to accept a first job in the private sector versus 56 percent of minority women.

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<sup>68</sup>Sharyn Leanne Roach, *Men and Women Lawyers in In-House Legal Departments: Recruitment and Career Patterns*, 4 GENDER & SOCIETY (1990), at 217 (Ph.D. dissertation, University of Connecticut).

<sup>69</sup>*Women Get Lower Pay in Law Departments*, NAT'L L. J., Nov. 9, 1993, at 17.

<sup>70</sup>Brooks, *supra note* 62, at 8.

<sup>71</sup>*Id.*

Additionally, “[w]hile essentially equal percentages of women and men became government attorneys, minorities were more likely to have gone to work for legal aid (24% minorities versus 5% whites).”<sup>72</sup>

The disparities continue beyond first job choices and widen throughout lawyers’ professional lives. According to the Georgia study, this continued disparity results in the development of a distinct “hierarchy” in the type of practice in which attorneys were engaged:

[W]hite men are grouped predominantly in private practice (85.58%) and are represented in relatively small numbers in less lucrative practices such as government or legal aid work. White women also work predominantly in private practice (60.91%) but in smaller proportions than do white men. And minority women are the least likely to be engaged in private practice (47.73%) and the most likely to be working in lower-paying positions.<sup>73</sup>

## V. Career Dissatisfaction and Leaving the Law

### A. Introduction

Women are practicing law in all areas, but the data indicate that they are increasingly dissatisfied and continue to be plagued by unsubstantiated assumptions about how they will perform. The issue which the Commission hoped to address is whether and how the two factors of dissatisfaction and career choices are linked.

### B. Career Dissatisfaction

Recent studies have gathered considerable data on lawyer dissatisfaction with the profession. A number of reports confirm the findings of the widely publicized *The State of the Legal Profession 1990*, which summarizes the 1984 and 1990 ABA Young Lawyers Division National Survey of Career Satisfaction/Dissatisfaction:<sup>74</sup>

[I]ncreases in hours worked and the resulting decrease in personal time have become major problems, that the status and acceptance of women in general has not improved in the intervening six years, that the legal profession has in recent years become a less pleasant place to work, and that, as a result of all of these changes, dissatisfaction has increased<sup>75</sup>

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<sup>72</sup>Linda R. Hall, *Georgia Lawyers Report Gender and Racial Bias in Legal Practice: A Review of the Georgia Bar’s Survey*, 28 GA. ST. B. J. 8 (August 1991). The State Bar of Georgia, with the assistance of the Survey Research Center of the University of Georgia, conducted an extraordinarily comprehensive study analyzing the impact of race and gender on practicing attorneys in Georgia. The study is possibly the only “parallel” study of women and minorities, and the most comprehensive study of minority female practitioners. (The data did not specify statistics for minority males.)

<sup>73</sup>*Id.* at 9.

<sup>74</sup>ABA YOUNG LAWYERS DIVISION, *supra* note 8.

<sup>75</sup>*Id.* at 52.

Women lawyers who responded to a 1990 California study were asked to indicate how important various aspects of the legal profession are in relation to their dissatisfaction.<sup>76</sup> The results are indicated as follows:

	Very Important	Somewhat Important	Not Important
Financial conditions	34%	54%	12%
Working too many hours	56%	37%	7%
Boredom with legal work	46%	39%	15%
Lack of career advancement	39%	42%	19%
Negative attitudes of colleagues	25%	49%	26%
Difficulty balancing personal & professional life	51%	41%	9%
Too little time for family responsibilities	51%	41%	8%

Clearly, the issues of greatest concern are related to work hours and balance. Of all respondents, more than half of whom were in their first jobs, 93 percent reported that working too many hours is a very or somewhat important aspect of their dissatisfaction.

The breadth of the dissatisfaction is clear; however, further research is necessary to determine what consequence this dissatisfaction actually has on job changes and career decisions. Although expressing dissatisfaction with one's job or work conditions may be expected, it is not necessarily related to a real desire to change jobs. It would have been valuable to determine whether the dissatisfaction impacts on job change.

### C. Leaving the Law

In addition to the evidence (and no doubt, somewhat linked to it) that women are dissatisfied with the practice of law, there has been much attention recently given in the media to the contention that women are leaving the law in great numbers. These stories fuel the myth that women are not as committed to the practice as are men. There are studies which claim to address the issue of women leaving the law but few, if any, make a distinction between changing jobs while remaining in the law and leaving the practice of law. They do not indicate whether leaving the practice means "never practicing again" or "stepping out" temporarily, "sequencing" or working in a nonlegal position. In addition, the data do not address whether women are more likely than men to leave the practice of law or make these changes.

Since the majority of studies report greater dissatisfaction among women, one would expect that women might be more likely to leave the law. The Class of 1983 study of twenty law schools,<sup>77</sup> which surveyed individuals who had been practicing for only two years, found that 47 percent of the women and 40 percent of the men had already seriously considered leaving the law. Additionally,

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<sup>76</sup>COMMITTEE ON WOMEN IN THE LAW, STATE BAR OF CALIFORNIA IN COOPERATION WITH THE EMPLOYMENT LAW CENTER/LEGAL AID SOCIETY OF SAN FRANCISCO, WOMEN LAWYERS AND THE PRACTICE OF LAW IN CALIFORNIA (1990).

<sup>77</sup>Tucker et al., *supra note 6*, at 185-187.

when asked, “Do you expect to be practicing law five years from now?,” women were twice as likely as men (18% versus 9%) to answer negatively:

**Reasons for considering leaving the law**

	Women	Men
Social Disapproval	2	4
Value Conflicts	10	18
Pressures Too Great	24	20
Competition	10	0
Disillusionment	17	9
Other Vocational Interests	14	24
Other Fields More Lucrative	2	16
Other Reasons	21	9

While this study reports only on a desire and expectation, not the actual act of leaving, there are significant gender differences. Not surprisingly, men consider leaving, and later do, to pursue other, more lucrative interests. Women consider leaving to a far greater extent than their male colleagues, because of the competitive atmosphere and for other reasons. Again, few studies address whether those individuals who indicate a desire to leave actually leave the practice of law, change jobs, move to a law-related position or stop working entirely, or stay where they are.

The 1986 Harvard study surveyed respondents who had been out of law school four, eleven, sixteen, and twenty-six years and found that the longer individuals are out of law school, the more likely they are to be in law-related or nonlegal positions. Although there were no gender breakdowns because women were only a critical mass in the two most recent classes surveyed, this study identifies a very important finding: “the number of years out of law school is a greater predictor of having left the law than is true of gender.”<sup>78</sup>

There is some evidence that while women in law are dissatisfied with their opportunities, and experience negative gender bias, many do not leave the profession but rather change positions within the law. In a California study 65 percent of all respondents “made no career changes as a result of negative bias, and 37 percent of these because they did not believe it would be better elsewhere.”<sup>79</sup>

These results confirm the findings of those studies which do provide information on where lawyers go and why they leave; for example that men leave the law to go into business and to increase their earning potential. A study published in the *Stanford Law Review*<sup>80</sup> reported that 36 percent of women, as compared to 76 percent of men, left the field to go into business; 15.8 percent of women versus 51.4 percent of men left the field to make more money.

**D. Summary**

Lawyers give many reasons for their career dissatisfaction and the data on dissatisfaction is quite compelling. The Commission hopes that this report will encourage future investigations to link the dissatisfaction data with data on where lawyers practice law. This information would help to

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<sup>78</sup>VOGT, *supra* note 56, at 43.

<sup>79</sup>COMMITTEE ON WOMEN IN THE LAW, *supra* note 76, at vi.

<sup>80</sup>Taber et al., *supra* note 15, at 1245.

determine how dissatisfaction impacts career decision-making, shed more light on the presumption that women are leaving the practice of law, and indicate options and obstacles in the career paths..

It is important for an accurate evaluation of the current “trends” to know whether women are leaving, and, if so, whether they are leaving differently than before, whether they are leaving differently than men, where they are going and whether they are coming back. It is additionally important to know if the reasons underlying the exodus are connected with a discomfort with the practice itself. This information would give the profession the opportunity to make corrections and keep the women and men it worked so hard to recruit and train.

## VI. The Importance of Mentoring

Recent studies on careers, along with anecdotal evidence, indicate that the mentoring relationship has a significant influence on the career decision-making and perhaps even on the success of women in business. While mentoring has not been researched extensively in the legal profession, there is some preliminary information which simultaneously surprises, challenges and begs for further explanation.

Anecdotal evidence suggests that women have difficulty finding mentors in the law because there are so few women attorneys in top positions and because male attorneys may be uncomfortable with or uncertain how to maintain a mentoring relationship with a young female associate. What surprises is the number of statistical reports that indicate women lawyers are finding mentoring relationships and, in fact, are more likely than male lawyers to say that they had mentors. This is confirmed in three recent studies:

Study	Women	Men
Indiana State Bar Association	47%	32% <sup>81</sup>
Wisconsin State Bar Association	52%	50% <sup>82</sup>
University of Michigan Alumni	63%	60% <sup>83</sup>

It is possible that the discrepancy between women’s oral reports and these studies and women’s and men’s responses has more to do with terminology than an absence of mentoring.

Men may fail to acknowledge an official mentor as frequently as women because men often have a group of acquaintances, whether inside or outside the office—a personal “old boy network,” which provides the resources necessary for career enhancement. While not termed “mentor,” these contacts are sources of information and power. As men get closer to partnership, it is speculated that they “may have an edge over the woman simply because [their] friends, but not hers, are running corporations of their own and can field business to the firm.”<sup>84</sup>

A recent article described a *de facto* mentoring relationship between William Kennard, General Counsel of the FCC and Erwin Krasnow, Washington, D.C., partner at Verner, Lipfert, and former

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<sup>81</sup>INDIANA STATE BAR ASSOCIATION, *supra* note 17, at 26-27.

<sup>82</sup>Brooks, *supra* note 61, at 15 (Tables 9, 9a, 9b)

<sup>83</sup>CHAMBERS, *supra* note 63.

<sup>84</sup>Deborah K. Holmes, *Structural Causes of Dissatisfaction Among Large-Firm Attorneys: A Feminist Perspective*, 12 WOMEN’S RTS. L. REP. 23 (1990).

General Counsel for the National Association of Broadcasters, as “in effect, if not always in official name, that of mentor-mentee.”<sup>85</sup>

What remains unclear is an exact definition of mentor, whether women and men have different expectations of mentors, the various benefits of male versus female mentors, and what can be done to promote the development of mentoring relationships.

While there is some reason to be optimistic that women attorneys are reporting mentoring relationships, there is, however, one consistent finding that raises cause for concern: minority lawyers are less likely to be mentored. In the Wisconsin survey, only 42 percent of minority respondents reported having mentors, as compared to 50 percent of non-minority males and 52 percent of non-minority females.<sup>86</sup>

Given the importance placed upon mentoring by women and current career research, it is not enough to assume that mentoring will just happen. Further research could help determine what works and doesn't work in mentoring relationships so that law schools, bar associations, and legal employers could pick up the challenge of encouraging students and young associates to seek out these relationships and of educating senior associates and partners to assume mentoring relationships as part of their job. This is an instance where institutionalizing the mentoring relationship would be of mutual benefit to attorney and employer—the young female associate's likelihood of succeeding would be greatly increased and, in turn, the employer would be enhanced by her achievements and future commitment to the institution.

## VII. Family and Career Paths

### A. Introduction

No report or synthesis of studies would be complete without some discussion of the impact of family responsibilities on the career paths and career decisions of women lawyers.<sup>87</sup> However, this area, like many of those discussed above, needs much more investigation. It is clear from the data collected to date that having children impacts a woman's career, but it does not appear that the impact is a wholly negative one. What continues to elude our analyses are answers to the underlying motivational questions: Women are making different choices when they have children but are these positive choices or choices made to avoid hostility or barriers in the profession?

There is evidence that family responsibilities continue to create barriers for women in the profession. The majority of studies that investigate family responsibility issues, such as the Indiana Bar Association study, report that the decision to have a family produces delayed opportunities for lawyer-mothers<sup>88</sup> and long-term economic disadvantages. While it is true for both genders that the

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<sup>85</sup>*Mentoring*, THE WASHINGTON LAWYER, Jan./Feb. 1994, at 20.

<sup>86</sup>Brooks, *supra* note 62.

<sup>87</sup>Not included in this discussion, but an issue which has been raised in a number of studies and is worthy of further investigation, is the phenomenon of women remaining single or childless because of career considerations. For example, see Thom Weidlich & Charise K. Lawrence, *Sex and the Firms: A Progress Report*, NATL L. J., Dec. 20, 1993, at 13 (“Nearly half the female attorneys— and a fifth of the men—said they delayed having children because of their jobs.”).

<sup>88</sup>INDIANA STATE BAR ASSOCIATION, *supra* note 17, at 26-27.

higher one climbs, the more subjectively decisions are made, the compensation level for women appears to reflect assumptions about future productivity and commitment to the professional enterprise.

The investigation of the impact of family on career should be widened to encompass a number of issues. Despite stereotypes of how women with children will function in the workplace there are no studies indicating that they take their professional responsibilities less seriously; there is *no* information demonstrating that they are less productive, less available, or less responsive to client needs or court calendars. In fact, stereotypical beliefs about women reinforce the idea that women are better time managers. One study mentioned that male lawyers spend more time socializing with coworkers than do female lawyers.<sup>89</sup> Another surprising finding, reported in the *Journal of Legal Education* survey of graduates of the University of New Mexico from 1975 to 1986, indicates that male lawyers worked significantly more total hours, but not more billable hours, than female respondents.<sup>90</sup> Certainly lawyer-mothers (and perhaps women generally) have had to learn to manage their time efficiently.

## **B. Family and Career Satisfaction**

On the other hand, there is some evidence to indicate, despite assumptions to the contrary, that bringing children into a woman lawyer's life adds to her career satisfaction. Therefore, when only negative consequences are attributed to family responsibilities they must be more fully investigated. "Women with children, a group that some might expect to be unsatisfied absolutely and in comparison to other women and men, proved to be generally well satisfied—and more satisfied than others."<sup>91</sup> This finding was tested in many different ways to determine its reliability. Career satisfaction was compared, not only between women with and without children, but also between women before and after having children. Even taking other variables into account, "for women, having a child seems to have been associated with somewhat increased career satisfaction."<sup>92</sup>

Researchers conclude that multiple roles "provide satisfaction by offering variety and relief, by permitting a sense of mastery, and by providing some broader perspective on the problems in any one setting."<sup>93</sup> It may be that women combine different kinds of tasks so that they complement rather than compete with each other. "[M]any women with children say that they are especially satisfied with their careers because they really have something to feel especially good about. Their days are extremely busy, but they are succeeding simultaneously in several important spheres in their lives. They enjoy their family lives and their jobs. And to the extent that each causes stress, each also provides respite from the other."<sup>94</sup>

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<sup>89</sup>CHAMBERS, *supra* note 63, at 133-134.

<sup>90</sup>Lee E. Teitelbaum, Antoinette Sedillo & Jeffrey Jenkins, *Gender, Legal Education and Legal Careers*, 41 J. LEGAL EDUC. 443, 471 (1991).

<sup>91</sup>CHAMBERS, *supra* note 63, at 274-275.

<sup>92</sup>*Id.* at 278.

<sup>93</sup>*Id.* at 254.

<sup>94</sup>*Id.* at 282.

### C. Family and Career Choices

Studies indicate that family responsibilities impact career decision-making in a number of ways. The 1990 California study asked respondents about the effect children have had on their practice.<sup>95</sup> The results were as follows:

#### Effect of Children on the Practice—California Study

Take days off for family responsibilities	52%
Rarely participate in social events	44%
Work little or no overtime	43%
Avoid complicated cases	14%
Have no involvement with management decisions	10%

Similar results were obtained in other bar association studies, and may be contributing to assumptions made about all female lawyers. Further research is needed to determine whether adjustments made by women balancing family and career have a long-term impact on their careers. Additionally, do these adjustments and subsequent assumptions made about attorney-mothers negatively impact the careers of *all* women lawyers?

A North Carolina study asked lawyers about the impact of family responsibilities on career plans and whether child care responsibilities affected their choice of a job. Slightly over half of the female respondents indicated that such responsibilities greatly affected their choice.<sup>96</sup>

#### Family and Job Choice—North Carolina Study

	Women	Men
Affected Choice a Great Deal	50.8%	12.0%
Moderate Effect	17.3%	12.0%
Little Effect	9.2%	7.1%
No Effect	22.7%	68.9%

The career paths of female lawyers with family responsibilities reflect concessions made along the way, and the numbers clearly reflect that family responsibilities disproportionately limit career choices for women. While close to 70 percent of male attorneys indicated that family responsibilities had no effect on their choices, only one quarter of female attorneys reported that family obligations did not impact their choices. However, the women reported that their families had a lesser impact on their choice of specialty, although the impact was still far greater than that reported by men.<sup>97</sup> The following table indicates the varying responses made by women and men.

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<sup>95</sup>COMMITTEE ON WOMEN IN THE LAW, *supra* note 76, at 50.

<sup>96</sup>COMMISSION ON THE STATUS OF WOMEN IN THE LEGAL PROFESSION, NORTH CAROLINA BAR ASSOCIATION, at 52 (June, 1983) (Figure 18).

<sup>97</sup>*Id.* at 52 (Figure 19).

### Family and Choice of Specialty—North Carolina Study

	Women	Men
Affected Choice a Great Deal	26.4%	2.7%
Moderate Effect	12.8%	4.7%
Little Effect	8.5%	11.3%
No Effect	52.3%	81.3%

If women are more likely to select a specialty compatible with family obligations, not necessarily because of interest in the subject, then at least their greater dissatisfaction with the practice of law, and perhaps even their desire to seek a new job in order to change specialty area, is easier to understand.

The North Carolina study also asked whether child care responsibilities affected respondents' choices of cases.<sup>98</sup> They responded accordingly:

### Child Care and Choice of Cases—North Carolina Study

	Women	Men
Affected Choice a Great Deal	19.7%	3.2%
Moderate Effect	15.0%	5.6%
Little Effect	13.5%	10.9%
No Effect	51.8%	80.2%

In the same vein, a study by the attorneys of Franklin County, Ohio found that “[o]ver 60 percent of female respondents reported that their childcare responsibilities have had a great deal of influence over their choice of the number of hours devoted to work, whereas only 21 percent of men reported this much influence.”<sup>99</sup>

## D. Alternative Work Schedules

The practice of law combined with parenthood requires an unusual ability to juggle, deal with constant stress, and reevaluate daily priorities, particularly, it seems, in the law firm setting. Consequently, many women with children who work in firms seek to change work schedules or practice settings. Although this phenomenon is not limited to women with children, they are the most likely candidates to seek alternatives. In the 1990 *Women Lawyers and the Practice of Law in California* study, 41 percent of respondents indicated that as a result of a decision to have children, they chose jobs with less rigorous time or pressure demands.<sup>100</sup> Law firms, as much as any legal employer, are in a position to address this issue head-on and develop ways, including alternative work schedules, to address it.

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<sup>98</sup>*Id.* (Figure 21).

<sup>99</sup>COLUMBUS (OHIO) BAR ASSOCIATION, FRANKLIN COUNTY ATTORNEYS SURVEY (Dec. 9, 1992) at 10.

<sup>100</sup>COMMITTEE ON WOMEN IN THE LAW, *supra* note 76, at 49.

The negative impact of large firm practice on family life appears throughout the literature. The *State of the Legal Profession 1990* documented that lawyers are working more hours than in the past. It found that “one of the most significant shifts is the increase in the number of lawyers who report that they do not have enough time for themselves or their families.”<sup>101</sup> One obvious response to this shift in work attitude should be for legal employers to accommodate lawyers who do not want to work full-time. The Commission’s *Lawyers and Balanced Lives* guide discussed alternative work schedules in this context:

Recruiting and retaining talented lawyers in the '90s requires an acknowledgment that we are in an era of changing demographics and changing attitudes toward balancing work and family responsibilities. As a consequence, law firms must adapt their traditional work patterns to the changes in the work force if they are to attract and keep “the best and the brightest.” The message is inescapable. In this increasingly competitive market, firms must address their policies to the individual needs of their lawyers.<sup>102</sup>

Indeed, many law firms and other legal employers have “gotten the message.” The *State of the Legal Profession* report indicates that lawyers in private practice, solo practitioners, lawyers in large law firm settings, and corporate and government attorneys report working alternative work schedules. Somewhat surprising, however, given the complaints about large law firms, is that large law firms appear to be the most accepting of the flexible schedules.<sup>103</sup> This finding was reiterated in the 1990 California study<sup>104</sup> which revealed that law firms, especially large ones, are more likely to have part-time schedules than the government or corporations. The California study also found that the greater the number of lawyers in the workplace, the greater the likelihood that the organization permits part-time arrangements (i.e., the greater the likelihood of a family-friendly environment, at least on the surface). Forty percent of the workplaces with two to ten lawyers, 48 percent of those with 11-50 lawyers and 56 percent of those with 51-100 lawyers had part-time arrangements.<sup>105</sup>

The phrase in the above paragraph, “on the surface,” is significant. The Commission found that it is not enough to determine if an employer offers an alternative work schedule. What is really important is whether or not lawyers believe it is a viable career option. Further investigation found that although larger organizations are more likely to permit part-time work schedules, the number of respondents working part-time actually decreases as the number of lawyers in the organization increases.<sup>106</sup> A 1993 California survey, *The Glass Ceiling Survey*:

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<sup>101</sup>ABA YOUNG LAWYERS DIVISION, *supra* note 8, p. 22-23.

<sup>102</sup>ABA COMMISSION ON WOMEN IN THE PROFESSION, *LAWYERS AND BALANCED LIVES: A GUIDE TO DRAFTING AND IMPLEMENTING WORKPLACE POLICIES FOR LAWYERS*, Part II: Alternative Work Schedules (1990).

<sup>103</sup>ABA YOUNG LAWYERS DIVISION, *supra* note 8, at 24.

<sup>104</sup>COMMITTEE IN THE LAW, *supra* note 76, at 22-23.

<sup>105</sup>*Id.* at 22.

<sup>106</sup>*Id.* at 23.

*Women Lawyers in Large California Law Firms*,<sup>107</sup> reported that “[although] [s]ixteen of the 50 firms responding to the survey reported having part-time attorneys, . . . the average number of female attorneys working part-time was over one per firm (1.27%).”<sup>108</sup> The experience of one Boston associate clearly speaks to this point:

The firm feels it “must have” a part-time policy for recruiting purposes, but does not take it seriously. No part-time attorney has ever made partner.<sup>109</sup>

Therefore, when assessing the availability of part-time work, one needs to investigate not only whether an employer proffers a policy, and also whether lawyers find such arrangements to be feasible, appropriate to their careers, and acceptable within the workplace culture.

Another issue pertaining to alternative work schedules is whether women lawyers who work part-time when their children are young return to full-time practice at some later time. Since assumptions are made about lawyer-mothers based upon dollars and financial investment strategy, it makes good business sense to support part-time arrangements for colleagues who need the flexibility and in whom substantial investments have already been made. Firms often reap tremendous benefits from their expertise and experience. “High rates of attrition . . . are not good for law firms’ bottom line. Strictly as a dollars-and-cents issue, law firms would do well to concentrate their considerable resources and talents on eliminating some of the sources of dissatisfaction among their practitioners.”<sup>110</sup> Like other investments, a more long-term view needs to be taken vis-à-vis lawyers with family responsibilities. They will become the most loyal employees, the “home team talent” and will not leave to become the competition.

## **E. Summary of Family Impact**

The issue of family and career decisions, advancement and satisfaction of lawyers has received some attention in the studies. Although a number of assumptions may be dispelled by the analysis of the various studies, many unanswered questions remain.

It is an open question whether women lawyers make different career choices than their male colleagues as they consider the possibility or the reality of balancing career with family responsibilities. Some women *choose* lower-paid, less prestigious jobs with more limited opportunity for advancement because of their children, or their plans to have children; some choose positions that enable easy entry into and exit from the labor force as well as reduced

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<sup>107</sup>GENDER BIAS COMMITTEE, CALIFORNIA WOMEN LAWYERS EDUCATIONAL FOUNDATION, GLASS CEILING SURVEY: WOMEN LAWYERS IN LARGE CALIFORNIA FIRMS (September 1993).

<sup>108</sup>*Id.* at 5.

<sup>109</sup>See Weidlich & Lawrence, *supra* note 87, at 17.

<sup>110</sup>Holmes, *supra* note 84, at 32.

hours.<sup>111</sup> Although making such definitive choices can be empowering it also means giving up other options.

For the most part, however, little is known about how the impact of family actually affects career choices. It is one of a number of factors which should be looked at more closely, along with career satisfaction and alternative work schedules, which are the part of the underlying motivation for career decisions.

## VIII. Conclusion

There has been significant change in the legal profession for women lawyers, particularly at the entry levels. However, many old assumptions and stereotypes still exist and create obstacles for women lawyers, especially for women attorneys of color.

Women lawyers demonstrate no “typical” linear career path. Rather, they are making many and varied career choices, sometimes as a result of impediments. On the other hand, it is possible that women lawyers actually are paving the way for new career options.

The Commission recommends that future studies, rather than assuming a traditional linear career model, ascertain the meaning and underlying motivations driving the movement of women within the legal profession. Such studies might identify new career options and lead to the creation of different models for career decision-making.

For example, when discussing women leaving the law, a study might consider the model of living “life in chapters,”<sup>112</sup> which allows for the possibility of greater flexibility to all lawyers; it would permit time for public service, societal and personal commitments, for children, for political aspirations, and even for sabbaticals. Just as lawyer-mothers seem to be enriched by their dual roles, all practitioners might become more fulfilled lawyers if they were able to spend time in different settings at varied points in their careers.

The Commission is impressed with the volume of data available on lawyers but also cognizant of the issues left to be explored. Clearly, a national longitudinal study, while a painstaking and expensive process, would afford us the best and most accurate insight into women’s paths within the profession. The goal is to insure that every lawyer has an equal chance at success.

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<sup>111</sup>Roach, *supra* note 68, at 212.

<sup>112</sup>Lynn Hecht Schafran, Empower Yourself: Your Personal Success Plan, Presentation at American Bar Association Annual Meeting, Law Practice Management Section (Aug. 8, 1993).

## EMPLOYMENT OF WOMEN AND MINORITIES

Compiled by the  
National Association for Law Placement

from the

*Employment Report and Salary Surveys 1983-1992*

### INITIAL JOB TYPE BY MINORITY STATUS AND SEX

Shows percentage of graduates in each category (all graduates, minority women, non-minority women, minority men, and non-minority men) with jobs in private practice, judicial clerkships, government, business and industry, public interest, and academia.

	Private	Clerkship	Gov'tment	Business	Pub. Int.	Academic
<b>1983</b>						
Total	58.9	11.9	12.8	10.1	2.8	1.2
Women						
Min.	40.6	10.8	23.4	9.6	10.7	2.4
Other	57.3	20.7	8.3	7.7	2.3	1.5
Men						
Min.	49.3	9.9	22.1	9.9	4.2	2.3
Other	61.6	10.4	12.6	11.3	1.0	0.9
<b>1984</b>						
Total	58.9	10.5	12.2	11.1	3.3	1.8
Women						
Min.	41.2	9.2	19.2	11.1	11.1	1.8
Other	55.7	13.4	11.7	9.3	3.9	2.0
Men						
Min.	45.3	7.9	20.8	12.8	8.9	2.3
Other	61.3	9.0	11.3	11.5	2.2	1.6
<b>1985</b>						
Total	60.6	12.0	12.0	10.4	3.3	1.5
Women						
Min.	47.6	13.4	22.7	8.6	8.1	1.7
Other	59.5	14.7	12.7	9.3	4.3	1.7
Men						
Min.	53.0	10.2	21.4	11.5	5.8	2.0
Other	64.3	10.8	11.7	11.2	2.3	1.4
<b>1986</b>						
Total	62.3	12.1	11.8	9.0	3.0	1.6
Women						
Min.	51.4	13.3	18.1	9.8	8.2	2.4
Other	61.6	15.6	11.9	7.7	3.6	1.9
Men						
Min.	56.6	9.7	17.9	10.4	6.8	2.6
Other	67.1	10.8	11.1	10.0	2.0	1.4

INITIAL JOB TYPE BY MINORITY STATUS AND SEX

	Private	Clerkship	Gov'ment	Business	Pub. Int.	Academic
<b>1987</b>						
Total	63.5	12.4	12.2	7.9	3.0	1.0
Women						
Min.	52.0	12.8	20.4	5.3	8.4	1.0
Other	61.9	15.2	10.7	6.2	0.9	1.2
Men						
Min.	56.8	10.3	18.8	7.1	5.4	1.6
Other	66.4	10.7	11.0	8.9	1.9	3.8
<b>1988</b>						
Total	64.3	12.7	12.0	6.9	3.1	1.0
Women						
Min.	52.5	11.8	19.8	5.8	8.5	1.7
Other	62.3	15.1	11.7	6.0	3.7	1.2
Men						
Min.	57.9	8.2	18.9	8.8	5.0	1.4
Other	67.2	11.5	11.0	7.3	2.2	0.7
<b>1989</b>						
Total	62.4	12.2	10.4	5.8	3.4	1.0
Women						
Min.	55.1	12.6	19.4	4.7	7.0	1.0
Other	64.4	15.6	11.0	4.2	3.6	1.0
Men						
Min.	63.1	9.6	14.5	7.6	4.2	0.5
Other	68.7	11.8	10.3	5.9	2.6	1.6
<b>1990</b>						
Total	62.9	12.7	13.7	6.9	2.1	0.8
Women						
Min.	50.2	15.6	13.1	5.6	2.6	0.7
Other	62.4	15.1	22.4	6.8	4.4	1.1
Men						
Min.	56.7	10.3	20.9	6.9	4.3	0.9
Other	67.7	11.3	12.1	7.3	1.1	0.5

INITIAL JOB TYPE BY MINORITY STATUS AND SEX

	Private	Clerkship	Gov'ment	Business	Pub. Int.	Academic
<b>1991</b>						
Total	60.8	12.4	13.1	7.5	2.3	1.0
Women						
Min.	48.3	14.7	22.2	4.6	5.5	1.2
Other	59.2	15.4	13.4	6.2	2.5	1.1
Men						
Min.	57.4	10.1	18.7	7.0	2.9	1.4
Other	64.7	11.7	12.1	7.5	1.0	0.6
<b>1992</b>						
Total	59.0	12.4	13.4	8.9	2.4	1.1
Women						
Min.	45.4	13.8	21.7	7.2	7.6	1.7
Other	57.2	15.5	13.7	8.0	2.7	1.0
Men						
Min.	51.7	12.4	19.8	9.0	3.6	1.3
Other	63.6	12.0	11.7	8.9	1.3	0.7

PRIVATE PRACTICE-TEN YEAR COMPARISON BY SEX, RACE AND SIZE OF FIRM

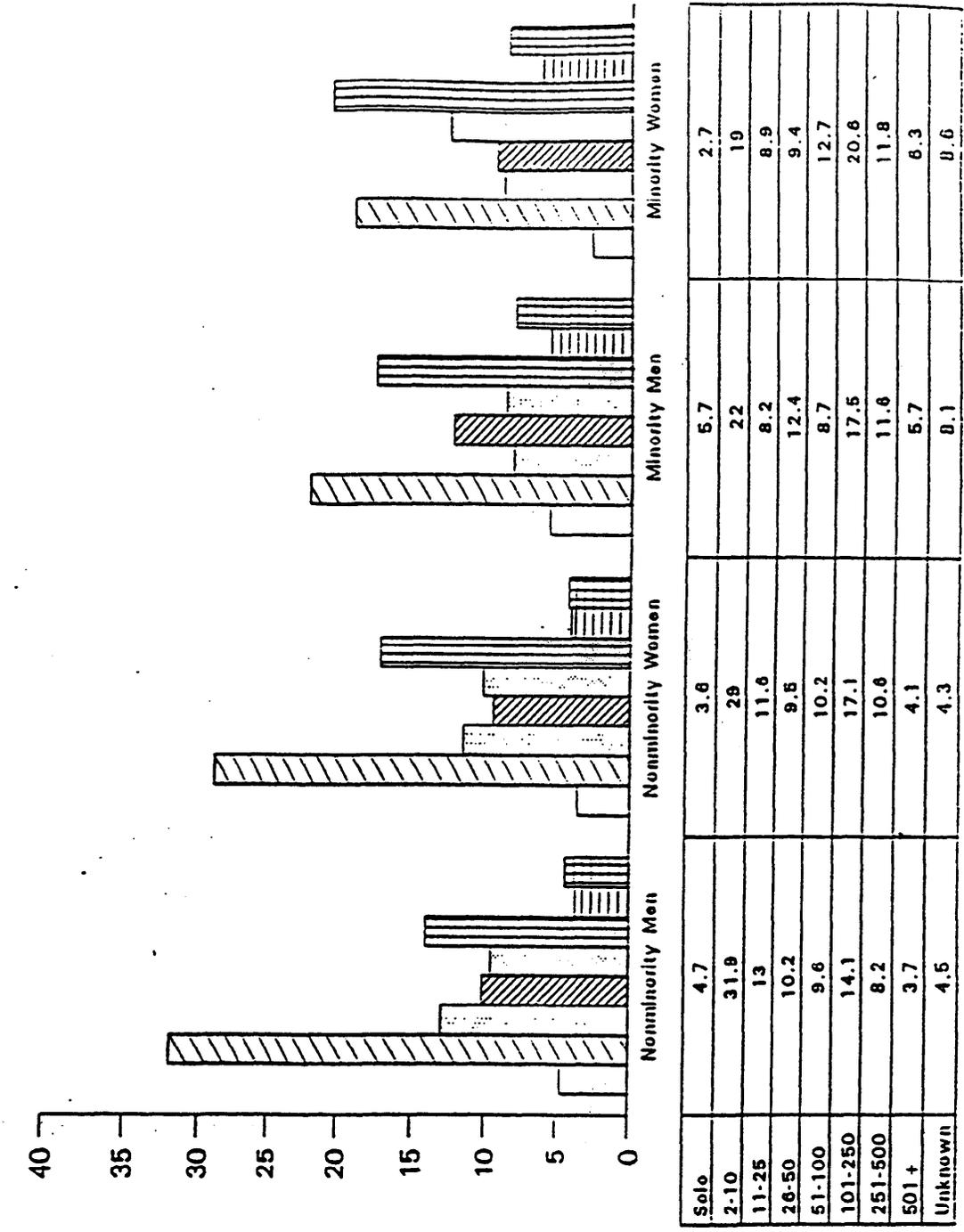
Size of Firm	1979				1980				1981				1982			
	Men	Women	Min.	Avg.												
Self-Employed	5.0	2.7	2.7	4.5	4.4	3.3	3.6	4.1	4.4	3.1	2.2	4.0	4.7	3.2	2.8	4.2
Very Small (2-10)	22.6	17.4	8.4	21.5	23.9	17.5	10.5	22.4	24.2	20.0	12.9	22.9	23.5	20.0	15.5	22.4
Small (11-25)	8.6	5.7	2.3	8.0	8.5	7.2	3.1	8.2	9.5	7.8	5.1	9.0	8.7	7.3	4.9	8.3
Medium (26-50)	4.4	4.5	2.0	4.4	5.1	5.3	2.2	5.2	6.5	5.5	3.8	6.2	6.5	5.5	3.5	6.2
Large (51-100)	6.5	8.6	12.6	6.9	9.2	10.3	7.5	9.5	11.8	13.9	9.0	12.5	5.8	6.3	4.3	5.9
Very Large (100+)	--	--	--	--	--	--	--	--	--	--	--	--	8.4	9.2	9.3	8.7
Unidentified	<u>8.3</u>	<u>5.8</u>	<u>4.9</u>	<u>7.8</u>	<u>5.5</u>	<u>4.8</u>	<u>5.3</u>	<u>5.3</u>	<u>3.5</u>	<u>2.6</u>	<u>3.2</u>	<u>3.2</u>	<u>2.9</u>	<u>2.8</u>	<u>3.3</u>	<u>2.9</u>
TOTAL	53.3	44.7	32.9	53.0	57.2	48.2	32.3	54.7	59.8	52.9	36.1	57.6	60.4	54.2	43.5	58.5

Size of Firm	1983					1984					1985				
	Non-Minority		Minority		Avg.	Non-Minority		Minority		Avg.	Non-Minority		Minority		Avg.
Men	Women	Men*	Women*	Men		Women	Men	Women	Men		Women	Men	Women	Men	
Self-Employed	4.3	3.0	5.2	2.4	3.9	4.1	3.0	4.9	2.3	3.7	3.0	2.7	3.6	2.4	3.0
Very Small (2-10)	24.5	21.4	16.5	15.4	22.9	23.8	21.6	14.8	13.7	22.1	23.1	19.3	17.5	15.0	21.3
Small (11-25)	9.0	8.3	4.7	3.7	8.4	9.23	8.1	6.2	5.3	8.4	9.7	8.4	7.6	6.1	9.0
Medium (26-50)	6.8	5.7	5.5	3.9	6.3	6.8	5.6	4.3	3.4	6.2	7.2	6.9	5.4	5.3	7.0
Large (51-100)	5.6	6.0	4.7	4.9	5.6	5.8	5.9	5.7	6.3	5.8	7.3	7.3	6.5	6.0	7.2
Very Large (100+)	8.2	9.8	9.0	7.3	8.6	9.7	10.0	7.8	8.2	9.6	12.2	13.0	11.1	11.0	12.3
Unidentified	<u>3.2</u>	<u>3.1</u>	<u>3.6</u>	<u>3.7</u>	<u>3.3</u>	<u>1.9</u>	<u>1.5</u>	<u>1.7</u>	<u>2.0</u>	<u>1.7</u>	<u>2.1</u>	<u>2.0</u>	<u>1.8</u>	<u>2.0</u>	<u>2.0</u>
TOTAL	61.6	57.3	49.3	40.6	58.9	61.3	55.7	45.3	41.2	57.5	64.3	59.2	53.0	47.6	61.3

Size of Firm	1986					1987					1988				
	Non-Minority		Minority		Avg.	Non-Minority		Minority		Avg.	Non-Minority		Minority		Avg.
Men	Women	Men	Women	Men		Women	Men	Women	Men		Women	Men	Women	Men	
Self-Employed	2.9	2.2	3.3	2.1	2.7	2.3	1.4	2.2	1.2	2.0	2.0	1.3	2.3	1.0	1.7
Very Small (2-10)	21.6	19.2	13.5	13.3	20.0	21.1	18.5	13.7	14.7	19.6	19.3	17.0	13.0	12.8	17.8
Small (11-25)	10.6	8.9	8.1	6.3	9.6	10.2	9.1	7.6	7.1	9.5	9.7	8.5	6.9	6.6	9.0
Medium (26-50)	7.9	7.0	6.9	4.9	7.4	8.5	7.8	7.9	6.9	8.0	8.2	7.1	6.2	5.8	7.6
Large (51-100)	7.8	8.0	5.9	6.4	7.7	8.1	8.3	6.7	6.8	7.9	8.6	8.1	8.2	5.9	8.3
Very Large (100+)	14.4	14.3	14.7	13.8	14.3	14.8	15.6	15.4	13.1	15.0	17.3	18.5	18.2	17.6	17.8
Unidentified	<u>2.3</u>	<u>2.4</u>	<u>5.0</u>	<u>5.0</u>	<u>2.7</u>	<u>1.5</u>	<u>1.2</u>	<u>3.3</u>	<u>2.3</u>	<u>1.5</u>	<u>2.0</u>	<u>1.8</u>	<u>3.2</u>	<u>2.8</u>	<u>2.0</u>
TOTAL	67.1	61.6	56.6	51.4	64.0	66.5	61.9	56.8	52.0	63.5	67.2	62.3	57.9	52.5	64.3

\*NALP began collecting this information in 1983.

# Size of Law Firm — By Minority Status and Gender

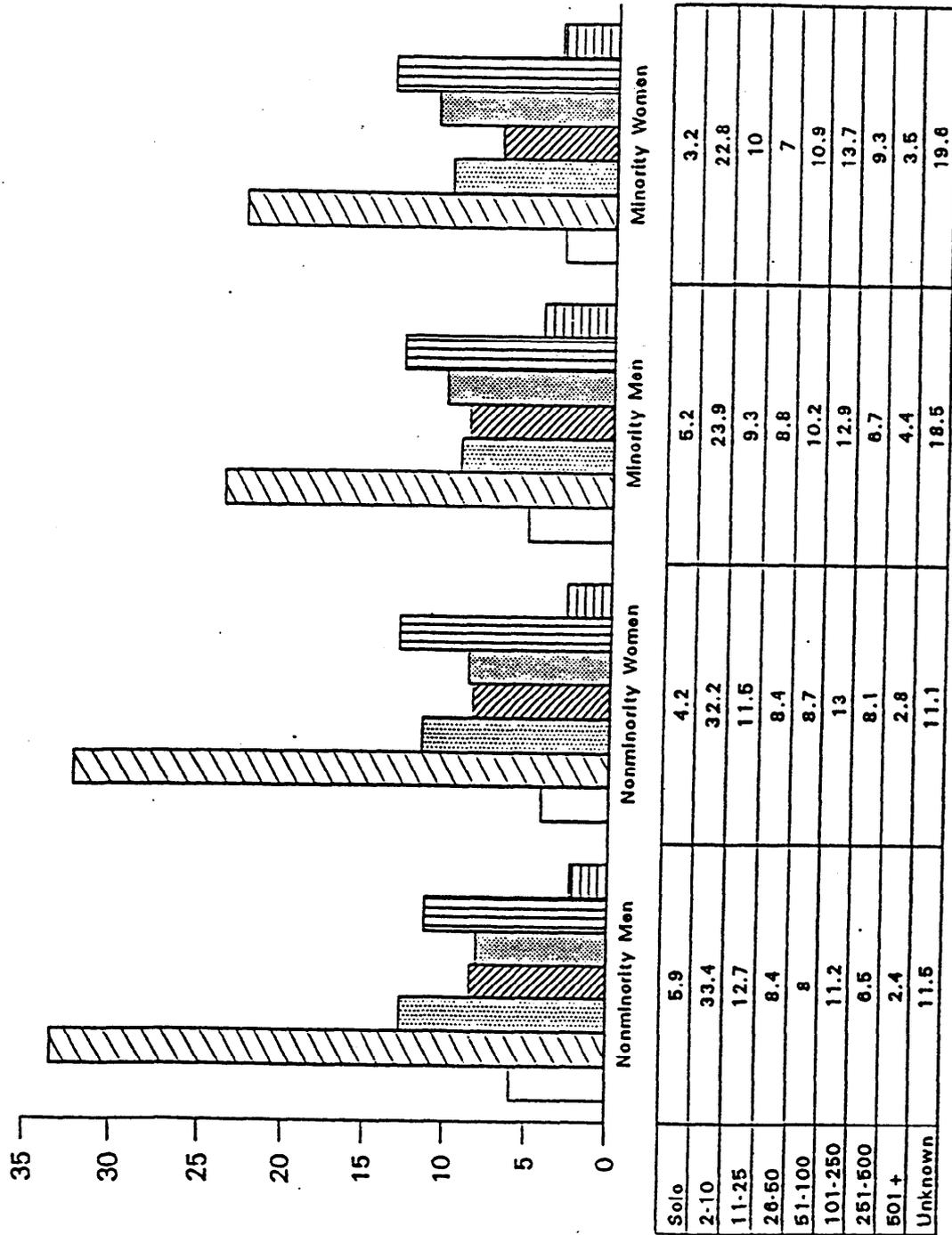
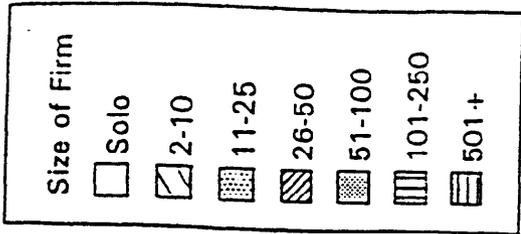


**Size of Firm**

- Solo
- ▨ 2-10
- 11-25
- ▨ 26-50
- 51-100
- ▨ 101-250
- ▨ 501 +
- ▨ Unknown

Full-time law firm jobs only.

# Private Practice Employment — Size of Law Firm — Comparison by Minority Status and Gender Class of 1992



Full-time law firm jobs only.

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# **Class of 1993**

## Employment Report and Salary Survey

National  
Association  
for Law  
Placement

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# Employment and Graduate Demographic Factors

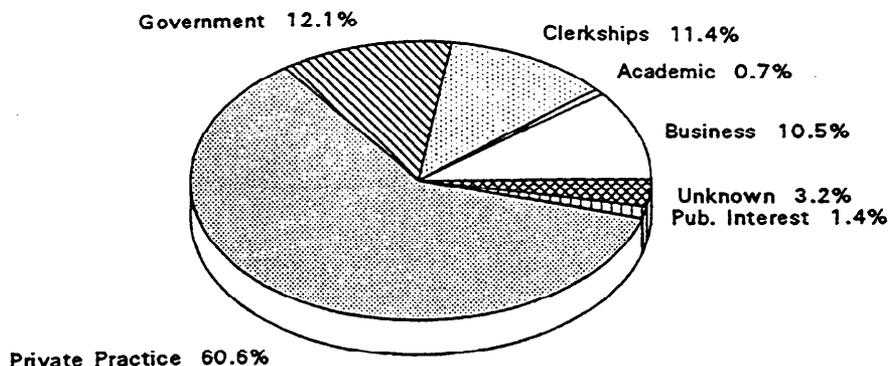
NALP is committed to promoting diversity within the legal profession. Thus, an examination of graduate demographic factors remains a cornerstone of the *Employment Report and Salary Survey*.

This section of the report analyzes race/ethnicity, gender, age and disability status and their relationship to employment and salaries. Both racial/ethnic minorities as a whole and specific racial/ethnic groups have been studied.

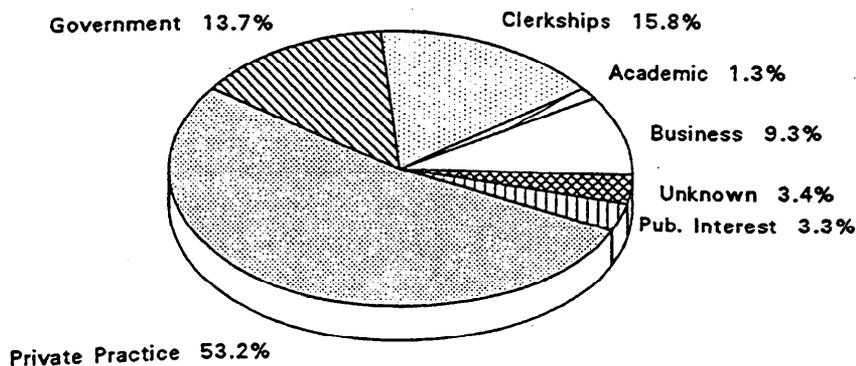
## Ethnicity, Gender, Employer Type and Salary

A comparison of employer types for men and women shows that the long-standing pattern of relatively fewer women entering private practice and relatively more obtaining government, clerkship and public interest positions continued with the Class of 1993. The same is true for minorities compared to non-minorities although the proportion of minorities obtaining clerkship positions is somewhat lower.

### Initial Employer Types — Men and Women Full-Time Jobs Only

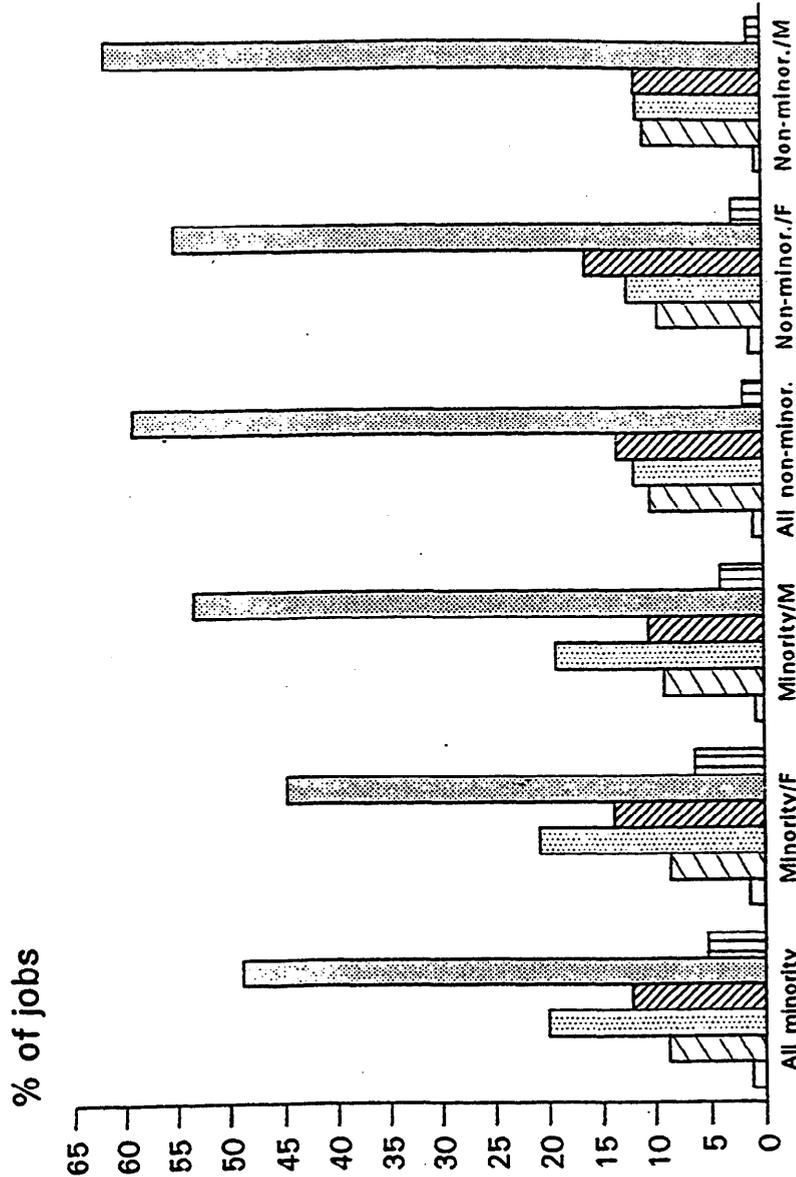
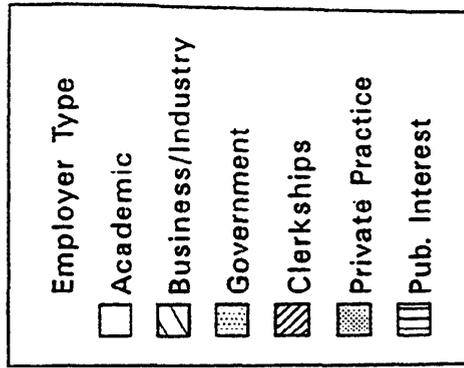


Men



Women

# Initial Employer Types — Six Months Post-J.D. — By Minority Status and Gender



	All minority	Minority/F	Minority/M	All non-minor.	Non-minor./F	Non-minor./M
Academic	1.2	1.4	0.8	0.9	1.2	0.0
Business/Industry	8.7	8.5	9	10.3	9.5	10.8
Government	20	20.8	19.2	11.8	12.4	11.4
Clerkships	12.2	13.8	10.5	13.4	16.3	11.6
Private Practice	48.8	44.7	53.2	59	55	61.7
Pub. Interest	5.2	6.3	4	1.8	2.8	1.2
Unknown	3.9	4.5	3.3	2.8	2.7	2.8

Full-time jobs only.

# THE CAREER PATHS OF WOMEN LAWYERS

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