

# Biographies of Moderator and Panelists

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## **Biography of Madame Chief Justice Debra Todd Supreme Court of Pennsylvania**

**MADAME CHIEF JUSTICE DEBRA TODD** was born in Ellwood City, Pennsylvania, the daughter of the late Harry and Blanche McCloskey. She is married to Stephan K. Todd, Esquire. Chief Justice Todd is an Honors graduate of Chatham College and the University of Pittsburgh School of Law where she served on the Law Review. She earned her LL.M. Degree in the Judicial Process from the University of Virginia School of Law. She began her career as an in-house litigation attorney for U.S. Steel Corporation. She then maintained a trial practice in the City of Pittsburgh with an emphasis in complex civil litigation.

After serving as a Judge on the Superior Court of Pennsylvania from 2000 through 2007, Chief Justice Todd was elected to the Supreme Court of Pennsylvania in November 2007, and was retained in November 2017 for a second ten-year term. Justice Todd became the first female Chief Justice of Pennsylvania on October 1, 2022.

Chief Justice Todd is an elected member of the Academy of Trial Lawyers of Allegheny County and the American Law Institute and is an alumna and former board member of Leadership Pittsburgh. She is a member of the Allegheny County, Pennsylvania and American Bar Associations, and is a fellow of the Allegheny County and Pennsylvania Bar Foundations. She is a member of the National and International Association of Women Judges, and the Women's Bar Association of Western Pennsylvania. She is a frequent lecturer and panelist for continuing legal education programs on appellate practice and procedure, ethics, elder justice, child abuse, and veterans' issues. She serves as a board member of the Pittsburgh Civic Light Opera. She served as Chair of the Pennsylvania Supreme Court's Elder Law Task Force and is the Pennsylvania Supreme Court's Liaison Justice to the Advisory Council on Elder Justice in the Courts and the Pennsylvania Veterans Courts. She is a former Board President of Pittsburgh Action Against Rape. She volunteers her time as a high school musical judge for the Pittsburgh CLO Gene Kelly Awards and, for over ten years, coached the Seneca Valley Intermediate High School Mock Trial Team.

In 2007, Chief Justice Todd was named the Outstanding Elected Democratic Woman of the year by the Pennsylvania Federation of Democratic Women. In 2008, she was awarded an Honorary Doctorate in Public Service by Chatham University. She received The Legal Intelligencer Women in the Profession 2007-2008 Woman of the Year Award. In 2009, she received the Cornerstone Award in Law from Chatham University. In 2010, she was awarded the Philip Werner Amram Award for professional excellence and commitment to the ideals of the Allegheny County Bar Association as well as the betterment of the greater community. In 2012, the University of Pittsburgh Law Alumni Association honored her with its Distinguished Alumni Award. In 2013, she received the University of Pittsburgh's 225<sup>th</sup> Anniversary Medallion, recognizing alumni who have built better lives through their life's work. Also in 2013, Chief Justice Todd received the Tribute to Women Leadership Award in Business & Professional Services from the Greater Pittsburgh YWCA, as well as the Pitt Law Women's Association's Marjorie Matson Woman of the Year Award. In 2015, Amen Corner awarded her The Judge Robert E. Dauer Award for Judicial Leadership and Excellence. In 2016, Pittsburgh Action Against Rape awarded her its first Visionary Award recognizing individuals who have made a significant impact in the lives of survivors of sexual violence. In 2017, the Women's Bar Association of Western Pennsylvania awarded her the Susan B. Anthony Award for promoting equality in the legal profession, and the Villanova University Charles Widger School of Law honored her with the Law Medallion Award. In 2021, Chief Justice Todd was named Honorary Chair of the PBA Commission on Women in the Profession. In 2022, the University of Pittsburgh School of Law honored her with the 2022 Judge Ruggero J. Aldisert Distinguished Jurist Award. In 2023, she was awarded an Honorary Doctorate of Laws by Chatham University and was recognized as a Distinguished Daughter of Pennsylvania.

In 2024, The University of Pittsburgh School of Law honored Chief Justice Todd by unveiling a portrait of the Chief to be displayed at the Law School; and she was named USA Today's Woman of the Year for Pennsylvania.

## **Biography of Judge Kim Berkeley Clark (Retired) Court of Common Pleas of Allegheny County**

**THE HONORABLE KIM BERKELEY CLARK** is a retired judge of the Court of Common Pleas. Prior to her retirement, Judge Clark served as the President Judge of the 5th Judicial District of Pennsylvania (Allegheny County) from 2019 through 2023. She is the first African American to serve as President Judge in Allegheny County. Judge Clark serves as a judge of the Family Division, where she primarily hears Juvenile Court cases. Judge Clark served as the Administrative Judge of the Family Division from January of 2006 to January 2009 and from 2013 through 2017. Judge Clark currently serves as the Chairperson of the Juvenile Justice and Delinquency Prevention Committee of the Pennsylvania Commission on Crime and Delinquency and served as the Chairperson of the Pennsylvania Juvenile Court Judges' Commission from 2015-2022, and the President of the Pennsylvania Legal Aid Network from March 2020 until September 2022. She is a past President of the Pennsylvania Conference of State Trial Judges and the Allegheny County Bar Association. She is a member of the Pennsylvania Supreme Court Juvenile Procedural Rules Committee and the American Bar Association Juvenile Justice Standards Task Force.

Judge Clark is a frequent lecturer, speaker and panelist on subjects such as juvenile law, trauma-informed courts, engaging incarcerated parents, implicit bias, servant leadership, and procedural justice at universities and colleges and for organizations such as the American Humane Society, the North American Council on Adoptable Children, the Pennsylvania Bar Institute, the National Council of Juvenile and Family Court Judges, the Association of Family and Conciliation Courts, Children's Hospital of Pittsburgh, the Pittsburgh Pediatric Society, Pittsburgh Action Against Rape, Holy Family Institute and many others. In 2011, Judge Clark was a keynote speaker for the 1st Canadian conference on Family Group Conferencing in Toronto.

Judge Clark has been the recipient of numerous awards including: the Drum Major of Justice Award from the Homer S. Brown Division of the Allegheny County Bar Association (2012), and Woman of Distinction in Law from the Girl Scouts of Western PA (2012), the Judge Homer S. Brown Award from the Pittsburgh NAACP (2012), the Phillip Werner Amram Award from the Allegheny County Bar Association (2012), The Athena Award (2012), the Susan B. Anthony Award from the Women's Bar Association of Western PA (2013), Woman of Legacy in the PNC Legacy Project (2015); the Ronald H. Brown Leadership Award from the Urban League of Greater Pittsburgh (2018); the Gwen's Girls See the Best in Me Equity Award (2019), Carlow University Woman of Spirit (2020), the A. Philip Randolph Institute Bayard Rustin Award (2022), the Three Rivers Youth Nellie Leadership Award (2023), the Judge A. Leon Higginbotham, Jr. Lifetime Achievement Award from the Pennsylvania Bar Association (2023), and the Judge Justin Johnson Award from Pennsylvanians for Modern Courts (2024).

In June of 2013, Judge Clark had the honor of moderating a panel discussion on the needs of caregivers of children of incarcerated parents at the White House. In November of 2017, Judge Clark received the William H. Rehnquist Award for Judicial Excellence. The Rehnquist Award, presented annually by the National Center for State Courts, is one of the nation's highest judicial honors.

In June of 2023, Judge Clark received The History Makers Award in law from the Senator John Heinz History Center in association with the Smithsonian Institution. The History Makers Award is the highest award given by the History Center annually, honoring individuals with Pittsburgh roots/connections that have made a lasting influence and great impact on the region, the nation, and the world.

## **Biography of Joy Flowers Conti, Senior District Judge U.S. District Court, Western District of Pennsylvania**

**THE HONORABLE JOY FLOWERS CONTI** was born in Kane, Pennsylvania on December 7, 1948. She graduated from Duquesne University in 1970 with a Bachelor of Arts, and was awarded a J.D. degree summa cum laude from Duquesne University School of Law in 1973. She was Editor-In-Chief of the Duquesne Law Review. After graduation from law school, she served as a law clerk to Pennsylvania Supreme Court Justice Louis L. Mandrino (deceased). In 1974, she was the first woman lawyer to be hired by Kirkpatrick, Lockhart, Johnson & Hutchinson, now known as Kirkpatrick & Lockhart, LLP. In 1976 she accepted a position as a member of the faculty of Duquesne University School of Law. She became a tenured professor of law at Duquesne University School of Law and taught courses in civil procedure, corporations, corporate finance, corporate reorganizations and bankruptcy.

In 1982, she returned to private practice with Kirkpatrick & Lockhart, and became a partner in 1983. In 1996, she joined Buchanan Ingersoll Professional Corporation as a shareholder. She concentrated her practice on bankruptcy, creditors' and debtors' rights, healthcare, general corporate and nonprofit corporation law. She has authored and lectured on bankruptcy and corporate law.

She is a member of the Allegheny County Bar Association, the Pennsylvania Bar Association, the American Bar Association, the Women's Bar Association of Western Pennsylvania, the Federal Bar Association and the American Inns of Court – University of Pittsburgh Chapter. She is a former president of the Allegheny County Bar Association and former chair of the Allegheny County Bar Association's Young Lawyers' Section. She also served as secretary and a trustee of the Allegheny County Bar Foundation. She was a Governor-at-Large of the Pennsylvania Bar Association and was the chair of the Pennsylvania Bar Association's Corporation, Banking and Business Law Section. She served in the House of Delegates of the American Bar Association, and she is currently serving in the Pennsylvania Bar Association's House of Delegates. She was a co-chair of the Pennsylvania Bar Association's Task Force on Legal Services for the Poor, Part II. She was listed in The Best Lawyers in America while in practice and is listed in Who's Who in America and Who's Who in American Law.

She is a member of the American Law Institute and the American Judicature Society. She is a fellow of the American College of Bankruptcy, the American Bar Foundation, the Pennsylvania Bar Foundation and the Allegheny County Bar Foundation. She was president of the Historical Society of the United States Court of Appeals for the Third Circuit. She has also served on numerous non-profit boards throughout her career.

In 2002, she received the Outstanding Leadership Award in Support of Legal Services given by Pennsylvania Legal Services. In 1995, she was the second recipient of the Pennsylvania Bar Association's Anne X. Alpern Award, which annually recognizes one outstanding woman lawyer or judge. Also in 1995, she received the Vectors/Pittsburgh Award for Woman of the Year in Law and Government. In 1993, she received the YWCA Greater Pittsburgh Tribute to Women Award for Professionals and the Allegheny County Bar Association's Pro Bono Award. In 1981, she was recognized as one of the 10 Outstanding Young Women in America and as the Outstanding Young Woman in Pennsylvania.

**Biography of Maureen P. Kelly, Magistrate Judge  
U.S. District Court, Western District of Pennsylvania**

**THE HONORABLE MAUREEN P. KELLY** was appointed as a Magistrate Judge for the United States District Court for the Western District of Pennsylvania in June 2011. She served as Chief Magistrate Judge for the Western District of Pennsylvania from 2014 to 2018.

Judge Kelly was born in Youngstown, Ohio, the oldest of six children in a household influenced by strong Irish-Catholic roots. She is a graduate of the University of Notre Dame and Duquesne University School of Law.

Following law school, Judge Kelly worked as an associate and then partner at Thorp, Reed & Armstrong, where she specialized in commercial and employment litigation. In 1999, she joined Babst, Calland, Clements & Zomnir as a shareholder, chairing the Employment and Labor Services Group. Her practice primarily concentrated on the litigation of issues related to Title VII of the Civil Rights Act of 1964, the American Disabilities Act, the Age Discrimination in Employment Act, as well as restrictive covenants, employment contracts and FLSA collective actions.

As a trial lawyer, Judge Kelly received the national honors of induction into the American College of Trial Lawyers in 2007 and the Litigation Council of America in 2008. She was elected to the Academy of Trial Lawyers of Allegheny County in 1996 and is a Fellow in the Academy of Trial Advocacy. She was listed in the Labor and Employment Section of The Best Lawyers in America® from 2008 to 2011. She was recognized as a Pennsylvania Super Lawyer from 2005 to 2011 and was listed as one of Pittsburgh's Top 50 Lawyers and one of Pennsylvania's Top 50 Women Lawyers. She has served in leadership roles as a member of the Pennsylvania State Committee of the American College of Trial Lawyers and the Board of Governors of the Academy of Trial Lawyers of Allegheny County.

Prior to appointment to the district court, Judge Kelly served the courts in a variety of roles. She was appointed by the Pennsylvania Supreme Court to the Interest on Lawyers Trust Account Board and served as Chair for five years. She was an appointed member of the Lawyers Advisory Committee to the United States Court of Appeals for the Third Circuit as well as Chair of the Merit Selection Panel for the Selection and Appointment of Magistrate Judge for the Western District of Pennsylvania.

Judge Kelly was the founding co-chair of the Allegheny County Bar Association ("ACBA") Gender Equality Committee. She has served as chair of the ACBA's Civil Litigation Section Council as well as an elected member of the Judiciary Committee.

On a statewide level, she served as co-chair of the Pennsylvania Bar Association Task Force on Student Loan Forgiveness and as a member on the Task Force on the Delivery of Legal Services to the Poor. She served on the American Bar Association Commission on the Interest on Lawyers Trust Accounts.

Judge Kelly has always been dedicated to the delivery of civil legal aid to those in need. She served as President of Neighborhood Legal Services Association and chaired the annual Equal Justice Under Law Campaign for many years. She was a member of the board of directors of Pennsylvania Legal Services from 1996 to 2003.

In addition, Judge Kelly has been active in civic and charitable organizations. She recently completed a three term as chair of the Duquesne University School of Law Advisory Board. She served on the board of the Carnegie Museum of Natural History. She was a member of the Advisory Board of the Center for Social Concerns at the University of Notre Dame. She has served on the boards of other non-profit programs in Western Pennsylvania.

Since her appointment to the Court in 2011, Judge Kelly has served as one of the judges overseeing the Re-integration into Society Effort ("RISE") Court, a reentry program. She also serves as chair of the Reentry Courts Committee of the United States Court of Appeals for the Third Circuit.

**Biography of Maureen P. Kelly, Magistrate Judge  
U.S. District Court, Western District of Pennsylvania**

Judge Kelly served on the AO Space and Security Advisory Council from 2016 – 2021. She serves on the Third Circuit Space and Facilities Committee as well the recently established Third Circuit Workplace Conduct Committee. Judge Kelly also serves on various committees for the Western District of Pennsylvania.

Judge Kelly has been the recipient of awards recognizing her professional accomplishments. In September 2016, she was honored with induction as a member of the Duquesne University Century Club in recognition of her exemplary record of professional achievement and service to the community. In February 2008, The Penn State Dickinson School of Law awarded her the Sylvia H. Rambo Award in recognition of her distinguished legal career and her efforts on behalf of women in the profession. In March 2007, the Pennsylvania Legal Aid Network presented Judge Kelly with the Outstanding Leadership in Support of Legal Services award. This award recognizes commitment to the delivery of legal services to the poor in Pennsylvania. She was presented with the Susan B. Anthony Award in February 2007 by the Women's Bar Association. This award honors an outstanding member of the legal community who demonstrates dedication to encouraging and promoting women in the law and maintaining the highest professional standards in the courts and legal profession. In June 2006, Judge Kelly was presented with the Dorothy Ann Richardson Award by the Neighborhood Legal Services Association, in recognition of service and advocacy for equal justice for all. Judge Kelly also was named Woman of the Year in May 2004 by the Women's Law Association of Duquesne University School of Law. She was presented with the 1999 Duquesne University School of Law Outstanding Alumni Achievement Award for her achievements in the legal profession and service to the community.

## Other Materials

5. Pennsylvania Rule of Professional Conduct 8.4
6. *Greenberg v. Lehocky*
7. The 2006 ACBA Survey (The Legal Profession: A Study of the ACBA Membership 2005)
8. The 2008 Report and Recommendations of the Gender Equality Task Force of the Allegheny County Bar Association

## **Rule 8.4. Misconduct.**

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or
- (g) in the practice of law, knowingly engage in conduct constituting harassment or discrimination based upon race, sex, gender identity or expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, or socioeconomic status. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude advice or advocacy consistent with these Rules.

### **Comment:**

(1) Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Paragraph (a), however, does not prohibit a lawyer from advising a client of action the client is lawfully entitled to take.

(2) Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

(3) For the purposes of paragraph (g), conduct in the practice of law includes: (i) interacting with witnesses, coworkers, court personnel, lawyers, or others, while appearing in proceedings before a tribunal or in connection with the representation of a client; (ii) operating or managing a law firm or law practice; or (iii) participation in judicial boards, conferences, or committees; continuing legal education seminars; bench bar conferences; and bar association activities where legal education



credits are offered. The term “the practice of law” does not include speeches, communications, debates, presentations, or publications given or published outside the contexts described in (i)—(iii).

(4) “Harassment” means conduct that is intended to intimidate, denigrate or show hostility or aversion toward a person on any of the bases listed in paragraph (g). “Harassment” includes sexual harassment, which includes but is not limited to sexual advances, requests for sexual favors, and other conduct of a sexual nature that is unwelcome.

(5) “Discrimination” means conduct that a lawyer knows manifests an intention: to treat a person as inferior based on one or more of the characteristics listed in paragraph (g); to disregard relevant considerations of individual characteristics or merit because of one or more of the listed characteristics; or to cause or attempt to cause interference with the fair administration of justice based on one or more of the listed characteristics.

(6) A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of Rule 1.2(d) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.

(7) Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer’s abuse of public office can suggest an inability to fulfill the professional role of lawyers. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

#### **Source**

The provisions of this Rule 8.4 amended June 8, 2020, effective in six months, 50 Pa.B. 3011; amended July 26, 2021, effective in 30 days, 51 Pa.B. 4260; amended July 26, 2021, effective in 30 days, 51 Pa.B. 5190. Immediately preceding text appears at serial pages (402648) to (402649).

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**PRECEDENTIAL**

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 22-1733

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ZACHARY GREENBERG

v.

JERRY M. LEHOCKY, in his official capacity as Board Chair of the Disciplinary Board of the Supreme Court of Pennsylvania; DION G. RASSIAS, in his official capacity as Board Vice-Chair of the Disciplinary Board of the Supreme Court of Pennsylvania; JOSHUA M. BLOOM, in his official capacity as Member of the Disciplinary Board of the Supreme Court of Pennsylvania; CELESTE L. DEE, in her official capacity as Member of the Disciplinary Board of the Supreme Court of Pennsylvania; LAURA E. ELLSWORTH, in her official capacity as Member of the Disciplinary Board of the Supreme Court of Pennsylvania; CHRISTOPHER M. MILLER, in his official capacity as Member of the Disciplinary Board of the Supreme Court of Pennsylvania; ROBERT J. MONGELUZZI, in his official capacity as Member of the Disciplinary Board of the Supreme Court of Pennsylvania; GRETCHEN A. MUNDORFF, in her official capacity as Member of the Disciplinary Board of the Supreme Court of Pennsylvania; JOHN C. RAFFERTY, JR., in his

official capacity as Member of the Disciplinary Board of the Supreme Court of Pennsylvania; HON. ROBERT L. REPARD, in his official capacity as Member of the Disciplinary Board of the Supreme Court of Pennsylvania; DAVID S. SENOFF, in his official capacity as Member of the Disciplinary Board of the Supreme Court of Pennsylvania; SHOHIN H. VANCE, in his official capacity as Member of the Disciplinary Board of the Supreme Court of Pennsylvania; THOMAS J. FARRELL, in his official capacity as Chief Disciplinary Counsel of the Office of Disciplinary Counsel; RAYMOND S. WIERCISZEWSKI, in his official capacity as Deputy Chief Disciplinary Counsel of the Office of Disciplinary Counsel,  
Appellants

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On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
D.C. Criminal No. 2-20-cv-03822  
(District Judge: Honorable Chad F. Kenney)

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ARGUED: April 13, 2023

Before: CHAGARES, *Chief Judge*, SCIRICA, and AMBRO,  
*Circuit Judges.*

(Filed: August 29, 2023)

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OPINION OF THE COURT

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**SCIRICA**, *Circuit Judge*.

The Supreme Court of Pennsylvania amended Pennsylvania Rule of Professional Conduct 8.4 to prohibit harassment and discrimination in the practice of law. Plaintiff Zachary Greenberg is a Pennsylvania-licensed attorney who regularly gives continuing legal education presentations about First Amendment protections for offensive speech. His presentations involve quoting offensive language from judicial opinions and discussing arguably controversial topics. Greenberg fears his speech at these presentations will be interpreted as harassment or discrimination under the Rule. He alleges the Rule violates the First Amendment and is unconstitutionally vague. The District Court agreed with him and enjoined enforcement of the Rule.

We determine Greenberg lacks standing to bring his challenge. Rule 8.4(g) does not generally prohibit him from quoting offensive words or expressing controversial ideas, nor will Defendants impose discipline for his planned speech. Thus, any chill to his speech is not objectively reasonable or cannot be fairly traced to the Rule. We will reverse.

## I.

The Pennsylvania Constitution vests the Pennsylvania Supreme Court with the power to regulate the practice of law in the Commonwealth. Pa. Const. art. V, § 10(c). To carry out this responsibility, the Pennsylvania Supreme Court enacts the Pennsylvania Rules of Professional Conduct for all attorneys licensed in the jurisdiction and empowers the Disciplinary Board of the Supreme Court of Pennsylvania to regulate the conduct of Pennsylvania attorneys according to those Rules.

Anyone may file a complaint against a Pennsylvania-licensed attorney for violating the Rules of Professional Conduct. Within the Disciplinary Board, the Office of Disciplinary Counsel investigates such complaints. If the Office of Disciplinary Counsel determines a complaint is frivolous or that policy or prosecutorial discretion warrants dismissal, it may dismiss the complaint without requesting a response from the attorney. From 2016–2018, the Office of Disciplinary Counsel dismissed 87% of complaints without requesting a response from an attorney. If an investigation finds that attorney discipline may be appropriate, the recommendation is reviewed by the Chief Disciplinary Counsel. The Chief Disciplinary Counsel directs the Office of Disciplinary Counsel's interpretation of the Rules of Professional Conduct and must grant express approval for any disciplinary recommendation. Depending on the disposition and severity of the reprimand, the Office of Disciplinary Counsel's disciplinary recommendations may proceed to a hearing, with *de novo* review by the Disciplinary Board and ultimately the Pennsylvania Supreme Court. Generally, investigations into attorney discipline are kept confidential and details are only made public after the Board pursues discipline.

Pa. Disciplinary Bd. R. 93.102 (2022); Pa. R. Disciplinary Enf't 402(a) (2022).

The regulation of harassment or discrimination by attorneys has evolved over the decades. In 1983, the American Bar Association (ABA) first adopted the Model Rules of Professional Conduct. These rules are not binding on attorneys but serve as a model for states to form their own rules of conduct.

Model Rule 8.4 specifies, among other things, that it is “professional misconduct for a lawyer to . . . engage in conduct that is prejudicial to the administration of justice.” Model Rules of Pro. Conduct r. 8.4(d) (Am. Bar Ass’n 2016). In 1998, the ABA adopted a comment to Model Rule 8.4 clarifying that it was professional misconduct for an attorney to “knowingly manifest[] by words or conduct, bias or prejudice” based on certain protected characteristics.<sup>1</sup> Model Rules of Pro. Conduct r. 8.4 cmt. 2 (Am. Bar Ass’n 1998). But the scope of that comment was limited to words or conduct “in the course of representing a client” that “are prejudicial to the administration of justice.” *Id.*

In 2014, to advance its goal of eliminating bias in the legal profession, the ABA began considering amending Model Rule 8.4 to “reflect the changes in law and practice since 1998.” JA249. The result two years later was the adoption of Model Rule 8.4(g), which added specific antiharassment and

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<sup>1</sup> Those characteristics include “race, sex, religion, national origin, disability, age, sexual orientation, [and] socioeconomic status.” Model Rules of Pro. Conduct r. 8.4 cmt. 2 (Am. Bar Ass’n 1998).

antidiscrimination provisions within the black letter of the rule—not the commentary. Model Rule 8.4(g) also expanded the scope of the 1998 comment from conduct “in the course of representing a client” to “conduct related to the practice of law.” Model Rules of Pro. Conduct r. 8.4(g) (Am. Bar Ass’n 2016). The ABA reasoned the Model Rule should prohibit harassment and discrimination beyond the scope of representing a client—such as “bar association functions” or “law firm social events.” ABA Comm. on Ethics & Pro. Resp., Formal Op. 493, at 4 (2020). Model Rule 8.4(g) currently prohibits “harassment or discrimination” based on certain protected characteristics<sup>2</sup> “related to the practice of law.” Model Rules of Pro. Conduct r. 8.4(g) (Am. Bar Ass’n 2016).

Consistent with the ABA’s goal of eliminating bias in the legal profession, many states have adopted their own provisions prohibiting some form of attorney bias, prejudice, harassment, or discrimination. Forty-four jurisdictions’ rules of professional conduct, either directly or through commentary, regulate verbal manifestations of bias, prejudice, harassment, or discrimination. Thirteen jurisdictions (other than Pennsylvania) regulate verbal bias, prejudice, harassment, or discrimination by attorneys outside client representation or operation of a law practice.

Historically, Pennsylvania has supported adoption of the ABA Model Rules in its Rules of Professional Conduct to “promote consistency in application and interpretation of the

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<sup>2</sup> Those protected characteristics are race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, and socioeconomic status. Model Rules of Pro. Conduct r. 8.4(g) (Am. Bar Ass’n 2016).

rules from jurisdiction to jurisdiction.” 46 Pa. Bull. 7519 (Dec. 3, 2016). Thus, Pennsylvania considered its own amendment conforming to Model Rule 8.4(g) in 2016. *Id.* That fall, the Pennsylvania Bar Association House of Delegates approved a recommendation that the Supreme Court of Pennsylvania adopt an antiharassment and antidiscrimination rule of professional conduct. After over two years of “deliberation, discussion, and extensive study,” the Disciplinary Board recommended a proposed amendment to Pennsylvania Rule of Professional Conduct 8.4. 49 Pa. Bull. 4941 (Aug. 31, 2019). The Board emphasized that the “proposed rule promotes the profession’s goal of eliminating intentional harassment and discrimination, assures that the legal profession functions for all participants, and affirms that no lawyer is immune from the reach of law and ethics.” *Id.*

The Pennsylvania Supreme Court adopted the proposed recommendation in 2020. It enacted Pennsylvania Rule of Professional Conduct 8.4(g), which provided that it is professional misconduct for a lawyer to, “in the practice of law, by words or conduct, knowingly manifest bias or prejudice, or engage in harassment or discrimination, as those terms are defined in applicable federal, state or local statutes or ordinances, including but not limited to bias, prejudice, harassment or discrimination based upon” eleven protected grounds.<sup>3</sup> 50 Pa. Bull. 3011 (June 20, 2020). The Pennsylvania Supreme Court also added two comments to the Rule. Comment 3 clarified that “the practice of law” includes

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<sup>3</sup> The protected grounds are “race, sex, gender identity or expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, [and] socioeconomic status.” 50 Pa. Bull. 3011 (June 20, 2020).

“continuing legal education seminars, bench bar conferences and bar association activities where legal education credits are offered.” *Id.* Comment 4 explained that prohibited conduct would be defined by substantive antidiscrimination and antiharassment statutes and case law. *Id.*

Before the amendment was scheduled to take effect, Plaintiff Zachary Greenberg sued members of the Disciplinary Board of the Pennsylvania Supreme Court as well as the Board’s Chief and Deputy Chief Disciplinary Counsel. Greenberg is a Pennsylvania-licensed attorney who regularly presents continuing legal education (“CLE”) seminars about the First Amendment. He also speaks at non-CLE seminars about First Amendment rights related to university policies banning hate speech, due process protections for students accused of sexual misconduct, religious speech that espouses discriminatory views, and political speech through campaign contributions. Greenberg believes some audience members will find his presentations—which include quotations of racial epithets from judicial opinions and are inclined towards arguably controversial positions—to be “biased, prejudiced, offensive, and potentially hateful.” Compl. ¶¶ 63–64, *Greenberg v. Haggerty*, No. 20-cv-3822 (E.D. Pa. Aug. 6, 2020), ECF No. 1. As a result, he fears they will file a bar disciplinary complaint against him. He plans to continue speaking at CLE events on these topics, but alleges “the existence of Rule 8.4(g) and the uncertainty surrounding the scope of Rule 8.4(g) [would] chill his speech” and cause him to alter his lectures. *Id.* ¶¶ 60, 65. He claimed Pennsylvania’s Rule 8.4(g), as adopted in 2020, violated the First Amendment and was unconstitutionally vague.

Greenberg sought a declaratory judgment that the Rule

was unconstitutional and an injunction prohibiting its enforcement. He then moved to preliminarily enjoin Defendants from enforcing any part of Rule 8.4(g). Defendants moved to dismiss the suit, arguing that Greenberg lacked standing and that the Rule did not violate either the First or Fourteenth Amendment.

The District Court denied Defendants' motion to dismiss and preliminarily enjoined enforcement of Rule 8.4(g) in its entirety. It held that Greenberg had standing: His plan to "repeat[] slurs or epithets" or "engag[e] in discussion with his audience members about the constitutional rights of those who do and say offensive things" was "arguably proscribed by Rule 8.4(g)," and he faced a "credible threat of prosecution" because he "demonstrated that there is a substantial risk that [Rule 8.4(g)] will result in [his] being subjected to a disciplinary complaint or investigation." *Greenberg v. Haggerty*, 491 F. Supp. 3d 12, 24 (E.D. Pa. 2020). Thus, the District Court determined Greenberg's allegation that his speech was chilled was objectively reasonable. Ultimately, the trial court found it persuasive that Defendants offered no guarantee they would not "discipline his offensive speech even though they have given themselves the authority to do so." *Id.*

Defendants first sought interlocutory review but later voluntarily dismissed their appeal and instead amended Rule 8.4(g). That amendment produced the current form of Rule 8.4(g) and commentary, the relevant portions of which follow:

It is professional misconduct for a lawyer to . . .

(g) in the practice of law, knowingly engage in conduct constituting harassment or

discrimination based upon race, sex, gender identity or expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, or socioeconomic status. . . .

Comment [3]: For the purposes of paragraph (g), conduct in the practice of law includes (1) interacting with witnesses, coworkers, court personnel, lawyers, or others, while appearing in proceedings before a tribunal or in connection with the representation of a client; (2) operating or managing a law firm or law practice; or (3) participation in judicial boards[,] conferences, or committees; continuing legal education seminars; bench bar conferences; and bar association activities where legal education credits are offered. The term “the practice of law” does not include speeches, communications, debates, presentations, or publications given or published outside the contexts described in (1)–(3).

Comment [4]: “Harassment” means conduct that is intended to intimidate, denigrate or show hostility or aversion toward a person on any of the bases listed in paragraph (g). “Harassment” includes sexual harassment, which includes but is not limited to sexual advances, requests for sexual favors, and other conduct of a sexual nature that is unwelcome.

Comment [5]: “Discrimination” means conduct that a lawyer knows manifests an intention: to



treat a person as inferior based on one or more of the characteristics listed in paragraph (g); to disregard relevant considerations of individual characteristics or merit because of one or more of the listed characteristics; or to cause or attempt to cause interference with the fair administration of justice based on one or more of the listed characteristics.

JA206–07 ¶¶ 57–60 (Pa. R. Pro. Conduct 8.4(g) & cmts. 3–5).

Defendants agreed not to enforce the Rule until the trial court decided Greenberg’s challenge. Greenberg then filed an amended complaint challenging the amended Rule 8.4(g). In that complaint, he committed to continue speaking at CLE and non-CLE events. But he reaffirmed his belief “that every one of his speaking engagements on First Amendment issues carries the risk that an audience member will file a bar disciplinary complaint against him based on the content of his presentation under Rule 8.4(g).” JA162 ¶ 102. Thus, he explained his intention to “refrain from speaking engagements on controversial issues” and to alter his presentations to “reduce the risk of an audience member reporting his expression.” *Id.* ¶¶ 103–04. He expressed ongoing concern that a “disciplinary investigation would harm [his] professional reputation, available job opportunities, and speaking opportunities.” *Id.* ¶ 108.

Both sides moved for summary judgment. In support of their motion, Defendants submitted a declaration from Defendant Thomas Farrell, Pennsylvania’s Chief Disciplinary Counsel. In that role, Farrell has authority to direct and determine the Office of Disciplinary Counsel’s policy on

handling complaints raising First Amendment issues. Farrell stated that the Office of Disciplinary Counsel “interprets Rule 8.4(g) as encompassing only conduct which targets individuals by harassing or discriminating against an identifiable person,” and “does not interpret Rule 8.4(g) as prohibiting general discussions of case law or ‘controversial’ positions or ideas.” JA276 ¶ 7. Farrell stated that Greenberg’s planned presentations, speeches, and writings do not violate Rule 8.4(g) and that the Office of Disciplinary Counsel would not pursue discipline because of them. JA276–78 ¶¶ 8–17; *see* JA287–88 (any complaint based on the conduct described in Greenberg’s complaint would be “frivolous”). Defendants argued that Greenberg lacked standing to challenge the current form of Rule 8.4(g). In response, Greenberg argued that the recent amendments to the Rule and Farrell’s declaration—which arose after the commencement of litigation—concerned mootness rather than standing.

The District Court granted Greenberg’s motion for summary judgment and denied Defendants’ motion for summary judgment. It held the recent amendments to the Rule and the Farrell Declaration did “not affect [its] prior decision on standing in the least” and found no “compelling reason to revoke its prior ruling on standing.” *Greenberg v. Goodrich*, 593 F. Supp. 3d 174, 189 (E.D. Pa. 2022). It determined the amendments to the Rule and the Farrell Declaration were relevant only to mootness—not standing—because they arose after the commencement of litigation. It held the amendments and Farrell Declaration did not moot the case. On the merits, the trial court determined Rule 8.4(g) violated the First Amendment on several bases and was unconstitutionally vague. *Id.* at 206–20, 222–25 Thus, it permanently enjoined enforcement of Rule 8.4(g) in its entirety. Defendants timely

appealed.

## II.

The District Court had original jurisdiction under 28 U.S.C. §§ 1331 and 1343(a). We have appellate jurisdiction under 28 U.S.C. § 1291. We review the District Court’s summary judgment decisions de novo. *Sikkelee v. Precision Airmotive Corp.*, 907 F.3d 701, 708 (3d Cir. 2018). Summary judgment is appropriate where “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a).

## III.

To have standing to sue, Greenberg must establish he suffers an actual or imminent injury that is fairly traceable to Rule 8.4(g).<sup>4</sup> He cannot. His planned speech does not arguably

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<sup>4</sup> The amendment to Rule 8.4(g) raises an issue of standing and not mootness because Greenberg replaced his initial complaint with a subsequent pleading challenging the new Rule. *See Rockwell Int’l Corp. v. United States*, 549 U.S. 457, 473–74 (2007) (“[W]hen a plaintiff files a complaint in federal court and then voluntarily amends the complaint, courts look to the amended complaint to determine jurisdiction.”); *Persinger v. Sw. Credit Sys. L.P.*, 20 F.4th 1184, 1190 (7th Cir. 2021) (“When reviewing potential injuries for standing purposes, we are constrained by the operative complaint.”); *GAF Bldg. Materials Corp. v. Elk Corp. of Dallas*, 90 F.3d 479, 483 (Fed. Cir. 1996) (recognizing that the proper focus in determining jurisdiction is on “the facts existing at the time the complaint under consideration was filed”).

violate the Rule, and he faces no credible threat of enforcement. Thus, it is not objectively reasonable for Greenberg to alter his speech in response to the Rule. His arguments to the contrary are largely based on his perception of the social climate, which he sees as infested by “[w]idespread illiberal impulses for ‘safetyism.’” Greenberg Br. 45 (quoting Greg Lukianoff & Jonathan Haidt, *The Coddling of the American Mind* 268–69 (2018)). But such impulses do not supply Greenberg with a concrete injury fairly traceable to the challenged Rule. A likelihood of offending audience members is not a likelihood of disciplinary investigation or enforcement under Rule 8.4(g).

Article III of the Constitution limits the jurisdiction of the federal courts to actual cases or controversies. U.S. Const., art. III, § 2, cl. 1. “One element of the case-or-controversy requirement is that plaintiffs must establish that they have standing to sue.” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 408 (2013) (internal quotation marks omitted). Standing is a “jurisdictional requirement” that “remains open to review at all stages of the litigation.” *Nat’l Org. for Women, Inc. v. Scheidler*, 510 U.S. 249, 255 (1994). At summary judgment, a plaintiff “can no longer rest on . . . mere allegations, but must set forth by affidavit or other evidence specific facts” establishing standing. *Clapper*, 568 U.S. at 412 (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992) (internal quotation marks omitted)). To establish standing, a plaintiff must show an injury in fact fairly traceable to the challenged action that a favorable ruling may redress. *Id.* at 409.

The injury-in-fact requirement ensures the plaintiff has a “personal stake in the outcome of the controversy.” *Warth v. Seldin*, 422 U.S. 490, 498 (1975). An injury in fact must be

“concrete and particularized,” not “conjectural or hypothetical.” *Lujan*, 504 U.S. at 560 (internal quotation marks omitted). A plaintiff may challenge the constitutionality of a regulation before suffering an “actual” injury arising from enforcement so long as the threatened injury is “imminent.” *Id.* Such a plaintiff satisfies the injury-in-fact requirement where he alleges he intends to do something arguably protected by the Constitution, but arguably barred by the regulation, and that he faces a credible threat of prosecution under the regulation. *Schrader v. Dist. Att’y of York Cnty.*, 74 F.4th 120, 124–25 (3d Cir. 2023) (citing *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158–59 (2014)).

We determine Greenberg lacks standing to maintain this pre-enforcement challenge of Rule 8.4(g). He fails to establish an imminent future injury because his planned course of conduct is not arguably proscribed by Rule 8.4(g) and he faces no credible threat of prosecution for engaging in such conduct. To the extent that he asserts standing based on an ongoing chill to his speech, he cannot show that this chill is objectively reasonable or fairly traceable to the challenged Rule.

A.

Rule 8.4(g) does not arguably prohibit anything Greenberg plans to do. The Rule covers only knowing or intentional harassment or discrimination against a person. Nothing in Greenberg’s planned speeches comes close to meeting this standard.

We must construe the Rule to determine what it arguably proscribes. We start, as a Pennsylvania court would, by examining its plain language in context. *See Marcellus*

*Shale Coalition v. Dep't of Env'tl Prot.*, 292 A.3d 921, 937, 943 (Pa. 2023). Rule 8.4(g) provides it is professional misconduct to “knowingly engage in conduct constituting harassment or discrimination.” Pa. R. Pro. Conduct 8.4(g). Thus, it is essential to understand the meanings of “harassment” and “discrimination” as well as the Rule’s knowledge requirement.

Conduct constitutes harassment or discrimination only when targeted at a person. The Rule’s commentary defines “harassment” as “conduct that is intended to intimidate, denigrate or show hostility or aversion toward a person.” Pa. R. Pro. Conduct 8.4(g) cmt. 4. The ordinary meaning of “harassment” similarly encompasses only conduct “directed at a specific person” that “annoys, alarms, or causes substantial emotional distress to that person and serves no legitimate purpose.” *Harassment, Black’s Law Dictionary* (11th ed. 2019). The Rule’s commentary also limits “discrimination”—ordinarily defined as “differential treatment,” *Discrimination, Black’s Law Dictionary* (11th ed. 2019)—to conduct that “treat[s] a person as inferior,” or “disregard[s] individual characteristics.” Pa. R. Pro. Conduct 8.4(g) cmt. 5.

Rule 8.4(g) is limited in another way—it prohibits only harassment and discrimination that is knowing or intentional. Under the Rule, it is professional misconduct to “knowingly engage” in harassment or discrimination. Pa. R. Pro. Conduct 8.4(g). A lawyer violates this rule when he actually knows his conduct is harassing or discriminatory, or when he is practically certain that it will cause harassment or discrimination. Pa. R. Pro. Conduct 1.0(f) (“‘Knowingly’ . . . denotes actual knowledge of the fact in question.”); *see* 18 Pa. Cons. Stat. § 302(b)(2) (in criminal context, a person acts

“knowingly” when “he is aware that his conduct is of that nature,” or when he is “practically certain that his conduct will cause such a result”); *Knowingly*, *Black’s Law Dictionary* (11th ed. 2019) (defining acting “knowingly” as acting “deliberately” or “with the knowledge that the social harm that the law was designed to prevent was practically certain to result”). The commentary’s definition of “discrimination” includes only “conduct that a lawyer knows manifests an intention” to treat a person as inferior based on a protected characteristic. Pa. R. Pro. Conduct 8.4(g) cmt. 5. And its definition of “harassment” is further limited to intentional conduct. *See id.* cmt. 4 (defining “harassment” as “conduct that is intended to intimidate, denigrate or show hostility or aversion”).

The Rule does not arguably bar Greenberg’s planned speech. Greenberg intends to discuss legal doctrine at CLE seminars where he will advocate “controversial legal positions” and “verbalize epithets” discussed in judicial opinions. Greenberg Br. 44. The presentations will “oppose[] hate speech bans,” “advocat[e] for the right of people to express intolerant religious views,” and “support[] Due Process protections for students accused of sexual misconduct.” JA160–61. This speech does not arguably violate the Rule. None of Greenberg’s planned speech could be interpreted as knowing harassment or discrimination directed at a person. Greenberg plans to verbalize epithets found in judicial opinions within an academic discussion, not direct them at an audience member. Greenberg’s general advocacy of potentially controversial positions does not denigrate any person or treat any person as inferior based on a protected characteristic. And the Rule reaches only lawyers who are practically certain their speech will cause harassment or

discrimination, not those who inadvertently offend their audience.

This interpretation is buttressed by the interpretation of the Disciplinary Board and Office of Disciplinary Counsel. The Disciplinary Board recommended the use of the word “knowingly” because it “prevents unintentional violation of the [R]ule, and serves to exclude inadvertent or negligent conduct.” 49 Pa. Bull. 4941 (Aug. 31, 2019). The Office of Disciplinary Counsel interprets the Rule as “encompassing only conduct which targets individuals by harassing or discriminating against an identifiable person.” JA276 ¶ 7. It does not “prohibit[] general discussion of case law or ‘controversial’ positions or ideas.” *Id.* The Chief Disciplinary Counsel further reviewed Greenberg’s planned presentations, speeches, and writings and stated they do not violate the Rule.<sup>5</sup> This makes sense—Greenberg’s planned presentations do not knowingly or intentionally harass or discriminate against a person. Because the Rule does not arguably prohibit his planned speech, Greenberg fails to establish an injury in fact.

## B.

Greenberg also fails to establish he faces a credible

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<sup>5</sup> Greenberg argues Farrell’s interpretation of Rule 8.4(g) is not binding on the Office of Disciplinary Counsel, and the Disciplinary Board may later remove Farrell to change the Office of Disciplinary Counsel’s interpretation of the Rule. “But it is up to [Greenberg] to show some objective reason to believe [Defendants] would change [their] position, and this [he has] not done.” *Abbott v. Pastides*, 900 F.3d 160, 177 (4th Cir. 2018).



threat of prosecution for his planned speech because there is compelling contrary evidence that no threat exists. Defendants disavow enforcement for any of Greenberg’s planned conduct. Courts often determine there is a credible threat of prosecution where the government refuses to make such a representation. *See, e.g., Driehaus*, 573 U.S. at 165 (“[R]espondents have not disavowed enforcement if petitioners make similar statements in the future . . . .”); *Holder v. Humanitarian L. Proj.*, 561 U.S. 1, 16 (2010) (“The Government has not argued to this Court that plaintiffs will not be prosecuted . . . .”); *Babbitt v. United Farm Workers Nat’l Union*, 442 U.S. 289, 302 (1979) (“[T]he State has not disavowed any intention of invoking the criminal penalty provision . . . .”). On the other hand, a disavowal—like the one here—weighs against a credible threat of prosecution. *See Nat’l Shooting Sports Found. v. Att’y Gen. of N.J.*, --- F.4th ---, No. 23-1214, 2023 WL 5286171, at \*4 (3d Cir. Aug. 17, 2023) (no standing where the attorney general disavowed prosecuting “participati[on] in ‘lawful commerce,’ which is all the [plaintiff] has said it wants to do”); *Abbott v. Pastides*, 900 F.3d 160, 177 (4th Cir. 2018) (no standing where plaintiffs received “written notice that neither investigation nor sanction was forthcoming”); *Wilson v. State Bar of Ga.*, 132 F.3d 1422, 1428–29 (11th Cir. 1998) (no standing where state bar had “repeatedly and consistently taken the position” that rule did not bar planned conduct).

Because the relevant standing inquiry ultimately focuses on the actual probability of an enforcement action, we note that Greenberg offers only one instance of an attorney facing formal discipline for purportedly discriminatory

speech.<sup>6</sup> There, a South Carolina attorney was disciplined for posting, the week after the death of George Floyd, that Floyd was a “shitstain[.]” *In re Traywick*, 860 S.E.2d 358, 359 (S.C. 2021). The attorney also directed profane remarks to women and “college educated, liberal suburbanites.” *Id.* But the speech in *Traywick* is not remotely comparable to Greenberg’s planned speech discussing First Amendment jurisprudence. Also, the attorney was not disciplined under a rule analogous to Rule 8.4(g), but for “conduct tending to bring the . . . legal system into disrepute” and for violating his oath to “maintain the dignity of the legal system.” *Id.* at 485 (citing S.C. App. Ct. R. 402). When *Traywick*’s lone enforcement is viewed in light of the many state bar enactments paralleling Pennsylvania’s Rule 8.4(g), “a history of past enforcement” is conspicuously lacking. *Driehaus*, 573 U.S. at 164; *see Blum v. Holder*, 744 F.3d 790, 798 (1st Cir. 2014) (“In assessing the risk of prosecution as to particular facts, weight must be given to the lack of a history of enforcement of the challenged statute to like facts . . . .”); *cf. Abbott*, 900 F.3d at 176 (“The most obvious way to demonstrate a credible threat of enforcement in the future, of course, is an enforcement action in the past.”); *Schrader*, 74 F.4th at 125. Although not dispositive on a pre-enforcement challenge, *see Speech First, Inc. v. Fenves*, 979 F.3d 319, 336 (5th Cir. 2020), the lack of any relevant prior enforcement combined with Defendants’ disavowal of enforcement undercuts the threat of prosecution. *Nat’l*

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<sup>6</sup> Greenberg also relies upon a judicial misconduct complaint and investigation involving controversial speech. This judicial misconduct proceeding—which turned on a question of proof and was ultimately dismissed—does not give rise to a credible threat of attorney discipline against him. *See In re Charges of Judicial Misconduct*, 769 F.3d 762, 775 (D.C. Cir. 2014).

*Shooting Sports Found.*, 2023 WL 5286171, at \*4.

Last, we observe that because the Office of Disciplinary Counsel weeds out meritless complaints on its own, Greenberg faces only a speculative risk of discipline. Based on only a single instance of an audience member considering his speech offensive at one of his CLE presentations, Greenberg speculates that his CLE attendees will inevitably file a disciplinary complaint against him, which might lead Defendants to “misconstrue” his conduct as violating the Rule—despite their assurance it does not—and pursue discipline against him. Greenberg Br. 44.

This “highly attenuated chain of possibilities” cannot support standing. *Clapper*, 568 U.S. at 401. The relevant analysis focuses on those responsible for enforcement, not those who make groundless complaints. Greenberg’s audience members may find his speech offensive and may file disciplinary complaints. But there is little chance such complaints will result in an enforcement action. Pennsylvania’s attorney-discipline process does not proceed directly from complaint to enforcement. *Cf. Driehaus*, 573 U.S. at 164 (recognizing standing where complaints automatically triggered an expedited hearing, and the commission had no system for weeding out frivolous complaints). The Office of Disciplinary Counsel routinely dismisses complaints without a response from the attorney and has multiple layers of review before pursuing discipline. As discussed, Greenberg cannot show any persuasive history of past enforcement in Pennsylvania or any other jurisdiction, and Defendants interpret Greenberg’s planned conduct as not barred by the Rule. Thus, it is speculative that a disciplinary complaint arising from his planned conduct would progress to

the point of a formal response from him, much less disciplinary enforcement.

Greenberg relies on the Fifth Circuit's decision in *Speech First, Inc. v. Fenves*, 979 F.3d at 337, which found pre-enforcement standing where officials only disavowed "any future intention to enforce the policies contrary to the First Amendment" but impliedly planned to enforce them to the constitutional limit. Unlike *Fenves*, where the bounds of regulated speech were unclear, Defendants have informed Greenberg his planned speech is not barred. The Chief Disciplinary Counsel confirms Greenberg's planned speech does not violate the Rule and disavows any enforcement for his planned speech. Given this compelling contrary evidence, Greenberg cannot establish a credible threat of prosecution.

### C.

Finally, Greenberg asserts he suffers an ongoing, actual injury in fact because the specter of disciplinary proceedings causes him to alter his presentations. Chilled speech or self-censorship is "a harm that can be realized even without an actual prosecution." *Virginia v. Am. Booksellers Ass'n, Inc.*, 484 U.S. 383, 393 (1988). But a plaintiff "cannot manufacture standing merely by inflicting harm on [himself] based on [his] fears of hypothetical future harm that is not certainly impending." *Clapper*, 568 U.S. at 416. A plaintiff cannot establish an injury merely through allegations of a "subjective chill." *Id.* at 418 (quoting *Laird v. Tatum*, 408 U.S. 1, 13–14 (1972) (internal quotation marks omitted)). Rather, a plaintiff's self-censorship confers standing only where it is objectively reasonable and fairly traceable to the challenged regulation. *See id.*; *Wilson*, 132 F.3d at 1428–29.

Greenberg's speech is not reasonably chilled by Rule 8.4(g) because he faces no credible risk that the Rule will be enforced against him. Without a credible threat of enforcement, "a putative plaintiff can establish neither a realistic threat of legal sanction if he engages in the speech in question, nor an objectively good reason for refraining from speaking and 'self-censoring' instead." *Abbott*, 900 F.3d at 176. This analysis is similar to that in *Wilson*, where the state bar interpreted the challenged rule as having "no application to the types of scenarios the [plaintiffs] have posed" and informed individuals, upon their request, "about whether it will sanction them for engaging in certain practices." 132 F.3d at 1428–29. Just as in *Wilson*, Greenberg fails to establish an injury in fact because he has an assurance he will not face discipline under Rule 8.4(g).

Even without enforcement, Greenberg argues the possibility of a disciplinary investigation is enough to chill his speech. We may assume, without deciding, that "there are some forms of 'pre-enforcement' investigation that are so onerous that they become the functional equivalent of 'enforcement' for standing purposes." *Abbott*, 900 F.3d at 178; *see also Driehaus*, 573 U.S. at 165–66 ("[A]dministrative action, like arrest or prosecution, may give rise to harm sufficient to justify pre-enforcement review."). For example, the Fourth Circuit reasoned that an administrative inquiry could reasonably chill speech if the "process itself imposes some significant burden, independent of any ultimate sanction." *Abbott*, 900 F.3d at 179 (citing *Driehaus*, 573 U.S. at 165–66). But just as in *Abbott*, the record shows that any burden from a speculative disciplinary investigation is insufficient to chill Greenberg's speech. As discussed, the

Office of Disciplinary Counsel would determine any disciplinary complaint arising from Greenberg's planned speech to be frivolous, allowing the complaint to be dismissed without even a response from him. Thus, any subjective chill arising from a fear of lengthy or burdensome disciplinary proceedings is not objectively reasonable. *See id.* (“[B]ecause the plaintiffs can point to no reason to think they will be subjected to some different and more onerous process not yet experienced or threatened, their claim to injury . . . is purely speculative and thus insufficient to establish standing.”). And because investigations into attorney discipline are confidential until the Board pursues discipline, there is little risk of adverse publicity associated with a disciplinary investigation.

Greenberg alleges his speech will be chilled. But his allegation is largely informed by his perception of the social climate, not Rule 8.4(g). Even if Greenberg feels uncomfortable speaking freely and fears professional liability, such chill must be fairly traceable to Rule 8.4(g). He cites studies on public attitudes toward protections for offensive speech; law professors facing informal complaints and, at times, academic sanctions based on their speech; and “dozens” of nonattorneys who “lost their jobs or suffered other negative repercussions for words or conduct perceived to manifest racial bias or prejudice.” JA221 ¶ 64. But those situations do not give rise to a reasonable fear of attorney discipline against him. Those individuals suffered consequences outside the attorney discipline process. Greenberg may choose to alter his CLE presentations in concern for his “professional reputation, available job opportunities, and speaking opportunities,” JA216 ¶ 36, but such censorship cannot be fairly traced to discipline under Rule 8.4(g). Considering Greenberg faces no imminent injury from disciplinary proceedings under Rule

8.4(g), his self-censorship based on Rule 8.4(g) is not objectively reasonable. Any reasonable chill he suffers cannot be fairly traced to Rule 8.4(g). Thus, he lacks standing to maintain this suit.

We note that our determination that Greenberg has not shown a credible threat that Rule 8.4(g) will be enforced against him necessarily depends on our assessment of the present situation. The Rule was enacted only recently, and Defendants have not begun enforcing it, so there has been no opportunity to observe its effects. If facts develop that validate Greenberg's fears of enforcement, then he may bring a new suit to vindicate his constitutional rights. Our decision, as always, is limited to the record before us, and we express no opinion on the merits of his suit.

#### IV.

For these reasons, we will reverse the District Court's summary judgment orders. The District Court shall dismiss the case for lack of standing.

**Greenberg v. Lehocky, et al.**

**No. 22-1733**

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**AMBRO, J.**, concurring

The majority opinion I join in full. I write separately only to note that someday an attorney with standing will challenge Pennsylvania Rule of Professional Responsibility 8.4(g). When that day comes, the existing Rule and its commentary may be marching uphill needlessly. We cannot advise on whether it will pass constitutional muster. But if the Bar's actions during the pendency of this litigation are any indication, it has a card to play. It can amend the Rule preemptively to eliminate many of the constitutional infirmities alleged by Greenberg in this case. In doing so, it might look to Maine, New Hampshire, New York, and Connecticut for guidance. *See* Me. R.P.C. 8.4(g) (2019); N.H. R.P.C. 8.4(g) (2019); N.Y. R.P.C. 8.4(g) (2022); Conn. R.P.C. 8.4(7) (2022).

Those states' analogous enactments implement a comparatively robust safeguarding of attorneys' First Amendment rights. They direct regulatory reach away from the constitutionally protected speech Greenberg and his *amici* wish to espouse and narrowly steer it toward the overt and insidious evils that the Pennsylvania Bar and its *amici* wish to eradicate. Doubtless Pennsylvania is striving to do the same. But if it thinks it can do better, it need not start from scratch.



The Legal Profession: A Study of the ACBA Membership 2005

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April 24, 2006

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## WELCOME TO THE SURVEY!

The Gender Bias Subcommittee of the Allegheny County Bar Association commissioned this study in spring of 2005. This decision was based on the desire to update the information gathered in a 1990 survey of the ACBA membership by the Subcommittee. The 1990 survey focused on general information on the legal profession in Allegheny County and the presence of gender bias. The findings of the 1990 survey were widely distributed and formed the basis for later programming by the Subcommittee. The 2005 survey contains elements of the 1990 questionnaire and additional topics of interest requested by the Subcommittee. This survey was distributed to all active ACBA members (6,026) in September of 2005. A total of 1250 responses was received for a response rate of 21%. Comparisons of the demographics of the respondents showed a return representative of the membership in terms of gender and years in practice. Highlights of the findings of the survey follow. A later section compares the 2005 results with those of 1990. The cover letter and questionnaire are included in Appendix A. While most findings are presented graphically throughout this document, tables providing the numerical data and a copy of the 1990 survey are available from the ACBA.

## HIGHLIGHTS - Section 1 – Preparation for Law

### Law School

Thirty eight percent of our respondents graduated from the University of Pittsburgh Law School and 34% graduated from Duquesne Law School.

The largest group of female respondents graduated in the 1980's and the largest group of male respondents graduated in the 1970's.

Approximately 28% of men and women were on Law Review. More than 25% of both men and women were in the top ten percent of their class.

Women were significantly more likely than men to report receiving honors in law school.

### First Employment

The most common setting of first employment was the small firm. A higher percentage of women than of men were in large firms for their first employment. Men were more likely than women to begin their career as a sole practitioner.

### Mentoring

About 35% of lawyers (32% of males and 37% of females) have been mentored, and 95% found it helpful. The majority of those who were mentored have acted as mentors.

## HIGHLIGHTS - Section 2 – Current Employment

### Employment

Currently, most respondents (87.6%) are employed full time with 7.9% employed part time (self defined) and 4.7% not currently employed.

Women are about twice as likely as men to be employed part time.

Most attorneys are employed in private practice settings.

While women were more likely to begin their law careers in private practice settings, women were also more likely than men to move out of private practice into other settings.

### Title/Status

In terms of title/status, men are most likely to be equity partners (24.3%) while women are most likely to be associates (40.9%). Male associates are more likely than female associates to be on the partnership track. This partially reflects the earlier graduation dates of the majority of males versus females.

### Time in Position

Women are much more likely (49%) than men (28%) to have been in their current positions for 4 years or less.

About 50% of the women and 40% of the men who are recent graduates (1995-2004) plan to stay 4 years or less in their current position.

### Hours Worked

Men and women are working about the same number of hours per week with a mean of 48.5 hours for men and 48.25 hours for women.

Attorneys in private practice are working longer hours than those in other settings with those in large firms reporting the longest hours.

Generally, the more recent the graduation date, the longer the hours worked.

### Choice of Employment

Type of work was the most frequently given reason for choice of employment by both men and women.

Work/life balance and independence/flexibility were the next most frequent choices.

Women were more likely to choose work/life balance than were men and men were more likely to choose compensation and prestige than were women.

### Areas of Concentration

The three areas of concentration most often reported are business/corporate, family, and probate/trust. We find significant gender differences in all three with men more frequently reporting business/corporate and probate/trust and women more frequently reporting family law.

### Billable Hours

Twenty eight percent of the respondents reported a billable hour requirement in their current employment setting. The mean number of billable hours for males in associate positions is 1901, and for female associates, 1881.

### Earning Less

Women were more likely than men to report that they earned less than others with comparable education and responsibilities.

### Rainmaking

Over half (56%) of all respondents report that “rainmaking” is part of their work. More men than women are involved in rainmaking and spend more hours per week on this activity.

### Income

Men earn significantly more income than women with only about 5% of women earning \$250,000 or over while about 20% of men are earning at this level. The largest group of women are earning at the \$50,000-99,999 level. More than 20% of women are earning less than \$50,000 while only 8% of men are in this category. All of these figures refer to those who are employed full time.

Individuals in large firms are more likely than other practitioners to be earning the most money. This is true for both males and females.

Law school graduates of the 1960's and 1970's are the most likely to be earning \$350,000 or above. No female 1990's graduate is above the \$200,000-249,999 level while almost 10% of the male 1990's respondents are above this level.

Respondents whose first jobs were in large firms are the most likely to be in the highest income category. This is true for both men and women, but more so for women.

The higher the rank of the law school attended, the more likely the respondent is to be in the higher income categories although the most frequent income category for graduates from the top ten schools is the \$200,000-249,999 category. All law school rankings are taken from the U. S. News and World Report ranking of 2005.

No female respondents from top ten schools earn above the \$200,000 – 249,999 category although 35% of the male respondents from these schools earn above this category.

Respondents in the top three income categories were more likely to have been on Law Review while respondents in the lowest income category were almost twice as likely not to have been on Law Review.

Years in current employment seem to have a stronger impact on income than number of hours worked . Those individuals in the three highest income categories have been in their positions an average of 17 years.

Women in the two highest income categories work approximately 10 hours more per week than do men in these two income categories.

### Vacation Days

Women have fewer vacation days allotted to them than men. Both men and women take about 2 days fewer than the allotted vacation.

### Satisfaction

Females are almost twice as likely as males to be dissatisfied with their employment situation.

Females are twice as likely to be dissatisfied as are men with salary decisions and promotion policies at their employment.

Satisfaction increases for males as incomes rise but not for females.

Title/status does not affect overall satisfaction for men but, among women, those in associate and sole practitioner positions tend to be more dissatisfied than others.

### Practice Law Again

Seventy percent of the men would definitely or probably practice law again versus only 54.7% of the women.

## HIGHLIGHTS – Section 3 – Perceptions and Attitudes

### Discrimination

Women were significantly more likely than men to report discrimination for all of the questions involving women and the majority of questions involving minorities and younger lawyers.

### Women Interrupted

A majority of women chose the response “sometimes” when the statement “Women are interrupted or cut off while speaking when men are not” was given. Almost 77% of the men chose the response “rarely” or “never.”

### Jokes About Men

Men were slightly more likely to choose “always,” “usually” or “sometimes” than women in response to the statement that jokes or degrading comments were made about men.

### Lower Counsel Fees

Women were much more likely than men to agree that women received lower counsel fees.

### Outcome of Cases and Professional Development

Although the majority of men and women felt that discriminatory conduct rarely or never affected the outcome of cases or transactions, nearly 40% of women felt that it did or sometimes did while fewer than 10% of the men felt this way.

While over 90% of the men felt that discriminatory conduct had not affected their professional development, 20% of the women felt that it always or usually did and nearly another 40% felt that it sometimes did.

### Respect and Honesty

Women were not as likely as men to report that they were “always” treated with respect.

Approximately 22% of women and 12% of men responded “sometimes,” “rarely” or “never” to the statement, “My colleagues are honest and forthright with me.”

### The Equality Scale

Higher scores on the “Equality Scale,” made up of questions concerning discrimination toward women, meant that the respondent saw the world as more egalitarian than someone with a lower score. The mean for men was 23.21 versus the mean for women of 20.48. Women see a less egalitarian world.

Males earning over \$250,000 and females (regardless of earnings) saw the world as more egalitarian than males earning less than \$250,000.



### Attitude Toward Law

Nearly everyone agrees that law is a high pressure profession.

Women are more likely than men to agree that the practice of law has a negative effect on physical and mental health.

### Gender Issue Attitudes

Women were more likely than men to agree that they would relocate for a spouse's career.

Fifty percent of men but only 17% of women agreed that too much attention is paid to the wage gap.

The majority of men and women disagree with the statement "Mothers of preschoolers should be at home" but women were about twice as likely as men to disagree strongly.

The majority of men disagree with the statement "It is more important for a wife to help with husband's career than to have a career of her own" while the majority of women strongly disagree.

Women (84%) were significantly more likely than men (63%) to agree that a full time working mother can establish just as warm and secure a relationship with her children as a mother who did not work outside the home.

### HIGHLIGHTS - Section 4 - Demographics and Home Life

#### Race, Age and Marital Status

The respondents were 97% Caucasian, 1.5% African American, .4% Hispanic, .2% Asian, and 1% other.

The mean age for male respondents is 50.4 and for females is 42.9.

The majority of males (84.2%) and females (63.5%) are married; females are much more likely to be divorced or never married.

Female respondents' spouses are overwhelmingly likely (82.8%) to be employed full time outside the home.

Male respondents' spouses are equally likely to work full time outside the home (37.8%) or not to work outside the home (38.4%); another 23.8% are employed part time.

### Household Chores

Female respondents report doing 10.55 hours of household chores per week while male respondents report doing 8.55 hours.

Married female attorneys with spouses working full-time spend an average of 12.13 hours on household chores while their male counterparts spend an average of 8.8 hours. In two career households, women attorneys are spending significantly more time on household chores than their husbands.

Women (48.4%) are more likely to cope alone with household emergencies than are men (22%).

### Children and Child Care

A larger percentage of males (80.6%) than females (53.1%) are parents. Of those who have children, more women (60%) than men (23%) report having shifted their careers for children. The most frequent shift for both was moving to a lower intensity practice. Beyond this, men were more likely to move to a smaller practice while women worked fewer hours.

Approximately 28% of the women and 17% of the men have children five years old or younger. Among this group, males spend an average of 27 hours on child care per week while females spend an average of 40 hours.

Spouses are the main provider of child care for male respondents while female respondents are more likely to use paid child care outside the home as the main provider. Male respondents report that their child(ren) spend an average of 13 hours with a paid caregiver, and female respondents report 29 hours as an average.

### Other Responsibilities

Women (19.2%) are about twice as likely as men (11%) to have shifted their careers to care for family members other than children.

## INTRODUCTION

Nationally, the practice of law has changed dramatically in the last fifty years. The increase in the number of lawyers is evidenced in the change in the ratio of general population to lawyers from 695/1 in 1951 to 264/1 in 2000 (Carson and Curran, 2004). Instead of the approximately 220,000 lawyers of 1951, there are now over a million lawyers in the United States.

The influx of women into the profession has transformed the gender breakdown of lawyers as well. Present law school classes show this dramatic change. Women made up almost half the enrollment of Harvard Law School in January 2006, in contrast to the 13 women who graduated in 1953 (Kagan, 2006). Through 1971, women made up only 3% of lawyers nationwide. By 1980, 8% of lawyers were women and by 2000, 27% were women (Carson and Curran, 2004).

Pittsburgh is typical of this gender division. The survey data show a gender breakdown of 70.6 % male and 27.2% female (the percentages do not add to 100% because a few respondents did not supply this data) while the Allegheny County Bar Association's 2005 data on membership show the membership is 73.2 % male and 26.8% female. Thus these survey data are representative with a slightly greater percentage of women among the respondents than would be the case among bar association membership.

On the national level, private practice is the most frequent (almost 75%) employment setting (Carson and Curren, 2004). Thirty six percent of private practitioners were in solo practice and 38% were in firm settings. In 2000, women were less likely to be in private practice (71%) than men (75%). Instead they were in government, legal aid and defender programs, or judicial systems. In terms of status, women were underrepresented as firm partners. This might be seen as due to the age differences between women and men, but, according to Carson and Curran (2004), "women were persistently under-represented among partners in every age group." In 2000, 66% of firms had only male partners.

Firms were also changing during these fifty years. The number of firms of all sizes increased from 1980 with firms over 100 members having the most rapid rate of increase. Associates also became more plentiful. Only 32% of firms employed associates in 1980. This grew to 41% by 2000. Firms employing women attorneys also increased from 17% in 1980 to 49% in 2000. All firms employing more than 50 lawyers had women attorneys by 1980. About 20% of law firm attorneys were women, and these women have a median age of 43 compared to men's median age of 57 (Carson and Curran, 2004).

Obviously women have changed the legal profession. However, while they make up almost 30% of lawyers, they have not moved into the highest positions in similar percentages. They make up 15% of general counsel of Fortune 500

companies, 17% of law firm partners, and 23% of federal district and circuit judges (ABA Commission on Women in the Profession).

Methodological Note: Graphs in this report generally depict the percentage of respondents in the noted category. In all cases, the percentage is based on the number of respondents answering the specific question being discussed.

## COMPARISON WITH 1990 STUDY

One important component of this research is comparing this 2005 data with data collected on the ACBA membership in 1990 (Koontz). Because many of the same and similar questions were used, we are able to compare attitudes, observations of discrimination, and demographics with these earlier findings. This section focuses on the highlighted conclusions of the 1990 study in tandem with findings of this study. The primary focus of the 1990 study was gender, and that focus is continued here. Please consult figures and tables and the 1990 report for further comparisons. Unfortunately, only summaries of the 1990 data exist so aggregate comparisons are all that can be conducted.

1990 – 6501 surveys were sent and 1870 were returned for a return rate of 29%.  
2005 – 5783 surveys were sent and 1250 were returned for a return rate of 21%.

1990 – 71% of the respondents were male, 29% were female.  
2005 – 70.6% of the respondents were male, 27.2% were female.

1990 – 98% of male respondents were Caucasian, 1% African American, .2% Hispanic, .3% Asian, and .2% Other.  
2005 – 97.7% of male respondents were Caucasian, .9% African American, 0% Hispanic, .3% Asian, and 1.1% Other.

1990 – 97% of female respondents were Caucasian, 2% African American, 1% Hispanic, .2% Asian.  
2005 – 95.5% of female respondents were Caucasian, 2.8% African American, .6% Hispanic, 0% Asian, and 1.1% Other

1990 – Mean age of male respondents was 43 years, mean age of female respondents was 36 years.  
2005 – Mean age of male respondents was 50.4 years, mean age of female respondents was 42.9 years.

1990 – Solo practice: 15.4% of males, 10.7% of females.  
Law Firms: 64.8% of males, 57.7% of females  
All others: 19.8% of males, 30.3% of females.  
2005 – Solo practice: 20.1% of males, 7.3% of females  
Law Firms: 64.8% of males, 62.1% of females  
All others: 15.1% of males, 30.5% of females

- 1990 – 90% of the males practiced full time, 85% of the females practiced full time.
- 2005 – 88.7% of the males practice full time, 84.7% of the females practice full time.
- 1990 – 5% of the males practiced part time, 11% of the females practiced part time.
- 2005 – 6.3% of the males practice part time, 12.1% of the females practice part time.
- 1990 – Males had been practicing law for 16 years, females for 7 years.
- 2005 – Males graduated from law school a mean of 24.8 years ago, females graduated a mean of 13.7 years ago.
- 1990 – The average annual income range for men was \$60,000-79,999 while for women it is \$35,000-45,999.
- 2005 – The average annual income range for men is \$100,000-149,999 while for women it is \$50,000-99,000.
- 1990 – The billable hour requirement for males was 1884 hours/year, and for females, 1991.
- 2005 – The billable hour requirement for male associates is 1901 hours/year, and for females, 1881.
- 1990 – Hours worked as a lawyer for men was 49 hours/week, and for women, 47 hours/week.
- 2005 – Hours worked as a lawyer for men is 48.5 hours/week, and for women, 48.25 hours.
- 1990 – Areas of practice for men were commerce, litigation, and civil law. Areas of practice for women were commerce, family, and civil law.
- 2005 – Areas of practice for men are business/commerce, probate/trust, and litigation. Areas of practice for women are family, employment/labor, and business/commerce.
- 1990 – Female respondents observed more gender bias than their male counterparts.
- 2005 – Female respondents observed more discrimination than men. Men perceived more equality in the profession than women.

1990 – Female respondents held more “progressive” attitudes about gender roles than their male counterparts.

2005 – Men show a higher percentage of traditional responses to the attitudinal questions.

1990 - 83% of the male respondents were married, 63% of the females were married.

2005 – 84.2% of the males are married, 63.5% of the females are married.

1990 – 75% of the male respondents had children, 44% of the females had children.

2005 – 80.6% of the males have children, 53.1% of the females have children.

1990 – Hours caring for small children: Fathers averaged 13 hours/week, mothers averaged 33 hours/week.

2005 – Hours caring for children under 5: Fathers average 27 hours/week, mothers average 40 hours/week.

1990 – Hours spent on household chores: Males averaged 7 hours/week, females averaged 9 hours/week.

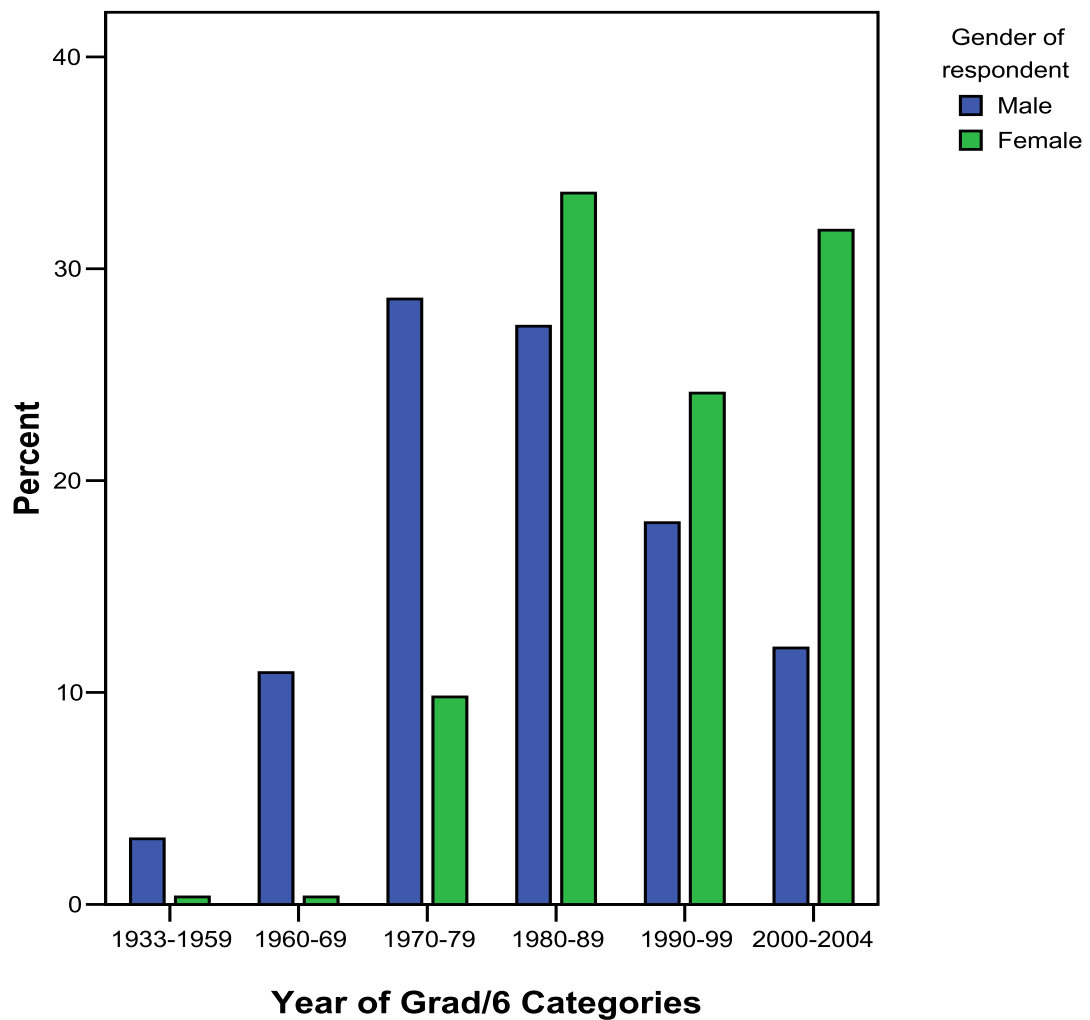
2005 – Hours spent on household chores: Males average 8.55 hours/week, females average 10.55 hours/week.

## SECTION 1. LEGAL PREPARATION

### Law School Graduation.

As mentioned in the introduction, very few women entered the profession of law before 1970. Of the respondents to the survey, only 3 women graduated before 1970 compared to 190 men. This is in line with the existing membership data from the ACBA which shows only 15 women who graduated before 1970 compared to 572 men who graduated before 1970. As will be shown throughout the report, our respondents are representative of the population surveyed. In our data and the Allegheny County Bar Association's data, the number of women attorneys increased dramatically during the 1980's. See Figure 1.1 below.

**Figure 1.1. Year of Graduation by Gender**



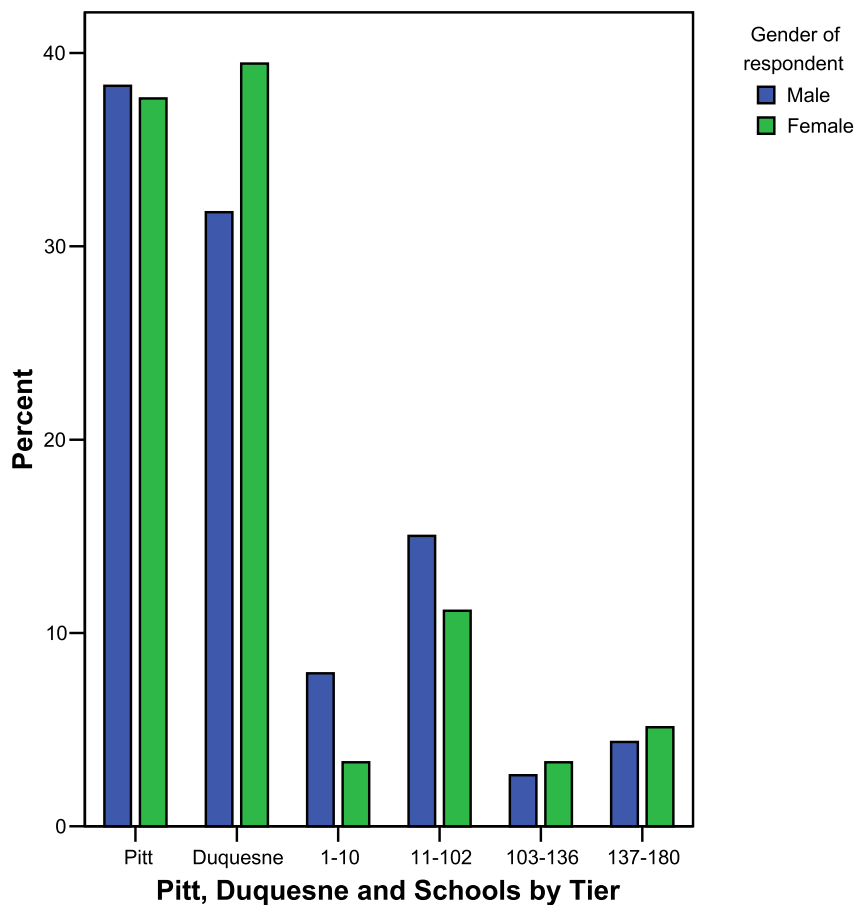


While the highest percentage of male respondents graduated in the 1970's, the highest percentage of female respondents graduated in the 1980s. This does not reflect the pattern of graduation from law school in the 1990s and 2000s in which the percentage of women steadily increased. NOTE: All graphs present the percentage of males and females in each category. While a greater number of men than women may have graduated in each decade, we are looking at percentages within each gender group. This will normally be our approach. Tables giving exact percentages for all findings are available upon request. We have chosen to present information in graphic form within the paper for ease of understanding.

#### Law School Attendance.

Analysis of law school attendance focused on graduation from local schools (the University of Pittsburgh and Duquesne) as well as other schools as ranked by *U. S. News and World Reports* (2005). It seems to be a common belief that unless one attends one of the top ten law schools, the advantage lies with those who attend a local law school and are able to utilize the connections they form through that experience. As can be seen below, many of our respondents went to the two local schools.

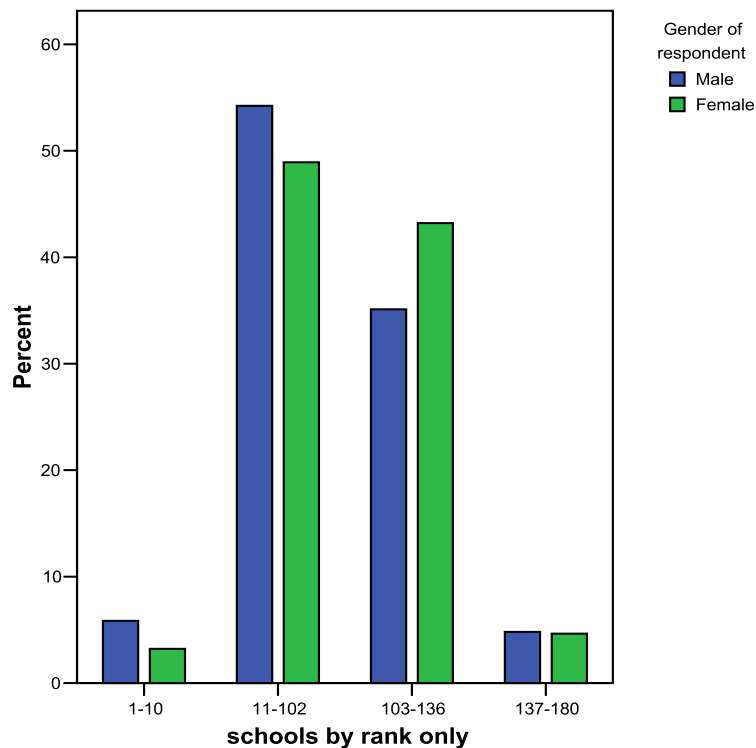
**Figure 1.2. Law School Attendance by Gender**



About 38% of our respondents graduated from the University of Pittsburgh Law School and 34% graduated from Duquesne Law School. The other schools, which accounted for 28% of our respondents, were divided into the top ten schools, second tier (schools ranked 11-102), third tier (103-136), and fourth tier (137-180) (*U.S. News and World Reports*, 2005). As shown in Figure 1.2, we see significantly more women from Duquesne and significantly fewer women from the 102 top law schools.

According to the *U. S. News* rankings, Pitt is among the second tier schools, and Duquesne is in the third tier. When we recode the law schools with Pitt in the 11-102 category and Duquesne in the 103-136 category, we see the breakdown of our respondents by gender and ranked quality of law school. Here we see that a higher percentage of women than men come from lower ranked schools. As shown in Figure 1.3, the percentage of women from the top ten law schools is only about half that of men, 3.3% to 7.9%. This is likely to be a reflection of women's greater immobility. Women are less likely to be the determinants of location if they are married than is the husband. (Williams, 2000) Although this pattern is changing, it is still influential. Duquesne has a 50/50 ratio of men to women while the University of Pittsburgh has 55% men and 45% women. This may reflect Duquesne's more flexible program of night classes and the opportunity to spread the experience over four years rather than three.

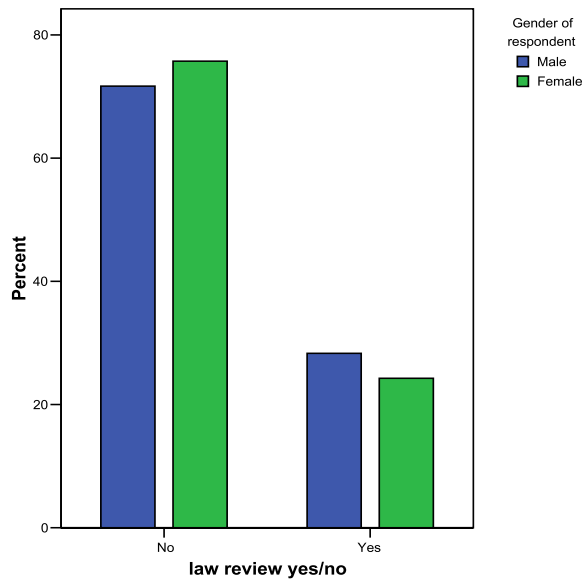
**Figure 1.3. Law School by Rank by Gender**



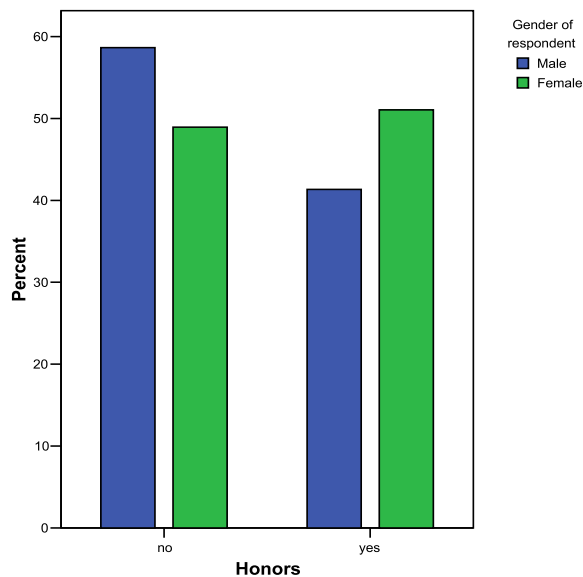
### Law Review and Law School Honors

Women report doing as well in law school as men. We find no significant gender difference in respondents' presence on Law Review with about 28% of men and 25% of women serving on Law Review. More than a quarter (27.8%) of both men and women report being in the top ten percent of their class, and 37.6% report being in the top quarter. Women were significantly more likely to report that their standing in law school was unknown. We also find a significant difference in honors reported. About 50% of female respondents report receiving honors while about 40% of male respondents report receiving honors.

**Figure 1.4. Participation in Law Review by Gender**



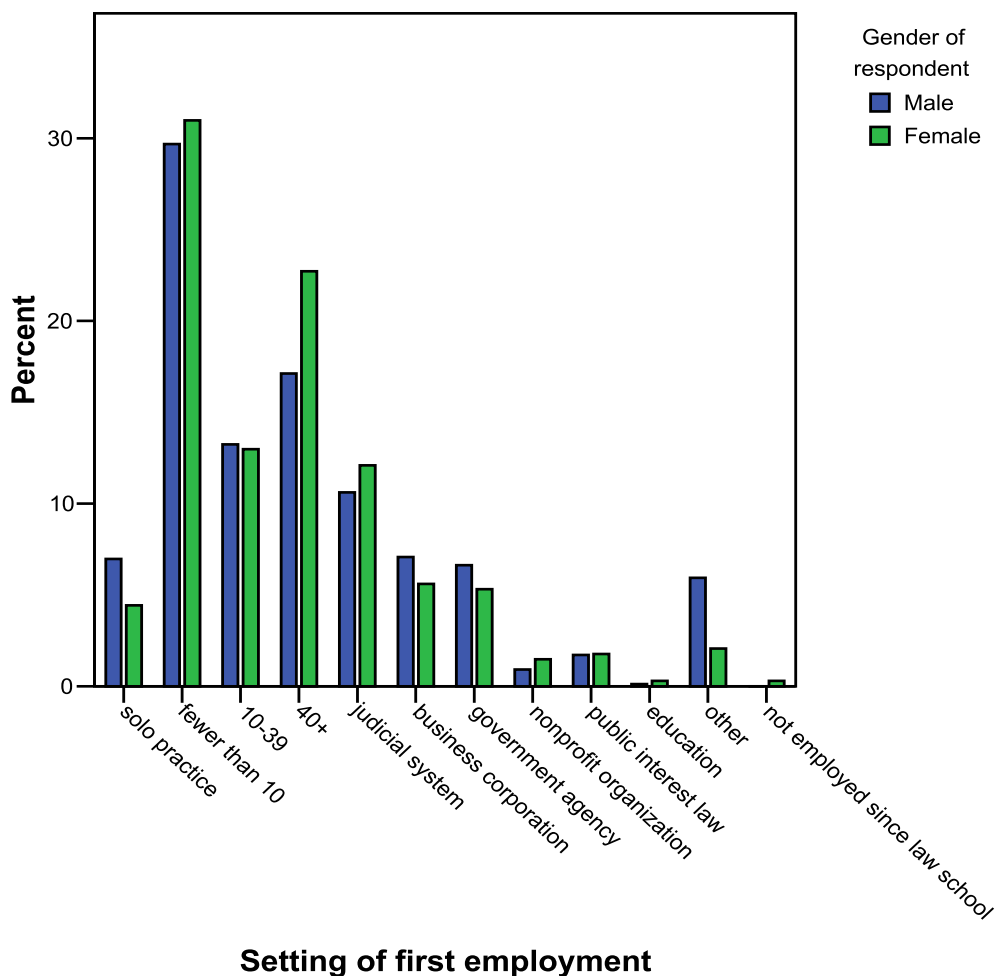
**Figure 1.5. Honors in Law School by Gender**



### Setting of First Employment.

In looking at the first employment of our respondents, we find that the small firm (fewer than 10 lawyers) was the most common (30%) setting. Large firms (40+ lawyers) were the next most common (18.7%). These observations are true for both males and females, although the percentage of women beginning in large firms (22.7%) is higher than that for men beginning in this setting (17.1%). Women are less likely than men (4.4% to 7%) to begin in a sole practitioner setting. Men and women are roughly equal in all of the other settings except for the “other” category where men were more likely than women to begin their careers. (See Figure 1.6.)

**Figure 1.6. Setting of First Employment by Gender**



### Mentoring

We were interested in the mentoring experience and the exposure of young lawyers to this experience. About 32% of males and 37% of females have been mentored, and 95% of those who were mentored found it helpful. If we look only at men who graduated after 1970 when preceptorships were no longer required, the percentage of men being mentored drops to 26%. About 68% of male respondents and 63% of female respondents who had been mentored acted as mentors. Only 19% of those who had not been mentored acted as mentors. With approximately 16% of our respondents graduating from law school in 2000 or after, some respondents have had limited time to fill this role. Clearly, being mentored makes one more likely to act as a mentor.

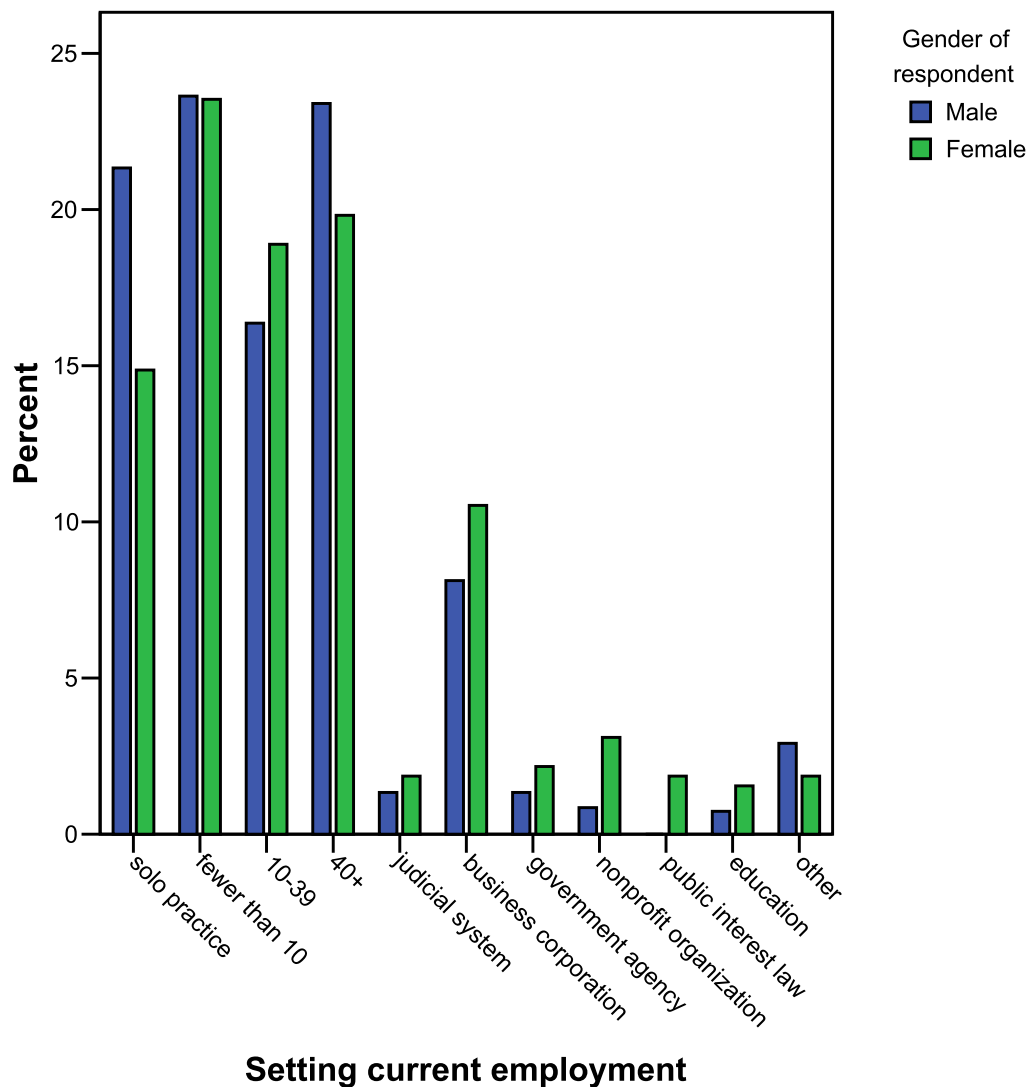
Dean Kagan, Harvard Law School, suggests that mentors not only give advice but model possibilities (Kagan, 2006). This may be particularly important when work requirements fit poorly with other parts of one's life. To see how someone else is managing this combination may reduce some of the stress involved and present new options. While changes in work structures would reduce this lack of fit, mentoring may provide a more immediate solution to such problems by its suggestion of possibilities.

## SECTION 2. CURRENT SITUATION: WORK LIFE

Most respondents (87.6%) are employed full time. Only 7.9% of the respondents practice part time, but women (12.1%) were about twice as likely as men (6.3%) to do so. Men (5%) are slightly more likely than women (3.2%) to be not currently employed.

As shown in Figure 2.1, most male and female attorneys are currently employed in private practice settings. For males, the small firm (fewer than 10 lawyers) is the most popular setting (23.5%) but only slightly more than the very large firm (22.4%), with solo practice (19.5%) and medium size firms (17.1%) close behind.

**Figure 2.1. Setting of Current Employment by Gender**



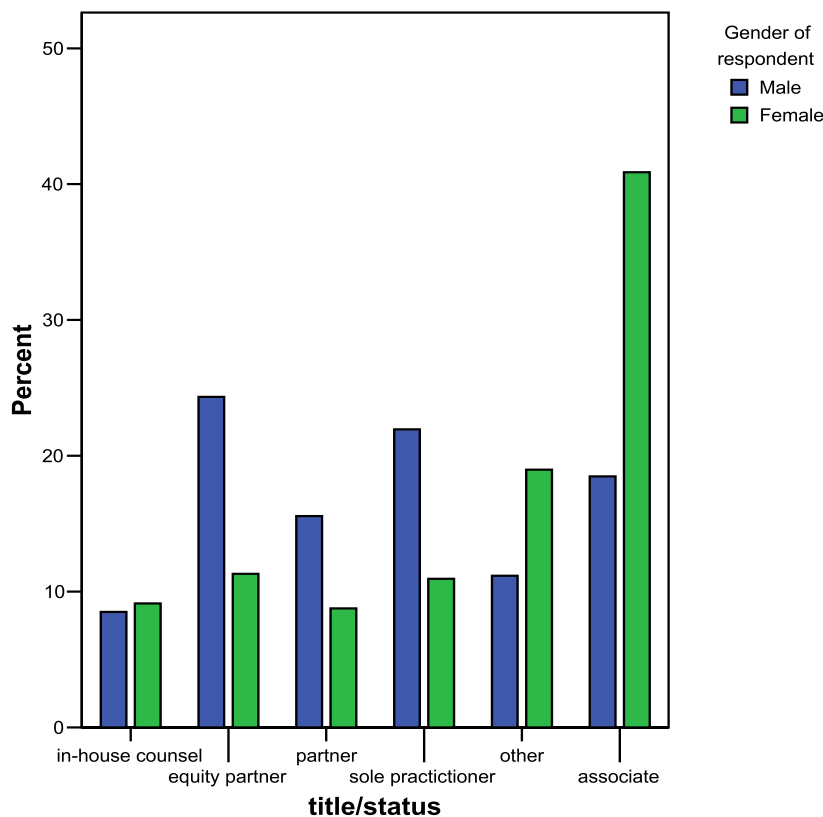
Interestingly, women who had been overrepresented in very large practices (22.7%) for their first employment are now significantly less represented (19.8%). Notice that they are also significantly less represented (14.9%) in solo practice than

are male respondents (21.3%) which was also the case in women's first employment. Women are somewhat more highly represented in medium size firms (18.9%) than are men (16.4%). The message here seems to be that women move out of very large firms into other settings. This is a suggestive finding. Women are being hired into these firms but are somewhat less likely to stay. Further research is needed before any conclusion can be drawn as to why this happens. When we group private practice and compare it with all other settings, we see that women are less likely (77.1%) than men (84.7%) to be in private practice settings. While women were more likely than men to begin their law careers in private practice settings, they are more likely than men to be employed in non-private practice settings in their current employment.

### Title/Status

The largest percentage of men (24.3%) are in the position of equity partner, and the largest percentage of women (40.9%) are in associate positions. This finding is directly related to the year of law school graduation. Women are slightly more likely than men to be in-house counsel, but much less likely to be in the positions of equity partner, partner or sole practitioner. Of those individuals in associate positions, 77.2% of men and 66.3% of women report being on the partnership track.

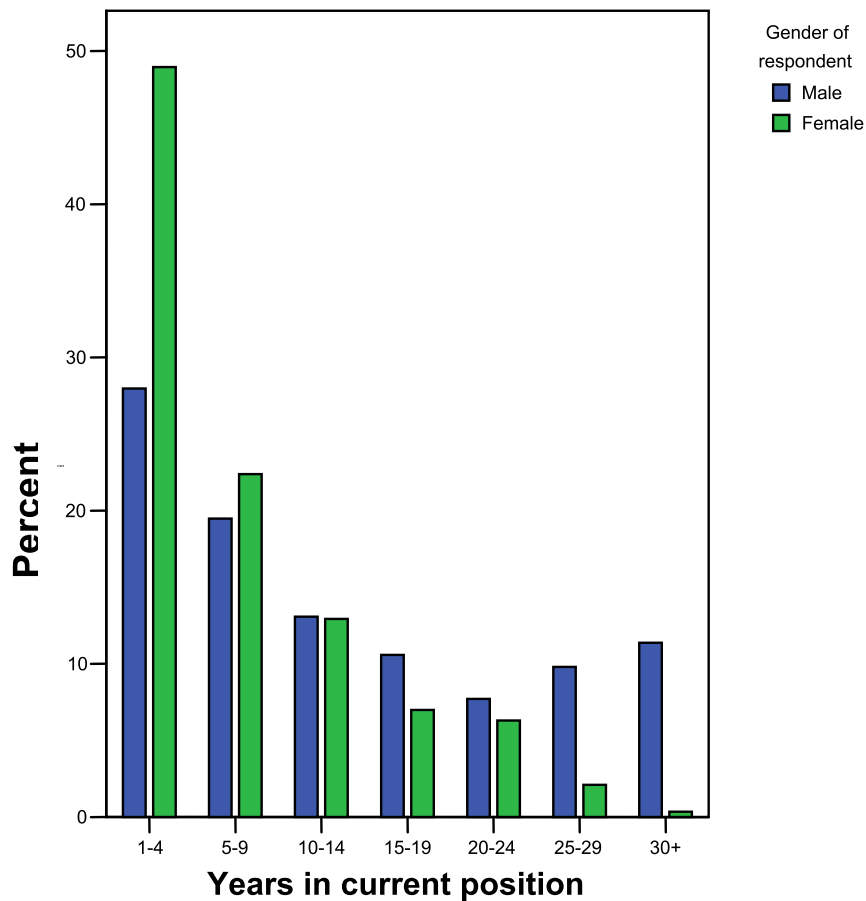
**Figure 2.2. Title/Status by Gender**



### Length of Time in Current Position

The movement of women from large firms to other settings and from private practice to other settings in the time between first position and current position raises the question of to what extent respondents change employment. Information on length of time in current position and how long one intends to stay in current position provides some answers. Figure 2.3 shows the years in current position for all respondents by gender. The largest percentages of males and females have been in their current position one to four years. In terms of current employment, the mean number of years in the current setting for men is almost fourteen years (13.97) and the mean for women is 7.45 years.

**Figure 2.3. Years in Current Position by Gender**

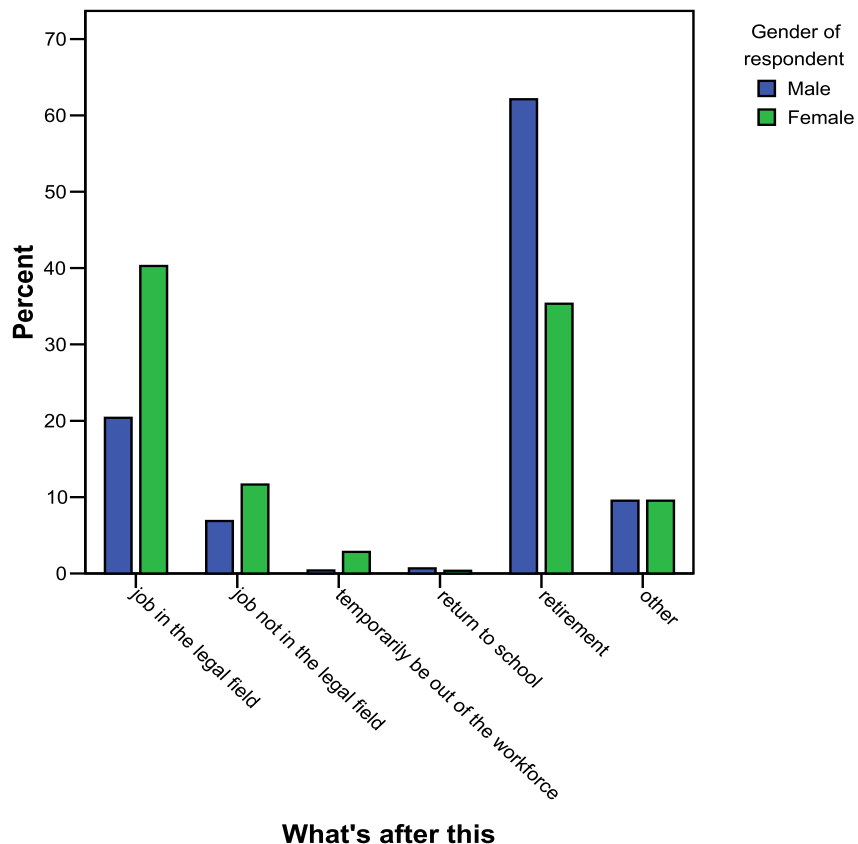




### Plans for the Future

The question of what respondents will do after their current job is answered by Figure 2.4. For the largest percentage of men, the answer is retirement while for women, it is a job in the legal field. This reflects the more recent graduation dates of most of the women. Women are also more likely than men to be planning to move to a job not in the legal field and slightly more likely to be planning to be temporarily out of the workforce.

**Figure 2.4. What will you do after this?**

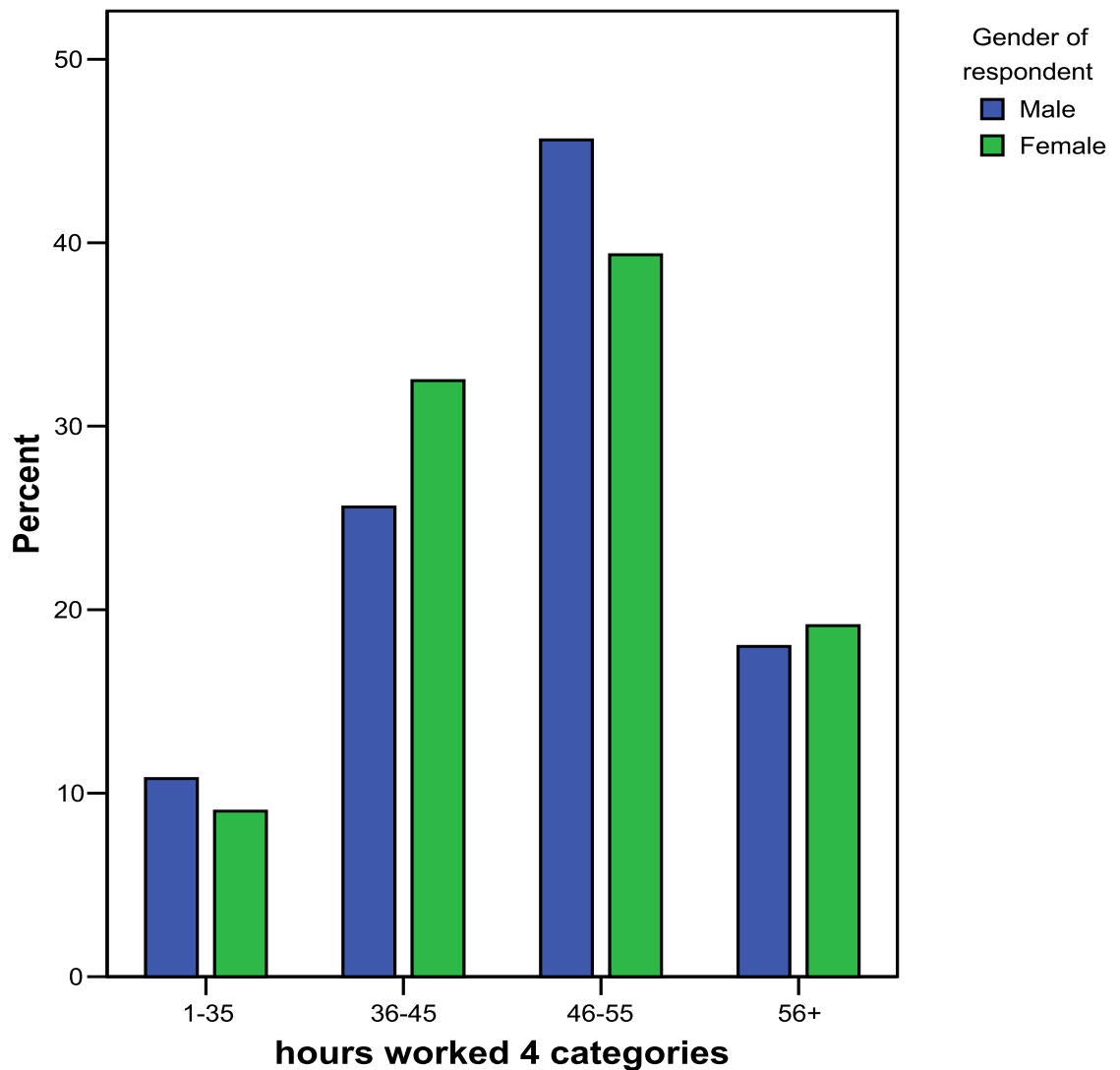


When asked “How long do you plan to stay in your current job?” the majority of both males (72.3%) and females (63.5%) plan to stay five years or more. Among males, 20.6% plan to stay two to four years and 7.1% plan to stay one year or less. Among females, 26.3% plan to stay two to four years and 10.3% plan to stay one year or less.

### Hours Worked in Current Position

The measure of hours worked provides a means of comparing the work life of attorneys in different career stages, positions and settings. Only respondents who characterized themselves as working full time are included in this analysis. The mean hours worked for men are 48.5 and for women, 48.25. Hours worked are analyzed using the following categories: 1-35, 36-45, 46-55, and 56+. Gender differences are observable in Figure 2.5. Higher percentages of women are working 36-45 hours than men and smaller percentages of women are working 46-55 hours. We see a slightly greater percentage of women than men working the highest number of 56+ hours. Perhaps some of the explanation for the different hours worked can be found in the employment setting.

**Figure 2.5. Hours Worked in Current Position**



**Figure 2.6. Hours Worked by Current Setting**

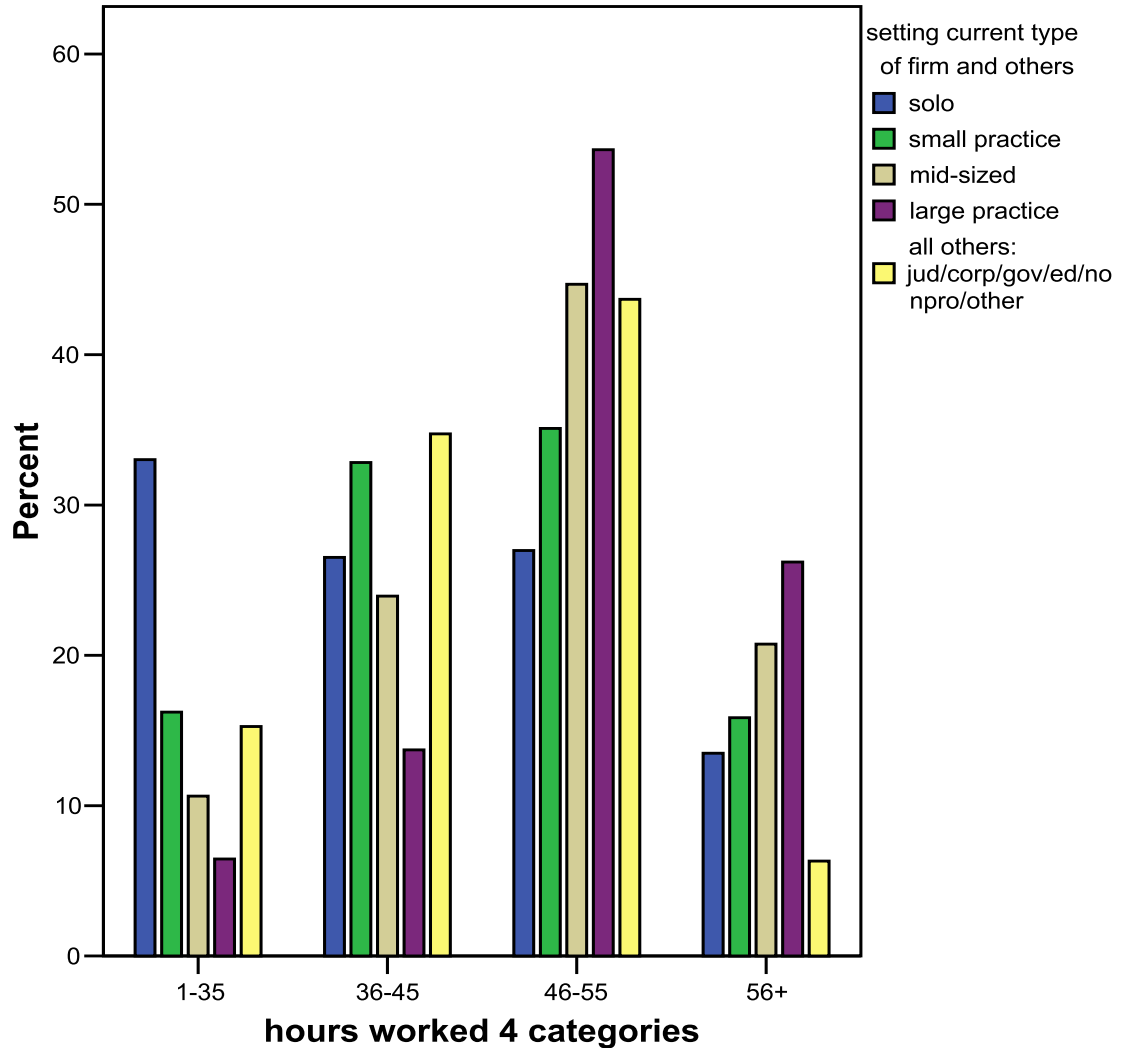
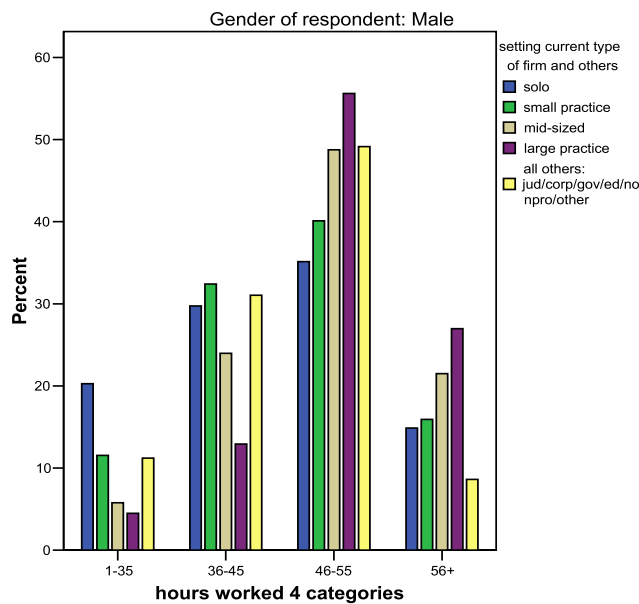
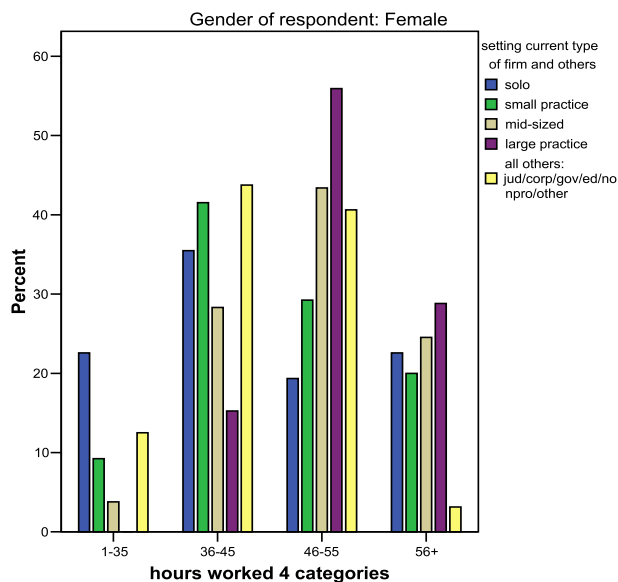


Figure 2.6 demonstrates that attorneys in private practice settings are generally working longer hours than those in non private practice settings. The large firm dominates the 46-55 hour category and the 56+ hour category. Solo practice is the most frequent setting in the 1-35 hour category. Only about 5% of the non private practice settings fall into the 56+ hour category. Small practices show the most variation with at least 15% of the respondents who practice in small firms in each hour category. Are there gender differences in hours worked by employment setting? See Figures 2.7 and 2.8 for further information.

**Figure 2.7. Hours Worked by Employment Setting -- Male.**



**Figure 2.8. Hours Worked by Employment Setting -- Female.**

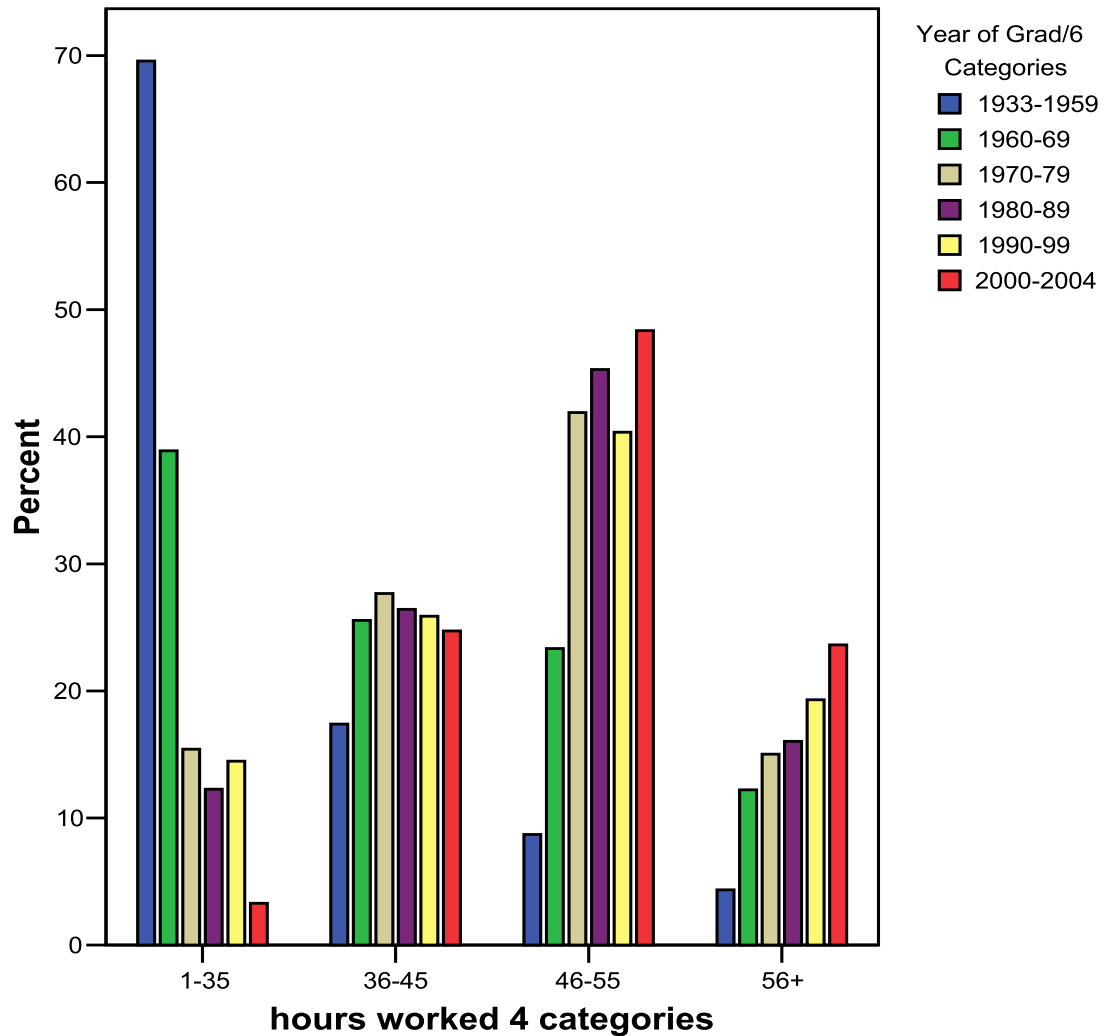


We see very similar patterns for male and female respondents in terms of hours worked in the different employment settings. Two of the few differences are the absence of any females working 35 hours or less in the large firm and very few females working more than 55 hours in the non private practice category. The explanation for the first is probably that only senior males with very important clients (personal communication) can put in such a small number of hours. The

explanation for the second is unknown. We speculate that the top positions in the non private practice settings are the only ones requiring long hours and that these are still mainly held by males. But we have no evidence to confirm this speculation.

What happens when we look at the stage of the career? Do we find a difference in hours worked? Our measure for this is the year of graduation. See Figure 2.9.

**Figure 2.9. Hours Worked by Decade of Graduation**



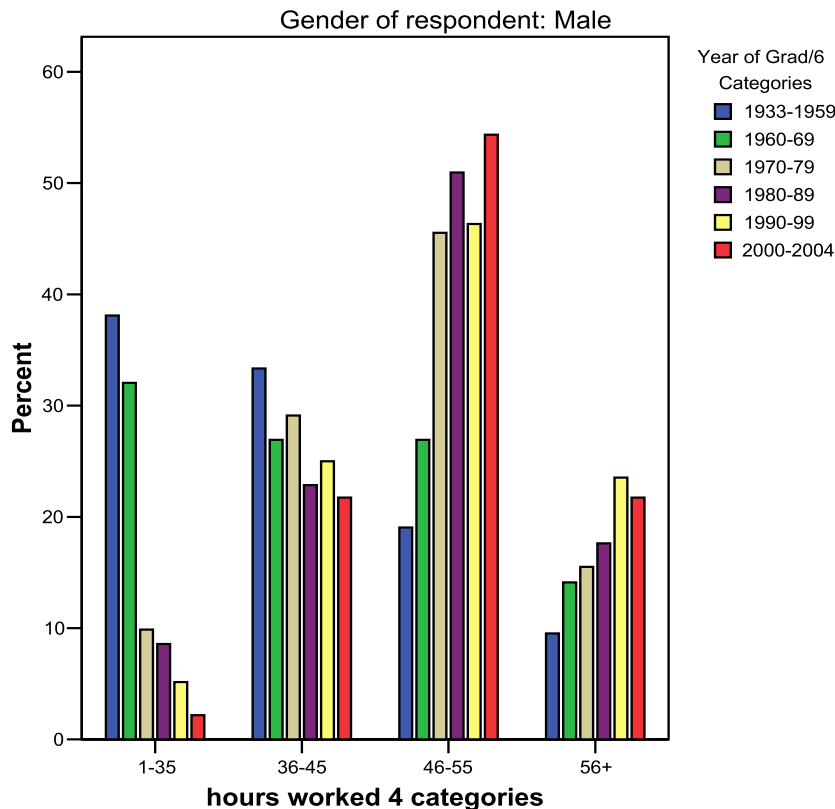
It seems that, generally, the more recent the graduation, the longer the hours worked. The two highest categories of hours and particularly the 56+ hour category show the 2000-2004 graduates putting in the longest hours. In order to see whether there are gender differences by the year of graduation, see Figures 2.10 and 2.11.

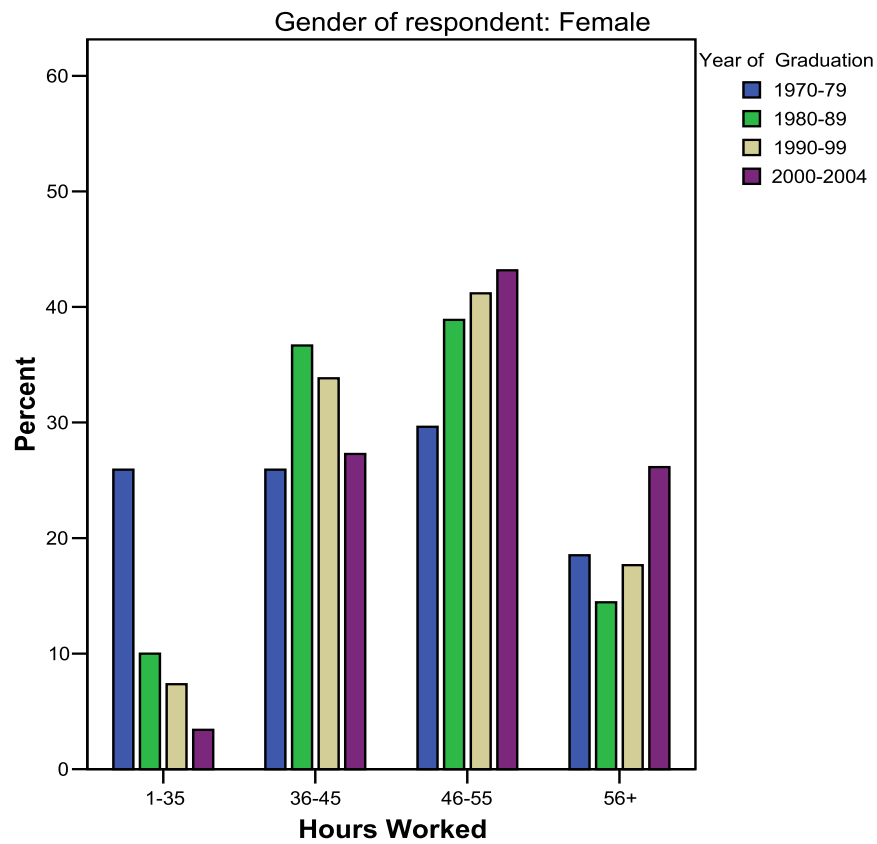
While women are more likely to be recent graduates, they are also more likely to be practicing in non-private practice settings. The finding that women are most common in the 36-45 hour category and men in the 46-55 hour category is somewhat surprising in view of the data presented in Figure 2.7, which shows more recent graduates are working longer hours. Since women are more likely to be among the recent graduates, we would expect them to be working longer hours rather than shorter. See Figures 2.10 and 2.11.

(Note: There are only two women employed full time among the respondents who graduated before 1970. In order for the graphs for male and female respondents to be comparable, these two cases are dropped from Figure 2.11.)

The women in the 56+ hour category may reflect the overrepresentation of women in associate status that we saw previously. Some support for this is found in Figures 2.7 and 2.8 where the large practice is the most frequent category when 46+ hours are examined. We find some differences in the male/female patterns here. Although male graduates of the 1990s are the most frequent occupants of the 56+ hour category for males, 2000-2004 graduates are the most frequent occupants of this category for females.

**Figure 2.10. Hours Worked by Decade of Graduation – Male**

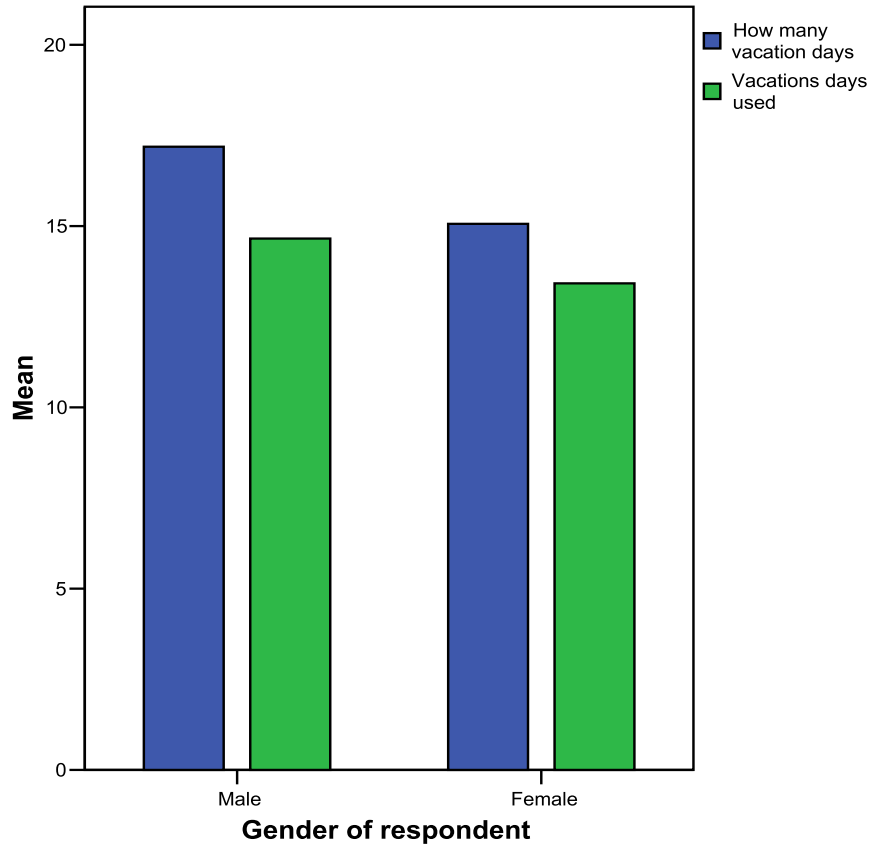


**Figure 2.11. Hours Worked by Decade of Graduation – Female**

### Vacation Days

We find several other gender differences in looking at the current employment situation. Women have fewer vacation days (mean = 15.07) than men (mean = 17.14) and take a mean of 13.50 days while men take a mean of 14.96 days. Perhaps this is reflective of women's less senior positions. See Figure 2.12.

**Figure 2.12. Vacation Days**





### Benefits

When asked about the use of benefits and preference for benefits, responses from males and females are presented in Tables 2.1 and 2.2.

**Table 2.1. Benefits: Use and Availability -- Males**

Benefit	Have Used	Not Available/ Unknown	Would Use if Available	Unwilling to Use	Total Response N=
Part time work	14.3	38.7	5.7	41.4	476
Flex time work	30.4	32.2	10.0	27.4	481
Paternity Leave	5.4	36.9	17.7	39.9	406
Unpaid Leave	9.7	38.6	14.7	36.7	422
Sabbaticals	3.3	50.5	23.0	23.2	457
Physical Health	78.4	10.1	7.6	3.8	523
Mental Health	28.4	35.8	18.9	16.9	402
On site Child Care	2.7	70.5	10.0	16.9	451
On site Cafeteria	14.8	58.7	16.5	10.0	472
CLE	89.8	5.6	4.2	.4	571
ACBA Paid	86.7	6.9	5.8	.5	566
Bench Bar	49.5	26.2	9.4	14.9	489
Health Club Paid	15.0	46.5	31.6	6.9	493
On site Gym	6.4	55.9	30.0	7.7	483
Country Club Paid	10.4	51.1	28.4	10.1	483
Technological Asst	73.3	15.2	9.8	1.7	521
Computer Asst.	83.1	11.2	5.2	.6	537

The benefits used by the largest number of male respondents are CLE (89.8%), ACBA paid membership (86.7%) and computer assistance (83.1%). The benefits most desired by respondents are paid memberships to health club (31.6%), On-site gym (30.0%), and country club paid memberships (28.4%). The benefit that the greatest percentage of male respondents is unwilling to use is part-time work (41.4%). As shown in Table 2.2, this is also the benefit the largest percentage of females (22%) is unwilling to use.

**Table 2.2 Benefits: Use and Availability -- Females**

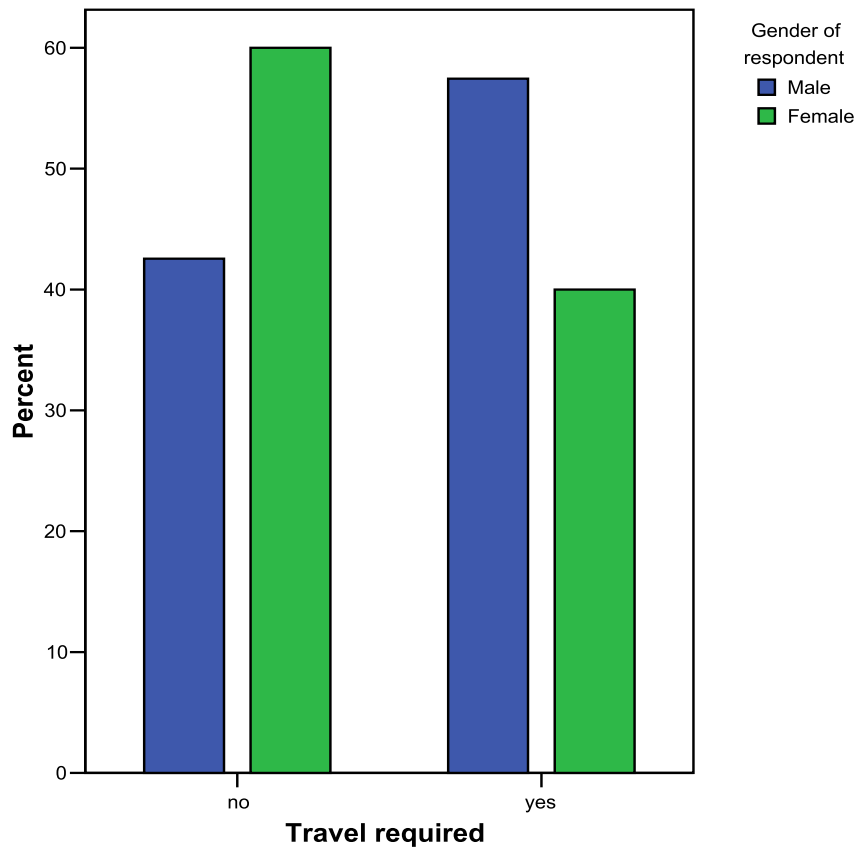
Benefit	Have Used	Not Available/ Unknown	Would Use if Available	Unwilling to Use	Total Response N=
Part time work	29.0	32.2	16.8	22.0	214
Flex time work	32.3	32.7	24.2	10.8	223
Maternity Leave	36.2	20.0	31.9	11.9	185
Unpaid Leave	15.3	37.6	27.0	20.1	189
Sabbaticals	2.0	59.4	28.7	9.9	202
Physical Health	78.4	9.5	7.8	4.3	231
Mental Health	27.4	32.0	24.0	16.6	175
On site Child Care	2.0	66.0	24.0	8.0	200
On site Cafeteria	16.7	50.5	25.7	7.2	222
CLE	85.3	6.0	8.7	0	252
ACBA Paid	82.7	7.1	10.2	0	254
Bench Bar	38.8	26.6	18.2	16.4	214
Health Club Paid	7.9	41.0	45.9	5.2	229
On site Gym	8.9	37.9	46.4	6.7	224
Country Club Paid	3.7	47.0	35.9	13.4	217
Technological Asst	62.6	15.9	21.1	.4	227
Computer Asst.	81.6	8.1	9.8	.4	234

The benefits used by the largest number of female respondents are exactly the same as for males: CLE (85.3%), ACBA paid membership (82.7%) and computer assistance (81.6%). Again, the benefits most desired by females are the same as those desired by males; 46.4% would use an on-site gym, 45.9% would use a paid health club membership, and 35.9% would use a country club membership. Almost 32% of females would use a maternity leave benefit if it were available. As mentioned, just as for males, the benefit that the greatest percentage of female respondents is unwilling to use is part-time work. The benefit most often checked as unknown or not available is onsite child care which would seem to be the benefit most likely to help women with small children.

## Travel

Women are much less likely than men (40% to 57.4%) to be in positions which require travel although the number of nights away from home, for those who do travel, is not significantly different. Interestingly, this is not dependent on the setting of the job. Travel is required consistently less for women than men in all work settings. We can speculate as to whether women have sought this outcome or whether it is the outcome of other forces such as decisions made within the firm. See Figure 2.13.

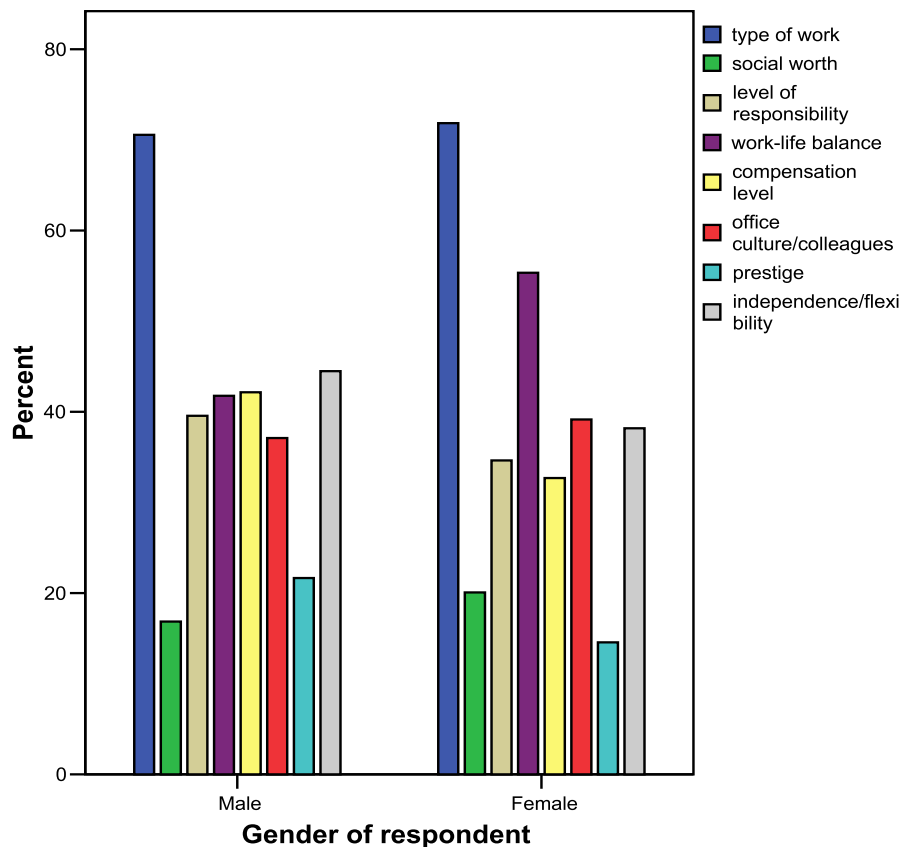
**Figure 2.13. Travel Required by Gender**



### Reasons for Choosing Employment Setting

Respondents chose their jobs most frequently on the basis of “type of job.” This was the most frequent answer for both males (72.1%) and females (74.5%). “Work/life balance” (45.8%) and “independence/ flexibility” (42.8%) were the next most popular choices. When we look at gender differences, we find a very significant difference between males (44.7%) and females (34.2%) on giving “compensation” as a reason. We also find a significant difference on “work/life balance” with fewer men (42.5%) than women (54.1%) giving this as a reason for choosing the job. Men were also significantly more likely (22.4%) than women (15.6%) to choose “prestige” as a reason. (Respondents were allowed to choose as many responses as they wished to this question.) See Figure 2.14.

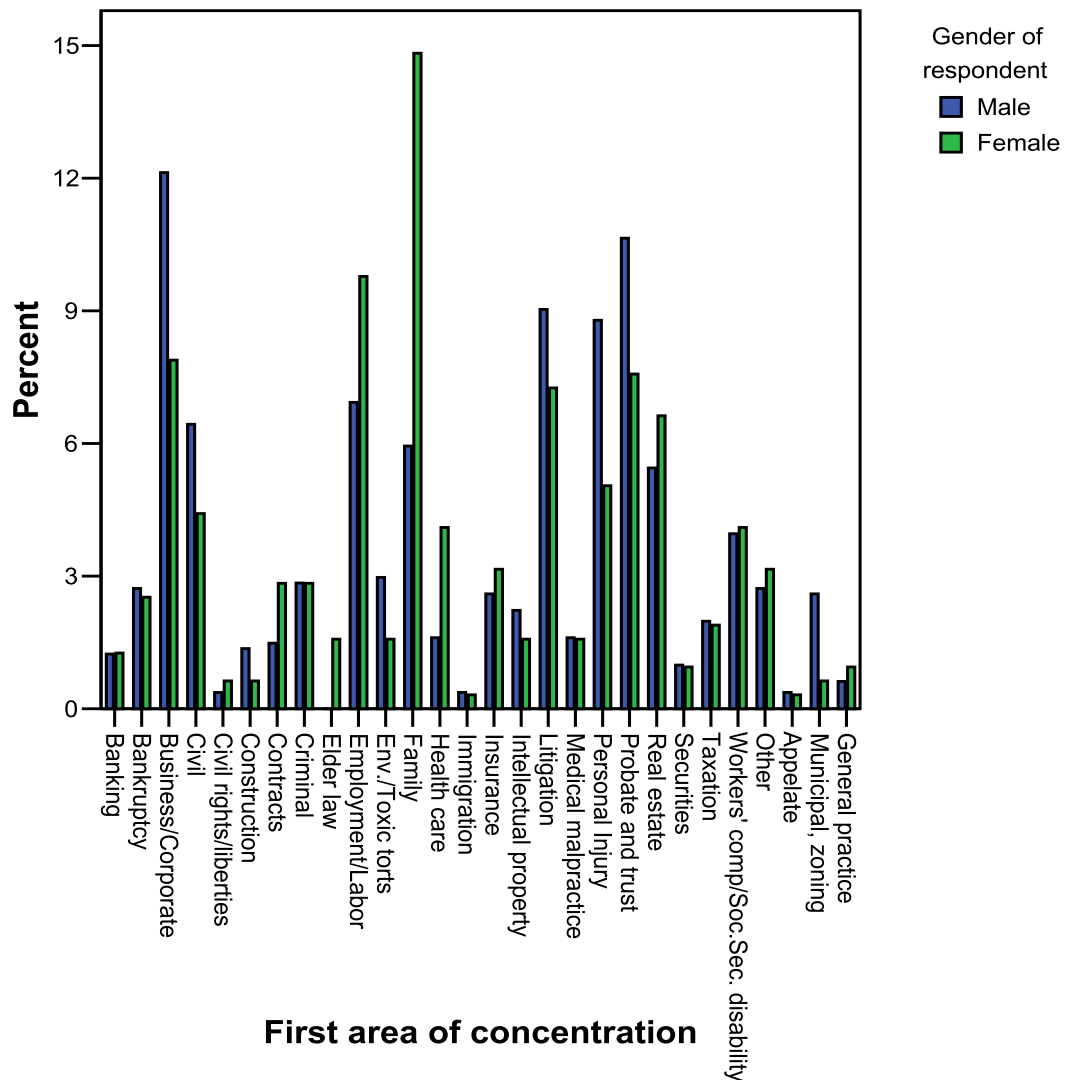
**Figure 2.14. Reasons for Choosing Current Employment**



### Areas of Concentration

Most attorneys responding to this survey have multiple areas of concentration. This analysis focuses on the area of concentration noted first in their responses. When examining only those areas of concentration which are reported by more than 3% of the respondents, we see ten areas as being most reported. Not only are these more frequently reported areas, but all except one of them show significant gender differences. Only workers' compensation/social security disability" in this group of ten has roughly equal percentages of men and women reporting it as their first area. As we see in Figure 2.15, business/corporate, civil, litigation, personal injury, and probate/trust are more often chosen by men while family, employment/labor, health care, insurance, and real estate are more often chosen by women. Women appear to be more likely to practice in areas consistent with traditional female roles, i.e., family and human relations areas.

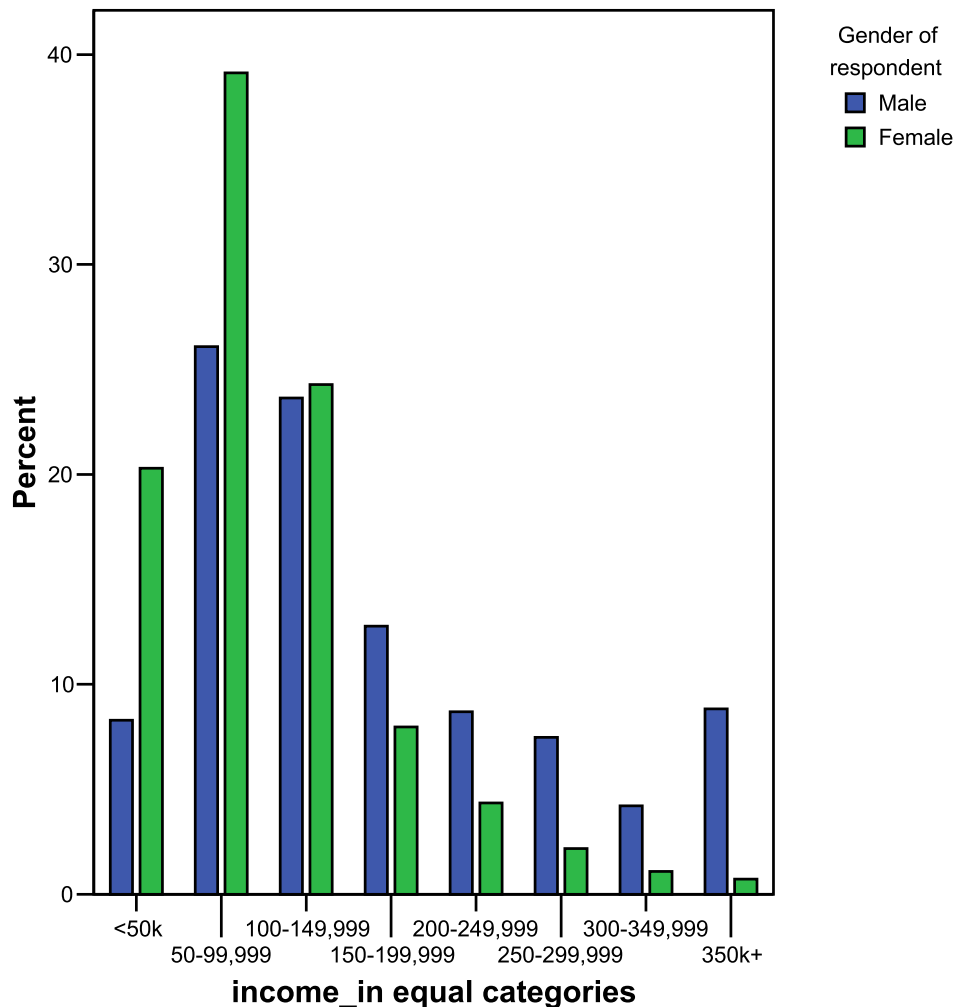
**Figure 2.15. Areas of Concentration**



### Income.

Perhaps our most important finding is the difference in income by gender. Figure 2.16 depicts income by gender for all respondents employed full time. While the largest percentage of both males (26.1) and females (39.1) are earning in the \$50,000-99,999 range, women are significantly more likely to be in this range. In fact, women are much more likely than men to be in the two lowest income groups. A greater percentage of males is found in all income categories \$150,000 and above. This is particularly marked in the highest income category, \$350,000 and above, where male respondents are more than eight times as likely as women to earn at this level. (All differences mentioned throughout this section are significant at the .05 level.) As stated earlier, the males in this analysis tend to be older than the females. This information will be taken into account in further analyses.

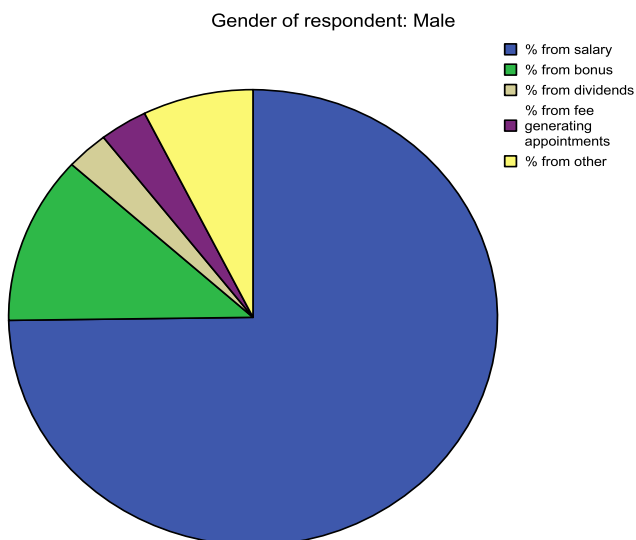
**Figure 2.16. Income by Gender**



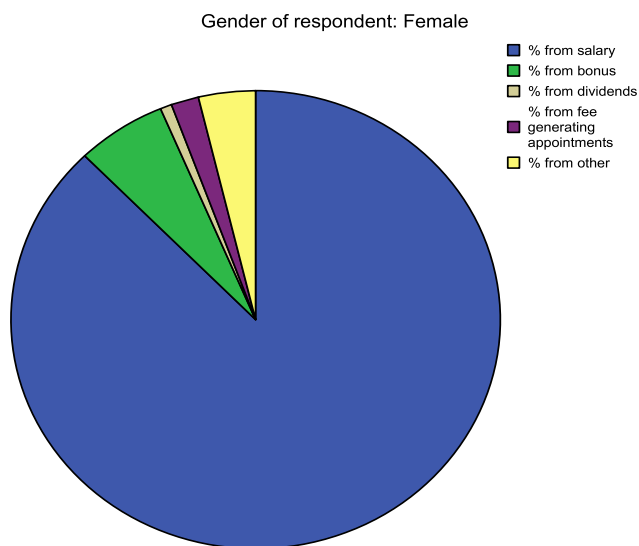
### Sources of Income

As shown in Figures 2.17 and 2.18, a greater percentage of females than of males is dependent upon salary as their primary source of income. Salary comprises 74% of income for males and 87% for females. Males are more likely to benefit from bonuses (12.7% males, 6.6% females), and fee generating appointments (3.7% males, 2.3% females) as sources of income than are females. A large part of the “other” category is division of profits for shareholders. Women are less likely than men to be in the “other” category.

**Figure 2.17. Sources of Income for Males**



**Figure 2.18. Sources of Income for Females**



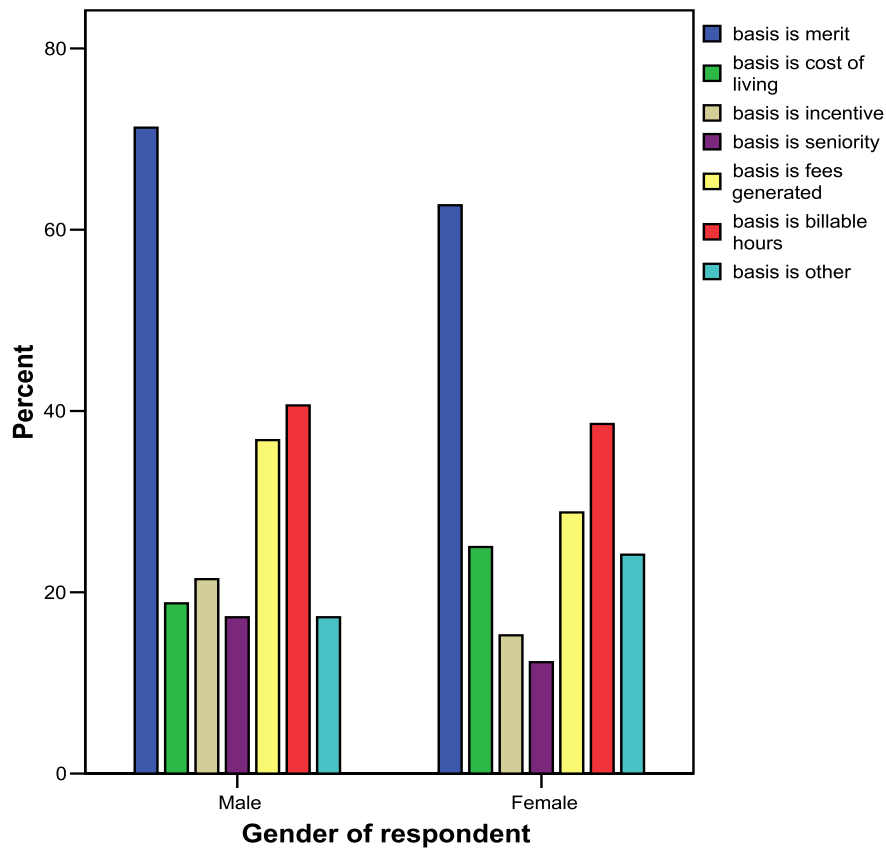
### Salary Increases

Women (78.3%) were more likely than men (68.5%) to have received a salary increase during the last year. This may reflect the extent to which women are more likely to be in salaried positions rather than positions in which income is based on other factors, including firm profits. (Note: sole practitioners did not respond to this question.)

### Basis of Income

The majority of males (74.1%) and females (64.6%) report that “merit” is the basis of income decisions in their place of employment. The next most frequent basis is “billable hours” and then “fees generated.” Women more frequently than men report “cost of living” as a factor. This may be explained by their greater representation in non private practice positions, e.g., government jobs, which may build cost of living into the salary schedule. “Seniority” and “incentive” may more frequently be factors in salaries in private practice. Additionally, as stated earlier, men are likely to be more senior given the age distribution of respondents.

**Figure 2.19. Basis of Income by Gender**



Billable hours are the basis of income determinations for 42% of males and 40.4% of females. A total of 311 respondents or 25% of the sample report a billable hour requirement in their current position. Billable hours range from 800-

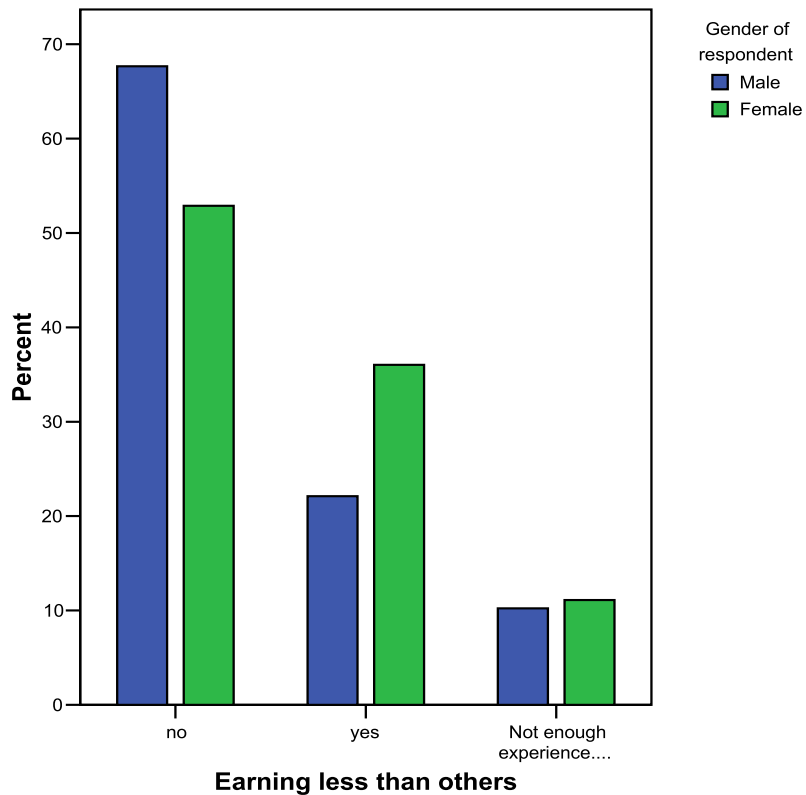


2500. The mean number of billable hours for males in associate positions is 1901, and for female associates, 1881.

### Earning Less

Among all respondents, 26.6% state that they have reason to think that they are earning less than others with whom they work who have comparable education and responsibilities. When gender is considered, 36.4% of women and 22.7% of men report this belief.

**Figure 2.20. Individuals earning less than others with comparable education and responsibilities**



**Table 2.3. Reasons provided for Earning Less**

	% Males	%Females
Race/Ethnicity	1.8	2.9
Billable Hours	23.7	24.3
Prior Work Experience	17.9	22.1
Job Assignment	28.1	27.9
Other	63.5	73.7

As shown in Table 2.3, the reason most frequently cited by both males (63.5%) and females (73.7%) for earning less is “other.” Many respondents who checked other did not give a reason. Of those who did, a common response

provided by males was “type of work.” For females, a common response was “gender.” The next most frequently cited reasons were job related, specifically job assignment and billable hours. Although discrimination may be involved in job assignment or prior work experience, evidence of racial or ethnic bias is not obvious. This subject merits further study.

#### Information Available

Overwhelmingly (72.8%) respondents report that salary and bonus information is only available to decision makers. One exception to this is when shareholders are given this information as mentioned in the category “other”.

#### Rainmaking

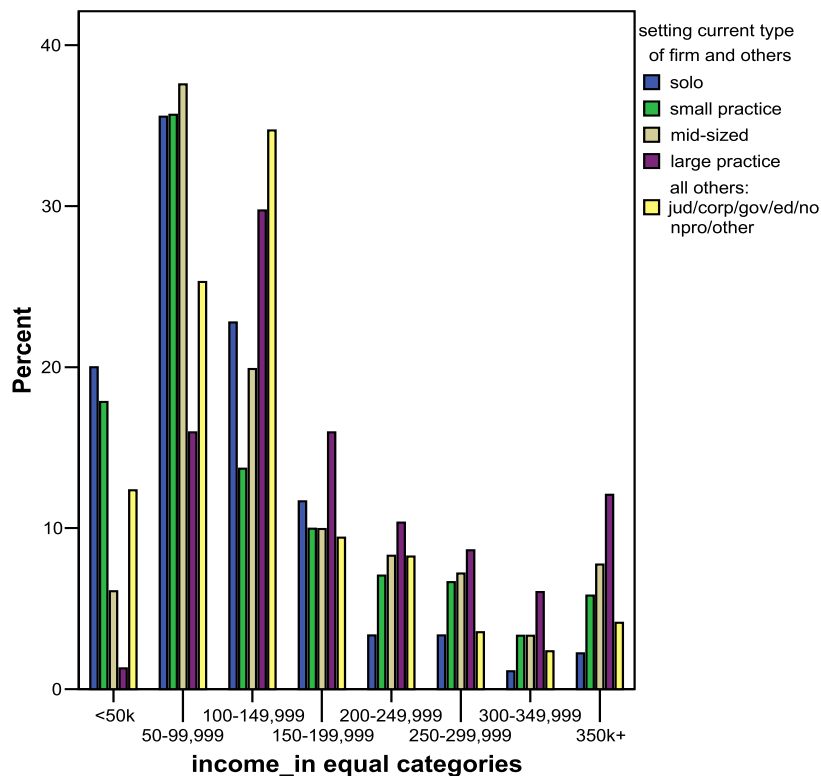
Approximately 56% of all respondents report rain-making activities are part of their work. A greater percentage of men (62.2%) than women (41.6%) are involved in rain-making, and men spend more hours per week (mean=7.10) than women (mean=4.81) in these activities. The number of hours ranged from 0-90.

### Gender Differences in Income

A number of influences related to income are examined to account for the difference in the income of males and females. Since only respondents who work full time were included in Figure 20, the greater percentage of part time work among women (12.1 of the female respondents to 6.3 of the male respondents) is not a factor in this difference. Other factors we investigated included setting of current employment, year of graduation, setting of first employment, prestige of law school attended, presence on Law Review, hours worked, and years in current position.

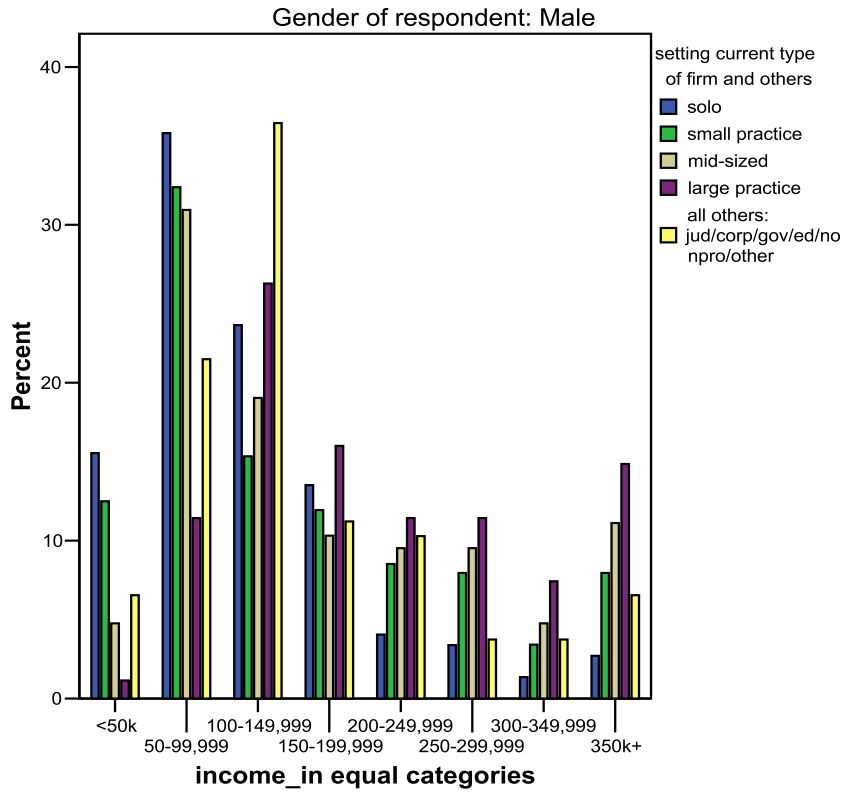
When we look at income by setting of current employment and gender, we find distinct differences in the employment settings most frequent in each income category. See Figure 2.21 below.

**Figure 2.21. Income by Setting of Current Employment**

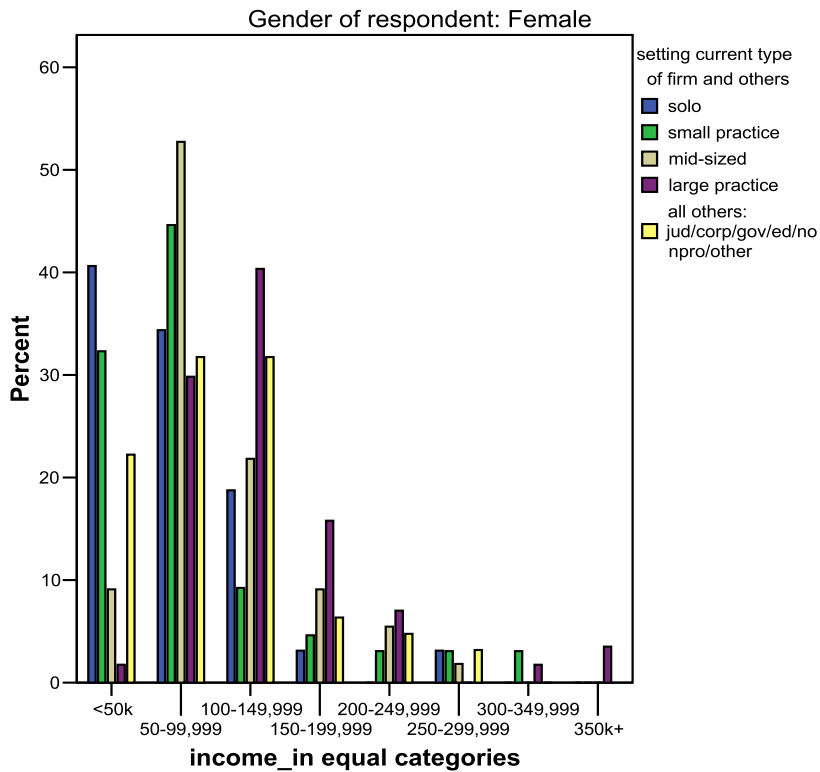


Individuals practicing in large firms are more likely than other practitioners to be earning in the top five income categories (range from \$150,000 to \$350,000+). The greatest percentage of large firm practitioners as well as those not in private practice settings is in the \$100,000-149,999 income range. Almost 80% of the sole practitioners are in the three lowest income categories, although 2.2% are in the highest category. For the three highest income categories, as the size of the firm increases from sole practitioner to large firm, the percentage of respondents steadily increases. Over 60% of the respondents in settings other than private practice are in the three lowest income categories.

**Figure 2.22. Income by Current Setting of Employment – Male**



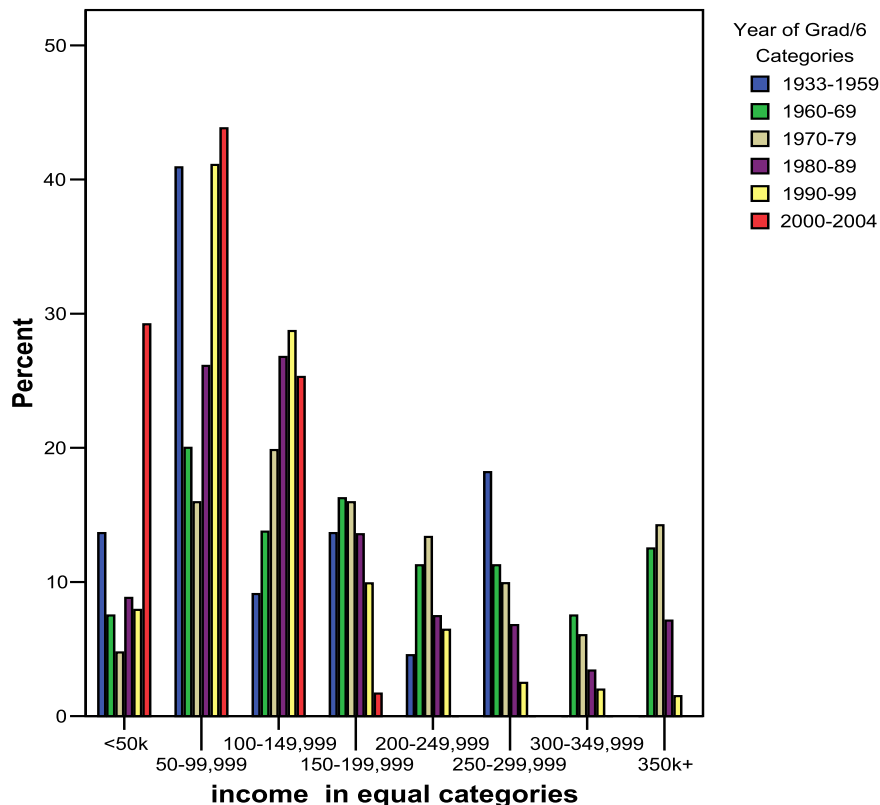
**Figure 2.23. Income by Current Setting of Employment – Female**



When setting and income are examined with respect to gender (Figures 2.22 and 2.23), we see that males in each employment setting are earning more at all levels. Again, males in large firms are more likely than others to be earning in the highest income range (\$350,000+). By contrast, women employed by large firms are the only women to earn in the highest income range. Given the small number of women in the top income categories, we must go down to the fourth highest category, \$200,000-249,999 to find representation from women in all employment settings. For differences in income, it appears that gender trumps employment setting. Women must be in a large firm for the best income outcome while men may be in a variety of settings. The question becomes then whether something other than gender is accounting for this. Since women have been in the field of law for a shorter time, perhaps length of time in the profession accounts for the difference. See Figure 2.24.

What happens when we look at year of graduation? We might assume that the longer one is practicing, the greater the opportunity to move up in income. Therefore the upper ranks of the income chart will be dominated by those who have been in practice longest. The exception to this pattern might be the lower income for individuals who graduated before 1960. The 1960's graduates are spread through the income categories, and the 1970's graduates make up the largest group in the \$350,000+ income category. Figure 2.24 presents these data.

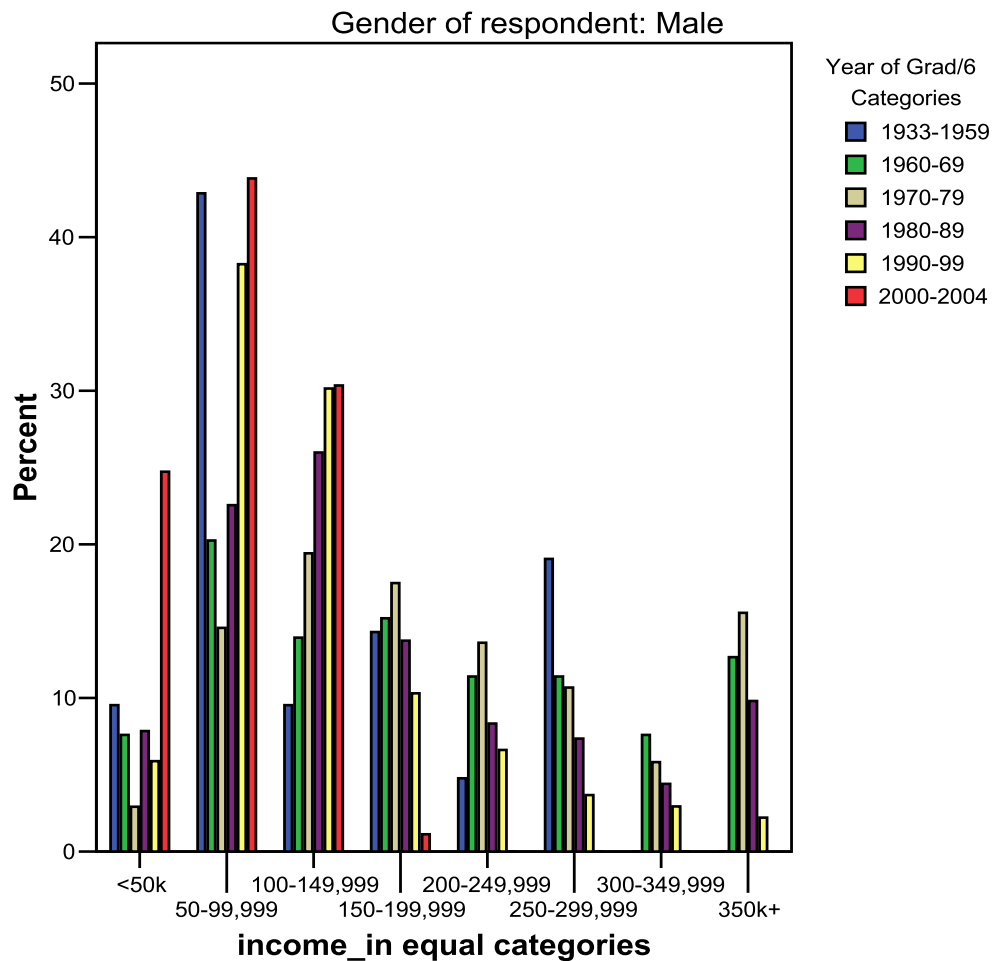
**Figure 2.24. Income by Decade of Graduation**



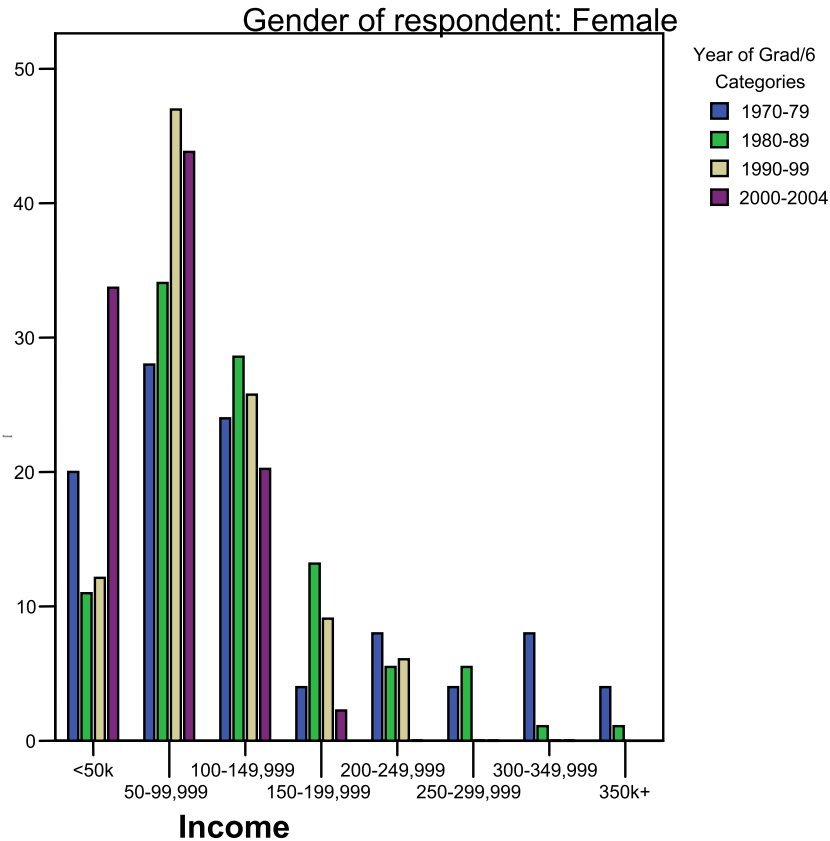
Graduates from the 60's and 70's are the most numerous in the three top income categories. Almost 75% of the 2000-2004 graduates fell into the two lowest income categories (less than \$100,000) with 29% in the lowest category (less than \$50,000).

Since women began to attend law schools in large numbers in the late 1970's, we would expect women to be earning less on average. That information prompts the following question: Are women who graduated earlier earning at the same level as their male peers? The answer to this is no. Of the 35 women who graduated before 1980 and who are working full time, 25 of them are in the bottom three income categories. Women from these years are spread through the income categories but with the largest percentage of them in the bottom three income categories. Notice the spread of 1970's male graduates in Figure 2.25.

**Figure 2.25 Income by Year of Graduation by Gender – Male**



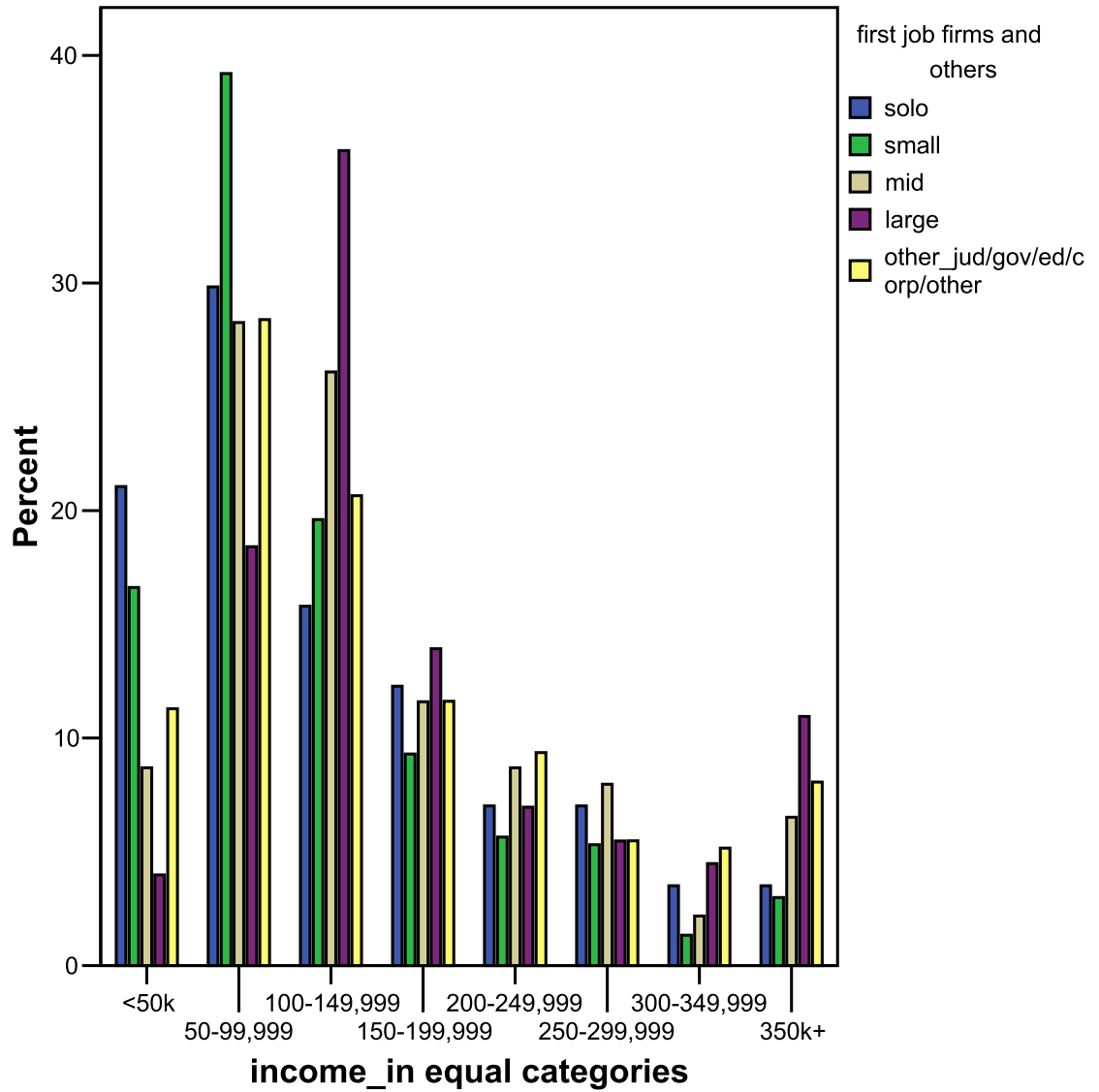
**Figure 2.26. Income by Year of Graduation by Gender - Female**



This outcome may have been influenced by whether women were hired in equally compensated jobs at the beginning of their careers. What is the effect of first position on present earnings? Although the pattern is not as clear, the highest income category is most often held by those whose first position was in large firms (10.9%). This is in contrast to the 3.5% of the respondents whose first position was as a sole practitioner or in a small firm (3%). The next largest group of respondents (8.1%) in this highest income category is those respondents whose first position was not in private practice. The second and third highest categories do not show this pattern. See Figure 2.27.

(Note: There are only two women among the respondents who graduated before 1970. In order for the graphs for male and female respondents to be comparable, these two cases are dropped from Figure 2.26.)

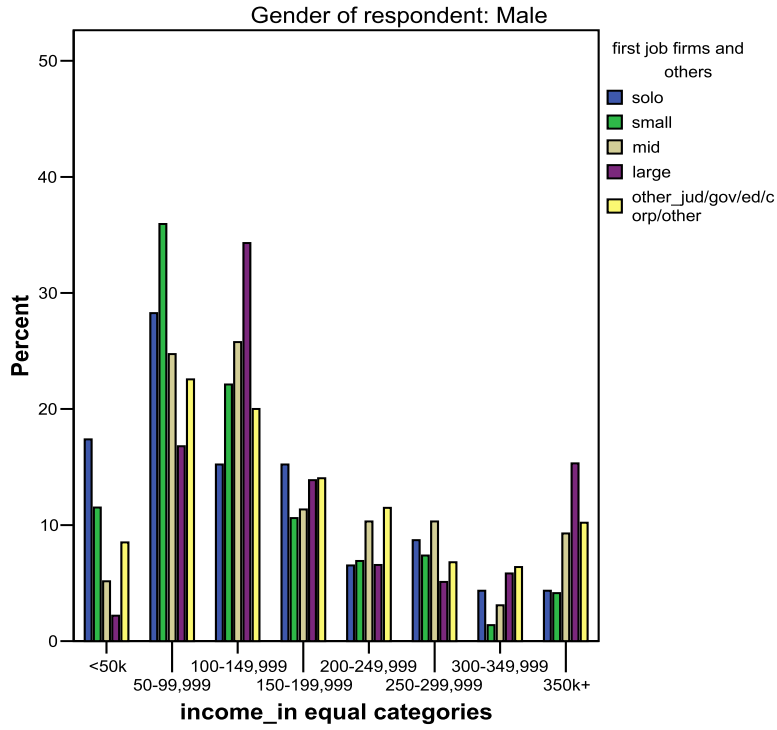
**Figure 2.27. Income by Setting of First Position**



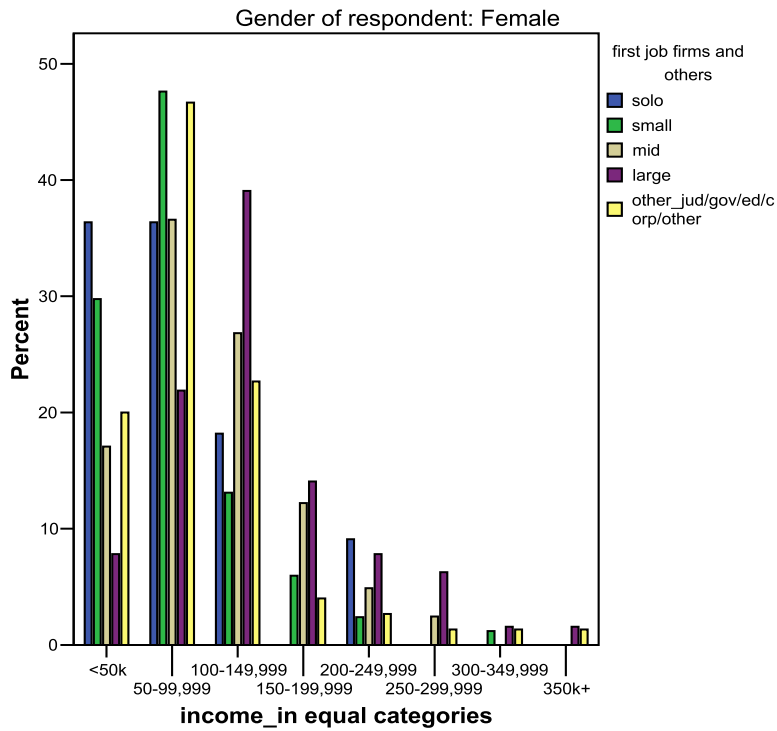
Is this financial outcome influenced by gender? Do men and women get a different payback on the setting of the first position as far as current income is concerned? We look to Figures 2.28 and 2.29 to see if the pattern is different.



**Figure 2.28. Income by First Employment by Gender – Male**



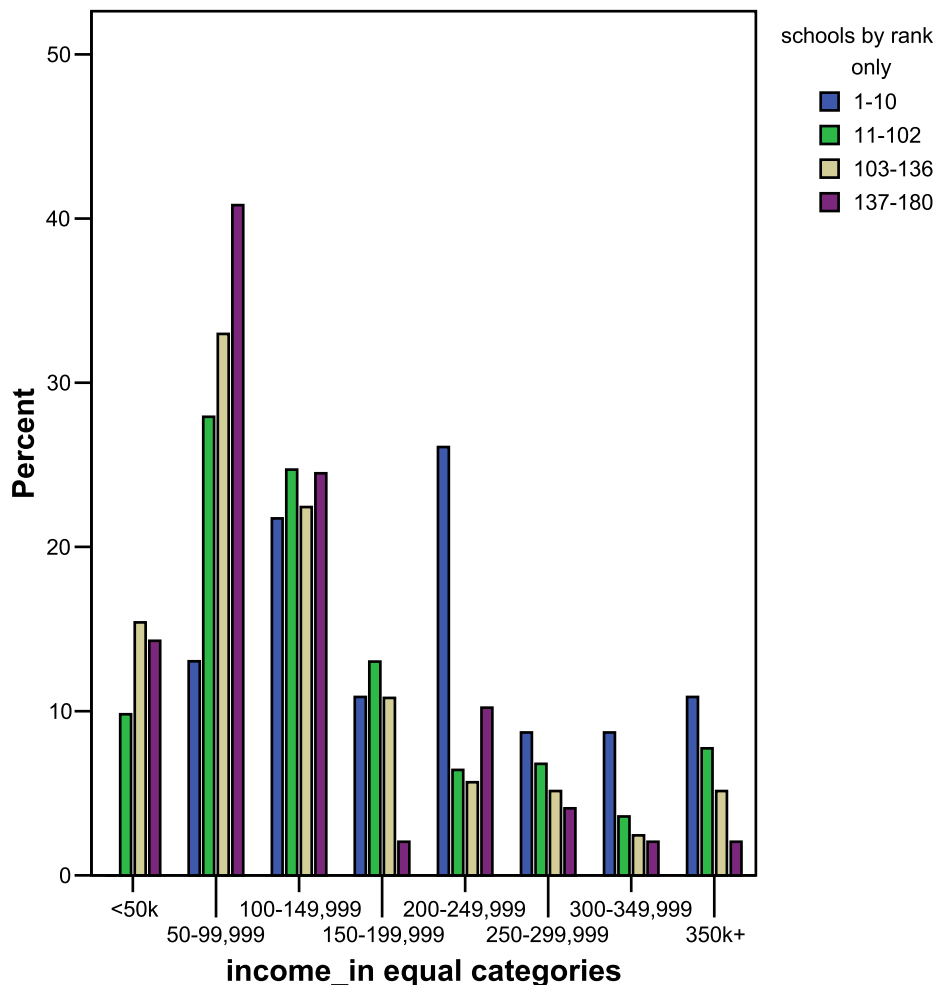
**Figure 2.29. Income by First Employment by Gender – Female**



These data suggest that early employment in a large firm or non private practice is helpful for earning the highest incomes. While this is true for both men and women, it seems to be especially true for women. (Due to the small number of women in the top income ranks, it is difficult to draw conclusions related to gender on these data.) In other words, men may be able to overcome the disadvantage of other beginnings to their law career while women may only be able to achieve the highest income positions if they have had large firm or non private practice experience. We might ask if the setting of this first position is affected by what law school one attended. Does women's graduation from generally less prestigious law schools lead to different first employment?

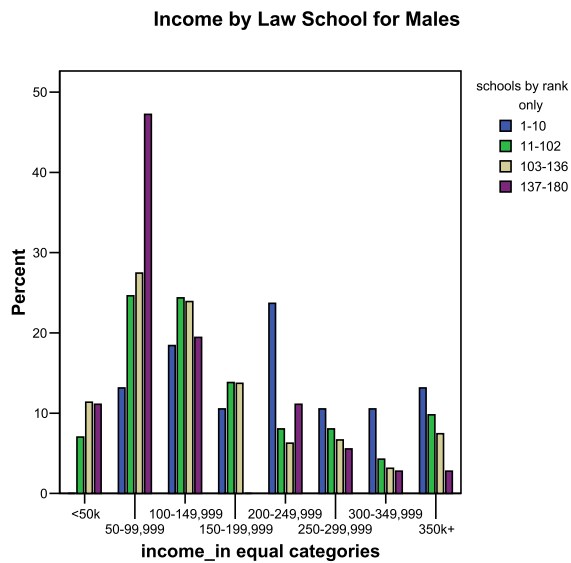
What happens when we look at the effect of law school ranking? Does graduation from one of the top ten law schools affect compensation? Does it matter where you go if you do not go to one of the top ten? What are the earnings of graduates of third and fourth tier law schools? See Figure 2.30.

**Figure 2.30. Income by Rank of Law School Attended**

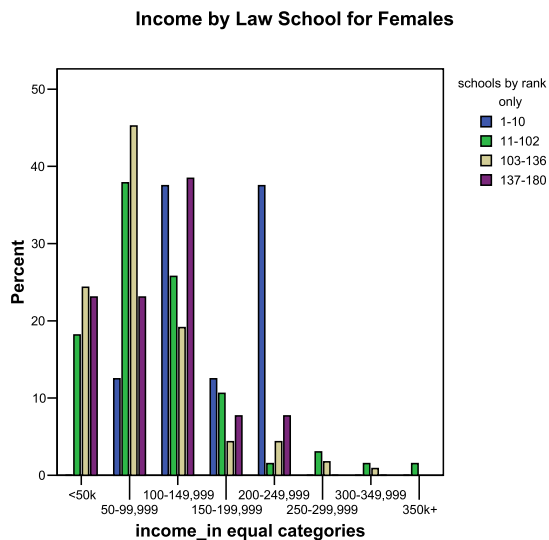


For the three highest income categories, percentages of respondents fall steadily as we move from the highest to lowest prestige rank of law schools. This is the pattern we would expect if prestige of law school affected income. This pattern holds true for men. For women, we do not see this pattern. Instead we see the highest percent of those who attended top ten law schools split between the \$100,000-149,999 category and the \$200,000-249,999 income categories. Additionally, we see the greatest percentage of women in the fourth tier law schools ending up in the \$100,000-149,999 income category. We might have expected a lower income category as we see for males who went to these schools.

**Figure 2.31. Income by Law School – Males**



**Figure 2.32. Income by Law School -- Females**



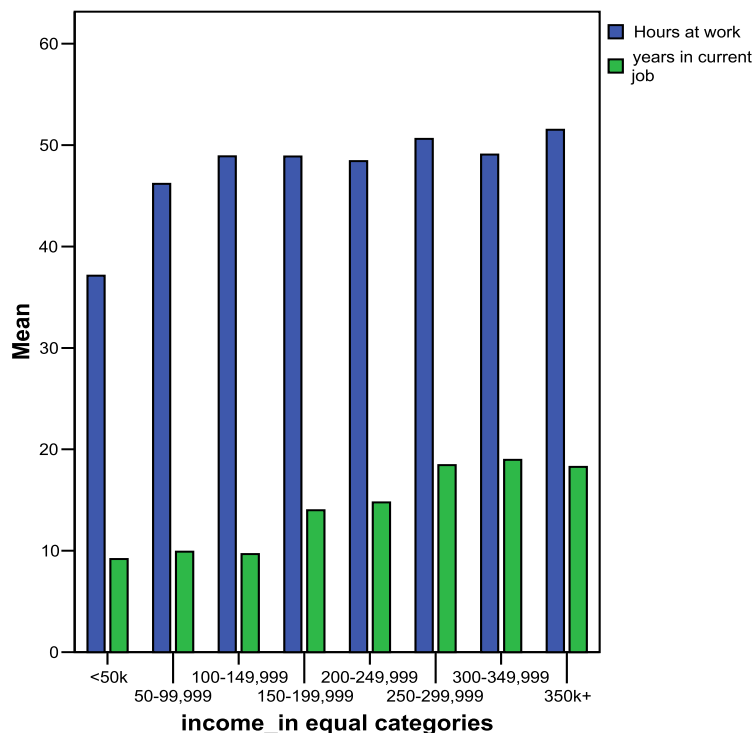
### Being on Law Review

Being on Law Review is a significant factor in achieving a higher income. Respondents in the top income category were more than twice as likely (10.9% to 4.2%) to have been on Law Review. Respondents in the top three income categories were more likely to have been on Law Review while respondents in the lowest income category were almost twice as likely (18.2% to 11.2%) not to have been on Law Review.

### Income by Hours Worked and Years in Position

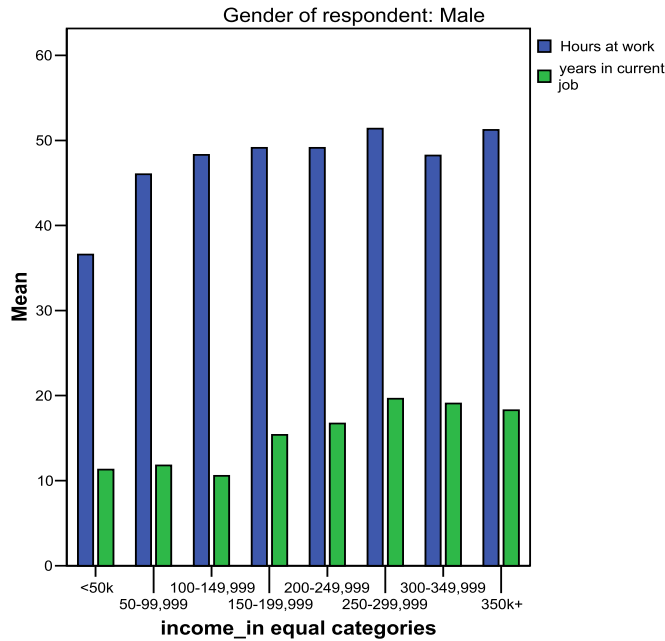
As stated earlier, the mean number of hours worked for men and women employed full time in this sample is essentially equal (men = 48.5 hours per week, women = 48.25 hours). The number of hours that men and women work at home is also very similar (men = 5.87 and women 5.61). Despite some difference in occupational settings, hours of work are remarkably similar and thus cannot be seen as a reason for different incomes for men and women. Men and women are significantly different in terms of working on Saturday with 54.1% of the men saying that they almost always, usually, or sometimes work on Saturday. Only 44.7% of the women say that they almost always, usually, or sometimes work on Saturday. This probably reflects the larger percentage of women in non private practice jobs. Although less frequent, men are also more likely to work on Sunday than are women (37.5% to 33.6%). Since there is so little variation in hours worked, it looks as if the years in current employment make a difference in income. See Figure 2.33.

**Figure 2.33. Income by Hours Worked and Years in Current Position**

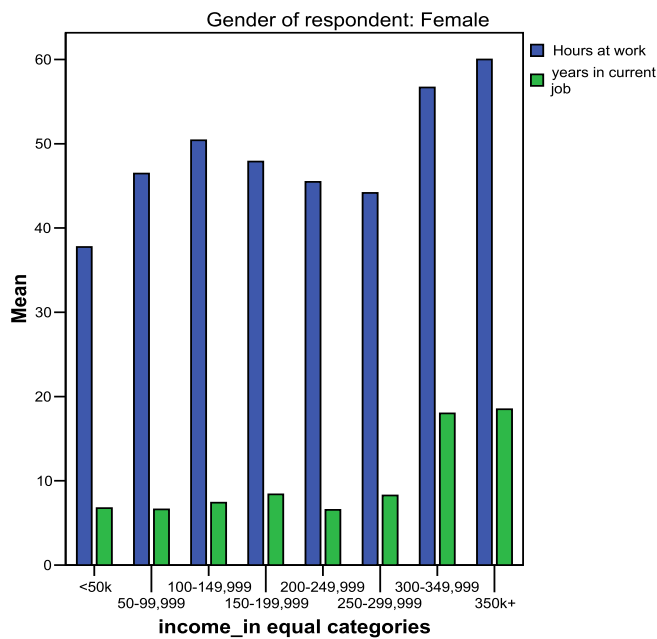


The influence of years in position is true for women only in the two highest income categories which are based on very small numbers of women. It seems to be more the case in general for men. See Figures 2.34 and 2.35.

**Figure 2.34. Income by Hours Worked and Years in Current Position -- Males**



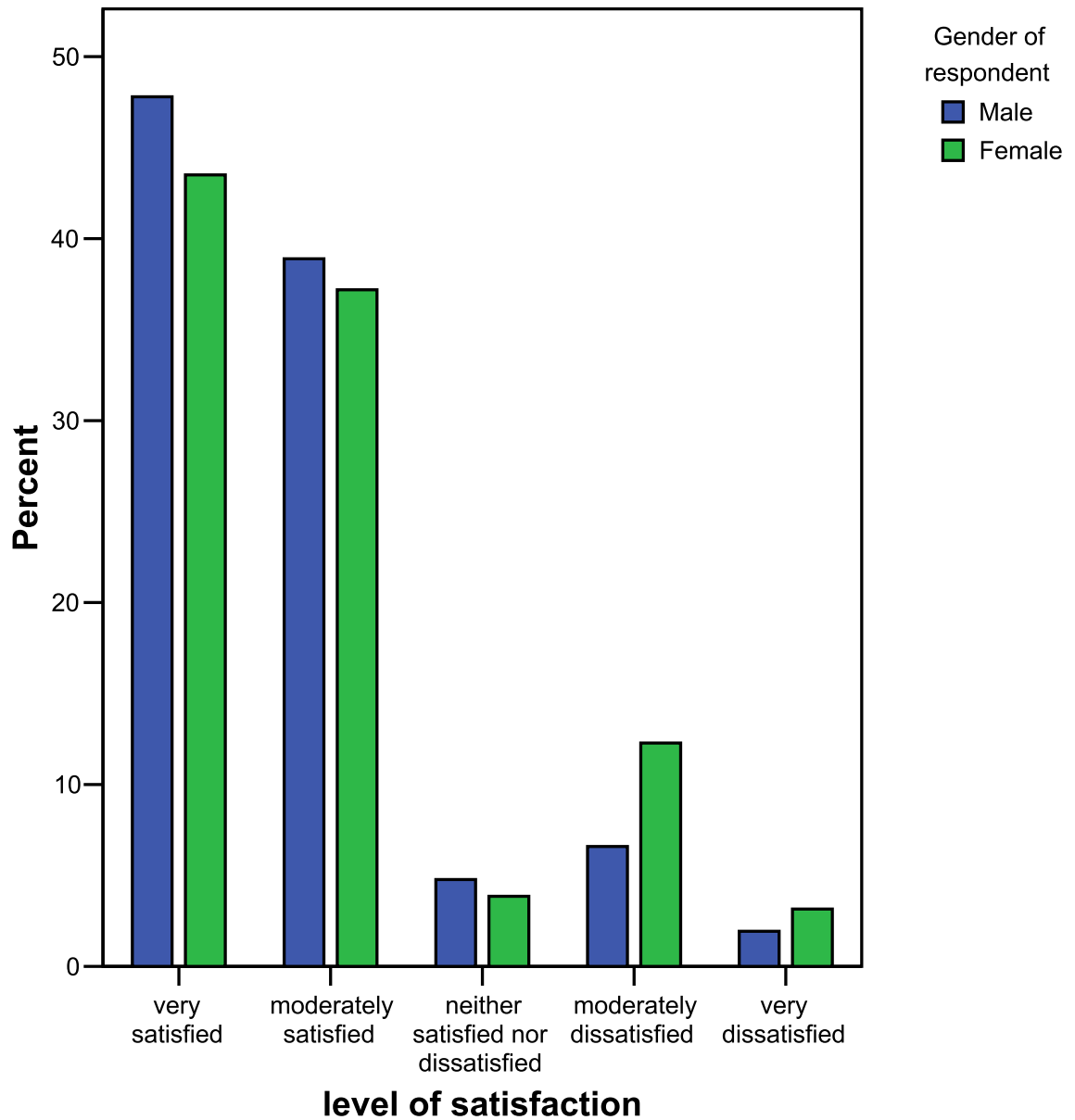
**Figure 2.35. Income by Hours Worked and Years in Current Position – Females**



## CURRENT SITUATION: SATISFACTION

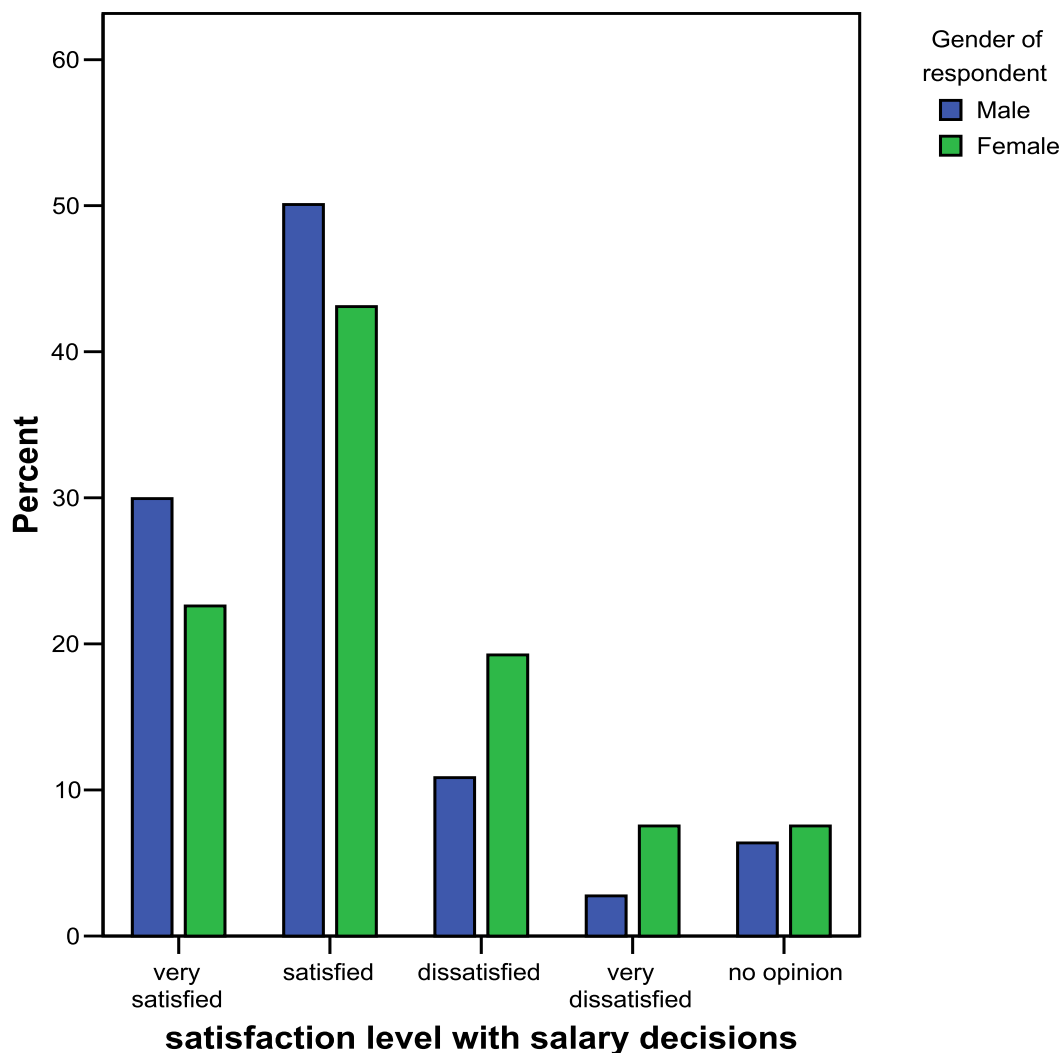
While most men and women express some level of satisfaction with their current job, men are significantly more satisfied than women. As shown in Figure 2.36, 87% of males and 80.7 % of females are at least moderately satisfied with their current job. Females are almost twice as likely as males to be dissatisfied.

**Figure 2.36 Level of Satisfaction by Gender of Respondent**



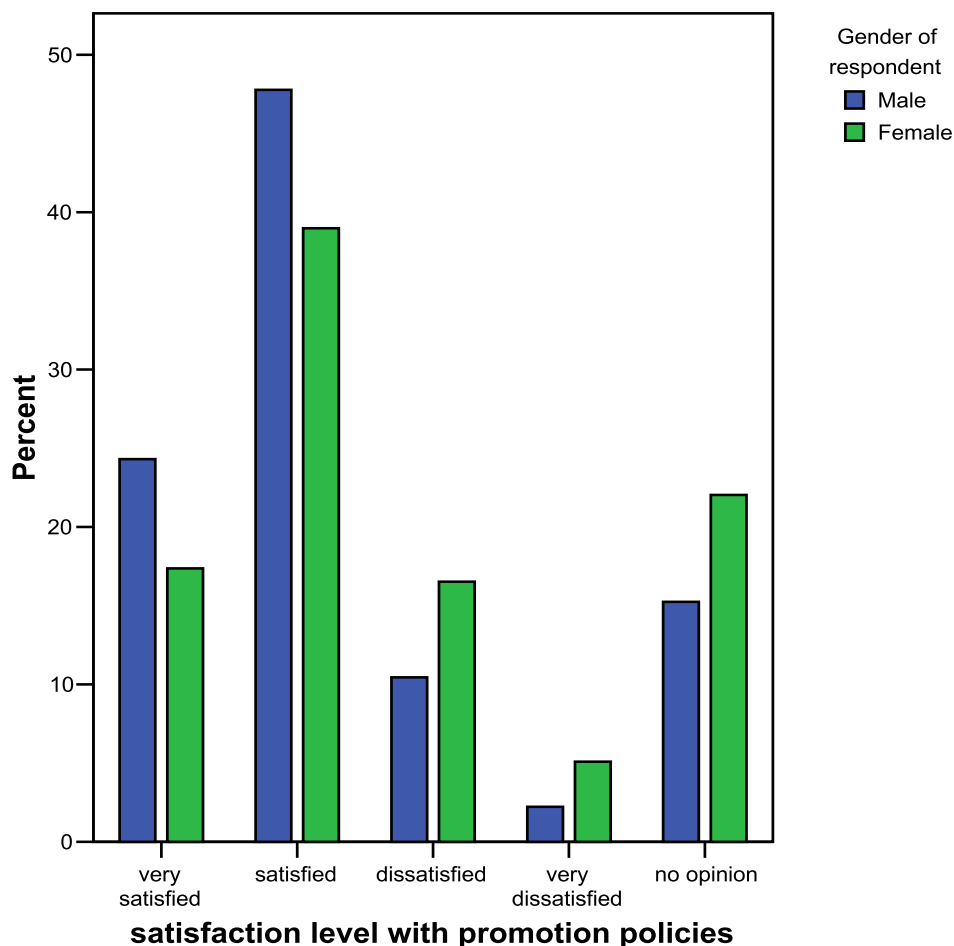
Perhaps the level of satisfaction reflects satisfaction with certain aspects of the position rather than the overall employment setting. In addition to rating satisfaction with their present position, respondents were also asked to rate specific aspects of their current situation. With respect to the salary decisions of their organization, males consistently expressed more satisfaction than women (See Figure 2.37.) While both males and female are generally satisfied with salary decisions, females are more likely to be dissatisfied with these decisions than males. The very dissatisfied group includes 8.0 % of women and only 2.7% of men. Remembering that males are generally receiving higher incomes, this may not be surprising.

**Figure 2.37. Satisfaction with Salary Decisions by Gender**



The pattern of satisfaction continues when examining satisfaction with promotion policies. Again, while the majority of males and females are satisfied with these policies, men are consistently more satisfied than women. Women express greater dissatisfaction with promotion policies than men. Among the women, 22.8% express dissatisfaction versus 12.6% of the men, and 5.0% of the women are “very dissatisfied” compared with 2.2% of the men. See Figure 2.38.

**Figure 2.38. Satisfaction with Promotion Policies by Gender**





Further analysis of overall satisfaction.

This section provides further analysis of the overall measure of satisfaction. When we examine the influence of income and gender on overall satisfaction, we find that for males satisfaction generally increases with income, i.e. satisfaction is high among those in the higher income groups and low among those in the low income groups. Female respondents do not show a clear pattern. Women in the lowest income groups, still express that they are very or moderately satisfied. Income does not seem to be a factor among women expressing dissatisfaction, yet a peak of dissatisfaction for those earning \$300,000 to 349,000 merits further examination.

**Figure 2.39. Satisfaction by Income by Gender -- Males**

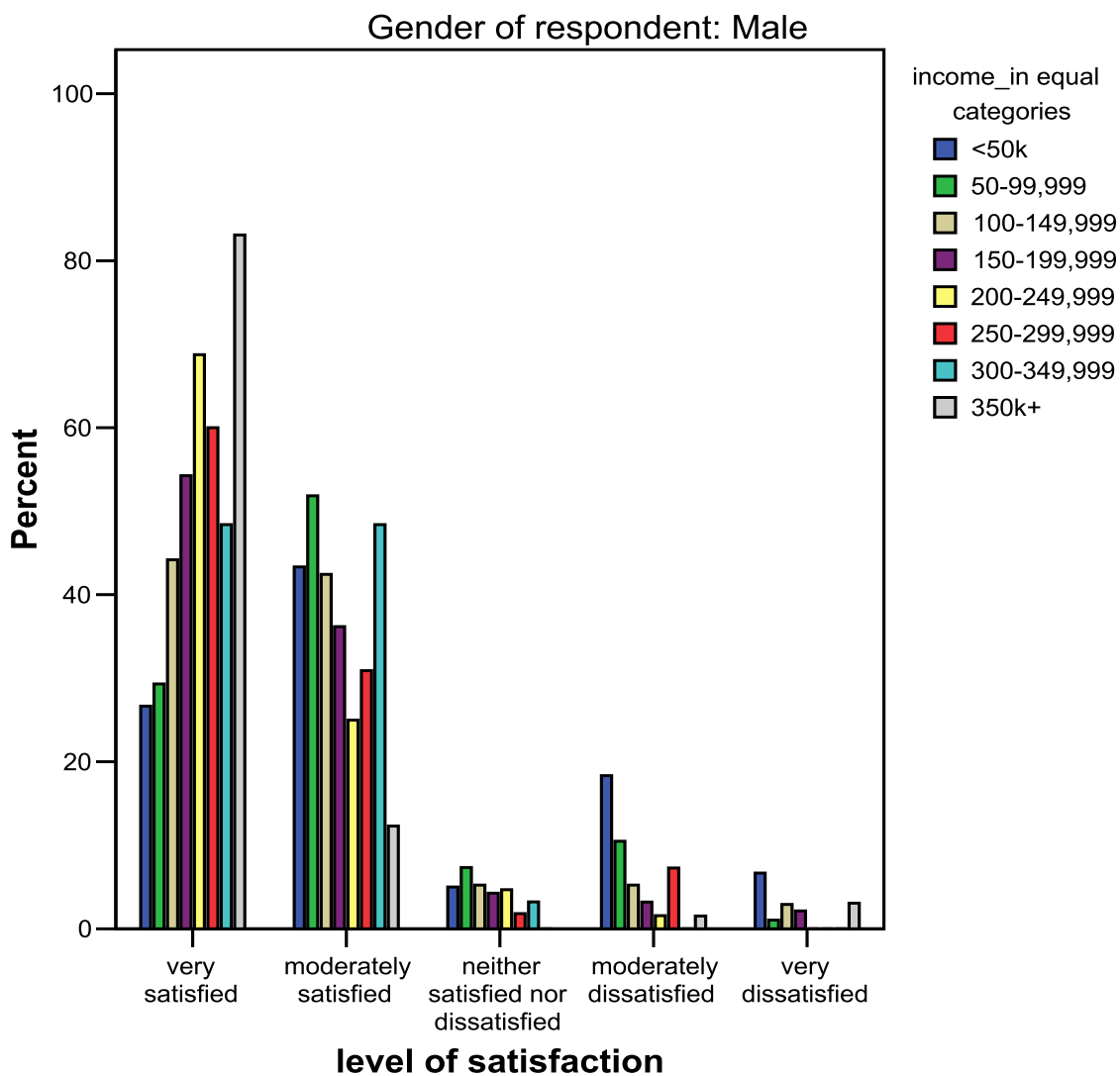
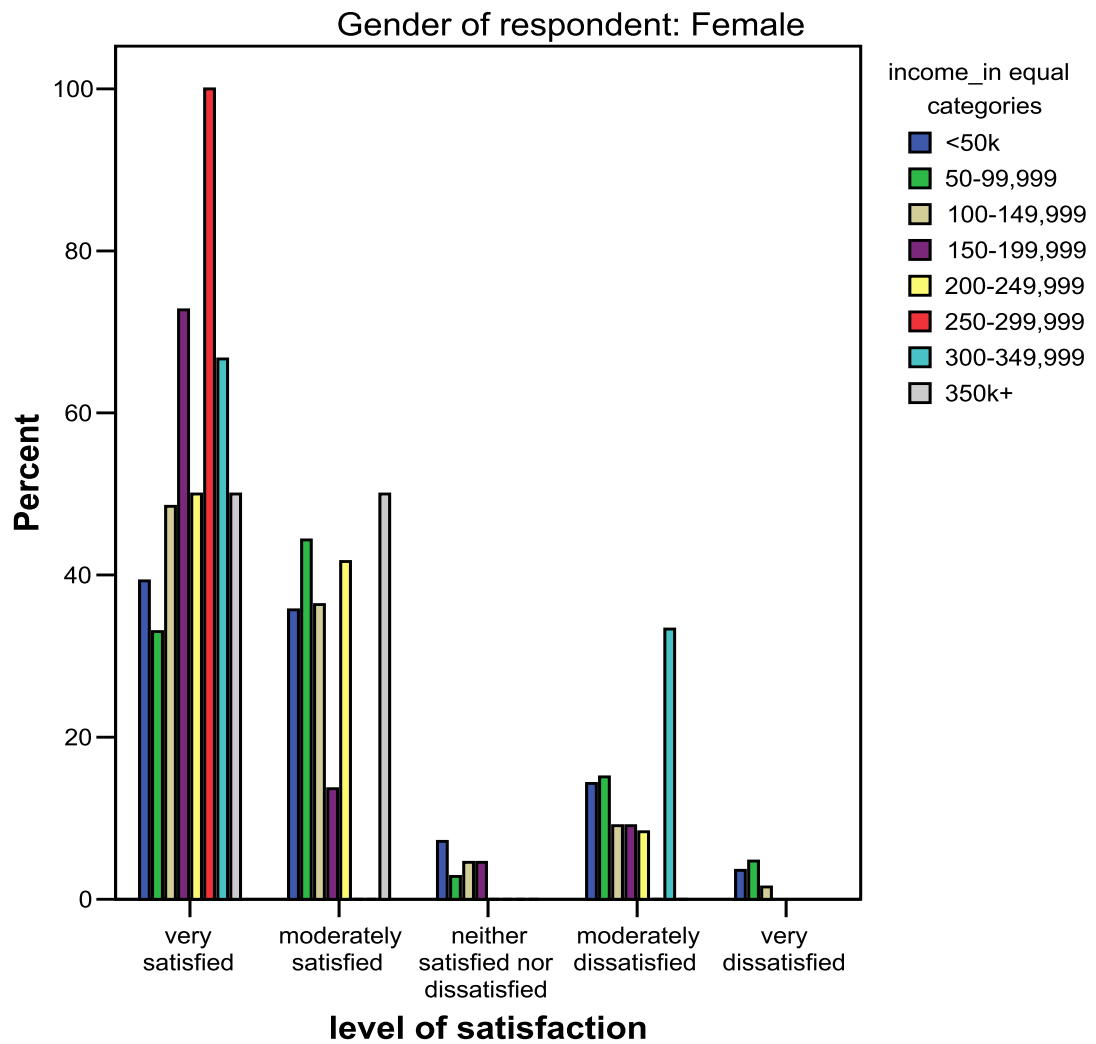


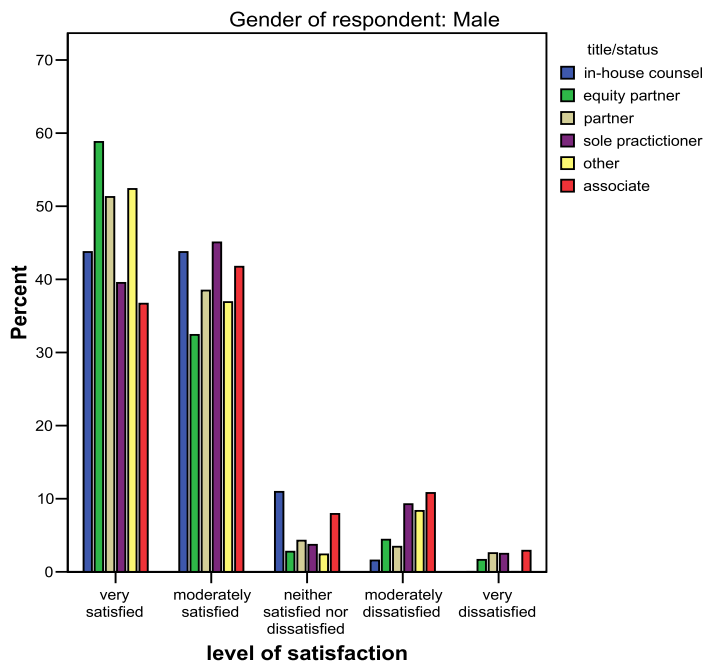
Figure 2.40. Satisfaction by Income by Gender -- Females



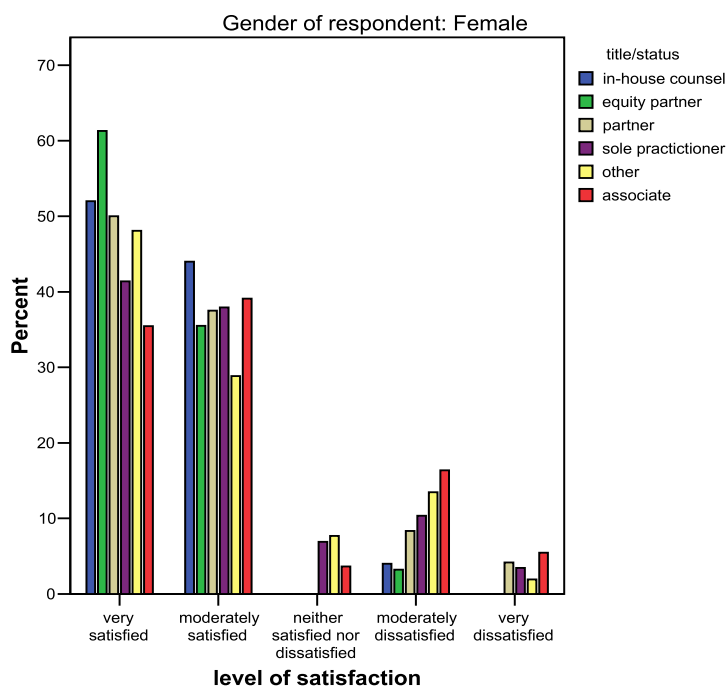
Satisfaction by Title by Gender

Title/status seems to have little influence on overall satisfaction, especially for the males. Among females, those in associate and sole practitioner positions tend to be more likely to be dissatisfied than others.

**Figure 2.41. Satisfaction by Title by Gender -- Males**



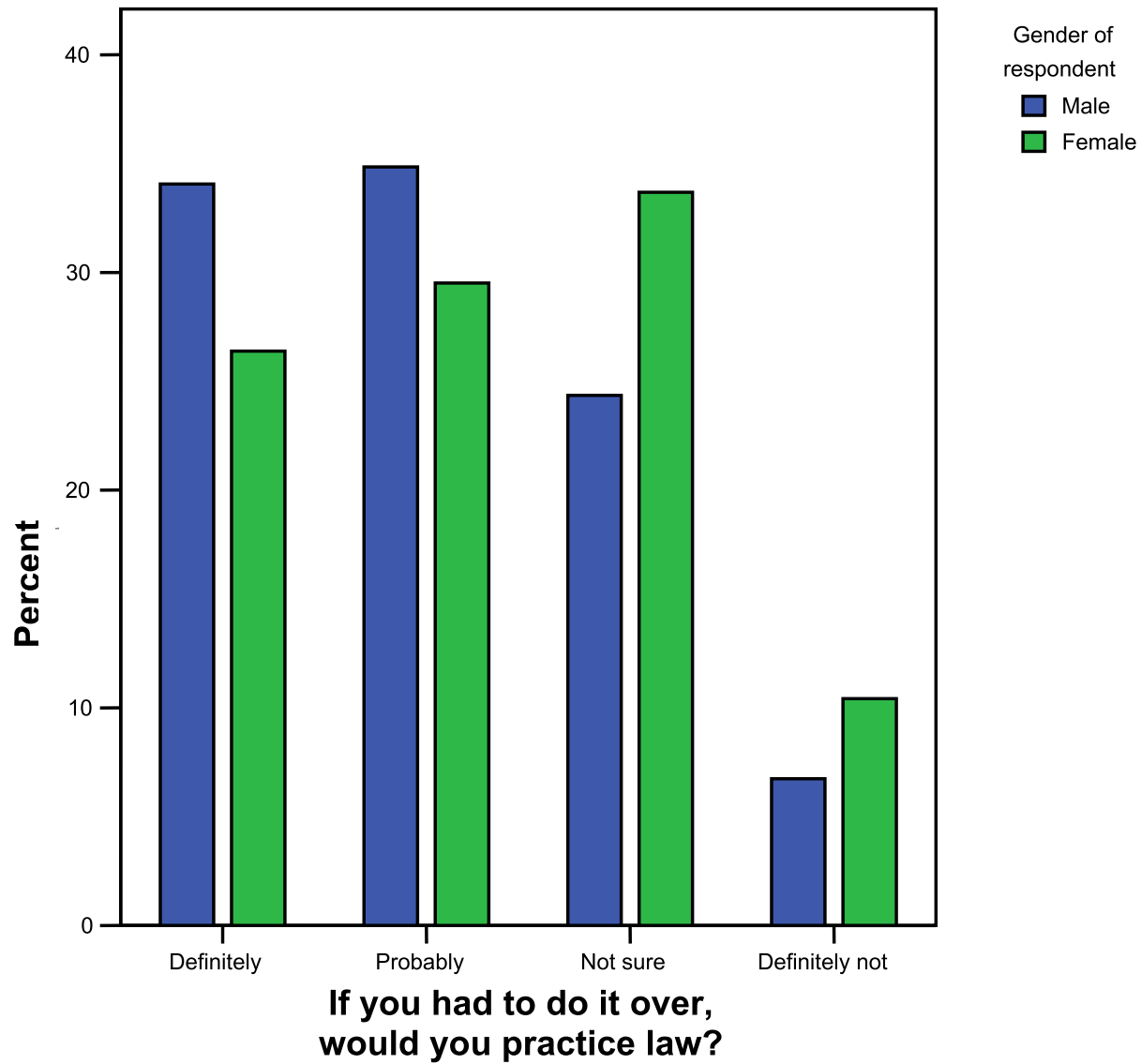
**Figure 2.42. Satisfaction by Title by Gender -- Females**



“If you had to do it over, would you practice law?”

As shown in Figure 2.43, 70% of men would definitely or probably practice law again, versus only 54.7% of the women. See Table 2.43.

**Figure 2.43. Practice Law Again by Gender**



### Practice Again by Income by Gender

The influence of income on the decision of whether an individual would choose to practice law again was examined with respect to gender. Not surprisingly, males earning less than \$50,000 are the most likely to state that they would “definitely not” choose law again, while males in the highest income category “definitely” would. (See Figure 2.44.) While this same pattern is found among female respondents, the percentage of women reporting that they would “definitely not” choose law again is greater than that for men. (See Figure 2.45 on next page.) The “not sure” category for women does not follow this pattern.

**Figure 2.44. “Do It Over” by Income by Gender -- Males**

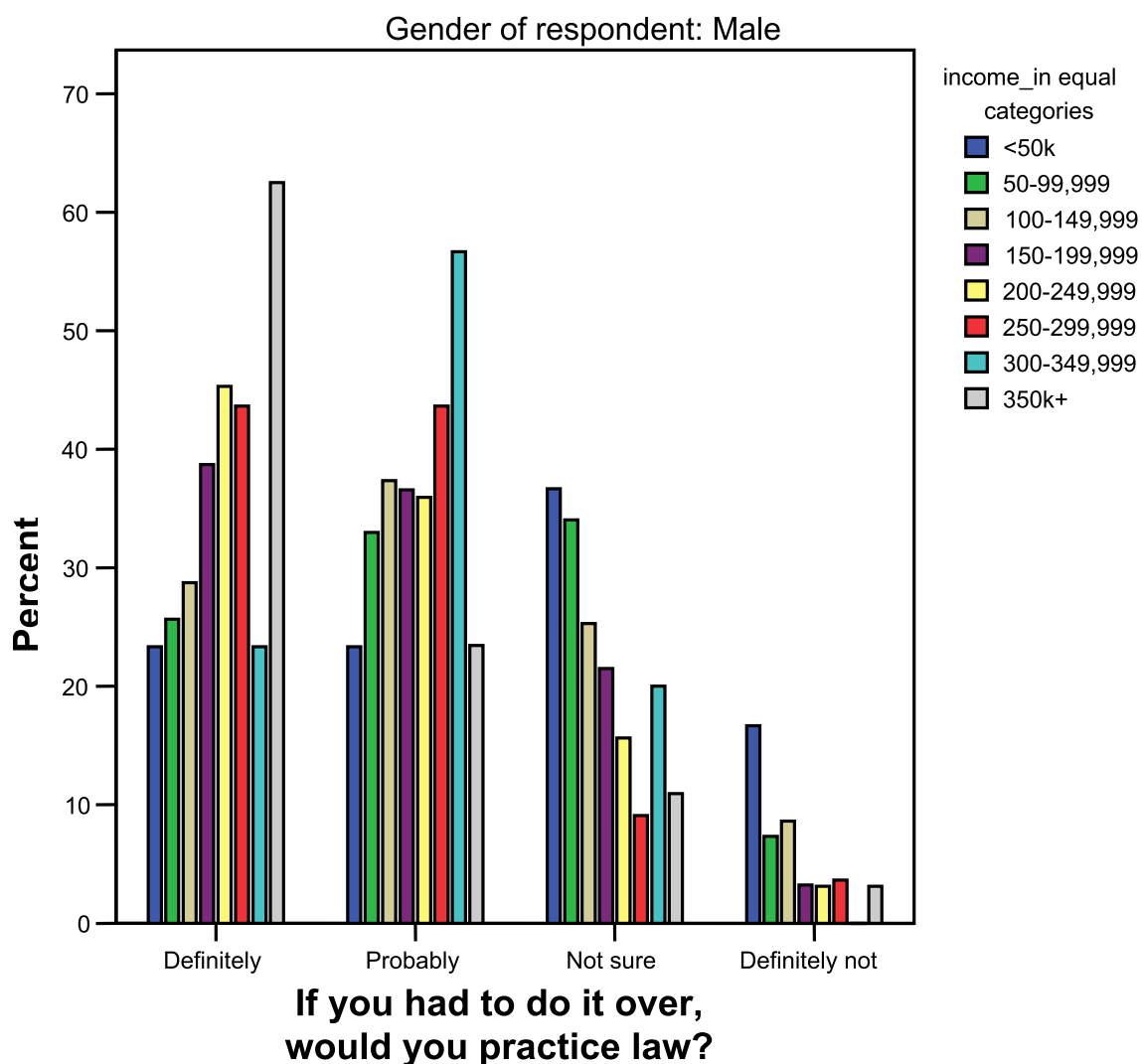
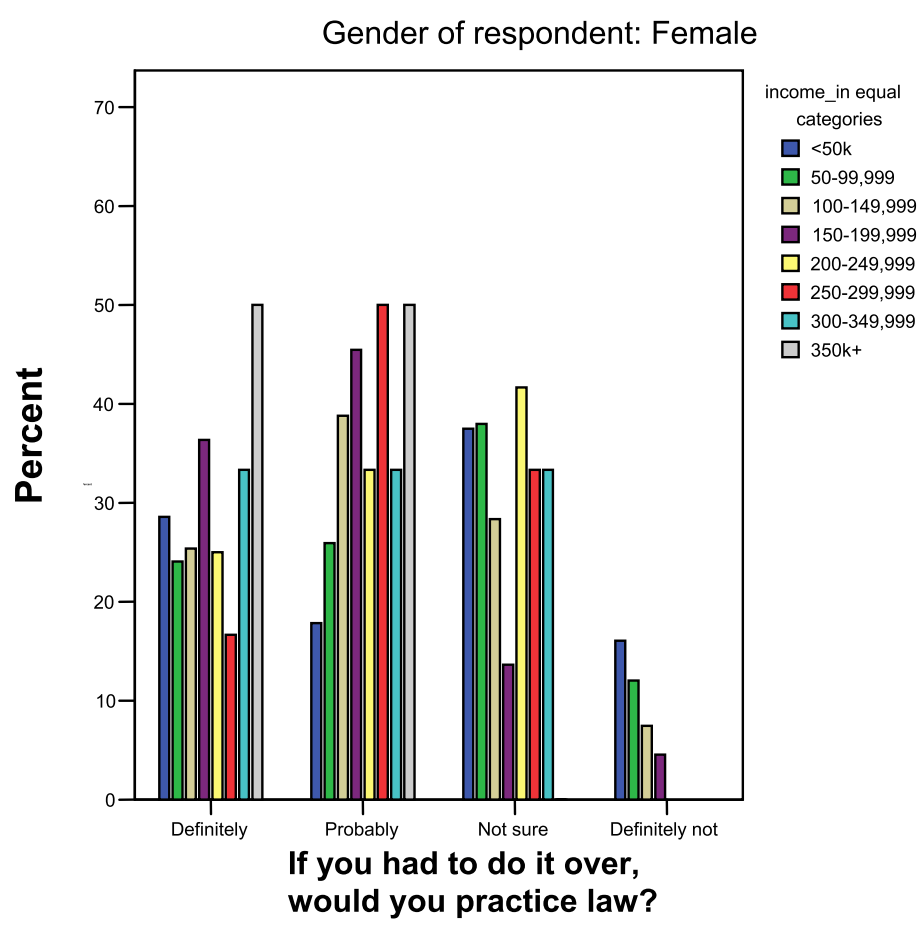


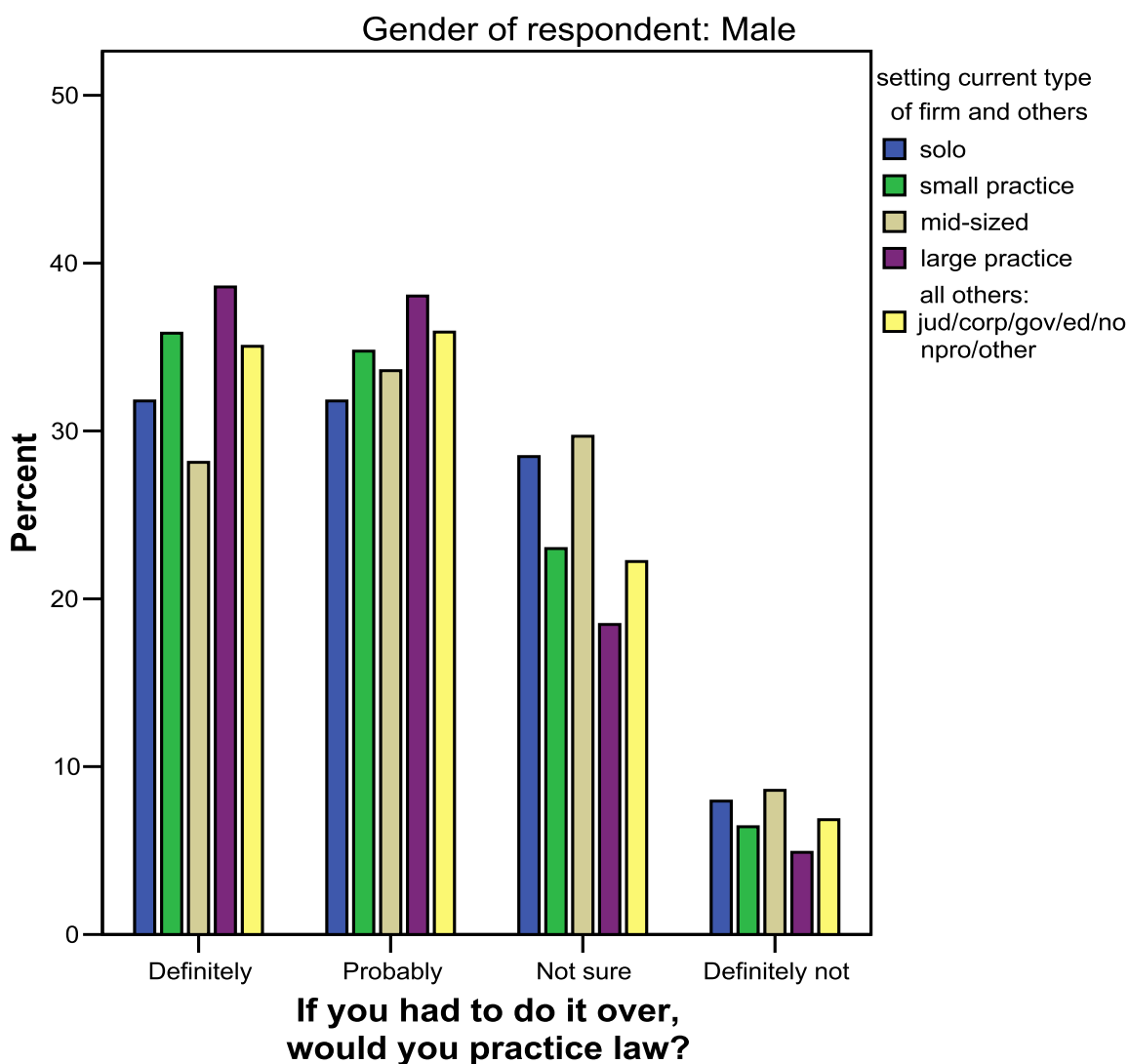
Figure 2.45. “Do it Over” by Income by Gender – Females



### Employment Setting and Satisfaction

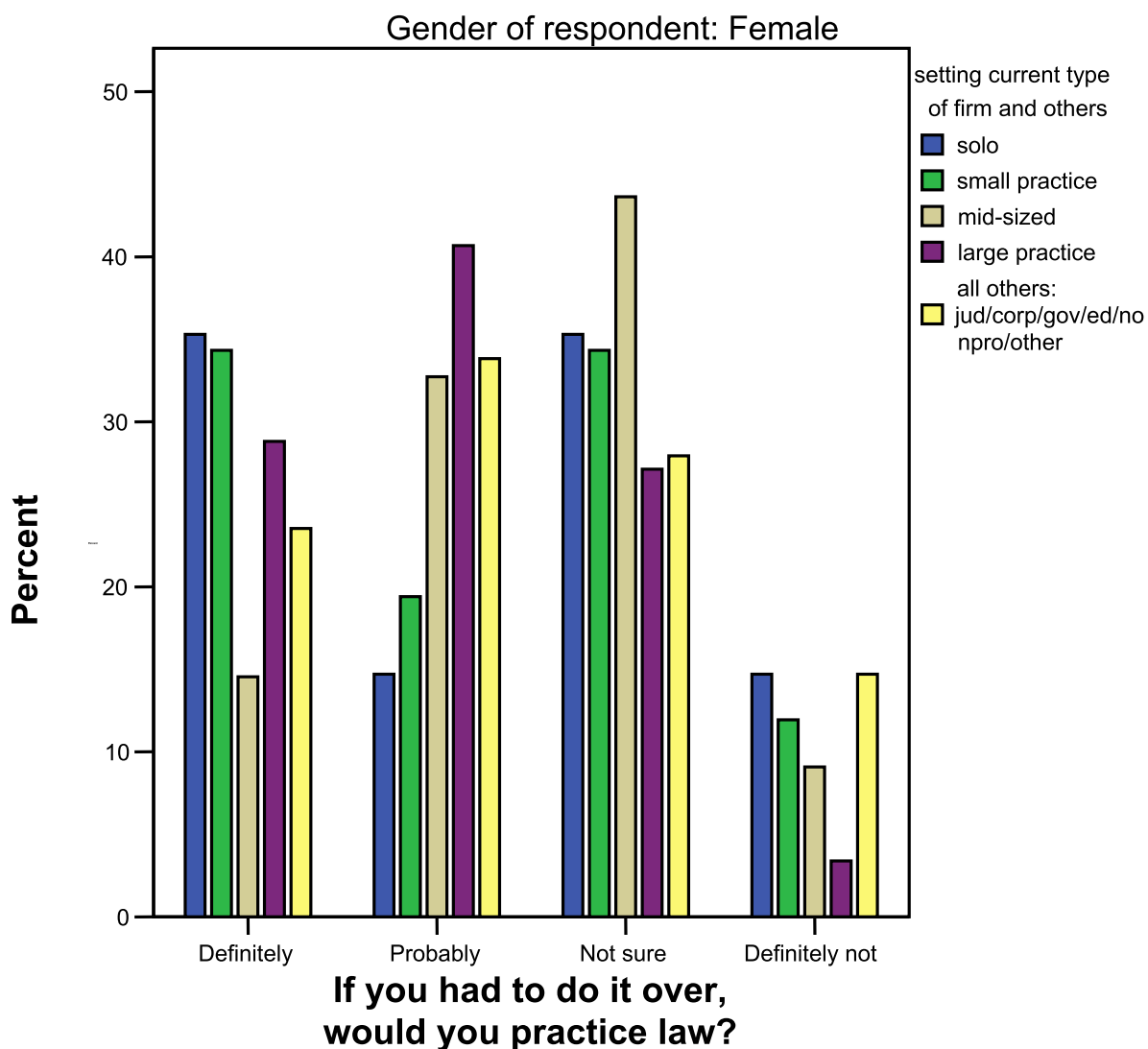
When current employment setting is examined, the relationship with choosing to practice again differed by gender. Across all employment settings, roughly equal percentages of men in each setting were equally likely to choose to practice again. For example, approximately 29-39% of male respondents in each employment setting chose the response “definitely” with those in the large practice (38.6%) the most likely to give this response (probably because of the tie-in with income). See Figures 2.46 and 2.47 for more specific information on the relationship between employment setting and choosing to practice law again.

**Figure 2.46. “Do It Over” by Employment Setting by Gender -- Males**



Women's responses varied more than men's with "definitely" being chosen as a response by 35.3% of the women in solo practice but only 14.5% of the women in mid-sized practices. Surprisingly, large percentages of women in small firms and other (non firm employment) would definitely not choose law again. See Figure 2.47 below for more specific information on the relationship between employment setting and choosing to practice law again.

**Figure 2.47. "Do It Over" by Employment Setting by Gender -- Females**

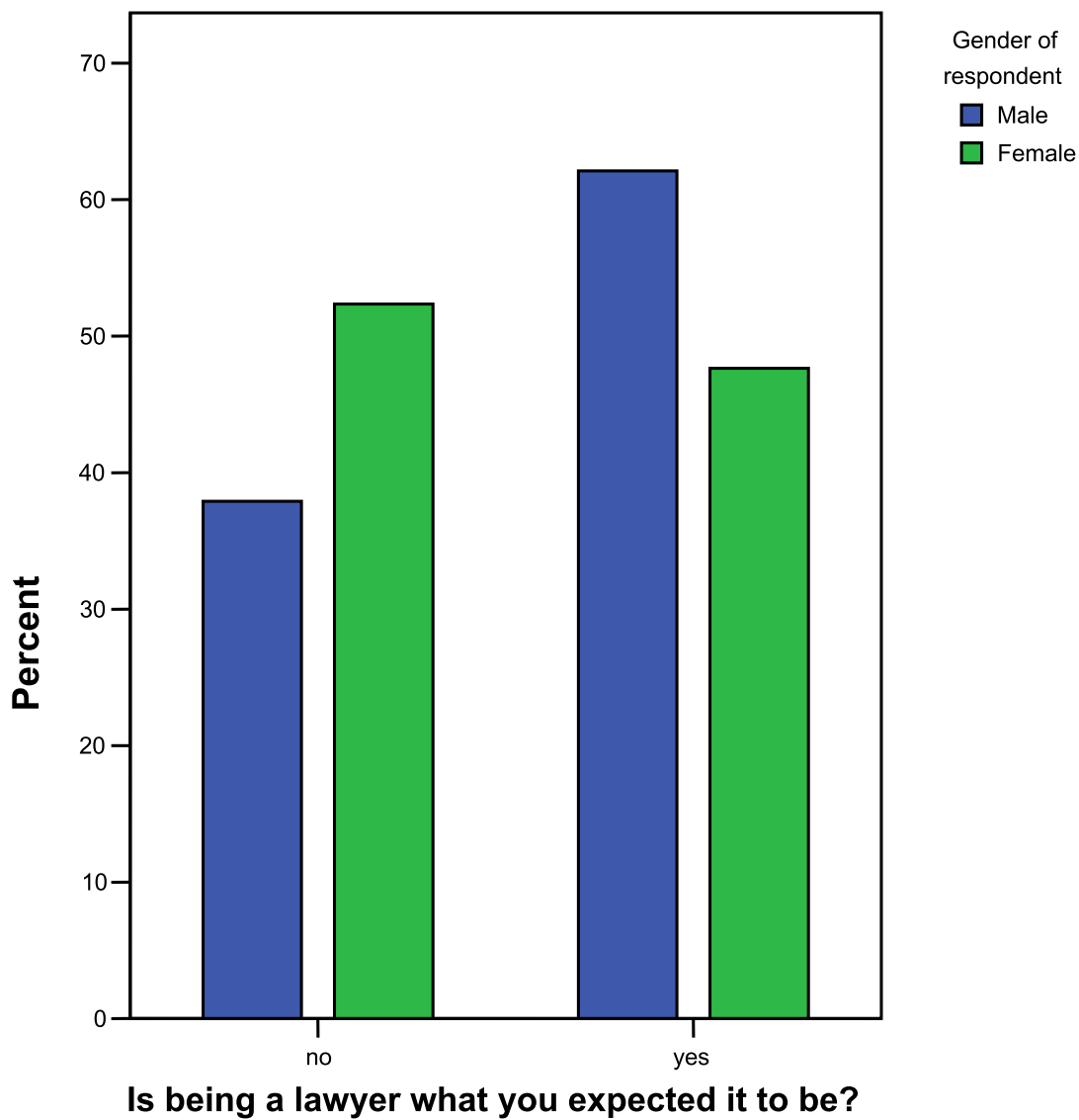




### Expectations

Women were much less likely than men to find being a lawyer what they had expected. Over 60% of men but only 47.6% of women said that being a lawyer was what they had expected.

**Figure 2.48. “Is being a lawyer what you expected it to be?”**



### Expectations and Choosing Law Again

When we examine the relationship between choosing to practice law again and whether an individual's expectations are being met, we see that both men and women are more likely to choose law again if their expectations have been/are being met. Fifty percent of the male respondents chose the category "definitely" when asked if they would choose to practice law all over again if being a lawyer was what they had expected. Only 43.3% of the women gave that same response. Men and women were much more similar on their response of "probably" when being a lawyer was what they had expected with about 37% of each gender choosing that response. A strong relationship exists for both men and women between choosing law again and having their expectations of a career in law met.

**Figure 2.49. "Do It Over" by "What You Expected" by Gender -- Males**

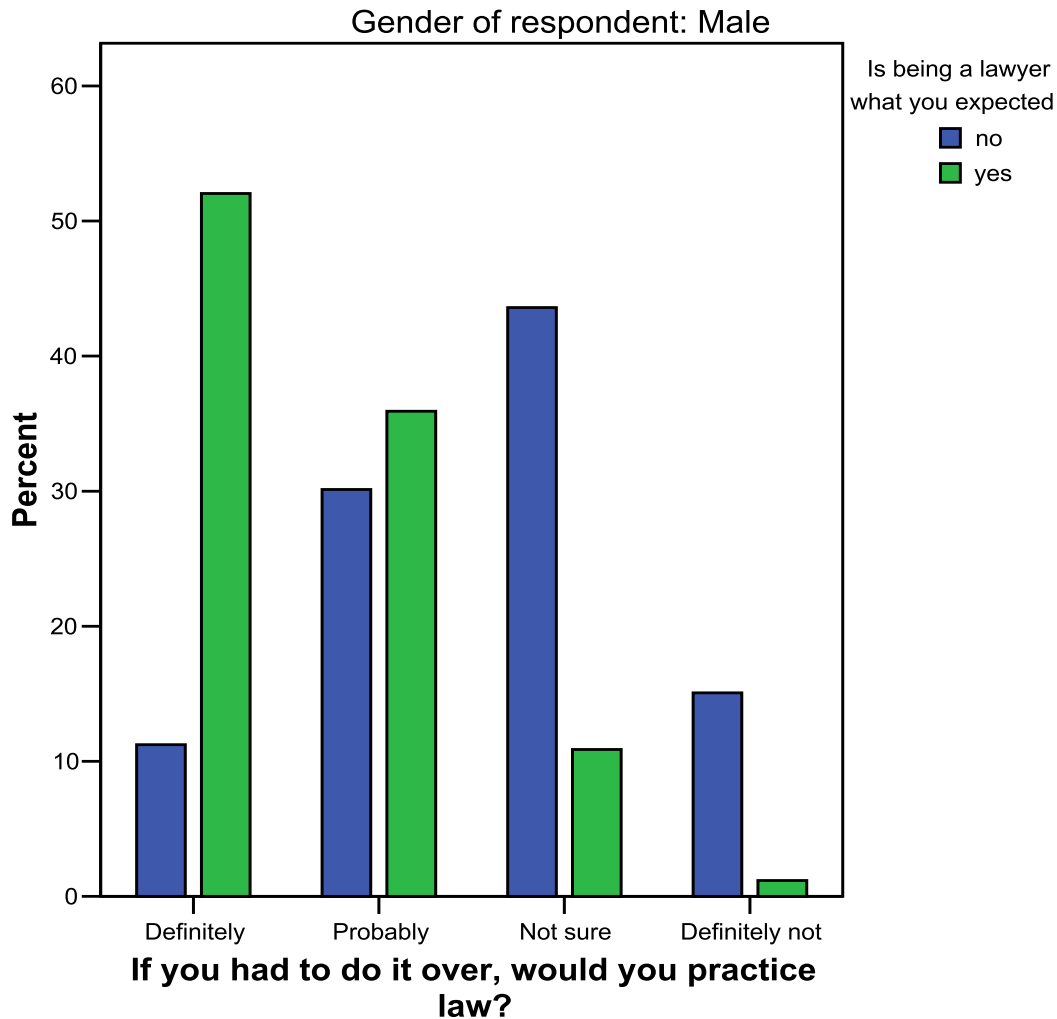
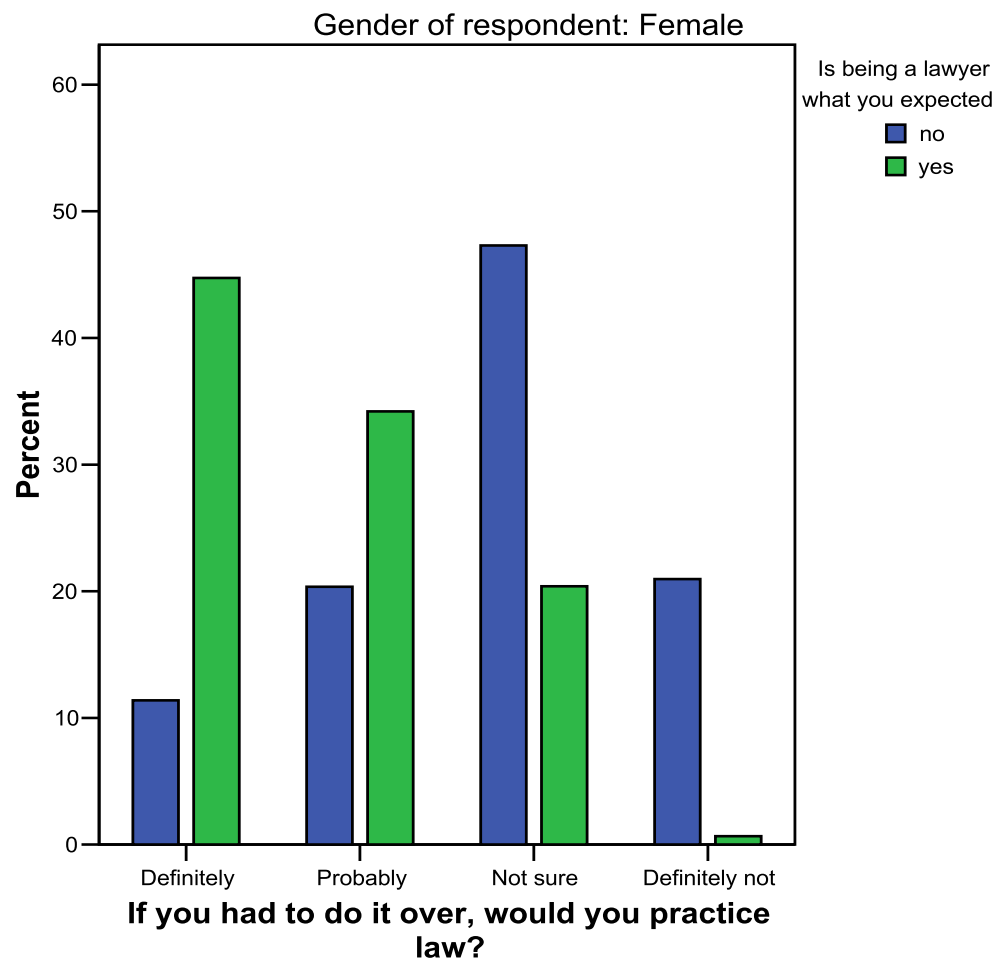


Figure 2.50. "Do It Over" by "What You Expected" by Gender -- Females

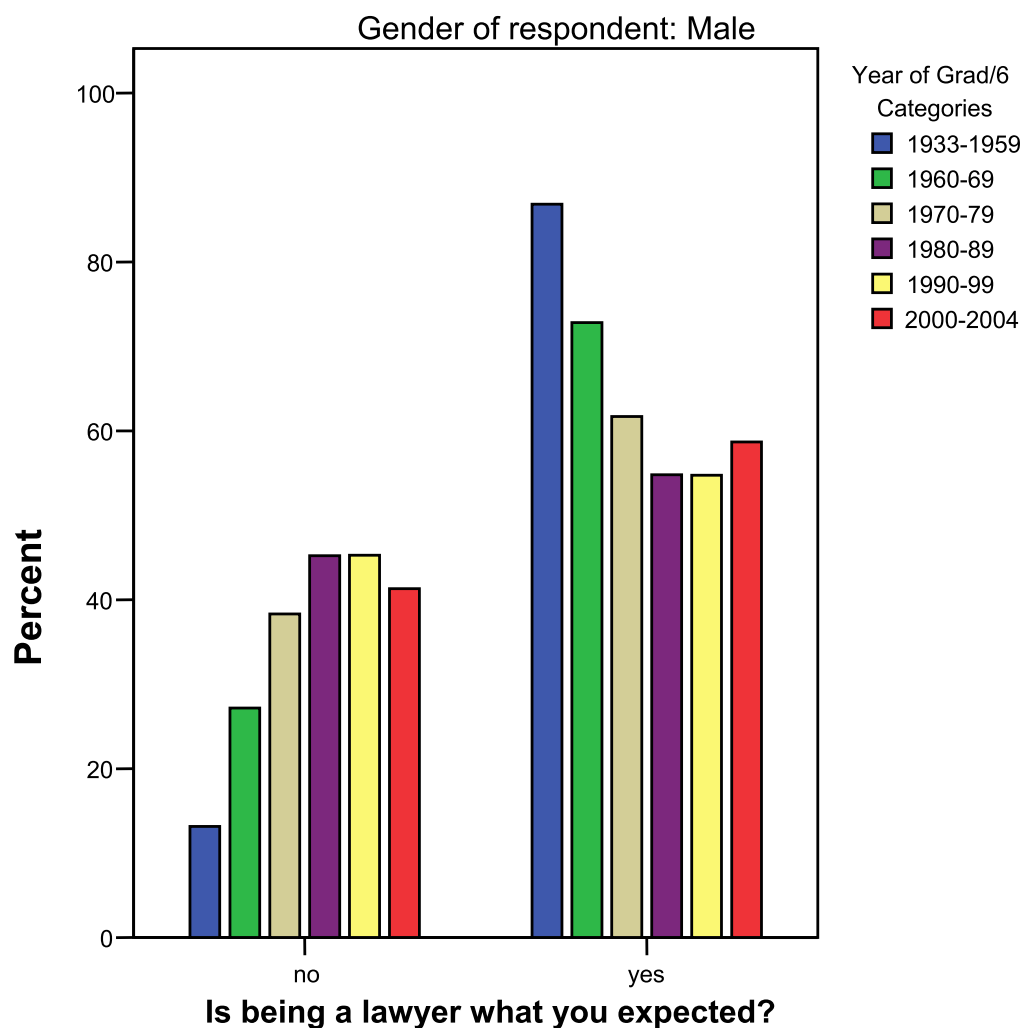


### Expectations and Year of Graduation

We wondered whether having correct expectations of what being a lawyer would be like had changed over the years. Were lawyers in the past more likely to know someone who was a lawyer and to replicate that person's career? Had the growth of big firms changed the practice of law? Had the impact of advertising made this a different career? To find out whether recent graduates were less likely to find what they expected, we looked at whether expectations were met by the year of graduation.

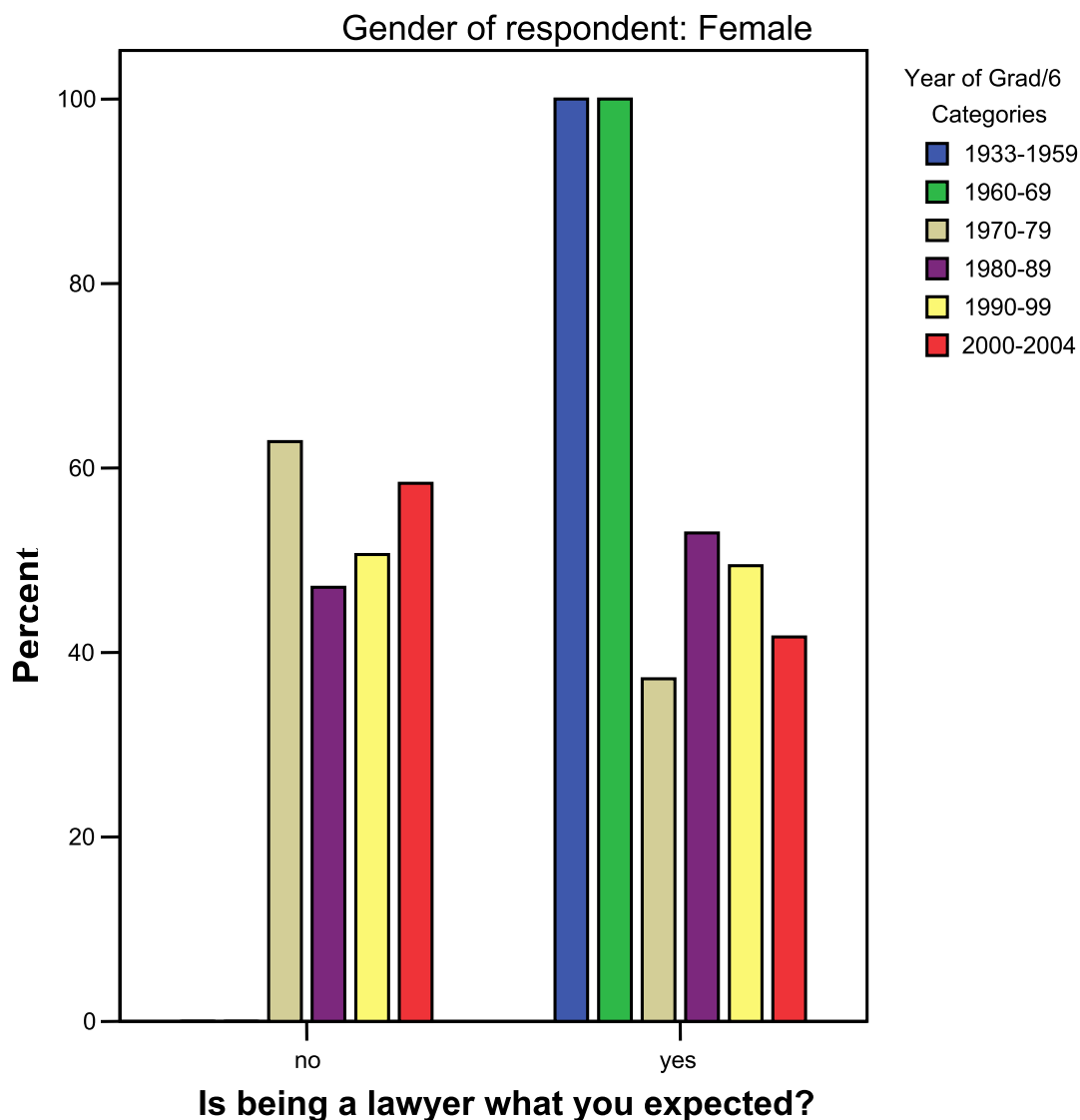
To address these questions we examined the influence of year of graduation on the answers to "Is being a lawyer what you expected?" In looking at the answers by gender, we find some distinct differences, both within and between genders. Generally men and women who graduated before 1970 were more likely to have their expectations met than were later graduates. For men, about 57% of the graduates from 1970 on said that being a lawyer was what they had expected. Graduates before 1970 were more likely (80%) to say being a lawyer was what they had expected.

**Figure 2.51. What was expected by Graduation Year by Gender – Males**



Women were not as likely to say being a lawyer was what they had expected as were men in all years except for women who graduated before 1970. (Note: there are only two women in this analysis who graduated before 1970, and their expectations were met.) The highest percentage of women who graduated after 1970 who said their expectations were met graduated in the 1980's where 51.7% said yes. The highest percentage of women was still lower than the lowest percentage of men. Not surprisingly, the lowest percentage of women who said being a lawyer was what they expected came from the graduates of the 1970's who were, at the beginning of the 1970's, making up only 10% of the law school classes and were a very visible minority (American Bar Association).

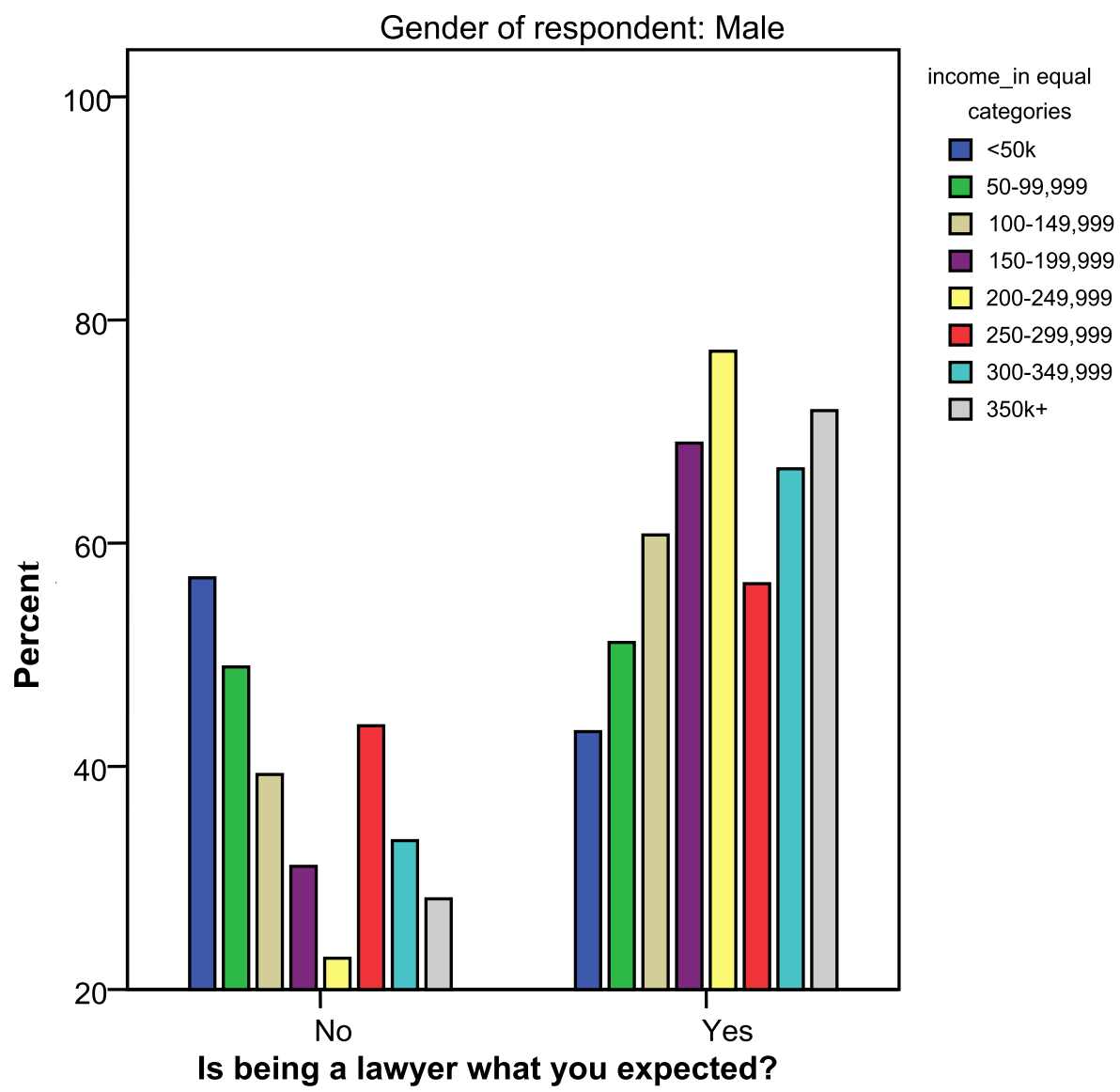
**Figure 2.52. What was expected by Graduation Year by Gender – Females**

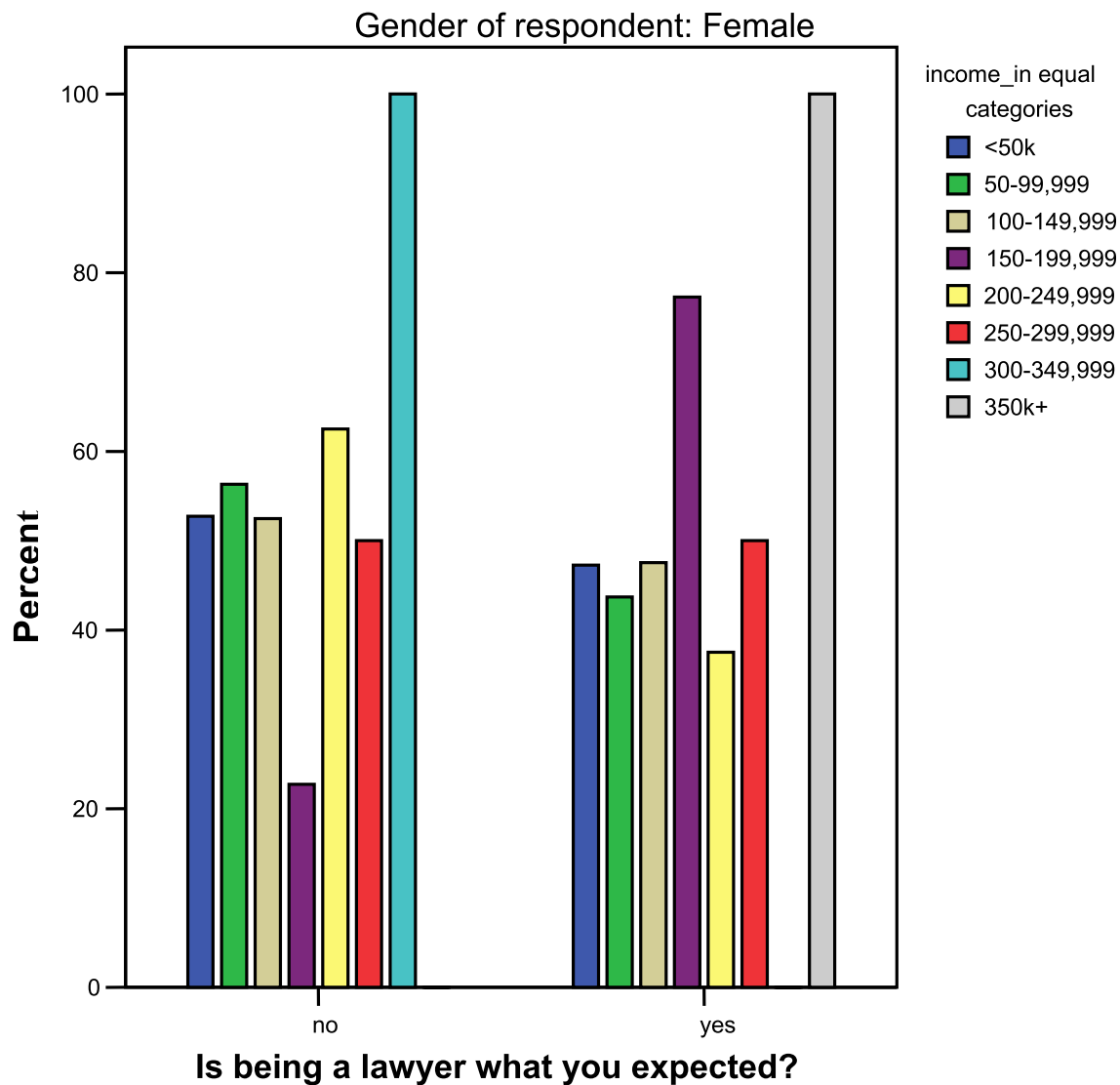


Expectations and Income.

When we look at the influence of income on the answer to the question of whether being a lawyer is what you expected, we see that it is not as important for women as for men.

**Figure 2.53. Expectations by Income by Gender -- Males**



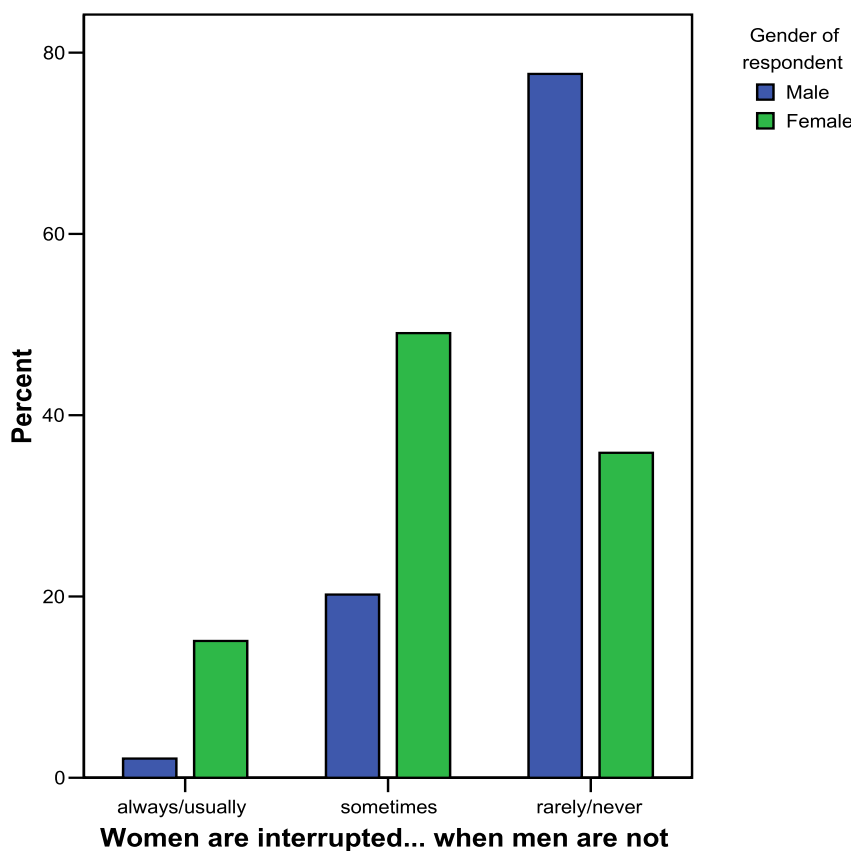
**Figure 2.54. Expectations by Income by Gender -- Females**

### SECTION 3: PERCEPTIONS AND ATTITUDES

The survey contained a series of questions concerning experiences and observations of discrimination and differential treatment of individuals and groups of individuals in the work place. For example, situations included being interrupted when speaking, being subjected to sexual advances, and being assigned less important cases. The questions focused on women, men, minority attorneys and younger attorneys. Respondents were asked to rate how often they had observed different situations or behaviors on a scale from “always,” “usually,” “sometimes,” “rarely,” “never” and “no opinion.” (Note: Responses of “no opinion” are not included in this analysis. Since the “no opinion” response may be interpreted as the absence of any difference/problem, we have included the number of responses for each question in order for the reader to see the frequency of the “no opinion” response.)

In terms of perceptions of discrimination, women were significantly more likely than men to report discrimination for all of the questions involving women and the majority of questions involving minorities and younger lawyers. Some examples of the differences are shown in the following figures.

**Figure 3.1. “Women are interrupted or cut off while speaking when men are not” by Gender**



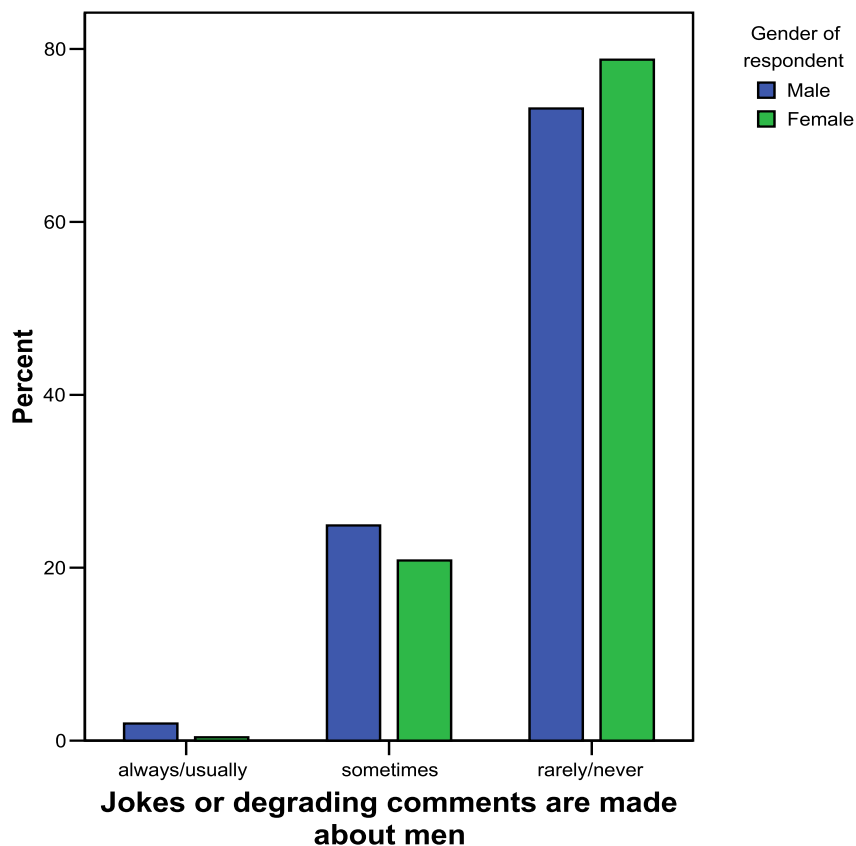


In Figure 3.1, we see that women are more likely (15.1%) than men (2.3%) to choose “always” or “usually” as a response for whether women are interrupted or cut off while men are not. Similarly, only 34.6% of the women choose “rarely” or “never” as a response while men choose this response 76.7% of the time. Of the 1198 responses to this question, 140 (11.7%) chose the “no opinion” category. Seven hundred forty six men answered this question while three hundred twelve women answered in one of the categories other than “no opinion.”

### Treatment of Men

No significant difference with respect to gender was found on the question concerning men being interrupted when speaking, men being referred to in a sexual/suggestive manner, or men being subjected to sexual advances. As shown in Figure 3.2, men were more likely than women to report that jokes or degrading comments are made about men. Of the 1109 responses to this question other than “no opinion,” 803 men, and 306 women responded. Women and men were equally likely to report jokes based on age, race, and sexual orientation.

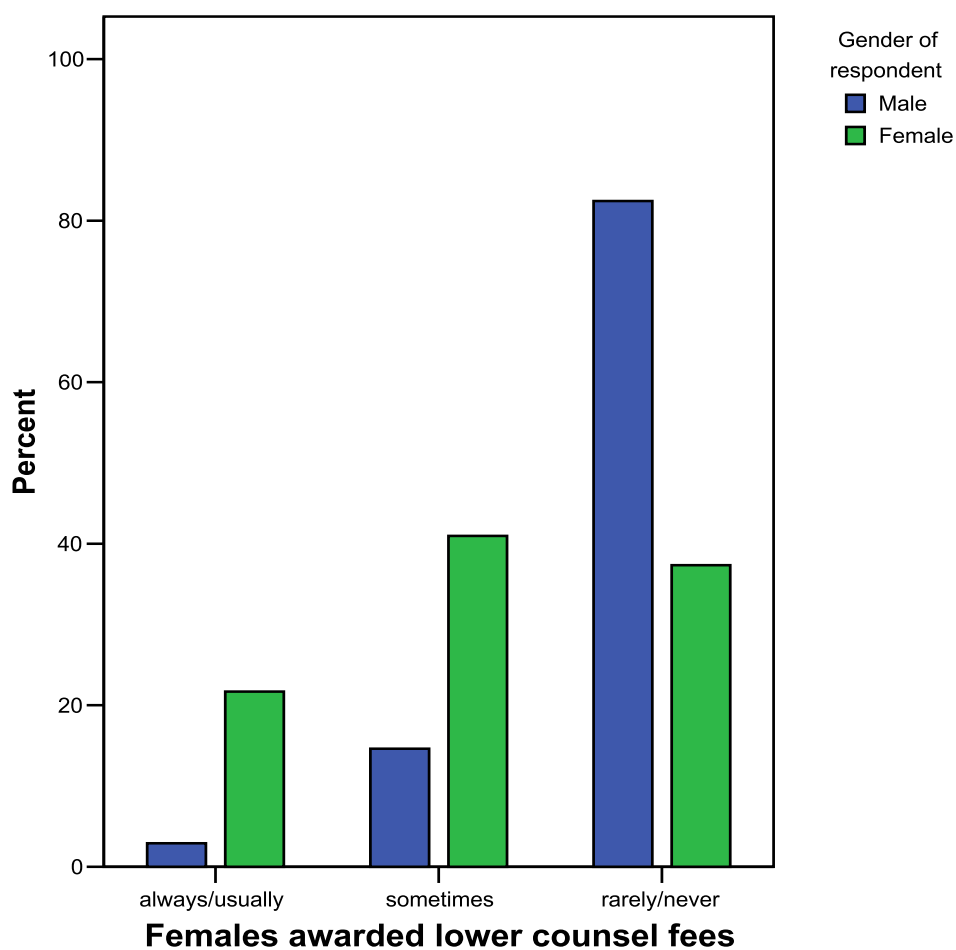
**Figure 3.2. “Jokes or degrading comments are made about men” by Gender**



### Female Counsel Fees

Men and women show surprisingly different responses on the question of whether female attorneys are awarded lower counsel fees. Women are much more likely to feel that this is the case always (21.7%) or at least sometimes (41%) than are men. Over 80% (82.4%) of men say that this rarely or never happens. Obviously this is a sensitive topic for women and not for men. It should be kept in mind that only 344 respondents (245 males and 99 females) answered this question in any category other than “no opinion.”

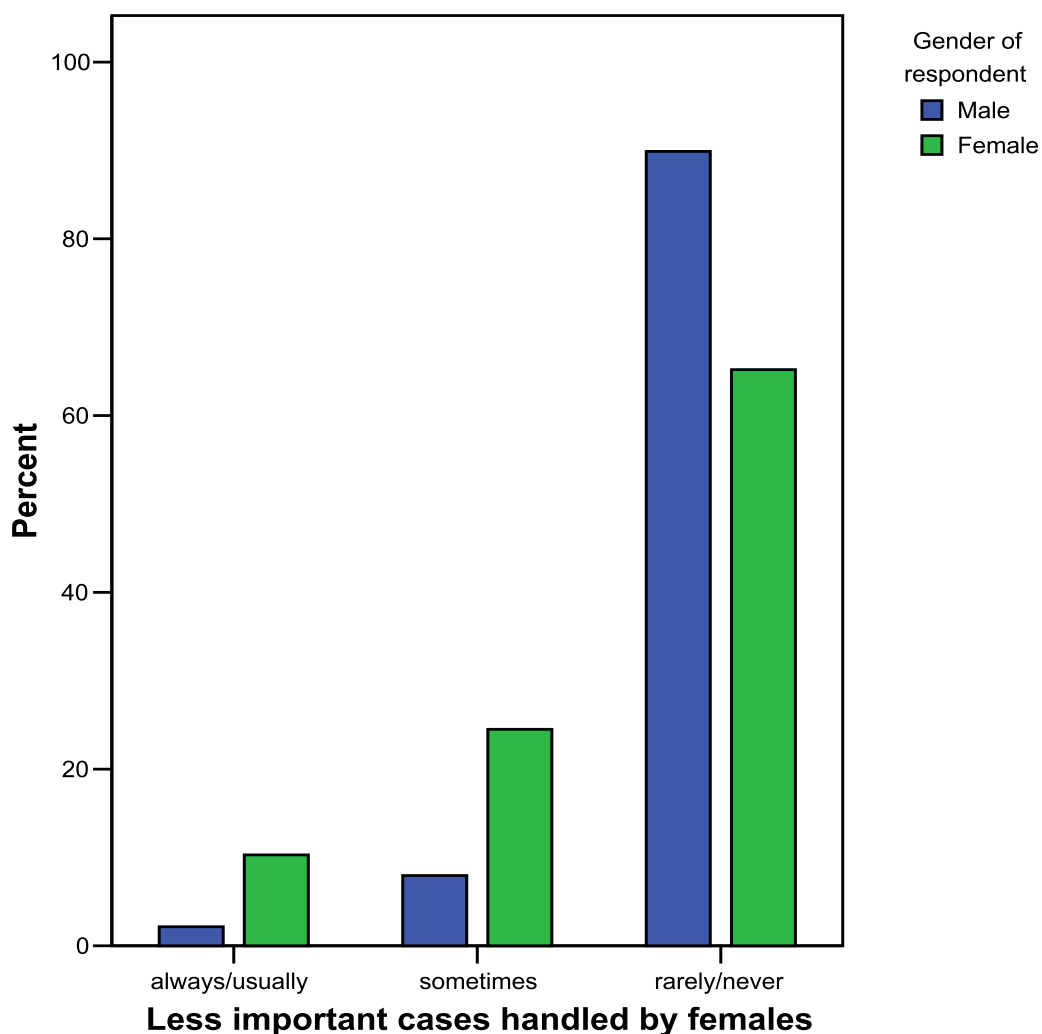
**Figure 3.3. Female Attorneys awarded Lower Counsel Fees**



### Assignment to Cases

Here we do not find gender differences as glaring as in the previous question. While close to 90% of males say that this rarely or never happens, 60% of females also say this. Women are more than twice as likely as men to choose the category “always/often” and “sometimes.” More than twice as many respondents answered this question with a category other than “no opinion” than did so in the previous question. Of these, 517 were men and 234 were women.

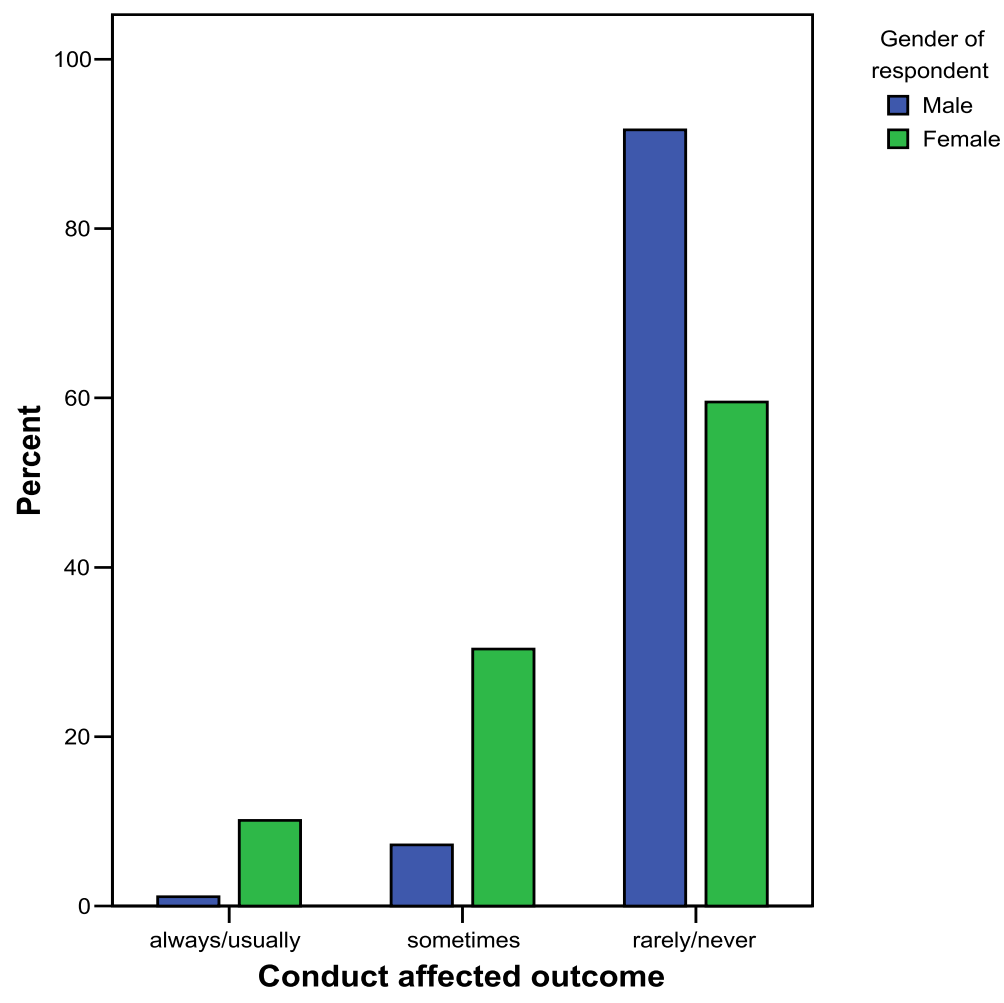
**Figure 3.4. In your firm, less important cases are handled by female attorneys.**



Discrimination affecting Professional Development and Outcome

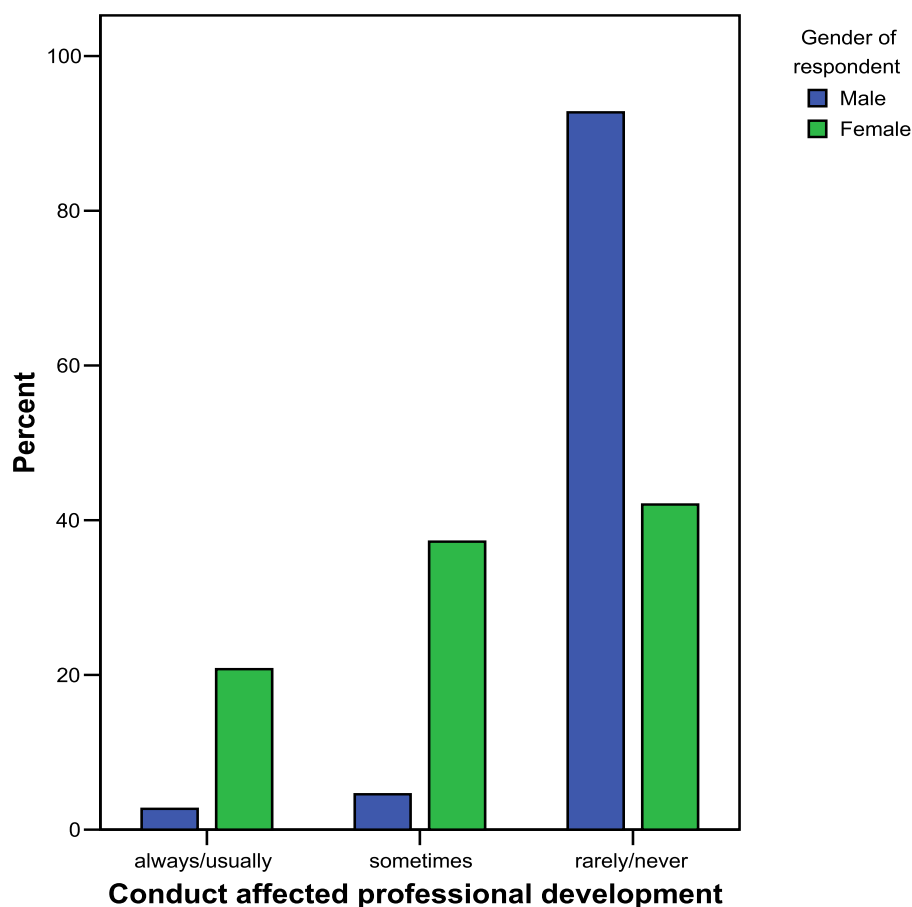
Although the majority of men and women felt that discriminatory conduct rarely or never affected the outcome of cases or transactions, nearly 40% of women felt that it did or sometimes did while less than 10% of the men felt this way. Seven hundred and twenty six people gave an answer in one of the categories below. Of these, 524 were male, and 202 were females.

**Figure 3.5. “Conduct Affected Outcome” by Gender**



In terms of professional development, the gender differences are much larger. While over 90% of the men felt that discriminatory conduct had not affected their professional development, 20% of the women felt that it always or usually did and nearly another 40 % felt that it sometimes did. Again we see a very different worldview by men and women. Close to two thirds of the sample gave a response other than “no opinion” on this question, with 554 men and 225 women choosing one of the categories shown. With so many respondents expressing an opinion on this question, this seems an area of interest for further research. Further analysis is necessary to explore the circumstances under which female respondents are most likely to have experienced this consequence of discriminatory conduct.

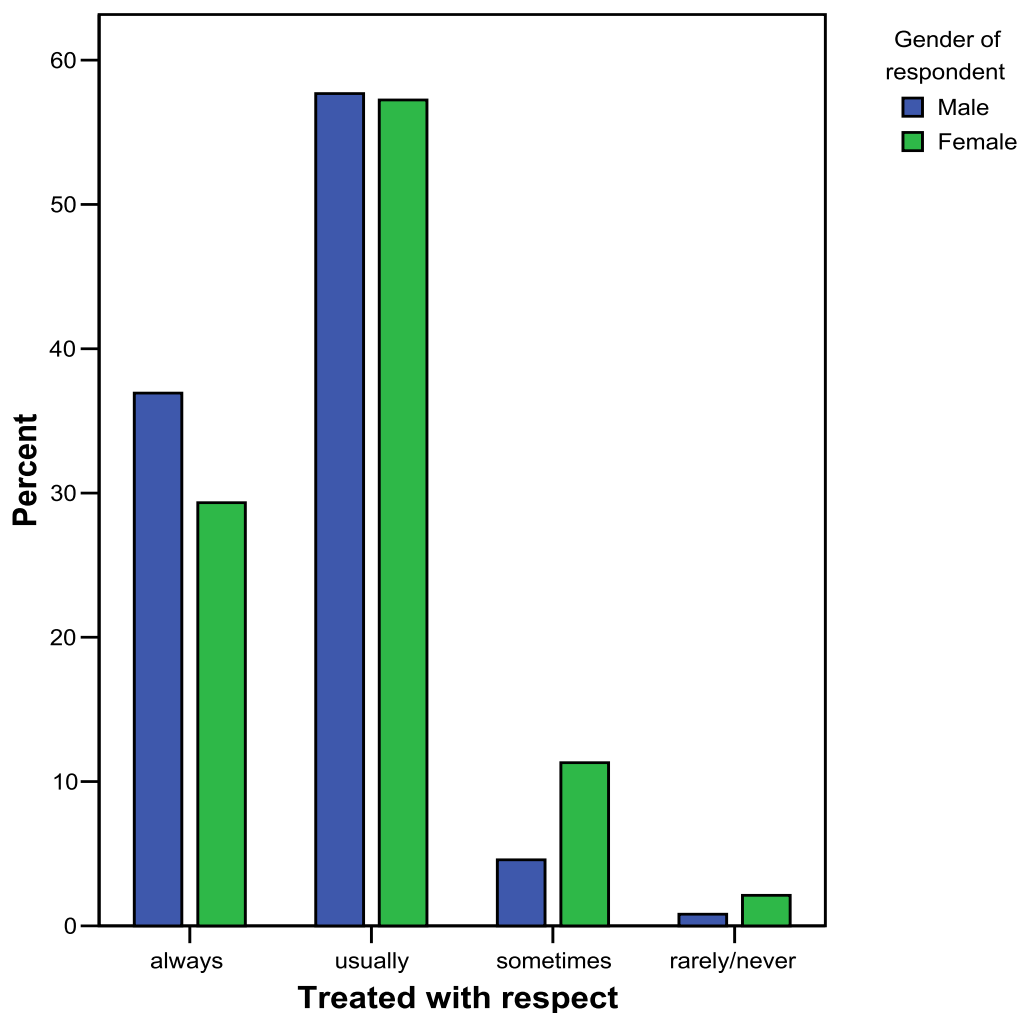
**Figure 3.6. “Conduct Affected Professional Development” by Gender**



### Respect

Most respondents (1176) chose a category other than “no opinion” when asked whether they felt their colleagues treated them with respect. As shown in Figure 3.7 below, women were significantly less likely to feel that they were always treated with respect (38.2% of the men versus 26.6% of the women). This is reflected in the 13.5% “sometimes” or “never” responses for the women versus the 5.2% “sometimes” or “never” responses for the men. The data show that women are significantly less likely than men to feel respected by their peers.

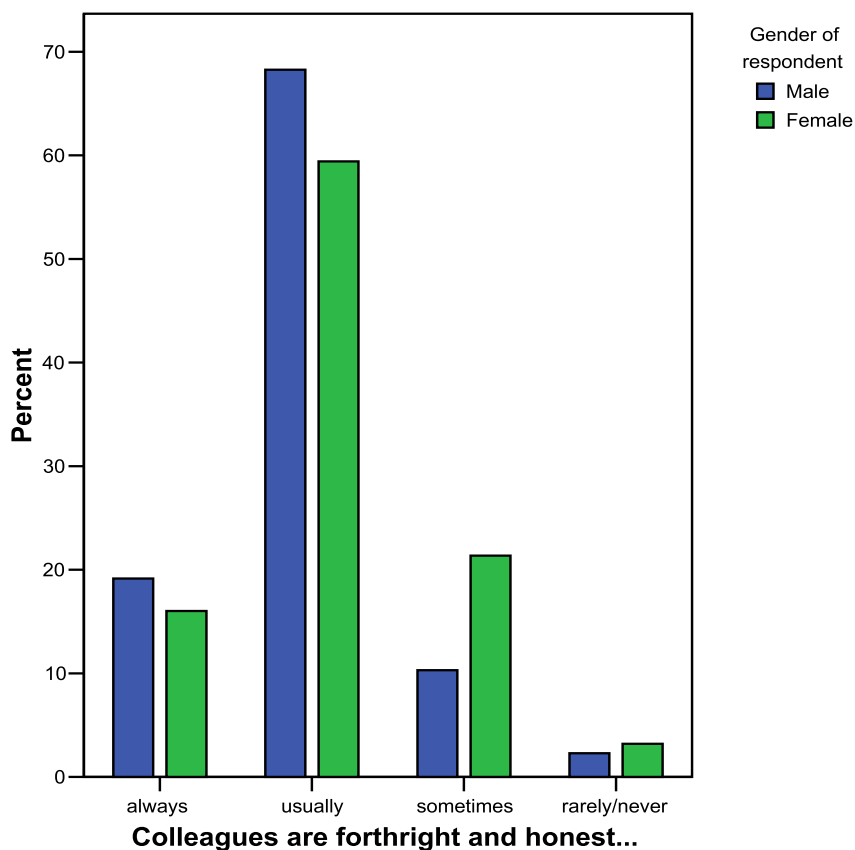
**Figure 3.7. “Treated with Respect” by Gender**



### Colleagues are Honest and Forthright

Most respondents (1179) gave one of the responses shown as opposed to the “no opinion” response on this question. While both males and females state that they always or usually feel that colleagues are forthright and honest in dealings with them, a larger percentage of females than males respond that it sometimes or rarely happens. Approximately 22% of women and only 12% of the men responded “sometimes” or “rarely/never” to this statement. As in the previous question about respect, women seem to be less able to take these qualities for granted.

**Figure 3.8. “Forthright and Honest” by Gender**



### Appropriate Behavior

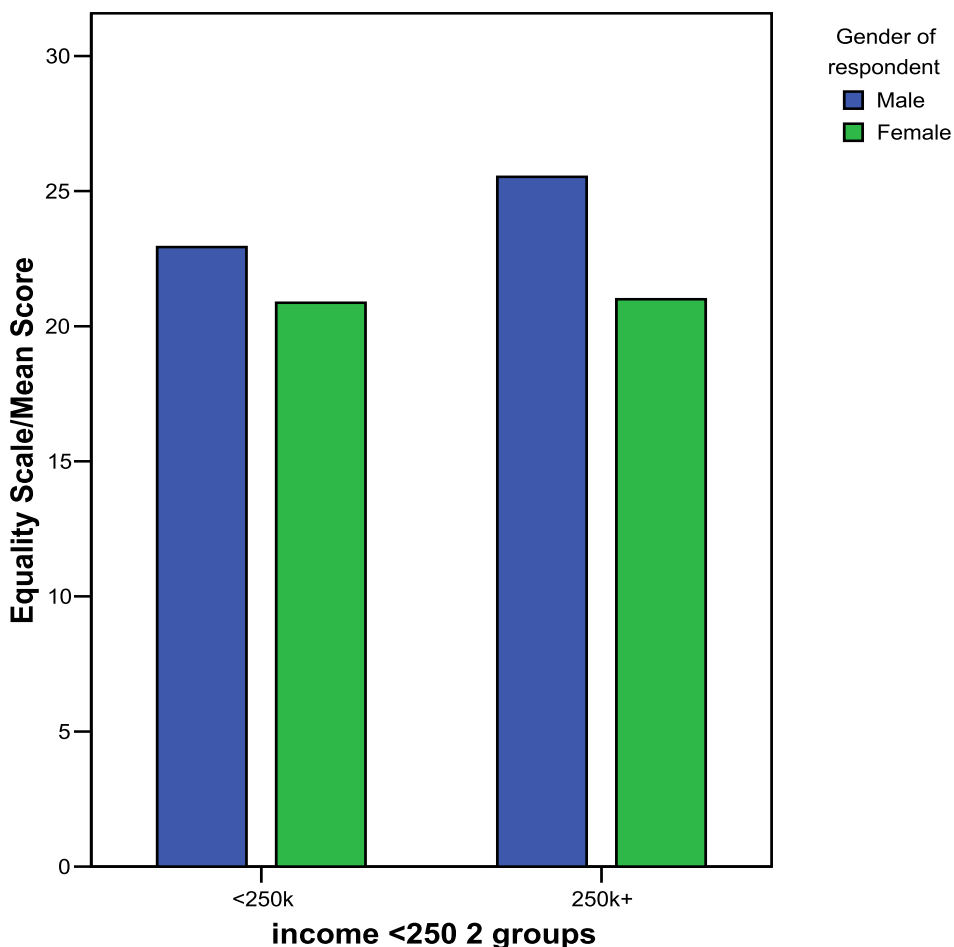
No significant difference between men and women was found on the questions about the appropriateness of showing anger, using “Rambo” techniques, or losing one’s temper. However, women were significantly more likely (20.1%) to respond “never” to the statement that “emotional appeals are appropriate” than were men (12.5%). This seems to play against the gender stereotype that women are more likely to show emotion than are men.

### Equality and Discrimination

Questions concerning perceived discrimination against women were combined into a single scaled measure focusing on equality. The higher the score, the greater the sense of equality, or less perceived discrimination. Those who perceive more discrimination will see the world as less egalitarian and have a lower score on the equality scale. On this measure, the mean for men (23.21) was significantly higher than the mean for women (20.48). Women did, indeed, perceive more discrimination.

Males earning over \$250,000 had a significantly higher mean than lower earning males on this measure of perceived equality (see Figure 3.9). This suggests that higher earning males may perceive more equality within the profession. Income does not seem to be an influence on females' perception of equality as evidenced by the similar means for both income groups.

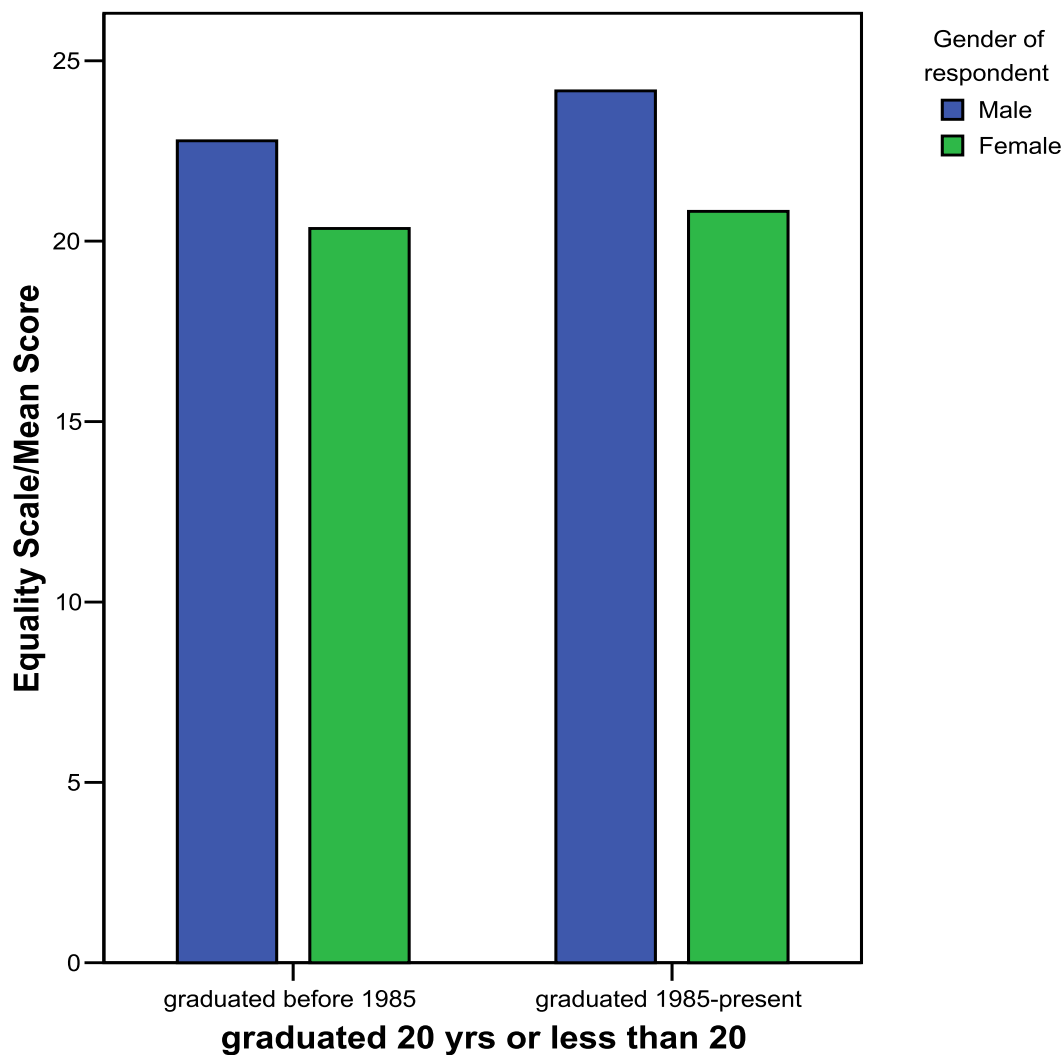
**Figure 3.9. Equality Scale by Income by Gender**





When the relationship between equality/discrimination and year of graduation from law school is examined, we see that this has no effect on the perceptions of women. Regardless of graduation before or during the last 20 years, women graduating in either time period had the same equality scores. Men who graduated from law school in the last 20 years are likely to see more equality between men and women in the profession than men who graduated before 1985. This is somewhat surprising if we expect that older men may have more traditional attitudes. Perhaps the explanation is that earlier graduates may have observed a world of more overt discrimination than have more recent graduates and thus are more likely to say they have seen discrimination.

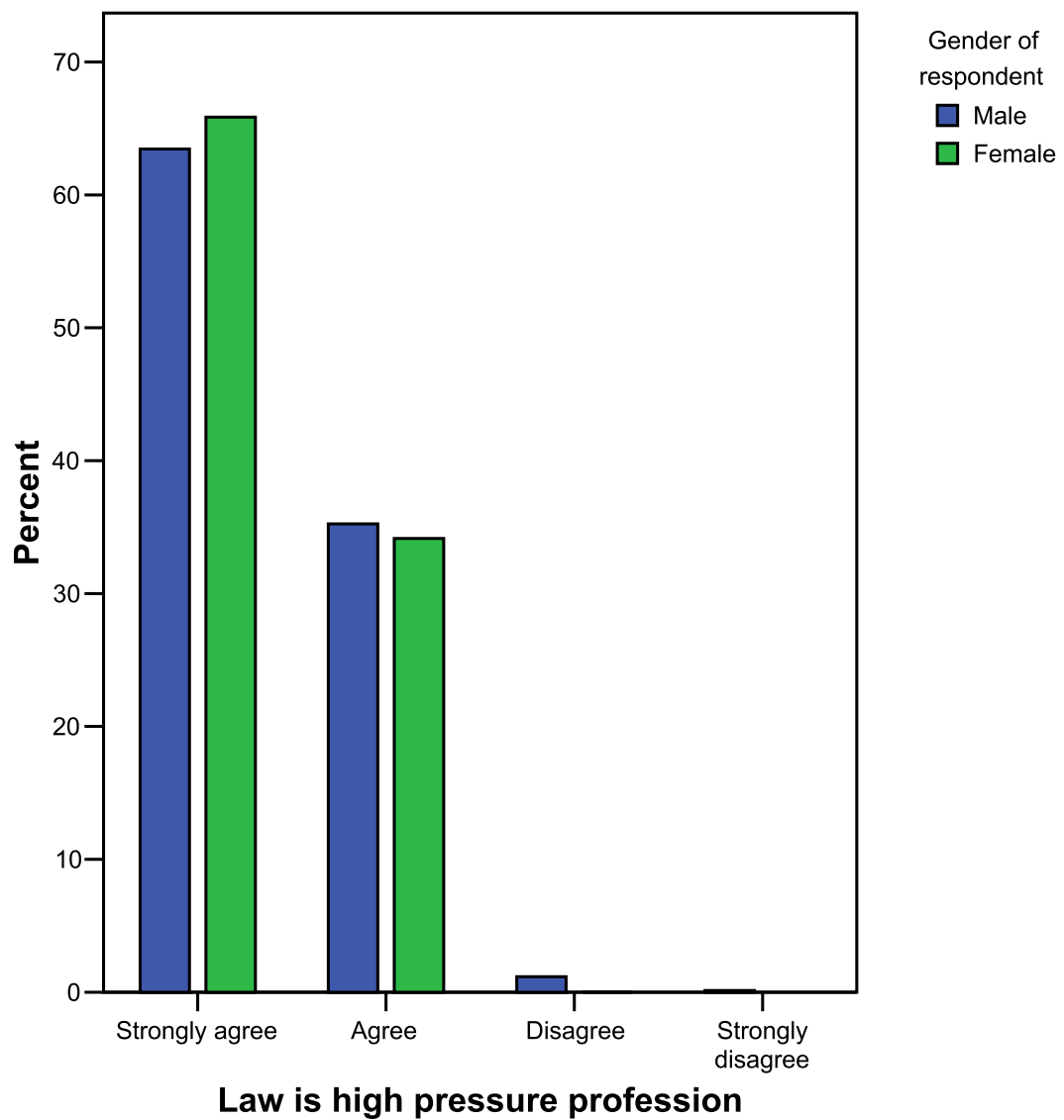
**Figure 3.10. Equality Scale by Year of Graduation by Gender**



### Law is High Pressure Profession

While perceptions on some issues may be diverse, there is little disagreement among the respondents to this survey on the degree of pressure in the law profession. As shown in Figure 3.11, all respondents, male and female, overwhelmingly agree that law is a high pressure profession.

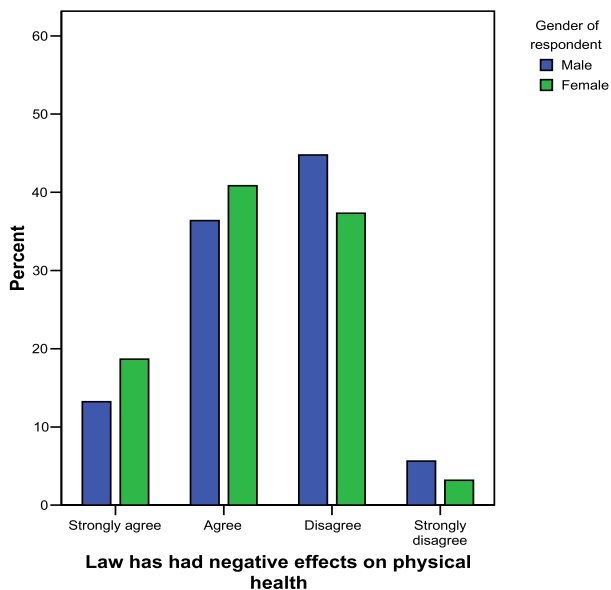
**Figure 3.11. “Law is a high pressure profession” by Gender**



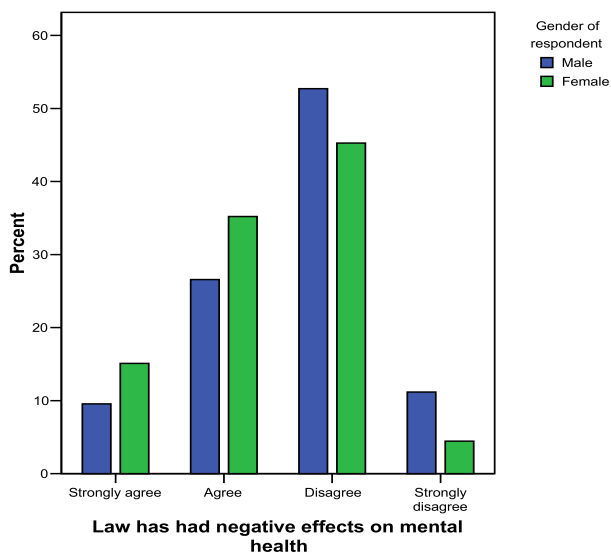
### Effects on Physical Health and Mental Health.

While men and women agree that law is a high pressure profession, women are significantly more likely than men to agree or strongly agree that practicing law has had negative effects on their physical and mental health. Forty eight percent of men and 59.2 % of women feel that practicing law has had a negative effect on their physical health. This is very much in line with studies of health practices which find that men are more reluctant than women to acknowledge illness or seek medical help (Galliano, 2002). For negative effects on mental health, again women are significantly more likely (50.3%) to report these effects than are men (36.2%).

**Figure 3.12. Negative effects on Physical Health**



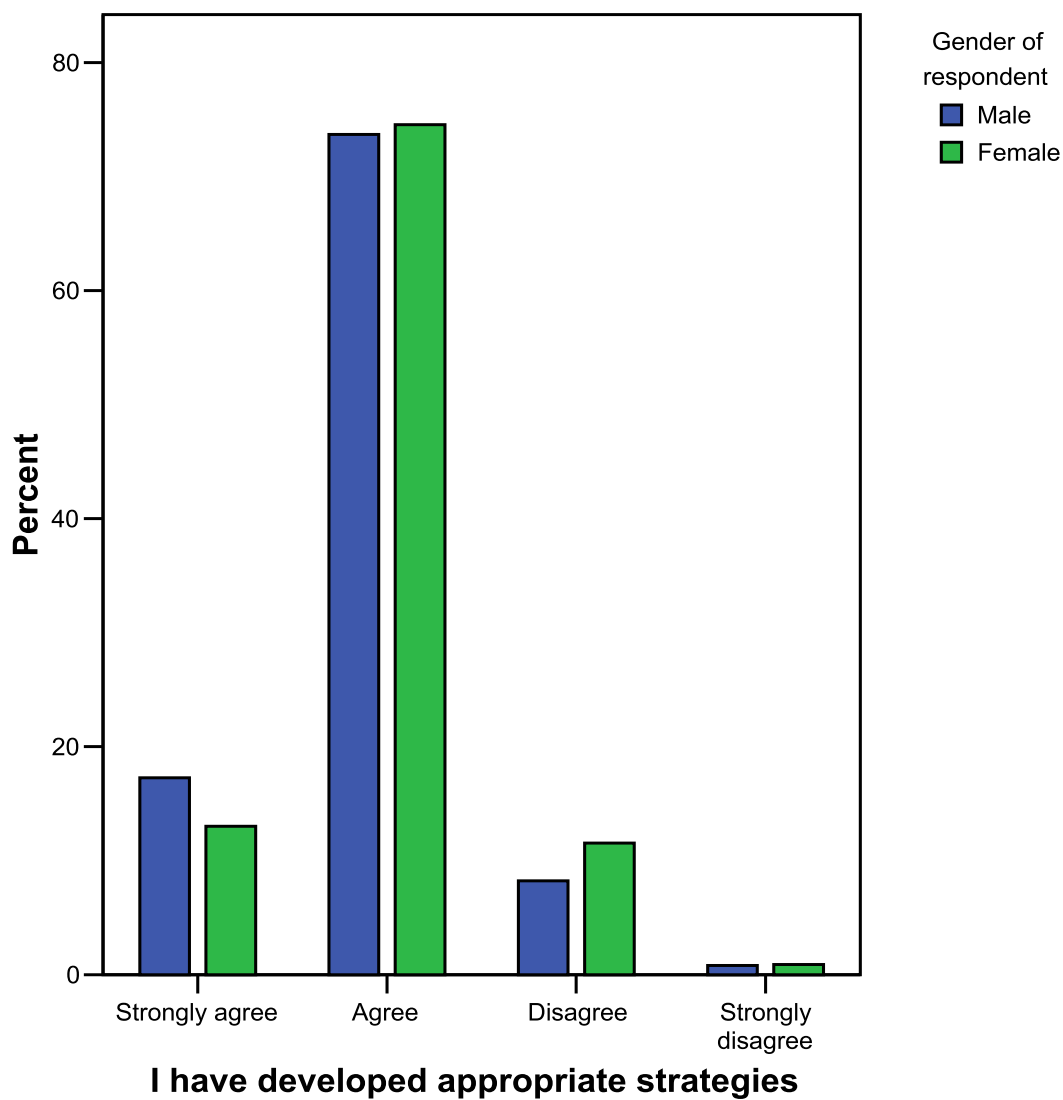
**Figure 3.13. Negative effects on Mental Health**



### Appropriate Strategies.

While respondents overwhelmingly agree that law is a high pressure profession, males and females also agree that they have developed appropriate strategies to deal with the challenges of the profession.

**Figure 3.14. Appropriate Strategies**

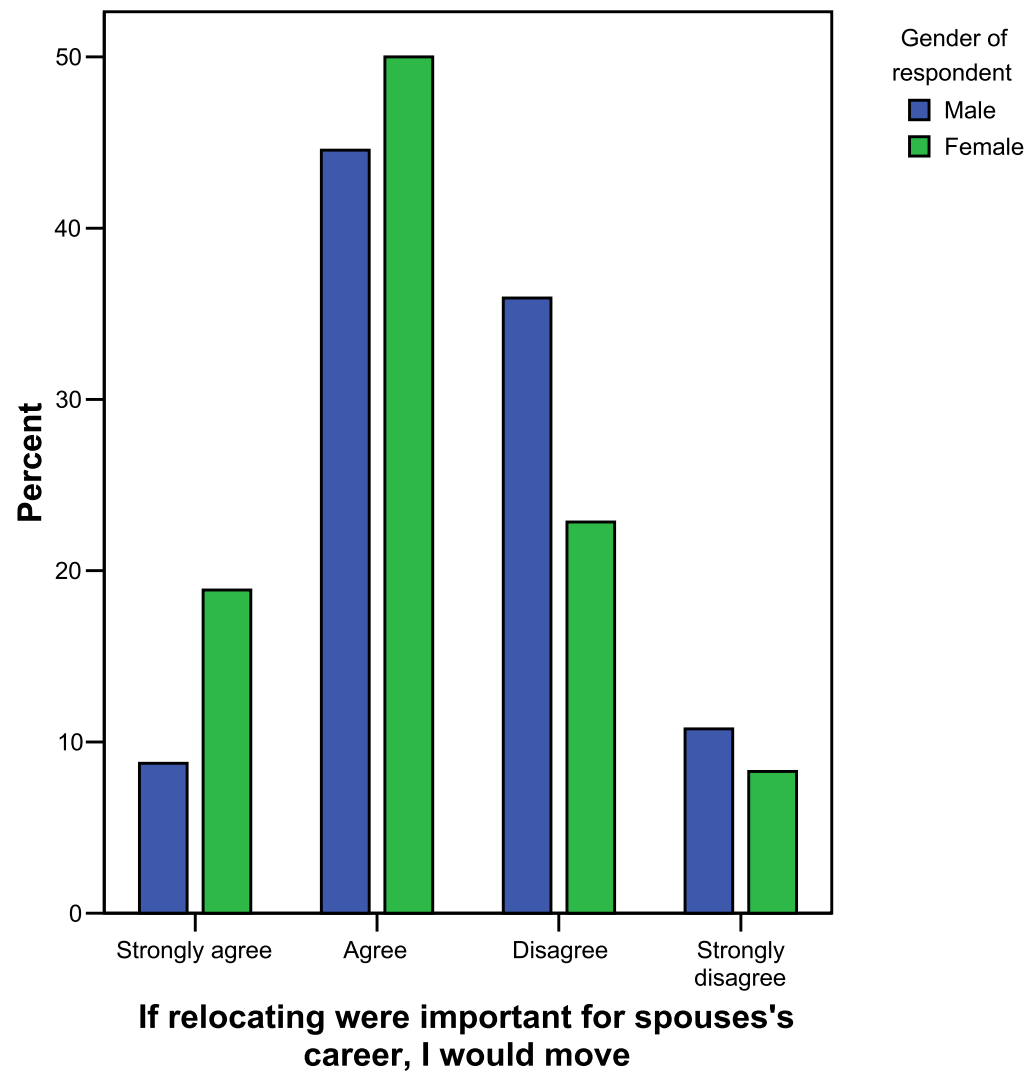


Gender Issue Attitudes

Relocating

When respondents were asked if they would relocate for a spouse's career, 68.9% of the women but only 53.4% of the men agreed that they would relocate if it were important for the spouse's career.

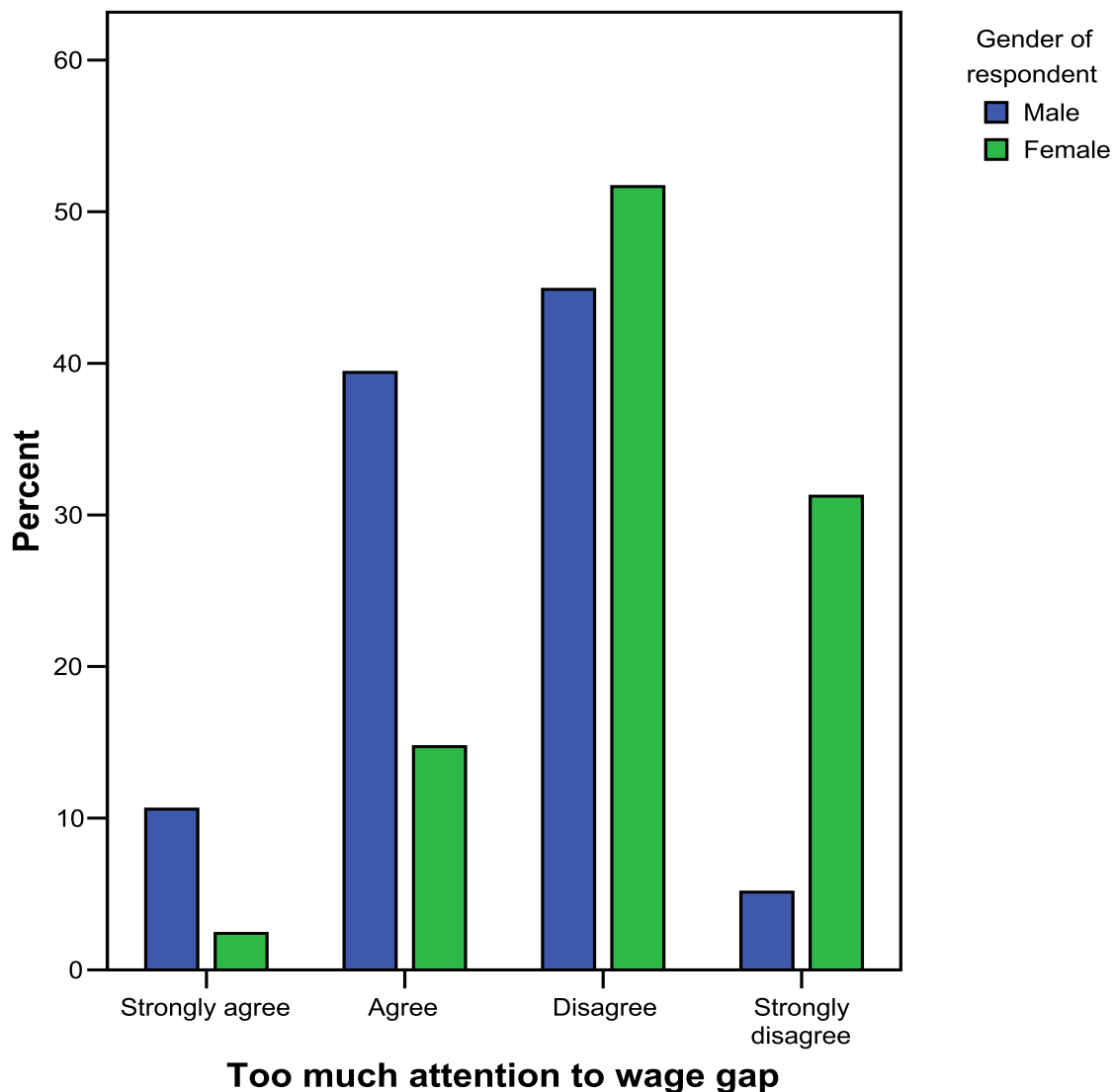
**Figure 3.15. Relocating**



### Wage Gap

Men were significantly more likely to agree that too much attention was paid to the wage gap. For example, 50% of men but only 17.1% of women agreed that too much attention is paid to the wage gap. Over 30% of the women strongly disagreed with the statement that too much attention was paid to the wage gap while only 5.1% of the men strongly disagreed. Few questions so strongly separated male and female response. Over 80% of the women disagree with the statement. The concept of wage gap resonates strongly with women.

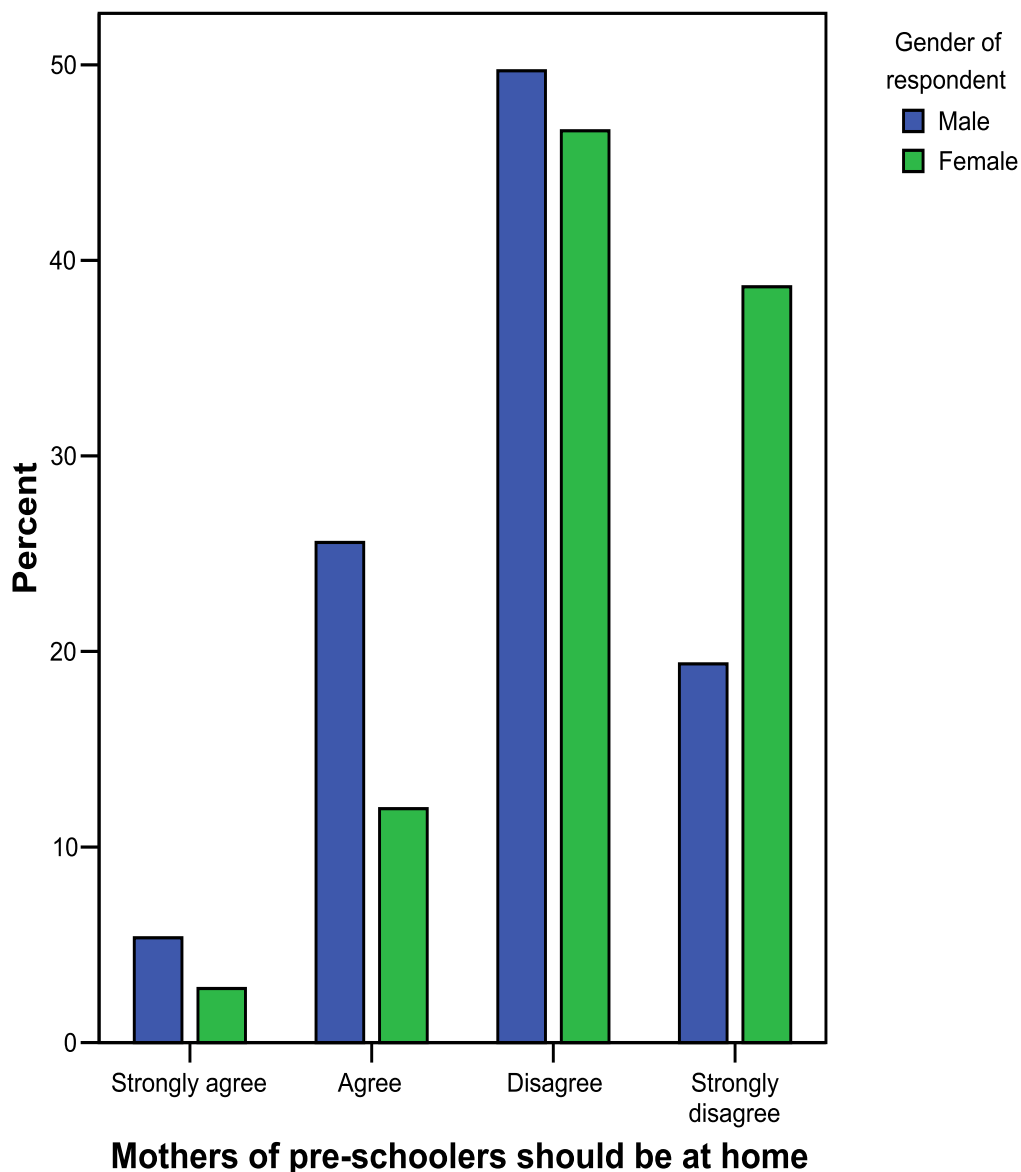
**Figure 3.16. Too much attention to wage gap**



### Mothers of Preschoolers Should be at Home

Although few women or men strongly agree with the statement that “mothers of preschoolers should be at home”, the differences in the “agree” and strongly disagree” columns are large. Although both men (69%) and women (85.3%) disagree with this statement, more than twice as many men as women agree and women (38.7%) disagree much more strongly with the statement than do men (19.4%).

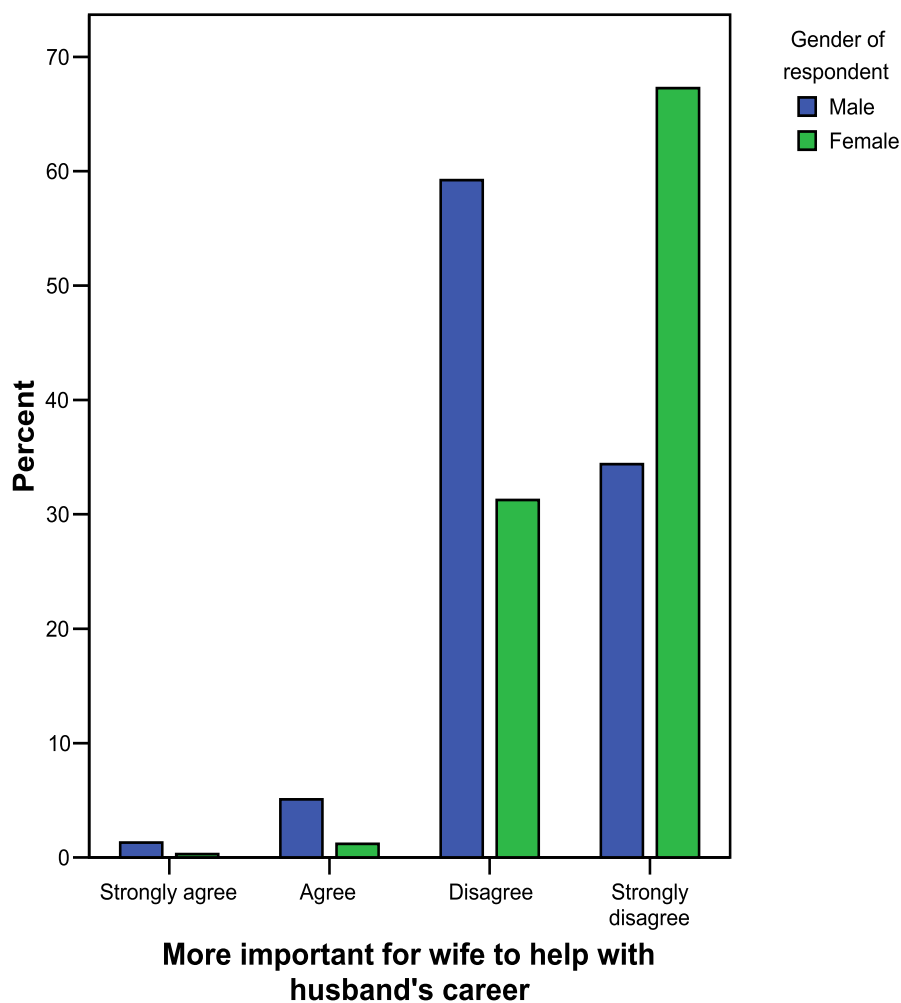
**Figure 3.17. Mothers of Preschoolers Should Be at Home**



### Importance of Husband's Career

Although both males (93.6%) and females (98.6%) largely disagree with the statement that “it is more important for a wife to help with husband’s career than to have one of her own,” the intensity of the disagreement is interesting. Women strongly disagreed almost twice as often as men, 67.3% versus 34.4%. Obviously, women are much more vehement about not seeing this as acceptable. For all of these gender issue questions, female responses are more intense. We also see this relationship on the next question.

**Figure 3.18. More Important for Wife to Help with Husband’s Career**

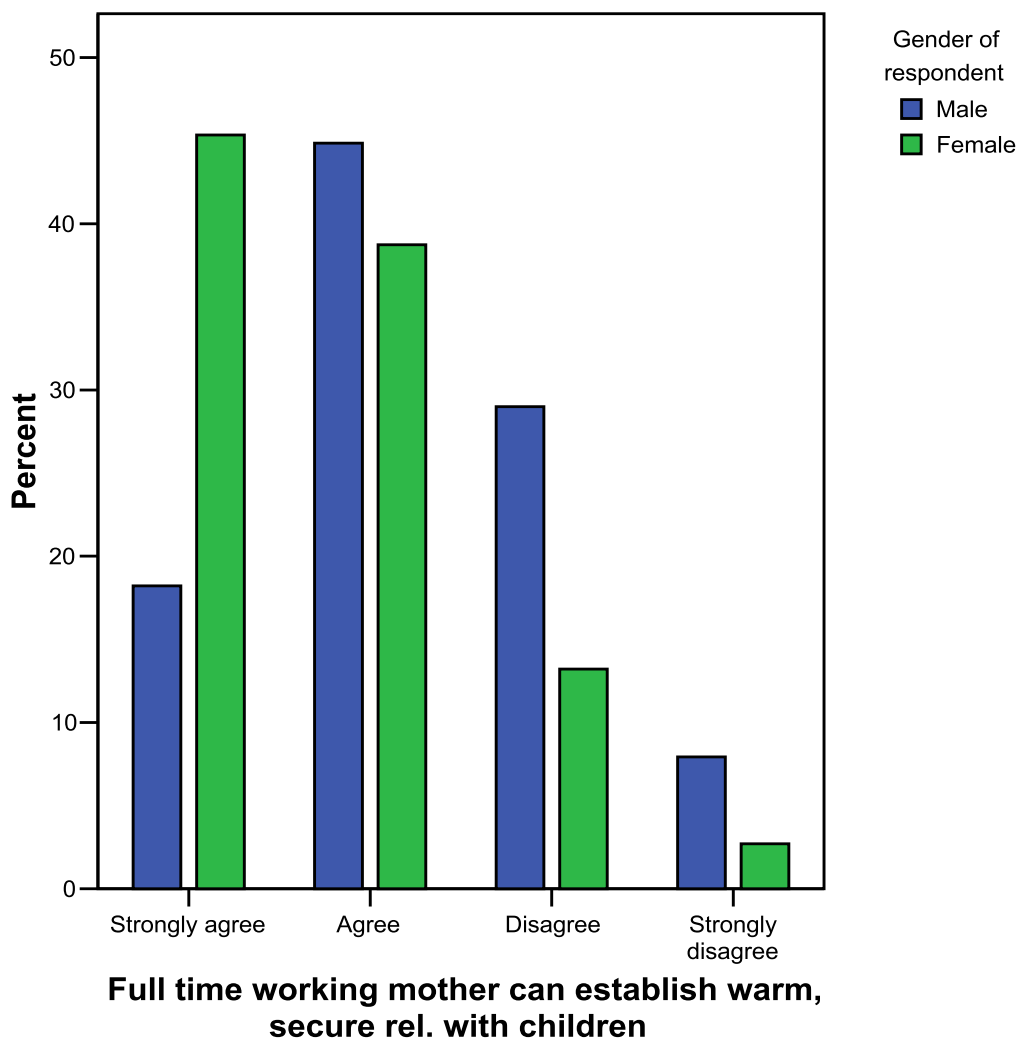




### Relationships with Children

Women (84%) were significantly more likely than men (63%) to agree that a full time working mother can establish just as warm and secure a relationship with her children as a mother who did not work outside the home. This difference was even more striking when the category “strongly agree” was used. Women chose this response very strongly (45.3%) while only 18.2% of the men chose this response. Clearly, men still show a higher percentage of traditional responses to these attitudinal questions.

**Figure 3.19. Establish Warm Secure Relationships with Children**

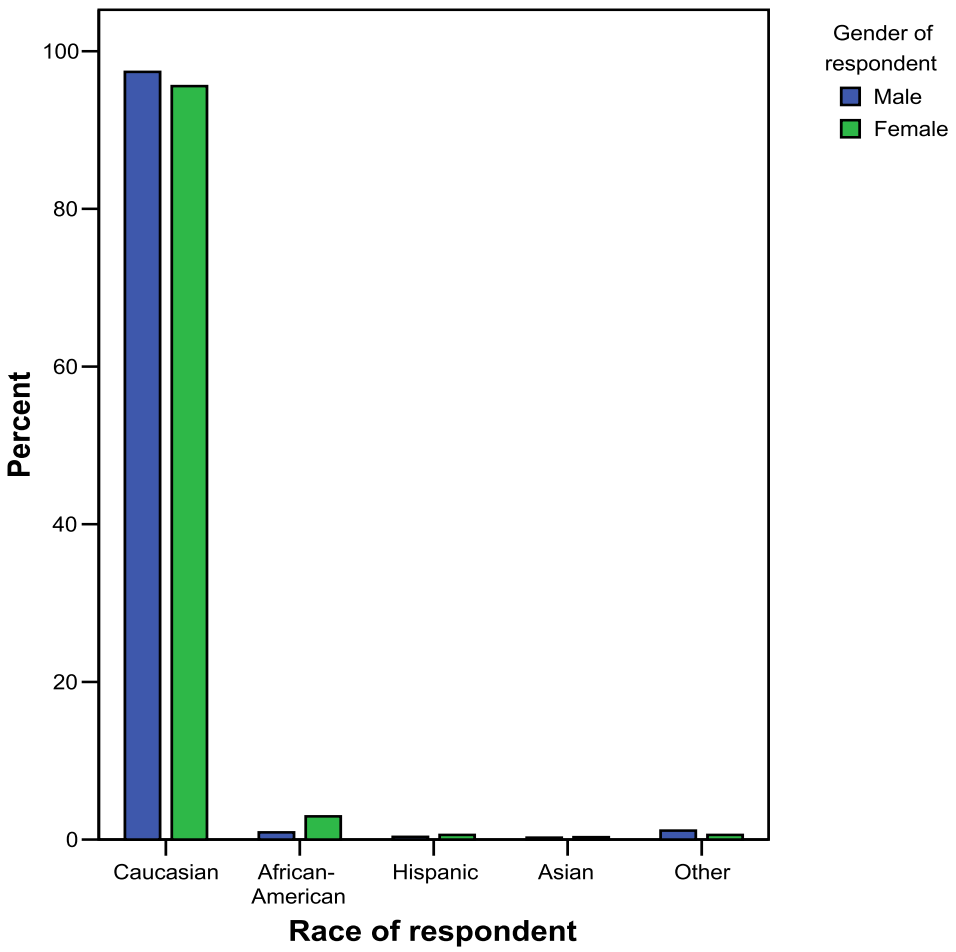


SECTION 4: DEMOGRAPHICS and HOME LIFE

Race

The racial composition of respondents is 97% Caucasian, 1.5% African-American, .4% Hispanic, .2% Asian, and 1.0% other. Figure 4.1 depicts the breakdown by gender. African-American women comprise 3% of the female respondents while African-American males comprise less than 1% of male respondents.

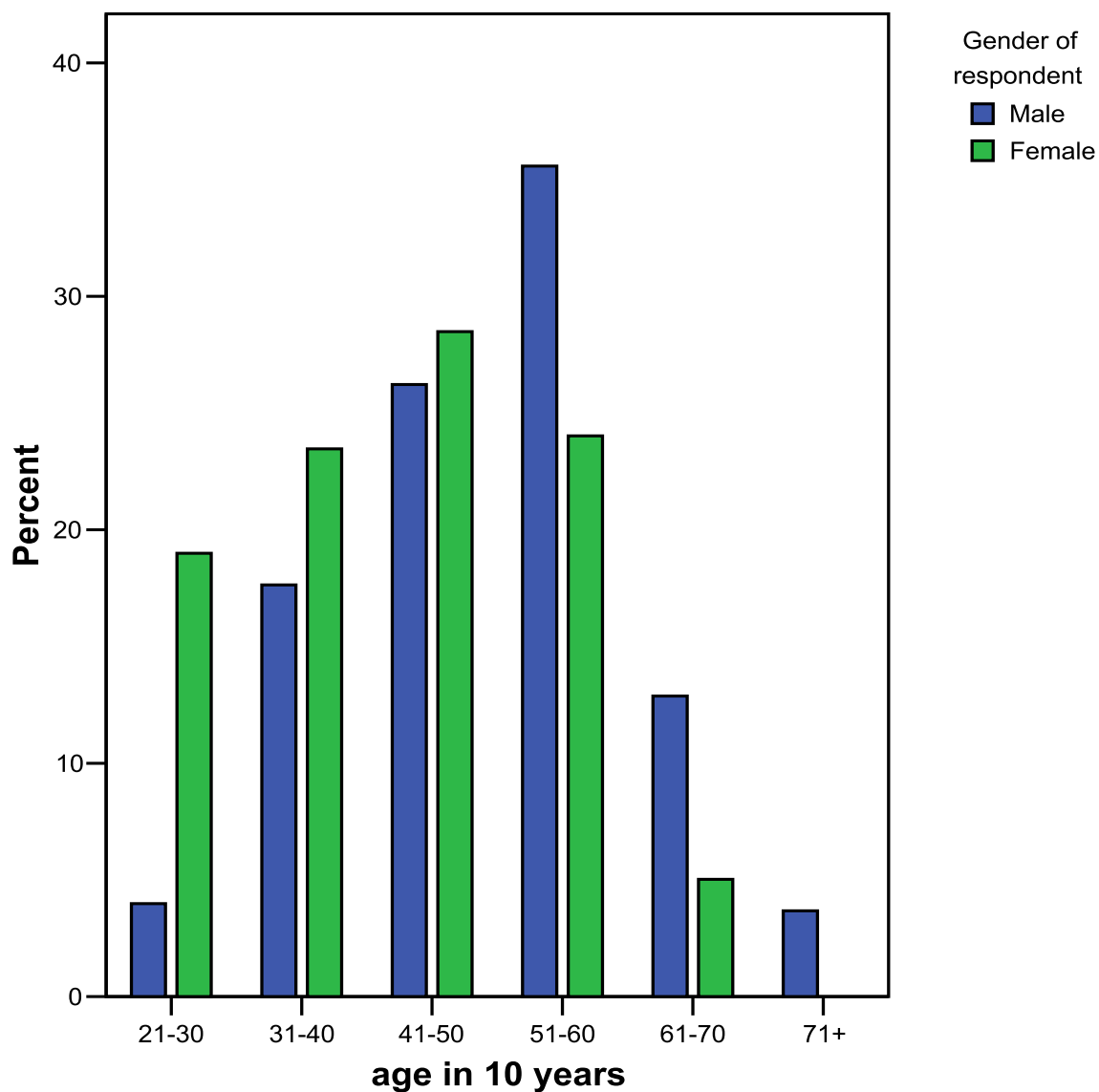
**Figure 4.1. Race by Gender**



### Age

The mean age for male respondents is 50.4, and, for females, mean age is 42.9. The age distribution is depicted in Figure 4.2. While the greatest percentage of males are 51-60 years of age, the greatest percentage of women are 41-50. A significantly larger proportion of women are in the youngest age group (21-30) than are men, and men are significantly more likely to be over the age of 60.

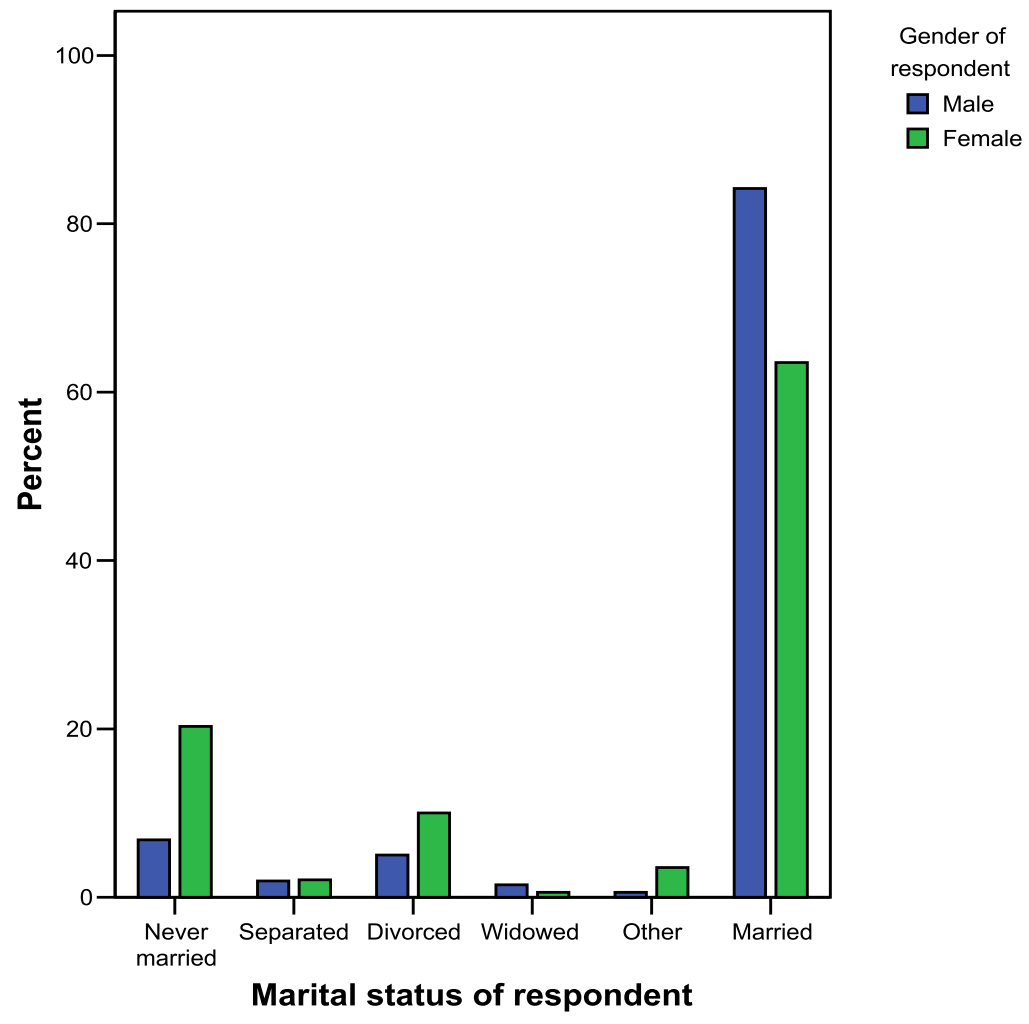
**Figure 4.2. Age of Respondents by Gender**



Marital Status.

Both male (84.2%) and female (63.5%) respondents are predominantly married, with women much more likely to be divorced or never married. Ten percent of the women and 5% of the men are divorced. While 20.3% of the women have never been married, only 6.8% of the men have not been married.

**Figure 4.3. Marital Status by Gender**

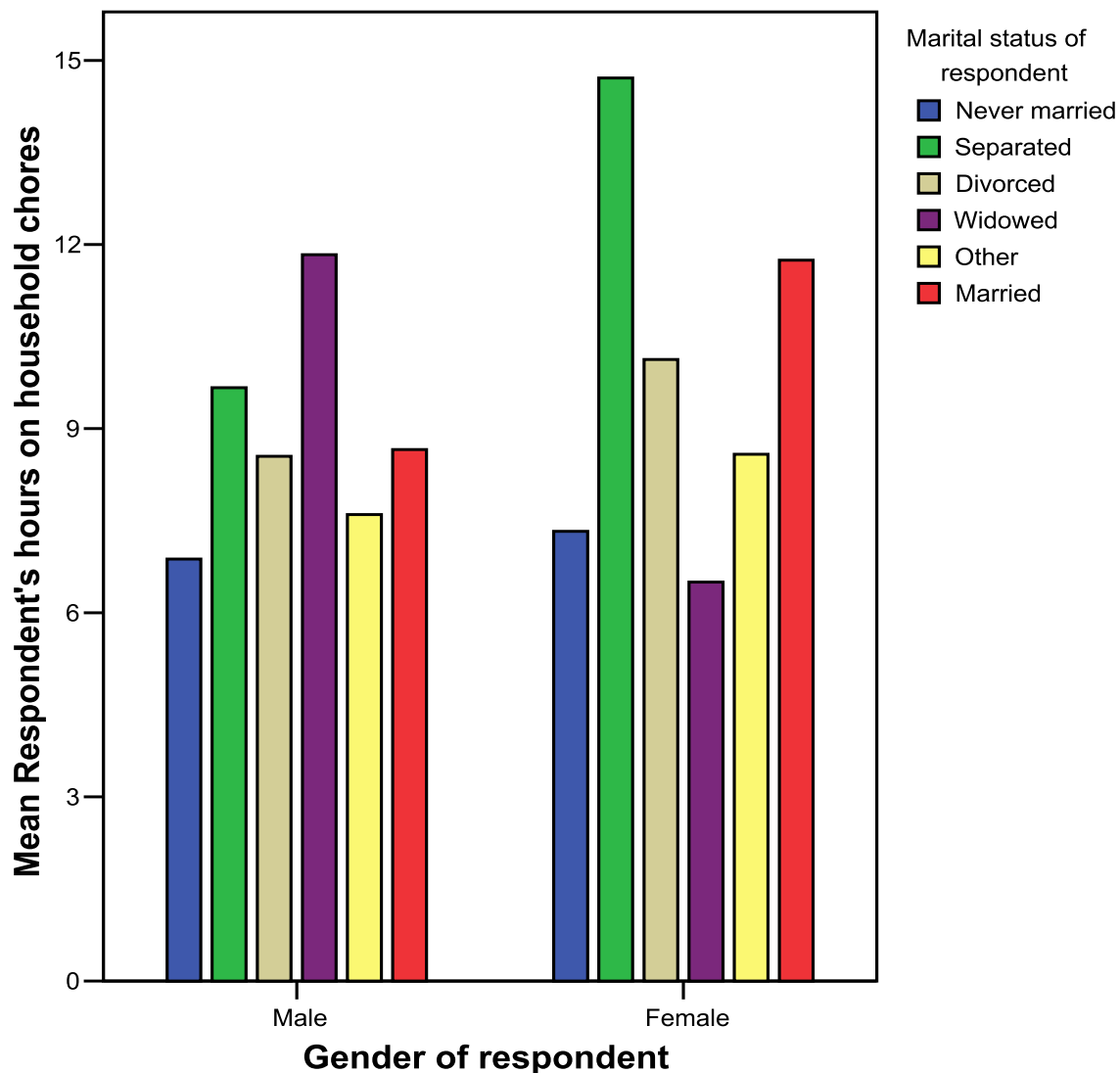


### Household Responsibilities

Among all respondents working full time, females report doing an average of 10.55 hours of household chores while male respondents report 8.55 hours. Females are spending significantly more hours on chores than males.

When examining respondents working full time by marital status, we observe that in each marital status (except widowed) women spend more hours doing chores than men. Among the never married respondents, there is very little difference between hours spent on chores by males and females.

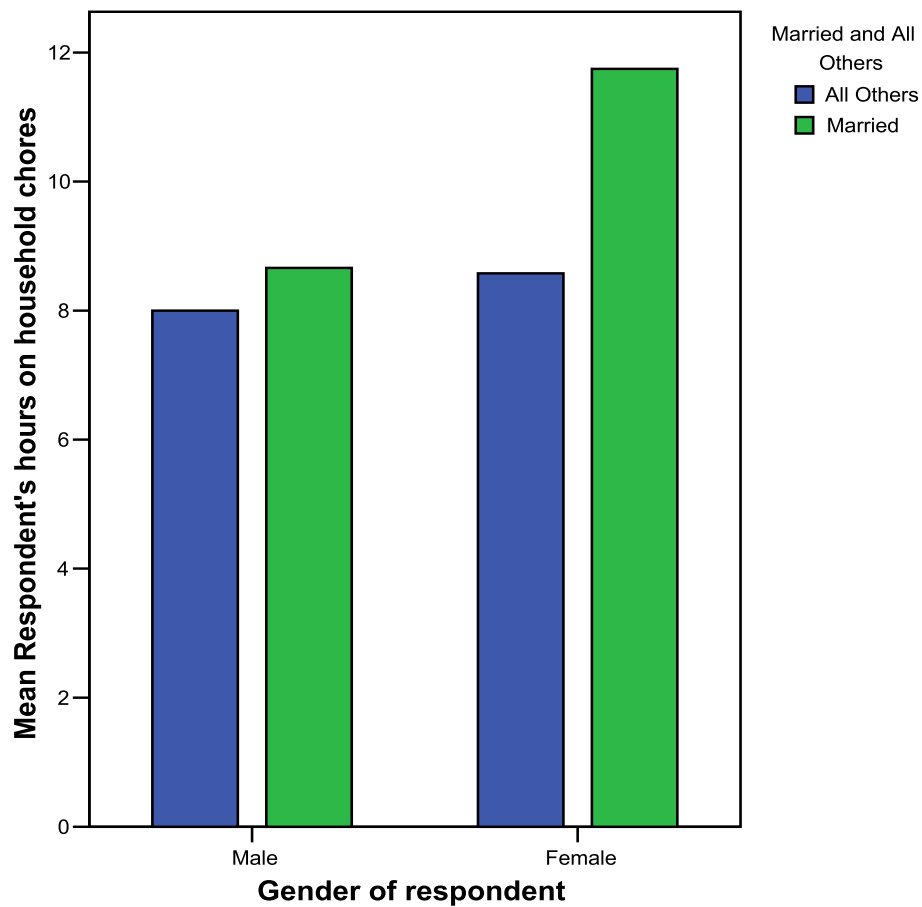
**Figure 4.4. Hours spent on Chores by Marital Status**



### Household Responsibilities of Married Attorneys (employed full-time)

As shown in Figure 4.5, when married attorneys are contrasted with all others, married females do a significantly greater number of hours (11.8) than married males and females of all other marital statuses.

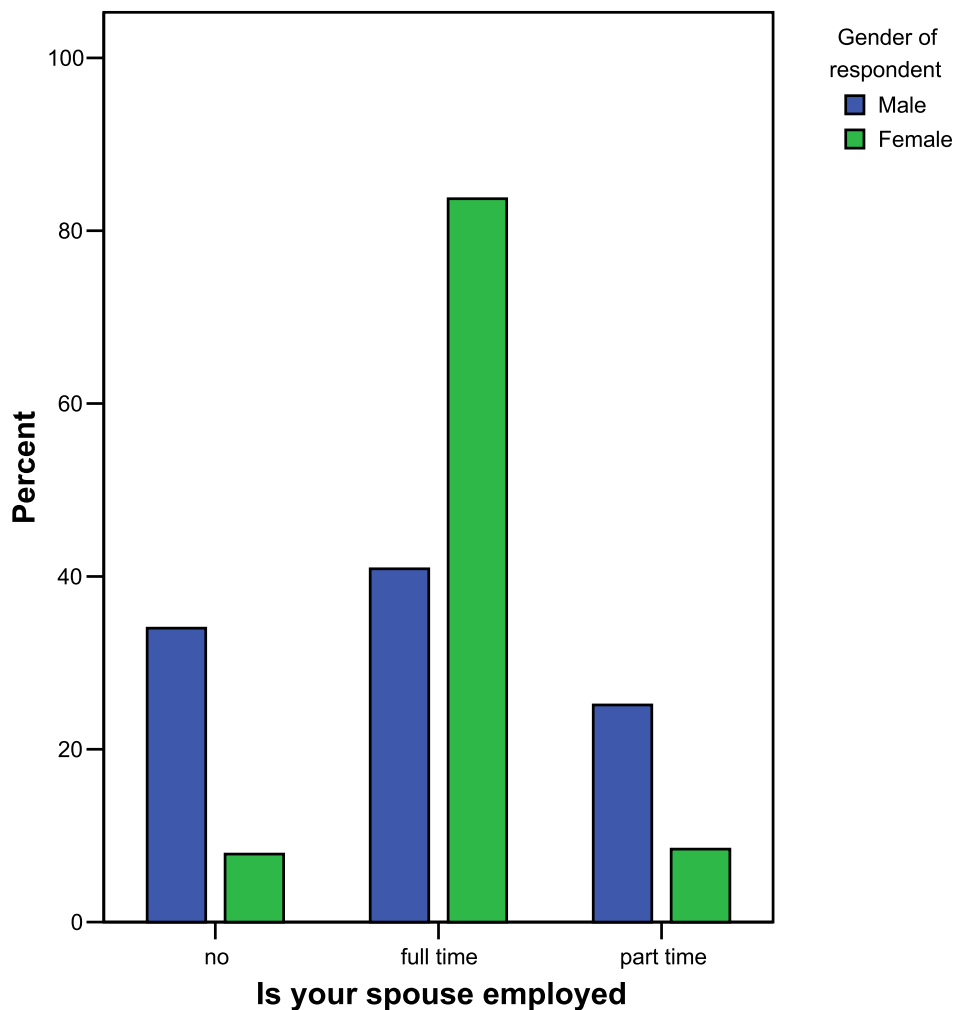
**Figure 4.5. Hours Spent on Chores for Married and All Others**



### Households of Married Attorneys (employed full-time)

We see a real difference in spouse's employment by gender of the respondent. For the male respondents' spouses, roughly equal percentages are not employed outside the home (38.4%) and employed full time (37.8%). The rest (23.8%) are employed part time. Female respondents' spouses are overwhelmingly employed full time (82.8%). Another 10% work part time and the rest (7.2%) are not employed outside the home.

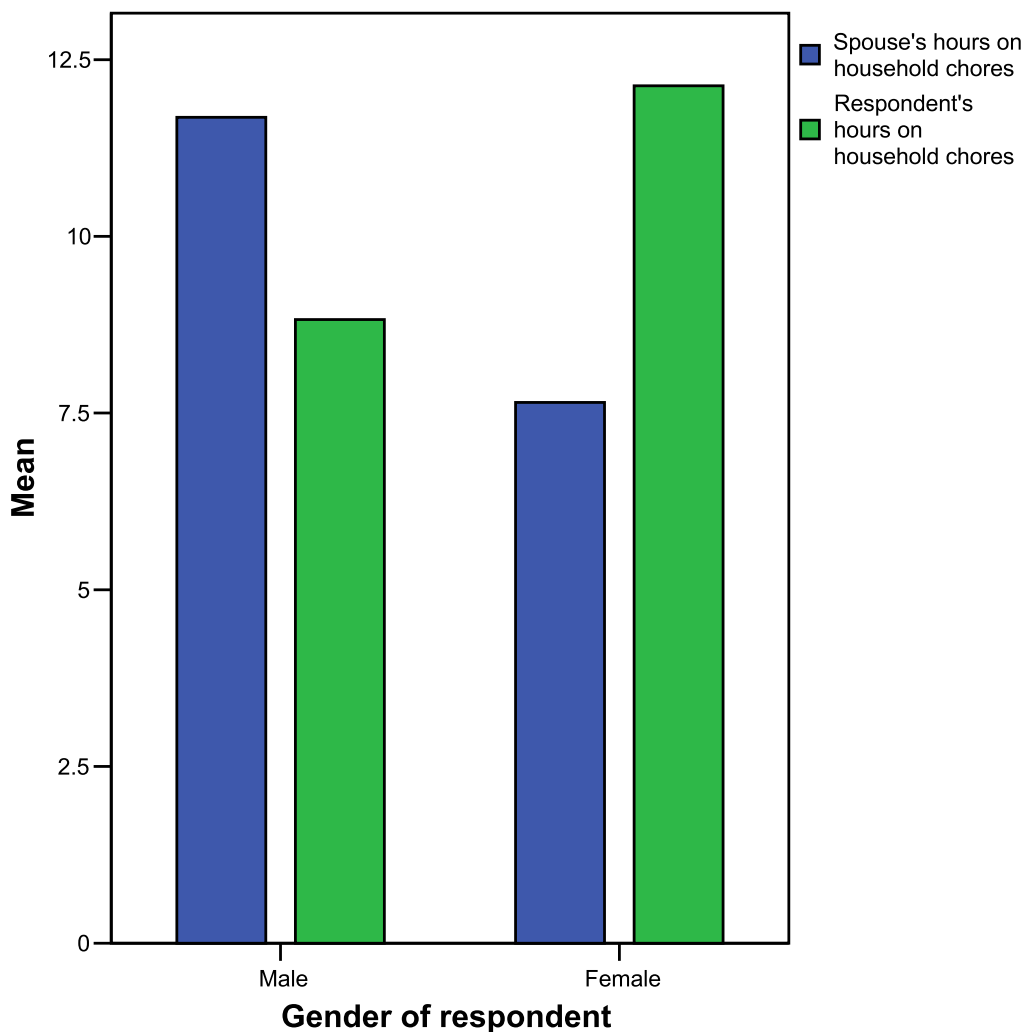
**Figure 4.6. Employment Status of Respondents' Spouses by Gender**



### Household Responsibilities of Married Attorneys in Two Career Households

We also find substantial differences in the hours of household chores reported by male and female respondents for themselves and their spouses. See Figure 4.7.

**Figure 4.7. Hours Spent on Household Chores by Married Attorneys with Spouses Employed Full-time by Gender (Two Career Households)**



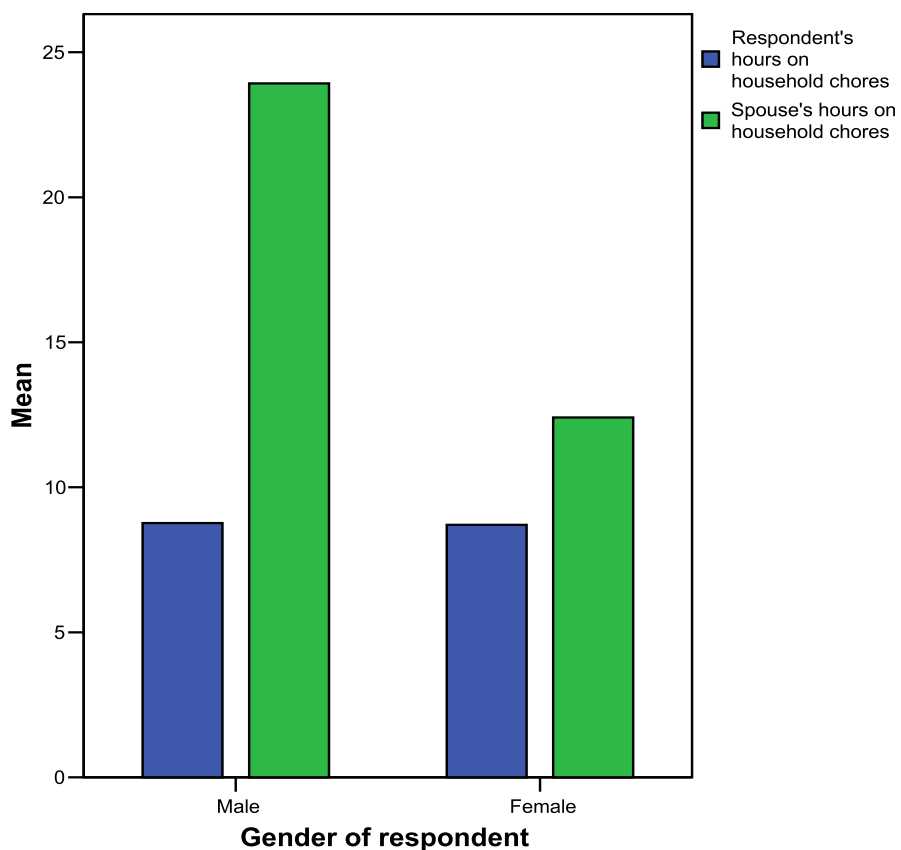
As shown in Figure 4.7, married female attorneys with spouses working full-time spend an average of 12.13 hours on household chores while their male counterparts spent an average of 8.82 hours. In two career households, women attorneys are spending significantly more time on household chores than their husbands.



### Household Responsibilities of Married Attorneys with Spouses Not Employed or Employed Part-time

In households in which spouses are not employed or are employed part-time, the average number of hours spent on household chores by male and female respondents is not significantly different (male = 8.63 hours, female = 9.97). However, their spouses are significantly different in the hours they spend on household chores. As shown in Figure 4.8, spouses of male respondents spend significantly more hours than the spouses of females (spouses of males = average 23.86 hours, spouses of females = average 12.41 hours).

**Figure 4.8. Hours Spent on Household Chores by Married Attorneys with Spouses Not Employed or Employed Part-time**

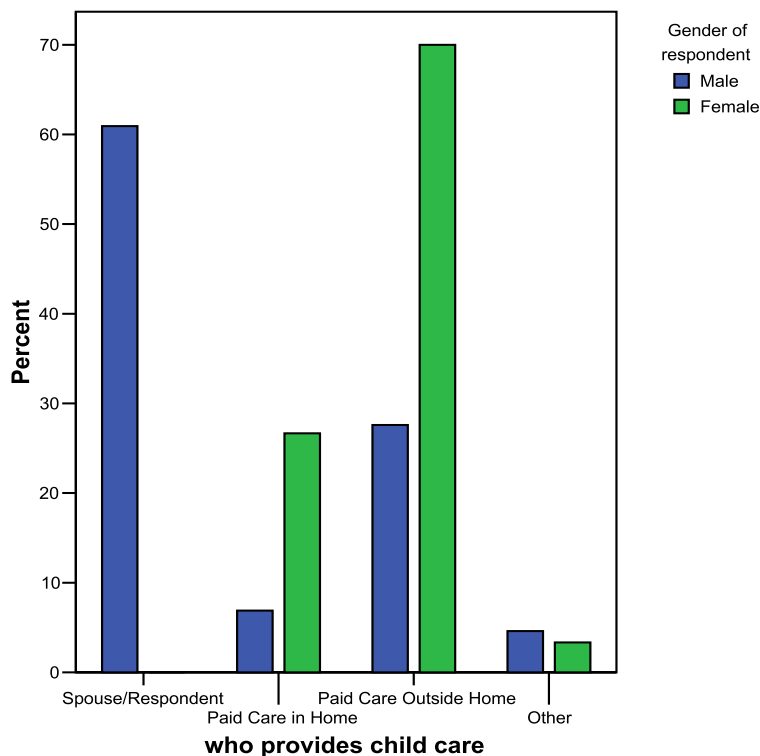


## Households with Children

While 73% of respondents have children, a larger percentage of males (80.6%) than females (53.1%) are parents. More women than men have shifted their career to stay home with children. Almost 60% of women with children and 23% of men with children report having shifted their career to stay home with them. The most frequently cited shift for both men and women was moving to a lower intensity practice (41.5% of the men and 37.2% of the women). The next most common shift differed by gender. Men (31%) were more likely to move to a smaller practice while only 21% of women made this change. Women (37%) were more likely to work fewer than 30 hours per week while only 18% of men made this choice. Women (28%) were also more likely to work fewer than 20 hours than men (7%) and to stop working (26% of the women versus 4% of the men).

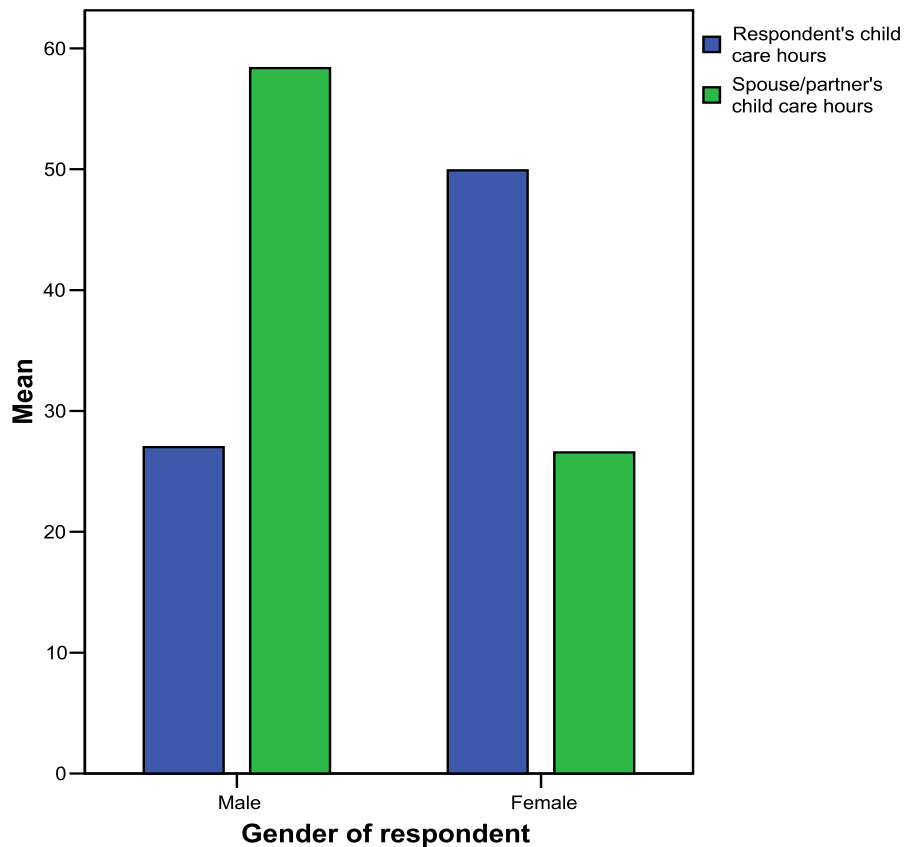
Of the respondents with children, approximately 28% of women and 17% of men have children age 5 or younger. Among this group, male respondents spend an average of 27 hours on child care per week, and women spend 40 hours. While men (60.9%) cite their spouse as the main source of child care, a larger percentage of women (70%) cite paid child care outside the home as the main provider. (See Figure 4.9)

**Figure 4.9. Who Provides Child Care during the Day**



The spouses of the male respondents spend 58 hours on average caring for their children, and the spouses of the female respondents spend 24 hours on average. Male respondents report that their child(ren) spend an average of 13 hours with a paid caregiver, and women report their children spend 29 hours per week with a paid caregiver on average.

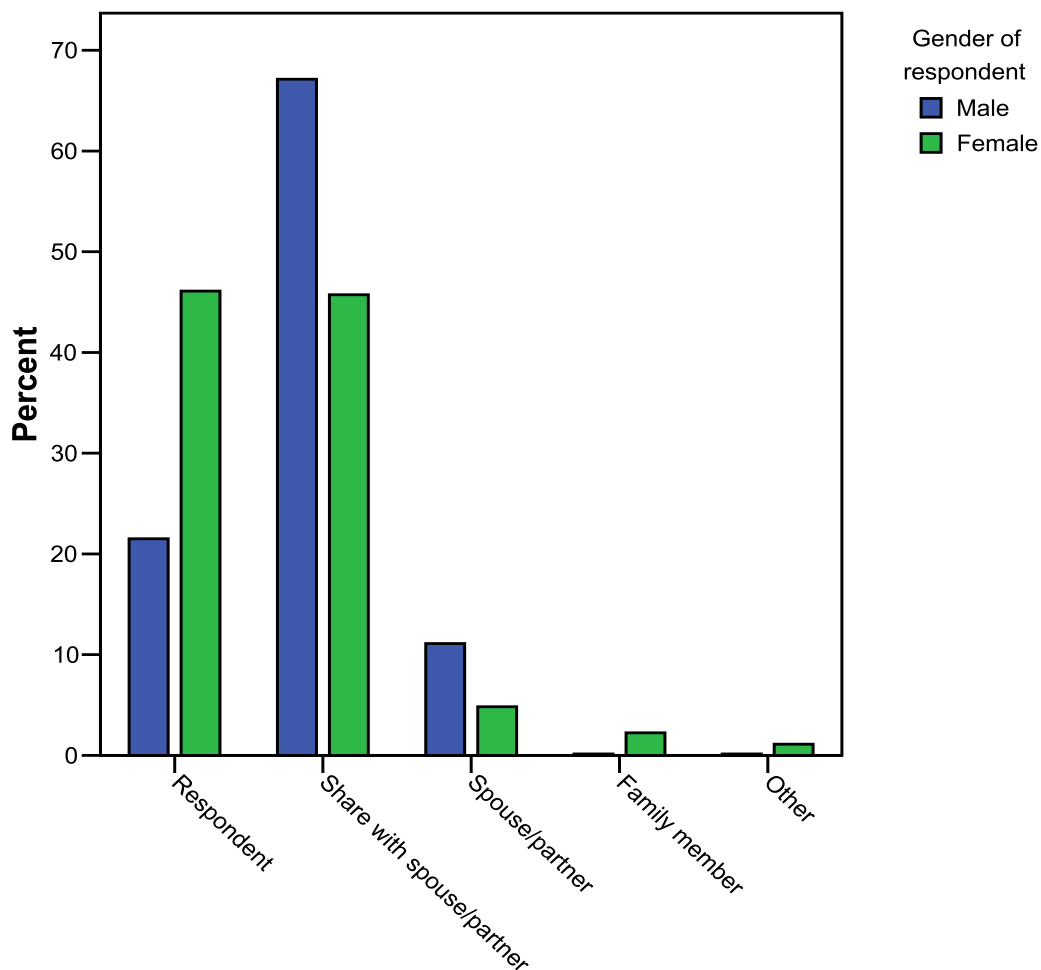
**Figure 4.10. Hours Spent on Child Care**



Individuals who do not have children were asked if they had chosen not to have children to pursue a career as a lawyer. Of the 256 respondents who answered this question, 39 (15.2%) indicated that they had chosen not to have children in favor of a law career. With respect to gender, 12% of men who answered this question and 19% of women who answered this question responded affirmatively.

## Handling Emergencies

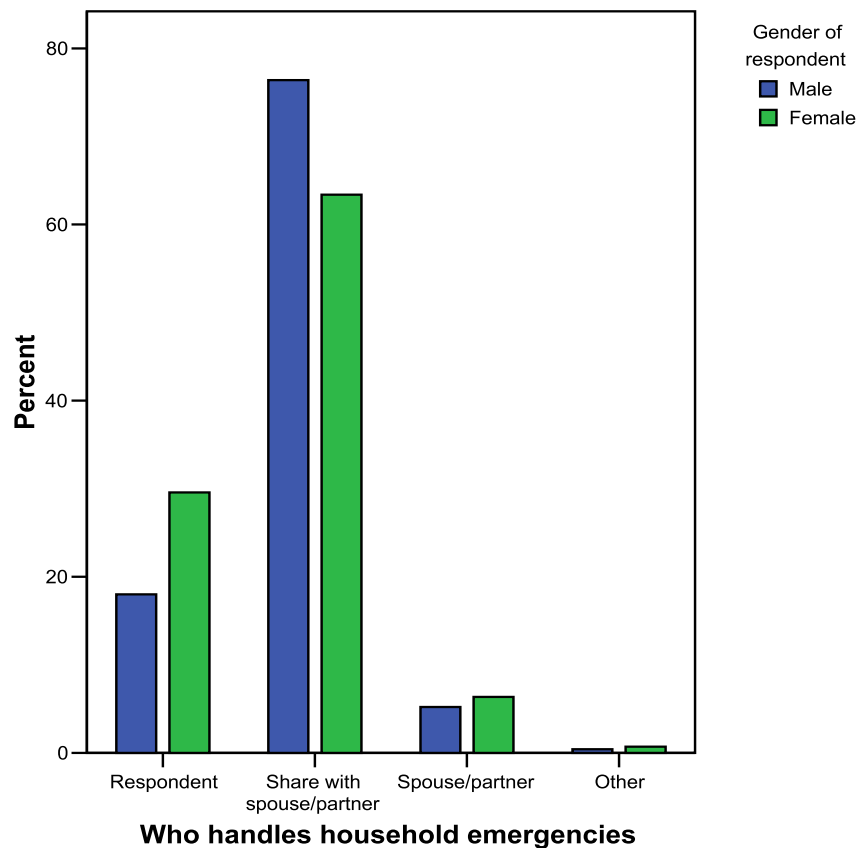
**Figure 4.11. Who Handles Emergencies – All households by Gender**



### Who handles household emergencies

Interestingly what we notice here is that women are more likely to handle household emergencies by themselves (48.4%) than are men (22%). Nearly as large a percent (44.1) of the women are likely to share this task with a spouse or partner while this is the first choice of male respondents (67.1%). Although the greater percentage of women without a spouse (36.5%) than men (15.8%) explains some of this difference, it is clear that women are more likely to cope alone with household emergencies than are men.

**Figure 4.12. Who handles emergencies in Two Career Households—by Gender**

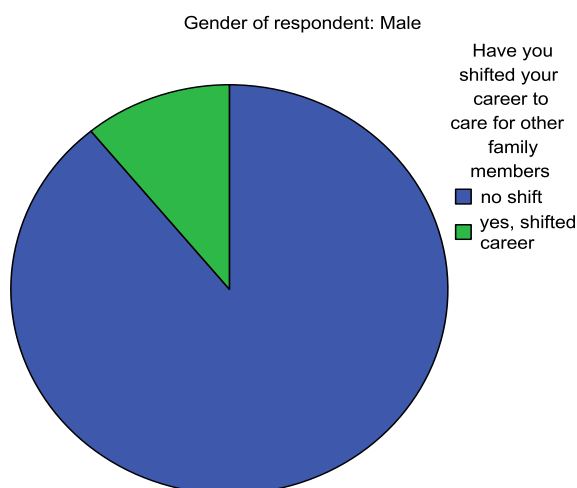


In two career households, men and women are most likely to share handling emergencies with their spouses. However, women are more likely than men to take care of the emergencies themselves.

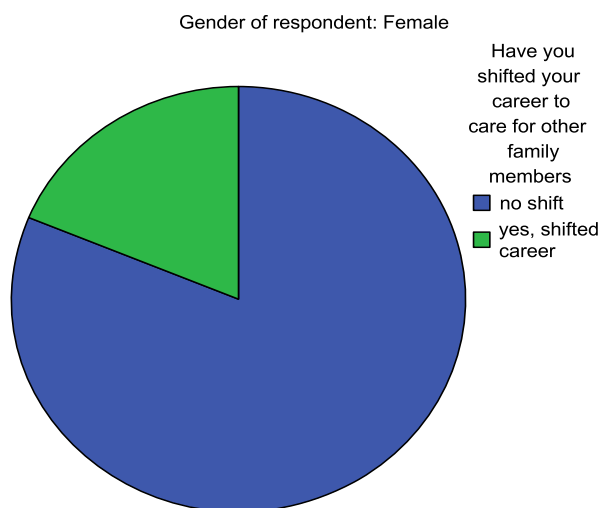
### Care for Other Family Member

Respondents were asked if they had shifted their careers to care for family members other than children. While more than 80% of both males and females have not shifted their career to care for such family members, women (19.2%) are more likely to have made this shift. Only 11% of men have made this change in their career. Among those who have adjusted to these situations, the most frequently cited shift was “other” for both men (69%) and women (43.5%). Individuals most often indicated that the change they made was to work from home or to take a limited amount of time away from work temporarily. Of the women who had shifted their career, 31% moved to a lower intensity practice and 28% dropped to fewer than 20 hours of work per week. Men (26%) were more likely to work part-time of fewer than 30 hours per week.

**Figure 4.13. Shifted to Care for Family Member – Males**



**Figure 4.14. Shifted to Care for Family Member – Females**



## CONCLUSION

This report is based on the responses of 1250 members of the Allegheny County Bar Association to a survey distributed to all members in September 2005. Major findings focus on four areas: legal preparation, current situation, perceptions and attitudes, and demographics and home life. In terms of legal preparation, more than 70% of respondents attended local law schools, and women were significantly more likely than men to report receiving honors in law school. First employment for men and women was fairly similar with the majority beginning their careers in private practice settings. Women were more likely than men to move into non-private practice settings over time.

Overall, men earn significantly more income than women. This finding is unchanged from the earlier 1990 study. This is the case despite the fact that the mean number of hours worked by males (48.5) and by females (48.25) employed full time is almost identical. It is also the case when time in the profession is held constant. Although women respondents were, on average, about seven years younger than male respondents, a large number of female respondents have been practicing law for twenty years. Reasons for this income difference were not readily apparent from analysis of the responses.

Women were significantly more likely than men to report having observed discrimination on all questions involving women and many of the questions focusing on minorities and younger lawyers. Men who graduated from law school during the last 20 years perceived the world to be more egalitarian or saw less discrimination than men who graduated before that date. Women's perceptions of discrimination are not related to their year of graduation. For questions involving gender issues, men showed a higher percentage of traditional responses than did women.

Men were more likely to be married and to have children. Women spend more time than men on both household chores and child care. For men with young children, the spouse was the primary source of child care. For women with young children, paid child care was the primary source. Both men and women agree that law is a high pressure profession, and most report that they have developed strategies to deal effectively with the challenges of the profession.

These data and this summary provide a comprehensive snapshot of the characteristics and circumstances of attorneys in Allegheny County today. The lack of progress toward equality of earnings in the profession for men and women is both troubling and puzzling, given the length of time since the last survey. Although the gender make-up of the profession is profoundly changed, the income differential remains identical. It is hoped that this report is the beginning of a discussion of these issues and other subjects. Further conversation and analysis will contribute to a broader understanding of the legal profession today.

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APPENDIX A

Cover Letter and 2005 Survey

**THE  
ALLEGHENY  
COUNTY BAR  
ASSOCIATION**



400 Koppers Building  
436 Seventh Avenue  
Pittsburgh, PA 15219  
412-261-6161  
Fax 261-3622  
www.acba.org

September 6, 2005

**Re: Allegheny County Bar Association Survey**

Dear ACBA Member:

As a member of the Allegheny County Bar Association, you were selected to participate in the enclosed survey. We ask that you take 10-15 minutes to complete the survey. This survey focuses on your experiences with the practice of law in Allegheny County and is a partial replication of a survey conducted in 1990. Updating this information will allow us to better assess changes in the practice of law since that time. The survey results will provide valuable information for creating future programs.

Your response to the survey will be completely confidential (please do not sign your name). Feel free to include any information, make comments, or clarification[s] on the last page of the survey. The data will only be available in aggregate form. We, or the researchers (Drs. Kitzerow and Tomlinson of Westminster College), will be happy to answer your questions regarding the survey. The researchers can be reached at [tomlinvm@westminster.edu](mailto:tomlinvm@westminster.edu) or (724) 946-7252.

Thank you for your willingness to cooperate. Please return the completed survey by October 1, 2005 in the enclosed, self-addressed stamped envelope. We hope that you will find the process of answering the questionnaire interesting and thought-provoking.

Sincerely,

Robert V. Racunas  
President

The Honorable Kim Berkeley Clark  
President-Elect

James W. Carroll, Jr.  
Immediate Past-President

Enclosures

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David A. Blaner



# ACBA SURVEY

Please respond to the following questions and return your survey by October 1 in the enclosed self-addressed, stamped envelope or return to ACBA Survey, Westminster College Box 29, New Wilmington, PA 16172.

1. When did you graduate from law school?

\_\_\_\_\_ year

2. From what law school did you graduate?

- University of Pittsburgh  
 Duquesne University  
 Other, please name \_\_\_\_\_

3. Were you on Law Review?

- Yes  
 No  
 Not Applicable (NA)

4. Did you receive any honors while in law school?

- Yes, please describe \_\_\_\_\_  
 No

5. What was your standing in law school?

- Top 10%  
 Top 25%  
 Top 50%  
 Lower 50%  
 Unknown/Not Applicable (NA)

6. What was the setting of your first job after law school?

- Solo practice  
 Small practice (fewer than 10 attorneys)  
 Mid-sized practice (10-39 attorneys)  
 Large practice (40+ attorneys)  
 Judicial System  
 Business Corporation  
 Government agency  
 Nonprofit organization  
 Public Interest Law  
 Education  
 Other, please specify \_\_\_\_\_  
 I have not been employed since law school.

7. Have you ever been mentored?

- No (GO TO Question 8)  
 Yes. If yes, how did you get your mentor?

\_\_\_\_\_

If yes, was having a mentor beneficial?

- No  
 Yes. In what ways? \_\_\_\_\_  
\_\_\_\_\_

8. Have you ever served as a mentor?

- Yes  
 No

9. Are you currently employed?

- Full time  
 Part time  
 Not currently employed (GO TO Page 4)

10. In what setting are you currently employed?

- Solo practice  
 Small practice (fewer than 10 attorneys)  
 Mid-sized practice (10-39 attorneys)  
 Large practice (40+ attorneys)  
 Judicial System  
 Business Corporation  
 Government agency  
 Nonprofit organization  
 Public Interest Law  
 Education  
 Other (Please specify) \_\_\_\_\_

11. How many years have you been in your present job? \_\_\_\_\_ years

12. How did you choose your present job?

Check all that apply.

- type of work  
 social worth  
 level of responsibility  
 work-life balance  
 compensation level  
 office culture/colleagues  
 prestige  
 independence/flexibility  
 other, please state \_\_\_\_\_

13. How would you describe your level of satisfaction with your present job?

- very satisfied  
 moderately satisfied  
 neither satisfied nor dissatisfied  
 moderately dissatisfied  
 very dissatisfied

14. What are your areas of primary concentration?  
(List up to 3) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**15. What is your title/status in your present job?**

- In-house Counsel  
 Equity Partner  
 Partner  
 Sole Practitioner **(GO TO Question 31)**  
 Other (Please specify) \_\_\_\_\_  
 Associate  
 If you are an associate, are you on a partnership track?  Yes  
 No. If no, for what reason \_\_\_\_\_  
 \_\_\_\_\_

**16. What percentage of your income is derived from:**

- % salary  
 % bonuses  
 % dividends  
 % fee-generating appointments  
 % other, please describe \_\_\_\_\_

**17. Did you receive a salary increase last year?**

- Yes  
 No  
 Not applicable

**18. What is the basis of salary decisions in your firm or organization? (Check all that apply)**

- Merit  
 Cost of living  
 Incentive  
 Seniority  
 Percentage of fees generated  
 Billable hours  
 Other, please specify \_\_\_\_\_

**19. How satisfied are you with your firm or organization's salary decisions?**

- Very Satisfied  
 Satisfied  
 Dissatisfied  
 Very dissatisfied  
 No Opinion

**20. Which of the following hour requirements does your firm have? (Check all that apply.)**

- Billable Hours.  
     Requirement is \_\_\_\_\_ hours.  
 Non-billable productive hours.  
     Requirement is \_\_\_\_\_ hours.  
 Other hour requirement.  
     Please specify \_\_\_\_\_.  
     Requirement is \_\_\_\_\_ hours.  
 No specific hour requirements.

**21. How satisfied are you with your firm or organization's policies on promotion?**

- Very Satisfied  
 Satisfied  
 Dissatisfied  
 Very dissatisfied  
 No Opinion

**22. Do you have an annual performance review?**

- Yes  
 No  
 NA

**23. Do you have any reason to think that you are earning less than others with whom you work who have comparable education and responsibilities?**

- No  
 Not enough experience to say  
 Yes. If yes, which of the following factors do you see as relevant? **(Check all that apply)**  
 race or ethnicity  
 billable hours  
 prior work experience  
 job assignment  
 other, please describe \_\_\_\_\_

**24. Does your firm or organization make salary and bonus information available? (Check all that apply)**

- Not available to anyone but decision makers  
 Available upon request  
 Distributed to some individuals  
 Distributed widely  
 Other. Please specify \_\_\_\_\_

**25. Are "rain-making" activities a part of your job?**

- No  
 Yes. If yes, how many hours per week do you spend in these activities? \_\_\_\_\_ hours

**26. Please describe the number of attorneys employed in your local workplace.**

- total number of attorneys  
 number of women attorneys  
 number of minority attorneys  
 number of women minority attorneys

**27. Please describe the number of partners or the equivalent in your local workplace.**

- total number of partners/equivalent  
 number of women partners/equivalent  
 number of minority partners/equivalent  
 number of women minority partners/equivalent

**28. Please describe the number of associates or the equivalent in your local workplace.**

- total number of associates/equivalent.  
 number of women associates/equivalent.  
 number of minority associates/equivalent.  
 number of women minority associates/equivalent.

**29. Please describe the compensation committee of your firm or organization.**

- total number of members  
 number of women members  
 number of minority members  
 number of women minority members  
 Not applicable (NA)

30. Listed below are various benefits your job may offer. Please indicate which benefits you have used, which are not available, which you would use if available, and indicate if you are unwilling to use the benefit if available. Check all that apply.

Benefit	Have Used	Not Available/ Unknown	Would use if available	Unwilling to use
a. Part time work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Flex time work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Maternity leave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Paternity leave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Unpaid leave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Sabbaticals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Physical health benefits	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Mental health benefits	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. On site child care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. On site cafeteria	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. CLE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. ACBA paid membership	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Bench Bar	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
n. Health club paid membership	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
o. On site gym facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
p. Country club paid membership	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
q. Technological accessories	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
r. Computer assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
s. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

31. Approximately how many hours a week do you spend at work? \_\_\_\_\_ hours

32. Approximately how many hours a week do you spend working at home? \_\_\_\_\_ hours

33. How often do you go to the office on Saturdays?

- Almost always  
 Usually  
 Sometimes  
 Rarely  
 Never

34. How often do you go to the office on Sundays?

- Almost always  
 Usually  
 Sometimes  
 Rarely  
 Never

35. Does your firm/organization require you to go into the office on Saturdays or Sundays?

- Yes  
 No

36. How many vacation days does your job offer annually? \_\_\_\_\_ vacation days per year

37. How many vacation days do you generally use in a year? \_\_\_\_\_ vacation days used in a year

38. Does your current position require travel?

- No  
 Yes. On average, how many nights per month does this travel require you to be away from home? \_\_\_\_\_ nights per month

39. How long do you expect to remain in your present job?

- 1 year or less  
 2-4 years  
 5 years or more

40. What will you do after this job?

- job in the legal field  
 job not in the legal field  
 temporarily be out of the workforce  
 return to school  
 retirement  
 other, please specify \_\_\_\_\_



	Always	Usually	Some- times	Rarely	Never	No Opinion/ NA
59. Have judges or other lawyers intervened to correct any of the situations described in questions 41-56?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
60. Female attorneys are appointed by judges to cases involving substantial fees on an equal basis with male attorneys.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
61. Minority attorneys are appointed by judges to cases involving substantial fees on an equal basis with other attorneys.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
62. Younger attorneys are appointed by judges to cases involving substantial fees on an equal basis with older attorneys.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
63. Female attorneys are awarded lower counsel fees than male attorneys for the same work.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
64. Minority attorneys are awarded lower counsel fees than other attorneys for the same work.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
65. Younger attorneys are awarded lower counsel fees than older attorneys for the same work.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
66. In your organization or firm, less important cases are handled by female attorneys.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
67. In your organization or firm, less important cases are handled by minority attorneys.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
68. In your organization or firm, less important cases are handled by younger attorneys.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
69. In your interactions with colleagues, you are treated with respect.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
70. It has been your experience that colleagues are forthright and honest in their dealings with you.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
71. Showing anger is appropriate behavior for an attorney.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
72. Using "Rambo" tactics is appropriate behavior for an attorney.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
73. Using emotional appeals is appropriate behavior for an attorney.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
74. Losing your temper is an appropriate behavior for an attorney.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**If you have experienced or observed any of the conduct described above and wish to describe it, please do so on the last page of the survey.**

Please express your level of agreement or disagreement with each of the following statements:

	Strongly Agree	Agree	Disagree	Strongly Disagree
75. Law is a high pressure profession.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
76. Practicing law has had a negative effect(s) on my physical health.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
77. Practicing law has had a negative effect(s) on my mental health.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
78. I have developed appropriate strategies to deal effectively with the challenges of my profession.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
79. If relocating were important for the advancement of my spouse's career, I would be willing to move.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
80. Too much attention is given to the gender wage gap.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
81. Mothers of pre-school age children should stay at home to care for them.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
82. It is more important for a wife to help with her husband's career than to have a career of her own.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
83. A mother who works full time can establish just as warm and secure a relationship with her children as a mother who does not work outside the home.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

84. How old are you? \_\_\_\_\_ years

85. What is your gender?

- Male  
 Female

86. What is your race?

- Caucasian  
 African-American  
 Hispanic  
 Asian  
 Other

87. What is your marital status?

- Never married (Single)  
 Separated  
 Divorced  
 Widowed  
 Other, please describe \_\_\_\_\_  
 Married

If married, is your spouse employed outside the home?

- No  
 Employed Full time  
 Employed Part time

If married, what is your spouse's occupation? \_\_\_\_\_

If married, approximately how many hours per week does your spouse spend on household chores? \_\_\_\_\_ hours

88. Approximately how many hours a week do you spend on household chores? \_\_\_\_\_ hours

89. Do you have children?

- No. If no, have you elected not to have children in order to pursue a career as a lawyer?  
 Yes  
 No

Yes. If yes, what are their ages? \_\_\_\_\_

If yes, have you shifted your career in law at any time in order to stay at home and care for your children?

- No  
 Yes. If yes, have you...

**(Check all that apply)**

- ceased working?  
 worked fewer than 20 hours a week?  
 worked fewer than 30 hours a week?  
 moved to smaller practice?  
 shifted to lower intensity, e.g., litigation to nonlitigation?  
 other, please describe \_\_\_\_\_

**If you do not have children 5 years of age or younger, please GO TO question 94.**

90. If you have children 5 years of age or younger, who cares for them during the day?

- Respondent
- Spouse/Partner
- Paid child care in the home
- Paid child care outside the home
- Relative (unpaid)
- Neighbor (unpaid)
- Other, please specify \_\_\_\_\_

91. Roughly how many hours per week do you spend caring for their needs? \_\_\_\_\_ hours

92. Roughly how many hours a week does your spouse/partner spend caring for their needs?

- \_\_\_\_\_ hours
- Not applicable

93. Estimate the number of hours per week your youngest child spends with a paid caregiver.

\_\_\_\_\_ hours

94. Who usually handles household emergencies?

- Respondent (I do)
- Share with Spouse/Partner
- Spouse/Partner
- Family member
- Other, please specify \_\_\_\_\_

95. Have you shifted your career in law at any time in order to care for family members other than children, e.g. a parent?

- No
- Yes. If yes, have you... (Check all that apply.)
  - ceased working?
  - worked fewer than 20 hours a week?
  - worked fewer than 30 hours a week?
  - moved to a smaller practice?
  - shifted to lower intensity, e.g., litigation to nonlitigation?
  - other, please describe \_\_\_\_\_

96. What is your individual annual income range from law practice only?

- Under \$25,000
- \$25,000 - \$49,999
- \$50,000 - \$74,999
- \$75,000 - \$99,999
- \$100,000 - \$149,999
- \$150,000 - \$199,999
- \$200,000 - \$249,999
- \$250,000 - \$299,999
- \$300,000 - \$349,999
- \$350,000 and over

97. If you had it to do all over, would you practice law?

- Definitely
- Probably
- Not Sure
- Definitely Not

98. Is being a lawyer what you expected it to be?

Yes. If yes, what did you expect?

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No. If no, what is different?

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99. If you could change one thing about your profession, what would you change?

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100. What problems/issues do you see for new lawyers today?

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Please use the space on the next page to write any comments related to the topics addressed in this survey.

Please return your completed survey by **October 1** in the enclosed self-addressed, stamped envelope or return to the following:

**ACBA Survey**  
**Westminster College Box 29**  
**New Wilmington, PA 16172.**

# Report & Recommendations

of the Gender Equality Task Force of the  
Allegheny County Bar Association



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ACBA Gender Equality Task Force co-chair

Gary P. Hunt, Esq.  
ACBA Gender Equality Task Force co-chair

Ken Gormley, Esq.  
ACBA President

Honorable Kim Berkeley Clark  
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Gretchen Kelly, Esq.  
Chair, ACBA Women in the Law Division

Linda Varrenti Hernandez, Esq.  
ACBA Gender Equality Coordinator and Author of Report

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Allegheny County Bar Association

*Raising the Bar on Legal and Community Service*



# THE REPORT AND RECOMMENDATIONS OF THE GENDER EQUALITY TASK FORCE OF THE ALLEGHENY COUNTY BAR ASSOCIATION

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Headquartered in Pittsburgh, Pennsylvania, the Allegheny County Bar Association (ACBA) is a professional organization with more than 6,500 members, including lawyers, judges, district judges, legal administrators, and paralegals. It was chartered in 1870 and currently has more than fifty committees, sections, and divisions dealing with legal issues.

This report is an analysis of information gathered between 2005 and 2007 by many sources. However, the members and staff of the ACBA recognize that while much has been researched and written on this subject, there is a lack of implementation and in some cases understanding with respect to the actions that must be taken going forward. Therefore, this report will also outline clear and verifiable means by which real change can occur. The most significant of these is the recommendation of the Task Force that the ACBA establish the Allegheny County Bar Association Institute for Gender Equality. (An outline of the proposal can be found on pages 14 and 15 and Appendix 2 of this report.)

While those involved with this process concur that there is no “quick fix” for questions raised by the 2005 survey concerning gender equity and the subsequent research, they are in agreement that now is the time for action. Rather than finger pointing, it is time for a united voice calling for action on the part of everyone to generate the most productive results. The proposed Institute is a results-oriented process that will offer collaborative and multi-faceted programs to address the issues facing female attorneys.

Our sights are now fixed on one goal—overcoming the barriers to women’s success in the legal profession by positive, forward movement.

## I. SUMMARY OF THE 1990 SURVEY AND REPORT

---

In 1990, the ACBA Women in the Law Committee commissioned and distributed to all ACBA members a survey with a two-fold purpose: to gather general information about the membership and to examine the similarities, differences, and attitudes of male and female respondents regarding their legal careers. Significantly, the 1990 survey was designed to address the issue of gender bias in the legal profession in western Pennsylvania. At the time this was not an issue unique to the geographical area but was also studied by bar associations and blue ribbon task forces in a majority of the states.

The 1990 report based on the survey results addressed two questions. The first was whether gender bias existed at that time and the second was in what ways, should the bias exist, might it differently affect the careers of male and female attorneys.

The 1990 survey was responded to by 29% of the membership. Participation was voluntary, confidential, and anonymous. The executive summary of the 1990 report noted that the high response rate was an indication that the findings of the survey represented the views of a large cross-section of members.

While the 1990 report contained many statistics regarding the general membership, there were a number of findings pertaining to gender:

- 29% of the respondents were female.
- 71% of the respondents were male.
- Mean age of male respondents was 43 years.
- Mean age of female respondents was 36 years.

The 1990 report interpreted the data regarding the range of alternative working conditions and found that 60% of the respondents worked for employers who offered flexible working hours, while 39% had the option of job sharing. Law was considered a “high pressure profession” by 79% of the respondents.

The issue of a gendered pay differential was one troubling finding of the 1990 survey. The mean annual income range for females was \$35,000–\$45,999 while for men it was \$60,000–\$79,000. Perhaps more astounding than the disparity itself were the reasons offered for the difference in income by each gender. Almost 20% of the women who answered this query thought that gender was responsible for the difference in dollars, while less than one half of one percent of the males felt that gender played any role.

The 1990 report concluded that the most striking differences based on gender were that “females earned less than males, reported differential treatment, and assumed a greater share of domestic responsibility.” The report contained a further analysis of potential reasons why these results occurred and determined that “years of practice, area of practice, number of children under

eight years old, and marital status do not explain the differences in the income of male and female lawyers.” It further concluded that the female respondents held more “progressive attitudes” about gender roles than did their male counterparts.

## II. SUMMARY OF THE 2005 SURVEY AND REPORT

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In the spring of 2005, the Gender Bias Subcommittee of the Women in the Law Division of the ACBA commissioned a study that would update the information gathered in the 1990 survey and report. The commissioned study was conducted by Phyllis Kitzerow, Ph.D. and Virginia Tomlinson, Ph.D., who are faculty members in the Political Science & Sociology Department at Westminster College. While the 2005 survey contained some of the same queries found in the 1990 survey, it was expanded to include additional areas of relevance identified by the Subcommittee.

There was a 21% response rate to the 2005 survey, and the return was representative of the ACBA membership in terms of gender and years in practice. As with the 1990 survey, the responses were anonymous and confidential. Additionally, similar to the 1990 results, the respondents were overwhelmingly Caucasian—more than 95%.

The survey reported the following:

- 70.6% of the respondents were male.
- 27.2% of the respondents were female. (approximately 2% did not respond to this question.)
- Mean age of the male respondents was 50.4 years.
- Mean age of the female respondents was 42.9 years.
- Over 60% of both male and female respondents practiced in law firms.
- The largest group of female respondents graduated in the 1980s.
- The largest group of male respondents graduated in the 1980s.

The 2005 survey indicated that most of the respondents were currently employed full-time while women were about twice as likely as men to report being employed part-time. Women also reported being more likely to move out of the private practice setting (where both genders overwhelmingly reported beginning their careers) to alternative settings, including non-profit, corporate, judicial, or governmental positions. The survey additionally found that women were far more likely to move out of the mid to large size law firm environment into the settings described above, or into small or solo practice settings.

The 2005 survey found that men and women worked about the same number of hours a week, with a mean for the men of 48.5 hours and 48.25 hours for the women. Attorneys in large firms reported working the longest hours; the more recent the law school graduation date, the longer the hours worked. Additionally, the survey found that men were more likely to be involved in business development activities. Another significant finding in the “choice of employment” category was that women were more likely than men to choose a position based on the work/life balance it offered, while men more often made the choice based on compensation and prestige.

Some findings showed little or no change from the 1990 survey. In terms of income, there were many results consistent with those from 1990. When the entire group of 2005 respondents is viewed as a whole, there is a clear gendered discrepancy in earnings between the men and women. When this analysis is broken down into practice settings and gender, there continues to be a compensation disparity between men and women although the results are less clear-cut.

Overall, women who participated in the 2005 survey were more likely than men to report that they earned less than others with comparable education and responsibilities. While there were many statistics garnered by the 2005 survey on this subject, three speak particularly to income and earning power. They include the fact that no female respondent who graduated from law school in the 1990s was earning above the \$200,000–\$249,999 level, while over 10% of the male graduates for the same time period were being compensated at that level. In 2005, only 5% of the female respondents earned \$250,000 or more while almost 20% of the men earned at this level. Also, while the rank of the law school an attorney attended (based on the *US News & World Report* law school rankings) seems to impact earning power, no female respondents from the top tier law schools who responded did in fact break this economic barrier.

While the statistics do not present a completely comprehensive analysis of the pay disparity question, the authors of the 2005 survey found it important enough to state that “[p]erhaps our most important finding is the difference in income by gender.”

When questioned about whether too much attention is paid to the “wage gap” described above, 50% of the men who responded agreed with that statement, while only 17% of the women concurred. While nearly all respondents agreed that the law is a “high pressure” profession, women were more likely to profess that it has a negative effect on physical and mental health than their male counterparts.

The 2005 survey examined job satisfaction extensively and concluded that women were twice as likely as men to be dissatisfied with their employment situation. In addition, that level of dissatisfaction carried over to women's beliefs about salary decisions and promotion policies. While men became more satisfied as salary continued to rise, this was not the case for female respondents to the survey, which also reflects the responses concerning why men and women choose employment situations. Of the men responding, 70% would definitely/probably choose the practice of law again for their career. In contrast, only 54.7% of the women would make that same choice.

The 2005 survey deals with the question of perceptions and attitudes in much greater depth than the 1990 survey. The 2005 findings include the fact that women were "significantly more likely" than men to report discrimination for all of the questions involving women and the majority of questions involving minorities. Additionally, women were not as likely as men to feel that they were "always" treated with respect. A much higher percentage of women than men felt they were not treated honestly by their colleagues and that discrimination had "sometimes" affected the outcomes of cases or transactions.

The 2005 survey included several questions intended to evaluate home life. While some of the facts have changed since the 1990 report, women are still responsible for a larger share of the "work" at home than are men. Women spend 10.55 hours/week on household obligations while men responded that they spend approximately 8.55 hours at these tasks. These numbers increase significantly for women in dual career families, where women attorneys reported spending an average of 12.13 hours on household chores while their male counterparts spent only 8.82 hours on such chores.

The 2005 survey examined the issues of title and status, as did the 1990 survey. The results confirm that men are most likely to be equity partners while women were more likely to be associates. While the survey also suggests that men are more likely to be on the partnership track than women, this may be attributed partially to the earlier graduation dates of the male respondents.

Based on survey results, the Task Force believes there remain unresolved problems related to gender that impede women's success in the legal profession. At the very least, these problems include equitable compensation, satisfaction with the profession, discrimination against women and minorities, lack of opportunities for advancement, and retention of women in the practice of law.

While not an exhaustive list, these are the noteworthy findings from the 2005 survey. They certainly provide a broad range of issues from which to begin the next phase of work. There is no lack of challenging opportunities going forward.

### **III. AFTER THE SURVEY**

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The Gender Equality Task Force was formed in the fall of 2006 in response to the 2005 survey results. The ACBA leadership and membership realized that simply "having" this information was not enough. Change was clearly mandated to make gender equality a top priority, and the creation of the Task Force was the first step forward. Then ACBA President, Robert Racunas, Esquire, was extremely instrumental in establishing the Task Force and supporting the on-going initiative at every stage.

Realizing the challenging nature of this undertaking, the Task Force was made up of leaders from all levels of the profession, including managing partners, in-house counsel, educators, and the judiciary. (A complete list of members is included on the inside front cover of this report.) The Honorable Lisa Pupo Lenihan, United States Magistrate Judge, and Gary Hunt, Managing Partner, Tucker Arensberg, PC were appointed co-chairs of the Task Force.

The Task Force was created to evaluate the survey findings, develop a strategy to address the issues, and raise awareness that gender bias continues to exist in the legal profession both nationally and locally in Allegheny County. This information was distributed to both the legal community and to the public in general. The need for meaningful change was stressed from the inception of the Task Force and has remained a major emphasis throughout.

Additionally, the Task Force committed to further investigate the findings from the 2005 survey. This was done through a series of focus groups, one-on-one discussions, and analysis with a cross-section of female lawyers in the Allegheny County area. This was a key decision in that the additional research validated and supplemented much of what was communicated in the survey responses. This was a time-consuming and scholarly effort, one that was key to a further understanding of the women who participated, if change was to take place. It also allowed the anonymous participants of the survey to become real in many ways.

It became apparent to all those involved with this effort that the answers to the issues presented were as varied and complex as the problems themselves. As such, the Task Force made it a goal to develop recommendations that would address the key themes identified in the 2005 survey and the subsequent research within the membership. The Task Force chose to focus on the major issues of equality of compensation, job satisfaction, retention of women in the profession, and perceptions and attitudes related to gender. These were all identified from information gathered from the survey itself.

Important to the success of the effort was the intention of the Task Force to develop “strategic alliances” with all stakeholders throughout the legal community. These included law firms, law schools, the judiciary, corporate legal departments, the government, and sole practitioners. The Task Force believes and research continues to confirm that a collaborative effort will meet with the highest degree of success. From the beginning, the building of these relationships has been a priority and will continue to be.

The Task Force was divided into four Subcommittees in order to deal most efficiently with its stated goals. The Subcommittees delved into the key areas of Work-Life Balance and Compensation, Job Satisfaction and Retention, Perceptions and Attitudes, and Best Practices. Each of the Subcommittees was charged to analyze the 2005 survey results relating to its particular topic, distill the major problems the results illuminated, gather further information on those results, and report its findings to the Task Force along with recommendations for proposed solutions to the problems raised in its focus area.

## **A. Results of the Work-Life Balance and Compensation Subcommittee**

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The Work-Life Balance and Compensation Subcommittee held two discussion groups with members of the ACBA subsequent to the release of the 2005 survey results. An open invitation was communicated to the ACBA membership that emphasized the confidentiality of the meetings. Women from senior managing partners to law clerks participated in the discussions. The Subcommittee then convened to discuss the information gathered at the group meetings, review further scholarly research, and distill its findings.

The Subcommittee identified work-life balance as an issue of critical importance to female lawyers. After talking with the focus groups, the Subcommittee found that the term “work-life balance” did not mean that women expected the practice of law to be stress-free. Rather, it found that female attorneys place a great importance on having both a challenging and interesting law practice *and* an emotionally satisfying private life. Women gave high priority to their legal careers as well as their private lives, rather than prioritizing career over private life as has been the traditional male model of legal practice. The Subcommittee found that women expected this balance and that the practice of law in today’s marketplace very often did not support this value. When the elevation of practice demands led to the suppression of private life, this was a trigger point for women’s dissatisfaction with their current practice of law, and in many cases for leaving the profession or finding an alternative position. The Subcommittee determined that a significant difference exists in male and female attitudes regarding work-life balance and that education and understanding is necessary regarding both male and female views to insure that women remain in the profession. It recommended programming to address such issues going forward.

In addition, feedback from the discussion groups held by this Subcommittee shows that the participating women perceived active gender bias to be a recognizable component of their work environment that presents a barrier which men do not typically encounter. Women are treated differently than men in their practice for reasons they believe are inappropriate. They believe that this disparate treatment results in inequity in compensation, work assignments, and leadership opportunities. Bias is an area they believe must be accounted for as it relates to these important career components.

The lack of mentoring and business development training were also identified as significant issues. The focus groups found these issues to be related to the retention of female lawyers and were two of the key reasons for this loss. The Subcommittee noted the severe consequences for law firms of failing to retain female lawyers and for ignoring that loss. These include the enormous financial impact to the entity that trains a lawyer and then loses him/her after 4–6 years. Studies put this cost between \$200,000–\$500,000. They also note that as women achieve greater success in corporate America, there will be more women in positions of power who will demand that women be assigned to their business matters. This is already taking place pursuant to many governmental guidelines. It is pressing that law firms recognize this need and take steps to retain the female lawyers they recruit so that they will be ready to meet this demand. It is also imperative that firms acknowledge that women in leadership positions will represent increased possibilities for female attorneys in terms of networking and business development, thus presenting an opportunity that law firms will miss if they fail to retain female attorneys. All of these consequences impact the bottom line of legal organizations and must be taken very seriously.

Recommendations of the Subcommittee to address the problems of work-life balance, unequal compensation, and the lack of mentoring and business development education include the development of an appropriate mentoring system, transparency in the assignment of cases, and the creation of a compensation system for both male and female attorneys geared to eliminate the potential for bias. Increased business development training and monitoring programs should be developed so that all attorneys are given access to business development opportunities. The Subcommittee found that female attorneys valued public service and would benefit from the creation of programs that also value and recognize community service. The Subcommittee

recommended the creation of a means by which compliance with the Best Practices in the industry can be evaluated, measured, and communicated. The legal profession must recognize and address the serious economic damage to all legal entities caused by the lack of retention of female attorneys. Looking to the future, the Subcommittee recognizes the importance of corporate and community support of these goals if gender equality in the profession is to be realized.

## **B. Results of the Job Satisfaction and Retention Subcommittee**

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The Job Satisfaction and Retention Subcommittee approached its assigned area by three methods. (1) It researched and reviewed surveys and reports of other bar associations and legal organizations on the topic of gender equality. (2) It conducted discussion groups with female attorneys to address job satisfaction and retention of women in the profession. (3) It met individually with female lawyers who either had left the practice of law or who were currently in non-traditional settings. The purpose of these particular interviews was to discern what, if anything, could have convinced these women to remain in the private practice of law.

This Subcommittee also researched these questions extensively in the national arena. The work was thorough and the Subcommittee produced a lengthy report. This research further confirmed that the results of the 2005 survey were similar to those across the country, serving as additional validation of the results and the need for action.

Additionally, the Job Satisfaction and Retention Subcommittee spent a great deal of time and energy conducting three focus groups. Attending these discussions were female members of the ACBA. Careful attention was put into the planning of these meetings and the types of questions that would be used to generate discussion. At the beginning of each session it was communicated that the purpose of these assemblies was to find positive solutions in the form of Best Practices. As with the previous focus groups, anonymity was assured for the participants, although some demographic information was voluntarily submitted during the process.

The focus groups supported the 2005 survey findings and brought to the forefront several recurring themes that coincide with the work the Task Force plans to implement going forward. First, the women spoke often and strongly about their feelings of isolation in a male-dominated workplace. This was true regardless of the size of the workplace or whether or not they were satisfied with the other components of their career. They commented about “not being included or understood” and felt they were often ridiculed when they tried to spend time with other female attorneys.

Secondly, there was a heavy emphasis on the fact that change could only occur with the support of the people in power. There is recognition that unless a program is totally supported by leadership it will be ineffective. One example of this relates to the concept of mentoring. While the women spoke often about mentoring and how such attempts may or not be effective, they made it clear that if there was no formalized follow-up to such attempts, the attempts were generally unsuccessful. Another facet of this issue was the non-value placed on the informal efforts of women to mentor other female attorneys. The perception of those attending the focus groups was that decision-makers saw this as a “waste of billable time.”

Another area of interest to the participants was the importance of self-development. This took many forms, such as: business development, career planning, self-promotion, negotiation, leadership development, balance in work and family, coping skills, part-time opportunities, and networking. Self-development is certainly an area the women in the focus groups were anxious to pursue and for legal employers to recognize as important. The evidence from this Subcommittee is that female attorneys want continued development in these areas and will take advantage of any such programs offered to them.

The Subcommittee also examined the need for transparency in the compensation arena. The participants spoke often of the disparity in compensation and the way in which assignments are distributed. There were many comments testifying that often the structure of management’s decision-making process is non-existent, inconsistent, and/or not communicated. This leads to a feeling of hopelessness as expressed by the women attending the groups. One suggestion was that employers should conduct “internal audits” of salary by gender to determine if a discrepancy actually does exist and then develop strategies to address those discrepancies. There was considerable discussion in all groups regarding the progress made by accounting firms in these areas and the application of that model to law firms.

One theme remained throughout all the focus groups—the need for continued education for all the members of the ACBA regarding these issues. There was complete agreement that these issues are complex and persistent, and addressing them and resolving them must become a priority for the ACBA and its membership, now and in the future.

## C. Results of the Perception and Attitudes Subcommittee

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The Perception and Attitudes Subcommittee was charged with exploring the perceptions and attitudes identified in the 2005 survey. The purpose of its investigation was to further understand the nature and source(s) of the issues that surfaced in this section of the survey. It also was charged to identify recommendations for further action and study. It is important to note that the Subcommittee conducted its research without regard to whether the perception or attitude identified in the 2005 survey was true or false, except to identify the appropriate remedial mechanism, as any gender-related perception or attitude would contribute to the issues identified as problematic.

While the survey results contain examples of bias-based behavior, it is illuminating to identify some of the more notable instances. Women generally felt a higher degree of discrimination than men in several areas. These included jokes, degrading remarks, and disrespect while speaking. 60% of the female respondents reported that such discriminatory conduct did or sometimes did affect their professional development. By contrast less than 10% of the male respondents believed discriminatory conduct had an effect on their career development. Women were more likely to agree that the practice has negative effects on their physical and mental health.

Using this information, the Subcommittee organized focus groups to better understand the survey results. It arranged a focus group to discuss the perceptions and attitudes previously identified in the survey. While not a comprehensive list, some areas covered included the assignment of cases, professional development, lifestyle issues, wage differentials, and disrespect of female attorneys when they are speaking.

When addressing the issue of compensation, female lawyers in the focus groups reported that they perceive a wage gap between themselves and similarly situated male counterparts. They additionally believe that they are doing more work for less pay, and that there exists a “glass ceiling” that adversely impacts their career trajectory. These women also perceive that bias exists toward them in decision-making regarding not only compensation, but career advancement and work assignments.

The results of the focus groups indicated that some women believe that men are held to different standards regarding professional demeanor and behavior than their female counterparts. An example given was women displaying emotions and the reaction to such by those in authority. The perception expressed is that men who react emotionally elicit a different response than women. While women felt they were professionally punished for stereotypically female emotional displays, men who engaged in such stereotypical behaviors were sometimes rewarded.

Additionally, the focus group reported beliefs that more mentoring opportunities exist for men than for women. The group expressed the belief that men are most often given preference for “lead attorney” assignments over women. In terms of lifestyle balance, the participants reported their belief that there is a disparity in the way employers handle issues of family commitment when presented by males as opposed to females. The consensus is that males receive better treatment in this area. When men dealt with family duties they were often seen as good parents, but when women had family duties they were perceived as being uncommitted to their jobs.

After analyzing the focus group results, the Perceptions and Attitudes Subcommittee provided several recommendations as a first step to producing better outcomes for female attorneys.

The development of a mentoring program in cooperation with the ACBA as a whole, its Women in the Law Division, and its Managing Partners Committee was seen as an integral component of a cohesive solutions program going forward. Additionally, the Subcommittee felt that the managing partners/decision-makers should be encouraged to help develop meaningful mentoring initiatives in their own entities. Significantly, another part of this recommendation was that the ACBA should develop a training program for mentors, as not everyone has the skills necessary to be an effective mentor. Additional recommendations included having the ACBA assist legal employers in developing these programs through training, which should be offered annually by the ACBA for CLE credit.

The Subcommittee also recommended the teaching of personal negotiating skills for lawyers. The Subcommittee affirms that such skills are essential for attorneys, and understanding how compensation decisions are made is also critical to creating a sense of gender equity in the workplace.

“Closed” compensation systems were addressed as they relate to the perception of the existence of a wage gap. A “closed” system is one in which the decision-making process is not transparent and little is known or communicated as to how or why decisions are made. The Subcommittee recommends that the Managing Partners Committee of the ACBA independently study the issue of “closed” compensation organizations and make a determination as to whether such systems contribute to gender bias



in the profession at large and in their own firms in particular. It was also suggested that the same study address the issue of advancement within a legal organization and illuminate the process of how the decisions regarding partnerships are made.

The Perceptions and Attitudes Subcommittee also addressed the issue of family by suggesting the Managing Partners Committee develop Best Practices in this area. Legal employers must understand that some women have children and family obligations, and that can be compatible with the practice of law. Female attorneys reported the perception that if they had children, it was taken as a sign that they were uncommitted to their careers. The Subcommittee suggested that the Managing Partners Committee study the practices that corporate America has developed to overcome such perceptions as an aid in discovering what has been successful in that arena. Specifically, accounting firms have been leaders in this arena, implementing the concepts of “on-ramps and off-ramps” as ways to support and retain women who are balancing the needs of career and family.

Lastly, the Subcommittee strongly endorsed the further study of the unique issues facing women of color in the legal profession. African-American women who participated in the focus groups feel that race is an important and equally critical factor that causes their sense of inequity in the workplace. In response, the Subcommittee additionally recommends collaboration with the Diversity Coordinator of the ACBA and the Homer S. Brown Law Association to address these issues. Most importantly, the Subcommittee further recommends training in “cultural competency” as a significant means to address this problem.

## **D. Results of the Best Practices Subcommittee**

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The Best Practices Subcommittee was established to create an archive of reports, literature, and articles concerning efforts by bar associations across the country to deal with gender bias, and to identify Best Practices for correcting gender-based inequities. It was also charged with identifying which legal entities in western Pennsylvania, if any, have successfully addressed some or all of the issues identified in the 2005 survey and subsequent focus groups.

The Subcommittee communicated with legal entities registered with the Allegheny County Bar Association, enumerating the 2005 survey results and explaining that the Subcommittee was currently “gathering information about effective strategies for promoting gender equality in the day-to-day culture of law firms and other legal employers.” The letter asked each of these legal entities to provide feedback (either in writing or in an interview) on the procedures and strategies it uses to address these issues. Specifically, the Subcommittee asked for “practical strategies such as part-time scheduling, non-traditional paths toward partnership and career advancement, and opportunities for professional development.” The stated goal of this Subcommittee was to aid in the creation of a positive working environment for all lawyers in Allegheny County.

Perhaps due to concerns relating to privacy and confidentiality, only six entities responded. However, despite the limited pool of responses, much was learned in this process.

Of the six responding entities, two had programming specifically designed to address gender issues. One entity had launched an initiative overseen by a specific partner, and it was very clear from the interview that it has the strong commitment of top management. The program itself is multi-dimensional and includes workshops to develop personal skills of both men and women. This effort includes, among other things, “lessons” on professional development and a mentoring program that is accountable to management.

Another employer (who provided a written response only) described a program specifically designed to increase the amount of revenue generated by women. The program included improving marketing skills, increasing access to new business, and creating brand recognition around the quality and talent of women. Lawyers employed with this entity reportedly were permitted to work reduced hours and maintain upward career mobility, and the criteria for upward mobility were transparent for both male and female attorneys, including comprehensive yearly evaluations.

The other responding employers confirmed they had no “women’s programs” in place at the current time, although several were trying to incorporate strategies for addressing some of these issues into their corporate culture.

Although the Subcommittee was disappointed with the level of voluntary response to these requests, it was a valuable process nonetheless. The responses confirmed that many employers are looking for assistance in these areas. Employers admitted that many of these issues are too complex for “working” lawyers to tackle and as such, they seek advice and education in these areas. The Subcommittee submits the Best Practices listed in Appendix 1 for all legal employers who wish to begin the process of growth and development. These Best Practices have been identified by national and local sources as essential to providing change.

Moreover, the Subcommittee assembled an archive of reports, articles, and information concerning gender bias in law and other professions, as well as Best Practices to correct such bias, forming the foundation for a blueprint aimed at development of future practices.

Based on its own work and that of all the other Subcommittees, the Best Practices Subcommittee established the following themes in the process going forward:

1. Professional Development, Leadership, and Growth
2. Job Advancement, Satisfaction, and Retention
3. Compensation
4. Work-Life Balance
5. Perceptions and Bias
6. Cultural Competency

The Subcommittee recognized that these cover a broad spectrum, but believed they would allow for discussion and education regarding almost all areas of concern identified to date. For example, business development initiatives fall within the scope of the first two topics, and transparency of the criteria by which compensation decisions are made will be addressed as part of the third theme. In addition, these wide-ranging topics will allow for the inclusion of many additional issues of concern that are identified as the process continues.

Although the work of the Subcommittees has now been completed, it is readily apparent to the Task Force that if resolution of these issues is our goal, more effort is needed going forward. In keeping with its commitment to this ideal, the ACBA hired a Gender Equality Coordinator, Linda Varrenti Hernandez, in July 2007.

Hernandez began law school in 1997 at the age of 45 and graduated in 2001 from Duquesne University School of Law, having received the Outstanding Female Graduate award. She and her husband, William, are the parents of three daughters, one of whom graduated from law school in the same year as her mother. They also have two grandsons. Hernandez is also of counsel with the law firm of Dickie McCamey, LLC.

The Coordinator's role includes consensus-building, education, and coordination of all efforts to address the issues identified. It is notable that the Allegheny County Bar Association is the only bar association in the country to fund such a position, even though many associations have conducted surveys that produced similar results.

## IV. THE NATIONAL PICTURE

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The results of the ACBA's surveys and the findings of the Subcommittees noted above have been confirmed by surveys and studies in other regions and studies addressing national (and in some cases international) endeavors. Numerous surveys and reports have been conducted around the country in the past decade with similar results. Significantly, studies from New York to Wisconsin to Georgia and California have all identified the same issues identified in the ACBA's surveys. Publications ranging from *Working Mother* magazine to the *Wall Street Journal* regularly inform lawyers and non-lawyers alike about these topics. However, although studies and articles routinely identify the same issues of concern, these studies and articles have not yet offered concrete suggestions for long-lasting, measurable solutions for women who feel disenfranchised in the current practice of the law.

The practice of law has changed dramatically over the past fifty years. These changes include dramatic shifts in the size of firms, billing methods, and the use of technology. However, one of the most dramatic and noticeable changes is the increase of female participation in the legal profession. In 1955, women comprised 3.7% of all law school classes. By 2005, women comprised 47.5% of law school classes and today many publications report that this figure may be at 50% or slightly higher.

Nationally, one of the most-analyzed issues is the high attrition rate for female attorneys from the practice of law. This attrition rate is evidenced by the under representation of women at the highest levels in law firms and corporations alike. Women are absent in the ranks of partners, general counsel, committee chairs, and members all over the country. Over and over the question is "Where have all the female lawyers gone?" This problem persists in Allegheny County as well, as indicated by the lack of satisfaction professed by many female respondents in the 2005 ACBA survey report. In fact, whereas 17.29% of all partners nationally are women, in the Pittsburgh area that number is only 15.76%. There is little question that female attorneys in the Allegheny County area are "opting out" before many of them reach leadership status.

While there are a plethora of reasons for the female exodus, one of the most often cited reasons nationally is the work-family issue. Survey results from around the country cite to this as one of the major reasons women leave rather than advancing in law firms. One of the most commonly suggested solutions to this dilemma is allowing reduced hours or part-time work. However, research confirms that women who choose this work arrangement are viewed as less committed than others, and that perception negatively impacts their opportunity for advancement within the organization in many instances. Even under these

circumstances, a study by the Massachusetts Women's Bar in 2000 reported that 90% of respondents confirmed that their employer's willingness to accept reduced hours has affected their decision to stay in the firm. Among both men and women, the top three reasons for leaving firms are long work hours, work load pressures, and difficulty integrating family and work.

Notably, women are far more likely than men to identify the "work-family time squeeze as [the] primary" reason for dissatisfaction. A study conducted by the MIT Workplace Center Surveys on Comparative Career Decisions and Attrition Rates of Women and Men in Massachusetts Law Firms (Spring 2007) reported that the reason for the above discrepancy is that a higher percentage of male attorneys have spouses with a lesser commitment to their own careers (or have no careers at all) and as such are in positions to provide time for family care. The report points out that women are more likely to have partners/spouses with an equal or greater commitment to their professional development, and therefore, women are less able to rely on their partners/spouses for family support. Therefore, the possibility of alternative work arrangements becomes attractive to the women struggling with this dilemma. However, because women who choose alternative work arrangements are often viewed as less committed to their careers, they are placed in a no-win situation.

Similar to the findings of the ACBA surveys, a survey conducted by the New York State Bar Association Committee on Women in the Law in 2001 confirmed gender disparities in pay, especially at the highest pay levels. This was most pronounced among those attorneys in private practice and to a somewhat lesser degree with in-house counsel. Interestingly, the New York results also described a disparity between genders regarding the average billing rate.

The results of the New York state survey also suggested that "committee memberships" impacted compensation in a negative way for women. Specifically, women in private practice were most often placed on the firm's associate and diversity committees, but were much less likely to be on the firm's executive or compensation committees. The survey results indicate that those individuals on the more prestigious committees receive higher earnings.

Gender-related disparities in compensation and work assignments are not issues particular to the Allegheny County area. Many other findings make clear that these disparities exist throughout the nation.

Additionally, the New York state survey examined gender discrimination in the workplace more extensively than the ACBA survey. This survey found that women were more likely than men to report discrimination based on gender. Such discrimination included demeaning or sexist jokes, condescending treatment, inappropriate use of endearments, inappropriate comments on dress or appearance, sexual teasing, sexual looks, and in some cases touching or pinching. Though other bar associations did not examine these issues as comprehensively as the New York State Bar survey, the collective results of these other surveys demonstrate that gender discrimination in the legal workplace is prevalent around the country.

Many of the national studies and surveys reported Best Practices as first steps in addressing these issues. Additionally, they examine how they might stem the tide of females exiting the legal profession. Many of these suggested Best Practices mirror the proposals of the Gender Equality Task Force of the ACBA and its four Subcommittees.

An example of these proposed solutions can be found in the New York City Bar Committee on Women in the Profession study titled *Best Practices for the Hiring, Training, Retention and Advancement of Women Attorneys* released in February 2006. (See Appendix 1.) This study begins with the premise that although fixing the problems is not cost-free, not to do so may bring much larger costs to legal employers. For example, high attrition rates impact the firms' bottom line in terms of monies lost in recruitment and training when an attorney departs.

A less tangible cost, but an important one to consider, is the loss of potential clients because of the lack of a diverse legal workforce. In addition, those firms that do not take steps to hire and retain women have a more limited pool of highly qualified lawyers. Logically, because the numbers of law school graduates has been stagnant or in some cases declining, employers who do not hire and retain women will not obtain the lawyers of high quality they need to remain competitive. Varying sources maintain that women now comprise up to 50% of most law school classes.

The New York City Best Practices report emphasizes the extreme importance of commitment by senior management if substantive change is to be achieved. The findings of the ACBA also demonstrate the significance of this component if effective change is to occur. A necessary component to management commitment is accountability of the organization. Commitment without a vehicle to measure success is an empty effort. Therefore, it is recommended that a system be established to monitor outcomes and that confirms those responsible will be accountable for their action or inaction.

Career advancement is another area addressed by the New York City "Best Practices" report. The report recommends "transparency" of the criteria required for promotion and advancement. The ACBA Task Force echoes this call for clear information, and endorses transparency with respect to compensation decisions and work assignment as well.

Like the New York City Report, the ACBA Task Force also recommends the implementation of best practices addressing workplace flexibility, mentoring, and developmental training.

This overview is not intended as a comprehensive review of all studies, surveys, reports, and actions taken across the country. (See attached reference page for additional sources.) Rather, it is intended to demonstrate that the findings of the ACBA surveys are consistent with findings of other national surveys and reports. It is beyond dispute that many female attorneys are sharing similar experiences regardless of where they reside, and that education and action plans are required to realize these women's professional potential.

## V. INITIAL PROPOSED ACTION

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It is obvious from both the regional and national studies that action is required now if sustainable results are to be accomplished. While various reports and articles may provide piecemeal suggestions for change, research thus far shows no comprehensive approach that will attack these issues at the multi-dimensional levels required.

The Task Force has carefully studied these topics and believes that to successfully address and correct these issues a comprehensive plan is required. The time for "talking" about gender equality is past and the emphasis going forward must be on a collaborative effort to secure real change for all stakeholders. This includes decision-makers, practitioners, and law students. While not specifically part of the 2005 survey, law students have been an integral part of the discussion both in the Allegheny County area and nationally. A comprehensive solution must include all of these parties.

Additionally, this comprehensive approach will include each of the broad themes identified by the Task Force. These include Professional Development, Leadership, and Growth; Job Advancement; Satisfaction and Retention; Compensation; Work-Life Balance; Perceptions and Bias; and Cultural Competency. As stated previously, the ACBA is dedicated to an integrated approach for these problems. For this reason, the ACBA proposes the creation of the *Allegheny County Bar Association Institute for Gender Equality* (the Institute). The Institute will eventually offer educational opportunities within each of these themes.

Throughout this process, it has repeatedly been noted that a successful program requires a method for measuring results. The Institute will offer a systematic approach in which results can be quantified without waiting to conduct another survey.

The creation and operation of the Institute, in order to address the issues discussed herein, is a complex and profound undertaking that will require support from the entire western Pennsylvania legal community with assistance from other groups around the nation. However, it is an idea whose time has come if real solutions are to be created. An overview of the Institute is presented below.

## Allegheny County Bar Association Institute for Gender Equality

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### **Mission Statement**

The goal of the Allegheny County Bar Association Institute for Gender Equality is to enhance the presence of women in leadership positions in Allegheny County, eliminate the gender wage gap, increase professional satisfaction, and expand the avenues through which female lawyers can build successful careers. The Institute offers collaborative and multifaceted programs designed to address the issues facing female attorneys.

All attorneys, including managers, decision-makers, associates at all levels, government, and non-profit lawyers, and law students, will participate in programs designed to illuminate themes, facilitate conversations, and identify options for creating pathways for success for women and all talented lawyers.

### **Program Design**

Programs designed to help management engage the workforce of the twenty-first century will explore gender and generational dimensions that contribute to attorney attrition and dissatisfaction. The Institute, together with participating law firms and law departments, will work together to identify policies, procedures, organizational systems, and behaviors that hinder women from succeeding and contributing more fully to the practice of law. The programs will be designed to promote greater understanding of the obstacles, leverage strengths, and create a forum within which we can collectively develop creative solutions.

Facilitated discussions will assist legal employers and law firm leadership to recognize the impact of relevant internal systems on gender issues including: balanced hours initiatives (or part-time policies), work allocation systems, billable hour re-

quirements, accuracy and fairness of performance evaluation procedures, access to internal networks, adequacy of communication, effectiveness of mentoring programs, strategic considerations for business development plans, and sufficiency of professional development training.

Associates will acquire skills and guidance to successfully navigate their careers, define their presence, enhance their legal expertise and communication skills, and better understand the importance of and contribute to business development.

Law students will better understand the choices and lifestyle considerations of different practice areas, gain access to mentors, and learn about the business of law and the skills necessary to excel.

Before selecting the final content and emphasis of these programs or “modules,” the ACBA will conduct focus groups for the three relevant constituents to better understand their concerns and priorities.

Participation in the educational modules will be limited to 15–20 lawyers to enhance the cohort experience. The lawyers and their employers, when appropriate, will share tuition.

Each legal entity is encouraged to identify stewards or cultural change agents whose role will be to assist the participating lawyer in acquiring the desired skills and enhance the participant’s ability to foster change within his/her law firm or organization. The ACBA will identify career coaches who will provide guidance to the participant and steward in articulating personal goals and identifying ways that the firm or institution can support those goals. Stewards and participants will engage in four coaching sessions throughout the year to provide guidance and resources.

The ACBA will present continuing series designed for three constituents:

1. Law school students
2. Practitioners
3. Partners/decision-makers

These modules will extend over a year with monthly (or bi-monthly) one- to two-hour workshops/presentations covering the topics articulated below. CLE credit will be available for most modules, and both men and women are encouraged to attend. Lawyers will commit to participate in the modules for their designated series to enhance the cohort experience, take advantage of the steward relationship, and engage more fully in the collective learning provided by the cohort experience.

The program goals will be carefully designed to foster and encourage a progressive approach to learning where each session will build on the skills previously covered. Workshops will be highly interactive and case study/simulation based. Participants will learn by problem solving relevant factual scenarios designed to develop targeted skills.

The faculty will be drawn in large part from the ACBA membership allowing participants to expand their professional relationships and their network of professional contacts. The volunteer faculty will be trained by the ACBA to insure the quality and consistency of the programs. National experts in the area of gender equity will also offer programming when finances permit.

An outline illustrating some of the modules and their suggested topics is attached to this report at Appendix 2.

The ACBA and the Gender Equality Task Force are encouraged by these recommendations and their potential to generate sustainable, quantifiable results. The ACBA recognizes that intense effort will be required to achieve the results desired. However, it also recognizes that to do nothing would be to doom us to dismal survey results fifteen years from now, and that is an unacceptable alternative.

### **Proposal for Success**

Much has been done by the ACBA and the entire legal community to examine the outcomes of the 2005 survey. Analysis and identification of the issues has been ongoing and thorough. This required many hundreds of volunteer hours and a sincere commitment to change from all participants. However, to truly realize the vision now in place will require further time, commitment, and resources.

Momentum currently exists to propel us toward the answers. What is needed is the continued recognition that these matters require the attention of everyone involved in the legal profession—from judges to law students and their professors. An enhanced professional experience will impact everyone. Without a doubt, employers will have clearer objectives, practicing attorneys will be more satisfied, and law students will enter the profession better equipped to make the decisions so critical to their future success.

We are poised at a critical juncture. There is no doubt that change is necessary. The strength produced when all are involved will carry this effort far beyond what we can imagine now. The ACBA hopes that all members of our bench and bar will be a part of the solution.

# APPENDIX 1

## BEST PRACTICES

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A variation of the following practices was initially presented by the New York City Bar Committee on Women in the Profession in a publication titled, *Best Practices for the Hiring, Training, Retention, and Advancement of Women Attorneys* (Feb. 7, 2006). The ACBA Best Practices proposed are in almost all ways a replication of those below.

The recommendations outlined below are not meant to be a complete list. Furthermore, not every recommendation is suitable for every legal environment, law firm, or law department. However, these recommendations do provide guidance for any legal employer seeking direction in this area, and parallel the issues that the ACBA has identified as priorities and will address through the Institute.

### 1. Senior Management Commitment:

- Demonstrated commitment by those in power to advancing women (“Tone at the Top”)
- CEO, general counsel, chairperson, managing partner, or department head a permanent member of diversity and/or women’s committee/initiatives.
- Chairperson of women’s committee/initiatives a permanent member of the management committee or similar decision-making body where permitted by the corporate structure.
- Women’s issues included by CEO or managing partner when addressing organizational issues.
- Women’s issues part of the agenda at senior leadership meetings and employee retreats.
- Training on women’s issues and Best Practices provided to all managers including ongoing training for the newly promoted.

### 2. Organizational Accountability:

- Monitor those responsible for implementing Best Practices to insure strict adherence to the policies of the organization.
- Hiring, training, retaining, and advancing women as a necessary part of the criteria for promotion or advancement within the organization.
- Hold accountable those responsible at every level for the supervision of female attorneys as it relates to the acquisition of exposure and experience for the individual woman.
- Create internal rewards to recognize accomplishments with respect to women’s issues and Best Practices.
- Develop systems to monitor retention and attrition rates, pay scale, and promotion of female attorneys. The information provided by these systems should be reviewed annually and policies should be adjusted as needed.
- Include involvement in diversity activities in any downward, upward, or peer review.

### 3. Development of Women as Leaders:

- Promote the significant presence of women in all positions within the organization.
- Increase the participation of women in leadership and decision-making bodies.
- Encourage sharing of origination when the situation warrants.
- Ensure the visibility of female attorneys in all opportunities including business planning and client interaction.
- Allocate high profile matters evenly among attorneys.
- Support rainmaking efforts of female attorneys as they attempt to develop business opportunities.

### 4. Fair Representation:

- Set representation target levels for each practice area and department and for all levels (entry to senior). Monitor achievement of the target levels.
- Include an equal number of men and women involved with women’s committees/initiatives.
- Develop policy and implementation of program to recruit experienced attorneys who want to return to the practice of law after an absence.
- Develop programs and training to keep legal alumni informed and educated as to the ways they may be involved in the life of the legal entity while they are not employed.

### 5. Career Advancement:

- Insure that the promotion process is clear and transparent. Develop and formulate written criteria for promotion and compensation. This information should be communicated across the entire legal entity.
- Develop individual career plans in consultation with each attorney based on his/her goals profile and experience and on the organization’s needs and strategic objectives.
- Regular assessments of career plans and advancements (or the lack thereof). Such assessments should include de-

partment head or an equivalent.

- Monitoring system for work assignments as a means to ensure female attorneys get equal opportunities for valued assignments.
- Institute a review process that addresses areas where improvement is needed, and where the attorney is on a career track vis a vis the organization's policy.
- Reviews should be given on a regular basis with input from at least two decision makers. One of the reviewers should remain consistent from year to year.
- Develop a program of career coaches who will work with attorneys to achieve their career development goals. Monitor the program for effectiveness.
- Maintain regular and frequent dialogue with each attorney regarding her career goals and objectives.
- Eliminate "face time" culture, which expects attorneys to be in the office after regular business hours and rewards those that do, and instead reward actual accomplishments.

#### 6. Workplace Flexibility:

- Availability of flexible, reduced hours and telecommuting options that are not stigmatized.
- Offer flexibility at all levels by written policy to ensure consistency for all parties.
- Include telecommuting, reduced hours, part-time work, and job sharing as flexible work arrangements.
- Monitor assignments to assure that attorneys with flexible schedules get adequate exposure and valued work assignments.
- Promote attorneys who participate in the flexible option and permit flexibility after the promotion.
- Establish systems to monitor these arrangements and take corrective action if the organization does not adhere to the terms of a work arrangement.
- Provide attorneys with the technology to work off-site, when that is part of the arrangement.

#### 7. Family Issues:

- Provision of and encouragement to use paid leave for family care assistance.
- Make childcare centers available on premises for daily childcare if financial resources and space permit, not just for emergency care. If not possible, arrange for a nearby center to facilitate enrollment of children in daycare close to work.
- Facilitate "back-up" daycare and emergency assistance with a nearby childcare center.
- Provide paid maternity/paternity leave, distinct from the disability coverage provided to women for pregnancy-related conditions, for all births and adoptions.
- Develop a short-term paid leave policy for elder care.
- Establish a lactation facility on premises.
- Provide dependent-care flexible spending accounts.
- Allow attorneys the flexibility to work from home when emergency childcare problems arise. The time spent working under these circumstances should not be counted as a vacation or sick day.

#### 8. Mentoring:

- Fostering a mentoring program that is both internal and external in nature.
- Educate prospective internal mentors and require timely communications regarding their efforts. Institute programs for continuing education of these participants.
- Develop programs tailored to the needs of each individual recognizing that each level of practice has its individual requirements (i.e. junior or senior attorneys).
- Develop incentives for mentors to conduct effective mentoring and monitor these closely.
- Hire outside consultants or take advantage of outside resources to develop effective programs and assist with the monitoring of the same.
- Encourage formal and informal mentoring.

#### 9. Development of Female Attorneys:

- Training in all areas that promote advancement, including business development, networking, and leadership.
- Establish a review of female attorneys' work assignments to insure females are not exclusively serving in a supporting role.
- Develop specific training tailored to female attorneys and focused on client development, leadership, networking, and strategic planning skills.
- Develop a "grooming" program for potential leaders in the organization.
- Organize events to encourage attorneys to network inside and outside the organization with clients and alumni.
- Provide training on accounting, tax, statistics, and other business topics and mandate attendance at such training in the first few years of practice.

# APPENDIX 2

## PROPOSED PROGRAMMING FOR ALLEGHENY COUNTY BAR ASSOCIATION INSTITUTE FOR GENDER EQUALITY

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This outline includes a proposal of the first year's offerings. These suggestions will be revisited after the meetings of the focus groups for each constituency. The modules suggested are illustrative only and are to be viewed as fluid and developmental in nature. For brevity's sake, the modules for the other stakeholders will be included in a more complete document defining the Institute that will become available under separate cover.

### **Leadership and Management Modules:**

- How to mentor/be mentored, delegate, and manage
- Essential truths about time management
- What does it take to succeed now that you're a partner/manager/general counsel?
- Performance evaluations: how to give them, make them work for you, and know if they are fair
- Gender and generational issues for managers and leaders: behind the numbers, stereotypes, and the "glass ceiling"
- Using power and influence effectively: Leading teams
- Women in leadership: challenges and strategies
- Assessment tools: What can be measured, and why does it matter?
- The changing marketplace: Are you positioned to attract the clients you want?
- Leveraging the assignment process to maximize career development
- Creating mentoring programs that work
- Accountability: how to give leaders a personal stake in women's success
- Defining leadership and navigating the leadership ladder

### **Business Development Modules:**

- Anatomy of a law practice: understanding the business of a law firm
- Where do clients come from? Primer on business development expectations over the course of your career
- What can you be doing NOW to enhance your business development acumen
- Understanding the connection between law firms' clients and your goals, skills, and interests
- Building relationships and networks
- How to create your individual business plan
- How to be your client's favorite lawyer
- Business development techniques and the anatomy of a business lunch
- Designing the alternative to golf: creative strategies for women

### **Negotiation Modules:**

- Barriers to asking for what you want
- Myths and misconceptions about negotiations
- Defining negotiations
- Recognizing opportunities to negotiate
- The negotiation plan: BATNA targets and reservation value
- Sizing up the situation
- Positions vs. interests
- Timing
- Tactics
- Stereotypes: how to use them to your advantage
- Conflict resolution as a tool for organizational change

### **Communication and Presence Modules:**

- Projecting credibility and confidence
- How to be heard: presenting your most powerful self
- Delivering effective messages through persuasive storytelling
- Building your personal brand through communication and relationship management



- Difficult conversations
- Building relationships and networks
- Active listening
- Preventing career derailment
- E-mail, videoconferences, telephone, and face to face conversations: communication choices and consequences
- Gender and communication: bridging the divide
- Women working together: issues and opportunities
- What women say when men aren't around; what men say when women aren't around

**Navigating Your Career Series:**

- How to know if a law organization's diversity and women's initiatives are significant
- Why women's initiatives are good for men
- How to find and cultivate your sponsor/champion
- Getting the work you need
- Effective self-promotion
- How to say no to assignments and live to tell about it
- How to become an expert in something that will sustain you
- Getting on the radar: internally and in the legal community
- A strategic and satisfying approach to board service, community involvement, and civic leadership
- Leveraging key relationships: understanding internal networks
- Getting the stretch assignments and the support you need to master them

**Striving to have Work and Life in Balance Series:**

- Solving the part time puzzle: alternative work arrangements and what it takes to make them work
- Law firm economics: compensation models and their impact on women
- How to develop clear goals and priorities and make them work for you in your organization: the meet in the middle template
- How to stay connected, engaged, and visible in an alternative work scenario
- Opt in and opt out strategies: how to avoid missed opportunities for a sustainable work force
- Gender and life cycle considerations: How does it affect your bottom line?
- How to approach flexibility as a business response to the changing workforce and not as an accommodation

# Pilot Program

## Year One

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### Leadership Module

1. The changing marketplace: Are you positioned to attract the clients you want?
2. Leveraging the assignment process to maximize career development
3. Creating mentoring programs that work
4. Accountability: how to give decision makers a personal stake in women's success
5. Defining leadership and navigating the leadership ladder
6. Using power and influence effectively: leading teams

The first year will include programs for law students and practicing lawyers.

Each session is 2–4 hours and offered once a month to facilitate scheduling. There are six (6) different total leadership modules in the first year. Some modules will combine the constituent groups (law students, associates, and partners/decision-makers) and others will be taught on separate tracks depending upon the topic and desired outcomes. Stewards and coaches will work with participating lawyers throughout the year.

Each module can be divided into six topics to be covered in a year with an option to have occasional weekend retreat to cover multiple topics within the series. For example, negotiation workshops and case studies could be developed for delivery in a shorter, more intense time frame over a weekend or consecutive Saturdays or Sundays in a month. This would provide greater continuity of learning and a more structured cohort experience. Focus groups would assist in determining which format and topics are most accessible and desirable.

Freestanding programs in additional topic areas will be offered on an ongoing basis. Additionally it is envisioned that the modules will be “mobile” and therefore available on-site to legal employers. The Task Force believes that these approaches will allow access to the program for the greatest number of persons.

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