

5-1-2020

The “Pink Ghettos” of Public Interest Law: An Open Secret

Sandra Simkins
Rutgers Law School

Follow this and additional works at: <https://digitalcommons.law.buffalo.edu/buffalolawreview>



Part of the [Law and Gender Commons](#), and the [Legal Profession Commons](#)

Recommended Citation

Sandra Simkins, *The “Pink Ghettos” of Public Interest Law: An Open Secret*, 68 Buff. L. Rev. 857 (2020).
Available at: <https://digitalcommons.law.buffalo.edu/buffalolawreview/vol68/iss3/3>

This Article is brought to you for free and open access by the Law Journals at Digital Commons @ University at Buffalo School of Law. It has been accepted for inclusion in Buffalo Law Review by an authorized editor of Digital Commons @ University at Buffalo School of Law. For more information, please contact lawscholar@buffalo.edu.

Buffalo Law Review

VOLUME 68

MAY 2020

NUMBER 3

The “Pink Ghettos” of Public Interest Law: An Open Secret

SANDRA SIMKINS[†]

ABSTRACT

There is a downside to public interest law careers and law school pro bono work for women. Law schools cue women to enter and remain at lower rungs of the profession by normalizing women in “caregiving” roles and locking predominantly female clinicians who do public interest work into a lower level status. The ABA contributes to this structural devaluation by ignoring female public interest lawyers. When combined with the culture of public interest organizations, these factors contribute to women’s stagnant progress in the legal profession.

This Article is the first to address this issue comprehensively. It describes the challenges women face in public interest careers including: 1) the indoctrination to be exclusively “client focused”; 2) the failure of public interest organizations to address gender segregation; and 3) the barriers to self-advocacy in organizations that are perpetually underfunded. Given men’s socialization to be “breadwinners,” these cultural factors in public interest law harm women more than men. In addition, the perpetual absence of data regarding women in public interest law stands in sharp contrast to the ABA’s continued focus on women in private practice. This sends

[†] Distinguished Clinical Professor of Law and Director and Co-founder of the Children’s Justice Clinic, Rutgers Law School. I am enormously grateful for the insight and encouragement of Ruth Anne Robbins. I would also like to thank Elizabeth Alt, Grace Alt, Jay Fineman, Katie Eyer, Joanne Gottesman, Genevieve Tung and Nancy Tally for their feedback, and Jake Novelli, for his research assistance.

the message that public interest law is unimportant and keeps women who work in public interest invisible, hampering the ability to address the gender segregation in the field.

This Article builds a framework for addressing this problem. It urges law schools to eliminate the gendered hierarchy that keeps public interest lawyers on the bottom and limit the number of pro bono hours students can work. It urges the ABA to collect and publish data on female public interest attorneys. And it urges public interest organizations to encourage women to think intentionally about their careers.

TABLE OF CONTENTS

INTRODUCTION	860
SECTION I: HOW THE PROFESSIONAL DEVALUATION OF PUBLIC INTEREST HARMS WOMEN	866
A. <i>The Role of Law Schools</i>	866
1. Law schools’ damaging and patriarchal hierarchy contributes to women’s low status in the profession by normalizing women in underpaid caregiving roles.	868
2. Pro Bono as “Fundamental Value” and Institutional Pressure.....	875
B. <i>The Culture of Public Interest Law: A Constellation of Practices Work Against Women’s Advancement</i>	878
1. Perpetual lack of resources and indigent clients in dire circumstances creates a tension between self-advocacy and client advocacy.	878
2. National Public Interest Lawyers Organizations are exclusively client focused and fail to address gender segregation.	881
3. Women’s career advancement is harmed more than men by these cultural factors.	883
SECTION II: THE PROFESSION FAILS TO ACKNOWLEDGE THE PROBLEM	886
SECTION III: STARTING TOWARDS A REMEDY	892
A. <i>Law Schools</i>	892
B. <i>The Profession</i>	893
C. <i>Public Interest Organizations</i>	894
IV. CONCLUSION	897

INTRODUCTION

Law schools and the American Bar Association (“ABA”) will tell you public interest and pro bono is “good,” important work that every lawyer should do. What they fail to mention is that the profession does not value public interest¹ and this professional devaluation harms women’s careers.

Challenging the accepted narrative that highlights only the positive aspects of public interest work,² this Article

1. I have chosen not to define public interest in this Article because of the extremely wide range of activities that Equal Justice Works has determined can fall into this category. Historically, public interest law was defined by the ABA as the “representation of the unrepresented or underrepresented.” See SANFORD JAFFE, A.B.A. & FORD FOUND., PUBLIC INTEREST LAW: FIVE YEARS LATER 12 (1976). Later, in 1975, the ABA approved a resolution that defined public interest law as legal service provided without fee or at a substantially reduced fee, which falls into one or more of the following areas: (1) Poverty Law, (2) Civil Rights Law, (3) Public Rights Law, (4) Charitable Organization Representation, and/or (5) Administration of Justice. *Id.* at 9. Equal Justice Works defines public interest law as “activities designed to improve access to justice for vulnerable and disadvantaged members of our society” and includes legal work with the U.S. Department of Justice and all government agencies in addition to legal services organizations and non-profits such as the ACLU. *Crash Course: What is Public Interest Law?*, EQUAL JUSTICE WORKS (Aug. 20, 2019), <https://www.equaljusticeworks.org/conference-and-career-fair/for-attendees/law-students-graduates/>. There is obviously a marked distinction between “elite” public interest jobs such as the DOJ Civil Rights Division and “non-elite” positions such as statewide public defenders and civil legal services. The arguments in this Article apply primarily to “non-elite” public interest law positions and law school pro bono activities. According to the ABA website:

The term “pro bono” comes from the Latin *pro bono publico*, which means “for the public good.” The ABA describes the parameters of pro bono for practicing lawyers in the Model Rules of Professional Conduct. Model Rule 6.1 states that lawyers should aspire to render—without fee—at least fifty hours of pro bono publico legal services per year At least thirty-nine law schools require students to engage in pro bono or public service as a condition of graduation.

American Bar Association Standing Committee on Pro Bono and Public Service, *A Guide and Explanation to Pro Bono Services*, A.B.A. (July 26, 2018), https://www.americanbar.org/groups/legal_education/resources/pro_bono/.

2. Work/life balance is one of the positives frequently associated with public interest work. See GITA Z. WILDER, NAT’L ASS’N FOR LAW PLACEMENT, WOMEN IN THE PROFESSION: FINDINGS FROM THE FIRST WAVE OF AFTER THE JD 7, 23 (2007); Cynthia Fuchs Epstein & Hella Winston, *The Salience of Gender in the Choice of*

looks at the downside of public interest careers for women and the connection between public interest law and women's stagnant progress in the profession. Arguing that the existing hierarchy and gender segregation in law schools cue women to remain at the lower rungs of the profession by normalizing women in "caregiving" roles, this Article explores the institutional pressure to engage in pro bono and the challenges women face in public interest careers. Before investing in public service, women³ should be aware of how the professional devaluation creates barriers to advancement.

The connection became clear to me in a conference ballroom filled to capacity with 500 public interest attorneys

Law Careers in the Public Interest, 18 BUFF. J. GENDER L. & SOC. POL'Y 21, 28 (2009) (stating that women consider the time demands when choosing a career: "most accept the notion that when they have children, they will bear the major responsibility for their care."). Public interest is also associated with greater career satisfaction. For example, the meta-analysis of lawyer satisfaction surveys presented in Jerome M. Organ's article, *What Do We Know about the Satisfaction/Dissatisfaction of Lawyers?*, reports that "[s]urveys consistently show that lawyers engaged in government work or in public interest work demonstrate greater levels of satisfaction than attorneys working in private practice" despite lower paychecks. Jerome M. Organ, *What Do We Know About the Satisfaction/Dissatisfaction of Lawyers? A Meta-Analysis of Research on Lawyer Satisfaction and Well-Being*, 8 U. ST. THOMAS L.J. 225, 265 (2011); see also Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy? A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV. 554, 583 (2015) (finding *inter alia* that some factors associated with public interest practice, such as autonomy and intrinsic motivation, correlate with increased professional satisfaction); Milan Markovic & Gabriele Plickert, *Attorneys' Career Dissatisfaction in the New Normal*, 25 Int'l J. Legal Prof. 147, 13–14 (2018). Similarly, a 2004 review of the experiences of women students at Harvard Law School found that "[w]omen pursued public interest work during summers and after graduation in significantly higher rates than men." WORKING GROUP ON STUDENT EXPERIENCES, STUDY ON WOMEN'S EXPERIENCES AT HARVARD LAW SCHOOL 6 (2004), <https://www.americanbar.org/content/dam/aba/administrative/wome/study-on-women-s-experiences-at-harvard-law-school.pdf>. The authors also noted gendered differences in the factors that drove law students to choose a career; women were more likely to choose "helping others" and "advancing ideological goals," and men were more likely to choose "high salary." *Id.* at 7.

3. This Article does not attempt to describe the additional intersectional challenges of lawyers of color. For more information, see *infra* note 17.

who represented children in the delinquency system.⁴ As an expert and long-timer, I knew many of the people in the room and it all felt comfortable and familiar. The moderator then asked us to use our phones as polling devices to input our information. I saw our statistics in large font; we were a sea of women, seventy percent to be precise. Along with hundreds of other women from across the country, I practiced in the “female” field of juvenile justice, in a historically devalued section of public defense, within the already underpaid field of public interest law.⁵

The gendered makeup of juvenile defenders would not, by itself, be an issue except that any profession that is primarily staffed with women becomes a problem—a “pink ghetto.”⁶ The “pink ghetto” nature of my field is readily apparent. In twenty-plus years of practice and attendance at dozens of national conferences, I had never thought of myself as a gender stereotype *because* the gendered nature of this work is never discussed. Women doing public interest work is simply the norm and public interest lawyers are wordlessly indoctrinated to be exclusively client-focused.

4. Juvenile Defender Leadership Summit, Saint Paul, Minn., sponsored by the National Juvenile Defender Center (Oct. 26, 2018).

5. Juvenile justice has long been known as the “stepchild” of criminal law. See ROBIN WALKER STERLING, NAT’L JUVENILE DEF. CTR., *ROLE OF JUVENILE DEFENSE COUNSEL IN DELINQUENCY COURT* 5 (2009) (“[A]cross the country, juvenile court suffers from a kiddie court mentality where stakeholders do not believe that juvenile court is important.”). While I do not view public interest as less important or “low status” and have dedicated my career to public interest endeavors, it has been clear to me for decades that the profession views public interest this way. For prior works identifying public interest as lower status, see RICHARD L. ABEL, *AMERICAN LAWYERS* 10–11 (1989) (stating that women are overrepresented in the public sector, a position that pays lower salaries and confers less status); Jill Lynch Cruz, Melinda S. Molina & Jenny Rivera, *Hispanic National Bar Association Commission on the Status of Latinas in the Legal Profession: Study on Latina Attorneys in the Public Interest Sector La Voz De la Abogada Latina: Challenges and Rewards in Serving the Public Interest*, 14 CUNY L. REV. 147, 192 (2010).

6. See Renee Nicole Allen, Alicia Jackson & DeShun Harris, *The “Pink Ghetto” Pipeline: Challenges and Opportunities for Women in Legal Education*, 96 U. DET. MERCY L. REV. 525, 525 (2019); Kelly A. Miller, *The Pink-Collar Ghetto*, 28 CLEARINGHOUSE REV. 1168, 1168 (1995).

Law schools perpetuate this norm through an existing hierarchy, which cues women to remain at the lower rungs of the profession by normalizing gender segregation and women in lower status “caregiving” roles.

A 2018 ABA Report (“2018 ABA Report”) highlights the issue of women occupying lower status rungs in the profession, along with the alarming data demonstrating that women are leaving the legal profession in droves.⁷ Anecdotally I know that juvenile defenders are far from unique among public interest lawyers. Many public interest lawyers in the areas of domestic violence and legal services skew towards women.⁸ Yet unlike ABA reports on the status of women in firms, there is no data on women lawyers who choose public interest.⁹ The lack of data and the impact of the lack of data is enormous.¹⁰ For decades, we have known more women than men engage in public interest, both in law school and in practice,¹¹ but there has yet to be any exploration of the issue. The utter disinterest by the ABA in women practicing public interest law is part of an alarming and revealing structural devaluation by the profession. Though I believe public interest work is invaluable and those

7. See ROBERTA D. LIEBENBERG & STEPHANIE A. SCHARF, A.B.A., WALKING OUT THE DOOR: THE FACTS, FIGURES, AND FUTURE OF EXPERIENCED WOMEN LAWYERS IN PRIVATE PRACTICE, at i (2019); JOAN C. WILLIAMS ET AL., A.B.A. COMM’N ON WOMEN IN THE PROFESSION & MINORITY CORP. COUNSEL ASS’N, YOU CAN’T CHANGE WHAT YOU CAN’T SEE: INTERRUPTING RACIAL AND GENDER BIAS IN THE LEGAL PROFESSION 8 (2018); A.B.A. COMM’N ON WOMEN IN THE PROFESSION, A CURRENT GLANCE AT WOMEN IN THE LAW 2 (2019), https://www.americanbar.org/content/dam/aba/administrative/women/current_glance_2019.pdf.

8. Catherine Carr, *Moving Women out of Poverty: A Call to Action for Legal Aid*, in 2 IMPACT: COLLECTED ESSAYS ON EXPANDING ACCESS TO JUSTICE 66, 67, 70 (2016), http://digitalcommons.nyls.edu/impact_center/11.

9. See *infra* Section II for more details. The A.B.A., National Association for Law Placement and the Public Service Law subgroup does not collect data about women who practice in public interest. See NAT’L ASS’N FOR L. PLACEMENT, <https://www.nalp.org/research>. See also A.B.A. COMM’N ON WOMEN IN THE PROFESSION, *supra* note 7.

10. See *infra* note 78.

11. See WILDER, *supra* note 2, at 7; see also ABLE, *supra* note 5.

who practice it are among the most talented lawyers in the country, we cannot advance women's standing in the profession if we encourage a career path that keeps women invisible.

Section I of this Article looks at how women's careers are harmed by the professional devaluation of public interest work. Focusing first on the role of law schools, the Article describes how public interest and pro bono became hierarchically lower status "female jobs" within law schools, and argues that the persistence of the current hierarchy is a damaging model for female students because it normalizes women in low rungs of the profession. Next, looking at the culture of public interest organizations, this Section explores the constellation of factors that work against women's advancement. For example, public interest lawyers are indoctrinated to be exclusively client-focused (instead of career-focused) and national organizations fail to focus on the reality of gender segregation within the field. When an organization is perpetually underfunded and clients are in dire circumstances, without an intentional focus on career-building, these realities create a disincentive for women to engage in self-promotion. Men are socialized to be breadwinners, not caretakers and as a result these cultural factors within public interest harm women more than men.¹²

12. CAROL GILLIGAN & NAOMI SNIDER, *WHY DOES THE PATRIARCHY PERSIST?* 64–69 (2018). *Id.* at 67 (Selflessness is still regarded by many as the sine qua non of feminine goodness—the antithesis of the scarlet letter . . . [while women] may have escaped the enforced domesticity which shackled her Victorian counterpart . . . the expectations of selflessness and self-sacrificial caregiving have followed her into the workplace, into the boardroom, and into the halls of politics . . . The icon of the all-giving mother creates the expectation that all women will selflessly help others, be they family members, colleagues, customers, clients, employers, and so forth.); *Id.* at 67–68 (“Caretakers . . . like many who work in the helping professions, are expected to work for low wages on the assumption that goodness is its own reward and that the one who cares needs no further compensation.”); *Id.* at 69 (“[w]omen are still told, . . . the pleasures they deny themselves can be experienced vicariously through their spouse and/or children, or other people and causes to which they ‘selflessly’ commit.”); see also Ann C. McGinley, *Reproducing Gender on Law School Faculties*, 2009 *BYU L. REV.* 99, 109 (2009) (“Gender roles are widely held beliefs about the attributes of

Section II looks at the reasons why the profession fails to recognize the problem, beginning with the disturbing lack of data kept by the ABA on women in public interest, which causes further harm to women's careers.

Section III begins to identify remedies to increase the value of public interest law and the status of women in the profession. While the topics in this Article touch upon many systemic issues in the profession, within the limited confines of this Article, I begin with the following immediately attainable improvements. For example, law schools should set limits on the amount of pro bono hours students are permitted to do (similar to limits on the amount of work hours). Law schools should incorporate issues of gender stratification into the curriculum and eliminate hierarchical barriers to tenure for clinicians who engage in public interest law. For the profession, collecting data is essential. The ABA, National Association of Legal Professionals (NALP), Public Service Law (PSLAW), and individual organizations should prioritize publishing data on women in public interest law. Following the lead of organizations like the Center for Study of Applied Legal Education (CSALE)¹³ and the Legal Writing Institute (LWI),¹⁴ it would go a long way in identifying the contours of women's experience in public interest. Finally, public interest organizations must address gender segregation in the field and encourage women to focus on their own careers in addition to the issues facing their clients.

men and women and the roles they play in society.”); *Id.* at 110 (“Women are described as communal and are expected to act in delicate, sensitive, sharing, communal ways.”); *Id.* at 125 (“Jobs that are gendered female engage skills that are modeled after the stereotype of woman as mother and caregiver.”) *Id.*

13. Center for Study of Applied Legal Education (CSALE) publishes annual surveys, see *CTR. FOR APPLIED LEGAL EDUC.*, <https://www.csale.org/> (last visited Apr. 11, 2020).

14. The Legal Writing Institute (LWI) publishes annual surveys of its members, see *ALWD/LWI Survey*, *LEGAL WRITING INST.*, <https://www.lwionline.org/resources/surveys> (last visited Apr. 11, 2020).

SECTION I: HOW THE PROFESSIONAL DEVALUATION OF PUBLIC INTEREST HARMS WOMEN

A. *The Role of Law Schools*

Megan, a 3L, seemed to be in family court every day. Patiently counseling the domestic violence victims and dealing with the daily heartbreak of gut-wrenching choices, she was active in the domestic violence pro bono project.¹⁵ I knew from my conversations with Megan that she frequently felt overwhelmed and had struggled to find a 2L summer job. Initially recruited as a “social justice scholar,” when Megan graduated, she received a special prize for providing over 200 hours of pro bono service (at the awards ceremony, 66% of the students who were recognized for providing over 100 hours of pro bono service were women).¹⁶ Although ultimately landing a state clerkship, she narrowly missed passing the bar.

Megan was praised for her enormous commitment to pro bono work. But perhaps, given the findings of the 2018 ABA Report on women in the profession, she should have been warned that that too much service has been shown to damage women’s careers,¹⁷ that public interest is considered low status in the law school hierarchy, and that law schools have intentionally devalued experiential education since the late 1890s.¹⁸ This is not a criticism of any particular law

15. “Megan” is a compilation of women students I mentored over the course of several years.

16. Year of graduation removed to protect privacy.

17. MEERA E. DEO, *UNEQUAL PROFESSION: RACE AND GENDER IN LEGAL ACADEMIA* 58–59, 87 (2019). Doing too much service has been shown to damage the careers of women faculty since the time spent on service would have been better used for research. Too much service is also similar to doing “office housework.” See Ruchika Tulshyan, *Women of Color Get Asked to Do More “Office Housework.” Here’s How They Can Say No.*, HARV. BUS. REV. (Apr. 6, 2018), <https://hbr.org/2018/04/women-of-color-get-asked-to-do-more-office-housework-heres-how-they-can-say-no>.

18. Peter A. Joy, *The Uneasy History of Experiential Education in U.S. Law Schools*, 122 DICK. L. REV. 551, 554 (2018).

school, rather a perspective on the overall structures and institutional pressures pulling women toward service and caretaking roles.¹⁹ Women remaining at lower levels of the profession is the central theme of the 2018 ABA Report, along with the sad reality that many women opt out of the profession altogether by age fifty, when they should be at their most productive.²⁰ Megan's prize demonstrates a culture that rewards women for selfless service and serves as a starting point for exploring the relationship between law school public interest and women's stalled progress in the profession.²¹

Law schools across the country tout their commitment to public interest and social justice by shining a light on the work of their clinics, externships, and pro bono activities. For women considering public interest law, however, it is important to understand the hierarchy and power structure of law schools. Law schools cue the profession: faculty engaged in public interest practice/pedagogy are valued less and are typically "locked" into a separate, lower status track that mirrors existing gender stratification in the legal profession.²² This Section gives a brief history of how the

19. The pull or institutional pressure to do pro bono may depend on the tier and culture of a particular law school. For example, a highly ranked law school may have institutional pressure to work for a large firm. (Conclusion based on solicited feedback on Article from other law professors, interview notes on file with the author).

20. Women make up 50% of law students and 45% of associates, but by age fifty they make up only 27% of the profession. *See generally* LIEBENBERG & SCHARF, *supra* note 7. *See* WILLIAMS ET AL., *supra* note 7, at 9 ("women of color are leaving the profession at alarmingly high rates: 75% leave by their fifth year and 85% before their seventh associate year. That attrition rate, which is the highest of any group, has remained consistent since at least the late 1990s.").

21. *See* WILLIAMS ET AL., *supra* note 7, at 9. *See generally* LIEBENBERG & SCHARF, *supra* note 7.

22. WILLIAMS ET AL., *supra* note 7, at 9. *See generally* LIEBENBERG & SCHARF, *supra* note 7. For more detailed information about women at low levels in the legal profession *see generally* COMM'N ON WOMEN IN THE PROFESSION, *supra* note 7. For more information about law school hierarchies, *see generally* Bryan L. Adamson et.al, *The Status of Clinical Faculty in the Legal Academy: Report of the Task Force on the Status of Clinicians and the Legal Academy*, 2 J. LEGAL PROF.

profession/law schools devalue public interest, contributing to the perception that public interest is lower status. It also argues that law school public interest and pro bono programming, which dovetails with women's historic role as caregivers, is a dangerous model that contributes to women entering and remaining at lower rungs of the legal profession.

1. Law schools' damaging and patriarchal hierarchy contributes to women's low status²³ in the profession by normalizing women in underpaid caregiving roles.

When Megan entered law school as a 1L, she was at a vulnerable place in her professional identity formation and was looking for a place to fit.²⁴ She encountered an

36 (2012); McGinley, *supra* note 12; Kathryn M. Stanchi, *Who Next, The Janitors? A Socio-Feminist Critique of the Status Hierarchy of Law Professors*, 73 UMKC L. REV. 467 (2005).

23. When I say "lower status" I mean less citizenship, less power, and less social standing. The concept that public interest work is lower status is not new. See ABEL, *supra* note 5, at 10–11 (referring to the "overrepresentation of women . . . in the public sector, positions that pay lower salaries and confer less status."); SUSAN EHRLICH MARTIN & NANCY C. JURIK, *DOING JUSTICE, DOING GENDER: WOMEN IN LAW AND CRIMINAL JUSTICE OCCUPATIONS* 108 (1996) ("[F]or many years by controlling its own membership, the legal community was able to limit both the number of lawyers and the social diversity of those admitted to practice. It did this by exercising both formal control over admissions to law school and bar membership, and informal referral and social mechanisms. These processes enforced the understanding that outsiders such as women and racial minorities would be excluded from the legal community or would be kept on its fringes in low-visibility, low-prestige specialties, serving others like themselves.") (quoting CYNTHIA F. EPSTEIN, *WOMEN IN LAW* (1983)).

24. See generally G.S. Hans et al., *The Diversity Imperative Revisited: Racial and Gender Inclusion in Clinical Law Faculty*, 26 CLINICAL L. REV. 127, 131 (2019) ("Increasing the diversity of law faculty is a core component in moving towards equity in the profession. Legal scholars have extensively catalogued the myriad benefits of an inclusive faculty for students, the academic environment, and the profession, as it exposes students and colleagues to a broader array of academic perspectives, scholarship, teaching styles, and life experiences."); Bill Ong Hing, *Raising Personal Identification Issues of Class, Race, Ethnicity, Gender, Sexual Orientation, Physical Disability, and Age in Lawyering Courses*, 45 STAN. L. REV. 1807, 1831 (1993); Kevin Johnson, *The Importance of Student and Faculty Diversity in Law Schools: One Dean's Perspective*, 96 IOWA L. REV. 1549, 1550, 1558 (2011); Antoinette Sedillo Lopez, *Latinas in Legal Education—Through the Doors of Opportunity: Assimilation, Marginalization, Cooptation or*

environment of women in low-level public interest “caregiving” roles and an institutional hierarchy that kept them there. At each stage of her law school career, Megan was likely to find women at the lower tiers: the first year writing professor,²⁵ the pro bono coordinator,²⁶ the public interest clinical professor.²⁷ Such apparent sorting along gender lines sends a strong message to young women entering law school about their place in the profession.²⁸

Transformation?, 13 AM. U. J. GENDER SOC. POL’Y & L. 109 (2005).

25. Sometimes called “instructor,” there is much written about the perception of legal writing professors as a lower status. See Stanchi, *supra* note 22, at 487; see also ASS’N OF LEGAL WRITING DIRECTORS & LEGAL WRITING INST., REPORT OF THE ANNUAL LEGAL WRITING SURVEY 2015, Q. 71(b) at 69 (2015), [alwd.org/images/resources/2015%20survey%20report%20\(AY%202014-2015\).pdf](http://alwd.org/images/resources/2015%20survey%20report%20(AY%202014-2015).pdf) [hereinafter ALWD/LWI SURVEY] (indicating that women comprise 72% of full-time legal research and writing faculty). See generally Jo Anne Durako, *Second-Class Citizens in the Pink Ghetto: Gender Bias in Legal Writing*, 50 J. LEGAL EDUC. 562 (2000); Melissa Hart, *The More Things Change—Exploring Solutions to Persisting Discrimination in Legal Academia*, 31 COLUM. J. GENDER & L. 1 (2015); Kathryn M. Stanchi & Jan M. Levine, *Gender and Legal Writing: Law School’s Dirty Little Secrets*, 16 BERKELEY WOMEN’S L.J. 1 (2001).

26. See *infra* note 62 (Of the 202 ABA accredited schools, 183 reported having a program and 142 were run by women (research on file with author)).

27. See Hans et al., *supra* note 24.

28. The role of institutionalized cues are borrowed from concepts from research about racial identity development in adolescence. BEVERLY DANIEL TATUM, WHY ARE ALL THE BLACK KIDS SITTING TOGETHER IN THE CAFETERIA? 52–74 (1997); see DEO, *supra* note 17, at 9 (stating “As elite institutions and escalators to power, law schools reflect and even amplify broader structural inequality in society as a whole, including inequality based on privilege.”). Note, there has been recent progress by a number of new law school deans. While this is certainly encouraging, the reality of large numbers of women in lower status positions remains. See Karen Sloan, *Incoming Batch of Law Deans is More Diverse Than Ever*, THE LEGAL INTELLIGENCER (Mar. 21 2019), <https://www.law.com/2019/03/21/incoming-batch-of-law-deans-is-more-diverse-than-ever/>.

HIGH STATUS			LOW STATUS	
Law School Faculty	Law School Deans	65% Men ²⁹	Clinical Professors (75% of positions are Non Tenure Track)	66% Women ³⁰
	Tenure Track Professors	67% Men ³¹	Legal Research and Writing	70% Women ³²
			Instructors and Lecturers	70% Women ³³
Private Practice	Equity Partners	81% Men ³⁴	Associates	45% Women ³⁵
	Managing Partners	78% Men ³⁶		
	Partners	78% Men ³⁷		
Law School Activities	Law Journal Authors	80% Men ³⁸		

29. COMM'N ON WOMEN IN THE PROFESSION, *supra* note 7, at 4.

30. See Hans et al., *supra* note 24, at 139.

31. Sahar Aziz, *Identity Politics is Failing Women in Legal Academia*, J. LEGAL EDUC. at 2 (forthcoming Fall 2019).

32. See, e.g., ALWD/LWI SURVEY, *supra* note 25 (indicating that women comprise 72% of full-time legal research and writing faculty).

33. *Id.*

34. COMM'N ON WOMEN IN THE PROFESSION, *supra* note 7, at 2.

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.* at 4. Law Journal is a high prestige activity within law schools. See Lynne N. Kolodinsky, *The Law Review Divide: A Study of Gender Diversity on the*

Public interest and pro bono work fits neatly into the construct that keeps women at lower levels since both are permanently locked into a lower status within the law school hierarchy³⁹ and both are closely aligned with women's traditional role of caregiving.⁴⁰ According to McGinley, within the law school context there are gendered jobs and gendered course assignments that are closely tied to the women's role as "child caregiver which places her at the opposite extreme of the man whose identity is that of breadwinner."⁴¹ Specifically, McGinley argues:

[In addition] jobs themselves acquire a gender identity or status . . . [J]obs that are gendered female in comparison to jobs that are gendered male . . . confer lower status, . . . are perceived as requiring less intellectual work, entail more emotional labor and subject the holder of the job to interruptions, require the employee to serve another with higher status, . . . have lower salaries and less upward mobility.⁴²

The gender norm of women as caretakers creates barriers for professional women, which play out in academia (the "two body problem,"⁴³ women faculty members carrying the

Top Twenty Law Reviews, 32 (2014) (unpublished student note, Cornell University) (on file with the Cornell University Law Library System), <http://scholarship.law.cornell.edu/ellsrp/8>. *Id.* at 33 ("Law Reviews are, for better or for worse, widely regarded as accurate barometers for an individual's performance in a demanding job, especially at a prestigious law firm.").

39. See Stanchi, *supra* note 22, at 487. Stanchi's comments about women in legal writing being "categorically excluded" from tenure regardless of their credentials or scholarly production applied equally to the public interest clinical faculty who are mostly women. *Id.* at 485. "The hierarchy is constructed so that it is impossible for the lower status [professors] to come close to catching up." *Id.* at 477.

40. "Moreover, the low salaries are justified by the characterization of legal writings as 'feminine' caretaking work, much like nursing and elementary and secondary education. Thus the legal academy repeats and reinforces a family pattern of occupational segregation by sex in which work done by women in worth little." *Id.* at 479.

41. McGinley, *supra* note 12, at 121.

42. *Id.* at 124–25.

43. DEO, *supra* note 17, at 26.

“emotional load”⁴⁴ of student concerns, and women being assigned non-promotable service tasks⁴⁵), in corporate offices (women being assigned “office house work”⁴⁶), and within women’s families (where women are still widely viewed as the “default” parent⁴⁷).

Today, lower status women faculty running public interest clinics is the norm. This has remained a constant since public interest clinics and women entered the legal profession. Public interest work is ranked lower within the law school hierarchy because it is directly related to clinics that use experiential learning as their teaching methodology and those teachers that have lower-than-tenure status.⁴⁸ Since the late 1880s, law schools have used self-serving criteria to control *who* was eligible to practice law and *who* was eligible to teach law, preferring law professors without

44. *Id.* at 59.

45. *Id.* at 87 (“Yet service priorities have an impact on productivity in other areas of faculty effort such as research and teaching, which have a greater impact on overall success in academia.”).

46. Linda Babcock et al., *Why Women Volunteer for Tasks That Don’t Lead to Promotions*, Harv. Bus. Rev. (July 16, 2018), <https://hbr.org/2018/07/why-women-volunteer-for-tasks-that-dont-lead-to-promotions>.

47. DEO, *supra* note 17, at 124.

48. *Id.*; see Stanchi, *supra* note 22, at 476.

The law school status hierarchy also exhibits all of the characteristics of a stratified society. Those who occupy the higher ranked doctrinal positions monopolize economic rewards. They tend toward closure and exclusion. Those in the lower ranked legal writing (and often clinical) positions have significantly restricted opportunities for social reward and occupational “life chances.” The lower ranked categories are marked or stigmatized in a number of ways including by labeling and degrading, belittling comments and behavior. . . . [T]he legal academic hierarchy is clearly gender based and accomplishes a stark gender segregation and division of labor within the academy.

Stanchi, *supra* note 22, at 476. As explained by Peter A. Joy, the creation of this lower class status was intentional and consistent with the exclusion of law professors who teach practice-based professional skills and part of an overarching strategy employed by law schools and the ABA to ensure that the practice of law remained an exclusive and elite profession. Joy, *supra* note 18, at 558.

practice experience.⁴⁹ This practice of exclusion has been remarkably effective: those at the top of the law school hierarchy in 2020 are the same individuals who were at the top in 1920.⁵⁰ By 2003, the top twenty-five law schools were hiring new law professors with an average of 1.4 years of legal practice, and approximately 15% had no practice experience at all.⁵¹ For aspiring law school professors, practical experience became something to avoid so as to not become “tainted.”⁵²

Chronologically, more women began entering the legal profession in the early 1970s at the same time that the ABA required law schools to teach professional skills and the Ford Foundation funded the first clinics.⁵³ From the beginning,

49. This dichotomy between “substance” and “rhetoric” and the corresponding value of each is the basis of the law school hierarchy and its origin goes back thousands of years. A distinction was created between “substance” and “rhetoric” with “substance” or doctrinal courses having a higher status than skills or writing courses. See Kristen Konrad Robbins, *Philosophy v. Rhetoric in Legal Education: Understanding the Schism Between Doctrinal and Legal Writing Faculty*, 3 J. ASS’N LEGAL WRITING DIRECTORS 108, 120 (2006).

50. For an excellent history of how the ABA and law schools worked together to eliminate the existing apprentice-based system in order to make the legal profession more exclusive and control who was eligible to teach law, see generally Joy, *supra* note 18, at 554. As a result, a distinction between law professors and practitioners arose which persists today.

51. *Id.*; see also Richard E. Redding, “Where Did You Go to Law School?” *Gatekeeping for the Professoriate and Its Implications for Legal Education*, 53 J. LEGAL EDUC. 594, 601 (2003).

52. See Joy, *supra* note 18; see also David P. Bryden, *Scholarship About Scholarship*, 63 U. COLO. L. REV. 641, 642–43 (1992) (reporting that a graduate of Harvard Law School with Supreme Court clerk experience stated that several Harvard faculty advised against gaining practice experience because it would give her “a taint”); Patrick J. Schlitz, *Legal Ethics in Decline: The Elite Law Firm, the Elite Law School, and the Moral Formation of the Novice Attorney*, 82 MINN. L. REV. 705, 762 n.225 (1998). As stated by Peter Joy, “Undoubtedly, both the casebook method, which focuses on analyzing appellate decisions, and law professors, with little or no practice experience, created conditions in which, from the inception of university-based legal education in the late 1800s, law schools devalued experiential education.” Joy, *supra* note 18.

53. Women remained between 1% and 3% of the profession and less than 5% of enrollment in ABA approved law schools until the 1970s; hidden quotas and social and cultural barriers kept their numbers small. See ABEL, *supra* note 5, at

clinics and public interest law were connected and tied to professional skills training⁵⁴ (obviously not all skills professors are public interest, i.e. legal writing professors, but nearly all public interest professors are considered skills professors). In response to the new ABA “professional skills” requirement, law schools decided to double down on the distinction between doctrinal professors and skills professors by creating a second, lower tier.⁵⁵

Of the top twenty-five law schools in the country, twenty-three out of twenty-five have a lower tier for their clinical faculty, nearly all of which focus on public interest work.⁵⁶ Unfortunately, public interest law and pro bono work support the notion that women should do caretaking without expecting external rewards; they should be “selfless caretakers” happy to work for free or low wages.⁵⁷ It is easy

90–91. For the history of first clinics and clinic connection with social justice, see Jon Dubin, *Clinical Design for Social Justice Imperatives*, 51 SMU L. REV. 1461, 1465 (1998); Stephen Wizner, *The Law School Clinic: Legal Education in the Interests of Justice*, 70 FORDHAM L. REV. 1929 (2002).; see also Laura G. Holland, *Invading the Ivory Tower: The History of Clinical Legal Education at Yale Law School*, 49 J. LEGAL EDUC. 504, 516–17 (1999). For information about the history of public interest law as a subject area, see generally Jaffe, *supra* note 1. Law schools were encouraged to develop pro bono programs, and these programs were tied to need for skills training in law school. See *ABA Resolutions on Pro Bono and Public Interest*, A.B.A., Resolution 1993_AM_10H (Aug. 10–11, 1993), https://www.americanbar.org/content/dam/aba/directories/policy/1993_am_10h.pdf.

54. See Wizner, *supra* note 53, at 1932–33. Law school curriculum, static for nearly 100 years, began facing pressure to change from multiple fronts in the early 1970s. First, Public Interest law as a distinct subject emerged in the late 1960s and early 1970s, with the development of clinical legal education. Second, in 1973 the ABA passed its first resolution requiring law schools to include some “professional skills” training.

55. See Joy, *supra* note 18.

56. Kristen K. Tiscione, Professor of Law, Georgetown University Law Center, Presentation at the Gender Sideline Symposium at Cal. W. School of Law in San Diego, CA (Apr. 27, 2018). Surveys with gender statistics for legal writing professors at <https://www.lwionline.org/resources/surveys> and for professors teaching in clinic at <http://www.csale.org/>. ALWD/LWI SURVEY, *supra* note 14. See also CTR. FOR APPLIED LEGAL EDUC., *supra* note 13 (survey of schools ranked in top twenty-five by US News and World Report showed clinicians at Georgetown and Washington University at St. Louis are tenure eligible).

57. See MARY BEARD, *WOMEN & POWER: A MANIFESTO* (2017) (detailing a

to see how each of these concepts, caretaking and selflessness, inhibit women's career advancement.⁵⁸

2. Pro Bono as “Fundamental Value” and Institutional Pressure.

The addition of pro bono as a “fundamental value” in the law school curriculum creates further problems for young

general history about how women have been separated since the times of the ancient Greeks); *Proverbs* 31:10–31 (the socialization of women to be selfless caregivers can be traced to biblical times); JOHN STUART MILL, THE SUBJECTION OF WOMEN 10–11 (1869); Naomi Cahn, *The Power of Caretaking*, 12 YALE J. L. & FEMINISM 177, 178 (2000); Caroline Rogus, *Conflating Women's Biological and Sociological Roles: The Ideal of Motherhood, Equal Protection, and the Implications of the Nguyen v. INS Opinion*, 5 U. PA. J. CON. L. 803, 803 (2003).

All women are brought up from the very earliest years in the belief that their ideal of character is the very opposite to that of men; not self-will, and government by self-control, but submission and yielding to the control of others. All the moralities tell them that it is their nature to live for others; to make complete abnegation of themselves, and to have no life but in their affections.

JOHN STUART MILL, THE SUBJECTION OF WOMEN 10–11 (1869).

58. See GILLIAN & SNIDER, *supra* note 12 (if you are socialized to be “selfless” there is a strong value placed on serving others rather than strategically advancing your career, therefore women are likely to make choices that devalue their own careers); Claire Cain Miller, *Women Did Everything Right. Then Work Got ‘Greedy.’ How America's obsession with long hours has widened the gender gap*, N.Y. TIMES: THE UPSHOT (Apr. 26, 2019), <https://www.nytimes.com/2019/04/26/upshot/women-long-hours-greedy-professions.html> (discussing educated women who step back to support husbands' careers).

We hold ourselves back in ways both big and small, by lacking self-confidence, by not raising our hands, and by pulling back when we should be leaning in . . . We internalize the negative messages we get throughout our lives, the messages that say it's wrong to be outspoken, aggressive, more powerful than men. We lower our own expectations of what we can achieve. As a result, she says many women are quietly checking out of their careers, years before they actually start a family. She believes women rarely make a sweeping decision to give up work to look after children, but instead make a string of choices from early on that propel them towards that end result, none the less.

Emma Rowley, *Sheryl Sandberg: Future Moms Are Wrecking Their Own Careers*, BUSINESS INSIDER (Feb. 3, 2013), <https://www.businessinsider.com/sheryl-sandberg-future-moms-are-wrecking-their-own-careers-before-they-even-begin-2013-2> (quoting from and discussing Sheryl Sandberg's book, LEAN IN: WOMEN, WORK AND THE WILL TO LEAD (2013)).

women. The emphasis (institutional pressure) from law schools to do pro bono (“caregiving work”), combined with the deep caregiving socialization and gender stratification within law schools, create a perfect storm to pull women toward lower rungs of the profession. Pro bono and public interest as a “professional value” became part of the law schools’ curriculum in the early 1990s after the MacCrate Report.⁵⁹ Shortly after the MacCrate report, the ABA began to encourage/require law schools to incorporate pro bono and public service opportunities into their skills curriculum.⁶⁰ The incorporation of pro bono/public service into the acknowledged lower tier of skills further reinforced the perception of public interest as low status.⁶¹ Today, 78% of those who coordinate required or suggested pro bono activities in law schools are women at lower tiers in the

59. Joy, *supra* note 18, at 569–70 nn.109–14. In 1989, the ABA Council on the Section of Legal Education and Admissions to the Bar created a task force on the gap between law school teaching and the practice of profession. The task force published its findings in 1992 in a document known as the “MacCrate Report.” *Id.* at 570 n.115 (“The report set out a list of ten fundamental lawyering skills and four professional values which law students would be encouraged to develop both in law school courses and outside of the law school. One of the four values was ‘striving to promote justice, fairness, and morality.’”).

60. In 2005, the ABA revised its Accreditation Standards by adopting Standard 302(b)(2), which provides: “A law school shall offer substantial opportunities for student participation in pro bono activities.” A.B.A., STANDARDS: RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 19 (2005), https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/standardsarchive/2005_2006_aba_standards_and_rules_of_procedure_for_approval_of_law_schools.pdf.

61. In 1993 the A.B.A. issued a recommendation: “That law schools are strongly encouraged to develop pro bono/public service programs as components of their skills training curricula or programs and to exchange information about such pro bono/public service programs through the Section of Legal Education and Admissions to the Bar.” See *Resolution 1993_AM_10H*, *supra* note 53. For more information about A.B.A. Standard 303, see A.B.A., ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2018–2019 16 (2018), https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2018-2019ABASStandardsforApprovalofLawSchools/2018-2019-aba-standards-chapter3.pdf.

hierarchy, reinforcing the low status/female perception of public interest and pro bono work.⁶²

Cultural signals received in a workplace have a strong impact on women's ambitions.⁶³ When law school culture normalizes women in low status caregiving roles, women may make the seemingly rational decision not to try to achieve high levels in the profession.⁶⁴ The combination of law school hierarchy, historic socialization to be caretakers and institutional encouragement to engage in pro bono, without full disclosure about gender stratification in the legal profession, is a slippery slope for new women lawyers. In order to support women advancing in the profession, law schools must first eliminate institutionalized gender

62. See ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2018–2019, *supra* note 61. Standard 302 advises students to do at least fifty hours of pro bono service while in law school. The A.B.A. Center for Public Interest and Pro Bono has a directory of accredited law schools with Public Interest and Pro Bono Programs. Of the 202 ABA accredited schools, 183 reported having a program and 142 were run by women (research on file with author). See also *ABA Standing Comm. on Pro Bono and Public Service, A Guide and Explanation to Pro Bono Services*, A.B.A. (July 26, 2018), https://www.americanbar.org/groups/legal_education/resources/pro_bono/.

At least 39 law schools require students to engage in pro bono or public service as a condition of graduation. These schools may require a specific number of hours of pro bono legal service as a condition of graduation (e.g. 20-75 hours) or they may require a combination of pro bono legal service, clinical work, and community-based volunteer work.

Directory of Law School Public Interest & Pro Bono Programs, A.B.A., https://www.americanbar.org/groups/center-pro-bono/resources/directory_of_law_school_public_interest_pro_bono_programs/.

63. Bourree Lam, *How Office Culture Can Crush Women's Ambitions*, THE ATLANTIC (Apr. 19, 2017), <https://www.theatlantic.com/business/archive/2017/04/ambition-office-women/523443/>.

64. *Id.*

While some of those factors may come into play, the researchers argue that women are ambitious, but they're also rational and thus respond to the work environments they're in. For example, if women receive signals from their employer that they're never going to make it to the top no matter what, they'd likely make the reasonable decision to leave or choose a different path where they're more likely to be rewarded.

Id.

stratification and improve the current negative role modeling women receive at the beginning of their professional lives.

B. *The Culture of Public Interest Law: A Constellation of Practices Work Against Women's Advancement*

Women leaving law school and embarking on their career face a new set of cultural challenges within public interest law that create obstacles to their success. Through my career, I have observed obstacles such as 1) pervasive lack of resources and indigent clients in dire circumstances create a conflict between self-advocacy and client advocacy, 2) the tendency for public interest organizations (both local and national) to be exclusively client-focused, and 3) the failure of the public interest sector writ large to acknowledge gender segregation within the field. Collectively, these factors harm women more than men. While men have been socialized to be providers and breadwinners, women, socialized to be selfless caregivers, may respond to these factors by marginalizing their careers or opting out of the profession altogether.⁶⁵

1. Perpetual lack of resources and indigent clients in dire circumstances creates a tension between self-advocacy and client advocacy.

As a public defender in Philadelphia in the late 90s, I recall representing children who were living in their cars, collecting rainwater to wash. To conduct interviews in the basement of the old family court building, my clients and I sat across from each other on red milk crates while I used my stack of files as a desk. The volume of clients and level of poverty was staggering, and my \$33,000/year salary with

65. I say *may* because there is no data; I am basing these statements on twenty-five years of lived experience as a public interest lawyer. Anecdotally, I know that there are some extraordinary women leaders at some non-profit organizations and that role modeling may mitigate the impact of some of these factors, however, without data we cannot know the landscape.

good health benefits felt like luxury by comparison. Neglected children, families facing deportation, solitary confinement, homelessness, fear of domestic violence and the dangers faced by trafficking victims are common issues handled by public interest attorneys. I have often felt guilty about *wanting* personal success when I am working with poor clients.

It is common knowledge that public interest organizations lack sufficient resources⁶⁶ and often struggle to retain qualified lawyers while maintaining ethical obligations to clients.⁶⁷ What is not discussed is how the lack

66. Irene Oritseweyinmi Joe, *Systematizing Public Defender Rationing*, 93 DENVER L. REV. 389, 391 (2016).

The public defender function, made up of the institutions and the public defenders themselves, was created to ensure fairness in the criminal justice system. Insufficient resourcing, however, has created a defender system that is commonly described as unfair, struggling, and even broken. Public defender stakeholders wage a constant battle for resources and often find their cries unheard by state legislators.

Id.

Despite the Legal Services Corp.'s efforts, however, limited resources force local offices to turn away more than half of all eligible applicants seeking help, while the number of Americans who qualify for federally funded legal assistance continues to grow. In federal fiscal year 2015...the number is expected to reach 67 million individuals, or roughly 21 percent of the U.S. population.)

Rhonda McMillion, ABA steps up calls for increased Legal Service Corp. funding, ABA J. (May 1, 2014), https://www.abajournal.com/magazine/article/aba_steps_up_calls_for_increased_legal_service_corp_funding. See also Sonia Weiser *Lawyers By Day, Uber Drivers and Bartenders at Night*, N.Y. TIMES (June 3, 2019), <https://www.nytimes.com/2019/06/03/nyregion/legal-aid-lawyers-salary-n-y.html>.

67. Jonathan D. Glater, *High Tuition Debts and Low Pay Drain Public Interest Law*, N.Y. TIMES (Sept. 12, 2003), <https://www.nytimes.com/2003/09/13/us/high-tuition-debts-and-low-pay-drain=public-interest-law.html>. See also Aliza B. Kaplan, *How to Build a Public Interest Lawyer (And Help All Law Students Along the Way)*, 15 LOY. J. PUB. INT. L. 153, 156 (2013).

[M]ost law students who go on to practice public interest law are ill prepared for the heavy toll the work will take on them emotionally and spiritually. Low pay, enormous school debt, and the poignant life situations of their clients, and their inability to effect change in ways that they had hoped all contribute to that heavy toll.

of resources and extreme poverty can affect women's career advancement. Lack of financial resources severely diminishes an organization's ability to support activities related to the professional development of their staff.⁶⁸ When an organization is perpetually worried about finances, traveling to another city to attend a conference is an enormous luxury, requiring not only the funds to attend but also sufficient surplus of staff to cover the attending attorney's caseload. The lack of funds creates a disincentive to ask for permission to attend outside events when an attorney knows that asking to leave to attend a professional development opportunity puts additional strain on the remaining office staff. This is particularly true for newer attorneys who are adjusting to the culture norms of an office.

Id. But see Christa McGill, *Educational Debt and Law Student Failure to Enter Public Service Careers: Bringing Empirical Data to Bear*, 31 L. & SOC. INQUIRY 677 (2006) (concluding that debt did not contribute to students moving away from public interest work).

68. Pamela Metzger & Andrew Guthrie Ferguson, *Defending Data*, 88 S. CAL. L. REV. 1057, 1066–67 (2015).

This information deficit means that public defenders have no empirical evidence to guide them in prioritizing effective practices and avoiding common errors. With rare exceptions, even the most passionate and diligent public defender must make hard choices about how to deploy her limited time and scarce resources. Should she file a bond review motion for today's client or an evidentiary motion for tomorrow's trial? Should she draft a sentencing motion for a case she just lost or prepare a witness for a case she might win?

Public defender offices as a whole face the same hard choices. Should they spend more money training their attorneys or hiring additional supervisors? Should they prioritize pretrial motions practice over sentencing litigation? Lacking systemic data, defenders cannot distinguish between those practices that produce adverse client outcomes and those that produce optimal client outcomes. Without this data, public defender offices lack empirical mechanisms to identify how to optimize attorney performance, improve client outcomes, and maximize scarce defender resources. In short, defenders do not know what they do not know; all they know for certain is that the system is failing poor people accused of crime.

Id.

It is also difficult to self-advocate for a raise, promotion, or professional training when additional money could be allocated to hire more staff to expand services to clients. When working in public interest, lawyers are constantly aware of the enormous unmet legal needs of the poor. Using juvenile delinquency representation as an example, while my primary job was to defend the client against alleged crimes, my secondary job was to address my client's other needs (i.e. 70% of youth have mental health issues) which often brought the child into the system.⁶⁹ Aware of the lack of resources, how could I simultaneously advocate for a raise for myself while wanting the organization to hire additional staff specialized in education or mental health advocacy? When organizations are underfunded and there is a lack of social safety net, it is impossible not to see the vast needs and the extreme limitations of the organization. This conflict over personal advancement, which dampens the desire for self-promotion, is one of many unexplored collateral consequences of working as a public interest attorney.

2. National Public Interest Lawyers Organizations are exclusively client focused and fail to address gender segregation.

In addition to budget constraints, there is a cultural indoctrination to be exclusively client focused, which creates an environment where it is taboo to discuss personal advancement and career goals. While on the surface altruism seems commendable, I argue that this culture disadvantages women.

Limited funds force public interest organizations to make choices. The obvious choice to pursue their mission is to focus on issues related to their clients or their cause.

69. JENNIE L. SHUFELT & JOSEPH J. COCOZZA, NAT'L CTR. FOR MENTAL HEALTH AND JUVENILE JUSTICE, *YOUTH WITH MENTAL HEALTH DISORDERS IN THE JUVENILE JUSTICE SYSTEM: RESULTS FROM A MULTI-STATE PREVALENCE SURVEY 2*, 4 (2006), http://www.ncmhjj.com/wp-content/uploads/2015/02/2006_Youth_with_Mental_Health_Disorders_in_the_Juvenile_Justice_System.pdf.

Trainings that enhance advocacy for clients have immediate value as opposed to activities that enhance the professional development of lawyers, which have only tangential gain for either the organization or the clients they serve. Over the past twenty years, public interest law has become increasingly complex and there is much intersectionality among practice areas, requiring more client centered training.⁷⁰ Limiting discussions to topics directly related to client service reinforces the problematic concept of the “selfless caregiver,” meaning that women should not need rewards for themselves as they are expected to gain satisfaction through the service of others. A culture that focuses solely on clients can make it difficult for women to focus on their own professional development, because doing so risks going against the norm and may not be supported by supervisors and others who have risen through the existing culture. Over time, this culture may decrease mobility for women lawyers and create guilt for even thinking about leaving the field of public interest to do something else.⁷¹ As I explain in the next Section, this culture is likely to have less impact on men who have been socialized to be providers.

70. The complexity of public interest representation continues to expand while the subject matter remains difficult to manage. Over the course of my career in juvenile justice, in addition to representing the child on the delinquency charge, which includes an understanding of criminal procedure and evidence, it is important to understand issues related to school, immigration, adolescent brain development, gender and LGBTQ issues, trauma informed counseling and issues related to race. See NAT'L JUVENILE DEF. CTR., NATIONAL JUVENILE DEFENDER STANDARDS (2012), <https://njdc.info/wp-content/uploads/2013/09/NationalJuvenileDefenseStandards2013.pdf>.

71. There is often “tribe” mentality among defenders, an “us vs. them” approach, or as Abbe Smith puts it, “a classic depiction of lawyer as outlaw hero” that defenders relate to. Abbe Smith, *Too Much Heart and Not Enough Heat: The Short Life and Fractured Ego of the Empathetic, Heroic Public Defender*, 37 U.C. DAVIS L. REV. 1203, 1233 (2004). She also writes about public defender “defection” to private practice and the expectation that criminal defense fellows will spend their careers in public interest. *Id.* at 1206. Barbara Allen Babcock refers to a “peculiar mind-set, heart-set, soul-set” that criminal defenders have. Barbara Allen Babcock, *Defending the Guilty*, 32 CLEV. ST. L. REV. 175, 175 (1983).

An exclusively client focused practice is coupled with a gender-segregation blind spot. Like the ABA, national organizations that address public interest issues and assist lawyers with public interest careers ignore the obvious gender segregation in the field (focusing solely on issues related to the cause).⁷² In addition, career advancement topics that are commonly found at conferences for lawyers in private practice (i.e. networking and career building) rarely make the public interest agenda. Rather, public interest conferences focus on how to improve and expand service delivery or systemic reform. This absence coupled with the myriad of ways social justice lawyers are constantly encouraged to “do more” for their clients (both individually and systemically) cements the idea that women are to serve others and ignore their own advancement. Through the absence of topics related to gender and advancement, a clear message is sent: it is not ok to be ambitious while serving the public.

3. Women’s career advancement is harmed more than men by these cultural factors.

The lack of focus on career advancement within the public interest sector, as if advancement “just happens” without strategy, disadvantages women because men have always had society’s permission to do what is necessary to take care of themselves and their families.⁷³ The expectation

72. I base these assertions on my own experience attending a variety of public interest law conferences over the past two decades, in addition to looking at the agendas from the past five years from the National Conference of the Child Welfare League of America and the National Association of Counsel for Children. See *Past Conferences*, CHILD WELFARE LEAGUE OF AMERICA, <https://www.cwla.org/conferences/>; *Past Conferences*, NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN, <https://www.naccchildlaw.org/page/PastConference> (last visited Apr. 11, 2020).

73. Men’s role as “provider” (breadwinner) goes back at least 2000 years and was evident when the New Testament of the Bible was written in the first century A.D. See, e.g., 1 *Timothy* 5:8 (“But if anyone does not provide for his relatives, and especially for members of his household, he has denied the faith and is worse than an unbeliever.”).

that men will be successful and assertive paves a pathway both internally and externally for men to pursue opportunities. There is no conflict when a man strategically plans a career path that involves advancement, despite the fact that he may have chosen public interest law. For many women, unless there is an intentional focus or specific mentoring on the critical importance of strategic career planning, it will not happen. For women, there is still an internal conflict about whether it is ok to want personal success.⁷⁴

By not naming advancement as acceptable, women are disempowered to think about their careers, their own needs, and how to develop a plan to get where they want to go. This is a dangerous and self-destructive message. Particularly in the public interest field where women have self-selected to be in a less remunerative and caretaking field, an intentional focus on self-advancement is critical. Unfortunately, numerous factors, including both financial and structural limitations, in addition to cultural barriers that indoctrinate public interest lawyers to be solely client focused, work against women's advancement.

Without an intentional career focus, women who practice in public interest are likely to respond to these cultural forces

74. See GILLIAN & SNIDER, *supra* note 12, at 7.

“Even as we have developed conscious attitudes of equality, there is a much larger context of unconscious ideas of what women *should* be that hovers like a ghost” We can believe in a woman's equality and yet, as women, feel guilt when we put our own needs forward or uncomfortable when other women do the same

Id. (emphasis added) (quoting Tracy Sidesinger, *The Nasty Woman: Destruction and the Path to Mutual Recognition* (Oct. 13–15, 2017) (conference paper, “Psychology & the Other,” Boston)). See also SHERYL SANDBERG, *LEAN IN: WOMEN, WORK, AND THE WILL TO LEAD* 92 (2013).

From an early age, girls get the message that they will have to choose between succeeding at work and being a good mother. By the time they are in college, women are already thinking about the trade-offs they will make between professional and personal goals.

Id.

in a way that marginalizes their career. For example, a woman may believe the only way to succeed in public interest is to be completely selfless, to give more and more, which increases the risk of burnout and vicarious trauma, causing career damage.⁷⁵ Or a woman may discount her own career by choosing to work part time to do caretaking at home, remain in lower caretaking rungs within the organization or by opting out of the legal profession altogether. Once marginalized by part-time or lower status work, women will increase reliance on a “breadwinner” partner, ultimately reinforcing the status quo of the legal profession.

75. Lawyers who work in public interest law face serious hidden health risks from burnout and compassion fatigue. Despite conventional wisdom that burnout is an individual problem, research confirms that work environments where there is high demand and low resources (the daily reality of public interest practice) cause burnout. Lawyers who practice in the areas of criminal defense, immigration, family law, juvenile law, children’s law, and domestic violence are at high risk for compassion fatigue due to a client base that has experienced high rates of trauma. Technology exacerbates the problems of compassion fatigue and burnout by decreasing boundaries between work and home. Public interest lawyers are at a greater disadvantage than other helping professions such as social workers, because the legal profession fails to teach lawyers about these risks, which increases their vulnerability and contributes to the national crisis of lawyer depression and substance abuse. See Brittany Stringfellow Otey, *Buffering Burnout: Preparing the Online Generation for the Occupational Hazards of the Legal Profession*, 24 S. CAL. INTERDISC. L.J. 147, 150 (2014); see also Patrick R. Krill, Ryan Johnson & Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46 (2016).

SECTION II: THE PROFESSION FAILS TO
ACKNOWLEDGE THE PROBLEM

As a profession, we have known for decades that women tend toward public interest careers.⁷⁶ Despite the longstanding knowledge that more women than men choose public interest, there is virtually no available data to monitor women's career advancement.⁷⁷ The absence of data collection focused on women in the field of public interest law and the exclusion of public interest women from major publications is another downside for women pursuing public interest careers. Historically, the absence of data on marginalized populations has enabled continued oppression.⁷⁸ Without data, these women remain invisible,

76. ABLE, *supra* note 5, at 10–11; Wilder, *supra* note 2, at 7.

77. By “advancement” I mean progress within the organizational structure. Just like women in private practice move from associate to partner, women in public interest move from staff attorney to supervisor to one of the top leadership positions.

78. See, e.g., Leonore F. Carpenter & R. Barrett Marshall, *Walking While Trans: Profiling of Transgender Women by Law Enforcement, and the Problem of Proof*, 24 WM. & MARY J. WOMEN & L. 5, 6 (2017) (noting lack of police-generated data on transgender women that are being subjected to police profiling “thwart[s] some strategies for large-scale reforms that might otherwise have the effect of curtailing police profiling of transgender women.”). See also Jamelia N. Morgan, *Caged in: The Devastating Harms of Solitary Confinement on Prisoners with Physical Disabilities*, 24 BUFF. HUM. RTS. L. REV. 81, 103–04 (2017–2018).

[W]ithout data to track the number of prisoners with disabilities, their location within the local, state, or federal correctional system, or the nature of their disability, it will be nearly impossible to provide accommodations for these prisoners, determine the extent to which this group is subjected to the overuse of solitary confinement, or whether reform efforts, in the states that have pursued them, have been effective in removing prisoners with disabilities from solitary confinement . . . For outside advocates, such data will be necessary in order to provide transparency and hold correctional systems accountable. Finally, without data on the volume of prisoners with disabilities, or the nature of their disabilities, it will be difficult to ensure that their needs—whether it be access to critical areas in a correctional facility, assistive devices, or other accommodations—are met while in prison. At a minimum, correctional systems must be accountable for keeping careful, comprehensive, and accurate records that identify the number of persons in solitary confinement, or any other type of restrictive housing,

challenges remain hidden, and there is no benchmark with which to measure progress or address issues.

The American Bar Association (ABA) is the premier organization for attorneys in the United States and was instrumental in the creation of the Legal Services Corporation in 1974.⁷⁹ However, the ABA consistently excluded women who practice in public interest from its initiatives to collect data and address gender bias. To date, the American Bar Association has done zero studies on the challenges faced by women in the public sector.⁸⁰ In 2018, for example, in response to the unchanging statistics of women's advancement in the legal profession, the ABA's Women in the Profession Committee undertook an ambitious research study to understand the patterns of gender bias. The executive summary of the final report, *You Can't Change What You Can't See: Interrupting Racial and Gender Bias in the Legal Profession*, states that the report is "the first of its kind to provide a comprehensive picture of how implicit gender and racial bias plays out in everyday interactions in legal workplaces and affects basic workplace processes such as hiring and compensation."⁸¹ This statement is misleading. The study was conducted only with lawyers working in

and their specific disabilities and corresponding needs.

Id.

79. *About the ABA*, A.B.A., https://www.americanbar.org/about_the_aba/ (last visited Apr. 11, 2020).

80. While the ABA has not created a report on women working in public interest law, they have produced publications focused on women generally. *See, e.g.*, MILANA HOGAN, GRIT, *THE SECRET TO ADVANCEMENT: STORIES OF SUCCESSFUL WOMEN LAWYERS* (2017). The ABA has also produced a handful of reports and other publications on public interest or public-spirited practice, generally, but not reporting focused on public interest lawyers. *See* STANDING COMM. ON PRO BONO AND PUB. SERV., *Supporting Justice: A Report on the Pro Bono Work of America's Lawyers*, A.B.A. (2018). The ABA also published a handful of reports and books on Public Interest as a practice area. *See also* RONALD W. FOX ET AL., A.B.A., *LAWFUL PURSUIT: CAREERS IN PUBLIC INTEREST LAW* (1995); NORA JEAN LEVIN & JANET DEMPSEY STEIGER, A.B.A., *TO LIGHT ONE CANDLE: A HANDBOOK FOR ORGANIZING, FUNDING, AND MAINTAINING PUBLIC SERVICE ACTIVITIES* (1978).

81. COMM'N ON WOMEN IN THE PROFESSION, *supra* note 7, at 7.

private firms and as in-house counsel. It is disappointing that there is not even an attempt to include the experiences of women in the public sector. The report reinforces the message that only the experiences of private sector women should be documented.

The 2018 ABA Report continues a long pattern of ignoring and excluding the experiences of public interest women attorneys. Each year the ABA Women in the Profession Committee releases a report titled “A Current Glance at Women in the Law.”⁸² Again, while the title seems to include all women, there is no mention of women doing public interest. The data is limited to women in private practice, women in corporations, women in law schools, women on law reviews, women in the judiciary (including the U.S. Supreme Court), women in Congress and women who have held leadership positions in the ABA. There is no mention of the women who lead public defender or prosecutor offices, women who lead nonprofit organizations, or women who work in state government.

Without data collection and benchmarks, women who choose public interest work are at a distinct disadvantage. Lack of data about these women’s careers reinforces the notion that the role of these women is to exclusively serve their clients rather than think about career advancement. Lack of data prevents women attorneys in public interest from using the data within their own offices or specific legal fields to help themselves. By failing to focus on the experiences of women lawyers in public interest, the ABA effectively gives public interest law offices a pass when it comes to gender equity and women in leadership positions.

In addition to the lack of data collected by the ABA, the National Association of Law Placement⁸³ also focuses its

82. *Id.*

83. NALP is an association of over 2,500 legal career professionals who advise law students, lawyers, law offices, and law schools in North America and beyond. See NAT’L ASSOC. OF LAW PLACEMENT, <https://www.nalp.org/whatisnalp> (last

data collection on private practice. NALP reports annually on diversity in law firms. Under the “Minorities and Women” website tab, NALP lists dozens of articles focused on how women and minorities are faring in law firms, but not one article on how women fare in the public sector.⁸⁴ Since 2003, NALP has also housed PSJD (Public Service JD, formerly PSLawNet), which serves as a hub of information for those law students and lawyers seeking opportunities in public service. The website, specifically designed for public interest law, is impressive in its breadth, and the most recent report, *2018 Public Interest Salary Report*, is helpful in that it breaks down numbers by legal field and geography; nonetheless, there is still no data related to gender.

Despite the repeated documentation that significantly more women go into public interest law than men,⁸⁵ I was able to find only two reports that have specifically looked at the experiences of these women. The first, a 2010 report, by the Hispanic National Bar Association Commission on the Status of Latinas in the Legal Profession (LAPIS),⁸⁶ was conducted in response to *After the JD II: Second Results of a National Study of Legal Careers* in 2009. Though the report uses a small sample of women attorneys (twenty-five), the findings of this study were extremely similar to the findings of the 2018 ABA report on racial and gender bias. For example, the majority of LAPIS Survey respondents (66.7%) indicated that their current or most recent supervisors were white and reported that while there are more women as compared to men in their workplaces, men consistently

visited Apr. 11, 2020).

84. *National Association of Law Placement*, <https://www.nalp.org/minorities-women> (last visited Apr. 11, 2020).

85. See ABLE, *supra* note 5, at 10–11; Wilder, *supra* note 2, at 7.

86. See Cruz, Molina & Rivera, *supra* note 5, at 147. Note, in this study, Public sector was defined as Latinas working in Legal aid, legal services, public defenders offices, prosecutor offices, and nonprofit organizations providing legal services including civil services.

outnumbered women as supervisors.⁸⁷ Also similar to the 2018 ABA Report, the LAPIS report noted different treatment based on ethnicity, gender and race, that they were often misidentified as non-lawyers and that they had fewer advancement opportunities.⁸⁸ In addition, it noted the overall devaluation and marginalization of public interest work by private sector lawyers and the public.⁸⁹

A second report focusing on the experiences of women in Legal Services was done by Kelly Miller in 1993.⁹⁰ The results were similar to the LAPIS: although Legal Services is a field dominated by women, the executive directors are predominantly male. In 1995, 51% of legal services attorneys were women while 83% of the director positions were held by men. Astonishingly, twenty-one years later in 2014, the percentage of male executive directors was the same, but the number of female legal services attorneys rose from 51% to 67%.⁹¹

In considering possible reasons why the ABA and others fail to collect data about the experiences of women in public interest, it is possible the legal profession puts public interest

87. *Id.* at 178.

88. *Id.* at 192–98.

[O]nly 13.4% of the Survey respondents believed that Latina attorneys are provided the same opportunities as others to succeed and advance in the legal profession. This finding is consistent with findings from the 2009 HNBA Study. This lack of opportunity is compounded in significant measure by the limited number of supervisory positions available in public interest offices, intense competition for those positions and the slow turnover in such positions. As a result, these supervisory positions are filled at a sluggish pace which stunts the professional development of an individual's public interest career. One respondent noted, "I looked at the management. And all of the middle management and upper management were White males that had been there for 20 years. And I knew I wasn't going to move up anytime soon."

Id.

89. *Id.* at 209–10 (recommending support and funding for continued research and data collection of Latinas in the legal profession).

90. Miller, *supra* note 6, at 1168.

91. *Id.*; Carr, *supra* note 8, at 70 n.19.

work on a pedestal and does not wish to critically engage with the reality of public interest work. Perhaps it is driven by anxiety—fear of adding to “public interest drift,”⁹² that any possible negative analysis of the work will lead to fewer attorneys taking it on. Or, perhaps, given that the legal field is a male dominated profession, the ABA Women in the Profession Committee have internalized patriarchal messages that private sector work is more valuable than public sector work and that it is acceptable to ignore women doing caregiving work. Regardless, by failing to explore the downside of public interest work, we avoid shining a light on the tension between women’s self-interest, client interests, and societal needs.

92. There is a large body of literature on the topic of public interest “drift.” See John Bliss, *From Idealists to Hired Guns? An Empirical Analysis of “Public Interest Drift” in Law School*, 51 U.C. DAVIS L. REV. 1973 (2018).

SECTION III: STARTING TOWARDS A REMEDY

If we are committed to the advancement of women, we must challenge the existing professional structures that are keeping women at the bottom of the legal profession. Each of the following areas of the profession must change current practices that negatively impact women.

A. *Law Schools*

Law schools have an important role in addressing gender bias in the profession because they are charged with modeling the professional roles of women for the next generation of lawyers. Given this important role, law schools should include “gender in the legal profession” topics in their curriculum, and in particular, incorporate gender segregation discussions into pro bono/public interest programs and courses. All students should be aware of the intentional exclusions the legal profession has enforced to keep out women and racial and ethnic minorities well into the twentieth century.⁹³ It is no surprise given such context that it is still common to have only a handful of African American students in the classroom or that high status doctrinal professors are predominantly white males. If the history of the legal profession and its connection to gender segregation were incorporated into the curriculum, students would be more conscious of the existing power structures that create the profession as we see it today.

In addition to incorporating gender topics into the curriculum, law schools should set explicit limits on the amount of pro bono hours students perform while still maintaining full-time status. Similar to limits on outside employment, it is disingenuous to think that a student can engage in hundreds of hours of service work without a corresponding impact on grades and other important career advancing activities. While service can be good for

93. *Id.* at 1982–86.

networking and gaining professional experience for the resume, too much service can skew priorities, leading to lower grades and lower bar pass rates. By not limiting pro bono service hours, law schools set women up for failure and reinforce the false message that somehow women should be able to do all the caretaking and succeed professionally.⁹⁴

Finally, law schools should eliminate obvious gender hierarchy barriers by ensuring pay equity and creating a pathway to tenure for all faculty. The connection between pay equity and tenure has been previously explored.⁹⁵ A pathway to tenure for all would ensure that groups of women who do public interest are not permanently locked into a lower status. When students see a group of women physically segregated from other faculty and then learn that their student intensive caregiving role is less valued by the law school, it normalizes the historic second class citizenship of women and forecasts gender segregation in the legal profession. Tenure, and the lack of a pathway to tenure, is directly connected to women in low status caregiving roles.

B. *The Profession*

Data collection is the clear first step. At a minimum, we should demand that the ABA develop a data collection system to routinely include public interest markers into their annual “Women at a Glance” publication. Some of these data points are already accessible, such as the leadership of national organizations and their statewide counterparts like the American Civil Liberties Union or State Attorney Generals,⁹⁶ as well as the leadership of state and federal public defender and prosecutor offices. Ideally, all of the

94. See Anne-Marie Slaughter, *Why Women Still Can't Have It All*, THE ATLANTIC (July/Aug. 2012), <http://www.theatlantic.com/magazine/archive/2012/07/why-women-stillcant-have-it-all/309020>.

95. See Stanichi, *supra* note 22, at 467–68 n.1.

96. Eleven Attorney Generals are women. See *Who's My AG?*, NAT'L ASS'N OF ATT'YS GEN., <https://www.naag.org/naag/attorneys-general/whos-my-ag.php> (last visited Apr. 11, 2020).

public interest organizations who attend the Equal Justice Works Career fair⁹⁷ would contribute data on the race and gender makeup of their leadership and staff, and the ABA could do a supplemental report to their “interruption bias” report that includes the experiences of women lawyers in public interest. In the meantime, NALP, PSLAW, and other public interest organizations should follow the lead of CSALE and Legal Writing Institute by collecting and publishing their own data.⁹⁸ Transparency would provide much needed benchmarks for individual offices and attorneys to use as leverage to address challenges. While there is an accepted narrative that public interest law is “good” for women (the work environment may be more nurturing and flexible, and many women run public interest organizations), without data we have no way of knowing if that narrative is true. It is my observation that the women who are able to rise are those who have other kinds of privilege, such as educational pedigree⁹⁹ or expertise in an area of the law that is female dominated.

C. *Public Interest Organizations*

Like the ABA, public interest organizations should collect and publish data, and like law schools, they should include gender segregation discussions at national conferences. In addition, public interest organizations should intentionally encourage women to focus on their own career advancement. Unlike academia and private practice, public

97. EQUAL JUSTICE WORKS 2019 CONFERENCE & CAREER FAIR, <https://www.equajusticeworks.org/conference-and-career-fair/registered-employers/> (last visited Apr. 11, 2020).

98. See *CTR. FOR APPLIED LEGAL EDUC.*, *supra* note 13.

99. Educational pedigree is a particularly interesting issue since it is a marker for class. Women who have access to upper tier schools at the undergraduate and graduate level may have been raised in an environment where their personal success was encouraged and nurtured, mitigating historic socialization to be selfless caregivers. See DEO, *supra* note 17, at 19 (“more than 40% of current law professors attended either Harvard or Yale Law School and [over 85%] of current law professors attended one of 12 elite law schools.”).

interest lacks an advancement structure. When an individual joins a firm there is a path from associate to partner. There is an understanding that the individual success of each lawyer is good for the firm. Law firms provide mentors, employee resource groups, encourage attendance at events, and encourage lawyers to present at conferences. These resources benefit women because it encourages women attorneys to think about their career goals and develop a plan to get there. New lawyers are encouraged to think about networking, build a book of business, and promote themselves by developing their own personal brand.

Likewise, in academia, there is a specific path for career advancement. When lawyers join the academy, there is a known progression laid out with specific criteria to meet in order to advance from assistant to associate toward the rank of full professor. Institutional supports such as research budgets and sabbatical leave encourage writing and enable the attendance at conferences to present works in progress and to produce articles for publication, all of which are necessary for advancement. By contrast, in public interest there is often a void of support or discussion of topics related to individual promotion. With the varying nature of organizations, there is often no clear path toward advancement, and topics related to individual growth are rarely discussed. Public interest organizations should encourage women to intentionally focus on their careers and support women's advancement within the confines of their limited resources.

Despite resource restraints, there are many ways public interest organizations can intentionally encourage women to focus on career advancement. When I say "advancement" I mean both advancement within the organizations and advancement outside of the organizations. For advancement within the office, supervisors should encourage women to apply for leadership/managerial positions and provide opportunities for women to cultivate relationships and leadership skills. For advancement outside the office, women

need to be aware of opportunities and be encouraged to view their role broadly. Using myself as an example, although I was in a county based statewide public defender office, I was fortunate to have extraordinary mentors who also saw themselves as statewide and national policy makers. These mentors gave me the opportunity to develop a wide range of skills and network with important stakeholders.¹⁰⁰ Through this exposure I saw opportunities outside of the public defender office I may not have seen otherwise. Though career achievement pathways are not as obvious as in private practice, there are numerous public interest career paths and examples of notable individuals who have leveraged their public interest background.¹⁰¹ Women in public interest need to be exposed to a variety of opportunities and potential career paths so they can actively make choices, rather than default to typical caretaking roles and female dominated rungs of the profession.

100. Some public interest organizations commit to taking their staff to national conferences; this is the kind of career support that can encourage women to think about their own careers. In the academic realm the HERS Leadership Institute is a designated place for women to build skills for career advancement. *See* HERS LEADERSHIP INST.: HIGHER EDUC. LEADERSHIP DEV. PROGRAM, <https://www.hersnetwork.org/programs/hers-institute/> (last visited Apr. 11, 2020).

101. Bryan Stevenson is one extraordinary example, a list of other notable alumni from the Public Defender Service in Washington D.C. can be located at PUB. DEFENDER SERV. FOR D.C., https://en.wikipedia.org/wiki/Public_Defender_Service_for_the_District_of_Columbia#Notable_alumni (last visited Apr. 11, 2020).

IV. CONCLUSION

The goal of this Article is to begin a conversation. The professional devaluation of public interest law, which contributes to gender segregation in the profession, is an issue that deserves attention. Too much public service, without strategic self-promotion, can damage the careers of women lawyers and contribute to women at the bottom of the legal profession. By failing to collect data and explore the downside of public interest work, we avoid shining a light on the negative collateral consequences for women.

Unfortunately, there are many factors within society and the legal profession that pull women toward caregiving roles that inhibit career advancement. Law schools' continuation of a gender hierarchy that locks female public interest lawyers into lower tiers, combined with the ABA's failure to collect data, is part of the profession's structural devaluation of public interest. Cultural factors within public interest organizations also work against women's advancement, such as 1) the pervasive lack of resources which creates a conflict between self-advocacy and client advocacy; and 2) the failure of national public interest law organizations to acknowledge the gender segregation of certain practice areas.

Structural changes within the academy and legal profession are the first steps toward valuing public interest and the women lawyers who practice. If we are serious about supporting the advancement of women in the legal profession, we need to acknowledge the problematic aspects of public interest law.