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Organizational culture and professional selves: The impact of large law firm practice upon young lawyers. (Volumes I and II)

Poor, Daniel Clinton, Ph.D.

City University of New York, 1994

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ORGANIZATIONAL CULTURE AND PROFESSIONAL SELVES:

The Impact of Large Law Firm Practice Upon Young Lawyers

by

Daniel C. Poor

VOLUME ONE

A dissertation submitted to the Graduate Faculty in Sociology in partial fulfillment of the requirements for the degree of Doctor of Philosophy, The City University of New York.

1994

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This manuscript has been read and accepted for the Graduate Faculty in Sociology in satisfaction of the dissertation requirement for the degree of Doctor of Philosophy.

Dec 15, 1993
Date

Chair of Examining Committee

Dec 16 1993
Date

Executive Officer

Supervisory Committee

THE CITY UNIVERSITY OF NEW YORK

Abstract

ORGANIZATIONAL CULTURE AND PROFESSIONAL SELVES:
The Impact of Large Law Firm Practice Upon Young Lawyers

by

Daniel C. Poor

Adviser: Robert R. Alford

This is a study of professional identity formation in organizations. Recent rational action and power theories' of large law firms have assumed strong and coherent organizational cultures constraining the entropic tendencies of self-interested maximization and power. This study foregrounds professional organizational culture, as a contribution to a more satisfactory theory of organizations and their members' self-identities. Theoretically, this study's contribution is to demonstrate how organizational structures and practices can impede the sharing of an organizational culture — isolating a whole strata of members. Empirically, this study updates and extends data on "Wall Street" law firms' structures and practices.

From participant observation and a literature review, I develop two ideal typical models of professional organizational culture — collegial-driven and entrepreneurial-driven firm cultures. I then assess the 30 largest (as measured by number of attorneys) New York City law firms on a variety of structural and organizational practices measures. These indicators are used to impute likely organizational cultures. One firm with an imputed collegial-driven culture is studied. I hypothesized that if organizational culture has an effect on the selves of members ("junior associates"), they would reflect this in their rhetorics of motive regarding

their work practices.

During 1992, I conducted 29 semi-structured interviews with a random sample of 29 first-, second-, and third-year associates. Further, I conducted 4 semi-structured partner interviews and two focus groups on associate hiring, training, assignments, and reviews. In addition, I conducted 103 informant interviews with current and former associates and partners at other large firms, consultants, reporters, and law school students and counselors.

The findings reveal no measurable influence of the partners' organizational culture on the selves of the junior associates. While a partial and contradictory partner culture was found to exist, it did not shape the selves of the junior associates, as assessed by their rhetorics of motive. Moreover, organizational structures and practices frustrated associates' production of an oppositional subculture. Organizational culture, rational action, and power theories are critiqued and amended on the subjects of cultures and selves.

PREFACE

This is a study of professional identity formation in organizations. It grew out of Alan Wolfe's State, Market, and Society seminar and a summer job I had. While reading the standard texts of the recent neo-utilitarian movement in sociology, I was struck by how little this literature described what I saw at work. As a part-time paralegal at one of the leading merger and acquisition law firms, I had a fly-on-the-wall exposure to the interactions between corporate law firm partners, associates, and their clients. I became interested in the nature of organizations that are adjacent to, but not of, the market, such as professional organizations. Over time, my interest in the Mead's theory of the self formation merged with this new interest in the sociology of the professions to form the current research question. In its first formulation, my research question was What makes young associates want to come to a large firm and a life of work that leaves many of them bored and dispirited?

The recent rational actor and power theories' studies of large law firms all assume a strong, stable, and coherent organizational culture constraining the entropic tendencies of self-interested maximization and power. Yet, none of these studies foregrounded organizational culture. This study attempts to foreground professional organizational culture, as a contribution to a more satisfactory theory of organizations and their members' behavior. Theoretically, this study's contribution is to demonstrate how structural factors and practices can impede the sharing of an organizational culture — isolating a whole strata of members. Empirically, this study

updates some of the data on "Wall Street" law firms, which were last studied about 1960.

"Wall Street" law firms are elite institutions. Studying new members of these firms thus becomes partially a meditation on upper middle-class identity. While it is easy to dismiss the complaints of third-year associates, who make $96,000 per year, over their lack of a private life, I believe that this would be foolish. These associates represent the group of those who have "made it." They have the best educational credentials. They typically come from the highest socio-economic backgrounds. And, they are employed by some of their profession's most prestigious organizations. *If* this group feels that their private lives have been colonized by their work, if they feel they have lost control of their careers due to changes in the market, if they are alienated from the content of their work and their organization; *then*, all the rest of us are in even worse trouble. High white collar, professional labor is equally subject to the material and social psychological effects of power as the rest of us.

In some ways, these associates are a pure test case of the ideology of American individualism confronted with the leveling power of the ideology of the market. These young lawyers believe that hard work, self-sacrifice, native intelligence, and — increasingly — expensive advanced degrees assure a person financial comfort, personal happiness, and high social prestige. Their life-course to date largely confirms this belief. Yet, on Wall Street in the 1990s, job security is increasingly rare for high paid professionals. These associates' anxiety is a product of their ideology of individualism and entitlement confronted with the austere logic of

the market.

It could be otherwise, for all of us.

* * * * *

This dissertation was made possible by the generous financial support of the American Bar Foundation Professionalism Fellowship Program and a National Science Foundation Law & Social Science Program Dissertation Improvement Grant (SES-9224333). I owe a special debt to Bryant Garth, the Director of the ABF, and Bob Nelson, the Director of the ABF's Professionalism Program, for their personal help and encouragement.

Like the associates I write about, I am a product of the institutional environment I have worked in for the last nine years. The sources of my self, to use Charles Taylor's phrase, are many. Unlike the associates, the socializing institutions of my professional training have been both generous and nurturing. I was fortunate enough to attend a wonderful public institution; the City University of New York's Graduate Center. There I fell in with a group of scholars committed to professional training. During my studies, I have benefitted from the instruction, patience, and friendship of Alan Wolfe, Sharon Zukin, Carroll Seron, Robert Alford, and Cynthia Fuchs Epstein. I owe a special debt of thanks to Carroll Seron and Bob Alford. They are exemplary mentors and valued friends, despite their claims to just be "doing their jobs."

The monthly Political Theory and Beer meetings with Jay Rosen and Zev

Trachtenberg kept me attuned to the big picture while I worked on my small study. Fellow students and friends, Sooze Walters, Felipe Pimentel, Prish D'Andrade, Lou Amdur, Betina Zolkower, and David Sehr made graduate student life in New York both engaging and fun. David Johnson's skills as a research librarian made this a much better work. A special thanks to Danny Choriki for years of computer help and friendship. If he had not introduced me to the world of computers, I would have been done far sooner. Thanks to Lynn Chancer for getting me the job.

I was able to pursue my intellectual and political interests, because of the friendship, support, and examples of Rob Elias, Angelica Pinochet, Jeff Ponting, and Bruce Davidson.

Foremost, I owe a debt of thanks to Mary Austin, my wife. Her support, patience, and faith made this all possible. Her presence made it worthwhile.

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INTRODUCTION

The air vents filled the room with the whoosh of air, obscuring the sounds of the city far below. Two corners of the tastefully appointed conference room were windows looking to the East River and Brooklyn on one side and the New York Harbor and the Statue of Liberty on the other. The associate was handsome and conservatively stylish in his dress. He was familiar with grand gesture. When asked about the firm's clients, he waived his arm across the panoptic view of the landscape of twentieth-century finance capital and said, "We represent some of the most powerful clients in the world, and that is why we are located here."

This response was both accurate and cocksure. This response was accurate because this old-line, "white shoe" Wall Street firm exists in the ether some forty stories above Wall Street. It's name is familiar and respected in the halls of finance, law, and government. The firm represents some of the largest commercial and investment banks, Fortune 500 companies, foreign governments, and wealthy individuals. On any given day, it has lawyers negotiating on behalf of global clients in countries such as England, France, Russia, Hong Kong, and Brazil. Wall Street firms have long been the home of national politicians and policy elites while out of office.[1] It *is* the pinnacle of the elite of the legal profession.[2]

---

[1]. For example, former Secretary of State and peripatetic United Nations envoy, Cyrus Vance, is a partner at Simpson, Thacher. Former FBI and CIA director, William Webster, is a partner at Milbank, Tweed. Former counsel to the Senate Select Committee on the Iran-Contra Investigation, Arthur Limann, is a partner at Paul, Weiss, along with former U.S. Senator Warren Rudman (R-NH). Bernard

At the same time, this response was cocksure because the first-year associate who uttered it would hardly seem warranted by any outside observer in the use of "we."[3] Legally, he is an "at-will" employee of the partnership, who can be fired at any time. Statistically, two-thirds of each entering class leaves the firm within four years. Historically, only one in seven associates makes partner.[4] Practically, his

---

Nussbaum, Watergate-era counsel to the House Judiciary Committee is a partner at Wachtell, Lipton. Many of these firms have prominent state and local government officials, as well.

[2]. Heinz & Laumann characterize the American legal profession as being divided into two "hemispheres," those attorneys serving primarily individuals and small businesses (often called "personal plight" work) and those serving primarily corporations (Heinz and Laumann 1982, pp. 59-60).

[3]. His use of "we" was not just sloppy conjugation, I believe. When walking to the conference room we passed a portrait of one of the firm's early leaders — a man who had died before this associate was born. The associate told me a humorous though respectful anecdote about the lawyer and then concluded, "He was a very nice man."

For partners, at least, this "we" can exert quite a strong force. This description of a funeral of a Cravath, Swaine & Moore partner makes this clear.

> A large block of seats at the front of the sanctuary [*i.e.*, in front of the family! -DP] remained empty, enclosed by velvet ropes. Then, as the organ swelled and the faint hush of whispered greetings among the mourners subsided, a procession entered from the rear. Marching two by two, uniformly clad in dark suits, ties, and white shirts, sixty partners of Cravath, Swaine & Moore marched slowly down the central aisle in a procession known as the Cravath walk-- a tradition at the funeral of every Cravath partner. As they filled the front of the synagogue, their en-banc presence announced, as it had on so many occasions in the past, "A partner has died; the firm lives" (Stewart 1993, p. 54).

[4]. The chance of partnership has varied historically. Martin Mayer reported an average of one in twelve chance of making partner in the late 1950s. He noted that it varies by firm and year from one in seven to one in fifteen (1956, pp. 54, 52). More recently, the *New York Law Journal* surveyed the thirty largest New York City firms' chance of an associate who enters the firm as a first-year associate making partner eight years later. In 1989, the thirty-firm average was 18.1 percent, ranging from

relationship with prestigious investment bank and large industrial clients is severely circumscribed to interactions with lower level managers on often tedious issues of fact. Indeed, several recent theoretical treatments of law firms as professional organizations suggest that perceptive associates should refer to large law firms as "them."

This dissertation is an exploration of the interactional effects of markets and organizational structures, cultures, and practices on the professional self-identities of new members. While the recent legal professional organizations literature has skirted the issue of culture while emphasizing power and self-interest, the recently popular organizational culture literature has largely skirted the issues of the structural underpinnings of culture and its production and reproduction through practices. Both literatures have largely omitted adequate theories of the self as both the product of and producer of culture. This associates' use of the term "we" is both a statement of his willingness to adapt to the extant organizational culture and its prescribed role for him and a claim of the full rights of organizational membership by him. Explaining the dialectical relationship underlying the use of "we" within the structural context of the organization is the task of this dissertation.

This is a study of the thirty largest New York City corporate law firms, as

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42.9 percent at Shea & Gould to 9 percent at White & Case (this was for the associate classes of 1978, 1979, and 1980) (Adams 1989). By 1992, this chance of partnership had returned to a thirty-firm average of 10.5 percent, ranging from 21.7 percent at Shea & Gould to 1.2 percent at Cadwalader (for the classes of 1981, 1982, 1983) (Adams 1992).

measured by size, what Erwin Smigel referred to as the "Wall Street" firms.[5] The size of these firms is reported in Table 1.1.[6] In 1993, many of these firms have offices around the globe, in excess of 500 attorneys, and revenues in the hundreds of millions of dollars. The thirty firm average of average partner compensation is over $600,000 per year, in 1993. Many partners make over $1,000,000 per year. These big professional firms are big in size, big in geographic scope, big in revenues, big in compensation, and big in prestige. These characteristics represent an enormous sea change in the market for corporate legal services and the internal structures of these firms since 1970. To appreciate the gravity of these changes, and the theoretical debates they have engendered, we must review the history of the elite Wall Street law firms.

First, I will review the history of the large Wall Street law firms and the recent structural changes in the market for corporate legal services that has so changed the firms since 1970. Second, I will review the theoretical literature on law firms as organizations to extract their often implicit theories of culture and the selves that populate the organizations. I use the literature review to suggest a more complex theory of organizational culture that accounts for both the structural constraints on

---

[5]. While this term is geographically inaccurate, it is evocative of the power, prestige, and primary clients of these firms. The firms' full names and the common abbreviated names used in the legal community are presented in Appendix A. I will use the shortened names throughout the dissertation for ease of reading.

[6]. Tables are located at the end of this chapter.

culture formation and the production of culture through the practices of the complex selves who are organizational members.

History of the Wall Street Law Firms.

Social prestige and prestige within the profession have always been closely tied. Wall Street lawyers have long been at the pinnacle of both status orders. Until the last quarter of the nineteenth century, the first men of the bar were courtroom advocates. Stature in the bar was a product of oratorical skill. Wayne Hobson argues that between 1870 and 1920 the large law firm became institutionalized under the social influences of the corporatization of American society. Law firms were needed to service the on-going legal needs of the publicly held large corporations (Hobson 1984). This was a change in the tenor of elite legal practice of the time.

Law practices were traditionally staffed by friends and relatives of the firms' partners and clients, before the turn of the century. The tight overlapping of occupational and social networks created a "predilection to aristocratic demeanor among the leaders of New York's bar" (Hobson 1984, p. 14).[7] Nepotism-based

---

[7]. Edith Wharton captured this in describing her protagonist in the novel *The Age of Innocence, circa* 1870:

> In old-fashioned legal firms like that of which Mr. Letterblair was the head, and which were mainly engaged in the management of large estates and "conservative" investments, there were always two or three young men, fairly well-off, and without professional ambition, who, for a certain number of hours of each day, sat at their desks accomplishing trivial tasks, or simply reading the newspapers. Though it was supposed to be proper for them to have an occupation, the crude fact of money-making was still regarded as derogatory, and the law, being a profession, was accounted a more gentlemanly pursuit than business

hiring and promotion practices were common.[8]

Not all elite practitioners were so content. As railroads, utilities, and joint stock companies increasingly moved from private ownership to public ownership, large law firms became increasingly important in servicing the on-going needs of the companies' managers, debt issuers, and investors. Lawyers increasingly made their names as skilled boardroom legal tacticians, rather than orators. For example, William Cromwell (founder of Sullivan & Cromwell) helped William Harriman win a proxy contest to take over the Illinois Central Railroad. Robber Barons' Gilded Age overt swindling was replaced by legal maneuvering in the courts and shareholder meetings.[9] But this kind of client counseling required an organized office of competent lawyers.[10]

(Wharton 1968 [1920], pp. 83, 125).

[8]. The intertwining of work roles and social roles continued at these firms well into the last quarter of this century. In 1966, Martin Mayer wrote, "Until recently, wills and estates practice was a great convenience for a large firm, because it supplied a place where the firm could employ the client's brother, its own senile partners, and the socially prominent but not terribly bright lawyers who might be useful in getting business" (Mayer 1966, p. 325). Even the brighter partners with client-getting responsibilities required social connections and poise (see the discussion below).

[9]. Though the authors of a history of the firm Sullivan & Cromwell point out, Cromwell was not above bribing judges if it would help his cause (Lisagor and Lipsius 1988). This new breed of elite lawyers exhibited a decidedly entrepreneurial spirit. "Hoyt A. Moore's (Cravath, Swaine & Moore) representation of Bethlehem Steel included bribing a federal judge with $250,000 and later escaping trial through the statute of limitations" (Mayer 1966, p. 343).

[10]. Indeed, not all associates led the life of languor described in the Wharton quoted in note 7. Harrison Tweed (Milbank, Tweed) wrote about his apprenticeship with James Byrne:

> [He] demanded to know why [a memorandum] was not ready and I humbly pleaded that I had not had time to finish it. He glared at me

Starting about 1890, a few firms adopted a system of recruitment and promotion that later became known as the "Cravath system."[11] Cravath hired only law school-trained attorneys with the highest marks, during a time when less than half of the lawyers had formal legal education (Auerbach 1971, p. 573). He paid them a salary in exchange for their exclusive devotion to the work of the office.[12] After a multi-year apprenticeship, the young lawyer was either offered a position as partner at the firm or asked to leave.[13] This method of "home growing" partners became a fixture of the elite firms. The firm also helped find employment for those it asked to

---

> and asked, "What time did you go home on Friday night?" I replied, "Three o'clock in the morning." "What time did you go home on Saturday night?" I told him that I had quit at two o'clock in the morning. Then came the final "What time did you go home Sunday night?" And I had to confess that I had done so at eleven o'clock; whereupon he pounded the desk and said: "Don't tell me that you didn't have time to finish that memorandum. Tell me the truth— you wanted to go home early Sunday night." (Tweed, in Albert Love and James S. Childers. 1963. *Listen to Leaders in Law*. (New York: Holt Rinehart, p. 313), quoted in Mayer (1966, pp. 330-1).

[11]. Actually, the idea was created by Walter S. Carter of the firm Chamberlain, Carter & Hornblower. Carter's firm became a mill for training and then jettisoning the next generation of leaders of the New York City bar. "Clerks," as they were then called, at Carter's firm included several Wall Street firm founders: Paul D. Cravath (Cravath, Swaine & Moore), Henry W. Taft (Cadwalader, Wickersham & Taft), President William Howard's brother, and George W. Wickersham, (Cadwalader, Wickersham & Taft) President Taft's Attorney General (Hobson 1984, p. 17). Cravath formalized the system at his own firm.

[12]. In traditional firms, "clerks" received no pay and often pursued their own clients. In the 1910-1915 period, under the Cravath system, the beginning monthly salary was typically $40 to $50 per month (Hobson, 1984, p. 20).

[13]. Hobson points out that during this period there were so many opportunities in New York City that most associates left voluntarily to start their own firms, which contributed to the retardation of large firm growth in New York City relative to the rest of the nation (see Table 1.2).

leave, assuring the alumni's good will and reciprocity in client referrals. Clerkships, as associateships were then called, became obligatory hands-on training to complement the intellectual training of law school.[14]

A change in the nature and demand for elite legal work caused law firms to grow in size. Legal historian James Hurst quotes a practitioner on the size of big firms during the last quarter of the nineteenth century.

> A successful big city law office was relatively small — staffed with "but a few law clerks, one or two stenographers, and perhaps and engrosser. Often the arguments and briefs were written out longhand" (Hurst 1950, p. 306, no original source provided).

Table 1.2 shows the growth in the large law firm form during the period of 1870 to 1920. In 1872, there were no firms with seven or more partners or ten or more attorneys. By 1898, there were seven firms of this size in New York City. In 1915, there were fourteen. Hurst argues that one incentive for firm formation was the increased overhead costs required in maintaining law libraries amidst a "flood" of printed sources of legal materials after the 1870s. Added to library costs were the costs for the newly popular typewriters, telephones, and filing cabinets. Hurst cites one 1910 estimate of overhead costs of a large city law office totaling 60 percent of

---

[14]. The Cravath system became so institutionalized at the top firms by the 1920s, that the managing clerks of the leading firms entered a gentleman's agreement to eliminate the competitive bidding for the best students. They agreed further to set a uniform starting salary and not to pirate each other's employees (Hobson 1984, p. 20). This buyers' anti-competitive cartel arrangement lasted until 1968 when the Cravath firm broke it with a unilateral 50 percent increase in starting associate salaries. Soon thereafter firms abandoned the no raiding component of the gentlemen's agreement. The use of legal recruiters ("headhunters"), became a popular means of replacing the high associate attrition in the 1980s (see below).

its fees (Hurst 1950, pp. 307-8).[15]

The Cravath system of "home grown" (internally promoted) partners combined with the client-counseling work of the elite firms to forge close, intimate, trans-generational ties between some firms and companies. Elite firm-client ties took on the air of the classical country lawyer-friend-neighbor role, because the individuals that filled the roles were typically friends, neighbors, and fellow club members. In short, they "looked" alike.[16] One elite firm founder's comment demonstrates how these ties of business and sentiment became trans-generational.

> [Minor matters] are considered and discussed and decided by a junior partner and a subordinate corporate officer. The relationship between them is almost precisely the same as that between the old-fashion general practitioner and his client friend of long standing. It is true that the corporate officer is not receiving advice on a personal matter but on a corporate question. But the interest of the corporation in the solution is much more indirect and remote than the interest of the officer. His job depends on his ability to get the right answer.

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[15]. Support staff costs were surely a growing part of the overhead costs. Hurst's anecdotal data suggest the growth in lawyers' reliance of non-legal staff. The firm of Strong & Cadwalader had 6 lawyers and 4 nonlegal staff (a .67 staff-to-lawyer ratio) when formed in 1878. In 1913, its successor firm had 23 lawyers and 20 nonlegal staff (.87 ratio). In 1938, it had 57 lawyers and 85 nonlegal staff (a 1.49 ratio) (Hurst 1950,pp. 306-7).

[16]. As late as 1976, *Fortune* magazine's survey reported that the chief executives of the 500 top industrial, banking, insurance, financial, retailers, transportation, and utilities firms were disproportionately from upper social status backgrounds. Seventy percent came from professional/managerial families. Seventy percent came from the northeast and northcentral regions. Over 40 percent were Episcopalian, compared with 5 percent of the general population. Jews accounted for only 6 percent of the CEOs (30 percent in retailing) (Burck 1976). Writing in the early 1960s, Smigel described the ideal associate as "lawyers who are Nordic, have pleasing personalities an 'clean-cut' appearances, are graduates of the 'right' schools, have the 'right' social background and experience in the affairs of the world, and are endowed with tremendous stamina" (Smigel 1969, p. 37).

> [T]he relationship becomes as intimate a one and contains as much reliance and confidence as any attorney and client relationship can yield.... It generally happens that as the corporate officer goes up in the hierarchy so does the lawyer. Frequently, the close business and legal association and the personal intimacy exist for twenty-five years or more. And it remains very intimate and thoroughly typical of the traditional ideal even when it exists between the highest officer of the corporation and the senior partner.... [T]he lawyer's satisfaction come from having dealt successfully with the problem presented and that was the problem of the individual who headed the corporation. (Harrison Tweed. *The Changing Practice of Law*. (New York: ABCNY, p. 14), cited in (Mayer 1966, p. 324).

Business relations and social relations were impacted, giving the elite firms a form of market protection. For example, George Wendell Murray, a founder of what is now Milbank, Tweed, met John D. Rockefeller in the 1880s through their religious activities. Murray's firm has been the Rockefeller family's and their bank's (Chase Manhattan) law firm ever since (Pollock 1990, p. 34).[17]

The strong social ties that bound these early elite firms to their clients produced a virulent anti-Semitic and nativist bias in the firms and the city bar association. Jerold Auerbach (1976) documents the bar association movement's origins among native, white, Anglo-Saxon Protestant, upper class lawyers. This group's objective was to limit the competition from immigrant lawyers. Elite, full-time law school education became a filter to exclude working class and immigrants

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[17]. Mayer wrote in 1966, "It is by no means unknown for these business relationships to continue in the country club, the cocktail lounge and even more interesting places. Indeed, one of the requisites for the partner who is to handle certain clients is a capacity for a quantity of liquor, and sometimes a strong stomach in other ways, too" (Mayer 1966, p. 324). Epstein (1993 [1980]) documents some of the problems women had (and still have) in attempting to become partners in firms residing in these thick webs of social and professional male networks.

from the profession.[18] While the central dynamic of this struggle was a vertical competition between WASP elites counselor lawyers and working class and immigrant, Jewish and Irish, courtroom advocate lawyers, this division manifested itself within the elite university-trained legal community as well. Most of the elite Wall Street firms did not hire the small group of Jewish and other "ethnic" lawyers who attended the elite law schools.[19]

A bifurcated elite bar arose. The WASP firms dominated the client counseling relations with large corporate clients, but avoided the increasingly stigmatized, "ungentlemanly" litigation work of these same clients. Several "ethnic" firms arose, tapping the stream of ethnic elite law school-educated graduates and servicing the litigation needs of the WASP firms' clients. In addition, these firms serviced a group

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[18]. The rise of the American Bar Association (ABA) and the formalization of legal education went hand-in-hand at the end of the last century. "'Upholding the honor of the profession' was the euphemism for raising standards of legal education and admission to the bar, one of the primary motivations for founding the ABA," John Matzko argues (Matzko 1984, p. 88). The nativist protection of their professional monopoly through the bar's promotion of legal education reform assured the elite firms a steady stream of well-trained, socially acceptable associates — the modern law school and the corporate law firm grew up together and achieved a symbiotic relationship to one another. By the 1900s, the leading schools were producing lawyers for the leading firms" (Gordon 1983, p. 72).

[19]. Smigel quotes former Judge Joseph Proskauer (founder of Proskauer, Rose) on the exclusion of Jewish elite law school graduates from the Wall Street firms early in the century:

> It did not take me many days to discover that the doors of most New York law offices in 1899 were closed, with rare exceptions, to a young Jewish lawyer. Fifty years have elapsed since then and I am happy to record that there has been a distinct improvement in the situation; though it still remains true that generally the Jewish student must qualify twice for such employment (quoted in Smigel, 1969, p. 45).

of smaller, often ethnically-headed corporations and retailers. These firms developed different organizational forms consistent with their respective on-going client counseling and one-shot, transactional litigation practices (see Chapter Four). Further, they tended to gravitate to their clients — the WASP firms to the Wall Street[20] financial district and the "ethnic" firms in the midtown[21] business and retail district.

In 1960, when Erwin Smigel completed his monograph on the *Wall Street Lawyers* (Smigel 1969, originally 1964), he was able to identify two types of elite firms — the "white shoe" (*i.e.*, WASP) firms and the "ethnic" firms comprised predominantly of Jews and Catholics.[22] The former performed most of the high

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[20]. In fact, in the 1930s, just one building, the then modern 40 Wall Street tower, housed most of the downtown firms under study here.

[21]. In the history of New York City, the terms "midtown" and "uptown" have always been relative. At the turn of the century, the "Jewish" firms were often located on Broadway (which was called "Shyster Hall" (Smigel, 1969, p. 176)) near the court houses and the northward moving retail district. By the 1970s, midtown had become the Grand Central area business district along Park and Madison Avenues. Ethnic firms were some of the first to move into this area for the lower rents and better amenities. These were probably valuable in defending their lower profit margins and competing against the WASP firms for the best law students by appearing more "modern."

[22]. Writing in the Epilogue to the 1969 Revised Edition of *Wall Street Lawyer*, Smigel pronounced antisemitism among the large firms nearly gone. On the other hand, Lawrence Lederman, a Jewish associate at Cravath in 1968, reports that cocktail conversation among lawyers during this period frequently gravitated to discussion of the significance of firms that had just appointed their first Jewish partners (Lederman 1992, p. 42).

Alan Dershowitz encountered antisemitism in the mid-1960s, when he graduated from Yale Law School. He found the large New York firms a "world of bigotry, discrimination, racism, and anti-Semitism" (Dershowitz 1991, p. 52) quoted in (Powell 1991, p. 4).

prestige corporate securities and client counseling work and the later did most of the litigation work of the elite New York bar. All the firms had elite partners at one time or another, but the inherently local nature of litigation work contributed to the distribution of local elites to the lesser firms. For instance, Sullivan & Cromwell "loaned" John Foster Dulles and Arthur Dean to successive administrations in foreign policy positions. Roswell Gilpatric, of Cravath, Swaine & Moore was Deputy Secretary of Defense during the Truman administration. Similarly, John McCloy (Milbank, Tweed, Hadley & McCloy) served as a member of the foreign policy brain trust. In contrast, former Justice Simon Rifkind (Paul, Weiss, Rifkind, Wharton & Garrison) was active in New York City politics. John T. Cahill (Cahill, Gordon & Reindel) was a Special Assistant to the District Attorney in New York County in the 1930s, among several other prosecutorial stints. Writing in 1966, Martin Mayer noted that "at least two New York firms are known as 'fixers' because of their close contacts with judges" (Mayer 1966, p. 345). The market for elite corporate legal services was stratified along practice lines that largely reflected the social status stratification of the lawyers.[23] In the parlance of Wall Street, this stratification was (and still is) referred to as "tiers." The first tier was generally agreed to consist of Cravath; Davis, Polk; and Sullivan & Cromwell — all "WASP" firms focusing on

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[23]. Firms recruiting practices were only slowly easing this bifurcation. Mayer quotes the then [1966] director of Harvard Law School admissions as writing: "The law seems to be doing its fishing in restricted waters stocked largely with the product of professional families, private schools, and the upper class strata" (quoted in (Mayer 1966, p. 96). Partly of necessity, WASP firms' exclusion of Jews declined beginning in the 1960s, as Jewish students accounted for almost one third of the entering classes in the top eight law schools in one NORC study (Mayer 1966, p. 97).

corporate securities work.

The elite corporate legal services market remained bifurcated until the 1970s.

Structural Changes in the Elite Firms' Environment.

A series of structural changes occurred in the market for corporate legal services and in the structures of the firms themselves, starting about 1970. Combined, these changes amounted to a sea change in the entire sector of corporate legal services. The sequencing of these changes was complex and overlapping, so the presentational order below must be read heuristically rather than as a strict chronological order. The changes group into three clusters: a rise in demand, changes in recruitment, and changes in the market. I will address each in turn.

The Rise in Demand.

First, the late 1970s and especially the 1980s brought a dramatic increase in the demand for legal service specialties that were dominated by several "ethnic" firms. Mergers and acquisitions (M&As), large litigation, corporate real estate, and bankruptcy became high demand specialties during this period. Elite WASP firms that had previously scorned such low prestige work were often unprepared when their long-term clients demanded the services. The ethnic firms that had these specializations were able to grow in size and profitability from the oligopolistic pricing they were able to charge for their previously derogated legal services (Powell 1991). Only later did the WASP firms venture into M&As, litigation, real estate, and

bankruptcy. For a period, there was enough demand for virtually all the big firms to prosper in these areas.

The M&A movement of the 1980s catapulted one small midtown firm from obscurity to being the largest firm in New York in ten years. Skadden, Arps grew from 85 lawyers in 1975 to 498 lawyers in 1985, making it the largest New York firm (see Table 1.1). Skadden grew in size and wealth on the legal skills acquired by partner Joseph Flom in the 1960s. Flom mastered the legal maneuvering of proxy contests and tender offers — the prime elements of hostile takeovers — when the prestigious firms disdained such work as "ungentlemanly." When changes in financial market leaders and mechanisms[24] made hostile takeovers by corporate raiders popular, Flom and a few other typically Jewish lawyers were in high demand. They were able to charge large retainers for their services and collect substantial premiums above the base hourly rate for successful work. Figure 1.1 tracks the number and dollar value of M&As from 1963 to 1990. Table 1.3 shows that all the 100 largest mergers in history occurred between 1975 and 1991.[25] These transactions financed the growth of

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[24]. The non-traditional investment bankers who rose to prominence in the 1980s turned to non-traditional lawyers to effectuate their aggressive attack on the staid ways of the financial markets. Stearns & Allan (Stearns and Allan 1993) demonstrate that the early financial innovations of this period were "outsiders," what they refer to as "challengers," who were peripheral in the extant status order of elite New York investment banks. Just like the lawyers they would later hire, these investment bankers who would pioneer junk bonds (Michael Milken and Fred Joseph at Drexel, Burnham, Lambert) and leveraged buyouts (LBOs) (Henry Kravis at Kohlberg, Kravis Roberts) were elite graduate school-educated Jews, excluded from the inner circles of power in their profession.

[25]. These data are as of 1991. As I write in October 1993, the largest deal in history, worth $33 billion, is being transacted between Bell Atlantic and Tele-

several smaller, derogated firms.

Second, large litigation cases transformed a derogated, low profit practice area into a profit center at several firms.[26] In the 1970s and 1980s, several large corporations were sued in multi-year and/or multi-state actions, including IBM, Dow Chemical, Johns-Manville, and most recently Owens-Corning. The Justice Department's anti-trust suit against IBM lasted ten years. Products liability work increasingly flowed to large firms that could coordinate multi-state litigation. While no reliable statistics exist on the alleged "litigation explosion" of the 1980s, a few points relevant to the largest firms are clear. Marc Galanter argues that the increased litigiousness since 1970 is largely corporations suing corporations, not an increase in ambulance-chaser, slip-and-fall litigation (Galanter 1983). This is just the type of work most likely to fall to the largest corporate law firms.

Further, there was a rapid increase in the number of cases reported to the predominant legal publisher since 1965. From 1970 to 1992, the total number of cases submitted for possible publication from United States circuit and appellate

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communications and Liberty Media (regarding Skadden, Arps' participation in this transaction, see below "The Crash").

[26]. Smigel quotes several Wall Street firm partners as referring to litigation as a "loss leader" practice (p. 69). By 1979, the *National Law Journal* was reporting an increase in big firms' litigation practices as "corporations no longer hesitate to seek court redress. Companies that 20 years ago would never have dreamed of suing each other now think a court fight is a more respectable way to handle their differences, said John Hupper of New York's Cravath, Swaine & Moore" (Margolick 1979). *Cf.*, Stuart Macaulay's article on the non-contractual relations in business (Macaulay 1963).

courts increased by 50 percent (see Figure 1.2).[27] At least some of this increase accrued to the largest firms' benefit. Some of the litigation work was spill over from the firms' M&A work. Here too, the traditional litigation firms had a first mover advantage[28] when demand for litigation work increased.

Third, corporate real estate became a preferred avenue of investment for American and foreign capital during a sustained real estate boom lasting from 1975 to 1987. Real estate work in New York City was traditionally the province of medium-sized, "Jewish" law firms, well-connected to local political machines and zoning commissions. As the practice became more lucrative, several of the bigger firms — especially, Skadden, Arps and Kaye, Scholer — started their own real estate practices.[29] Sale-leaseback agreements and real estate investment trusts (REITs) became popular tax dodges for corporations and individuals with heavy tax liabilities (Stewart 1993, p. 56). A building boom during the 1980s nearly doubled the

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[27]. These data must be interpreted with great caution. They may reflect federal judges' increased desire to see their cases in print rather than any change in litigiousness. Or, there may be a trend toward more "cutting edge" litigation requiring publication in an essentially stable pool of cases.

[28]. This is the institutional economics term for the competitive advantage experience yields a bargainer during the second round of bidding that the bargainer won in the first round.

[29]. Typically, these big firm real estate departments were formed overnight by hiring the small firm real estate practitioners away from their small firms by the offer of substantially higher incomes (see the discussion of Skadden, Arps in Chapter Three).

available square footage of premium office space available in the city.[30] Each of these financings, sales, leases, and buybacks represented large fees for the lawyers. Eventually, most of the large firms offered real estate practice specialties, but few caught up with the early, "ethnic" firms' market presence before the real estate market collapsed in 1988.

Fourth, bankruptcy practice was another stigmatized practice area that had been relegated to "ethnic" lawyers in the past. Again, a small group of "second tier," "ethnic" firms had the dominant reputations in this practice area when the demand for bankruptcy work rose rapidly.[31] Ironically, some of the very clients who visited the derogated firms for their M&A and litigation expertise returned to them a few years

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[30]. Large law firms not only facilitated this building boom but often consumed it, as well. These firms have enough prestige to be "anchor tenants" in new office buildings. The towering post-modern monolith, the World Wide Plaza, on Eighth Avenue (featured in the PBS documentary *Skyscraper*) nearly faltered in the financing stage until a suitable anchor tenant was found. Perhaps the most "downtown" of the "downtown firms," Cravath, Swaine and Moore, moved from Chase Manhattan Plaza into the building in 1991.

In 1992, 20.6 percent of all Manhattan office leasing transactions were made by law firms, one real estate developer reports (Ellis 1993, p. 8). Much of this movement was from firms attempting to reduce their lease costs during the downturn in the real estate market. Another developer reports that in 1990, law firms leasing more than 10,000 square feet occupied more than 1.18 million square feet of Manhattan office space — 7.4 percent of the 15.89 million square feet total (Deutsch 1993).

[31]. Poking fun at the 1980s takeover leader investment banking firm, Drexel, Burnham Lambert's, "Predators' Ball," in the 1990s, bankruptcy lawyers hold an annual "Creditors Ball" at the Westhampton home of bankruptcy lawyer Robert Miller. Miller, a partner in a small boutique firm, gives guests t-shirts saying, "Your loss is our gain" (Cowan 1991). Perhaps reflecting a *zeitgeist* change, in the 1980s Predators Ball, the only women present were paid prostitutes (Bruck 1988, p. 15). In contrast, the Creditors Ball is a "bring the family" picnic day.

later for their bankruptcy expertise. Continental and Eastern Airlines both went into bankruptcy under the weight of their takeover-incurred debt. Johns-Manville and A.H. Robbins went into bankruptcy because of mass tort litigations against them.[32] Bankruptcy, "restructuring," and "workouts" became highly profitable for a few firms after the market crash in 1987 and profitable for many firms after the S&L scandal fully emerged in 1989. For example, Weil, Gotshal earned more than $7 million as bankruptcy counsel to Texaco — a company that was forced into Chapter 11 after its illegal and abortive attempt to take over Pennzoil, Inc.[33]

There was plenty of legal work to spread around during this period. Demonstrating the truth of the old joke that the lawyer in a one-lawyer town goes broke, while a lawyer in a two-lawyer town gets rich, the nature of these legal transactions made business for all the firms. For instance, a simple M&A deal requires at least eight law firms. For each of the "acquiror" and the "target" the following legal counsel is required:

(i) a firm to represent the company;
(ii) a firm to represent the company's investment bank advisors;
(iii) a firm to represent the board of directors of the company; and
(iv) a firm to represent the outside directors of the board of directors of the company.

If one of the companies' managers are seeking ownership of the company (a

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[32]. Kevin Delaney argues that several of these bankruptcies were strategic ploys by managers and creditors to avoid their obligations to unions and those they have injured (Delaney 1992).

[33]. By way of comparison, Texaco's counsel (Cravath) and co-counsel (Kaye, Scholer) during the failed takeover attempt earned a mere $4 million and $2.5 million, respectively (Blum 1988).

"management buyout"), then they require yet another law firm:

(v) a firm to represent the managers in their capacity as purchasers.[34]

In this way, even friendly mergers ran up substantial legal fees. *Hostile* takeovers and defenses exponentially increased the size of the legal teams, the numbers of firms, and — especially — the size of the bills. M&A work also benefited litigators. Referring to the RJR Nabisco takeover deal, a Simpson, Thacher partner told the *National Law Journal* that his "firm will be *employed for years* handling the tender offer, merger, litigation, and asset sales" (emphasis mine)(Sontag 1988).

This demand for previously derogated legal specialties had several consequences. First, it significantly increased the large firms' revenues.[35] While reliable systematic firm revenue data are only available from 1987, it is suggestive. On average, the largest firms earned $89.1 million in 1987. In 1988, they earned on average $106.9 million, a 26 percent increase (see Table 1.4*a-f*). Second, corporate clients became increasingly familiar and comfortable with transactional, one-time law firm relationships. Corporations increasingly began to "shop" for specialists on a national basis. Third, firms responded by merging with firms with complementary practices and opening branch offices across the country in an attempt to lure

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[34]. Often the outside directors and managers have their own investment bank advisers, who require their own law firm. Additional suitors contesting for the target company quickly multiply these numbers.

[35]. In 1988, the *New York Times* reported, "Many of the [most profitable] firms are New York-based and derive much of their revenue from work related to corporate mergers and acquisitions. A growing number of these firms base client charges on the size of the transaction and the success of the deal rather than on flat billable hours" (Freitag 1989).

corporations away from their theretofore local law firm counselors. Branch offices accounted for an increasing share of the biggest firms' growth. In the late, 1980s, overseas offices began to proliferate.[36] Fourth, firms "cherry picked" "rainmakers" whose reputations brought in business. The firms attracted the rainmakers by gravitating toward "eat what you kill" compensations systems, instead of the traditional lock-step compensation systems prevalent during earlier times. Fifth, as firms grew large, they increased their leverage (*i.e.*, the number of associates per partner).[37] Table 1.6*a-c* tracks the growth in the number of large law offices from 1960 through 1990 in Manhattan and nationally. Thus, the roughly 7 percent average increase in firms' average annual growth[38] translated into a much larger increase in the entering associate class sizes. The 1980s was a sellers' market for elite law school graduate labor. This element is central to the structure of firms today, so I will address it in detail.

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[36]. I discuss branch office openings more fully in Chapter Four.

[37]. See Table 1.5, which covers the period 1975 to 1993. Smigel found a two associates per partner average at the 19 largest firms in 1960 (Smigel, 1969, p. 203, n. 13).

[38]. Galanter & Palay report that New York City firms grew at an average annual rate of 5 to 6 percent before 1970 and at an 8 percent average rate after 1970 (Galanter and Palay 1991, pp. 24, 46).

Changes in Recruitment.

The Power of Associates. In the slow growth days of the 1960s, the elite firms hired all the entry-level associates they needed from the top-third of the top-tier law schools.[39] One managing partner described pre-1974 hiring to me as "cherry picking" the best fifteen candidates from the law reviews. But as firms required larger entering classes, yet remained reluctant to recruit from second- and third-tier law schools, they ceded negotiating power to the young law graduates. While overall law school enrollments rose dramatically after 1967 (see Figure 1.3), the elite law schools enrollments remained essentially stable, thereby restricting the production of *elite* producers, as Richard Abel argues (Abel 1989). Firms had to compete for associates. Summer associateships became "paid vacations" for law students between their second and third years, as firms paid them $1,500 a week (1991) to dabble in short days of legal work, attend concerts, films, and ball games, in order to "get to know the firm" —- and hopefully accept the firm's offer of employment. During a period of strong legal demand, when clients rarely questioned their bills, firms just paid more.

Already when Smigel wrote his 1969 edition epilogue the signs of associates' power were apparent. Firms were formalizing the recruiting process, in part by going to the law school campuses, rather than waiting for the second-year law students to come to them. In 1968, Cravath broke with the nearly fifty year-old

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[39]. Smigel reports that 72 percent of the Wall Street firm partners in 1962 attended Columbia, Harvard, and Yale law schools (Smigel 1969, p. 110).

associate salary fixing cartel by unilaterally raising first-year associate salaries to $15,000, a 50 percent increase.[40] The other firms followed suit, to remain competitive. Table 1.7 tracks associate salaries from 1978 to 1993. In 1978, the average first-year salary was just under $28,000. Average salaries increased faster than inflation every year until 1990. Cravath again spiked starting associate salaries in 1986, when it increased the going rate from $55,000 to $65,000. By 1990, the average starting salary for a first-year associate just out of law school was $83,000, a 130 percent increase in ten years. Because firms increased every associate class' salary in proportion to the entering class increases, law firms associate labor costs skyrocketed. This led to the rise of what I term the "discourse of hours."

The Discourse of Hours. Because these law firms charged their clients by the hour, higher associate salaries required higher associate-generated revenues through higher billable hours if partners' incomes were to remain stable. In fact, partners' incomes grew during the 1980s, indicating even greater pressure on revenue realization by associates. As one consultant recently told the *New York Times* regarding the 1980s, "Two things were central to making money then: how many hours you produced and how many people you could employ" (Slade 1993, B7). Firms paid for increasing associate salaries by squeezing more billable hours out of them. Firms increased partners' incomes by hiring more associates per partner (see

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[40]. In 1967, the going rate was $10,000 and the planned increase for 1968 was to be $500.

Table 1.5 for firms' historical leverage rates).[41]

As partners realized Marx's point that hired workers are only "potential labor," they attempted to regularize the extraction of value from associates. While firms probably always assessed associates on the amount of their work, this assessment became formalized with the arrival of computer time log billing systems. Many firms set minimum billing quotas that associates were expected to produce each year. Some firms distributed these computer data to the associates in the form of "utilization reports" comparing a fictional associate who never takes vacations, never is ill, and never has family obligations with the actual hours logged by each associate.[42]

The discourse of hours became a *leitmotif* in lawyers' conversations and the legal trade press. For example, the *New York Law Journal* annually reports on the average number of hours billed by associates at the 30 largest New York City firms. In 1992, 18 firms responded to the survey (1993). Rogers & Wells associates on

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[41]. Of course, the billing rate is another variable. There are few data available on firms' hourly rates and not enough for historical discussions. Table 1.8 offers representative figures for 1988, 1991, and 1992.

[42]. Utilization reports typically show the associate's last month and prior year's same month actual billing figures. Then they compare this actual performance with a fictional worker who produces exactly the *per diem* rate to achieve the required number of hours by year end (*i.e.*, say, 2200 hours per year divided by 52 weeks). Thus, real associates, who take vacations, holidays, and sick days and experience seasonal fluctuations in their work loads perform "below" a fully utilized worker. Thus, virtually all associates have utilization rates below 100 percent — a perhaps not so subtle partnership message that the expected annual billing target is not sufficient.

average *worked*[43] the most at 2,400 hours in 1992. Shearman & Sterling associates came in second, working an average of 2,250 hours last year. Paul, Weiss associates worked the least number of hours, averaging 1,875. Cravath associates *billed* the most, averaging 2,054 hours in 1992. Mudge, Rose associates were second with an average of 1,998 hours. Whitman & Ransom associates billed the least, 1,650 hours.

As partners made sure that every associate hour was profitably spent, the traditional mechanisms of training suffered. A Proskauer, Rose partner told the *New York Times*,

> This means we have to use them as efficiently as possible, and they don't always get as good an education as a well-rounded lawyer should get. For example, I can't invite a young lawyer to watch a negotiation or listen to a deposition because of the need to make their hours productive" (1987).

This partner continued, noting the higher hourly rates the big firms were charging to cover the increased payroll, "With higher rates, the larger firms will not be able to take on small and medium-sized matters, which have traditionally been used as the training grounds for a young lawyer."

Some prestigious elements of the bar objected to this salary and workload inflation. A 1991 American Bar Foundation Young Lawyers Division study, entitled "At the Breaking Point," reported that the number of lawyers working more than 200

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[43]. Law firms make a distinction between "hours worked" (*i.e.*, hours in the office) and "hours billed" (*i.e.*, the subset of those hours worked that are actually chargeable to clients). The difference is comprised of other activities, such as training, firm administration, *pro bono* work, work for clients that the partner does not let the associate bill, reading the paper, opening mail, as well as, staring out the window, talking to friends, and going to the bathroom.

hours per month jumped from 35 percent in 1984 to 50 percent in 1990. The study concluded that law firm partners in the 1980s,

> resembled not the enlightened corporate executive or professional, but rather the industrial manager in the earlier years of the Industrial Revolution. ...They have taken the simple route of making more money by making [associates], and partners, work longer hours (cited in (Holt 1993, p. 64-5).[44]

The Young Lawyers Division was not the only critic of law firm partners' Dickensian "industrialist" tendencies. Shortly before being promoted to the position of Chief Justice of the U.S. Supreme Court, Associate Justice William H. Rehnquist told a law school assembly that

> One might argue that such a firm [that emphasizes profit maximization] is treating the associate very much as a manufacturer would treat a purchase of 100 tons of scrap metal: If you use anything less than the 100 tons that you paid for, you simply are not running an efficient business.[45]

Long hours led to associate dissatisfaction. With demand outstripping supply, large firms turned to headhunters to lure unhappy associates away from other large firms. An active market in so-called "lateral" movement of attorneys from firm to

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[44]. The role of the bar during these structural changes is ambiguous. While the bar's leaders were often the elite firm leaders (Powell 1990), some bar elements and legal academics were often the most vociferous critics of these structural changes. Several commentators proclaimed a "crisis of professionalism" (see for example, (Stanford Law Review 1985, Vanderbilt Law Review 1988) and the chapters in Nelson and Trubeck (1992). The ABA sponsored a commission on professionalism to examine the changes in both hemispheres (corporate and personal) of legal service delivery (American Bar Association 1986).

[45]. Cited in *The New York Times* (1987). The Chief Justice's rather convoluted metaphor may have been due to his soon to be revealed addiction to barbiturates for back pain; nevertheless the point should be clear.

firm developed. In 1964, there was one legal headhunter in Manhattan. She served primarily as an outplacement service for firms that wanted to help associates who had been asked to leave.[46] By 1992, there were 58 legal recruiters, "headhunters," advertising in the *National Law Journal*'s Annual Guide to Legal Search Professionals (1992). Firms abandoned their paternalism toward fallen associates about the time associates started leaving them for their competitors. Rapidly growing firms dealt with the problem of the increased turnover of associates by hiring the associates who were dissatisfied with work life at their competitors. For many of the Wall Street firms, the 1980s was the end of the "home grown" partnership track.[47]

The centrality of the discourse of hours was further revealed with the arrival of substantial numbers of women after 1980. Epstein counted 40 women in the Wall Street firms in 1968 (Epstein 1993).[48] By 1980, women comprised 30 percent of the

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[46]. Most firms performed this function internally at the time, but had occasion to require the headhunter's help in placing associates in smaller firms (Interview with the first Legal Recruiter in Manhattan, May 15, 1992).

[47]. A consortium of Northeastern law schools — including Harvard and Columbia — surveyed several classes of alumni in 1985. Table 1.9 reports on the median years in first job for those alumni whose first job was in a large firms (defined as 85 or more lawyers). These data suggest a general decline in length of first-job tenure since the 1970s.

[48]. One woman Epstein did not enumerate — because she could not get a job at a Wall Street firm in the 1950s — was current U.S. Supreme Court Associate Justice Ruth Bader Ginsberg. Though editor of Harvard Law Review, Ginsberg was only invited to an interview by Cadwalader, but she was not given an offer. She later wrote," In the Fifties, the traditional firms were just beginning to turn around on hiring Jews, but to be a woman, a Jew, and a mother to boot — that combination was a bit too much" (quoted in (Margolick 1993). Her husband took a job at Weil, Gotshal.

graduating classes of the elite law schools.[49] Law firms that restricted themselves to elite school graduates had to hire women in order to grow. By 1988, women comprised 30 percent of large firm associates (Weisenhaus 1988).[50] Women's presence fomented a series of topical debates about the nature and balance of work and private lives that had been disguised by traditional gender roles in a nearly all male work force. While women raised the issues — and continue to be blamed for raising them — all associates benefitted from the clarity debates about work hours, the mommy track, and child care provided.[51] To be successful at any of the largest firms requires the near total abandonment of non-work interests, such as spouses and children.[52]

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[49]. This figure crept up to close to 40 percent by 1990, at most of the elite schools. Figure 1.3 shows the gender shares of all first-year law students from 1963 to 1991.

[50]. By 1992, the time at which the first wave of women should have been considered for partnership, women only accounted for 9.4 percent of the 30 firms' partners (see the discussion and data in Chapters Four and Five).

[51]. I can only provide a sampling of the headlines on the issues mentioned here: "Women in the Large Firms: A High Price of Admission?" (Couric 1989), "Women in Law Say Path is Limited by 'Mommy Track'" (Kingson 1988), "Women, Minorities Made Gains at City Firms" (Impellizzeri 1990), and "Firms Team Up to Provide Emergency Day Care" (Clarke 1991).

[52]. Yet forsaking all else does not always guarantee women partnerships, as it may for men. In a series of recent cases, women have challenged the gender-bias of partnership criteria, opening up partnership admissions criteria to court scrutiny. See, *Hishon v. King & Spalding*, 104 S. Ct. 2229 (1984) on the application of Title VII protections to the "terms, conditions, and privileges of employment," including partnership decisions; *Price, Waterhouse v. Hopkins*, 109 S. Ct. 1775 (1989) on an employer's acting on the basis of belief that women cannot be aggressive, or they should not be aggressive, has acted on the basis of gender under Title VII; *Ezold v. Wolf, Block, Schorr and Solis-Cohen*, 751 F. Supp. 1175 (E.D. Pa. 1990) on the wrongful discharge of a woman for lack of analytic ability as a pretext for sex

Changes in the Market.

In-house counsels. The in-house law departments of major corporations increased dramatically in size since 1970. Increasingly, corporations sought to reduce their operating costs by handling routine legal matters internally. The growing body of large firm former-associates provided a ready-made pool of highly skilled lawyers to fuel the expansion of in-house legal departments. Corporations that pursued this strategy effectively severed the traditional client-counseling ties to their former outside counsel law firm. Instead, they increasingly retained law firms for special, one-of-a-kind and time-critical legal work, that required specialized skills and/or a large number of attorneys. They purchased corporate legal services on a transaction by transaction basis (Jensen 1988). Corporate general counsels typically spread their remaining outside work among several firms to promote competition. Heretofore client counseling ties, became marketized.

Specialization. Firms increasingly responded to this marketization by emphasizing their specialty practices. General corporate departments were subdivided into securities, banking, structured finance, real estate, and commodities practice specialties, for example. Litigation practices were similarly subdivided into products liability, toxic torts, and bankruptcy, to name a few. When firms did not have a specialist in a profitable specialty, they often lured one away from another firm with the promise of substantial increases in income — a phenomena called "cherry

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discrimination.

picking." Having acquired an expensive specialty partner, the firm then had to sell itself as a specialty (transactional) firm rather than a general client counseling firm, to keep the partner busy (and profitable).

Many firms formally bureaucratized, as part of this specialization process. Informal partnership agreements became formalized and written. Non-professional managers were hired to administer the burgeoning ranks of associates and support staff, and oversee firm finances. Several firms appointed non-lawyer, MBA managers (Middleton 1988).

The Legal Trade Press. Finally, a new generation of legal trade press emerged with an explicitly entrepreneurial agenda. *The National Law Journal* and the *American Lawyer*, two national periodicals began publishing in 1978. Several other journals quickly followed suit.[53] They have been reporters, promoters, critics, and cheerleaders of the entrepreneurialization of the large firms and the market for corporate legal services (Powell 1988). By publishing surveys of firms' size, associate salaries, revenues, partner incomes, client lists, and associate satisfaction studies, these journals have done more than any other single phenomena to foster a market-oriented mindset in big firm lawyers. While the big firms resisted these

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[53]. Some of the other journals include, *The Legal Times, California Lawyer,* and the *Manhattan Lawyer.*

As the editor of *Of Counsel* magazine, a Prentice-Hall Business Press publication targeted at firm managers, told me, "About 1984 to 1985, Prentice-Hall realized that there was money to be made in the legal press, so they started this journal" (Phone conversation 6/12/93).

surveys in the early years, by the mid-1980s most of the elite firms were volunteering for the surveys and welcoming reporters for interviews.[54]

In the halcyon days of the 1980s, large law firms became a cultural phenomena. The television program *L.A. Law*, which purported to show work-a-day life in a large Los Angeles firm, replaced *Perry Mason* as the culture icon of lawyers in the 1980s. Big law became big news. Firm profits were reported on the front page of the *New York Times* business section each year. In 198[9], the *Times* started publishing a weekly "Law" column. In 199[1], *The Wall Street Journal* initiated a daily law column, which often reported on the competition for clients among the big firms. Even the news pages found big firm lawyers' actions newsworthy.[55] Large firm lawyers even became a bellwether of sorts for the economy, in the eyes of some observers. In the middle of a PBS documentary about the fashion industry, a

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[54]. This was a dramatic change brought about by the *Bates* decision in 1978. In *Bates*, the Supreme Court ruled that lawyers could advertise (*Bates & O'Steen v. State Bar of Arizona*, 433 U.S. 350 (1977). Prior to this time, lawyers appearing in the press ran the risk of being censured by the bar for an ethical violation of the code of ethics against "self promotion." By the mid-1980s, the elite law firms began hiring public relations firms to help develop "marketing plans." Press agents became an integral part of every firm's legal maneuvering for a client. Eventually, the big firms even began to run ads in the legal trade publications (see Figure 1.4 for one typical example).

[55]. For example, when Cleveland firm Jones, Day appointed a new managing partner, the *Times* devoted an article to it (11/10/92 D4). When former U.S. Senator Warren Rudman joined the Washington, D.C. office of New York firm Paul, Weiss, the wire services reported it. When a lawyer at Cravath was found murdered in a Bronx motel, the story lead emphasized the dead man's firm ("... a partner in one of Manhattan's most prestigious law firms..."). The *New Yorker* later devoted one of its famously endless articles to the partner's murder and his possible homosexuality (Stewart 1993).

commentator discussing the effects of the prolonged recession on the profits of elite fashion designers said, "When Skadden, Arps is laying off forty-four lawyers, people aren't interested in [Georgio] Armani's latest $20,000 dress design."[56] Large law firms' high intra-professional status was now extended to the broader society *via* the trade and popular media.

Yet, lawyers' visibility did not always translate into their popularity in the public at large. *Business Week*'s cover story in April 1992 asked bluntly, "Too Many Lawyers?" (1992). A poll commissioned by the American Bar Association found the public only holding stockbrokers and politicians in less favor than lawyers. The groups most likely to have had contact with lawyers, "people ages 45 to 59, those who know a lot about the legal system, the upper-middle class, the high income, and the highly educated are most likely to harbor negative feelings toward lawyers."[57] In the 1980s, elite lawyers often dealt with conflict between their high salaries and poor public perception by telling "lawyer jokes," which largely compared lawyers unfavorably to sharks, snakes, mercenaries, and other lower forms of life (see Figure

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[56]. This statement was made by one of the expert commentators in the documentary, "Fashion," that aired at 11PM 10/11/93 on WNYC, New York.

[57]. (Hengstler 1993, p. 62). The public's perception of lawyers may be somewhat skewed by the media. On the one hand, when the *National Law Journal* asked Americans to name the lawyer they admired most, Raymond Burr's TV series character, Perry Mason, finished second, behind F. Lee Bailey, and ahead of Lincoln, Thurgood Marshall, Janet Reno, Matlock (another TV character), and Hillary Rodham Clinton (Margolick 1993*a*). On the other hand, advertisers began "lawyer bashing" in 1993. Reebok ran an ad stating that on a "perfect planet" there would be no lawyers. Miller Lite ran a spoof "Big Lawyer Roundup" TV commercial, where cattlemen hogtie divorce lawyers "who took away [their] bass boat," to the cheers of the crowd (Margolick 1993*b*).

1.5).[58]

These structural changes in the corporate legal services market which had fueled enormous growth during the 1970s and 1980s, wreaked havoc on the firms when the economy soured in the late 1980s.

The Crash.

On Monday, October 19, 1987 the stock market fell 508 points, a drop of 23 percent of total value. This led to a recession that the economy has yet to recover from six years later. Subsequently, a major investment bank, Drexel Burnham Lambert, collapsed and others teetered close to failure. Fully one-third of the jobs on Wall Street in 1987 were gone by 1990.[59] Slowly, the recession trickled toward the large law firms.

In 1990, the recession hit the big firms from several directions. First, business fell off rapidly leading to lower firm revenues and partner profits (see Tables 1.4*a-b* and 1.4*e-f*). Some firms that expanded by use of debt, collapsed under the weight of interest payments.[60] Second, at least two firms that had advised Savings

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[58]. By the time I began my formal interviews in 1992, lawyer firings had put an end to smug, pseudo-self-deprecating lawyer humor. My request of associates to tell me their favorite lawyer joke, was repeatedly met with blank stares — I soon dropped the question.

[59]. The computerization of Wall Street that contributed to "Black Monday" (through program trading), was then used to reduce financial firms' back office payrolls (Prokesch 1993).

[60]. One of the largest firms at the time, Finley, Kumble collapsed under $87 million of unsecured debt in November 1987. The Boston firm of Gaston & Snow closed in 1991. Banks and insurance companies financed firms' growth with

and Loans during the 1980s were sued by the Office of Thrift Supervision (OTS) for malpractice, after the S&L scandal unfolded. In 1992, Kaye, Scholer was sued for $275 million dollars by OTS, for its work for Charles Keating and the Lincoln Savings & Loan. Fearing the partners would abandon the firm with debts and no assets, OTS froze all the firms assets, effectively forcing the firm to settle before the next payday. The firm paid $41 million (Margolick 1992, p. A1). Third, clients started reading their bills and objecting. The September 1991 issue of the *American Lawyer* was a watershed event in the market for corporate legal services. Law firms would no longer be able to finance their infrastructure and growth with their clients' money. The cover story was entitled, "Skaddenomics: The Ludicrous World of Law Firm Billing." The story lead read:

> On April 23 [,1990] Jerry Jackson, a senior associate in the Washington, D.C. office of New York's Skadden, Arps, ordered coffee, juice, and Danish for four from Skadden's in-house cafeteria to be delivered to a conference room at 9:30AM. When Jackson placed his order he provided a charge number so the food would be billed to a client, the South Florida Water Management District, which Skadden was representing in litigation over pollution in the Everglades National Park. On the form filled out by the cafeteria, the price of his order is listed at $23.80. After the charge was rounded to $24, a hand calculation marked that amount up by 40 percent. The total cost to the client: $33.60. Almost nine bucks apiece for coffee and Danish. ...This meal, in a nutshell, represents what's wrong with big-firm billing (Beck and Orey 1991, p. 3).

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unsecured debt throughout the 1980s.

In November 1991, *Manhattan Lawyer* reported on a representative sample of the big firms' debts. Dewey, Ballantine owed $45.0 million largely to finance its move to a new office. Shea & Gould owed $20.0 million for the same reason. Chadbourne, Parke owed only $4.5 million because it had neither moved nor substantially renovated its offices (Frey 1991). Compare these figures to the annual firm revenues in Table 1.4*a*.

In the 1980s, law firms had charged their clients for every copy, every FAX, every long distance phone call, every minute of proofreaders' and delivery pages' time, every lawyer's and staff's meals after 6PM and their private cars home. What this article revealed to the in-house counsels who purchase legal services was that these "overhead" expenses were in fact profit centers for the firms.[61] The article goes on to make clear that "all the firms are doing it." Clients increasingly balked at the bills, further tightening the firms' profitability.[62]

The large firms pursued several methods of traditional retrenchment — laying off staff, contracting out copying and mail room services (1991), and reducing raises,[63] bonuses, and benefits (Adams 1991). Some firms took advantage of the

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[61]. For example, photocopying was charged at 18 cents a page plus $35/hour for the operator. Secretaries, paralegals, and word processors who earned under $25/hour were charged at $45/hour and up. Faxes were charged for the phone time plus $1.10 per minute.

[62]. Cost controls became a central concern of house counsels. An example of the overall trend is a *Harvard Business Review* article as far back as 1983, entitled, "Managing Your Lawyers" (Chayes and Greenwald 1983). More recently, corporations have become more detailed in their level of "managing." For instance, Citicorp recently insisted that all its law firms agree to a 15 page billing policy manual. The legal retainer agreement now specifies disallowed charges and billing caps, such as, a refusal to pay for more than one lawyer to attend a deposition, without prior approval from Citicorp; ten cents a page maximum for photocopying; no fees associated with training of attorneys; and prohibitions of charges for secretarial services, meals, proofreading, and computer time (Duff 1992).

[63]. In the fall of 1991, the *Manhattan Lawyer* reported that Skadden, Arps, long the leader in associate salaries, had cut associates' yearly raises. Second-year associate raises, which had traditionally been $12,000, were cut to $6,000. Third-year associates received $4,000 raises, compared with the prior third-year class' $14,000, and fourth-years got $2,000 compared with the prior classes $21,000 raises. Thus, fourth-year associates in October 1991 were making $115,000, whereas fourth-year associates in October 1990 were making $134,000 (Frey and Varchaver 1991). To add insult to the associates' injury, the firm deferred the traditional October raises

lagging Manhattan real estate market to reduce their rental costs by moving or renegotiating their leases.

When these cuts were not enough to sustain partner profits, firms started firing lawyers.[64] In 1991 and 1992 rumors were rife "on the street" and in the halls of firms about associate departures. Perhaps, for the first-time in the Wall Street firms' histories, associates were asked to leave for "economic" reasons. At least three New York firms admitted to making "economic" lay-offs, Proskauer, Rose; Skadden, Arps; and Milbank, Tweed. Other firms were widely believed to have disguised lay-offs as traditional quality-based "prunings." Several other firms' layoffs were rumored, but were never reported in the trade press. For example, Cahill, Gordon lost its most lucrative client and the source of one-quarter of the firm's work when Drexel Burnham Lambert folded, but the firm denied its substantial associate firings in the following months were anything but traditional up-or-out evaluations (Osborne and Safian 1990). The firing of lawyers became common enough to prompt the Executive Committee of the Association of the Bar of the City of New York

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until January.

While starting salaries remained competitive, firms' senior associate compensation began to diverge. With no possibility of associates moving laterally, firms no longer had to remain competitive for senior associates. Table 1.10 reflects this divergence.

[64]. A few clippings from the period 1990 to 1992 are indicative. "Proskauer, Rose ... has told 20 to 25 New York associates they are 'surplus' and must leave the firm within three months" (Adams 1990). "Skadden, Arps ... has dismissed 45 associates firm-wide because it does not have enough business to keep them occupied, confirms executive partner Peter Mullen" (Adams 1991*c*). "Milbank, Tweed ... has let go of 29 senior associates" (Adams 1992*b*).

(ABCNY) to publish "Guidelines Regarding the Termination of Attorneys at Law Firms."[65] Before the recession was over, the press was reporting the forced departure of partners from several of the firms.[66] Partnerships were no longer for life.

Two newspaper articles published in October 1993 captured the end of this twenty-year boom. The first was on the front page of *New York Times* announcing a revolution in lawyers' fees. The era of the billable hour plus expenses was over, the article claimed. One consultant remarked:

> Clients are talking about fixed fees, capped fees, fee estimates, contingent fees and discounts. ... They want to see a budget,

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[65]. The guidelines suggest, *inter alia*, (i) "the attorney should be given notice and a reasonable period of time to find new employment. ...[i]t would seem reasonable in most circumstances to give the attorney no fewer than three months to find new employment, unless the firm's financial condition will not permit such notice;" (ii) "a law firm should not state or imply that a termination caused by economic considerations was based on performance evaluations. While the decline in the demand for legal services has caused many law firms to re-evaluate the performance of their attorneys in order to carry out attorney terminations, the increased number of terminations appears to be caused primarily by a decline in business and not by a general decline in professional performance." (iii) "law firms should offer support services free of charge to the attorney who has been asked to leave, including professional legal outplacement counseling and the use of law firm office facilities to help in the search for a new position" (York 1991).

[66]. For example, perhaps the most collegial of firms, Cravath, broke with tradition in October 1993, when it dismissed a partner. The partner's "$1.5 million salary was cut in half in September and his 'partnership will terminate' January 1" (1993).

In 1993, the new chair of the ABCNY's Lawyers in Transition task force redirected its efforts from studying the plight of terminated associates (the reason for the creation of the committee in 1990) to studying the plight of older partners who were forced out of their firms. The chair described to me his concern with "sixty-year old men, who have only had one job in their lives, and don't even know how to write a resume, being out on the street." He said that he personally knew "at least two dozen" men that who fitted this description (personal interview, August 10, 1993).

> something that will give them a better idea in advance of what a law firm's services will cost. They want to discuss that budget and how it was developed. Given the glut of lawyers and a dearth of clients, clients are getting what they want" (Slade 1993, p. A1).

A second article, in the *Wall Street Journal*, discussed how Bell Atlantic decided upon its legal counsel to represent it in the largest merger in history. Rather than automatically selecting the "undisputed champion of the takeover bar in the '80's," as the reporter termed Skadden, Arps, Bell Atlantic's legal counsel invited Skadden and three other firms to a "beauty contest" where they made presentations on their services and discussed their legal pricing structures.[67] In the weaker market of the 1990s, clients reasserted their control over their specialist lawyers.[68] Elite legal practice just isn't what it used to be.[69]

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This brief history suggests several elements that are important to studying the culture of large New York City law firms and the selves of the associates who work

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[67]. For an extended example of a beauty contest, see Beck (1991).

[68]. The article continues, quoting the general counsel of Bell Atlantic as saying, "'I have to be satisfied with not just the main lawyers at the firm, but the people who are going to be doing the work,' he says. Above all, the lawyers would have to be willing to take real, hands-on direction from him and assistant general counsel Thomas McKeough. And fee premiums weren't guaranteed" (Stevens 1993).

[69]. The editorial in the October 1993 *American Lawyer* was titled, "Misery: Legions of Lawyers — Including Partners at Top Firms — Are Unhappy With Their Jobs" (Orey 1993). Part of these lawyers despair may be attributable to the market factors underlying an article in the same issue promoting the publisher's favorite theme — the "30 percent overcapacity" in the legal services sector (Brill 1993).

at them. The structural legacy of the historical market niche the firm developed in is likely to affect the culture and practices of the firm. The marketization of firm-client ties is paralleled by the marketization of associate-firm ties. This change has granted associates greater lateral mobility at the cost of greater market risk. The increased salaries, increased billable hours, declining partnership rates, and the arrival of women in the elite associate labor pool has highlighted the paradigmatic shift from an apprenticeship system to an employment system for junior associates.

Yet these changes occur in a work process that remains largely unstructured, idiosyncratic and thus not subject to standardization, routinization, and abstract supervision. Law firm partners still must trust their associates to perform high quality work in an efficient and timely manner, without direct oversight. The culture of the work organization must play a role in motivating and controlling the professionals who work in it. Recent theories of law firms as organizations have highlighted just these issues of control, commitment, and human agency.

Culture and Selves in Recent (Legal) Organization Theory.

The problem of order has been the central concern of the social sciences. Within sociology, Parsons began the contemporary American debate with his *Structure of Social Action* (Parsons 1937). Since then sociologists have argued alternately for the primacy of social norms, power, and self-interest in the production

of social order. Organizational theory literature has largely repeated this cycle since the 1950s. Most recently, organizational theory has given pride of place to "organizational culture" in the discussion of the problem of order within organizations (more typically referred to as issues of employee "commitment," "motivation," and "opportunism"). The literature on law firms has largely repeated this cycle, as well. All these theories lack a robust conception of the selves of the individuals that produce, work within, and thus reproduce the organizations being theorized. I propose a theory of organizational culture that takes account of the competing forces that shape organizations — social values and norms, power, and self-interested action — and the individuals that produce and reproduce this culture through their practices and beliefs. In this manner organizational culture can be understood as being shaped both by the broader societal context and the on-going practices of members.

To develop such a theory, I will review the contemporary studies of large law firms for their theories of organizational culture, the selves that populate the organizations, and their resolution of the problem of order within the model. From this I will demonstrate the common assumptions running through all the theories about large law firms' cultures. Firms' cultures are assumed as stable backgrounds binding the entropic tendencies of the foregrounded logics of action. Next, I link this common implicit model of organizational culture to the organizational culture literature, demonstrating the shared theoretical assumptions of a unitary, shared, and controlling organizational culture that "imprints" itself on unitary selves of organizational members. I take issue with this "strong" theory of organizational

culture. Instead, I argue for a "weak" theory of organizational culture, that better accounts for the disparate effects of organizational structures and practices on the production, reproduction, and scope of firms' cultures.

Three Theories of Order, Culture, and Selves.

Parsons and Smigel: The Structural Functional Model.

Parsons (Parson 1951, 1954*a*, 1954*b*, 1968) claims that lawyers mediate opposing clients' interests in disputes. Because lawyers, as professionals, have a universalistic value-orientation, they can act as mediators without advancing their own self-interest. In this view, lawyers defend the interests of society against the divisive interests of their clients. Parsons' lawyers approach Brandeis' ideal conception of a lawyer as "counsel for the situation" rather than for the client (Simon 1985). However, Parsons' assumption of a static environment and oversocialized actors (Wrong 1961) leaves his theory unable to account for change and deviance within organizations.

Smigel's concern is professionals' need for independence from their organization and clients (Smigel 1969). Professionals perform a socially integrative function of disinterestedly mediating the particularistic interests of their clients against one another and against the state. They need a special autonomy to perform this integrative, mediating role effectively. Thus, Smigel is concerned with the threat of bureaucracy "stamping" organizational member lawyers as "organization men" (Whyte 1956) or otherwise as bureaucratic personalities (Merton 1957*a*), defined by

the interests and structure of the organization. Smigel, following Parsons, solves the problem of order through the extra-organizational power of the profession, embodied in the code of ethics. Smigel's Wall Street law firms' cultures are reifications of the professional code. The firms differ in what he terms their "personalities" (p. 179), but he never theorizes this concept. Smigel's functionalism assumes the efficient imprinting of the professional norms, thus the organizational norms, onto the associates. The only external influence on associates is the passing reference to the occasional wife who complains about her husband's long hours or low pay. Thus, while Smigel starts with an organizational level question of individuals in organizations, he ends with a Parsonian system level argument about the trans-organizational institution of the profession of law and its normative power over lawyers.

Several contemporary theorists criticize this view of professionalism as interest-less professional autonomy on the system level. Either as a collective mobility project of a class segment (Larson 1977) or as a jurisdictional turf battle (Abbott 1988), small groups that were circumscribed by their specialized knowledge and state-sanctioned practice monopolies achieved socio-economic status mobility through professionalism. This literature rejects the disinterested, integrative functional claims of the structural-functionalists and substitutes a theory of interest-driven collective struggles of market and status power. The problem of order is solved here by the harnessing of state power for professional elites' particularistic ends (Halliday 1987). In these theories, the very institution of the profession is a

product of intentional action by self-interested agents.

Heinz & Laumann's (Heinz and Laumann 1982) empirical work demonstrates that, contrary to Smigel's assertion, large firm lawyers are more dependent on their clients than small firm and solo practitioners, becoming virtual prisoners of their large firm overhead costs. Here, organizations are structured by their market environment. More recently, the theoretical skepticism about the Parsons/Smigel model has moved from the system level to the organizational level.

The Power Model.

Robert Nelson's organizational dominance model reintroduces the *organizational* level problem that Smigel started with (Nelson 1988). What effect do organizations, as socially constructed containers of resources, power, and human action, have on lawyers? Unlike Smigel, Nelson answers the question from the power perspective, by arguing that firm elites have almost complete power over their organizations and the definition of professionalism that Smigel argues would save the lawyers. The problem of order does not exist within an organization with an established elite who control the resources (material and ideal) of the organization.

Nelson argues that the pressure to secure and keep clients creates a structural inequality in the organization of modern law firms. Nelson's organizational dominance model details the power that the client-getting partners — client responsible elites — at large firms have to shape their firm's organization to their own interests. That this flies in the face of the normative understanding of professional

life that many lawyers, and especially recent law graduates, carry with them is of little consequence. The ideology of professionalism is used by firm elites to justify the organizational arrangements that suit their particular needs. Nelson writes:

> Professional ideology cannot be treated as a structural determinant that is wholly, or even primarily, independent of the politics of the organization... professional ideology is largely created inside the law firm and reflects the efforts of the governing elite to rationalize the organization of the firm and their position in it. The relative absence of rules and the prominent role that professional norms play in governing firms in better explained as a structural characteristic of the authority system of the law firm rather than as a direct reflection of professional values (p. 79).

This particularistic, interest-structured definition of professionalism, as a form of ideology, secures the legitimacy of the professional elite's dominance within the large firms and simultaneously justifies the position of privilege that these firms hold in the society to corporate clients and the public. The organizational dominance model "allows for the possibility that the elites of firms can redefine professionalism to suit their own interests, including the introduction of bureaucratic managerial practices, while at the same time attempting to appeal to partners, associates, and clients in traditional professional terms" (p. 206).

Nelson found that the actual work practices of lawyers contradict their own conceptions of what they do. The litigation associates are a good example. The litigators in his study are the most firmly attached to the value of being generalists practitioners; yet, they are the most highly specialized of all the practice areas. Further, they are the most likely to leave the firm before being considered for partnership (p. 153), at least in part because the realities of their mundane work do

not correspond to the ideology of professionalism's claim that responsibility increases with capability (p. 180). Yet, no explanation is given as to the associates' interpretations of this experience and their departure. Events are interpreted from the partners' perspective.

Importantly, Nelson highlights the organizational elements that constrain professional autonomy and structure professional self-definition. Yet, we are left without an understanding of just how associates and law graduates understand and explain *in their own terms* this variance in their self-image of lawyering, the realities of their professional work life, and the elite generated ideology of professionalism. Because Nelson argues for the "ideological" power of powerful partners over junior partners and associates, he omits the normative aspects of social control in organizations. This normative control of the institution of professionalism exerts some controlling power over partners and associates alike. He fails to explain the mechanism whereby associates abandon their own material interests for the partners' material interests parading in the guise of ideal professional interests. Organizational culture and the selves of members are never theorized. They are assumed to be consonant with the ideological definition of professionalism imposed by the partners with power.

Neo-utilitarian Theories.

Recently, neo-utilitarianism has emerged as a strong critique of the power theory's solutions to the problem of order. Here the problem of order is solved by the invisible hand of the market orchestrating social relations. And even when markets are demonstrably absent, organizations are defined as close-cousin substitutes that serve the same purpose of integrating and stabilizing competing, equal interests. The 1980's has seen a resurgence in the economic view of society and organizations (Becker 1976; Posner 1981; Elster 1979; Elster 1985; Hechter 1987; Coleman 1990). Two groups of theorists have attempted to explain the phenomenon of large law firms from within the neo-utilitarian or rational-actor paradigm by using the new institutional economics.[70] The pairs are: Ronald Gilson and Robert Mnookin of Stanford (Gilson & Mnookin) and Marc Galanter and Thomas Palay of Wisconsin (Galanter & Palay).

Gilson & Mnookin attempt to explain the traditional law firm organizational form (Gilson and Mnookin 1985) and the up-or-out partnership system (Gilson and Mnookin 1989) as rational — that is, maximizing — structures for sharing human capital, risk, and profits, while constraining opportunistic behavior. They theorize selves as self-interested rational actors. Organizational culture is a set of firm-specific preference structures that are imposed on members to limit opportunism under

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[70]. See generally, Coase (1988), Olson (1965), and Williamson (1975, 1981, 1985). For Williamson's most recent attempt to incorporate "trust" as deciding to be irrational into his theory, see (Williamson 1992).

For variety, I will use the phrases "neo-utilitarian theory" and "rational actor theory" synonymously.

conditions of inadequate control and surveillance.

They argue that law firms can be explained as a form of "risk sharing" by legal practitioners who "pool their human capital stocks" (which consist of specialized legal knowledge and skills) (1985). Paradigmatically, a securities lawyer and a bankruptcy lawyer would "share" their human capital, risks, and profits, to be assured of the highest long-term profits across fluctuating bull and bear markets. But this "sharing" is constrained by lawyers' opportunistic conduct, such as shirking, grabbing, and leaving.[71] Ultimately, their assumption of rabid pursuit of self-interest leaves them unable to control the entropic dynamic of the lawyers in their theoretical firm. They invoke organizational culture to constrain the otherwise uncheckable opportunism through the "internalization" of organizational values.

> The development of an internal monitor reinforced by a positive personal desire to have the desirable characteristic thus appears to be an effective means of controlling unobservable conduct. The success of some firms in overcoming the potential for shirking seems to us to lie in what we call "firm culture." Through some combination of selection and socialization firms can create a powerful internalized work ethic (1985, p. 375).

Contrary to central premises of rational action theory, the authors argue that organizations can both identify and predict individuals' preference structures (the selection claim) as well as realign them in accord with organizational needs (the

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[71]. They define these terms as: "*shirking*, a partner's failure to do his 'fair share' of the work; *grabbing*, a partner's extraction of a larger than previously agreed share of the firm profits by threatening to depart; and *leaving*, a partner's departure from the firm with clients and business in tow" (1985, p. 321).

socialization claim).[72]

In their second article on the associate-partner employment relation, they explain the traditional up-or-out system as a means of dealing with the associates' and partners' "dual uncertainty" over the other's likelihood of opportunistic action. "The up-or-out system serves to bond the firm's promise of a fair evaluation by eliminating the firm's principal means of behaving opportunistically: denying partnership [while keeping the associate working] for the firm's account" (1989, p. 594). At the same time, the associateship is a period for the partners to observe the associate's human capital stock and performance level under the inducement of receiving deferred income for her work, in the form of partnership. Associate-partner relations appear to collapse under the centrifugal force of uncertainty and presumed opportunism in the theory, until culture is introduced. They write: "Particularly in professional service organizations, *the ideology of professionalism*[73] *has important symbolic consequences* that must be integrated into the analysis" of the incentive structure of partnership (my emphasis) (1989, p. 571).[74]

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[72]. Stable, fixed preferences, or utility functions, that can only be know *post hoc* — "revealed preferences" — are central tenets of rational action theory and classical economics. As I will show below, sometimes these authors accept these tenets, other times they reject them.

[73]. Elsewhere in the same article, they define professionalism as "an internally driven strong work ethic" (p. 572).

[74]. They cite Nelson's argument that associates are coopted by the interests of clients and Simon's argument that the "professional ideal" trades lawyers' non-maximizing behavior toward their clients for partial protection from the ravages of the market (1989, p.571).

This *ad hoc* invocation of power and social norms is unaccounted for in their initial assumption of rational maximizing agents. Indeed, in their 1985 article, they

Having theorized opportunistic selves, they then dismiss the implications of their theory by invoking a static theory of culture capable of imposing static roles on organizational members. Organizational culture and the ideology of professionalism are invoked without explanation of their origins or reproduction. Opportunistic selves become passive bearers of the roles the organizational culture dictates. The problem of order is solved not by the invisible hand of the market, but by the strong arm of a controlling culture. The theorists thus discard just what is most valuable in neo-utilitarian theory — the recognition of the multiple, complex, and only partially knowable interests and values of actors.

Galanter & Palay, the second set of neo-utilitarian authors, largely adopt Gilson & Mnookin's model of selves and organizational culture, but add the twist of the economic theory of tournaments to describe the structure of associates' competition for partnership (Galanter and Palay 1991, Galanter 1983, Galanter and Palay 1989).

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explicitly argue for the dominance of economic interests over social (ideal) interests in actors' decisions: "The social status associated with being a lawyer may provide utility independent of income. So long as the *investment value predominates, which we think an uncontroversial assumption at least for lawyers joining large law firms*, this does not alter our analysis" (my emphasis) (1985, p. 324, n.22).

But this assumption of the dominance of investment value over consumption value vitiates another assumption they make that law firm practice is the highest paying position available (1985, p. 324, n. 22). Determined to explain the institution of the pursuit of partnership as maximizing behavior, they end up ruling out of bounds *both* the social motivation to pursue partnership *and* the economic motivation to pursue any other more lucrative occupation.

For rational actor theorists' own expressions of doubt about the comprehensiveness of their paradigm, see generally, Hirschman (1970), Schelling (1984), Williamson (1975), and Elster (1979).

They specify partners' structural needs to utilize their excess human capital (client contacts and demands for service, and legal expertise gained by doing) by loaning it to proxies, associates. They use the economic paradigm of a "tournament" to describe the associate—firm interaction in determining associates' acceptance or rejection by the partnership.[75] Law graduates seek alliances with established practitioners to profit from the latter's human capital in the form of skills, client trust, and business contacts — something the new professionals lack. For their part,

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[75]. While not directly relevant to the discussion here, a few words about the tournament argument are required. Partners insist on a trial period where associates demonstrate their human capital stock (skills) and work ethic, before making them partners. To induce the maximum effort from the inclined-to-shirk associates, partners only make partners of the top *n*-th percent of each class. For associates' part, they rely on a stable promotion rate as assurance of fairness in the promotion process, with its inherently subjective judgements. The only safety associates have against partners' opportunism is the bad press the firm will get if it does not promote, on average, its advertised *n*-th percent of each class. This type of partner opportunism would result in the firm having a greater difficulty in recruiting subsequent classes of new associates, the authors argue. Finally, because each associate-made-partner requires the hiring of four new associates (one to replace the associate and three more to work under the new partner), the promotion-to-partnership "tournament" is an inextricable "growth engine" for those firms who adopt it. They argue that firms that adopt the tournament model of associateships "inadvertently" become committed to exponential growth, which itself eventually alters the character of the firm (p. 121).

A few comments are in order. First, the prior section of this chapter addressed the environmental factors that facilitated this alleged "exponential growth" for twenty years and now has stifled it — something largely ignored by the authors. Second, this assumes an inordinate level of information on the part of law students, as the protectors of seventh-year associates. Historically, this is questionable. I will address this assumption's current applicability later in the dissertation. Third, the variable rate of the promotion "tournament" in real firms does not support their theory. This discussion is beyond the purview of this study. Two excellent reviews are by Rick Sander & Doug Williams (1992) and Robert Nelson (1992).

My own review of this book, which addresses some of the issues in this note more fully, is in Poor (1992).

partners require associates to take maximum advantage of their own human capital. Having reached the maximum number of hours that they can work alone, partners *must* hire associates to valorize their surplus human capital. However, this entails risk. "The gap between [associate] certified promise and their untested quality of performance underlies the promotion-to-partnership tournament" (1991, p.9). The partners need the associates for their labor power and the associates need the partners for their excess human capital stocks. Yet, the description of their relations reads like the description of two scorpions in a bottle. Galanter & Palay sketch agents who will presumptively cheat, shirk, grab, leave and generally act opportunistically.[76]

In concluding their chapter on the "tournament" of lawyers, Galanter & Palay allow for social elements' role in law firms by citing non-maximizing factors that will perform social control functions when market and institutional mechanisms fail. They write: "the development of a firm *culture* through *social control* [which they define, quoting Parsons, as "those processes in the social system which tend to counteract the deviant tendencies"] and prospective monitoring will play an active role in mitigating opportunistic conduct" (my emphasis) (1991, p. 120).[77] The function of prospective monitoring is to identify attorneys with "a reasonably *homogenous set of characteristics and motivations* ... which [develop] through family life, schooling, training and past employment" (1991, p. 120 and n.93). Importantly, among these

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[76]. They cite Gilson & Mnookin (1985) on character of professional agents as presumptively opportunistic (1991, p.94, n.32).

[77]. They cite Gilson & Mnookin (1985, pp. 371-80.) on the point of culture. The Parsons' quote is from *The Social System* (1951, p. 297) (1991, p. 120, nn. 91, 92.)

homogeneous set of characteristics must be the single-minded pursuit of partnership. If associates are not interested in partnership, then the theory does not work.[78] Opportunistic maximizing selves become predictable, non-opportunistic static roles dictated by the organizational culture (Granovetter 1985).

Resume.

The problem of order is solved by each of the contending culture, power, and self-interest theories through the invocation of an organizational culture that spans the entirety of the firm, is shared equally by all members (either through processes of selection or socialization), and dictates complete, unitary roles for each member. In the Parsons-Smigel model, environmental influences are synonymous with organizational culture. In the power and self-interest models, the organizational environment has no apparent effect on the organizational culture. In these two theories, culture is assumed as the background glue that holds the organization together. In the power model, culture is reduced to one of its component parts, ideology — omitting culture's normative component. In the self-interest models, culture is typically invoked *deus ex machina*-like to control undersocialized actors. All the models assume member selves that are reduced to organizationally-defined roles, interests, and preferences. None of these models offer a theory of the production and reproduction of organizational culture or its transmission to new

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[78]. This statement was made to me by one of the authors in personal conversation (Law & Society Meetings, 5/27/93).

members of the organization.

With these characteristics, the theories resemble the theories of culture that dominated the first-wave of organizational culture literature during the 1980s. After briefly reviewing this dominant strand of organizational culture theory, I will suggest a more useful theory of organizational culture and selves in interaction.

The Culture in Organizational Culture.

Since the late 1970s, organizational culture theory has become an important element in organizational theory. Several cumulative reviews have pointed out organizational culture theory's dual track — popular and scholarly.[79] The popular track takes on a prescriptive tone and a decidedly pro-management orientation. This brand of research was made popular by two best selling books, Deal & Kennedy's *Corporate Cultures* and Peters & Waterman's *In Search of Excellence*. While not the focus of this review, these works share several of the key assumptions of scholarly organizational culture writings, especially a functionalist anthropological belief that all cultural forms are functional to the social structure of the organization.

The mainstream scholarly organizational culture research of the last fifteen years has promoted what I term a "strong" theory of culture. That is, organizational culture is seen as a powerful socializing force that stamps organizational members

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[79]. The evolution of organizational culture literature can readily be followed by tracking the review essays through the last decade, see for example, Allaire (1984), Barley (1992), Frost, *et al.* (1985, 1991), Louis (1983), Martin (1992), Morgan (1983), Ott (1989), Ouchi (1985), Sackman (1992), Smirich (1983), Trice (1993), Van Maanen (1984, 1985).

with shared beliefs, values, and norms of behavior. In several successive reviews of the literature, Joanne Martin has referred to this orientation as the "integration perspective" because of the consensus forging power of culture so defined.[80] She terms this "the dominant view of organizational researchers and practitioners in the United States" (Martin 1992, p. 46).

This perspective makes three unifying theoretical assumptions about organizational cultures.[81] First, culture is believed to be that which is shared by *all* members of the organization. Culture is the basis of organization-wide consensus across boundaries, levels, occupational, and racial/ethnic and gender divisions. Organizational stories (Martin, et al. 1983), sagas (Clark 1970), myths, and rituals (Trice and Beyer 1984) span intra-organizational boundaries imbuing individuals with motives derived from the organization's mission. There is no conflict in this theory of culture, as in Parsonian structural-functionalism. Second, the values, beliefs, and assumptions of the culture are manifested in a variety of formal and informal practices. Particular cultural elements and members' practices form a consistent, integrated web of values, beliefs, and norms. Third, organizational members are knowledgeable, competent, and intentional producers of their cultural elements. The culture provides clarity to actors roles in an otherwise ambiguous situation. More succinctly, Siehl & Martin define this strong theory of organizational culture as:

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[80]. See, for example, Martin (1992), the Introduction in Frost, *et al.* (Frost, et al. 1991), Martin & Meyerson (1988).

[81]. This summary is adapted from the readings and discussion in Frost, *et al.* (1991) and Martin (1992), and Trice & Beyer (1993).

> the glue that holds an organization together through a sharing of patterns of meaning. The culture [is] the values, beliefs, and expectations that members come to share (Siehl and Martin 1984, 227).

The progenitor of much of the organizational culture theorizing is Burton Clark's *The Distinctive College*. Clark argues that founders[82] presented with rare confluences of structural conditions can institutionalize their leadership plans as "missions." Missions that are consistent with several generations' available environmental resources become enduring "sagas."

> The institutional saga is a historically based, somewhat embellished understanding of a unique organizational development. It offers in the present a particular definition of the organization as a whole and suggests common characteristics of members. Its definitions are deeply internalized by many members, thereby becoming a part, even an unconscious part, of individual motive. A saga is, then, a mission made total across a system in space and time. It embraces the participants of a given day and links together successive waves of participants over major periods of time.
>
> The most important characteristic and consequence of an organizational saga is the capturing of allegiance, the committing of staff to the institution. Emotion is invested to the point where many participants significantly define themselves by the central theme of the organization. The organizational motif becomes individual motive. The organizational saga turns an organization into a community, even a cult (Clark 1970, p. 235).

This points to a fourth characteristic of the strong theory of culture — the

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[82]. Actually, Clark's college presidents were not college founders, but presidents during perilous, watershed, transformative periods of the colleges. Founders' effects studies typically come out of this tradition of organizational culture research (see, for example, Schein (1985, 1991). What the strong organizational culturalists often share with the business school popularizers is a belief in this "great man" theory of the firm. Contrary to Stinchcombe's classic structuralist imprinting argument (Stinchcombe 1965), these theorists typically share a view of culture as an independent variable (Ouchi and Wilkins 1985, p. 462). While the scholarly works study "founders effects," the popular pieces counsel CEOs on "managing change" through conscious efforts at cultural manipulation.

assumption of unitary selves. Sagas, organizational cultures, imprint members with motives, values, and beliefs that are functional to the organization, in these theories. The affective attachment of members to the organization, through the mobilization of sentiment, is argued to be a surrogate for forms of market or bureaucratic control.[83] For affectual attachment to be controlling, however, these theorists must assume a unitary self defined through a primary connection to his/her work. This is rather like Ruth Benedict's theory of culture (Benedict 1934) turned on its head: selves are cultures *writ* small.[84] The problem of order is solved here through a theory of culture as a drop forge press, stamping out unitary, identical organizational members.

An Alternate Theory of Culture and Selves.

I propose a more complex theory of culture that takes account of the structuring force of the environment and the practices of social agents in the production and reproduction of professional selves. While recognizing the power of culture over organizational members, a proper theory of culture must recognize the pesky agency of the individuals who produce the culture through their mundane actions as well as the constraints social structure places on the culture producing

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[83]. This assumption is implicit in the Clark quote, above. The strongest advocate of this point is William Ouchi (see generally, (Ouchi and Johnson 1978, Ouchi 1980). Often uncited, Durkheim (1965) underlies many of these works.

[84]. Gideon Kunda (1992) provides an excellent critique of the "strong" organizational culture theories concept of selves and counters with a theory of "member self" that incorporates contradictory orientations toward the dominant culture.

activities of actors. By introducing structure and practices to a theory of organizational culture, theoretical room is made for the important insights of the power and neo-utilitarian paradigms. Hierarchy suggests positional interests and identities of members. Maximizing behavior suggests complex actors with multiple preferences, some not tied to the organization. This problematizes the concept of organizational culture, rather than assuming it.

What might be termed a "weak" theory of organizational culture challenges the four aspects of the "strong" theory, reviewed above. After discussing the four points of disagreement, I conclude with a discussion of a theory of practices as the nexus of structure, culture, and agency suitable for investigating organizational cultures.

First, hierarchy in the organization — a product of power — may limit the scope of organizational culture's impact. Structural positions of superordinacy and subordinacy may well produce different interests, values, norms, and practices. While founders and organizational managers may have certain freedom in selecting their managerial practices toward subordinates, they have little control over subordinates' response practices. Pesky human agency may well produce and sustain undesirable responses, from managers' perspectives.[85] The recent proliferation of organizational subculture literature makes this point.[86] Hierarchical, bureaucratic

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[85]. This is an empirical question. It is really nothing more than an argument to take Blau & Scott's famous injunction in organizational analysis, *cui bono?* seriously by investigating *all* practices.

[86]. Occupational subculture literature has recently become a dominant strand in this debate, though in has little application in a study of the professionals in professional organizations (see generally, Van Maanen (1984) and Trice (1993)).

formations can produce cultural *cul de sacs*, out of the reach of firm leaders.

Second, the positional interests and identities of actors within a hierarchical social structure are likely to produce practices that reflect the values and beliefs specific to the social location. We cannot assume the consistent alignment of organizational culture(s) with the social structure of the organization.

Third, the structural location of the organization within the institutional order of the society circumscribes the symbolic resources available to actors in their production of culture. Some rhetorics of motive are "out of bounds" in a law firm. Some are so commonplace as to be the invisible background. Actors produce and reproduce culture through their practical activities, which always contain both material and symbolic components. But these practices are channeled by the structural location of the actors and the organization. Some practices may originate from the dull force of power. Some may originate from actors' importation of "foreign" logics of action into the institution of the law firm. And yet other practices may be so commonplace as to be discursively unavailable to the actors. Thus, not all cultural elements are known and discursively available to their practitioners.

Fourth, and implied in much of the above, selves must be understood as organization-spanning complex aggregates of roles. Actors must be theorized as holding multiple interests and values that derive from several institutional orders. Not putty in the warm hands of culture, selves can import practices and values from other institutional orders to contest dominant cultural forms within an organization. Merton's concept of "role stress" can be understood both as the source of anxiety in

the agent and an arsenal of potentially oppositional rhetorics of motive for that actor within the organization (Merton 1957*b*).

These four criticisms of the "strong" theory of organizational culture suggest a concept of practices that recognizes the influences of structure, culture, and human agency. Practices can be produced by power and structure, but not always. Practices can be generated by values and beliefs, but not always. And practices can be "invented" *de novo* by actors, but only with the cultural "tools" (Swidler 1986) made available by the structure and the culture. Pierre Bourdieu makes much the same point.

> [P]ractices cannot be deduced either from the present conditions which may seem to have provoked them or from the past conditions which have produced the *habitus*, the durable principle of their production. They therefore can only be accounted for by relating the social conditions in which the *habitus* that generated them was constituted, to the social conditions in which it is implemented, through the scientific work of performing the interrelationship of these two states of the social world that the *habitus* performs, while concealing it, in and through practice (Bourdieu 1990, p. 56).

Structure and social interaction, with its moment of agency, are mediated by *habitus*.

This sounds very much like G.H. Mead's theory of the self's spontaneity under problematic conditions (Mead 1934). The Meadian "I" is the spontaneous aspect of the self and is not consciously available to the actor. The conscious component, the "Me," can only know of the I's actions after the fact. Yet, the "I" is itself a product of the social group. The "I"'s specific interests and possible actions are themselves importations of socially defined interests and actions. Like Bourdieu, Mead's actors improvise, without forethought, to overcome problems that they

confront in their environment. Also like Mead's selves, these actors' preconscious extemporaneous actions conform to the structure of their surrounding environmental group. Both theorists overcome the duality of structure and action. For Bourdieu, this is through the *habitus*. For Mead, this is through the "Social Self."

The Absent Self in Organizational Theory.

Recent sociological attempts to recognize the role of organizations and institutions in the formation of selves lack an interactive definition of the self.[87] Erving Goffman and Michel Foucault each attempts to examine the organizational production of personal identities.

Goffman's "The Moral Career of Mental Patients" (Goffman 1961*b*) demonstrates how an organization stamps humans with an identity which it then uses as justification for treatment of the individual so identified. Yet, the organization is tone deaf to characteristics that do not fit the assumed characteristics of the organizationally-defined self. "Built right into the social arrangements of an organization is a thoroughly embracing conception of the member — and not merely a conception of him as a member, but behind this a conception of him *qua* human

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[87]. John Meyer's (1987) article of "Self and Life Course" offers a neo-institutionalist analysis of the "dialectical process" of the Western rationalist institution of the autonomous, rational "self" developing in parallel with the institution of the individual's socially sanctioned "life course." However, Meyer's institutional level of analysis offers neither a theory of individual actors, *qua* selves, nor a theory of inter-institutional conflict necessary to theorize the human agents who recreate and further rationalize the institutions they reside in (Friedland and Alford 1991). Further, organizations as the instantiations of institutional logic(s) are not addressed, limiting the usefulness of this analysis for the current study.

being" (p. 180). Individuals, then, are defined through categories and characteristics in accord with the organization's classificatory needs.

Foucault expands Goffman's organizational-level analysis by showing organizations as carriers of state and societal level power relations. His examination of the history of prisons and asylums (1977), sexuality (1978, 1985, 1986), and his archeologies (1970) demonstrates how organizations generate the very discourse that defines individuals as selves. While contributing a sociological theory of organizations as the material form of power relations, these theories ignore how intentional, competent, complex selves develop and change under different conditions — a problem replicated in some recent literature on law firms.

More conventional theories of organizations, addressing complexity (Aiken and Hage 1968), structural characteristics (Aldrich 1979), span of control (Meyer 1968), authority (Bendix 1974), and compliance structures (Etzioni 1961) do not theorize the selves that populate organizations. While March and Simon (March and Simon 1958) posit a social psychology of organizational members, their cognitive model of individuals is bounded by a presumption of calculativeness, however imperfect. Moreover, these theories lack the appropriate unit of analysis (Pfeffer 1979) for examining selves. The social psychological literature, while positing selves, suffers from the inverse unit of analysis problem, by omitting the organization (Perrow 1970).[88]

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[88]. Perrow rightly rejects organizational psychology's attribution of everything to people, their traits, and responses, ignoring the structural regularities of organization-bounded action. This gulf between the sociological and psychological traditions of

The selves that populate organizations, and produce and reproduce the culture through their practices, cannot be seen as one-dimensional products of the culture. Similarly, culture is the product of both the organizational structure and the practices of complex agents. Finally, the practices themselves are the products of interactions of structure, culture, and the practitioners' selves.

* * * * *

In summary, this dissertation makes two theoretical contributions. First, it develops of conception of the dual sources of organizational cultures in the organizational structures and practices of organizational members. Second, it explores a conception of a complex self of an organizational member, a "professional self" in interaction with the professional organizational culture.

Contrary to the dominant theories of organizational culture, I argue that culture must be problematized. Theorists cannot assume that cultures exist as universally shared, organization-wide values and beliefs. Organizational structures may either foster or inhibit culture formation. The existence of cultures in any structural location within an organization must be an empirical question. Further, these (sub-)cultures may not be internally consistent, because of their dual origins in

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self and self-in-context is too large to be spanned by this study. Accordingly, I shall address myself to the sufficiently taxing questions posed by sociology's home domain literature. This is not to say that bridging attempts do not exist. One possible route out of psychology into sociology is offered by social identity theory (see generally, Abrams & Hogg (Abrams and Hogg 1990) and Turner & Giles (Turner and Giles 1981). This study is an attempt to span the gulf in the opposite direction.

the structures and practices of the organizational members.

I attempt an exploratory examination of the interactions between organizational culture and the selves of members. Through practices, both the organizational culture and the professional selves of the organizational members are partially reproduced. By examining the production of organizational cultures, it becomes possible to identify the values, beliefs, and interests that underlie the practitioners' selves.

* * * * *

This is a long dissertation, because of the complexity of the data reviewed and the multiplicity of theoretical "balls" I try to keep in the air. This makes periodic road maps essential. The first part of the dissertation concerns the use of structural measures of organizations for imputing organizational cultures. The second part of the dissertation reports on the practices and culture of the partners and associates of one firm.

Chapter Two reviews the characteristics of the firms, the population of junior associates, and the methodology used for studying cultures and selves. Chapter Three develops two ideal typical models of law firm cultures. Chapter Four surveys possible structural measures of firms' cultures and the available empirical indicators. Chapter Five assesses the thirty largest firms in New York City on the fifteen available empirical measures. Chapter Six develops two ideal typical professional selves that would be expected to be found, if organizational culture has an effect on the selves of members. Chapter Seven reports on the findings of the formal test for

the predicted selves.

Chapters Eight and Nine examine partners practices and assess the cultural values that underlie those practices. Chapters Ten and Eleven examine associate practices and selves and their relationship to the structural measures of firm culture and the partners' practices. Chapter Twelve concludes by arguing for a theory of organizational culture that incorporates the dialectical relationship between structure and practices in the theory of organizational culture and the selves that produce the culture.

Table 1.1:
Largest New York City Law Firms, 1975 - 1993*

Firm	Year																
	75	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93
Cadwalader, Wickersham	103	135	152	151	156	161	175	206	231	261	300	271	287	295	307	306	302
Cahill Gordon	142	162	169	185	199	202	214	238	236	247	275	238	257	287	260	218	221
Chadbourne & Parke	97	111	101	105	110	133	155	150	151	173	205	173	215	276	282	275	294
Cleary, Gottlieb	167	181	185	191	210	214	228	264	271	296	317	293	315	429	477	478	498
Coudert Brothers	118	146	159	183	206	210	202	197	195	212	278	345	298	360	370	366	342
Cravath	170	189	184	187	202	204	203	261	255	266	288	270	277	309	359	356	330
Davis Polk	185	200	193	203	221	243	261	273	293	294	338	338	376	433	444	430	415
Debevoise & Plimpton	123	140	135	140	149	178	196	240	224	226	261	254	273	349	358	372	359
Dewey, Ballatine	186	202	194	199	207	207	205	216	212	246	306	257	286	394	368	396	397
Fried, Frank	155	200	191	207	219	204	212	243	265	306	354	307	366	397	386	334	373
Hughes Hubbard	85	113	127	136	143	177	183	176	170	191	260	210	220	244	224	250	250
Kaye, Scholer	125	155	165	164	185	189	205	250	265	303	312	295	325	399	406	370	357
Kelley Drye	97	104	99	109	124	133	177	210	212	234	323	306	322	409	378	378	348
Leboeuf, Lamb	92	101	114	127	141	165	188	212	253	286	369	342	362	405	463	474	464
Milbank, Tweed	158	179	187	190	200	201	204	249	277	285	341	280	327	504	485	429	396
Mudge Rose	115	132	148	144	150	161	211	222	189	224	278	281	297	304	303	305	308
Paul, Weiss	149	172	178	187	205	233	234	276	298	323	328	316	333	411	379	352	337
Proskauer Rose	114	127	137	149	170	189	193	206	225	246	273	266	292	425	377	374	405
Rogers & Wells	97	124	151	172	175	205	201	242	236	199	255	213	247	337	318	319	333
Shea & Gould	75	125	115	134	142	171	172	180	260	321	405	355	350	292	241	235	251
Shearman & Sterling	227	264	288	312	330	328	349	397	432	459	506	412	469	624	617	592	580
Simpson Thacher	164	159	182	201	219	228	253	305	314	293	336	313	342	442	446	435	422
Skadden, Arps	85	149	189	205	237	274	314	416	496	638	818	830	846	1133	1105	976	1021
Stroock & Stroock	79	121	127	150	160	185	195	224	239	247	303	289	310	339	347	339	344
Sullivan & Cromwell	167	178	191	206	209	219	225	280	285	289	321	318	310	386	376	368	389
Weil, Gotshal	115	135	164	191	219	217	250	293	322	367	443	376	417	552	598	635	675
White & Case	184	195	192	179	181	185	213	234	238	276	345	295	319	462	456	490	521
Willkie Farr	96	126	131	123	145	181	222	239	236	255	294	262	295	350	399	351	349
Wilson, Elser	n.a	n/a		81	81	111	141	187	243	265	274	250	278	379	382	361	370
Winthrop, Stimson	95	102	98	99	112	124	139	153	152	173	208	205	210	289	270	302	282
Average	126	148	160	167	180	194	211	241	256	280	331	305	327	407	406	396	398

Notes:

* Largest New York City-based firms, as of 1991, as measured by number of attorneys.
Shading indicates estimate, data unavailable.
n/a indicates firm not formed yet

Source:

National Law Journal Annual Survey of Nation's Largest Law Firms 1987-93

Table 1.2:
Major Firms, 1872 - 1915*

	1872	1878	1882	1887	1893	1898	1904	1909	1915
Total firms	0	3	3	4	3	10	9	22	39
Total cities	0	1	1	1	1	3	4	10	15
Total lawyers	0	23	23	29	21	80	84	193	369
New York City's share of major firms (in percent)	-	100%	100%	100%	100%	70%	56%	32%	36%

Note: * Major Firms are firms with seven or more partners, or ten or more attorneys.

Source: Adapted from Table 3 in Wayne Hobson. 1984. Ultimately from Hubbell's Legal Directory, various years.

Table 1.3:
Dates of the 100 Largest Mergers.*

Year	Number
1975	1
1979	1
1980	3
1981	8
1982	1
1983	2
1984	8
1985	16
1986	7
1987	10
1988	15
1989	19
1990	5
1991	4

Source: Mergerstat Review 1991. Merrill Lynch Business Brokerage and Valuation, p. 11.

* As of 1991.

Table 1.4a:
Firm Revenues*
(In millions of dollars)

Firm	1987	1988	1989	1990	1991	1992	1993
Cadwalader, Wickersham	69.0	93.0	97.0	96.0	111.0	113.0	127.0
Cahill Gordon	88.0	110.0	139.5	146.5	130.0	120.0	117.5
Chadbourne & Parke	39.0	55.0	75.0	95.0	104.0	107.5	114.0
Cleary, Gottlieb	100.5	130.0	155.0	181.0	217.0	235.0	255.0
Coudert Brothers	52.0	84.0	90.0	120.0	118.0	121.0	127.0
Cravath	119.0	151.0	200.0	213.0	205.0	205.0	209.0
Davis Polk	155.0	180.0	218.5	240.5	250.0	252.0	267.0
Debevoise & Plimpton	77.0	93.0	119.0	147.0	165.0	168.5	164.5
Dewey, Ballatine	71.5	91.0	115.0	139.0	152.0	145.0	152.5
Fried, Frank	107.0	136.0	194.0	213.0	213.0	215.0	215.5
Hughes Hubbard	45.0	62.0	71.0	76.0	75.5	78.0	78.0
Kaye, Scholer	100.0	109.0	147.0	188.0	185.0	188.0	181.0
Kelley Drye	58.0	79.0	92.0	112.5	136.0	123.0	128.0
Leboeuf, Lamb	71.5	93.0	109.5	117.0	135.5	142.5	151.0
Milbank, Tweed	96.0	108.0	144.9	187.5	187.0	183.5	185.0
Mudge Rose	64.0	79.0	89.0	91.0	98.0	99.0	105.0
Paul, Weiss	102.0	114.0	163.5	195.0	193.0	173.0	170.0
Proskauer Rose	65.0	80.0	97.5	120.0	127.0	130.0	136.0
Rogers & Wells	55.0	66.0	87.0	99.0	105.0	100.0	107.5
Shea & Gould	64.0	90.0	125.0	123.0	100.0	103.0	103.5
Shearman & Sterling	137.0	180.0	228.0	281.0	299.0	273.5	270.0
Simpson Thacher	103.0	122.0	151.0	201.0	195.0	195.0	207.0
Skadden, Arps	228.0	290.0	440.0	517.5	503.0	490.0	440.0
Stroock & Stroock	68.5	91.0	108.0	120.0	128.0	126.5	135.0
Sullivan & Cromwell	115.0	159.0	210.0	230.0	240.0	255.0	270.0
Weil, Gotshal	120.0	134.0	160.0	200.0	225.0	252.0	287.5
White & Case	77.0	104.0	120.0	144.0	166.0	179.0	196.5
Willkie Farr	85.0	102.0	135.0	142.5	145.0	141.0	150.0
Wilson, Elser		60.0	69.0	82.0	89.0	84.0	89.0
Winthrop, Stimson	47.5	61.0	72.0	88.0	105.0	109.0	111.0
Average	89.1	106.9	136.0	158.2	164.2	164.1	172.3

Source: The American Lawyer Magazine, AmLaw 100 (July/Aug.) Various years.
*For select New York City firms. Data for most recent full fiscal year ending before June of the year shown.

Table 1.4b:
Percent Change in Revenues
From Prior Year

Firm	1987	1988	1989	1990	1991	1992	1993
Cadwalader, Wickersham		34.8%	4.3%	-1.0%	15.6%	1.8%	12.4%
Cahill Gordon		25.0%	26.8%	5.0%	-11.3%	-7.7%	-2.1%
Chadbourne & Parke		41.0%	36.4%	26.7%	9.5%	3.4%	6.0%
Cleary, Gottlieb		29.4%	19.2%	16.8%	19.9%	8.3%	8.5%
Coudert Brothers		61.5%	7.1%	33.3%	-1.7%	2.5%	5.0%
Cravath		26.9%	32.5%	6.5%	-3.8%	0.0%	2.0%
Davis Polk		16.1%	21.4%	10.1%	4.0%	0.8%	6.0%
Debevoise & Plimpton		20.8%	28.0%	23.5%	12.2%	2.1%	-2.4%
Dewey, Ballatine		27.3%	26.4%	20.9%	9.4%	-4.6%	5.2%
Fried, Frank		27.1%	42.6%	9.8%	0.0%	0.9%	0.2%
Hughes Hubbard		37.8%	14.5%	7.0%	-0.7%	3.3%	0.0%
Kaye, Scholer		9.0%	34.9%	27.9%	-1.6%	1.6%	-3.7%
Kelley Drye		36.2%	16.5%	22.3%	20.9%	-9.6%	4.1%
Leboeuf, Lamb		30.1%	17.7%	6.8%	15.8%	5.2%	6.0%
Milbank, Tweed		12.5%	33.3%	30.2%	-0.3%	-1.9%	0.8%
Mudge Rose		23.4%	12.7%	2.2%	7.7%	1.0%	6.1%
Paul, Weiss		11.8%	43.4%	19.3%	-1.0%	-10.4%	-1.7%
Proskauer Rose		23.1%	21.9%	23.1%	5.8%	2.4%	4.6%
Rogers & Wells		20.0%	31.8%	13.8%	6.1%	-4.8%	7.5%
Shea & Gould		40.6%	38.9%	-1.6%	-18.7%	3.0%	0.5%
Shearman & Sterling		31.4%	26.7%	23.2%	6.4%	-8.5%	-1.3%
Simpson Thacher		18.4%	23.8%	33.1%	-3.0%	0.0%	6.2%
Skadden, Arps		27.2%	51.7%	17.6%	-2.8%	-2.6%	-10.2%
Stroock & Stroock		32.8%	18.7%	11.1%	6.7%	-1.2%	6.7%
Sullivan & Cromwell		38.3%	32.1%	9.5%	4.3%	6.3%	5.9%
Weil, Gotshal		11.7%	19.4%	25.0%	12.5%	12.0%	14.1%
White & Case		35.1%	15.4%	20.0%	15.3%	7.8%	9.8%
Willkie Farr		20.0%	32.4%	5.6%	1.8%	-2.8%	6.4%
Wilson, Elser			15.0%	18.8%	8.5%	-5.6%	6.0%
Winthrop, Stimson		26.4%	18.0%	22.2%	19.3%	3.6%	1.8%
Average		26.0%	24.6%	16.6%	4.7%	-0.0%	0.9%

Source The American Lawyer Magazine AmLaw 100 (July/Aug) Various years
For select New York City firms Data for most recent full fiscal year ending before June of the year shown.

Table 1.4c:
Revenues Per Lawyer
(in thousands of dollars)

Firm	1987	1988	1989	1990	1991	1992	1993
Cadwalader, Wickersham	290	345	340	355	425	395	450
Cahill Gordon	410	460	545	575	585	530	575
Chadbourne & Parke	255	320	350	405	435	435	450
Cleary, Gottlieb	400	445	490	530	575	550	585
Coudert Brothers	200	280	300	360	320	325	345
Cravath	510	560	720	740	720	695	680
Davis Polk	505	535	580	630	630	615	670
Debevoise & Plimpton	350	365	435	485	530	470	465
Dewey, Ballatine	280	355	400	410	410	420	435
Fried, Frank	420	445	530	580	590	650	740
Hughes Hubbard	255	295	325	325	305	325	325
Kaye, Scholer	340	370	450	555	515	525	530
Kelley Drye	280	260	285	300	355	340	370
Leboeuf, Lamb	255	270	300	330	350	325	335
Milbank, Tweed	370	385	440	450	475	450	465
Mudge Rose	305	325	345	340	355	365	365
Paul, Weiss	340	360	490	535	490	500	505
Proskauer Rose	285	300	335	355	340	355	365
Rogers & Wells	260	310	350	355	390	375	385
Shea & Gould	225	255	355	405	415	435	455
Shearman & Sterling	335	435	485	575	555	500	495
Simpson Thacher	375	390	440	525	475	470	515
Skadden, Arps	320	350	520	545	505	490	480
Stroock & Stroock	295	340	350	365	405	395	430
Sullivan & Cromwell	435	500	675	665	720	725	750
Weil, Gotshal	365	355	385	440	450	460	475
White & Case	310	355	375	380	405	425	440
Willkie Farr	375	390	460	460	470	470	495
Wilson, Elser		240	250	260	260	260	260
Winthrop, Stimson	265	300	345	340	405	390	400
Average	326	356	414	445	454	448	470

Source The American Lawyer Magazine AmLaw 100 (July/Aug) Various years
For select New York City firms Data for most recent full fiscal year ending before June of the year shown

Table 1.4d:
Percent Change in Revenues Per Lawyer
From Prior Year

Firm	1987	1988	1989	1990	1991	1992	1993
Cadwalader, Wickersham		19.0%	-1.4%	4.4%	19.7%	-7.1%	13.9%
Cahill Gordon		12.2%	18.5%	5.5%	-1.7%	-6.2%	8.5%
Chadbourne & Parke		25.5%	9.4%	15.7%	7.4%	0.0%	3.4%
Cleary, Gottlieb		11.3%	10.1%	8.2%	8.5%	-4.3%	6.4%
Coudert Brothers		40.0%	7.1%	20.0%	-11.1%	1.6%	6.2%
Cravath		9.8%	28.6%	2.8%	-2.7%	-3.5%	-2.2%
Davis Polk		5.9%	8.4%	8.6%	0.0%	-2.4%	8.9%
Debevoise & Plimpton		4.3%	19.2%	11.5%	9.3%	-11.3%	-1.1%
Dewey, Ballatine		26.8%	12.7%	2.5%	0.0%	2.4%	3.8%
Fried, Frank		6.0%	19.1%	9.4%	1.7%	10.2%	13.8%
Hughes Hubbard		15.7%	10.2%	0.0%	-6.2%	6.6%	0.0%
Kaye, Scholer		8.8%	21.6%	23.3%	-7.2%	1.9%	1.0%
Kelley Drye		-7.1%	9.6%	5.3%	18.3%	-4.2%	8.8%
Leboeuf, Lamb		5.9%	11.1%	10.0%	6.1%	-7.1%	3.1%
Milbank, Tweed		4.1%	14.3%	2.3%	5.6%	-5.3%	3.3%
Mudge Rose		6.6%	6.2%	-1.4%	4.4%	2.8%	0.0%
Paul, Weiss		5.9%	36.1%	9.2%	-8.4%	2.0%	1.0%
Proskauer Rose		5.3%	11.7%	6.0%	-4.2%	4.4%	2.8%
Rogers & Wells		19.2%	12.9%	1.4%	9.9%	-3.8%	2.7%
Shea & Gould		13.3%	39.2%	14.1%	2.5%	4.8%	4.6%
Shearman & Sterling		29.9%	11.5%	18.6%	-3.5%	-9.9%	-1.0%
Simpson Thacher		4.0%	12.8%	19.3%	-9.5%	-1.1%	9.6%
Skadden, Arps		9.4%	48.6%	4.8%	-7.3%	-3.0%	-2.0%
Stroock & Stroock		15.3%	2.9%	4.3%	11.0%	-2.5%	8.9%
Sullivan & Cromwell		14.9%	35.0%	-1.5%	8.3%	0.7%	3.4%
Weil, Gotshal		-2.7%	8.5%	14.3%	2.3%	2.2%	3.3%
White & Case		14.5%	5.6%	1.3%	6.6%	4.9%	3.5%
Willkie Farr		4.0%	17.9%	0.0%	2.2%	0.0%	5.3%
Wilson, Elser			4.2%	4.0%	0.0%	0.0%	0.0%
Winthrop, Stimson		13.2%	15.0%	-1.4%	19.1%	-3.7%	2.6%
Average		10.6%	15.9%	7.6%	2.6%	-1.1%	4.1%

Source The American Lawyer Magazine AmLaw 100 (July/Aug) Various years
For select New York City firms. Data for most recent full fiscal year ending before June of the year shown

Table 1.4e:
Profits Per Partner
(in thousands of dollars)

Firm	1987	1988	1989	1990	1991	1992	1993
Cadwalader, Wickersham	355	505	495	410	470	430	555
Cahill Gordon	940	1,200	1,420	1,515	1,085	1,165	1,150
Chadbourne & Parke	365	405	460	505	505	515	545
Cleary, Gottlieb	470	580	650	775	770	765	880
Coudert Brothers	155	295	340	405	400	400	390
Cravath	970	1,220	1,595	1,765	1,545	1,455	1,385
Davis Polk	730	830	1,050	1,125	990	1,000	1,020
Debevoise & Plimpton	435	550	610	655	680	635	560
Dewey, Ballatine	345	405	455	465	465	420	485
Fried, Frank	520	560	775	815	835	845	905
Hughes Hubbard	275	300	260	330	350	335	335
Kaye, Scholer	395	480	640	685	660	570	535
Kelley Drye	360	250	375	365	525	255	310
Leboeuf, Lamb	255	250	285	305	365	335	355
Milbank, Tweed	410	445	605	665	605	555	560
Mudge Rose	300	335	335	355	485	530	460
Paul, Weiss	450	435	795	915	755	580	620
Proskauer Rose	285	315	340	360	315	350	365
Rogers & Wells	280	275	315	320	365	295	385
Shea & Gould	240	270	315	345	355	365	395
Shearman & Sterling	480	550	630	800	860	685	680
Simpson Thacher	570	645	790	1,015	885	870	960
Skadden, Arps	780	885	1,155	1,195	920	925	885
Stroock & Stroock	350	415	435	460	440	440	470
Sullivan & Cromwell	665	785	1,375	1,210	1,070	1,050	1,080
Weil, Gotshal	605	555	674	690	710	700	725
White & Case	395	435	460	425	465	495	525
Willkie Farr	500	640	785	805	705	605	680
Wilson, Elser		450	415	460	415	370	315
Winthrop, Stimson	320	355	400	385	420	395	410
Average	442	506	621	665	626	594	624

Source. The American Lawyer Magazine. AmLaw 100. (July/Aug.) Various years.
For select New York City firms. Data for most recent full fiscal year ending before

Profits per partner are calculated by the formula (revenue - expenses)/number of partners

Table 1.4f:
Percent Change in Profits Per Partner
From Prior Year

Firm	1987	1988	1989	1990	1991	1992	1993
Cadwalader, Wickersham		42.25%	-1.98%	-17.17%	14.63%	-8.51%	29.07%
Cahill Gordon		27.66%	18.33%	6.69%	-28.38%	7.37%	-1.29%
Chadbourne & Parke		10.96%	13.58%	9.78%	0.00%	1.98%	5.83%
Cleary, Gottlieb		23.40%	12.07%	19.23%	-0.65%	-0.65%	15.03%
Coudert Brothers		90.32%	15.25%	19.12%	-1.23%	0.00%	-2.50%
Cravath		25.77%	30.74%	10.66%	-12.46%	-5.83%	-4.81%
Davis Polk		13.70%	26.51%	7.14%	-12.00%	1.01%	2.00%
Debevoise & Plimpton		26.44%	10.91%	7.36%	3.82%	-6.62%	-11.81%
Dewey, Ballatine		17.39%	12.35%	2.20%	0.00%	-9.68%	15.46%
Fried, Frank		7.69%	38.39%	5.16%	2.45%	1.20%	7.10%
Hughes Hubbard		9.09%	-13.33%	26.92%	6.06%	-4.29%	0.00%
Kaye, Scholer		21.52%	33.33%	7.03%	-3.65%	-13.64%	-6.14%
Kelley Drye		-30.56%	50.00%	-2.67%	43.84%	-51.43%	21.57%
Leboeuf, Lamb		-1.96%	14.00%	7.02%	19.67%	-8.22%	5.97%
Milbank, Tweed		8.54%	35.96%	9.92%	-9.02%	-8.26%	0.90%
Mudge Rose		11.67%	0.00%	5.97%	38.62%	9.28%	-13.21%
Paul, Weiss		-3.33%	82.76%	15.09%	-17.49%	-23.18%	6.90%
Proskauer Rose		10.53%	7.94%	5.88%	-12.50%	11.11%	4.29%
Rogers & Wells		-1.79%	14.55%	1.59%	14.06%	-19.18%	30.51%
Shea & Gould		12.50%	16.67%	9.52%	2.90%	2.82%	8.22%
Shearman & Sterling		14.58%	14.55%	26.98%	7.50%	-20.35%	-0.73%
Simpson Thacher		13.16%	22.48%	28.48%	-12.81%	-1.69%	10.34%
Skadden, Arps		13.46%	30.51%	3.46%	-23.01%	0.54%	-4.32%
Stroock & Stroock		16.57%	4.82%	5.75%	-4.35%	0.00%	6.82%
Sullivan & Cromwell		16.05%	75.16%	-12.00%	-11.57%	-1.87%	2.86%
Weil, Gotshal		-8.26%	21.44%	2.37%	2.90%	-1.41%	3.57%
White & Case		10.13%	5.75%	-7.61%	9.41%	6.45%	6.06%
Willkie Farr		28.00%	22.66%	2.55%	-12.42%	-14.18%	12.40%
Wilson, Elser			-7.76%	10.84%	-9.76%	-10.84%	-14.86%
Winthrop, Stimson		10.94%	12.68%	-3.75%	9.09%	-5.95%	3.80%
Average		13.2%	20.2%	8.1%	-0.9%	-4.9%	5.2%

Source: The American Lawyer Magazine. AmLaw 100. (July/Aug.) Various years
For select New York City firms. Data for most recent full fiscal year ending before

Profits per partner are calculated by the formula (revenue - expenses)/number of partners.

Table 1.5:
Leverage* of 30 Largest New York City Law Firms, 1975 - 1993**

Firm	Year																
	75	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93
Cadwalader, Wickersham	2.03	2.07	2.30	2.08	2.12	1.98	2.02	2.38	2.30	2.63	2.90	2.71	3.16	2.31	2.04	2.19	2.05
Cahill Gordon	2.09	2.68	2.52	2.78	2.69	2.74	2.89	3.18	3.14	3.12	3.51	3.58	3.51	3.35	3.33	2.89	2.75
Chadbourne & Parke	2.13	2.17	1.81	1.14	1.75	2.23	2.69	2.41	2.43	2.46	2.66	2.26	2.41	2.58	2.44	2.35	2.59
Cleary, Gottlieb	2.04	2.02	1.85	2.90	1.76	1.61	1.71	2.30	2.23	2.39	2.41	2.18	2.21	2.83	3.15	3.05	3.22
Coudert Brothers	1.51	1.75	1.84	2.73	2.07	2.13	2.01	1.90	1.83	2.16	3.09	2.42	2.17	2.13	2.06	1.88	1.76
Cravath	3.05	3.02	2.91	2.82	3.12	3.00	2.89	3.66	3.47	3.59	3.57	3.22	3.13	3.68	4.13	3.88	3.52
Davis Polk	2.78	2.85	2.39	3.14	2.62	2.80	2.84	2.96	2.91	2.54	2.89	2.84	3.09	3.37	3.67	3.48	3.28
Debevoise & Plimpton	2.00	2.04	1.84	1.86	1.76	2.02	2.16	2.75	2.03	2.01	2.26	2.85	2.74	3.06	3.07	3.18	2.90
Dewey, Ballatine	2.96	2.26	2.06	3.06	2.00	2.00	1.89	2.54	2.31	2.24	2.26	2.57	2.62	2.49	2.76	2.96	2.85
Fried, Frank	1.82	2.39	2.35	3.22	2.42	2.04	1.94	2.38	2.27	2.29	2.44	2.16	2.66	2.58	2.36	2.09	2.24
Hughes Hubbard	1.74	1.57	1.89	1.82	1.60	2.28	2.45	2.45	2.62	2.35	2.71	2.13	2.38	2.17	1.84	2.13	2.01
Kaye, Scholer	1.36	1.42	1.58	2.35	2.08	1.70	1.77	2.42	2.31	2.74	2.90	2.83	2.92	2.59	2.66	2.59	2.50
Kelley Drye	2.34	2.59	1.91	1.22	2.44	2.24	2.65	2.56	2.31	2.12	2.05	2.00	3.67	2.12	1.91	1.60	1.70
Lebouef, Lamb	1.04	1.15	1.38	1.59	1.56	1.89	1.85	1.75	2.01	2.01	2.24	2.68	1.85	2.07	2.11	1.98	1.85
Milbank, Tweed	1.68	1.75	2.28	2.88	2.13	1.96	2.09	2.77	2.85	2.35	2.41	2.22	2.44	3.03	3.04	2.70	2.74
Mudge Rose	1.88	2.00	2.29	1.94	2.00	1.95	2.58	2.70	1.95	2.20	2.48	2.19	2.26	2.49	2.44	2.51	2.28
Paul, Weiss	1.98	1.92	2.02	2.82	2.31	2.38	2.30	2.78	3.03	3.19	2.90	2.76	3.06	4.48	3.21	2.91	2.59
Proskauer Rose	1.38	1.49	1.45	2.04	1.43	1.66	1.72	1.78	1.71	2.51	2.41	2.24	2.24	3.01	2.49	1.83	2.07
Rogers & Wells	1.06	1.34	1.48	2.51	1.65	1.89	1.64	2.36	2.19	1.76	1.97	1.60	1.45	2.27	2.70	2.84	2.54
Shea & Gould	1.14	1.78	1.45	1.73	1.22	1.61	1.57	1.73	1.86	1.77	1.89	1.54	1.78	2.01	1.80	2.09	1.67
Sheerman & Sterling	2.11	1.78	1.94	5.37	2.11	2.15	2.26	2.82	2.72	3.17	3.48	2.65	2.94	3.59	3.41	3.48	3.39
Simpson Thacher	1.93	2.06	2.14	3.10	2.13	2.26	2.51	3.24	3.06	2.71	3.02	2.73	3.02	3.56	3.42	3.39	3.22
Skadden, Arps	2.54	2.82	3.02	3.18	2.49	2.65	2.61	2.96	3.12	3.62	4.21	4.29	3.78	4.01	3.78	3.26	3.33
Stroock & Stroock	1.03	1.52	1.69	2.06	1.62	1.80	1.95	2.20	2.32	2.25	2.26	2.49	2.56	2.23	2.07	2.11	2.07
Sullivan & Cromwell	1.93	1.74	1.94	3.20	1.99	2.13	2.13	2.73	2.61	2.61	2.73	2.46	2.41	2.73	2.76	2.80	2.85
Weil, Gotshal	2.46	2.14	2.42	2.90	2.98	2.88	3.17	3.65	3.54	3.53	3.87	3.18	3.53	3.45	3.30	3.35	3.35
White & Case	1.97	2.10	2.15	2.65	1.83	1.85	2.13	2.25	2.40	2.83	3.01	2.43	2.51	3.32	3.04	3.05	3.04
Willkie Farr	1.67	1.63	1.67	1.51	1.90	2.42	2.96	2.68	2.42	2.36	2.54	2.26	2.93	2.65	2.69	2.55	2.26
Wilson, Elser	n/a	n/a	n/a	0.65	2.86	3.04	3.15	3.56	4.52	3.49	3.09	5.58	5.18	2.45	2.18	1.87	1.85
Winthrop, Stimson	1.97	1.83	1.31	1.02	1.80	1.95	2.16	2.48	2.23	2.09	2.53	2.53	2.50	3.19	2.55	2.97	2.86
Average	1.92	2.00	2.00	2.41	2.08	2.17	2.29	2.61	2.56	2.57	2.76	2.65	2.77	2.86	2.75	2.67	2.57

Notes:

* Leverage is the Associates-per-Partner ratio

** Largest New York City-based firms, as of 1991, as measured by number of attorneys

Shading indicates estimate, data unavailable

n/a indicates firm not formed yet

Source:

National Law Journal Annual Survey of Nation's Largest Law Firms 1987-93

Table 1.6a:
Manhattan Law Offices
By Size for Select Years
1960 - 1990

Establishment Size**	1960*	1965*	1970	1972	1974	1975	1976	1978	1980	1982	1984	1985	1986	1988	1990
50-99	28	32	45	41	58	49	47	46	56	88	74	77	72	79	91
100-249	27	26	30	32	32	36	42	43	43	48	58	62	68	69	73
250-499	0	9	16	15	18	18	16	21	23	22	25	24	24	20	20
500-999	0	0	1	2	2	2	2	5	8	10	13	15	18	20	21
1000->	0	0	0	0	0	1	1	0	0	0	1	2	2	5	8

Source: U.S. Census Bureau. County Business Patterns.
New York County, various years.

Notes: * U.S. Summary Establishment Size not enumerated in this year.
** SIC code 81, Legal Services, includes all employees -- associates and staff -- but not partners.

Table 1.6b:
United States Law Offices
By Size for Select Years
1960 - 1990

Establishment Size	1960	1965	1970	1972	1974	1975	1976	1978	1980	1982	1984	1985	1986	1988	1990
50-99	*	*	223	253	314	313	355	422	570	740	850	930	1058	1243	1411
100-249	*	*	89	101	122	144	159	213	277	335	429	472	548	621	711
250-499	*	*	20	23	34	37	38	53	64	78	104	120	142	173	198
500-999	*	*	1	3	2	2	3	9	13	15	21	26	34	49	55
1000->	*	*	0	0	0	1	1	0	0	0	1	2	2	5	10

Source: U.S. Census Bureau. County Business Patterns.
United States Summary, various years.

Notes: * U.S. Summary Establishment Size not enumerated in this year.
* SIC code 81, Legal Services, includes all employees -- associates and staff -- but not partners.

Table 1.6c:
NYC as Percentage of US Law Offices
By Size for Select Years
1960 - 1990

Establishment Size	1960	1965	1970	1972	1974	1975	1976	1978	1980	1982	1984	1985	1986	1988	1990	1970-90 Change
50-99	*	*	20%	16%	18%	16%	13%	11%	10%	12%	9%	8%	7%	6%	6%	-68%
100-249	*	*	34%	32%	26%	25%	26%	20%	16%	14%	14%	13%	12%	11%	10%	-70%
250-499	*	*	80%	65%	53%	49%	42%	40%	36%	28%	24%	20%	17%	12%	10%	-87%
500-999	*	*	100%	67%	100%	100%	67%	56%	62%	67%	62%	58%	53%	41%	38%	-62%
1000->	-	-	-	-	-	100%	100%	-	-	-	100%	100%	100%	100%	80%	-

Source: U.S. Census Bureau. County Business Patterns.
New York County and United States Summary, various years.

Notes: * U.S. Summary Establishment Size not enumerated in this year.
* SIC code 81, Legal Services, includes all employees -- associates and staff -- but not partners.

Table 1.7:
First-year Associate Starting Salary
30 Largest NYC Law Firms, 1978 - 1993

(in dollars)

Firm	Year											
	1978	1980	1981	1983	1984	1985	1987	1989	1990	1991	1992	1993
Cadwalader, Wickersham	28,000	33,000	38,000		47,000		65,000	82,000	83,000	83,000	83,000	83,000
Cahill Gordon	28,500		43,000			50,000	67,000	81,000	83,000	83,000	83,000	83,000
Chadbourne & Parke					47,000	50,000	65,000	80,000	83,000	83,000	83,000	83,000
Cleary, Gottlieb		36,000	40,000	44,000	50,000	48,000	68,000	77,000	83,000	83,000	83,000	83,000
Coudert Brothers		37,000	40,000	46,000	47,000	51,000	66,000	77,000	83,000	83,000	83,000	83,000
Cravath						53,192	65,385	83,000	83,000	83,000	83,000	83,000
Davis Polk		37,000	39,000		49,000	54,000	66,000	78,000	83,000	83,000	83,000	83,000
Debevoise & Plimpton	28,000		41,000	43,000	49,000	50,000	66,000	81,000	83,000	83,000	83,000	83,000
Dewey, Ballatine	28,000	37,000	38,000	47,000	49,000	49,000	65,000	65,000	83,000	83,000	83,000	83,000
Fried, Frank		36,000	43,000		47,000	52,000	68,000	79,000	86,000	86,000	86,000	86,000
Hughes Hubbard	28,000		43,000		48,000	50,000	66,000	78,000	83,000	83,000	83,000	83,000
Kaye, Scholer	28,000	38,000	43,000	43,000	47,000	49,000	65,000	82,000	83,000	83,000	83,000	83,000
Kelley Drye		34,000	43,000		46,000	49,000	65,000	76,000	83,000	83,000	83,000	83,000
Lebouef, Lamb			38,000		47,000	49,000	65,000	80,000	83,000	83,000	83,000	83,000
Milbank, Tweed		35,500	40,000		49,000	49,000	65,000	83,000	83,000	83,000	83,000	83,000
Mudge Rose	28,000	37,000			47,500	49,000	65,000	82,000	82,000	85,000	85,000	85,000
Paul, Weiss	28,500	37,500	41,000	46,000	47,000	50,000	65,000	81,000	83,000	83,000	83,000	83,000
Proskauer Rose	28,000	33,000	43,000	43,000			66,000	82,000	82,000	82,000	84,000	84,000
Rogers & Wells		34,500	40,000		46,000	50,000	66,000	82,000	82,000	82,000	82,000	83,000
Shea & Gould	28,000	33,000	37,000		45,000	50,000	65,000	80,000	80,000	80,000	80,000	83,000
Shearman & Sterling	28,000	38,000	43,000		49,000	50,000	67,000	83,000	83,000	83,000	83,000	83,000
Simpson Thacher	28,000	38,000	43,000				66,000	82,000	83,000	83,000	83,000	83,000
Skadden, Arps	28,000	38,000	42,500		49,500	52,000	67,000	83,000	85,000	85,000	85,000	85,000
Stroock & Stroock	28,000		43,000	43,000	47,500	49,000	65,000	82,000	82,000	82,000	82,000	82,000
Sullivan & Cromwell							65,000	78,000	83,000	83,000	83,000	83,000
Weil, Gotshal		37,500	43,000		47,000	49,000	65,000	82,000	83,000	83,000	83,000	83,000
White & Case	28,000	34,500	43,000			49,000	66,000	81,000	83,000	83,000	83,000	83,000
Willkie Farr						49,000	65,000	82,000	83,000	83,000	83,000	83,000
Wilson, Elser			24,000					45,000				
Winthrop, Stimson			43,000		46,000	51,000	67,000	77,000	83,000	83,000	83,000	83,000
Average	27,969	36,132	40,558	44,222	47,500	50,046	65,746	78,800	82,931	83,034	83,103	83,241
Percentage Change in Average		29%	12%	9%	7%	5%	31%	20%	5%	0%	0%	0%

Note Blanks indicate data unavailable

Source National Law Journal Annual Survey of 250 Largest Law Firms (Sept) various years

Table 1.8:
Billing Ranges for Partners and Associates
Select Firms, Select Years, 1988 - 1992

	1988				1991				1992			
	Partners		Associates		Partners		Associates		Partners		Associates	
Firm	High	Low	High	Low	High	Low	High	Low	High	Low	High	Low
Brown & Wood	400	225	215	115								
Cahill Gordon	335	225	208	102								
Cleary, Gottlieb	373	293	236	128	*							
Fried, Frank					450			115				
Hughes Hubbard	350	215	205	105	410	220	260	115	450	225	260	115
Kaye, Scholer	385	225	220	85								
Kelley Drye	295	165	195	77	359	186	230	100 *	385	175	240	105
Leboeuf, Lamb	330	215	210	95	385	110	255	75 *	450	140	280	80
Milbank, Tweed	335	245	240	95	390	275	255	95				
Proskauer Rose	380	215	230	130	390	230	255	110	390	230	255	110
Rosenman & Colins	350	210	210	85	450	250	235	100	475	250	275	110
Shea & Gould	350	230	225	110	400	255	250	115	370	270	255	115
Shearman & Sterling	350			105	400	275	275	110 *	425	275	275	110
Stroock & Stroock	365	215	200	95								
Weil, Gotshal	375	240	235	90	450	275	270	105 *				
Willkie Farr	375	225	200	90								
Winthrop, Stimson					350	255	245	79				
Average	355	225	216	100	403	233	253	102	421	224	263	106
High	400	293	240	130	450	275	275	115	475	275	280	115
Low	295	165	195	77	350	110	230	75	370	140	240	80

Note: Only limited data is available, though it should be comparable across studies
All figures for New York Offices only.
Brown & Wood and Rosenman & Colins are just below the largest-30 in size and are included here for comparison purposes.

Sources: 1988 data: National Law Journal. 1988. "Billing." November 7, pp. S1-S12
1991 data: Of Counsel Magazine. 1991. 10 (June 3, no. 11): 11, except
* 1991 data: National Law Journal. 1991. "Billing." November 18, pp. S1-S8
1992 data: National Law Journal. 1992. "Billing." November 23, pp. S1-S8

Table 1.9:
Large Firm Lawyers' Tenure in First Job.

Years Out of Law School (Class of)	4 ('81)	11 ('74)	16 ('69)	26 ('59)
Median Yrs. in First Job	3	4	3	25

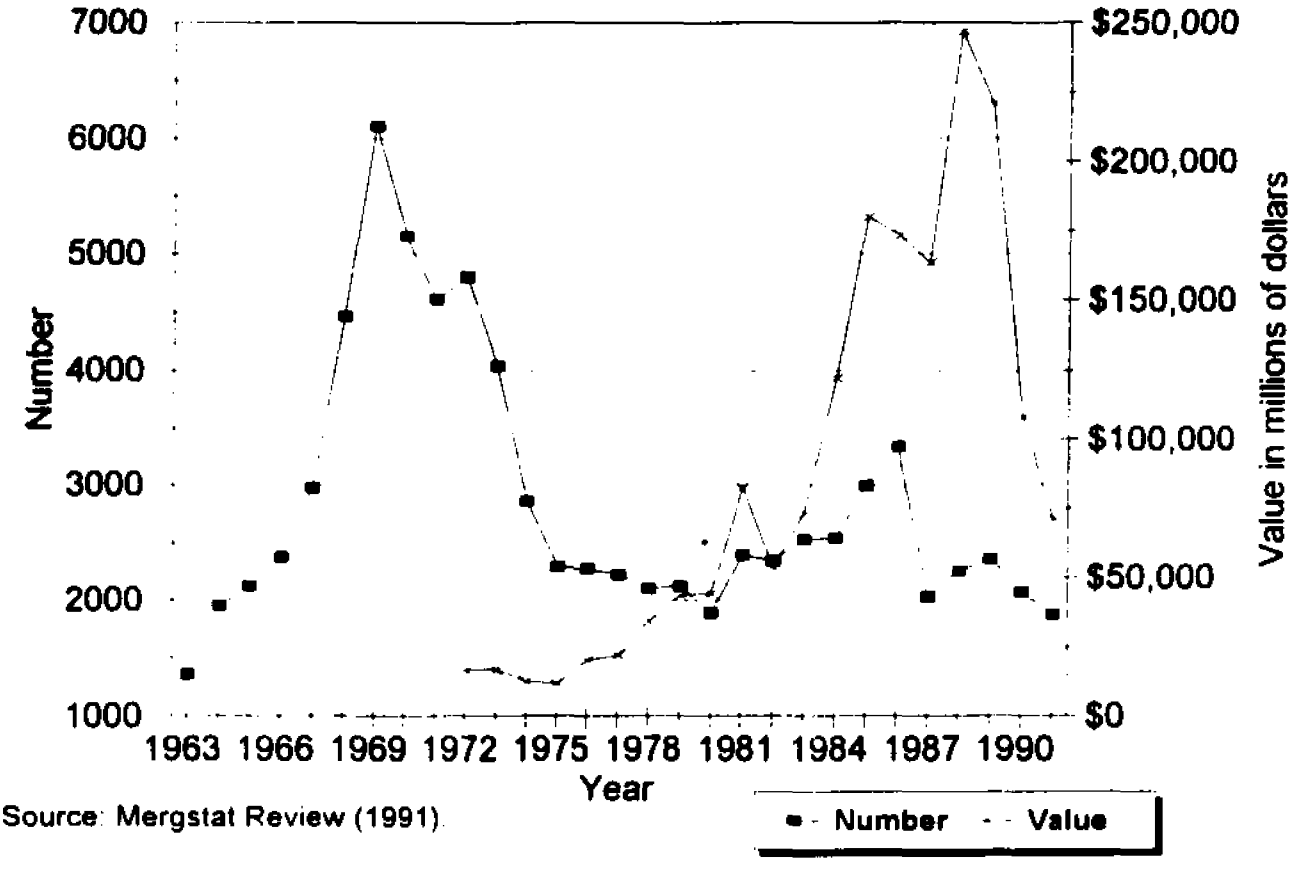
Source: Vogt (1986), pp. 40-1.
Notes: Large firm was defined in this study as 85 or more lawyers.
N = 5471 for the overall survey; no number available for the 85 + lawyer first-job subset.
In other findings reported in this study, law graduates are shown to disproportionately remain in the region of their law school. Because New York had the largest share of law offices with 100 or more attorneys (see Table 1.6c), it is highly likely that these figures reflect New York law office job tenure, as of 1985.

Table 1.10:
Select Associate Salaries, 1993

Year	Dewey, Ballantine	Kaye, Scholer	Cleary, Gottlieb
1st	$ 83,000	$ 83,000	$ 83,000
2nd	83,000	94,000	98,000
3rd	95,000	108,000	114,000
4th	109,000	125,000	133,000
5th	125,000	142,000	151,000
6th	140,000	155,000	164,000
7th	156,000	168,000	180,000
Cumulative Total	$791,000	$875,000	$923,000

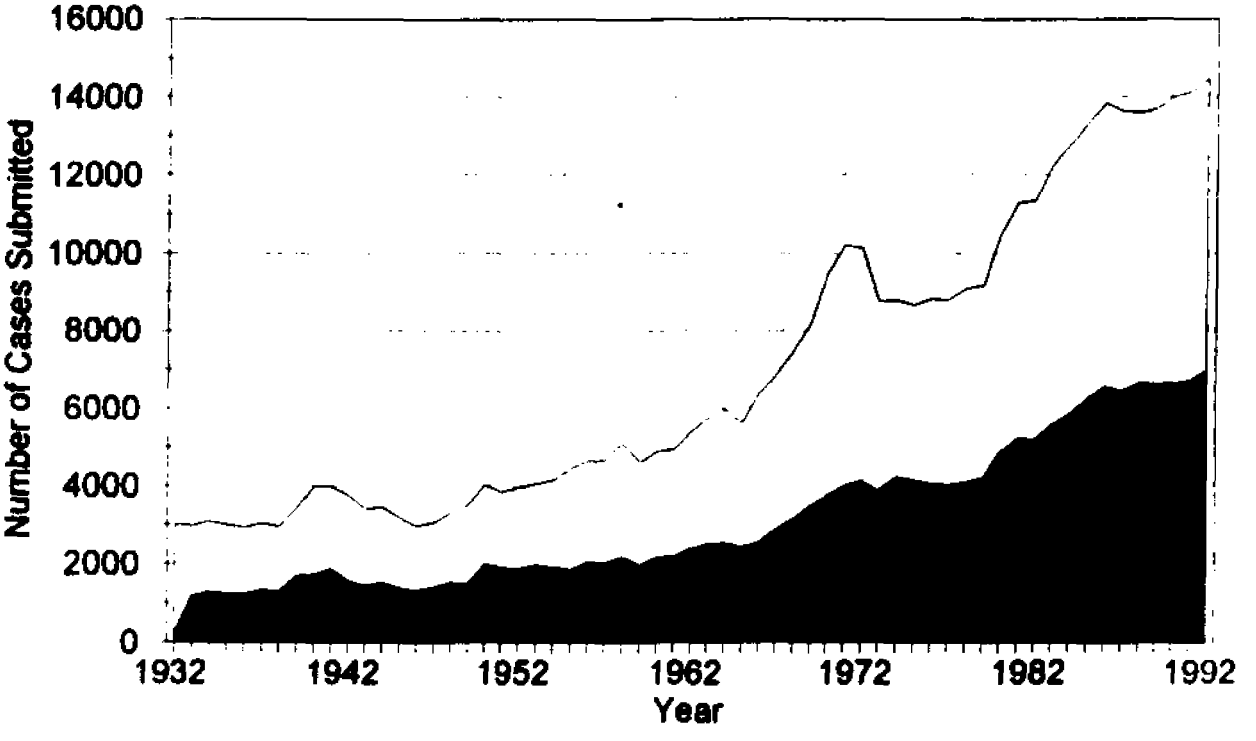
Notes: Dewey, Ballantine figures reflect base salary plus bonus.
Source: *National Law Journal*, May 10, 1993, p. S3.

Figure 1.1:
Mergers & Acquisitions 1963 - 1990



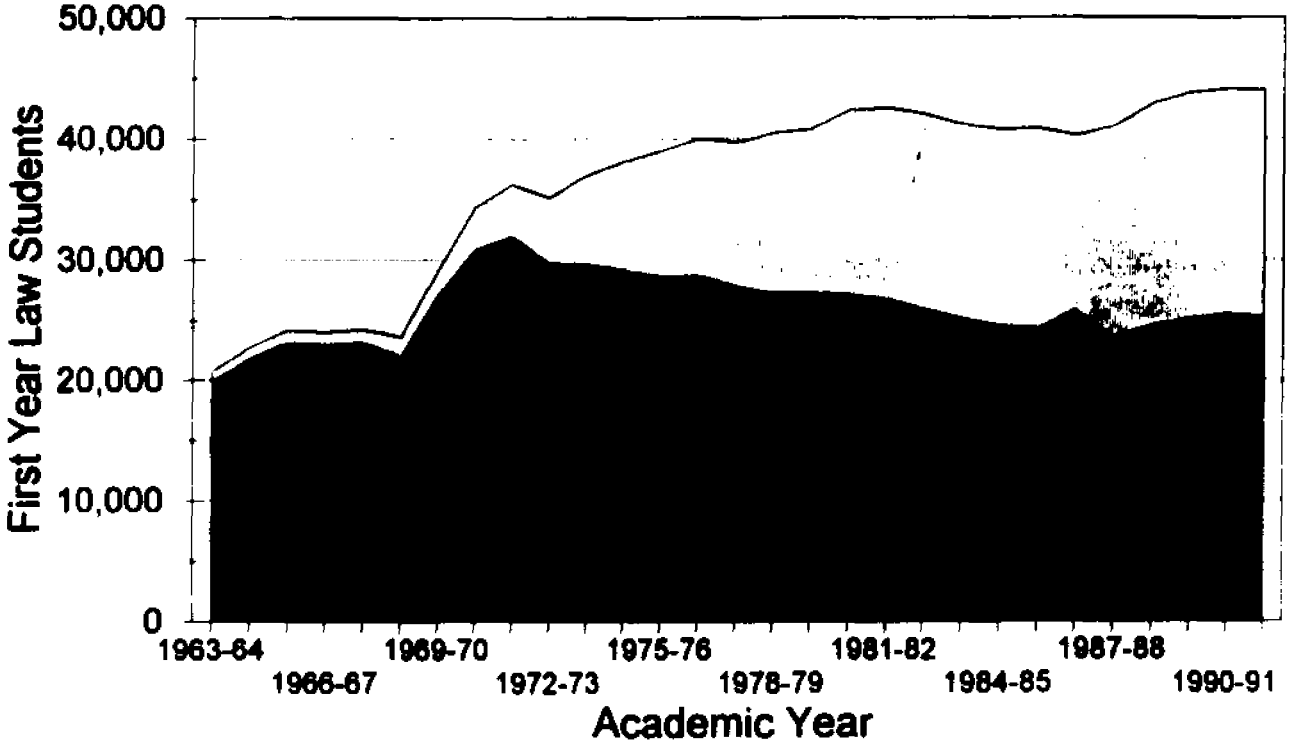
Source: Mergstat Review (1991).

Figure 1.2: Federal Court Decisions Submitted for Publishing 1932 - 1992



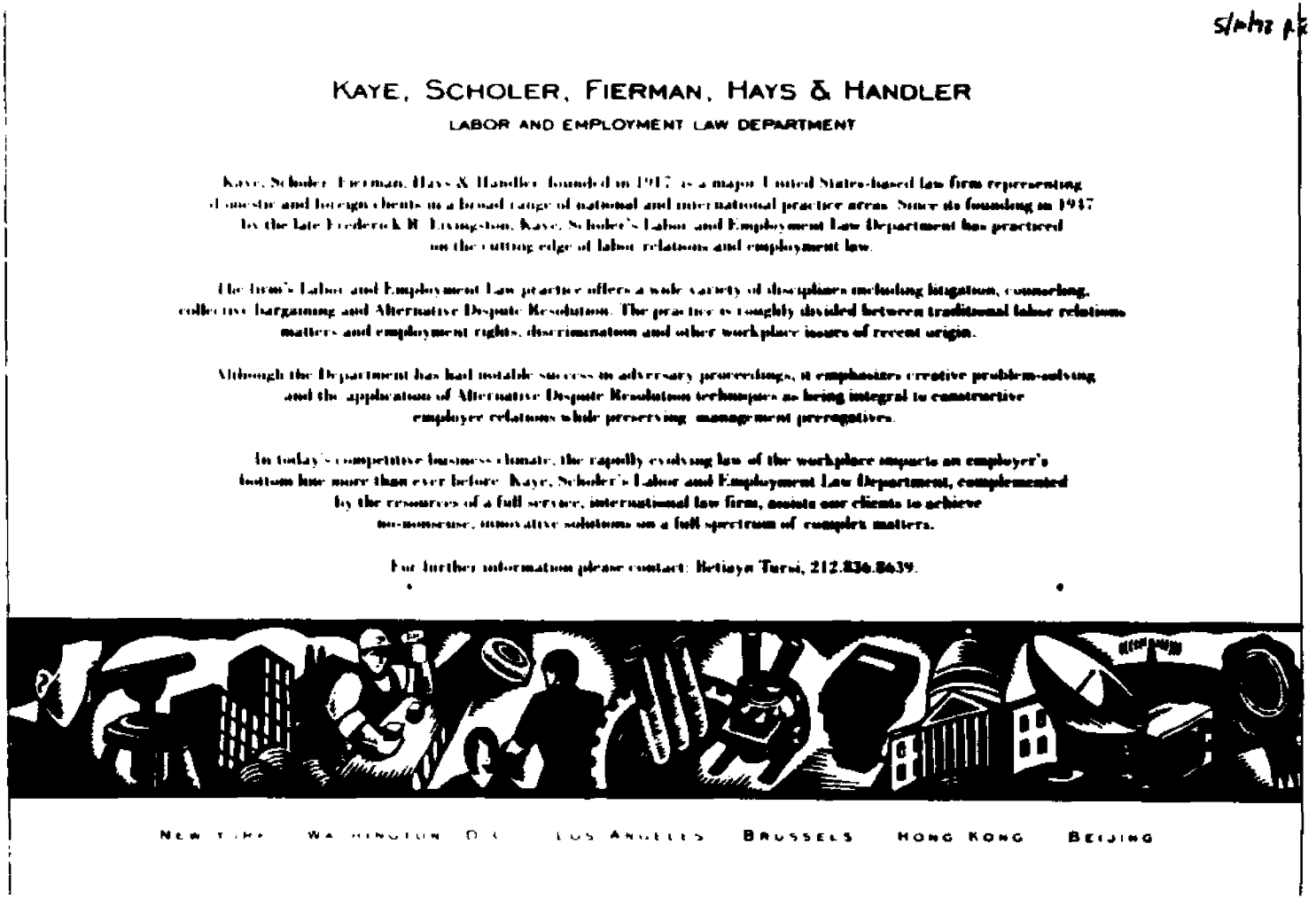
Source: West Publishing Co.

Figure 1.3:
First-Year Law Students, 1963 - 1991



Source: American Bar Association, 1991.

Figure 1.4:



KAYE, SCHOLER, FIERMAN, HAYS & HANDLER

LABOR AND EMPLOYMENT LAW DEPARTMENT

Kaye, Scholer, Fierman, Hays & Handler, founded in 1917, is a major United States-based law firm representing domestic and foreign clients in a broad range of national and international practice areas. Since its founding in 1937 by the Late Frederick M. Livingston, Kaye, Scholer's Labor and Employment Law Department has practiced on the cutting edge of labor relations and employment law.

The firm's Labor and Employment Law practice offers a wide variety of disciplines including litigation, counseling, collective bargaining and Alternative Dispute Resolution. The practice is roughly divided between traditional labor relations matters and employment rights, discrimination and other workplace issues of recent origin.

Although the Department has had notable success in adversary proceedings, it emphasizes creative problem-solving and the application of Alternative Dispute Resolution techniques as being integral to constructive employee relations while preserving management prerogatives.

In today's competitive business climate, the rapidly evolving law of the workplace impacts an employer's bottom line more than ever before. Kaye, Scholer's Labor and Employment Law Department, complemented by the resources of a full service, international law firm, assists our clients to achieve cost-conscious, innovative solutions on a full spectrum of complex matters.

For further information please contact: Bethiyn Turni, 212.836.8639.

NEW YORK WASHINGTON D.C. LOS ANGELES BRUSSELS HONG KONG BEIJING

Source: *National Law Journal*. 1993. (May 10): 27.

Figure 1.5:



"Your mommy, Caitlin, is a hired gun."

Source: *The New Yorker*. 1993. (June 12): 52.

CHAPTER TWO

Methodology and Data

Origins of the Study.

My initial interest in the study of large law firm associates came from a job I had as an part-time paralegal at one of the large Wall Street firms. This firm operated late into the night and on the weekends, so it required a full contingent of second shift word processors, proofreaders, paralegals, copy clerks, delivery pages, fax machine operators, and the like, to perform the interstitial work of office production. The paralegals were comprised of typically Ivy League educated, underemployed, playwrights, actors, cartoonists, and film makers. I was one of the small elite band of Ph.D. students. While I took the job as a form of financial aid during the Reagan years, it quickly became apparent that something interesting was occurring.

The work of paralegals was typically clerical — proofreading, redlining, copying documents, indexing depositions, typing labels, and coordinating the distributions of the endless "sets" of documents circulated to the participants in a corporate financing.[1] Occasionally it was more exciting. SEC filings (in Washington, DC) were a popular means for paralegals to earn frequent flier miles

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[1]. Photocopying, word processing, wide-bodied jets, and most recently FAX machine technologies have facilitated the speed-up of financial sector work. These technologies enabled documents to get longer, be distributed faster and more frequently, to more people. But technologies require people to operate and coordinate them largely the reason for my job.

while on the clock. Once, I was sent to the Bahamas for three days to sit by a FAX machine for a few hours each day, "in case we want to send a FAX to the client." A partner wanted one of his "own people" to hand the client the FAX as it rolled out of the client's FAX machine. On another occasion, I was sent to a Midwestern city to deliver a letter to the CEO of a firm, announcing the commencement of a hostile takeover against the company. The partner instructed me to "use any means necessary" to personally hand the letter to the CEO.[2] These are the kinds of low skill tasks that were previously the purview of first-year associates.[3]

Contrary to my expectations that elite Wall Street lawyers would leave the office by 7 PM to go home to their families and to otherwise redeem their high salaries and social status, I found many of them working late into the night (occasionally all night) and on most weekends. Partners and junior associates alike impressed me by the level of their work effort. But what impressed me most was how unhappy many young associates appeared to be. In the fleeting camaraderie that can develop between subordinates and superordinates during late-night crises

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[2]. Having read about the high stakes poker of the M&A boom, I was looking forward to seeing the CEO's face when I handed him the letter. In an age when Ivan Boesky was a household name, my presence bearing an unsolicited letter from a New York law firm would signal the letter's content to any CEO. Regrettably, my assignment was cancelled, as I waited for the 10 AM (market bell) delivery time. The takeover strategy had been reworked in the six hours since my leaving New York. The partner had sent me off with the rhetorical flourish, "If you fuck this up, don't come back, because neither of us will have jobs."

[3]. Lawrence Lederman writes that his first assignment as a first-year associate at Cravath was to ride the Pennsylvania Railroad's *Capitol Limited* to Washington, to file papers with the SEC (Lederman 1992, p. 23).

(Zerubavel 1981), I glimpsed aspects of the selves of associates. For example, late one Saturday night, a third-year associate and I were both leaning over the shoulder of a word processor, giving her clipped directions on how to fix a document, so the associate could sign it and give it to me to send off to an impatient partner in another city. He had been at work since early morning, and he would be back early Sunday morning. The associate turned to me and said in all seriousness, "My life is miserable."

In later years, I became the assistant to the head of summer associate hiring (always a young and affable partner in the Wall Street firms). Working for him, I learned about the firm's recruitment strategies and practices. During the 1980s, firms were vying for elite law graduates, so summer associateships were alleged to be "paid summer vacations."[4] What I also found was a sense of shock the summer associates went through after they returned to the firm as first-year associates.[5]

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[4]. There was some accuracy to this. For instance, on one occasion the firm wanted to make a point about their entertainment law practice, so they rented a local theater and arranged to have an exclusive pre-release viewing of one of the summer's blockbuster hits for summer associates and their guests. The movie theater's stale popcorn was replaced with $800 of "gourmet popcorn," trucked in by the firm for the occasion.

[5]. One of the jokes circulating in law schools makes this point: A law student dies and, being a middling sort, is offered the choice of trying out heaven and hell before picking his ultimate destiny. He decides to try out hell, to see what it is like. For three months, he is wined, dined, taken to plays, music, and ball games. Liquor flows freely and everyone is interested in his opinions at the frequent social gatherings. When his trial time is up, he waives off the opportunity to try out heaven, saying he's made up his mind. He picks an eternity in hell. When he returns, hell has changed into fire, brimstone, and torture, like an Hieronymus Bosch painting. The law student complains to Satan, "What happened, hell was such a nice

(continued...)

While my position limited my perspective in some ways, it also provided me with a unique access to elites' working behavior. The limitation was that this was still a job, and I tended to gravitate to the associates and partners who treated me well. Though, my reputation as a good organizer resulted in my getting some of the less desirable (from the worker's perspective), but invaluable (from a researcher's perspective), assignments. For instance, I was a "go-fer" for the lead senior associate on several large takeover deals. This required that I sit with the associate (ready to run errands)[6] through critical meetings between the firm's lawyers and the clients, as well as meetings of the whole board of directors of the clients. This "fly-on-the-wall" perspective often provided me with significant access to the partner-associate interactions under conditions of extreme pressure.[7] I became interested in the expectations of professional life and identity that these young lawyers brought with them to the law firm and how the law firm's culture and practices realized, frustrated, and/or altered their sense of professional identity.

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[5](...continued)
place, now it is miserable?" Satan responds, "Oh, that was our summer program, this is the real thing."

[6]. The errands were mostly trivial, but sometimes humorously absurd. A few of the "spare no cost" things I was asked to do in the 1980s were: order $800 of Chinese food for the officers, board members, and lawyers of two companies engaged in round-the-clock negotiations (with Pizza for one CEO who hated Chinese food); charter a helicopter and a private jet to get documents from midtown Manhattan to the Caymen Islands in three hours less time than commercial carriers; ship 500 reams of watermarked stationery overnight to Eastern Europe (before the fall of communism — no mean feat); and buy holiday gifts at F.A.O. Schwartz for a partner's grandchildren.

[7]. I will return to the problems of these field data in the section on "Reliability of the Data," below.

From this experience, I decided to examine law graduates' status passage (Glasser and Strauss 1971) from law school to law firm as a "reality shock," in Everett Hughes' phrase (Hughes 1958). This "breaking in" period (Van Maanen 1985) is a time of "surprise and sense making" (Louis 1990), when young associates attempt to reconcile the organization's unfolding expectations of them with their own expectations of their organizational role and self-identity.[8] This experience offered a unique research opportunity to examine the transition from a *pre*-professional self to a professional one.

The Study Design.

I will schematize the research design here, before returning to points requiring elaboration.

Based on my participant observation and reading of the literature on large law firms and organizational culture, I hypothesized that organizational cultures would shape the selves of associates. I developed two ideal types of firm cultures from the theoretical and legal trade press literature — a collegial-driven firm culture and an entrepreneurial-driven firm culture (Chapter Three).

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[8]. As Everett Hughes writes: "In the process of change from one role to another there are occasions when other people expect one to play the new role before one feels completely identified with it or competent at carrying it out; there are others in which one over-identifies oneself with the role, but is not accepted in it by others. These and other possible positions between roles make of an individual what is called a marginal man; either he or other people or both do not quite know to what role (identity, reference group) to refer him. We need studies which will discover the course of passage from the laymen's estate to that of the professional, with attention to the crises and the dilemmas of role which arise" (1958: 120).

The use of ideal types are not without problems (Blau 1963, Hall 1963). However, ideal types provide a useful theoretical entry point to the analysis of complex empirical data. Further, as my literature review hopefully made clear, the dominant theories of law firms largely assume culture as background to their rather relentless logics of power and self-interested maximization. I believe these claims of organizations' and actors' singular logics of action must be taken seriously. One earlier reader of this manuscript found my ideal types exaggerated, "caricatures" of real lawyers. I could not agree more. Nevertheless, the ideal types I will present are simple extrapolations of the important theories of law firms. The error, I believe, is in the theories' one-sidedness, not in the ideal type method.

Then, I specified fifteen organizational structure and practices variables that allowed me to impute the organizational cultures of the firms from empirical indicators, in line with the two ideal types (Chapters Four). I surveyed the thirty largest New York City law firms on these structural measures and identified two clusters of firms that approximated the two ideal types and a third group of mixed cases (Chapter Five).

The population of organizations under study here are the thirty largest firms in New York City, in 1991, as measured by number of attorneys (hereafter, "size"). By holding constant the structural variables of size, rates of growth, span of control, and the type of work done by the firms, I was able to examine the firms on other structural measures that allowed me to impute organizational cultures. Size has long been thought of as a surrogate for complexity (Blau 1971). Organizational growth

rates are likely measures of institutionalization of organizational structures.[9] The span of control is a measure of the carrying capacity of the organizational structure (Heydebrand 1973).[10] Similarly, organizations' benefit structures can yield structural differences (Blau and Scott 1962). By holding the type of work done by these firms constant, technological (Perrow 1967) and resource dependence (Pfeffer and Salancik 1978) variability is negated.

I developed two ideal typical selves that should be present in the respective ideal typical firm cultures, if cultures have an effect on the selves of members. The null hypothesis was that market forces wipe out any firm culture effects on the selves of young organizational members (Chapter Six).

Firm Selection.

The study's design called for selecting two firms for further study, one each from the two clusters of firms that approximate the ideal types, as assessed by the empirical indicators. However, the vicissitudes of the market and subsequent access problems prevented me from completing this comparative, A:B study design.

The first collegial-driven firm I interviewed at was in the midst of laying off associates. After completing 32 interviews, I decided to drop this firm from the study

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[9]. Tolbert (Tolbert 1988, p. 108) finds that growth rates correlate with formalization of socializing structures, in large law firms. Holding growth rates constant should stabilize this variable.

[10]. I adapt the concept of span of control to the unique work relations of law firms, where more senior peers supervise a varying number of junior peers — the associate-per-partner ratio, or leverage.

because the associates were consumed with the fear of being fired. There appeared to be no firm culture available to these associates, only the sharp fear of being fired while carrying $40,000 of educational debt. With the help of the American Bar Foundation, I was granted access to a second collegial-driven firm. Subsequently, attempts to gain access to five different entrepreneurially-driven firms for parallel data were refused (see the discussion of "Access and Refusals" below).

The dissertation is written in the form of a comparative study, but the reported data are largely limited to an intensive case study.

The Data.

Associates. Between May and July of 1992, I conducted 29 semi-structured interviews with a randomly selected sample of junior associates, stratified by gender, from a firm population of first-, second-, and third-year associates (*i.e.*, the classes of 1989, 1990, and 1991). The sample comprised roughly one-quarter of the firm's junior level associates. There were four refusals — two males and two female, who were randomly replaced.[11] Tables 2.1*a-c* show the percentage composition of the

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[11]. Upon being granted access, the firm provided me with a list of all first-, second-, and third-year New York Office associates (the firm's target population), their departments, law schools, and extensions. The firm then sent a memo to this population announcing my study, promising firm and individual confidentiality and concluding, "The firm encourages you to participate, but your participation is voluntary" (attached as Appendix B). Within one week, I mailed a letter to the sample requesting their participation, promising confidentiality, and stating I would call them to schedule an appointment (attached as Appendix C).

Of the four refusals, one was by typed letter, one was orally by the attorney's secretary, and two were in direct telephone conversations with the attorneys.

(continued...)

firm and the sample.[12]

For the known characteristics, the sample and the firm's population of junior associates are quite similar. Seventy-three percent of the junior associates were male and 72 percent of the sample were male. The classes of 1989, 1990, and 1991 comprise 25, 44, and 31 percent, respectively, of the junior associate population in the firm. The sample class distribution is 31, 35, and 35 percent, respectively. The junior associates' distribution among the three departments are: corporate, 58 percent; litigation, 33 percent; and service, 9 percent. The sample's distribution is 55 percent, 31 percent, and 14 percent, respectively. The sample and the population of the firm's junior associates come from equally prestigious law schools. The 62.5 percent of the population come from "elite," top-10 law schools, and 74.1 percent of the sample came from those same schools.[13] In all, the 29 interviewees appear to be representative of all the junior associates in the firm.

The interviews took place in the associate's office or, in the case of three first-year associates who share their offices, in conference rooms. Interviews were scheduled weekdays between 8 AM and 8PM. They ranged in length from 55 minutes to 2 hours and 35 minutes. The interviews were recorded and transcribed

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[11](...continued)
See the discussion of reliability, below, for speculation on replacement-induced error.

[12]. Firm and individual confidentiality restrict my ability to offer a more complex crosstabular table on the firm population or the sample.

[13]. The assessment of law school prestige is discussed in detail in Chapters Four and Five.

verbatim.

The semi-structured interview outline is reproduced in Appendix D. Included in the interview were twelve closed-ended questions designed to measure the selves of the associates.[14]

Partners. I conducted four formal partner interviews in July 1992. The partners consisted of the head of associate hiring, the head of the corporate department, the assigning partner for the corporate department, and a recently made partner in the litigation department. The latter two were selected by the firm. These semi-structured interviews lasted from 50 minutes to 1 hour and 45 minutes and covered a variety of topics related to associate hiring, training, evaluations, work assignments, partners' beliefs about associate career intentions, and a subset of the associate self measures.[15]

Subsequently, in February 1993, I met with two groups of partners to report on my findings, at their request. In each case, I had circulated a twenty page narrative of my findings to the participants in advance. The meetings themselves effectively became focus groups for partners' discussions of the associate work life issues I reported on — associate firm choice, training, reviews, the assignment system, and several firm-specific morale issues. The first focus group consisted of

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[14]. The self measures are contained within the Interview Outline. Appendix E lists the twelve self measure questions separately, for ease of reading.

[15]. Because these interviews substantially varied with the specific responsibilities of the partners, it is not possible to reproduce all the partner interview outlines. The common, core partner interview questions are reproduced in Appendix F.

the managing partner of litigation, the deputy managing partner of litigation, the partner in charge of litigation associate training, and a young litigation partner. This meeting lasted 2½ hours. After this meeting, I met privately with the head of litigation for 2 hours. The second meeting consisted of the partner in charge of associate hiring, the managing partner of the corporate department, the managing partner of the service department, and a younger service department partner in charge of training. This focus group lasted 2 hours.[16]

Other. Additionally, I interviewed the non-lawyer director of legal personnel on issues of associate recruitment, hiring, orientation, termination, and the handling of associates' complaints. I reviewed the firm's office manual, lawyer time tracking/billing reports, the work assignment tracking forms (both used by assigning and reviewing partners), the alumni list, and a non-random selection of 20 associates' evaluation folders from one department. Subsequently, I have informally interviewed one retired partner and two former associates of the firm.

Findings.

I did not find strong evidence of the predicted associate selves in this firm, as judged by the twelve self measures (Chapter Seven). Formally stated, I did not reject the null hypothesis that market forces wipe out any effect of organizational culture on the professional selves of young associates. However, I believed that the available

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[16]. The focus groups were not recorded, but I took notes during the sessions. Immediately after each focus group, I reconstructed the dialogues from the notes, on my laptop in an adjacent coffee shop.

data would support a more fine-grained, interpretive methodology.

Interpretive Methods.

Accordingly, I switched to an interpretive methodology to reanalyze the theoretical question by other means. First, I reviewed the partner practices related to associate workloads, training, reviews, assignments, and promotions (Chapter Eight). Then, I interrogated these practices for their underlying cultural elements (values and beliefs) that "drive" them, as a means of assessing the partners' culture. This allowed me to examine the degree to which the partners' culture is unitary, shared, and consistent with the firm culture imputed from the structural measures (Chapter Nine). Similarly, I analyzed the associates' practices in response to the structure created by partners' culture and practices (Chapter Ten). Finally, I examined the associates' vocabularies of motive — as a measure of selves — for values, beliefs, and logics of action that reflect the partners' culture (Chapter Eleven).

In summary, this dissertation examines the effects of organizational cultures on the selves of new members by combining formalistic and interpretive methods in the analysis of historical, structural, individual, and archival data.

Reliability of the Data.

I use six sources of data in this study, each with its own strengths and weaknesses. I will review each in turn.

Structural Measures.

The structural measures of firms are derived from two sources, the national legal trade publications' various annual reports and *Martindale-Hubbell*, the standard directory of lawyers and law firms.[17]

Because law firms have for so long been closed worlds beyond the gaze of researchers (Smigel 1969, p.18-32), reliable historical data are often unavailable. Even after 15 years of the popular legal trade press reporting, basic data, such as the number of attorneys[18] and firm revenues, are calculated differently and, in the latter case, are often "educated guesses" (Brill 1987). In selecting data to report, I have used only figures derived from a consistent methodology for the length of the period reported. Further, some firms chose not to participate in the early years of the surveys, often leaving large blank spaces in the pre-1984 columns of the tables reported in Chapters One and Five.

Some data that would be important firm culture measures are simply not available in usable form. For instance, associate satisfaction data, *pro bono* effort, firms' management structures, partners' governance, and partner profits distribution

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[17]. All lawyers who are admitted to the bar can be listed in this directory. However, firms must pay for firm listings. The cost typically discourages firms from listing associates. For example, one typical firm in this study, that lists only partners, paid $30,000 in 1992 for its firm "card," as it is called.

[18]. Galanter & Palay's (1991) methodological appendix contains an excellent discussion of the problems entailed in the simple task of enumerating the number of attorneys in firms. *Martindale-Hubbell*, the *American Lawyer's* annual AMLAW 100, and the *National Law Journal*'s annual NLJ 250 all provide similar, but never identical, lawyer head counts.

formulae are not available in usable form. These data must await another study.

Firm Culture and Practices Measures.

I used five types of firm culture and practices data: my own participant observation at one firm, informant interviews, associate interviews, partner interviews, and archival materials.

Participant Observation. My five years of participant observation provided me with a broad sensitizing experience. I was intimately familiar with young associates' work tasks involving the library, closings, large litigation document productions, due diligence reviews, and the production and circulation of draft documents. In short, those associate tasks that require assistance. However, I knew much less about the solo work assignments associates perform without the aid of paralegals. I knew nothing of the private discussions between partners and their associates, that take place in the cab ride to the airport, at a lunch celebrating the end of a deal, and the like. Moreover, I systematically tried to avoid the most obnoxious associates and partners — with only partial success — for reasons of my own peace of mind, but thereby limited my exposure to the total array of permissible personalities and behaviors in that firm. Thus, my participant observation probably over-sensitized me to the enormous, dull essentially clerical tasks associates are asked to do (and seek help from paralegals on) and limited my knowledge of the small, discrete, often more challenging tasks that associates covet.

Informant Interviews. In addition, I carried out formal and informal informant

interviews with associates from other firms in the population (n=72), partners at other firms in the population (n=9), law firm consultants (n=2), legal trade press editors and reporters (n=3), "headhunters" (n=2), law school students (n=5), law school legal placement officers (n=2), partners' wives (n=3), and non-professional law firm administrators and support staff (n=5).

Combined with my participant observation (discussed above), these interviews and, at times, dinner party conversations, provided me with a non-systematic list of issues of concern to partners and associates, the argot of lawyers and law students, historical facts about firms and particular lawyers, and the "word on the street," otherwise known as gossip. These informant data provided me with rapport building tools (argot, command of firm-specific facts, and topical questions). Further, they provided me with sensitizing concepts. For instance, at a dinner party I was introduced to a managing partner of one of the firms in the population. When he heard about my study, he quipped, "You mean you're studying why associates feel they shouldn't have to do xeroxing?" I turned the joke into an insight for a question that elicited strong responses from young partners fuming with resentment at the self-important law graduates of the late 1980s (see Chapter Nine).

The problems with informant data, perforce limit its use in this study. Informants are myopic, self-serving, and, at times, wrong (Van Maanen 1988). For instance, I mistakenly accepted an early informant's assessment of the status hierarchy among the thirty firms. When I later invoked this hierarchical list in the course of an interview with another partner, he objected strongly to the order. Not only was the

order wrong, he made clear, but he then refused to offer his own rankings.[19]

Associate Interviews. The associate interviews provided two forms of data. First associate answers were respondent data for assessing their selves. Their utterances were analyzed for their use of vocabularies of motive in explaining their actions and beliefs. Vocabularies of motive provide access to the logics of action available to the associates — the structure of their values, beliefs, and actions. In this way, I did not need to concern myself with associates' "true motives," or issues of deception, self-deception, or *akrasia*, that have tormented rational actor theorists. Second, associate responses were a form of informant data on partners' and other associates' practices. They provide informant data on typical associate practices and validity checks on partners' reporting of firm practices *vis a vis* the associates. The limitations of these data include the overall isolation of the associates. Their statement regarding typical associates' and partners' practices are likely biased toward their network position. However, in the absence of network data, there is some chance of the sample missing network niches. Based on the information available to me, there is no difference between the firm's associate population, the four refusals,

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[19]. Partners are much less willing to rank the firms among the "tiers" than associates are. But associates admit to not knowing enough about the market to be able to do so.

I eventually adopted the strategy of offering a conservative list of the "top firms in the city" while omitting the interviewees' firm and inserting a "ringer" name. The sentence construction of lawyers' answers always took the form of "we ...," implying the inclusion of the respondent's firm in with my list, and the often vehement rejection of the "ringer" firm.

and the sample, though this remains a possibility.[20]

Partner Interviews. The partner interview and focus group data provided informant data on the practices of the partners toward the management of associates. Theoretically, partners' utterances have a higher likelihood of reflecting the partnership consensus, as well. Individuals whose views deviate from the majority view are likely to have been filtered out either by not being promoted to partner or by not being placed in charge of policy areas, such as associate hiring and assignments or heading a department. Thus, it seems highly likely that the partners' interview and focus group data reflect their actual orientation toward the associates. Moreover, I was able to triangulate partners' claims about formal and informal practices at the firm against both the formal rules and procedures formalized in the attorney manual, evaluation and tracking reports, and other forms as well as the associates' informant reports on partners' informal practices. I believe that this provided me with highly

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[20]. Of particular concern is this sampling method's inability to assess the experiences of minorities. The small numbers of minorities in the population of all big firm associates makes discussions of firm differences in the treatment of minorities impossible under the confidentiality procedures. I cannot discuss specifics of minority issues at the firm under study without compromising the confidentiality of one or more interviewees.

Overall, the number of minority interviews are too small for generalizations. I randomly encountered three African-Americans and five Asian-Americans in the course of my more than 100 associate interviews in the wider study. Almost all were initially reluctant to speak about issues of race and discrimination, though they clearly thought about these issues often. Two randomly selected interviewees volunteered that they never would have agreed to the interview, had they thought I selected them because of their race. The minority interviews revealed their shared feelings of being under intense scrutiny.

It may well be worse for female minorities. As one minority woman said to me in a phone conversation, her voice filled with emotion, "You'll never be able to conceal my identity. They'd know who I am."

reliable data on the limited set of partner practices related to associate hiring, training, assignment, and evaluation issues.

Archival Data. Finally, the archival materials I reviewed provide a check on actors' claims about the typical procedures at the firm. Associates' claims about what types of jobs they can get after leaving the firm could be assessed against the firm's alumni/ae list. Partners' claims of associates not billing as much as they used to could be checked against the firms' time records. While rules and forms arise in organizations in response to specific issues, they often survive long after the issue has dissipated. Accordingly, archival data must be used with extreme caution. Studying the assignment book for assignment practices is of little value in a firm where two-thirds of the work is distributed informally.

Rapport.

Rapport is everything in ethnographic interviews. Researchers must work at developing rapport. While I promised the interviewees complete confidentiality, my study was sponsored by the partnership. Three associates volunteered that they assumed the partnership had picked them to be interviewed, despite my repeated written and verbal explanations of the random selection process. Nearly half the associates initially hesitated to the taping of the interviews.[21] Several times it took five minutes of verbally repeating the two written assurances of confidentiality they

[21]. In contrast, only 1 of 32 associates refused to have their interview taped at firm A1, in the midst of associate firings.

had already received (I gave them a third at the conclusion of the interview), before they consented. Eventually, I learned to diminish the importance of the tape recorder with the statement, "Taping just makes my life easier, so I don't have to take notes and it speeds up the interview." This was a cautious group.

In pretesting the interview outline, I discovered that structuring the interview as an autobiographical progression starting with "What are your parents' occupations?" and "When did you decide to become a lawyer?" then "Why did you pick this firm?" and only later moving to more sensitive questions of work roles and partner relations, encouraged candor. I believe the auto-biographical logic to the development of the interview facilitated a building of trust.[22] As one partner quipped, "Hey, I like this. It's like being on Johnny Carson" (A2P4: 8). Several associates thanked me at the end of their interviews for giving them an opportunity to reflect on issues they have "not thought about before."[23]

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[22]. I have no way of proving this claim. At some point researchers must make use of the "feel" of the interview in assessing and weighing interview data. Acknowledging the resonance that is sometimes present in an interview is merely to recognize some of the central findings of Goffman (1959, 1961*c*, 1962, 1974), hermeneutics (Gadamer 1976), the sociology of emotions, and the social psychology of the self (Turner 1976). This is undoubtedly the source of both insight and bias.

[23]. These comments lend support to the fears of the partners at the firms that refused to participate, it seems; though I suspect the questions that I caused associates to think about and the questions the partners feared I would cause them to think about varied.

At the first firm, A1, three separate associates sent word through their friends, whom I subsequently interviewed, thanking me for giving them new insights into their lives. As one said when I introduced myself, "Yes, I know all about you. You interviewed my friend and she said it was really fun. She said you gave her a new perspective on her life and things. I was hoping you would pick me, too."

One likely source of this rapport is my own social capital. I dress, look, and speak like the associates I studied. Though I was typically several years older than the associates, in a Brooks Brothers suit I probably looked like a peer. Further, my familiarity with legal procedures, terms, and office argot helped in easing associate suspicions. Several associate comments suggested that they perceived me as a peer. While this familiarity may have put the associates at ease, it may also have limited what they felt they needed to explain to me.

I developed a Carl Rogers-like mode of encouraging lawyers to complete their thoughts.[24] I trained myself to withstand awkward silences after lawyers' terse answers, to force them to elaborate. The interview transcripts are filled with my one-word replies, "Uh-hum." Conversation normally has a ping-pong-like reciprocity, with each interlocutor "helping the other out" to keep the conversation flowing, as Garfinkel makes clear (Garfinkel 1967). By manipulating this norm, I was often able to elicit more detailed elaborations of what was otherwise implicit. This worked well with most associates. Partners, on the other hand, are typically more skilled negotiators and thus know how to measure their words. In one case, this technique resulted in the partner's clear irritation.

Partner interview rapport was mixed. Two young partners were told to speak

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[24]. Rogers, you may recall, developed a clinical technique to inhibit therapist cuing of patients. Rogerian therapists limit themselves to phrases like, "I see," and "Please go on." This was later parodied in the computer therapist program, Elisa.

with me and they approached the interview cautiously.[25] The partner focus groups were lively and apparently quite candid. After the fact, it was clear that the partners had an agenda that I facilitated in some way. I deduce this by the observation that anything that can hold half the firm's very busy managing committee in a room for two hours must be important to them. Indeed, at times the partner exchanges in the focus groups became so lively, that I just sat quietly listening (wishing I had a tape recorder!). I believe that this partner agenda contributed to my witnessing representative partner interactions.

Reliability and Generalizability.

Firm Access and Refusals.

As I mentioned above, the recession in the market for corporate legal services from 1989 to 1992 inhibited my research. I was never able to gain full and equal access to a firm from the entrepreneurially-driven cluster.[26]

If the structural measures of imputed firm cultures are accurate, then my sample is systematically biased. In two approaches of firms with imputed collegial-driven cultures, I was granted access in both cases. In five approaches of firms with imputed entrepreneurially-driven cultures, I never received access. At two of the

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[25]. Though one of these later loosened up when I commented on my shared interest in an out-of-town baseball team (his sideboard was covered with this team's knickknacks). This galvanized the interview and resulted in the partner inviting me to continue the interview beyond the time he said he had to be at his next appointment.

[26]. I approached the firms through senior partners (partner sponsors) who I knew socially or who were introduced to me through American Bar Foundation contacts.

rejection firms, the partner contacts used nearly identical language to explain their firms' refusals to participate: "[We] don't want anyone walking around the firm asking questions that would cause associates to think about things that they shouldn't be thinking about." A third firm contact demurred at even sponsoring the study, with the statement, "My firm is not interested in 'touchy feely' studies like this." The partners, this contact reported, want to be "in control" of the associates at all times.[27] A managing committee partner at another refusal firm characterized his firm's morale as "low": "Heads of firms down to the most junior associates are concerned about the future of this type of professional practice," he summarized. In a sense, the market had beaten me to the study of the effects of the encroachment of the market on the professional culture of these firms.

The firm acceptances and refusals appear to support the firm culture distinctions, I develop in the later chapters. The pattern of these refusals is consistent with the entrepreneurial-driven culture model. I would expect bottom line-oriented, entrepreneurial-driven firms would not be interested in what they would define as touchy feely studies and collegial-driven firms to be interested.

On the one hand, this "structural firm bias" may provide for a stronger test of

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[27]. This contact used nearly the same phrase as quoted above, only qualifying it with the phrase, "An individual not under the control of the partners, going around the firm asking questions .... would be explosive." The contact continued by defending the firms' "concern" for associates by its holding annual "beef sessions." This was described as, "Once a year, the firm manager and the heads of the departments sit in a conference room together with all the associates. *That is where* the associates can air their disgruntlements. The partners listen, and if they don't have an answer, they go to the head of the support department and they get it fixed" (emphasis in original).

the theory. Anticipating the arguments I will develop in the following chapters, I argue that the two ideal types of firms are differentiated by their logics of action underlying the firms' cultures. One is more collegial and thus protected from market rhetorics and orientations. One is more entrepreneurial, and thus less collegial in actors' rhetorics and orientations. If firm culture has an effect on associates' professional selves, it is most likely to appear in a collegial-driven firm against the background of the market-oriented culture. Thus, if there is an absence of collegial culture effects, this suggests that the entrepreneurial-driven firm culture would also have no effect on associates' professional selves separate from the background market culture.

On the other hand, because the "strong" culture theory did not predict the associates selves, this firm may be a sample of *all* the large New York firms' *associates' selves*. The partners' cultures may well vary, as argued here, but the junior associates' cultures could be identical across the large firms. This remains a question for future research.

Table 2.1*a*:
Firm and Sample: Percent Distribution by Year and Gender

Year (row/ column)	Firm			Sample		
	Male	Female	Total	Male	Female	Total
1989	75.0% 25.6	25.0% 23.3	100.0% 25.0	77.7% 33.3	22.2% 25.0	100.0% 31.0
1990	73.5 43.9	26.5 43.3	100.0 43.8	70.0 33.3	30.0 37.5	100.0 34.5
1991	71.4 30.5	28.6 33.3	100.0 31.3	70.0 33.3	30.0 37.5	100.0 34.5
Total	73.2 100.0	26.8 100.0	100.0 100.0	72.4 100.0	27.6 100.0	100.0 100.0

Table 2.1*b*
Firm and Sample: Percent Distribution by Class and Department

Year (row/ column)	Firm				Sample			
	Corp.	Lit.	Service	Total	Corp.	Lit.	Service	Total
1989	42.9% 25.5	46.4% 35.1	10.7% 30.0	100.0% 29.8	77.7% 44.8	22.2% 22.2	0.0% 0.0	100.0% 31.0
1990	41.9 27.7	45.2 37.8	12.9 40.0	100.0 33.0	60.0 37.5	20.0 22.2	20.0 50.0	100.0 34.5
1991	62.9 46.8	28.6 27.0	8.6 30.0	100.0 37.2	30.0 18.8	50.0 55.6	20.0 50.0	100.0 34.5
Total	100.0	33.0 100.0	9.0 100.0	100.0 100.0	55.1 100.0	31.0 100.0	13.8 100.0	100.0 100.0

Table 2.1*c*:
Firm and Sample: Percent of Associates from Law School Rank

	Law School				Total
	Elite	Prestigious	Regional	Local	
Firm	62.5%	9.6%	20.5%	7.1%	100.0%
Sample	47.1	3.7	14.8	7.4	100.0

CHAPTER THREE

Two Ideal Types of Firms

As a paralegal for more than five years at a newly formed, historically "Jewish" law firm with a reputation for aggressive litigation and corporate legal work, I developed a model of an entrepreneurial professional organization's structure and practices. This general image was derived from observing partner-associate interactions, working closely with all levels of associates on matters important and trivial in the production of legal materials, and, finally, working as an assistant to the partner in charge of summer associate recruiting. In all these capacities, I had the opportunity to observe associates' daily work life and practices. While this view was rather one-sided and firm specific, it did provide certain insights. I was continually impressed by the palpable conflict between a rationality of professionalism and a rationality of the market within the firm.

Confidentiality prevents me from detailing the history of the firm I studied. However, wide-spread press coverage of a similar firm allows for a discussion of this type of firm's history. Skadden, Arps, Slate, Meagher & Flom received wide legal and business press coverage during its meteoric rise over the last twenty years. It is the ideal typical entrepreneurial firm. The substantial mix of enthusiastic and critical press about "one of the fastest growing law firm in the country" (1975-1985) made Skadden, Arps the standard for all large firm lawyers to assess their own firm's performance by. Whether they viewed it positively or negatively this firm was the measure of at least one form of success in corporate legal services. The lawyers at

my participant observation firm were no different than other large firm lawyers I subsequently interviewed in their use of Skadden, Arps as an informal yardstick.[1] The following description of Skadden, Arps can be seen as representative of several firms.[2]

Skadden, Arps grew from three partners and one associate[3] in 1948 to the largest firm in New York City — and the third largest in the world— in 1990 largely because of an ingenious marketing scheme of a name partner, Joseph Flom. Flom, the son of a Jewish garment worker from Bensonhurst, Brooklyn, went to Harvard Law school on a G.I. Bill scholarship. Though law review editor in 1947, he found that most of the Wall Street firms would not interview, let alone hire, a Jew, so he

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[1]. Somewhat surprisingly, this yardstick was not limited to lawyers in the corporate legal services hemisphere. Several times during my interview work for Professor Carroll Seron's study of solo and small firm legal practitioners in the New York metropolitan area, interviewee-attorneys compared themselves to Skadden, Arps, with statements such as, "I'm no Skadden, Arps, but I have enough business that I think I will be needing a full-time secretary next year." This is an indication of the breadth of the press coverage about this firm and, perhaps, also some measure of the poignancy of the "underdog," "local boy makes good" quality of this firm with its self-consciously Jewish, working class origins firm leader, Joseph Flom.

[2]. This history is drawn from published press reports and a privately published firm history. The work practices description that follows below is based on the firm I performed my participant observation at. I performed a few informant interviews with Skadden, Arps attorneys to confirm the typicality of these work practices across entrepreneurial firms.

[3]. Marshall Skadden, Les Arps, and John Slate were associates at Root, Clark, Buckner & Ballantine (now Dewey, Ballantine) before starting the firm. Flom was the first associate.

became the first associate at a three-lawyer upstart firm (Brill 1989, p. 69).[4] Flom developed an early reputation for having perfected several legal strategies for hostile mergers and acquisitions of corporations, just as the takeover boom of the 1970s and 1980s began.

Flom developed these legal maneuvering skills during hostile proxy (shareholder voting) contests, when larger law firms shunned this work as "an unacceptable business practice." In the 1950s and 1960s, blue-chip corporations did not engage in unfriendly M&As ("hostile takeovers"). Such alley scuffles among blocks of stockholders were deemed "ungentlemanly." Small companies, small investment banks, and small law firms, were the only entities that engaged in such behavior. Thus, a few marginal law firms acquired the skills that would be essential to the hostile takeover movement. Flom's first proxy contest was on behalf of a client attempting to take control of the board of United Industrial, Inc., a small

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[4]. Anti-Semitism is the *leit motif* of the history of Wall Street law firms. Smigel noted its history among the Wall Street firms, but felt that it had all but disappeared by the time he wrote his Epilogue to the 1969 version of *Wall Street Lawyers*. Yet, perforce this dissertation must return time and again to a discussion of the social status phenomenon of anti-Semitism because it is so entwined with the history of American elite institutions. Elite law firms' cultures were (and still are) no less affected by this legacy than New York philanthropic boards and housing markets.

Steven Brill gives a contemporary example of this in his profile of Flom: "Although Skadden has become the ultimate establishment law firm, now representing more of establishment corporate America than any other three firms, many partners will still tell you, in describing their us-against-the-world view of things, stories like the one about Flom and his wife being rejected just three years ago [1986] from buying a $2 million co-op on Fifth Avenue after the co-op board, which was chaired by the wife of then-Sullivan & Cromwell chairman William Ward Foshay, blackballed them because they are Jewish. (According to Flom, the opposition was led by Mrs. Foshay...)" (Brill 1989, p.84).

company, in 1959 (Skadden 1988, p. 9). In the 1960s, Flom was at the legal forefront of tender offer acquisitions, another method of corporate takeovers that became the basis for Michael Milken and Drexel, Burnham, Lambert's junk bond financed hostile takeovers.[5] In 1973, Morgan Stanley acted as the investment banker for International Nickel Co.'s attempted takeover of ESB, Inc. With such a prominent investment bank as Morgan Stanley[6] engaging in a hostile takeover, the norms of constraint among elite capitalists, detailed by Stuart Macaulay (1963), fell. Skadden, Arps represented Morgan Stanley in that deal.[7] The hostile takeover boom

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[5]. Proxy contests are contested shareholder elections for seats on a corporation's board of directors. Stockholders sign voting proxies over to factional leaders of a block of stockholders who are contesting the current board's policies. The standing board's powers, including a refusal to call a shareholders' meeting, gives them an often decisive advantage in such factional fights. It is a struggle among extant shareholders for control of the company.

In contrast, a tender offer is a standing offer by the hostile acquiror to buy a majority of the shares of a company's stock at an advertised price. The price typically must be high enough above the current stock market trading price of the stock to entice shareholders to forego long-term dividends and pay transaction fees in order to reap a short-term profit. Tender offers, open market transactions, can more readily evade an entrenched board's oppositional tactics.

The growth in M&A legal services work arose from the spiraling attack and defense tactics invented by law firms on behalf of their respective clients in the 1980s. The tactics evocative names include: Poison Pills, Pacman, White Knights, and the Jewish Dentist defense.

[6]. Podolny's article on status constraints on market mechanisms in investment banking gives the highly stable status rankings of the major investment banks. Morgan Stanley is ranked first (Podolny 1993, p. 857). This article provides indirect confirmatory evidence of the importance of the high status Morgan Stanley's use of Skadden, Arps, for the law firm's future business (see note 7). Investment bankers are highly sensitive to high status bankers' actions, Podolny argues. Morgan's actions probably opened up an entirely new potential pool of clients for Skadden, Arps.

[7]. "It was the first time a blue-chip investment banker represented a blue-chip client in a hostile cash tender offer," (Jensen 1988, 53). The same partner earlier told the *American Lawyer*, the 1974 International Nickel corporate raid on ESB Inc.

lasted from about 1975 to 1989,[8] starting with outside "raiders" like T. Boone Pickens, Ronald Perelman, Sir James Goldsmith, and Robert Maxwell, but quickly including hundreds of blue-chip firms, including Anheuser-Busch; Texaco; R.J.R. Nabisco; AT&T; IBM, and Revlon.

Flom had the specialized skills that blue-chip firm managers wanted on their side.[9] As demand for his services grew, the firm started accepting "retainers" of $40,000 each from corporations, assuring them that Flom would be "on call" in the event the company was a target of, or wished to undertake, a hostile takeover.[10] If

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was "when things started to go crazy around here. It established raids, and us, as respectable factors in the business world," (Brill 1979, 12).

[8]. See Figure 1.1: Mergers and Acquisitions, 1960 - 1990, in the Introduction.

[9]. Michael Powell summarized Flom's position well: "takeover battles are obviously of crucial importance to the corporations involved — they are 'you-bet-your-company' kind of struggles — and CEOs want to be sure that they have the best legal advise money can buy. A handful of Jewish firms have the reputation in this area and long experience to back it up. It would be a brave CEO that would ignore this fact and put his company at risk" (Powell 1991, p. 15). To Powell's quote, I would add: "... and put his job at risk."

Lawrence Lederman, formerly of the chief competitor firm to Joseph Flom's in the M&A business, Wachtell, Lipton, describes the initial anomaly of old-line Wall Street firms whose bankers' "backgrounds were as traditional, and with as little variation, as the clothing they wore," using Joseph Flom whose appearance and stooped posture made him look like a "tailor" and one of his assistants, "Morris Kramer, who was known to wear velvet suits, had shoulder-length hair, and a high-pitched voice with a pronounced Brooklyn accent" (Lederman 1992, p. 117).

[10]. In the parlance, "target" and "acquiror," respectively. Though the retainer was nominally good for using Flom's services for a takeover or a defense, the firm's policy was to go with the defense, should both parties be retainered clients. A clause in the retainer made this possible, by exempting the firm from conflict of interest complaints by an acquiror/client retainee: "Should your corporation or any person affiliated with it seek to acquire or invest in any other company which is a client of our office we will be free to represent that client and the same shall not result in a reduction of the retainer" (Brill 1979, p. 14).

they did not use the retainer's value in a takeover battle, clients could use it to purchase other legal services that the Skadden, Arps offered, or forfeit the value of the retainer at the end of each year. In 1978, two-thirds of the firm's $30 million of revenues came from takeover-related work (Brill 1989, p. 70). This expertise fueled the collateral selling of the firm's upstart traditional legal services departments. This was a signal case of entrepreneurial "cross selling."[11]

Taking advantage of this opening with blue-chip companies that otherwise would never have considered Skadden, Arps as an outside counsel, the firm grew rapidly. "Using the firm's prestige in its established areas and its financial resources to cherry pick talented partners from competing firms" (Brill 1989, p. 74), the firm quickly expanded its practice area and geographic coverage. The firm history recounts:

> Beginning with the opening of the Boston office in 1973, the Firm began its explosive growth. We established new offices in Washington, Wilmington [, De.], Los Angeles, Chicago, Tokyo, San Francisco and London between 1976 and 1988. At the same time we more than tripled the number of practice areas...(Skadden 1988, p. 9).

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11. Some viewed these retainers as a form of corporate "protection money," including, at times, Skadden managing partner Peter Mullen (Jensen 1988, p. 52). Flom became so feared and respected in corporate financial circles that the $40,000 per year retainer ($50,000 if a takeover attempt was imminent) the firm charged to "have Joe on call" came to be called "sterilizing Joe" in the industry. There were about 200 $40,000 retainers in February of 1979. A Price Waterhouse survey of law firm economics estimated that only half of the retainers were ever used for client services, leaving $4 million of profit, per year, after normal partner draws, to capitalize the firm (Brill 1979, p. 14). Moreover, takeover work often garnered "premium billing," a form of bonus for successful work in highly contested matters. "Premiums begin at two times [regular] hourly charges and often go much higher..." (Brill 1989, p. 81).

"Cherry picking," the practice of competitive bidding for other firm's partners and long forbidden under the Cravath-system, became the standard means for growing firms to quickly establish a presence in a legal and geographic area. Cherry picked ("lateral") partners were expected to bring their clients with them from their old firm. Skadden's high per partner revenues and lack of debt allowed them to offer typically twenty percent more to a lateral partner than s/he was making at her firm (Brill 1989, p. 74).

While the firm has a highly centralized management accounting system that provides lawyers with "up-to-the-minute statements of how many hours associates have billed on what kinds of matters for the month or year, how much billable time per lawyer each department has logged in the last month" (Brill 1989, p. 81), it manages its legal departments as separate "teams."[12] Run as semi-autonomous "boutiques,"[13] these teams "organize social functions and training sessions to bolster a sense that the team is a cohesive unit" (Brill 1989, p. 83). Flom's decentralization philosophy envisions a "megafirm [that is] more manageable and more entrepreneurial because it is broken down into decentralized units" (Brill 1989, p. 83). This results in associates' team orientation over a firm orientation, as one third-year associate was quoted, "I consider my team to be my first firm" (Brill 1989, p. 83).

The firm broke other ground with its actions, as well. The firm moved to

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[12]. Skadden had 18 teams in the New York office at the time of this article in 1989.

[13]. A "boutique" is the term for a small highly specialized law firm.

midtown in 1956, and later, in 1971, to a building on Third Avenue, long before "respectable" corporations moved their offices there.[14] It hired associates from less prestigious law schools from the New York area and across the country. Commenting on the value of "hungry," "streetwise," lawyers a Skadden partner and former chairman of a *Fortune* 500 chemical company, Irving Shapiro, said, "Joe [Flom] was smart enough to see that although he came from Harvard he was better off with people at the top of a place like Fordham — people with real desire— than people from the middle or bottom of the class at Harvard" (Brill 1989, p. 69).[15] Growing more rapidly than any other firm, Skadden hired away mid-level associates from other firms ("lateral hires") in large numbers.[16] It hired an MBA consultant from a big eight accounting firm to run the "business side" of the firm.[17] The firm remained open 24 hours per day, 365 days per year. It built a 24-hour gym[18] and

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[14]. For instance, the Citicorp Tower on Lexington Avenue opened in 1978 (White and Willensky 1978, p. 152). One of Citibank's primary law firms, Shearman & Sterling, moved from their downtown offices to the Citicorp Center.

[15]. Implicit in this quote is the recognition that the top of the class at Harvard would not come to the firm.

[16]. Lateral hires were also needed to compensate for associates fired by the firm under its quality control program of "weeding out underperforming associates" (Brill 1989, p. 83).

[17]. Earl Yaffa, a seventeen-year veteran of Arthur Young & Company accounting firm, came to Skadden in 1978 (Schlosberg 1989).

[18]. The gym offers, in addition to the latest exercise equipment and personal trainers, showers, cots, TVs, and "jock straps in every size" (Margolick 1989).

At the firm I did my participant observation at, which did not have a gym, one lawyer was known for drying his gym clothes on his file cabinets, for all to see — including his undergarments.

kitchen to serve attorneys meals in their offices (Brill 1989, p. 80). The firm hired scores of paralegals to off-load the mundane clerical aspects of legal work, freeing up associates for more productive work.[19] It used the same word processing software as newspapers so it could transfer documents to stock prospectus printers instantaneously (important when the issuance of prospectuses in market bell-driven deals must be done in a few hours).

All these features were a product of the firm's image of itself as working harder, understanding its clients' needs better, and being more business-oriented than other law firms. This business-oriented, "no nonsense" self-concept contributed to a less gentle atmosphere than at old line Wall Street firms. Lawyers shouting at subordinate lawyers and staff was not uncommon.[20] The firm touted its large infrastructure's ability to "turn work around" more quickly than competitors and to win clients through the competitive delivery of services.

> Our efforts have always included understanding our clients' problems, not just their legal ramifications. We have always been problem-solvers, with a

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[19]. The paralegals were a separate profit center for the firm, billing an average of 1500 hours per year and accounting for some $30 million in firm revenue in 1988 (Brill 1989, p. 80).

[20]. A former federal judge, Susan Getzendanner, upon moving to Skadden, Arps was quoted in *Newsweek* as saying: "Don't forget, I'm at Skadden, Arps now. We pride ourselves on being assholes. It's part of the firm culture" (*Newsweek Magazine* 1991, p. 23). Another Skadden, Arps partner told the *National Law Journal* of a Saturday meeting between his former firm, several other Wall Street firms, and Skadden associates. The Skadden associates were dressed in blue jeans, while the other firms' associates wore suits. The Skadden associates began to throw pencils at the ceiling, like darts. "'The other attorneys were horrified, but there wasn't anything they could do about it. . . They thought [the associates] were animals destroying their conference room...'" (Jensen 1988).

> consistent 'can do' attitude. We have always called upon each other to help accomplish our clients' goals....We have also never assumed that a client will just keep coming back because of our prowess; we have always known that we must keep proving ourselves every day (Skadden 1988, pp. 4-5).

For the firm, a successful philosophy always put the client's needs first. Separating itself from a perception of conservative firms whose concerns with professionalism hinder their clients' market objectives, Skadden, Arps sought to align itself with the logic of their clients — the logic of the market.

> The Firm's [success] serve[s] as visible proof of the successful philosophy that has driven Skadden, Arps' attorneys since the day the Firm opened its doors: that the client's needs always come first; that we can and do commit a maximum effort to provide top quality advice and timely service to our clients; and that this law firm can and should be run as a business, consistent with our professional responsibilities (Skadden 1988, p. 1).

This business orientation included performance-based partner compensation, breaking with the Wall Street firms' traditional "lock-step" seniority-based compensation (Brill 1989, p. 82).[21]

While Skadden, Arps is the cardinal case of a firm rising to prominence due to a changing market's demand for its niche product and its aggressive marketing, several other firms also rose to prominence on the increased demand for their derogated practice specialties, such as bankruptcy, litigation, M&As, and corporate

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[21]. The Skadden partner who heads the Real Estate department and was brought in as a lateral commented to the *American Lawyer* on the centrality of income to the firm's success in getting and keeping partners: "I'll tell you one way these people foster teamwork and loyalty to the institution among laterals, ...they do it with the compensation system." This lateral partner reported earning roughly 20 percent more in his first year than he did at his prior firm. In 1989, other than Flom, Skadden partners earned between $250,000 and $2.5 million, with the average being $1.2 million. Flom reportedly earned $4.0 million (Brill 1989, p. 82).

real estate.

Yet, for all this structural innovation and "chip on the shoulder, go-getter" attitude shared by Skadden, Arps and the entrepreneurial firm where I did my field work, both firms maintained their own status distinctions.[22] Lawyers offices had windows, staff offices did not. Lawyers got the latest PC's upon request, even though most only used them for games — staff responsible for word processing and computing inherited hand-me-down machines. Staff could not "tell lawyers what to do," leading at the extreme to the word processing department, unable to read a partner's scrawl, being unable to explain why his job was not done, because it was inappropriate for staff to "say 'no' to lawyers." Librarians could not ask lawyers to sign out books that they took, leaving the firm without retrievable copies of important cases. At the extreme, partners' exertions of hierarchical authority defeated the firm's own bureaucratizing efforts. For example, a senior litigation partner was bothered by the loud paging speakers in the library one weekend, so he ordered the paging system turned off. This severely hampered the junior attorneys and support staff who relied on paging to find one another under their highly mobile work practices. The aura of professional powers imposed limits on the scope and depth of the rationalizing impulses.[23]

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[22]. Except where otherwise noted, the following discussion is drawn from my ethnographic field notes at my participant observation firm (B1) and confirmed by a few informant interviews at Skadden, Arps.

[23]. Even senior lawyers felt constrained in how much they could "tell" associates to do. One Skadden informant told me that the practice of jabbing pencils, dart-like, into the acoustic ceiling tiles of conference rooms (see note 20) became so popular

In short, the firm was very different from the old stuffy law firms of Louis Auchincloss' fiction. Yet, neither was it quite as loose and matter-of-fact as the businesses of an Ayn Rand novel.

Auchincloss, himself a partner at a small Wall Street firm, has written a series of novels and short stories about the social world of Wall Street lawyers. The theme running through all his work is the conflict between an older set of professional values derived from the pleasure of the craft-like intellectual challenge of the law and a market-oriented, business attitude toward law firm work. Typical of his work is this generational confrontation between the young partner and his now rigid mentor. The young partner describes the senior:

> [B]ecause he once saved the firm is no reason it shouldn't be saved from him. He's over seventy, and he's grown impossibly rigid. He refuses to go along with the other big firms in salary raises. He refuses to give the clerks [associates] a month's vacation. He even refuses to let them take Saturdays off. He's back in the days when a law clerk was regarded as an apprentice who was privileged to learn a

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that the head of the firm wrote a memo to the *staff* explicitly forbidding the practice. When the practice continued and it was pointed out that only attorneys use the conference rooms, the "word was passed around" that this practice should stop. Apparently, at least some of the more senior partners of the firm were not aware of the level of informality practiced by their associates and could not conceive of lawyers being responsible for such behavior. Alternatively, the managing partner, feeling unable to scold associates directly for reasons of professional decorum, may have used a "trickle up" method of information distribution. By scolding the staff, he may have hoped that word of the firm's displeasure with the practice would trickle up to the associates through a series of secretary-lawyer conversions. (A secretary, bringing her associate a document in a conference room: "You better watch that, we got a memo saying that you shouldn't stick anything in the ceiling.") This is apparently what happened, according to the informant. The practice soon ended.

trade! (Auchincloss 1967, p. 214).[24]

Auchincloss gives voice to the older partner's lament of the transformation of his firm:

> For Arnold & Bovee, now Arnold & Degener, has simply been my whole life. It has been my family, my hobby, my club. If ever a man put all his eggs in one basket, it is I. A fool, you will say. Of course, I was a fool! But in 1929, when I started to practice law, it was not so ridiculous for a man to put all his heart as well as all his mind into his profession. If the sacrifices were great, the rewards could be sweet. Who knows the bonds of partnership who has not labored with peers whom he absolutely trusted? In those early days the excitement of the world was provided vividly, if vicariously, by our clients; the office and the courtroom were laboratories in which we could surrender ourselves to the excitement of intellectual combat. And above all there were the friendships. Before the great gray expansion of the twenties and the thirties a law firm was like a fraternity or even a secret society. How many times Arnold & Bovee men married into each other's families! How frequently they lived in neighboring houses! (Auchincloss 1967, pp. 148-9).[25]

The entanglement of work and social life is another persistent theme of Auchincloss. Dinner parties and society functions are just another testing ground for these associates. Smigel reported little of this. Auchincloss' book was written during a period when demand for young associates outstripped elite law school graduate supplies. Smigel reported that the late 1960s was a time of lowered firm recruiting standards and increasing bureaucratization. Auchincloss' books capture the texture of

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[24]. This book's form, with each chapter written by a fictional partner about another of the firm's partners, mimics Sullivan & Cromwell's abortive real-life attempt to have partners coauthor a firm history (Lisagor and Lipsius 1988) to rival Cravath, Swaine & Moore partner, Robert Swaine's valuable, if encomium-like, three volume firm history (Swaine 1946).

[25]. I will spare readers quotations from an Ayn Rand novel.

these changes.[26]

In contrast to Skadden, Arps, Erwin Smigel (1969, originally 1964) described the twenty largest New York City law firms of the late 1950s differently. Smigel's Wall Street firms were comprised of a homogeneous group of social and intellectual elites, who suppressed internal competition through an *esprit de corps* among the lawyers and benevolent paternalism by the senior partners. The lawyers were almost exclusively "Nordic" white males with high social status family backgrounds. Smigel argued that these firms' success was dependent more on the quality of its young lawyers than on the number and wealth of their clients. Most of the Wall Street lawyers in Smigel's sample came from elite colleges and law schools. More than 70 percent went to Harvard, Yale, or Columbia law schools. Many also attended the most prestigious prep schools and were listed in the *Social Register*. The high percentage of law review editors among the associates assured the firms of hard working, detail-oriented, cooperative lawyers, who required only the loosest controls.

The assurance of being rewarded for a ten-year associateship either by a prestigious partnership in the firm or a remunerative legal position in a corporate client's legal department combined with an *esprit de corps* to limit competition among the lawyers. The firms rotated associates through different practice areas to give them a broad generalist training. It was virtually unheard of for associates to be

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[26]. Auchincloss' other books include *Powers of Attorney* (1955), *The Great World and Timothy Colt* (1956), and *Diary of a Yuppie* (1986).

fired. This job security and the partners' general benevolent paternalism in providing young associates with broad training further limited the need for formal controls. Accordingly, there was little administrative bureaucracy and his limited discussion of the support staff implies their limited importance. Finally, Smigel saw the firms themselves as functioning largely free from the influence of particular clients, but strongly under the sway of formal and informal professional controls. Located adjacent to the elite banking and investment firms on Wall Street (the firms rarely had branch offices), clients, it seems, came to them.

* * * *

After reading Smigel and the legal trade press, I developed a list of theoretical concepts to assess law firms' structures and practices,[27] that would differentiate the "old line," "white shoe" firms Smigel wrote about from this new model in formation. Five years of field work at a fast growing, entrepreneurially-oriented firm that worked in a derogated practice area, the examination of Skadden, Arps's history, and readings on the work life and practices of "old line," collegial firms allowed me to construct two ideal typical models of law firm organizational practices.

Practices, as used here, are the routinized behaviors that are the products of the confluence of structural pressures on actors and actors' cultural values'

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[27]. I use "practice" here in the sociological sense I define immediately below. This is not be confused with the legal usage of "practice," meaning type of professional legal work. I use "practice area," "practice specialty," and "legal practice" — common legal terms — to refer to legal specialty domains of lawyers and law firms.

prescriptive pressures. Thus, practices' origins are analytically separable into structural influences and cultural influences, but in reality typically remain the product of an indecipherable mix of the two. Only a full scale ethnography can unpack the interaction of these two, potentially contradictory, influences on actors' habitual behaviors. A routine, habitual, or customary behavior of actors may be a product of the organization's structure. In a highly bureaucratized firm, a lawyer may habitually fill out her time sheets at the end of each day, to be assured that the accounting department does not hold her pay check because of late time sheets. In this case, the lawyer's behavior is an instrumental response to the firm's bureaucratic structure: "do *x* to get *y*." However, in a minimally bureaucratized firm, a lawyer may delay turning in his daily time sheets, because he feels that lawyers *should* not have to account for their hours like common laborers. In this case, the habitual behavior of delay is a product of a cultural belief in attorney autonomy from bureaucratic control. It is important to bear in mind that neither structurally nor culturally produced practices need be functional to the organization's survival. Neither is a directional alignment of the structural and cultural influences on practices required. Practices may embody organizational contradictions.[28]

While recognizing this dialectical interaction, for expositional purposes, I divide the theoretical concepts for assessing firms into three levels. These levels are

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[28]. Finally, to make this statement analytically complete, the order of predominance of influence over a practice can alter over time, as well. Both organizational culture and structure mutually influence the other. Accordingly, a previously culture-driven practice may come to be a structure-driven practice, when the organizational culture causes changes in the organization's structure.

firms' market structural positions, firms' internal organizational structures, and firms' organizational practices.

I call the two ideal types "collegial-driven" and "entrepreneurial-driven" firms, after the overarching logics that "drive" the organizations.

Two Ideal Types of Law Firms.

Collegial-driven firm.

The collegial-driven firm was formed around the turn of the century by prominent members of the New York City bar. The founders were likely to be the close personal advisors to rich individuals and industrialists. These law firms inherited the work of the entrepreneurs' companies, as they shifted to professional management under public stock ownership. In this way, long-term, transgenerational client relations were established between the firm and its clients. These relations provided the deep knowledge and trust between generations of lawyers and executives that is the paradigm of embedded professional counselor-client relationship.

The collegial-driven firm was located downtown, on or near Wall Street, from its inception. This spatial location provides both easy physical access by the lawyers to their financial sector clients and the symbolic marker of its membership in the "downtown," upper social strata membership.

This firm hires "Nordic," intelligent, well educated, lawyers with the "right" social background. They are almost exclusively male. The lawyers typically come from the top of their classes at the most elite national law schools. Some lawyers are

picked because of their exceptional academic performance, which typically resulted in their having a law review editorship. Others are hired because of their social status and ability to travel in the social networks of potential clients, including private clubs and corporate boardrooms.

The social status sorting mechanisms of the elite law schools' admissions systems' perform much of the cultural capital "filtering" of the law graduates *before* they reach the law firms. Accordingly, the law firm finds a familiar, comfortable, and largely standardized "product" in, say, Harvard law graduates. By recruiting from a narrow band of elite law schools, the firm is assured of a close fit between the law graduate's personality and the firm's culture. The homogeneous social background of new associates serves as an indirect form of social control for the firms.

The associates' joint law review participation, and elite social background more generally, provide a shared culture of suppressed competition, strong teamwork, and personal devotion to a complex, interdependent task at hand. This additional social filtration further limits the firm's need for formal controls.

The firm has one branch office, in Washington, D.C., for filing purposes only. The long-term close counselor relations practiced by the firm does not travel well. Dependent upon the overlap of elite business (national) and social (local) networks of partners and clients for a counselor practice, regional branch offices fail because they can only provide one or the other. Further, the shared background that facilitates the suppression of competition and the promotion of teamwork and

interdependent action without hierarchy can only be maintained under conditions of face-to-face interaction.

With one office, the collegial-driven firm has experienced steady, straight-line growth by balancing promotion decisions based on merit and client needs. Only rarely has the firm taken on a lateral partner — typically a former high government official — for his business getting abilities. This internal, "home grown" promotion regime is a closed system which promotes associates' trust in a meritocratic system.

Associates have high job security, because of the partners' paternalistic system of associate outplacement. The firm does not fire associates, for anything but the most egregious conduct. Further, the firm provides outplacement to well paying jobs in the legal departments of the firm's clients, for those associates not deemed to be partnership quality. And for those associates who do remain at the firm to compete for partnership, they are secure in the knowledge that they face no *external* competition for partnership and that, should they not make partner, a lucrative in-house counsel job awaits them. Under these conditions, associates assume very little risk, and thus are willing to stay and work hard in competing for limited partnership slots. Hard working and able senior associates, in turn, are the most profitable associate labor for the firm, because they can largely run legal matters[29] by themselves.

The firm emphasizes the importance of training associates as broad generalists,

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[29]. "Legal matters" is the generic term for a specific case or deal for a client. On-going clients have multiple, discrete matters, some litigation cases, some corporate deals.

so that they will be competent partners, managing all aspects of a client's legal business. This is primarily achieved by limiting the specialization of legal work to broad categories: corporate, litigation, and tax (though the firm may also have a small trust and estates group separate from the other departments, for serving its wealthy individual clients). To facilitate the breadth of associate experience, the firm rotates new associates through different legal practice areas every eighteen months or so. This gives the young lawyers exposure to corporate work, litigation, and tax law. This broad exposure also assures associates that they will be optimally marketable should they leave the firm, for few other employers value the legal specialization found at some Wall Street law firms.

Lawyers do all the work related to the production of legal knowledge, however mighty or mundane. Young lawyers perform clerical tasks, such as filing documents at the S.E.C., proofreading, document organization, and general "go-foring." While dull and intellectually undemanding at first, the intellectual challenge and responsibilities of the job increase as rapidly as the associates' abilities. This progression culminates in client-responsible partnership. Thus, taken as a whole, there is a craft-like unity to the professional work. Support staff play an ancillary role in the production of legal work — phone operators, typists, and couriers.

The firm is run by a lawyer-manager in close consultation with the other partners. Decisions are made collectively or by committees, as a form of collegial democracy. Further, partner compensation is based largely on a lock-step seniority system.

Professional autonomy circumscribes the collegial-driven firm's relationships with its clients. Formal and informal professional rules and norms constrain both individuals and the firm as a whole. The multiplicity of clients prevents any one client from being able to influence the firm.

Entrepreneurial-driven firm.

This ideal model firm was formed after the New Deal, most likely after the war. The founders' ethnic backgrounds — Catholic and Jewish — foreclosed their ability to rise in the ranks of the old-line Wall Street firms. The firm specialized in the derogated areas of corporate legal work — litigation, real estate, shareholder proxy fights, labor law, and New Deal government regulatory work — to avoid direct competition with the larger, established Wall Street firms. These practice areas provided adequate, but unpredictable business for the firm, because the majority of the firm's business consisted of one-time, transactional, referral business, rather than the more stable, predictable client counseling work predominant with the collegial-driven firm. The long-term counselor relations clients the firm does have are smaller and generate a lower percentage of the firm's revenue than its transactional business. Yet, these one-shot client relations limit the firm's ability to plan growth. In the 1970s and 1980s, changes in the market for corporate legal services drastically increased the demand for expertise in the entrepreneurial-driven firm's derogated legal specialties. The firm grew rapidly in the last twenty years.

The firm originally located "uptown," in the midtown business district to be

close to its historical base of clients, midtown department stores and smaller, less prestigious investment firms. Making a virtue out of necessity, the firm rationalized its location decision as a sign of its progressive, cutting-edge-of-business attitude, in contrast to the downtown, Wall Street firms' staid conservatism.

During the rapid growth in demand for the firm's services since 1970, it opened regional branch offices to tap the geographically dispersed demand. Because clients were attracted to the firm's expertise, branch office partners did not have to be integrated into both elite business and social networks. The firm's national market reputation bridged local (social) elites' network boundaries.

The entrepreneurial-driven firm capitalized on this drastically increased demand by expanding to offer a complete array of corporate counseling services. In order to offer first rate legal services in more traditional legal service areas, the firm "bought" experienced legal specialists. It "cherry picked" high profile practice specialists from other firms — in violation of one of the unwritten rules of the Cravath system's Wall Street firms' non-aggression pact — by offering them substantially more money. These elites brought with them a preexisting client base, which helped finance the firm's expansion into the new legal and geographic areas. Further, when the cherry picked specialists came to one of the firm's branch offices, this created a new version of the collegial-driven firm's social and economic elite network overlaps. Only in this case, the entrepreneurial-driven firm matched its national market reputation with the cherry picked partner's local market (and perhaps social) network ties. During this period, the entrepreneurial-driven firm benefitted

from a generalized shift in the business community's willingness to purchase specialized legal talent on a case-by-case basis. This allowed for a new mixture of national market reputation and local business and social elite network interaction.

Laterally hired partners and multiple branch offices did not present a problem to this firm because of its greater administrative formality. The firm is highly departmentalized. It uses what is effectively a multi-divisional form model of practice area specialization, with each work team administered and judged as an autonomous profit center.

The associates constitute fungible, skilled labor. Initially, the firm hires the best associates from a wide range of second-tier law schools. The firm's looser recruiting criteria — the cultural legacy of the discrimination the firm founders faced — and the increased competition for all law graduates contributed to the firm's recruitment of ethnic, racial, and gender groups in rough proportion to their presence in the law school graduating classes. As the associate ranks thin out through voluntary departures and firings, the entrepreneurial-driven firm replaces some of the attrition with laterally hired mid-level associates from other firms. Thus, associates who contend for partnership face both internal and external competition.

The firm employs a large number of paralegals to relieve attorneys of the tedious, clerical aspects of legal production, and free them up for additional work. An elaborate support staff types, proofreads, copies, collates, indexes, and delivers the lawyers' legal (written) products, in a highly segmented work process. The firm operates 24 hours per day, as support staff perform tasks for attorneys while they

sleep.

The firm is administered by a non-lawyer, M.B.A. S/he oversees an elaborate system of attorney time tracking and client billing. Partners have instant access to all attorneys' accrued billable hours for the month and the year. Associates are given monthly reports on their billings and utilization ratio, which is based on an expected minimum total number of billable hours per year. This business-like efficiency carries over to partners' compensation. Partner profits are distributed in accordance with effort and client responsibility (the "eat what you kill" doctrine) rather than by seniority.

The firm's business orientation causes it to see its interests as aligned with its clients. Unlike the collegial-driven firm which can largely take its on-going relations with clients for granted and thus focus on the separation of firm interests and client interests, the entrepreneurial-driven firm's primary concern is with *getting the client*, thus the possible divergence of firm and client interests fades in importance. The entrepreneurial-driven firm sells itself to the client: professional autonomy is not an issue.

Table 3.1 summarizes the differences between the two ideal type firm models on the theoretical concepts.

Table 3.1: Ideal Typical Firm Theoretical Concepts.

Level	Theoretical Concepts	Collegial-driven Firm	Entrepreneurial-driven Firm
Market Structural Position	Organizational Form	Old	New
	Client Relations	Embedded	Transactional
	Professional Autonomy	Emphasized	Deemphasized
Internal Organizational Structure	Specialization of work	Low	High
	Segmentation of work	No	Yes
	Governance Structure	Collegial Democracy	Managerial Hierarchy
Organizational Practices	Recruitment	High Socioeconomic Selectivity	Low Socioeconomic Selectivity
	Partner-Associate Relations	Paternalistic	Entrepreneurial

Having developed and elaborated two ideal typical firm models, in the next chapter I review broad theoretical concepts of firm structures and practices, discuss empirical indicators of these structures and practices, and restate the ideal types in the language of the empirical indicators. The thirty largest New York City law firms will then be assessed by these measures for their similarity to the two ideal types.

CHAPTER FOUR

Causes, Attributes, and Consequences of Firm Culture

The ideal types developed in the prior chapter suggest seven theoretical concepts for assessing law firms' organizational cultures: (i) the organizational form; (ii) client relations; (iii) professional autonomy; (iv) specialization and segmentation of work;[1] (v) governance structure; (vi) recruitment; and (vii) partner-associate relations. There are twenty possible empirical indicators of these theoretical concepts which allow the assessment of large New York law firms' organizational cultures.

Each theoretical concept of firm culture[2] and its empirical indicator(s) will be discussed in turn. Chapter Five reports on the findings from these empirical indicators for the population of the thirty largest New York City law firms. Chapter Six discusses the effects of these structural attributes and organizational practices on associate selves. First, I define organizational culture and the form of cultural analysis appropriate for the study of organizational culture.

Culture consists of four elements: values, norms, beliefs, and expressive symbols.[3] Values are statements of choice that rank behaviors and goals; norms are shared specifications of values' implementation in interactional behavior; beliefs are

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[1]. Because of their close relationship, I collapse these two related theoretical categories into one (*cf.* Table 3.1).

[2]. In this chapter, "firm culture" and "partner culture" are synonymous and used interchangeably. "Associate culture," a subcultural form, is a separate theoretic category in this study and will be discussed separately in Chapter Six.

[3]. The following definitions are drawn from Peterson (1979).

existential statements about the nature of the world that often serve to justify values and norms. Expressive symbols are all aspects of the material culture, tools, signs, documents, art, gifts, and actions. Organizations are collectivities with both formalized social structures oriented toward publicly stated goal achievement and informal structures oriented toward the maintenance of the organization which is embedded in an environment that both constitutes and constraints it.

Law firms' organizational cultures can be fruitfully viewed as products of the social structural arrangements that undergird them. There are internal and external reasons for this.

Richard Peterson (1979) argues that there are four broad traditions of cultural analysis in the post-War years: culture as mirror of the society; culture as expressive symbols that have the power to shape beliefs, *homo pictor*; culture as intentionally manipulable expressive symbols, "manipulated code"; and, the production of culture, where the organizational environment of expressive symbolic production is foregrounded. While discussing the first perspective that argues that culture is uniquely correlated with its social structural environment, Peterson points out that the social arrangements of cultural production are often as important to the culture produced as the social structure the culture supposedly mirrors (p. 242). Peterson cites his own work on the country and western music industry's evolution during the 1970s, where he demonstrates that changes in the market for FM radio stations trickled back, as it were, to the record companies, forcing the latter to change their style to meet audience demand, as defined by FM station cultural outlets (Peterson

1978).

This study avoids Peterson's criticism of the "culture mirrors society" model because of the space-time proximity of the producers and consumers of firm (*i.e.*, partner) culture. Because of the physical copresence of partners and associates, the social relations of the "production" and "consumption" of firm culture are synonymous. Further, partner-produced firm culture can largely be seen as self-referential, given associates' subordinate status and their desire to become members of the firm. Both in the collegial-driven and entrepreneurial-driven firm models, partners' cultures are primarily horizontally oriented. For example, collegial-driven firm partners' valuing of equality is oriented primarily toward their fellow partners. Similarly, entrepreneurial-driven firm partners' distrust and opportunism is oriented against their fellow partners. In both cases associates are treated as identical — albeit less effectual — to partners in their orientations. There is a unity of interests between partners and associates, *from the partners' point of view*.

Externally, partners' firm cultures are consumed by clients, state regulatory bodies, and the general public. Under these conditions, law firms' cultures may be appropriately described as consciously and unconsciously manipulated expressive symbolic productions that maintain the distinctions (and thus privileges) of professionalism. The professionalization project (Larson 1977), or jurisdictional boundary disputes (Abbott 1988), certainly require symbolic legitimations oriented to clients, state regulators, and the general public. Yet, for the purposes of this study, such broad symbolic legitimations of professional status should not vary across firms

nor ranks within firms. All elite lawyers, regardless of rank, benefit from the profession's market protection and generalized social prestige. The symmetricality of these interests should stabilize the cultural differences the production of culture perspective has detailed.

Because this is not an historical study, I cannot empirically assess the relationship of culture to structure. I believe that structural features predispose firms toward certain internal values and norms, but, at the same time, firms' cultures constrain and influence the adoption of certain structural characteristics. For the purposes of this study, certain structural forms, organizational practices, and cultural elements may be conceived as strongly correlated.

Theoretical Concepts and Empirical Indicators of Firm Culture.

(i) Organizational Form. Stinchcombe (1965) argues that organizational elites use the organizational technologies available to them in the larger social structural environment to structure organizations at their founding. Organizations are "imprinted" at their founding and only change inertially thereafter (Hannan and Freeman 1984). Accordingly, the point of formation of the organization is indicative of the adopted and persisting professional organizational model. Smigel anticipates this "imprinting" argument in his comparison of large New York and out of town firms:

> Age of a firm — and particularly the length of time it has been a large firm — affects its organization. Most offices out of New York have grown only recently and they are still growing. They are still experimenting and still trying to keep their old small firm ways. With age comes tradition, and

> tradition makes change difficult. In general, New York firms are older...and they have to contend with history to a greater degree.[4]

In other terms, organizations formed in 1910 looked different than organizations formed in 1960. Further, those organizations continue to look different in 1990.

There are three empirical indicators of the organizational form adopted by the firm that is likely to make it collegial-driven or entrepreneurial-driven: age, take-off point, and last name change.

The **age** of the organization is a direct indicator of the periodized social structural technologies available to founders. While there are no studies of professional organization elites' thinking about organizational management, I can infer their likely attitude from histories of management philosophy and legal profession history.

Hurst discusses the normative model of large firm professional practice's business orientation at the beginning of this century: "Such great law offices in the first part of the twentieth century symbolized a new role of the bar. They reflected the demands of big business clients. They expressed a businesslike temper which had grown to mark the financially successful lawyers..." (Hurst 1950, p. 307). Large law firms oriented themselves to their business clients.

Though typically not directed at professional organizations, managerial

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[4]. Selznick (1957), Chandler (1962), and Schein (1985) discuss the importance of founders' influences on organizations' forms. Smigel confirms the importance of founders on elite law firms, "The type of early leadership is important, for powerful senior partners can set the tone of an office for years to come. This has been especially so for the 'dictator' who leaves his stamp not only directly through his own leadership but also by choosing his successor" (1969, p. 190).

ideology formed the environment from which firm elites could draw examples of organizational rationalization. Taylorism's influence on American factory system was greatest during the period 1901-1915 (Nelson 1975, p.61). Chandler (1962, 1977) documents the staged evolution of this new industrial management philosophy of rationalization and systematization starting in transportation, industrial, and manufacturing concerns and only later affecting investment, banking, and insurance during the interwar period. The sea change in the organization of production and distribution typified by the engineering attitude of systematization[5] was late to come to legal practice.

Lawyers clung to the ideology and organizational structure of autonomous professional practitioners well into the 1920s. Wayne Hobson's history of the legal profession's confrontation with the "organizational society" makes clear that the law schools led the way in introducing the ideology of systematization and efficiency into professional legal practice (Hobson 1986). The "modern" legal educational methods and their accompanying broadly modernist ideology appeared in the law schools in the mid-1880s. Only by the 1920s did prominent lawyers educated in this new method begin to gain prominence in the established bar. Auerbach estimates that in 1870 only one-quarter of those admitted to the bar were law school graduates; by 1910 two-thirds were law school educated (Auerbach 1971, p. 573). Generational succession in the larger firms by this wave of law school graduates probably extended well into the 1930s. An examination of the name changes of the elite firms during

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[5]. See, for example, Veblen (1983 [1921]) and Layton (1971).

this period seems to support the idea that a significant change of elites took place from the mid-1920s to the mid-1930s.[6]

The current partnership model of large firms evolved by the 1920s, when the "Cravath system" became generally accepted by the Wall Street firms. The established model was one of formalized paternalism, that critics and admirers alike equated to a "well-oiled machine."[7] Of significance in this metaphor is the lack of agency on the part of the machine's "cogs." The cog metaphor was apt, in light of the paternalistic practices established by the partners. Competitive bidding over law graduates' salaries was replaced by the collusive fixing of "the going rate" at an annual lunch of the leading firms' managing partners. The Cravath system's fixed up-or-out track and the prohibition of associates taking on their own clients furthered the paternalism of these partnerships. Associates, during this initial period of large firm formation, were, like cogs in a machine, finite in number, finely lathed to the specific needs of their jobs, and under the complete control of the machine operator (the partners) in their designed environment.

By the 1930s, the metaphor used for describing firms changed from "machines" to "factories," as is well detailed by Galanter & Palay (1991, pp. 16-19).

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[6]. The theoretical implications of firm name changes are discussed below. For a discussion of the methodology of assessing name changes and their significance, see the discussion of "Last Name Change" in Chapter Five.

[7]. Galanter & Palay quote from Chamerlayne's essay, "The Soul of the Profession" (1903) to make this point: "'a money making mechanism . . . into which the young man . . . fits ... like a fresh, adjusted cog into a well-oiled machine' and a 'mill' that 'grind[s] out dollars'" (1991 #355, p. 16, n. 57).

Certainly, this change in image reflects the broader societal changes of the period — the decline of the progressive era's rhetoric of scientific efficiency, the rise of organized social unrest after the stock market crash of 1929, the increasing prominence of the factory system of production, and a new wave of unionism. The underlying purpose of the factory system — the rational control of labor whose interests could not be assumed to be aligned with managers — had applicability for firm partners, as well.[8] The dominant cultural metaphor for understanding partner-associate relations thus changed from a paradigm of entrepreneurial owner-worker relations before 1930 to a paradigm of industrial manager-worker relations after that date. Paralleling the "entrepreneurial" to "managerial" evolution of business forms, detailed by Chandler, Wall Street firms moved from a paternalistic model to a bureaucratic model of firm structure, by the end of the 1930s. While any fixed cut-off date would be arbitrary, it is clear that the 1920s was a transitional decade for corporate legal practice. Accordingly, I will use the somewhat fuzzy, but by no means

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[8]. The largest firms during this period achieved a 1:1 associate:partner ratio, discouraging any continuance of the antiquated view that the associates were mere "clerks" only necessary to help partners during busy times.

Changes in office technology furthered the transformation of junior lawyers' office roles. Before the advent of the typewriter, young law graduates' primary responsibility was as a copy clerk — copying by hand documents drafted by the partners. The typewriter and stenography changed the organization of office production by, first, allowing multiple copies to be made simultaneously and, then, by separating the act of drafting from transcription (Davies 1982). Law graduates were replaced by male (and later female) clerical secretaries in their role as copyists. So, the young, school-trained lawyers started to be given more significant work. Simultaneously, their title began to change from terms that positioned them *vis a vis* lawyers, *e.g.*, "clerk" (a non-lawyer), to terms that implied that they were lawyers and positioned them *vis a vis* the partnership, *e.g.*, "associate" and "juniors." See Galanter & Palay (1991, p.4, n. 2) for the genealogy of the term "associate."

arbitrary, measure of a decade as a cutting point.

Firms formed before 1920 should have adopted a collegial-driven culture. Firms formed after 1930 should have adopted an entrepreneurial-driven culture.

The **take-off points** — the ages at which firms cross thresholds of 50 and 100 attorneys — provide another means of measuring the periodized organizational technologies available to founders at the moment their firms passed important size thresholds. When Smigel studied the large New York firms in the late 1950s, they ranged in size from 50 to 119 lawyers (1969, p. 34, n. 9). He reported a formalization of procedures, the evolution of a few lawyers at each firm in administrative roles, and other rationalizing actions. "It seems that, as firms approach the 100-lawyer size, they are more apt to have a full-time managing partner or non-partner administrator. If they are not full-time, managing partners usually devote at least 50 percent of their time to this aspect of their job" (Smigel 1969, p. 363). Thus, I use 50 and 100 as reasonable threshold sizes beyond which organizations that theretofore resisted formalizing their organizational structures were likely to have been compelled to adapt formalized organizational technologies. Firms that came of age, so to speak, in the 1930s had a different stock of managerial resources to draw upon during their formalization than firms that came of age in the 1970s.

Firms that cross the size thresholds earlier should have adopted collegial-driven cultures. Firms that crossed the size thresholds later should have adopted entrepreneurial-driven cultures.

The length of time since a firm's **last name change** is another indicator of the

likely organizational form. The Canons of Professional Responsibility (1908 and revised 1928) allow firms to continue to use the names of deceased partners, to assure transgenerational firm recognition (American Bar Association 1928, Canon 33).[9] Prestigious law firm names are often so many brand names, in fact. The strength of tradition at some firms weighs heavily on firm members. Yet, counter-balancing this trend is the desire for firm elites to have their own names on the door, or, as the case may be, to advertise the arrival of a prominent former politician by adding his name.[10] The length of time since the last name change at the firm, should indicate the inertial strength of a firm's heritage on the current culture.

Firms with more stable names should exhibit a collegial-driven culture. Firms with recently changed names should exhibit an entrepreneurial-driven culture.

(ii) Client Relations. Firms with long-term, on-going client relations (hereafter, "counseling practice") have a form of market protection, when compared with firms with only single transaction, one-time clients (hereafter, "transactional

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[9] "The continued use of a firm name after the death of one or more of the partners designated by it is proper only if sustained by local custom" (citations removed)(Drinker 1953, p. 207).

[10]. All the name partners of the thirty largest firms were reputational draws, at some point. More recent examples include John McCloy of Milbank, Tweed, Hadley & McCloy; Sargent Shriver of Fried, Frank, Harris, Shriver & Jacobson; William Shea (of New York politics and Shea Stadium fame) of Shea & Gould; and William Rogers, Secretary of State in the Nixon administration, of Rogers & Wells. Several firms in this study bear the names of defeated candidates for high office, including Wendell Willkie, Thomas E. Dewey, and —briefly in the early 1960s— Richard Nixon.

practice").[11] These variations in client relations may be viewed as differences in market position, with counseling practice firms existing in a market niche that affords them protection from open competition. Protection from market mechanisms reduces a firm's need to constantly pursue new business, and thus reduces the need for an entrepreneurial emphasis in the firm's structure and values. In contrast, firms that are fully exposed to the forces of market competition must always worry about the next client and thus assume a more entrepreneurial structure and culture.

The empirical indicators of a firm's market position are the prestige of business the firm currently performs, the eliteness of the historical location of the firm, and the number of the firm's branch offices.

The **prestige of the business** the firm performs is the portion of the firm's business mix that is comprised of high prestige practice areas. Corporate and securities work, long the staple of old-line firms, is considered the most elite law practice and indicative of stable, on-going client relations. Historically, litigation, bankruptcy, corporate real estate, and M&A work have been considered derogated, "ungentlemanly" practices. But behind these status differences in practice prestige are real market-based differences. Litigation-oriented, transactional firms are differentially exposed to the market, in comparison to the corporate-oriented, counseling firms.

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[11]. Transactional practices include several derogated specialties, such as M&As, real estate, and labor, but the category is best exemplified by litigation practice. The following discussion will focus on litigation practice's history as exemplary of the others.

At the end of the last century, elite lawyers moved out of the courtrooms and into the board rooms of their corporate clients, abandoning their forensic role for a private counselor role (Hurst 1950, pp. 295-306). Simultaneously, the professionalizing project of the bar founders led to the stigmatization of those mostly immigrant lawyers who remained in courtroom-based practices and the elevation of the social status of the boardroom-based, counseling practices (Auerbach 1971). As Larson (1977) argues, the professionalizing project was a "class mobility" project, for this segment of the new middle class. This class mobility was achieved through bar members' winning state-sanctioned protection from the market. But this upward social mobility (Bledstein 1976) was at the expense of non-native born practicing lawyers of the time. The model of elite legal practice established during this professionalizing period was the type of practice adopted by the native born bar founders who were the close counselors of wealthy industrialists and corporations. At the beginning of this century, when modern law firms first developed, the counselor model of legal practice acquired the social prestige of its native born, WASP incumbents.

This elite model had significant market advantages for its incumbents, as well. Long-term counselor relations between firms and corporations often lasted several generations. These on-going relations of deep-trust and personal knowledge — the paradigm of legal professionalism — provided the firms with a stable, secure, and predictable income stream. What started as personal lawyer-client relations evolved into long-running corporation-firm relations as individual entrepreneurial capitalist

companies evolved into publicly-held corporations at the forefront of American business. For example, when he changed firms in 1899, Paul D. Cravath brought with him the account of the newly incorporated Westinghouse Electric Company based on his long service to George Westinghouse. A few such large, stable accounts provided the basis for later law firm expansions (Hobson 1984, p. 19).[12] Indeed, anecdotal evidence about billing practices of elite firms suggests the non-market transaction quality of these corporate client-law firm relations. Frank Dewey, the in-house counsel for Western Electric told a group of law firm managers in 1965, legal advice "is probably the only service we buy without some kind of survey of alternative cost. I don't know how much longer lawyers can operate this way" (Mayer 1966, p. 337).[13] As the Wall Street saying went, "Every bank has its law firm" (Pollock 1990, p. 45). These counseling relationships were a form of market protection.

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[12]. Similar relationships formed the basis of all the early large firms. See the example cited in the Introduction of Henry Anderson, a founder of the firm that is now Milbank, Tweed, who met John D. Rockefeller through religious activities and became his lawyer. Personal social networks of nineteenth century elites formed the basis for lasting business ties between corporations and law firms in the twentieth century.

[13]. Mayer elaborates on the quaint nature of large firm billing practices, "Large law firms will not haggle about fees; if the client questions the bill, he is usually invited to send whatever he thinks would be fair. Indeed, there is occasional survival of the old tradition of asking the client to send whatever the service was worth. In the nineteenth century Clarence Seward wrote to a gas company for which he had lobbied in Albany: 'Please send me a check for any amount that the company is willing to pay, and I will make out a bill and send a receipt for it'" (p. 337). The Cravath firm was famous for its one sentence annual client bills, "For professional services rendered .....$xxx". As the Introduction made clear, these quaint practices ended in the 1980s.

The elite firms avoided litigation work as "ungentlemanly." A second tier of corporate law firms developed to serve the litigation needs of the elite law firms' corporate clients. These litigation firms bore a dual stigma of performing professionally stigmatized litigation work and being staffed predominantly by stigmatized ethnic groups: Jews and Catholics. The nature of this stigmatization is complex and requires some elaboration.

As discussed above, the professionalization project of the founding bar members bifurcated the corporate legal services business into office and litigation practices. The dual divisions of office practice/litigation practice and native born/immigrant cleaved the New York legal community roughly along the same line. Native born WASPs comprised the elite office practice firms. Immigrants or their children, many of them Jewish and Catholic, comprised the derogated personal plight, litigation practice bar. The rise of professional schools only deepened this division, with university-affiliated professional schools, such as Harvard, furthering the professionalization project by graduating primarily credentialed WASP law graduates. The one group that did not fit neatly into this bifurcation of the New York City bar was the small group of university-trained Jewish and Catholic lawyers.

In the 1920s, elite firms began the Cravath system of hiring the best graduates right out of law school for several years of training, before a possible offer of partnership. These firms, however, as a rule did not hire ethnic law graduates, regardless of law school accomplishments. Jewish and Catholic lawyers who desired an elite legal practice were forced to find their own market niche. Generally

excluded from the WASP firms, they formed their own firms — the second tier of the elite Wall Street bar. Nativism and anti-semitism — autonomous cultural forces — contributed to the division of labor in the provision of corporate legal services.

This division of labor reflected a differential exposure to the vicissitudes of the market. For litigation firms, no matter how elite their corporate clients, faced a different set of market conditions than their elite office practice brethren. Litigation practice did not offer the same long-term income stability. Corporate litigation work though serial, was not continual, as was corporate counseling work. Litigation practice consists of a series of one-shot cases, approximating arms-length market transactions. A firm's success on one case affected its ability to get the next case. In the absence of the stable client base of an office practice, litigation firms were required to devote more attention to client getting.[14] Moreover, litigation work is financially riskier than office practice. Office practice work is charged at a fixed hourly rate. In litigation work, the winner-take-all nature of litigation makes it normatively difficult to charge the same amount for a lost case as a won case. Yet, costs to the firm in salaries and overhead remain the same, win or lose. Litigation firms simply have less protection from the market. There is some anecdotal evidence of litigation practice's historically lower profitability (Galanter and Palay 1991, p. 17,

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[14]. Carroll Seron (forthcoming) reports that this concern for getting the next client before the present case ends is the central concern of small firm and solo practitioner litigators.

The dynamics of the market for corporate litigation work are not that different to alter this attorney obsession. As one Wall Street firm litigation partner told me, "You never know who your next client will be until he walks in the door."

n. 60).

Thus, the combined effects of the professionalization project of the bar, the market niche-ing of elite corporate practice by type of legal work, and nativist biases produced the bifurcated market for corporate legal services. Not only was the market bifurcated, but it left the derogated group of firms differentially exposed to the market forces that the professionalization project was attempting to overcome. This differential exposure to market pressures required the litigation firms to take a more entrepreneurial attitude toward attracting business and controlling costs. The roughly seventy years (c.1910 - c.1980) of stability in this bifurcation thus produced differential firm cultures, based on the primary practice of the firm.[15]

During the period from 1975 to 1985, a number of other transactional and derogated practices became lucrative. Many elite firms formed M&A, corporate real estate, and bankruptcy departments of their own. This contributed to a trend of the marketization of counselor practice firm-client relations, but the market position advantages of counselor practice firms over transactional practice firms was not

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[15]. Smigel made the point that different client bases produce different organizations: "Although the large Jewish firms have important corporations as client, these companies are not as large, as old, as conservative, or as important as the major clients of the large Wall Street firms. For example, if a 'Jewish' firm has a bank as a client, it is usually a small bank. When you extend this finding to other clients, it means that the Jewish firm if it is to remain large and survive needs many more clients than other large firms" (1969, p.174). He compared them to large out-of-town "Anglo-Saxon" firms. "This resemblance is probably related to the similarity in clients. Both the 'Jewish' firms and the out-of-town offices have numerous small clients and few large clients" (1969, p. 355, n. 10). This is consonant with both Nelson's theory of professional dominance and, in organizational theory, resource dependence arguments (Pfeffer and Salancik 1978).

erased. Further, it is not likely that a firm culture born of a historical market position can be erased quickly. Epstein, writing in another context, quotes a partner of a transactional firm about the cultural legacy a transactional practice:

> In the midtown firms there is more of a sense that they have to be very sensitive to picking up business and getting new clients and things like that. My firm is funny because in the last ten years it has become incredibly rich and has all of these clients, but there is still that edge of insecurity. You don't dare turn a client down because he might go elsewhere (Epstein 1993, p. 206).

The frequency of such quotes supports this argument for the effects of a firm's market position on its internal culture. Lawrence Lederman reports that when he interviewed at Wachtell, Lipton, Rosen, & Katz as a laterally-hired senior associate in 1974, a founding partner of the firm asked him if he could also do house closings and matrimonial work. Not sure if the question was a joke, he asked the partner why he wanted to know. The partner's serious reply betrayed a classic small merchant's fear, "We can never be sure the corporate work will last. We want lawyers who can do other things" (Lederman 1992, p. 58).

The defining practice of a firm — the majority of its business — will influence the appropriate culture. Traditionally corporate counseling practice-oriented firms should have collegial-driven cultures. Traditionally transactional practice, litigation — and similar derogated practice area — firms should have entrepreneurial-driven cultures.

The **eliteness of the location** of the firm is a strong historical indicator of its market position, although this is not "structural" in the same sense as the other indicators. Smigel discussed the salience of location in the Manhattan financial

district for law firm reputation. Early in the century, firms located near their clients, the downtown, Wall Street investment banks. As lawyers professionalized around the turn of the century, elite lawyers came to emphasize their role as counselors to corporate and elite individual clients. At the turn of the century, several ethnic firms arose to provide litigation services to corporate clients, general corporate legal work to mid-town retail stores, and securities law counseling to German Jewish "Our Crowd" investment bankers. These firms eventually located in the midtown business district around Grand Central Station. The spatial location of the firms came to reflect the ethnic and practice specialty bifurcation of the corporate legal services market. "Uptown firms" became synonymous with the derogated practice areas of corporate law — litigation, small commercial transactions, and real estate.

> To be called an uptown firm was to be looked down upon. It implied poorer lawyers from smaller law firms. The distinction was based partially on size of firm and partially on size of clients, the downtown firms being larger and having the largest and most important clients. Some psychic income is obtained by being labeled a downtown firm (Smigel 1969, p. 176).[16]

Location, then, is the historical measure associated with the firms' practice prestige.

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[16]. Smigel continues by quoting an "uptown" firm partner:

> "There was a period of years when there was a difference between uptown and downtown firms in terms of size and respectability. However, some sections of downtown also have this stigma — Broadway, for example, is known as Shyster Hall. ... We moved from downtown and it was difficult for two of our partners to make the move, but the advantage of moving became overwhelming. Most New York business had moved to the Grand Central area and there's more general comfort in uptown living and our air conditioned buildings. ... Now there are enough good firms uptown to take the stigma away. When we moved, we were afraid we were not getting enough stock issues, but we did. There still is a difference, however, there is a tendency of firms who represent banks to stay downtown, and the downtown firms are more conservative" (p. 176).

"Downtown" firms are more likely to have collegial-driven cultures. "Uptown" firms are more likely to have entrepreneurial-driven cultures.

The **number of branch offices** is another indicator of the type of client relations firms have. Counseling firms have transgenerational ties of intimate knowledge and trust with their clients. Market ties are embedded in elite social networks, as I have argued above. But these embedded ties are not mobile; providing little incentive for such firms to invest in expensive branch offices.[17] In contrast, specialty, transactional practice firms acquire their business through market ties. Like a retail store, branch offices facilitate customers "walking in off the street," having been attracted by the firm's specialty reputational. Because transactional firms sell one-time specialty legal services to clients in need of the specialty, these firms' client ties span social network barriers.

Galanter & Palay (1991, p. 48) report on the general trend of the movement of corporate legal practice out of New York City during the 1980s.[18] Chicago, Cleveland, Los Angeles, San Francisco, and Houston all became significant regional nodes for corporate legal services.[19] Wall Street firms responded to this regionalization of demand for corporate legal services by opening branch offices in

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[17]. A start-up branch office was estimated to cost a minimum of $1 million per year, in 1990.

[18]. Table 1.6*c* shows the clear decline in New York City's share of the largest law offices in the period from 1970 to 1990.

[19]. Thirty-two of the 50 largest firms in the 1992 *National Law Journal* annual survey of the 250 largest law firms were located outside of New York City. Lynch & Meyer (Lynch and Meyer 1992) detail the movement of elite corporate law practices into regional nodal cities.

these regional cities or by shifting their emphasis to international legal practice. In 1980, the thirty Wall Street firms had a combined total of 51 domestic branch offices. Many of these offices were in Washington, D.C., long a necessary outpost for servicing New York financial interests. In 1991, the combined domestic total was 102. The international branch office total was, respectively, 44 and 102 (Journal 1991). Wall Street firms followed the business, it seems, to nodal regional cities in the North America and to Europe, in anticipation of the 1992 Common Market changes.

However, not all firms opened branch offices with the vigor of some others. Given the general tendency toward branch office expansion and with similar growth rates and mixes of business, firms with lower than average branch offices have relied on other, "local" means of growing large through embedded client counseling relations.

Firms with only a few branch offices thus are more likely to have collegial-driven cultures. Firms with multiple branch offices should have entrepreneurial-driven cultures.

(iii) Professional Autonomy. The professions have long sought to distance themselves from the market. Both practitioners and theorists have argued that the professions' public-spiritedness conflicts with the venal calculativeness of the market. A release from the dictates of the market's logic through state-sanctioned restrictions on the number of practitioners has been a common means of assuring (at least elite)

professional practitioners autonomy. As Larson (1979) and Starr (1982) argue, this state-sanctioned market monopoly elevated professionals' social class status, as well. However, elite lawyers have always earned their livings off of the most advanced elements of the market sector.

Waters (1989) extends Larson's class mobility project theory by arguing that collegiality, a central component of professional ideology, took the form of a class *protection* project. Collegiality protected the professions from the twentieth-century onslaught of the market sector's rationalizing logic of bureaucratic control. Lawyers did not circum to isomorphic pressures of the market sector, because they were able to counteract both normative and coercive isomorphic pressures (DiMaggio and Powell 1983) with counter normative claims of professional autonomy dependent upon nonhierarchical collegiality.

Andrew Abbott's historically grounded theory of professional jurisdiction demonstrates the *on-going* nature of jurisdictional boundary maintenance work (Abbott 1988). Professional autonomy, then, is a product of continual practical and ideological work of claiming professional jurisdiction. The bar association has been the central component of this collective work.

However, like the large firms themselves, the preeminent bar group in New York City, the Association of the Bar of the City of New York (ABCNY), has a long history of nativist elitism (Powell 1990). Historically, the ABCNY has been dominated by the leading partners of the WASP firms. The historical roster of

ABCNY officers is a list of elite practitioners.[20] Bar activities were performed by, *and for*, the older elite firms. Under these conditions, the newer, less prestigious, "ethnic" firms had both less access to the bar and less to gain from its actions. Firms with lucrative, on-going, trans-generational client ties could afford to have partners devote themselves to bar activities. Firms with one-shot, transactional businesses required their partners to be out drumming up new business. Further, their lower profits margins probably restricted their ability to "afford" partners whose time was devoted to bar committee work. Thus, firms' orientations toward bar policies and level of bar participation should reflect the firms' market relations.

There are two empirical indicators of firms' professional autonomy orientation, the number of same sector clients and the level of bar participation of firm members.

The **number of same sector clients** a firm has is an indicator of its orientation toward professional autonomy. A central tenet of lawyer professional ethics has been conflict of interest prohibitions. Firms cannot represent a client in a legal matter if the firm has previously represented one of the other parties to the legal matter.[21] This prohibition is codified in Ethical Canon 5-14:

> Maintaining the independence of professional judgment required of a lawyer precludes his (*sic*) acceptance or continuation of employment that will adversely affect his judgment on behalf of or dilute his loyalty to a client. This problem arises whenever a lawyer is asked to

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[20]. Though Powell documents the democratization of the ABCNY in the 1970s, in response to the sea change in the corporate legal services sector.

[21]. Though clients may waive their right to challenge the firm's representation of an adverse party in a legal matter. Skadden, Arps wrote a protection from such a conflict of interest challenge into its retainer contract.

> represent two or more clients who may have differing interests...(Association 1986, p. 50).

Firms with primarily on-going, client-counseling ties to clients will thus tend to have only one large client from each sector, to avoid conflicts of interest which might lessen the relations of trust. For example, Cravath has long been the primary outside counsel of Westinghouse Electric. I would expect Westinghouse's chief competitors — RCA and General Electric — to use other law firms as their primary outside counsel.

In contrast, firms with primarily transactional practices are likely to be used by many of the dominant companies in a sector over the course of several years, as those companies require the firm's specialty service. For instance, many companies requiring legal help in initiating, or defending against, a hostile takeover are likely to go to Skadden, Arps — for many years one of the few takeover practice "specialists." Similarly, chemical and petroleum companies in need of a toxic tort defense firm are likely to retain a firm with a proven record of defending companies against class action suits resulting from their environmental pollution. Transactional firms' cumulative client rosters should show multiple same sector clients.

This reflects different strategies for coping with the lack of absolute market power. The client-counseling firm attempts to maximize its market power (hence profits) through scarcity. The transactional firm attempts to maximize its market power (hence profits) through volume. These opposed strategies should be reflected in firms' cumulative client lists.

Firms with only one sectoral client should have collegial-driven cultures.

Firms with more than one same-sector client should have entrepreneurial-driven cultures.

Firm members' bar participation is another empirical indicator of firms' orientation toward professional autonomy. Firms that have used the professional ideology of collegiality to protect themselves from the encroachment of the bureaucratic logic of administered market relations should have a high bar participation rate. Boundary maintenance work requires constant effort by practitioners. For lawyers, much of this work is through the state-sanctioned activities of the organized bar. This professional autonomy work may well be most important for the firms with on-going client ties — just the firms who most risk being "captured" by their on-going clients' interests.

In contrast, firms which adopt a market-oriented ideology should find little of interest in bar association activities. Bar policies, such as conflict of interest rules, have often inhibited their client getting strategies. Further, under the logic of the market, time is money. Unremunerated time, is not time efficiently spent. Transactional firms developed their specialty reputations *despite* the history of the bar's often hostile attitude toward them. Thus, it seems unlikely that these firms would invest time (money) in bar activities as a means of gaining clients. Indeed, they have grown large despite the bar. At the level of the firm, I would expect less bar participation by members of firms organized by an entrepreneurial logic.

Firms with high levels of bar participation are likely to have collegial-driven cultures. Firms with low levels of bar participation by members are likely to have

entrepreneurial-driven cultures.

(iv) Specialization and Segmentation. The varying degrees of specialization and segmentation of professional labor is an important internal structural difference among firms. Attorneys may specialize in a narrow area of legal expertise, thus reducing the "start up time" required by a generalist in familiarizing him/herself with an area of law in a new case. Yet, narrowly defined specialty practices prevent lawyers from having a full conception of their client's case. Departmentalized training, administration, and promotion procedures result in limited inter-departmental contact and, thus, the cognitive and physical division of the firm.

Further, in more bureaucratized firms, the repetitive, clerical aspects of attorney work are segmented off. Paralegals, word processors, proofreaders, copy clerks, and other support staff perform the clerical aspects of legal production, freeing professionals to perform additional high skill/high value work.

In contrast, firms with fewer formally sanctioned specializations will have fewer cognitive, and possibly fewer physical, divisions within the firm membership. Firms with fewer departments are placing organizational unity above a market-oriented specialization strategy.

The empirical indicators of specialization and segmentation are the number of departments and the paralegal-per-lawyer ratio.

The number of practice **departments**[22] is an indicator of firms' propensity to specialize. Corporate, litigation, and tax departments existed when Smigel wrote, reflecting generally agreed upon broad divisions in corporate legal work specialties. The limited number of practice areas reflected the professional emphasis on lawyers as generalist practitioners. Increases in federal regulatory activity, an "explosion" of legal knowledge in case and commentary reporters, and a general societal tendency toward specialization's effect on the professions (Freidson 1986) all contributed to the increasing division of labor among corporate lawyers. Work that was previously performed under the general rubrics of "corporate" and "litigation," became specialties, such as structured finance, M&A, banking, bankruptcy, labor, and product liability. In addition, new specialties were created in response to new federal legislation, such as EEOC, ERISA, and environmental law.

Some firms responded to this by creating multi-layered specializations. Other firms, while having *de facto* specialists, resisted establishing formal bureaucratic structures for their division of labor. Further, while some firms created formal administrative divisions for internal administrative purposes, they actively denied the existence of such divisions to clients and law graduates, alike.[23] The long academic

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[22]. I use "departments" and "departmentalization" here for simplicity. In fact, firms use different terms to refer to their practice unit divisions and hierarchy. Some call their legal specialization units "departments" others call them "practice areas" or "practice groups." Yet other firms have both in varying positions of superordinacy and subordinacy.

[23]. See (Nelson 1988) for a discussion of the ideological importance of the generalist practitioner image for firm recruiting.

debate around the compatibility of the professions and bureaucracy (see generally, Hall (1968)), had real world groundings in contested images of professional organizations' appropriate form.

Administrative divisions lead to social divisions which encourage and reinforce administrative divisions. The segregation of firm members' offices by departmental floors, an efficiency device for lawyers' requiring constant face-to-face contact, can result in less informal inter-departmental contact. Departmental meetings, departmentally-run reviews of associates, and departmental cost and revenue analyses all contribute to cognitive and physical divisions within firms.

Tolbert & Stern (1991, p. 110) demonstrate that firms with a greater number of specializations are less likely to have collegial governance structures.

Firms with fewer departments should be collegial-driven. Firms with more departments should be entrepreneurial-driven.

The **paralegal-per-lawyer ratio** is an empirical indicator of the segmentation of professional work. Paralegals, a semi-profession (Etzioni 1969), are a product of partners' attempts to rationalize the production of legal work by breaking off repetitive and clerical tasks that were traditionally an aspect of professional work and assigning those tasks to semi-skilled subordinates (Abbott 1988). On the other hand, some firms have resisted this segmentation of professional labor, and made far less use of paralegals. These firms have maintained an essential integrity of attorney work, in both its mundane and intellectual aspects. The reasons partners give for not using more paralegals, such as the lack of commitment of non-lawyers, points to a

view of the essential integrity of lawyer work.[24]

The advent of paralegals has altered the definition of "attorney work," in some firms.[25] The large law firms use paralegals for the organization, indexing, and retrieval of large document collections during litigation ("document production"); the reviewing of ancillary documents to transactions, such as leases and deeds ("due diligence"); the conforming of papers for submission to the courts to obscure syntactical rules of legal citation ("Shepardizing," "cite checking," and "Blue Booking"); and the proofreading, copying, and distribution of drafts of edited documents to clients ("distributions"). The removal of this work from the hands of associates has freed up the associates for supervisory responsibilities and additional work. Several consultants' studies of large firm practices describe paralegals as "profit center[s]" (Malone and Altonji 1991, p. 20), suggesting the profitability of segmentation.

Firms with fewer paralegals-per-lawyer should have collegial-driven cultures. Firms with more paralegals per lawyer should have entrepreneurial-driven cultures.

(v) Governance Structures. Firms' decision making structures are indicative of the formal relations between members. Law firms are partnerships. Partnerships

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[24]. The position of copy clerk eventually evolved into the modern day firm associate. This unitary view of legal work is in part an artifact of pre-typewriter law firms, with partners and clerks. See note 8 for a discussion of the transformation of law office production.

[25]. Smigel's 1969 Epilogue mentions the advent of large firms' use of paralegals (p. 364).

imply formal equality of membership, with its attendant rights, obligations, and risks. But actual partnerships can be structured by opposing internal logics.

A collegial governance structure recognizes all members of the firm as fully sharing the rights, obligations, risks, and benefits of the firm. Membership is inclusive. Every partner has an equal vote in partnership decisions. Every partner must produce at a comparable level of effort. And, every partner equally shares the economic risks and gains of the partnership. Decisions are made collectively. Administrators are few and drawn from the body of partnership to assure representativeness.

In contrast, a hierarchical governance structure specifies membership levels, or tiers. Authority is vested in a hierarchical chain of command. Individuals exercise managerial authority only as incumbents of an office vested with such authority. Because the offices exist separate from the individuals that fill them, who occupies the office is less important than the mandate and authority invested by the partnership in the office. In this way, firm management can be decoupled from the partnership and be performed by non-member experts employed by the partnership. The partnership itself becomes hierarchically ranked. Partners' rights, obligations, risks, and interests are discrete and positional, rather than equal and shared.

There are two possible empirical indicators of firms' governance structures, the presence of a non-lawyer, MBA firm manager and partners' compensation formulae.

The **presence of a MBA firm manager** at a firm is an empirical indicator of

the firm's governance structure. Between Smigel's first and second edition (data collected in the late 1950s and 1968, respectively), the management of firms evolved from being the part-time activity of one partner, to being the full-time activity of at least one partner. By the mid-1970s, the Association of Law Firm Administrators (ALA) was formed (Middleton 1988). Several of the large firms hired administrators from accounting firms and gave them partnership-like powers and benefits. For instance, Skadden, Arps, hired Earl Yaffa from Arthur Young & Co. (a Big Eight firm) and gave him the title of "Managing Director."[26] Other firms gave the title of CEO to their non-lawyer managers. Yet, not all the firms — nor members of the profession — welcomed the arrival of MBAs to law firm management.[27] The line between "running the firm" and practicing law is vague. Similarly, the line between "running a firm like a business" and "practicing a profession" is vague and subject to contestation by those concerned to maintain the demarcations.

Firms without MBA managers should have collegial-driven cultures. Firms with MBA managers should have entrepreneurial-driven cultures.

The **partners' compensation formulae** are another indicator of firms' governance structures. Traditionally, firms maintained lock-step compensation formulae. Partners divided the pool of profits in accord with a seniority-based system of compensation. With age, partners' income increased incrementally. Gilson &

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[26]. Yaffa is listed among the partners in the firm's directory.

[27]. In 1982, the American Bar Association House of Delegates voted to allow law firm administrators to become non-voting "associate" members of the ABA's Economics of Law Practice Section, only after years of heated debate (Graham 1982).

Mnookin (1985) argue that such compensation formulae are essential to maintaining partnerships as risk sharing pools. Cravath is perhaps the best-known example of this system (Stewart 1993). This is the likely compensation formula for a firm that is confident of its future client- (and thus income-) stream.

Yet, other firms use a performance-based profit distribution formulae. In the parlance of the 1980s, this was often termed "eat what you kill." Partners who bring in the clients get the largest share. The partners who do the work for the big clients get the second largest share. And, the other partners get what is left over. This compensation formula provides a structural incentive for partners to search out and bring in business. It is the likely compensation formula for a firm with primarily transactional business — a firm that worries about its future client-stream.

Firms with lock-step partner compensation formulae should have collegial-driven cultures. Firms with performance-based compensation formulae should have entrepreneurial-driven cultures.

(vi) Recruitment. Firms' recruitment practices imply a paradigm of affiliative relations between lawyers in the organization. Some firms treat associates as *proto*-members of the partnership. Other firms treat them as employees.[28] The former implies a (potentially) permanent relationship between the associate and the partners as equal members. The latter implies a temporary relationship of subordinacy (with a

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[28]. I use the term "employee" here in a descriptive sense. Associates are actually "employees-at-will" and can be terminated without cause or prior notice. Employees, strictly defined, have many more rights at law than employees-at-will.

small chance that it may become permanent).

Historically, the Wall Street firms have restricted their recruitment of new members to individuals who share a high social status. Common backgrounds of prep school, Ivy League colleges, and elite law schools provided a form of pre-law firm social status filtration for the firms. What Kanter refers to among corporate managers as "homosocial reproduction" (Kanter 1977, p. 63), might be understood in this context as "homosocial recruitment," based on the "homosocial attributes" of potential recruits. Law firms filter out "different" recruits up front, at the time of hiring, unlike the incremental filtration process used by Kanter's managers. Shared attributes act as signals of the likely shared "latent culture"[29] of the new recruits and the firm. A shared latent culture allows firms to become an artificial primary group; utilizing primary group-like normative elements for coordination and control (Ouchi 1980). Employment relations are embedded in social relations.

However, other firms have used more typically open-market recruitment practices, by hiring certified individuals without concern for the individual's "fit" into the organization's latent culture. These affiliative work ties are typified by the manager-employee relationship. Work relations are formal and, at least minimally, contractually specified. The diversity of firm members social status backgrounds

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[29]. (Becker and Geer 1960). Becker & Geer describe the role of latent culture among medical students. A latent culture "has its origins and social support in a group other than the one in which the members are now participating" (p. 306). Because the shared cultural attributes of the latent culture are not strictly relevant to the organizational task at hand, latent cultural attitudes and assumptions tend to go "unstated and undiscussed" (p. 310).

prevents the confusion of the employment relation with social relations. Over the seven- or eight-year associateship, associates' compatibility and performance level is revealed. Like Kanter's managers, selection in these firms comes incrementally for a few of the associates.

There are three empirical indicators of firms' recruitment practices: the prestige of firm partners' law schools, the number of partners-per-law school, and the percentage of female partners.

Partners' law school prestige[30] is an indicator of the firms' recruitment practices. Historically, Wall Street law firms have primarily recruited associates from high prestige law schools. Smigel reported that 72 percent of the partners at the twenty largest Wall Street firms came from the top three law schools, Harvard, Yale, and Columbia (1969, p. 39). Yet, some firms have been less selective in their recruitment patterns. During the rapid growth in law firm size of the 1970s and 1980s, some firms continued to limit their recruitment and advancement to prestigious law school graduates, thus constraining their ability to grow.[31] Firms with already

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[30]. I use Heinz's and Laumann's (1982) law school prestige classification for this discussion. They break law schools into four categories: elite (top-10), prestigious (top-11 to 20), regional (other university-affiliated schools), and local (for profit, unaffiliated schools). I assigned elite schools a score of 1, prestigious a score of 2, regional 3, and local 4. This allows for the calculation of a mean partner law school prestige score for each firm, with 1 being pure elite and 4 being pure local.

[31]. The top twenty schools graduated 2014 lawyers in 1970 and 5,929 lawyers in 1990, a 194 percent increase. During the same period the 30 largest New York City firms grew by an average rate of 222 percent. Firms that restricted themselves to the top twenty schools, limited their overall firm growth at the base. Firms broadening of the status recruitment net to a wider range of schools is even more pronounced when we recognize that some of the current "top-20" schools were of quite low

wide recruitment patterns, and firms that broadened their recruitment base to include graduates of less prestigious law schools, were able to grow more readily and thus better meet the spiraling demand of clients during this period.

Firms that have a higher average partner law school prestige rating should have collegial-driven cultures. Firms with lower prestige ratings should have entrepreneurial-driven cultures.

The **number of partners-per-law school** is an indicator of firms' commitment to promoting "like" young partners to partnership versus a firm's willingness to promote partners from a broader spectrum of law schools. The more partners-per-law school, the denser the firm's culture. Firms with lower partners-per-law school ratios put less emphasis on firm members' sharing of a latent culture acquired partially through law school socialization. Higher density firms practice a form of homosocial recruitment, relying on law school as a social status filter.

The high density of all Wall Street law firm's partners-per-law school ratios indicate that all these firms practice some degree of homosocial recruitment.

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prestige in 1970, for example, N.Y.U.

In his 1968 Epilogue, Smigel already noticed the effects of the supply of elite law graduates not keeping up with firms' demand. One partner was quoted as saying, "We are now less finicky [about the credentials of the students they recruit]. We need people to do the work" (p. 369). Further, it appeared that a significantly lower number of elite law school graduates were willing to go to the "newer firms" that had arisen since Smigel's original research in the late 1950s (p. 372). The theme of the whole Epilogue is the increased power associates had *vis a vis* partners. Firms that refused to "dip" lower into the law school ranks did so at the risk of ceding even more power to the associates as a group, unless they had a countervailing power, such as their prestigious reputation.

I plan to elaborate this argument in a future project, termed, "The Power of Associates."

Contrary to the corporations discussed by Kanter, these law firms practice their homosocial gate keeping up front, during the initial hiring process, when they restrict themselves to a small group of elite school graduates.

Because data are unavailable on particular law school-law firm recruitment patterns, partner-law school patterns can be used as rough surrogates. While I cannot know what processes differentially affect the advancement of various law graduates within firms, I can reasonably expect that processes of selection, favoritism, and bias at the partnership level are generally at work at the recruitment level as well, and any variance from this pattern is likely to be randomly spread across the population. Thus, significant differentials in the composition of the law school of origin of law firm partners can be used as an indirect measure of differences in law firm recruitment practices.

Further weight is lent to this assumption by the analysis of law firm recruitment practices. The Wall Street law firms typically recruit at the schools from which they have partners. This is especially significant for schools below the top-twenty. Law students apparently demand proof, in the form of firm partners from their school, that the recruiting firm will not hold their less prestigious law school degree against them.[32] Thus, current partners' law schools are a good indicator of

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[32]. This was certainly the case in the 1980s, when it was a seller's market for associate labor. Now in the lean market of the 1990s, non-New York Regional law school graduates who wish to come to Wall Street can no longer be so fussy. However, it also appears that several of the firms have developed long term relationships with specific non-New York Regional schools and are willing to recruit there even during recessionary times. It appears that the stigma of attending a regional school has somewhat lessened, in the eyes of Wall Street firm recruiting

those firms' current recruitment pools.

Law firms can be conceptualized as pyramids, with a wide base of new associates and a narrowing top of senior associates, then partners, then managing partners. Whether the pyramids are tall or squat reflects firm differences in size and partner-associate ratios. Firms' recruitment patterns can then be conceived of as yet wider sub-bases of the firms' first-year associate ranks. The breadth of a recruitment sub-base determines the possible breadth of the first-year associate level of this pyramid, for each firm. Firms that emphasize homosocial recruitment sacrifice some flexibility in expanding the base of their recruitment sub-base. Firms that expanded their recruitment pool to non-elite schools facilitate overall firm growth, at the expense of homosocial recruitment and the normative control mechanisms latent culture affords.

Firms with a high number of partners-per-law school should have collegial-driven cultures. Whereas, firms with a low number of partners-per-law school should have entrepreneurial-driven cultures.

The percent of female partners should similarly indicate firms' recruitment practices. Accurate associate-by-gender counts for the thirty firms' New York offices are unavailable, but partner gender counts provide a historical indicator of firm's willingness to recruit female associates, as women began to comprise a substantial

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committees, provided the law student has a record of personal achievement (law review, clerkship, etc.).

element of the top twenty law schools' graduates.[33]

Epstein's (1993 [originally 1980]) examination of women in Wall Street firms in the 1970s demonstrates the "old boy" network qualities of many of these firms. The underside of these tightly knit, collegial organizations is just that — they are run and populated exclusively by *old boys*. Firms that emphasize the ascription-like qualities of membership will be less receptive to the general social trends, such as women's advances in the legal community. In contrast, firms that de-emphasize homosocial recruitment will have equitably recruited from the growing pool of female top-twenty law school graduates during the 1970s and 1980s. By 1991, the open market recruiting firms will have had more female partnership candidates than the homosocial recruitment firms, and thus likely have a higher percentage of female partners.[34]

Firms with a low percentage of female partners should have collegial-driven cultures. Firms with a relatively high percentage of female partners should have entrepreneurial-driven cultures.

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[33]. Richard Abel (1989) documents the growing percentage of female law school graduates during this period, including top twenty law school graduates. Cynthia Fuchs Epstein (1993) surveys the effects of this change on the bar in the Epilogue to the second edition of *Women in Law*.

[34]. This is not to say that open market firms were gender blind or that homosocial recruitment firms did not hire women. For the purpose of differentiating firms, I need only find that firms that used an employee model, with its open market recruiting, hired *more* women and thus had *more* female potential partners, than membership model firms. Firms with *more* female partners are highly likely to have had *more* female associates in their pool of would-be partners.

(iv) Partner-Associate Relations. The implications of the firms' varying recruitment practices are revealed in the partner-associate relations practices. In all firms, partners want associates' maximum effort and associates want job security and assurance that they will be treated fairly in promotion decisions. Homosocial recruitment firms, whose work relations are embedded in partners' and associates' shared social background cultures, have work relations predicated on reciprocal trust and loyalty. Open market recruiting firms, whose work relations are not embedded in social relations, have interactions predicated on distrust and surveillance.

Because the homosocial recruitment firm views associates that it hires as *proto*-members of the partnership its partner-associate relations are typified by the informal rights and obligations of shared membership. The firm uses an internal, "home grown" promotion regime — making new partners from among its own associates or not making partners at all. It does not hire lateral associates, thereby limiting associates' external competition for scarce partnership slots. The firm views the seven- or eight-year associateship as a continuation of associates' shared elite pre-firm socialization. Thus, it only makes partners of "home grown" associates who fully share the partner culture, as demonstrated over years of loyal work. In this way, partners and associates equally share (in the aggregate) the risks and benefits of the internal promotion system. These firms' shared (latent) organizational cultures allow for normative control of associates' work and productivity.

In contrast, a firm that has historically used open market recruiting of associates has partner-associate work relations typified by distrust and enforced by

surveillance. The firm hires lateral associates, thereby continually introducing partnership competition to current associates. These conditions of uncertainty among current associates regarding their partnership competition (let alone chances), is likely to encourage opportunistic behavior. As mere employees, associates understand themselves to be fungible. Absent any shared culture to bind associates and partners, the firm uses a coercive control regime based on surveillance to control opportunism and shirking.

There are five empirical indicators of firms' partner-associate relations, amount of lateral hiring, number of professional ranks, public billing targets, the distribution of "utilization" reports, and the use of paging systems.

Lateral hiring is the hiring of associates with prior associate experience at other firms. Some firms have internal promotion regimes, only promoting "home grown" associates. Other firms hire on the open market at all ranks. The more hermetic or porous the partnership track, the more or less the organization is committed to socializing associates into a valued organizational culture. The normal partnership track for Wall Street firms requires the new entrant to spend seven to eight years as an associate. At the end of this period, s/he is admitted to the partnership or asked to leave the firm. This associateship is a time for the associate and the partners to acquire a mutual knowledge about their respective abilities and expectations.

To the degree that this shared knowledge is conceived of as being informal, personal and an increasingly shared tacit background knowledge of a shared lifeworld,

then firms would value the associateship as an important *socialization* period of potential new partners. If firms view associates as primarily labor for the extraction of surplus value, as Galanter & Palay (1991) argue, then associates should be viewed as fungible employees, readily replaced without substantial loss to the firm.[35]

Thus lateral hires are a indicator of the porousness of the partnership track. Firms that hire associates laterally and promote lateral hires to partnership are less likely to value an organizationally-specific multi-year training process than firms that do not hire or promote laterals.

Firms with an internal promotion regime should have collegial-driven cultures. Firms that use the open market for recruiting, lateral hiring, and promotions should have entrepreneurial-driven cultures.

Number of professional ranks is an indicator of the affiliative relationship

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[35]. Galanter & Palay's human capital theory allows for the valuing of nontransferable, firm-specific forms of capital, such as the knowledge of firm-specific procedures, clients, and methods (1991, p. 95). However, the market imposes limits on the increasing value of such firm-specific knowledge in the form of alternative information containers, such as manuals, data bases, client files, and even firm historians. While their modified version of human capital theory can explain the market value of perhaps one to two years of firm experience, it fails to explain why firms would forbear all lateral hiring throughout a typically eight-year associateship track. Kunda (1992) documents one engineering firm's market-wise attempt to shape workers' firm-specific knowledge through its hiring of a full-time "culture historian," who distributes such things as a booklet entitled "XYX Corp. Firm Culture: A User's Guide" to new hires. Kunda found this firm's efforts' effects were contradictory, at best.

Culture can be partially instrumentalized and thus valorized as human capital theory suggests. Yet, under utilitarian theory's own tenets, claims to the *shared* valuing of "intangibles" should be made with great caution. If culture and cultural knowledge are so easy to define and commodify, we should have seen more attempts at substitution.

between partners and associates. All the firms have at least two ranks — partners and associates. Some firms have only two professional ranks. However, some firms have recently reintroduced non-partner, non-associate, salaried, permanent professional positions. Variously called "Permanent Associates," "Senior Associates," "Special Counsels," and "Of Counsels" (hereafter, "permanent associates"), these are terminal positions for associates who did not warrant a partnership. The positions are often filled by lawyers with obscure, but necessary skills, such as Blue Sky attorneys.[36] Smigel referred to these positions as "failures that stay" (1969, p. ??). Gilson & Mnookin (1989) argue that these permanent associate ranks are a form of partnership opportunism. The firm is able to keep the associate's needed skills, but not share the partnership's profits with her. Galanter & Palay (1991) document the historical elasticity of the up-or-out rule in the "Cravath system."[37]

Nevertheless there is a symbolic component, as well. As long as there are only two professional ranks in the firm — partners and associates — partners and associates alike can maintain the ideological belief that all the associates the firm hires are *proto*-members of the partnership. Indeed, a favorite recruitment line use by

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[36]. "Blue Sky" legal practice is the arcane, no growth area of keeping up on the securities filing regulations of all fifty states. It involves the command of a large, diverse, and ever changing body of state legal code, but very little substantive legal work or client contact.

[37]. Galanter & Palay's (1991) demonstrate that these salaried, non-associate "other" positions were popular in the big firms until about 1960, when they disappeared. They reappeared in the 1980s.

partners is "We wouldn't hire you if we didn't think you were capable of becoming a partner." The belief in associates *proto*-membership subjects associates to the obligations of partnership, before they received the rights and benefits of partnership. In firms with only two professional ranks, partners can use the normative controls of the partners' culture to extract associates maximum effort.

Firms that have permanent associates lose some of this normative suasion over associates. Terminal, non-partnership positions at a firm belie partners' claims that everyone at the firm is partnership material. These positions allow firms to reap the benefits of the senior attorney's skill and knowledge, without having to share the partners' profits accrued from the skill and knowledge. These positions suggest a firm willing to treat its professional staff like employees. All associates worry if they are "good enough" to become partners. The presence of permanent associate positions makes them worry that they will be "sucker enough" to end up as mere employees, after years of hard work.

Firms with relatively few professional ranks should have collegial-driven cultures. Firms with relatively many professional ranks should have entrepreneurial-driven cultures.

Publicly announced billing targets for associates are indicators of the firms' partner-associate relations. Not all firms have publicly stated billing targets. These firms deemphasize fixed billing targets as inappropriate measures of performance, telling associates who inquire that, "that's not a concern of ours, just get your work

done."[38] Those firms that do publicly announce a minimum — or average — expected number of hours for associates to bill create a clear performance measure for associates.

The effect of providing such a target is to place quantified performance criteria at the core of associates' job conceptions. In a complex environment, with limited information, quantitative information will tend to crowd out qualitative information. With both explicit and ambiguous performance measures to compete under, associates will tend to overemphasize the explicit measures. The ambiguous performance measures become secondary. Similarly, managing partners making promotion/retention decisions will tend to gravitate toward the numeric, "objective" measures over personal evaluations, at least in public statements about their partnership choices. Billable hours, then, become the first line of control of associates at these firms. The crowding out effect of quantification reduces the import of the ambiguous criteria, such as "fitting in," emphasized at other firms.

Firms without publicly announced billing targets should have collegial-driven cultures. Firms with publicly announced billing targets should have entrepreneurial-

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[38]. Informants at one firm told me that their firm considered it unprofessional to set billing targets. During a question and answer period at a firm-wide meeting a partner was asked about how much time associates could spend on certain non-billable work. In the course of answering, the partner implied that there was a fixed annual billing target. Before he finished the answer, several associates hands went up, obviously in response to the billable hour statement. Other partners interrupted the partner giving the answer — the informant termed it "shouted him down" — protesting the partner's misstatement. The decorum of politeness to a speaker was breachable to preserve the more important firm decorum of preventing hours worked from being subjected to quantification in the minds of the associates, it seems.

driven cultures.

Distribution of "Utilization" reports, monthly computer printouts that some firms provide their associates, showing their actual cumulative billing in the prior month, year-to-date, and comparisons to the prior year's same month and year-to-date, is an indicator of the partner-associate relations. A utilization ratio is a percentage calculated by dividing the associate's actual billing against a hypothetical "perfect" associate, who never is late, sick, nor takes a vacation. The logical extension of publicly stated billable hours targets, these reports track associates' hours against an impossible one-hundred percent figure.[39] The effect of such reporting on associates' progress toward an impossible goal is to promote positional competition among the associates. Some firms even distribute department-wide reports showing

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[39]. Utilization rates, at the firms I studied, were calculated without taking into account sick days, mandatory training, *pro bono* work, personal work for partners, holidays, and vacations. This made a one-hundred percent utilization rate nearly impossible. The rate was calculated by multiplying eight, or eight and one-half in some firms, hours by the number of weekdays in the year (e.g., 8 hours per day x 261 weekdays per year = 2088 billable hours per year). A simple alteration in the computer formula could take into account standard training and vacation time before calculating the rate, but these firms had chosen not to alter the formula. Associates reported that the partners told them that they did not expect anyone to maintain a one-hundred percent rate. However, the associates generally disbelieved this, with several pointing out the ease at which the formula could be adjusted "if [the partners] really wanted to."

Of course a possible reason the firms calculate the rate in this manner is because they, at least implicitly, recognize the effect of quantification on associates and they do not want hard working associates who might, under another formula, log utilization ratios over one hundred percent to get the — incorrect — logical message that s/he is working *too* hard.

utilization rates for all the associates.[40]

Firms that do not distribute utilization reports should have collegial-driven cultures. Firms that distribute utilization reports should have entrepreneurial-driven cultures.

Some firms have **paging systems** for paging lawyers in the hallways, conference rooms, photocopy rooms, and, in one case, in the bathrooms.[41] Some firms page by lawyer's name, some firms use discrete morse-like codes. Paging is designed to give partners continuous access to associates, regardless of the associates' location. Paging, thus, is a measure of associates' loss of professional work autonomy. Where the library or conference rooms were once an associate's refuge from the phone — and partners' calls to assign more work — paging systems

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[40]. At one firm I interviewed at, ranked reports caused such a stir that the partners ended the practice after one month, terming the distribution of the ranked data "a secretarial error" and subsequently maintaining that they do not view ranked data. Associates felt the distribution of the data was intentional and subsequently disbelieved the partners' claims that they do not use ranked utilization reports. Whether the partners' claims were true or not, this anecdote highlights the heightened symbolic force of *printed* messages under ambiguity. Issues of language aside, printed words — including expected billing targets — carry greater force than spoken words in most organizational situations. The greater force at law of the written statements than verbal statements may further heighten the significance lawyers attribute to written reports.

[41]. To a person, associates at the firm with paging speakers in the bathroom expressed chagrin. Bathroom paging was seen as such a severe violation of the private sphere by the firm that this had become a notorious story throughout the large New York firms. Associates at several other firms compared their own firms' control regimes positively to this firm with the statement, "At least they don't page us in the bathroom, like at [firm *X*]."

theoretically make associates permanently on-call.[42] In contrast, other firms do not use paging systems. In these firms, associates must discern on their own when they need to be available to their partner, and thus near their phone.

Firms without paging systems should have collegial-driven cultures. Firms with paging systems should have entrepreneurial-driven cultures.

Conclusion.

This chapter reviewed seven theoretical concepts of structural characteristics and firm practices I believe are correlated with large law firms' organizational cultures, either as cause or consequence. I reviewed twenty possible empirical indicators of the concepts. Table 4.1 charts the theoretical concepts and their empirical indicators.

These allow the assessment of the thirty largest New York City firms against the two ideal typical models of firms detailed in the prior chapter. This discussion of

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[42]. Perhaps an indication of the panopticism associates at my participant observation firm felt was the popular practice of not owning a phone machine and of unplugging the phone at home. In an age of voice mail, answering services, and $50 answering machines, the failure to use such a device can be seen as a conscious strategy to be unavailable. The popular practice among associates of unplugging their phones supports this theory.

In passing, let me note that associates who try not to get calls from the office are most certainly not waiting for calls by partner's wives inviting them to social functions, as the Auchincloss model of social status-work integration would expect. In the 1990s, associates view their promotion ladder as firmly planted in the office. Smigel's functionalism prevented him from examining work-family conflicts, other than a few asides about commuting on the New Haven Railroad, mortgage payments, and a wife's complaint about her lawyer-husband's hours — all of which were quite peripheral to Smigel's portrait of the lawyers.

structural indicators of firms' organizational cultures allows me to restate the two elaborated ideal typical firm models presented at the end of Chapter Three in measurable — we might say, "restricted code" — form.[43] Table 4.2 charts the theoretical concepts, the empirical indicators, and the expected values for each of the two ideal typical organizational models.

The Collegial-Driven Firm.

The collegial-driven culture firm resembles Smigel's "white shoe" firms. It adopted an older organizational form of turn-of-the-century firms. It is embedded in transgenerational client counseling relations, often dating back to its founding. The dispersion of its corporate clients prevents conflict of interest concerns and the firm defends its autonomy by maintaining a sufficiently diverse client base and actively defending professional autonomy through partners' bar activities. The firm's organizational structure has little specialization, with only a few broadly encompassing departments. Attorneys perform all aspects of the legal work, limiting work segmentation. The firm's governance structure is collegial, squat and democratic. Partner compensation is allocated by a lock-step formula. The firm recruits only high social status law graduates from elite schools and high socioeconomic backgrounds — associates likely to share with partners' an elite latent culture. Partner practices toward associates are paternalistic, emphasizing reciprocal

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[43]. I draw loosely from Basil Bernstein's evocative terms to differentiate Chapter Three's wide open narrative ideal types and this chapter's narrower, testable types.

loyalty. The respective risks to the firm and associates are kept stable, predictable, and shared by both parties.

Entrepreneurial-driven Firm.

The entrepreneurial-driven culture firm resembles Skadden, Arps. It adopted a recent organizational form. It has a largely transactional, one-shot client business, based on its specialty work in derogated legal practice areas. Because corporate clients often only use the firm once, professional autonomy is less important than a steady flow of clients. Because it deals with lots of clients on circumscribed areas of their total legal needs, the firm often encounters conflicts of interest with past clients from the same sector. The firm's organizational structure emphasizes specialization, with many narrowly defined departments and work groups. Professional work is segmented, with paralegals performing the menial tasks of legal office production, while the lawyers take on additional high-value "lawyer" work. The firm's governance structure replicates a managerial hierarchy and includes a non-lawyer MBA manager. Partner compensation is performance-based. The firm recruits law graduates from a wide assortment of law schools, with widely mixed social status backgrounds, thereby limiting any extra-organizational commonalities among the lawyers. Accordingly, partner practices toward associates approximate non-professional management-labor relations, opportunistic contests over the allocation of risks and rewards.

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Chapter Five reports on my findings for the empirical indicators for the population of the large New York City law firms, where data are available.

Table 4.1: Theoretical Concepts and Empirical Indicators of Ideal Typical Law Firm Cultures.

Level	Theoretical Concepts	Empirical Indicator
Market Structural Position	Organizational Form	Age
		Take-off Points 50 and 100 Attorneys
		Time Since Last Name Change
	Client Relations	Prestige of Business
		Eliteness of Location
		Number of Branch Offices
	Professional Autonomy	Number of Same Sector Clients
		Bar Participation of Firm Members
Internal Organizational Structure	Specialization & Segmentation of Work	Number of Departments
		Paralegal/Attorney Ratio
	Governance Structure	Presence of MBA Manager
		Partners' Compensation Formula
Organizational Practices	Recruitment	Partners' Law School Prestige
		Partners-per-Law School
		Percentage of Female Partners
	Partner-Associate Relations	Amount of Lateral Hiring
		Number of Professional Ranks
		Published Billing Targets
		Utilization (Billing) Reports Distributed
		Paging System

Table 4.2: Theoretical Concepts, Empirical Indicators, and Expected Values of Ideal Typical Firm Cultures.

Level	Theoretical Concept	Empirical Indicator	Cultural-driven Ideal Type Expected Values	Entrepreneurial-driven Ideal Type Expected Values
Market Structural Position	Organizational Model	Age	Founded before 1920	Founded after 1930
		Take-off Points 50 and 100 Attorneys	Pre-1970	Post-1970
		Time Since Last Name Change	Long ago	Recently
	Client Relations	Prestige of Business	High (Gen. Corp. & Securities)	Low (Lit., M&A, Bankruptcy, R.E.)
		Eliteness of Location	Downtown	Midtown
		Number of Branch Offices	0-1	Many
	Professional Autonomy	Number of Same Sector Clients	None	Many
		Bar Participation of Firm Members	Extensive	None
Internal Organizational Structure	Specialization & Segmentation	Number of Departments	Few	Many
		Paralegal/Attorney Ratio	Low	High
	Governance Structure	Presence of MBA Manager	No	Yes
		Partners' Compensation Formula	Lock-Step	Performance-based
Organizational Practices	Recruitment	Partners' Law School Prestige	High	Low
		Partners-per-Law School	High ratio	Low ratio
		Percentage of Female Partners	Lower than Cohort Percentage	Comparable to Cohort Percentage
	Partner-Associate Relations	Amount of Lateral Hiring	None	High
		Number of Professional Ranks	2	More than 2
		Published Billing Targets	No	Yes
		Utilization (Billing) Reports Distributed	No	Yes
		Paging System	No	Yes

CHAPTER FIVE

Measuring Firms' Organizational Cultures: Findings

Chapter Four reviewed seven theoretical concepts of structural attributes and organizational practices correlated with law firm cultures and specified empirical indicators for assessing the thirty largest New York City law firms. This chapter ranks these firms along the ideal typical firm model poles.[1] For each available empirical indicator, I explain the data used and then rank the firms. In the final section of the chapter, I rank all thirty firms' on a standardized three point scale to assess each firm's overall fit with the two ideal typical models. The thirty firms are divided into three categories -- approximating collegial-driven, mixed, and approximating entrepreneurial-driven cultures. One firm from the collegial-driven cluster of firms is selected for further study.

The seven theoretical indicators are the (i) organizational form, (ii) client relations, (iii) professional autonomy, (iv) specialization and segmentation of work, (v) governance structures, (vi) recruitment practices, and (vii) partner-associate relations practices. Only some of the specified empirical indicators have publicly available data.

(i) The organizational form is a function of the organizational technologies

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[1]. For readers who may wish to review my argument to this point, Table 4.2 shows the ideal types' expected values on each of the indicators.

available to firm elites at its founding and at important size thresholds thereafter. The empirical indicators are: age, take-off point of fifty lawyers, take-off point of one-hundred lawyers, and time since the last firm name change.

Age. The founding dates of the firms were compiled from Cherovsky's book on New York law firms (Cherovsky 1991), the *Law Firms Yellow Book* (1991), and National Association of Law Placement (NALP)'s reports (National Association of Law Placement 1991). Older firms should be more collegial-driven; younger firms should be more entrepreneurial-driven.

Table 5.1[2] shows the founding dates for the firms. Twenty of the thirty firms were formed before the First World War. Fourteen of those firms were formed before 1900. Only five of the firms were formed after World War II. Kelley, Drye; Davis, Polk; Coudert; and Milbank, Tweed are the oldest firms. Shea & Gould; Wilson, Elser; Skadden, Arps; Cleary Gottlieb; and Paul, Weiss are the five post-World War II firms.

Figure 5.1 charts the firm formation by decades. Replicating the categories Smigel developed to discuss firms, these findings show that "ethnic" firms tend to have formed later.

Take-off Points. The annual *Martindale-Hubbell Law Directory*, the *National*

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[2]. The tables and figures appear at the end of this chapter. Not all tables have accompanying figures. Both tables and figures appear in the order they are mentioned in the text. The bottom of Table 5.16 contains a table-figure cross-reference chart.

The cutting points I used are visually displayed in the figures as two lines trisecting the bar charts, demarcating collegial-driven, mixed, and entrepreneurial-driven clusters.

Law Journal's Annual Survey of the 250 Largest Law Firms, and the Galanter & Palay (Galanter and Palay 1990) large law firm data set were used to track firm sizes. Collegial-driven culture firms should have crossed the thresholds at earlier points than entrepreneurial-driven culture firms.

Tables 5.2 and 5.3 show the dates when these firms crossed the 50 and 100 attorney thresholds. Sullivan & Cromwell was the first firm to reach the 50-attorney mark, in 1928. Nine other firms crossed the 50-attorney threshold before 1960. Five firms crossed this threshold only in the 1970s: Stroock; Leboeuf, Lamb; Shea & Gould; Skadden, Arps; and Wilson, Elser. Because data are not available for six of the firms[3], it is only possible to estimate the average year -- 1959. Two firms crossed the 100-attorney threshold before 1960: Shearman & Sterling and White & Case. Six other firms grew to more than 100 attorneys during the 1960s: Dewey, Ballantine; Sullivan & Cromwell; Simpson, Thacher; Milbank, Tweed; Cravath; and Kaye, Scholer. Four firms only reached the 100-attorney mark by 1980 or after: Kelley, Drye; Shea & Gould; Winthrop, Stimson; and Wilson, Elser. The average year for crossing the 100-attorney threshold was about 1972.

Last Firm Name Change. The annual *Martindale-Hubbell Law Directory* and the *Bar Register* were examined at five year intervals back through 1920, to track the names of the thirty firms. Collegial-driven firms should have older names;

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[3]. The data were compiled from the National Law Journal's Annual Survey of the 250 Largest Law Firms (1987-92) and the Marc Galanter and Thomas Palay data set on big firm growth. Both data sets omitted some firms and both had gaps, requiring estimations in six cases.

entrepreneurial-driven firms should have more recently changed names.

Table 5.4 shows the year of each firm's last name change.[4] Four firms, Cadwalader; Coudert Brothers; Simpson, Thacher; and Sullivan and Cromwell have retained their names since before 1920. Eight firms changed their names in the 1960s, and eight firms did so during the 1970s. Five firms have changed their name as recently as 1980: Debevoise & Plimpton; Fried, Frank; Kelley, Drye; Mudge, Rose; and Shea & Gould.

(ii) The client relations of a firm is reflected by the indicators of the prestige of business (elite or derogated) the firm primarily performs, the eliteness of the firm's spatial location in Manhattan, and the number of branch offices the firm has. "Downtown" firms with elite business have a more stable client base, requiring fewer branch offices, than "uptown" firms, which derive most of their business from derogated, transactional practice areas and smaller clients.

Prestige of Business. The *National Law Journal*'s Annual Survey of the 250 Largest Law Firms and *Of Counsel Magazine*'s annual Survey of the 500 Largest Law Firms report the percentages of firms' business derived from various practice areas. Because not all firms' data are reported in any one survey, two annual surveys from

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[4]. Tracking firms before this time is quite difficult because of the unreliability of the extant legal directories. Thus, the four firms with last name changes listed as 1920 had their name since *before* that date. The dates of all other firms is for the five year mark after the firm name changed. In a few cases current firms are the product of one or more mergers. The *Martindale-Hubbell Law Directory* typically notes such mergers. For the purposes of tracking lineage, I followed Galanter & Palay's (1989) strategy of following the names in current firm names backwards.

1991 and from 1985 are reported here. Firms with a high percentage of elite business should have collegial-driven cultures; firms with a low percentage of elite business should have entrepreneurial-driven cultures.

Table 5.5 ranks the firms in descending order of the percentage of business derived from traditionally "elite" practice areas in 1991.[5] White & Case; Winthrop, Stimson; Davis, Polk; and Sullivan & Cromwell all averaged about 70 percent elite business. Kelley, Drye; Proskauer, Rose; Kaye, Scholer; Hughes, Hubbard; Shea & Gould; Wilson, Elser; and Cleary, Gottlieb averaged less than 35 percent elite business. The overall average was 48 percent elite business. No data were available for Cahill, Gordon.

Eliteness of Location. The annual *Martindale-Hubbell Law Directory* allows for the tracking of firms' locations over time. Firms that were located "downtown" should have collegial-driven cultures; firms that were located "uptown," in the midtown business district, should have entrepreneurial-driven cultures.

I measured location in 1965, during the period Smigel reported adventuresome firms were beginning to move uptown, yet there was still a clear stigma attached to "uptown" firms. Table 5.6 reports on the historical location of the thirty firms. I code the nineteen "downtown" firms as collegial. Seven of the thirty firms were

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[5]. Elite practice areas include: corporate, securities, banking, tax, environmental, antitrust, regulatory, and trust & estates (personal). Derogated practice areas include litigation, bankruptcy, product liability, labor, real estate, mergers & acquisitions, and entertainment. Because not all firms use all these categories to report their business percentages, some judgements were required. The only significant effect was in dividing Skadden, Arps' lumped M&A and securities practices into 50 percent/50 percent elite/derogated, based on journalistic reporting of their business mix.

located uptown either since 1955 or their creation, whichever came later. These entrepreneurial firms are Coudert; Kaye, Scholer; Paul, Weiss; Skadden, Arps; Weil, Gotshal; Shea & Gould; and Wilson, Elser. In 1965, four firms had moved uptown during the prior ten years: Debevoise; Kelley, Drye; Proskauer, Rose; and Rogers & Wells. These early "pioneers" from downtown to uptown were coded "0," to reflect their downtown origins and their subsequent, adventuresome relocation.

By the 1970s, a general movement of business into the midtown business district, above Grand Central station, started to pull downtown firms north.[6] In 1992, only ten of the original twenty-two firms remained downtown. The largest part of this uptown migration came since 1985, fueled by a 1980s building boom and subsequent office space glut in midtown Manhattan, when five of the firms moved to midtown.

Number of Branch Offices. The 1992 *Martindale-Hubbell Law Directory* lists the number of branch offices each firm has. Firms with few branch offices should have collegial-driven cultures; firms with a large number of branch offices should have entrepreneurial-driven cultures.

Table 5.7 shows the number of branch offices for each firm in 1991. Overall the thirty firms had an average of 6.8 branch offices, divided equally among domestic

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[6]. The Pan Am building -- home to several of these migrating firms -- opened in 1963 (White and Willensky 1978, p. 149). Between 1960 and 1975, several Wall Street financial firms moved some or all of their operations to this area, including Chase Manhattan Bank, Citibank, and Bear, Sterns. Zoning law changes and a Manhattan real estate boom opened up the market for new midtown office buildings in the late 1970s and the 1980s.

and international locations. Cravath has one branch office, in London. White & Case has the most branch offices, with nineteen. Two of the five firms with more than ten branch offices -- Wilson, Elser and Leboeuf, Lamb -- have more domestic offices than international. The other three firms had significantly more international offices. The firms with three or less branch offices have a similarly mixed domestic/international mix. Figure 5.2 charts the thirty firms' branch office mix graphically.

(iii) Professional autonomy measures firms' relations with large sectoral clients and partners' participation in professional jurisdiction protecting bar activities. The empirical indicators are the number of same sector clients of a firm and the level of law firm partners' bar participation.

No systematic data are available for either indicator.

(iv) The specialization and segmentation of work in firms is a function of partners' attitudes regarding the integrity or divisibility of professional labor. The empirical indicators of specialization and segmentation of professional work are the number of departments and the paralegals-per-attorney ratio.

Number of Departments. The number of departments the firms reported to the 1991 *Law Firm Yellow Book* (1991) are shown in Table 5.8. Firms with fewer departments should have collegial-driven cultures; firms with more departments should have entrepreneurial-driven cultures. Figure 5.3 charts the firms' departments.

The thirty firm average was 12 departments. Hughes, Hubbard; Cahill, Gordon; Rogers & Wells; Cravath; Fried, Frank; Simpson, Thacher; Kaye, Scholer; Kelley, Drye; Stroock & Stroock; and White & Case all had 8 or less practice units. Dewey, Ballantine; Shea & Gould; Willkie, Farr; Davis, Polk; Cadwalader; Shearman & Sterling; Debevoise; Proskauer; and Skadden, Arps were the ten firms with the highest number of practice units, ranging from 12 to 44.

Paralegals-per-Lawyer Ratio. The most recent data available on the number of paralegals firms have are the 1989 *National Law Journal*'s Annual Survey of the 250 Largest Law Firms. Firms with fewer paralegals-per-lawyer should be collegial-driven; firms with more paralegals per lawyer should be entrepreneurial-driven.

Table 5.9 ranks the firms by their 1989 paralegals-per-lawyer ratios. The number of paralegals at each firm is reported for selected years between 1979 and 1989. The column shows the paralegals-per-lawyer ratios in 1989. There were .27 paralegals-per-lawyer on average at the thirty firms. Wilson, Elser had the lowest number of paralegals per attorney, at .11, followed by Cadwalader; Kelley, Drye; and Hughes, Hubbard. Skadden, Arps had the highest paralegals per lawyer ratio, at .51, followed by Cravath; and Fried, Frank. Figure 5.4 charts these data graphically.

(v) The governance structure assesses firms' internal partner relations. Collegial-driven culture firms should equally share the risks and benefits of partnership, while maintaining a democratic, self-governing structure. Entrepreneurial-driven culture firms should have positionally distributed risk and

benefit allocation among a stratified partnership, held together by an hierarchical managerial structure. The empirical indicators of firms' governance structures are the presence of a MBA firm manager and the partners' compensation formulae.

No systematic data are available for either of these indicators.

(iv) The recruitment practices of firms are a product of the affiliative relations model partners adopt for guiding their interactions. Some firms use "homosocial recruitment" practices to select associates who likely share a latent elite culture -- a form of pseudo-ascription. Associates are conceived of as "members." Other firms use open market recruiting practices to select associates from a wide cross-section of socio-economic backgrounds. Without a shared latent culture binding partners and associates, the associates are treated as "employees." The empirical indicators of firms' recruitment practices are partner law school prestige, partners-per-law school, and the percentage of female partners.

Partners' Law School Prestige. The means of partners' law schools' prestige scores demonstrate the elite nature of these thirty law practices. Firms with high mean partner law school prestige should have collegial-driven cultures. Firms with low mean partner law school prestige should have entrepreneurial-driven cultures.

There were 2886 partners and senior attorneys listed in the 1992 *Martindale-Hubbell Law Directory* for these thirty firms.[7] With "1" indicating high prestige top-

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[7]. For brevity's sake in following discussion, the term "senior attorney" includes all non-partner, non-associate ranks, such as Of Counsel, Counsel, Senior Attorney and Permanent Associate.

ten law schools and "4" indicating low prestige, local for-profit law schools, the thirty firm average partner law firm prestige score is 1.61 (σ=.93). Table 5.10 reports the means, standard deviations, and number of cases for the thirty firms. Figure 5.5 displays the firm averages graphically.

Sullivan & Cromwell has the highest partner prestige score, 1.08 (σ=.35). Sullivan is followed by Cleary, Gottlieb; Cravath; Paul Weiss; Debevoise; Fried, Frank; and Simpson, Thacher. The lowest prestige score is Wilson, Elser, with 2.90 (σ=.81), because of its strong ties to two New York area Regional law schools. Shea & Gould; Skadden, Arps; Mudge, Rose; Cadwalader; and Cahill, Gordon were the next lowest scores, all above 1.80.

Partners-per-Law School. The density of partners- (and senior attorneys-)per-law school is an indication of firms' use of a narrow band of law schools as a pre-firm socializing mechanism for their associates, in contrast to near open market recruitment practices. Firms with more partners-per-law school should have collegial-driven cultures. Firms with fewer partners-per-law school should have

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The prestige scale used is Heinz and Laumann's (1982) four point coding of law school prestige, based on the *U.S. News and World Report*'s (1988) annual survey of law school reputation. 1 = Elite (top-10), 2 = Prestigious (top 11-20), 3 = Regional (other university affiliated law schools), 4 = Local (non-university affiliated, for-profit law schools).

Of the 2886, 2456 are partners, 430 (15%) are non-equity senior attorneys (Of Counsel, Counsels, Senior Attorneys, etc.). The non-equity members have a higher mean score, 1.75 (σ=1.00) and thus a lower prestige level than partners' score of 1.58 (σ=.91).

The data for this and the next two empirical indicators were calculated from the New York Office information for the thirty firms' 1992 *Martindale-Hubbell Law Directory* (Martindale-Hubbell 1992) listings.

entrepreneurial-driven cultures.

The rank order of firms by the average number of partners- and senior attorneys-per-law school is shown in Table 5.11. The thirty firm average number of New York office partners and senior attorneys listed in the 1992 *Martindale-Hubbell Law Directory* is 4.2. Winthrop, Stimson has the widest recruitment band of current partners and senior attorneys, and thus the lowest number of partners-per-law school, at 2.9. Sullivan & Cromwell has the narrowest recruitment band of current partners and senior attorneys, and thus the highest average number of partners-per-law school, 7.1. Figure 5.6 charts the firms' means.

Percent of Female Partners. The percentage of female partners measures firms' willingness to adapt their recruitment policies to the changes in the gender composition of the pool of law school graduates. Firms with a low percentage of women should have collegial-driven cultures. Firms with a high percentage of female partners should have entrepreneurial-driven cultures.

Table 5.12 ranks the firms by the percentage of female partners, in 1992. The thirty firm average is 9.4 percent female partners. Sullivan & Cromwell has the lowest percentage of female partners, 2.4 percent, followed by Shea & Gould; Mudge, Rose; Cahill, Gordon; Milbank, Tweed; Proskauer; and Cravath. Skadden, Arps has the highest percentage of female partners, 17.4 percent, followed by Fried, Frank; White & Case; Winthrop, Stimson; Kaye, Scholer; Leboeuf, Lamb; Hughes, Hubbard; and Weil, Gotshal. Figure 5.7 charts these data.

(v) Partner-associate relations practices assess the overlap and impact of social network ties and work relations in firms. Firms with work relations embedded in social relations' latent cultures use informal, normative means of social control. Firms without access to the normative power of social relations use formal, coercive means of social control, such as surveillance. The former is an extension of the associate-as-member orientation of some firms. The latter is an extension of the associate-as-employee orientation of other firms.

The empirical indicators of partner-associate relations are the amount of firms' lateral hiring, the number of professional ranks, publicly stated annual billing targets, the distribution of utilization reports, and the use of paging systems. No systematic data are available on firms' distribution of utilization reports and use of paging systems.

Number of Lateral Hires. The numbers of laterally hired associates reported by the firms to *Of Counsel Magazine*'s annual survey for the period 1988 to 1992 are shown in Table 5.13. Firms with fewer laterally hired associates should have collegial-driven cultures. Firms with a high number of laterally hired associates should have entrepreneurial-driven cultures. The law firms are ranked by the total number of associates hired laterally during the period 1988 to 1992. Figure 5.8 charts these firm totals. Incomplete measures of lateral associates hired during the period 1980-5, reported by the NALP Guide to Legal Employers (1991-2), and the number of lateral hires made partner, reported to *Of Counsel* magazine, are shown to provide further contextual information only.

On average, the thirty New York City firms hired 100.9 lateral associates between 1988 and 1992. Cravath; Sullivan & Cromwell; Cleary; Simpson, Thacher; Rogers & Wells; and Dewey, Ballantine each hired less than fifty lateral associates during this period. Proskauer; Milbank, Tweed; Shearman & Sterling; and Skadden, Arps each hired more than 150. Skadden, Arps hired an astounding 382 lateral associates during this five-year period.

Number of Professional Ranks. Professional ranks are the formal positions available for attorneys. Each firm has a minimum of two ranks -- partners and associates. Those firms with more than two ranks have abandoned the binary model of professional status, by creating categories of permanent, non-partner employees. Firms with fewer additional professional ranks should have collegial-driven cultures. Firms with a higher number of additional professional ranks should have entrepreneurial-driven cultures.

Table 5.14 reports the number of professional ranks at each of the thirty firms for select years. The firms are ranked in order of the number of professional ranks in 1992. The thirty firm average is 4.1 professional ranks.[8] Six firms had just one additional rank. Ten firms had three additional professional ranks.

Publicly announced billing targets are assessed from the NALP Guide to Legal Employers (1991). This questionnaire asks for the "average total associate hours worked," the "average associate billable hours" in the prior year, and if the

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[8]. Where it was possible to identify them, the category of retired partners was not included in this count.

firm has a billing minimum.[9] Because this survey is the journal of record for basic law firm data among elite law school graduates considering employers, firms' responses to this survey can be treated as "public" statements.[10] Firms without stated

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[9]. Firms that reported a minimum were coded as entrepreneurial. Firms that responded to either "average" question were deemed to have a partial "publicly stated billing targets" for this measure, and were coded mixed. As argued in the prior chapter on theoretical indicators of firm culture, the public statement of any billing norm -- minimum or average performed -- tends to become a social fact for associates under the highly ambiguous working conditions of associate labor.

A word on terminology is required. Most firms ask associates to record all the time they spend working, broadly defined, including opening mail, reading the law journal, and organizing files. Typically firms differentiate "billable" (hours that the firm may bill a paying client for) from "chargeable" (hours that the firm wishes to track, but cannot be billed out to a paying client, such as training sessions, and reading the law journal (often called "professional development"), organizing files, doing research for an speech a partner will give, or working for a partner on a personal matter (often called "office" or "firm administration -- chargeable-non-billable"); all of these are essentially costs of doing business activities). Firms vary on how they instruct associates to record *pro bono* work and personal legal work for partners. Some firms treat it as "billable," even though no bill is actually sent, and others treat it as only "chargeable." Other firms have established a cap on the amount of *pro bono* they allow associates to use toward a billable quota. For associates at firms that do not credit *pro bono* work as billable hours, this is a strong disincentive for them to perform *pro bono* work. Because this terminology varies from firm to firm and the NALP survey does not inquire about each firm's definition of billable, caution should be used in interpreting these numbers as comparable interval data.

[10]. The detailed and, at times, hair-splitting quality of firm responses to these survey questions gives every indication that the law firm respondents understand the importance law students place on the NALP survey as a first filter of potential employers. My associate interviews confirmed this. For example, associates who formed a negative impression about particular firms' female and minority hiring practices consistently referred to the NALP surveys as their source of information concerning firms' hiring practices. The gender and racial breakdowns of firms' associate hires and advancement to partnership were commonly interpreted as direct measures of firms' gender and racial fairness, by the associates I spoke with. Clearly, firms' responses to the NALP surveys were given weight by these law graduates.

billing targets should be more collegial-driven. Firms with publicly stated billing targets should be entrepreneurial-driven.

Table 5.15 identifies the firms with publicly stated billing targets. Twelve firms have no publicly stated billing target -- Cadwalader; Cahill, Gordon; Coudert; Davis, Polk; Proskauer; Skadden, Arps; Stroock & Stroock; Sullivan & Cromwell; Weil, Gotshal; White & Case; Willkie, Farr; and Wilson, Elser. Two firms reported "minimum requirements": Dewey, Ballantine and Mudge, Rose.

Of those firms that stated some form of billable hours criterion, the average total hours worked was 2059. The average billable hours was 1862. Thus, almost ten percent (197 hours) of a roughly 2060 hour associate year typically goes to office non-income generating charges.[11]

Summarizing Firm Indicators of Organizational Culture.

I can now collate these separate indicators of the imputed organizational cultures into a single table for assessing the thirty firms. Of the twenty empirical indicators developed in Chapter Four, publicly available, systematic data were available for fifteen of them, reported in this chapter. Collating these fifteen separate indicators into a single table allows for the demarcation of three clusters of firms that should approximate the collegial-driven culture ideal type firm, the entrepreneurial-driven culture ideal type firm, and mixed cases.

A tripartite division has the benefit of lessening cutting point problems with

[11]. Compare with the hours data reported in the Introduction.

interval-level data. This division method is used here, with each score normalized for cross-measure averaging. The three categories "collegial-driven," "mixed," and "entrepreneurial-driven" were assigned scores of "1," "0," and "-1," respectively. Thus, a pure collegial-driven culture firm would have a score of "1.00." A perfectly mixed culture firm's score would be "0.00," and a pure entrepreneurial-driven culture firm's score would be "-1.00."

Table 5.16 summarizes the findings for the fifteen retained indicators.[12] The first column reports the overall averages for each firm. The firms are ranked in descending order of their overall scores.[13] The bottom row ("Average") displays the column averages, indicating the amount and direction of bias introduced by uneven cutting points of the non-interval measures.[14]

Conservatism should supersede symmetry in determining the cutting points of the two clusters of firms that approximate the characteristics of the two ideal types. While perfect data would allow for 10/10/10 cut into the three categories, regrettably reality requires some fudging. Nine firms' overall averages measure +.20 or higher.

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[12]. The indicators are: Age, Take-off Point of 50, Take-off Point of 100, Last Name Change, Prestige of Business, Eliteness of Location in 1965, Number of Branch Offices, Number of Departments, Paralegals-per-Attorney Ratio, Partners' Mean Law School Prestige Scores, Partners-per-Law School, Percentage of Female Partners, Lateral Associates Hired, Number of Professional Ranks in 1992, and the Presence of Public Billing Targets.

The bottom of Table 5.16 contains a chart to cross-reference the indicators, their tables, and their figures.

[13]. Firms with tied scores were then sorted alphabetically. Rank within a score did not affect any cutting point decisions.

[14]. Regrettably, there are too many variables and not enough cases for a meaningful cluster analysis of these firms.

Eleven firms' overall averages are -.07 or lower. And, the remaining ten firms are arrayed from +.13 to 0.00, with an average for this group of +.06. The thirty firms' overall mean is +.04. The cutting points of +.20 and 0.00 circumscribe two highly stable clusters of firms shown in Table 5.17.

Table 5.17: Firm Clusters as Assessed by 15 Indicators

Collegial-Driven	Entrepreneurial-driven
Sullivan & Cromwell	LeBoeuf, Lamb
Cravath	Skadden, Arps
Simpson, Thacher	Wilson, Elser
Cadwalader	Shea & Gould
Cleary, Gottlieb	Kaye, Scholer
White & Case	Willkie, Farr
Davis, Polk	Kelley, Drye
Dewey, Ballantine	Paul, Weiss
Milbank, Tweed	Debevoise
	Coudert Brothers
	Chadbourne & Parke

Confirmation from Popular Firm Prestige Judgments.

Comparing the clusters of firms that approximate the ideal typical models with the popular perception of firms offers another level of assurance of the stability of these firm clusters. As Becker argued for treating the term "profession" as a folk concept which accurately measures "those occupations which have been fortunate enough in the politics of today's work world to gain and maintain possession of that honorific title" (Becker 1970, p. 92), we might equally apply this to professional firms' "prestige" rankings.

Certainly the vibrant popular legal press provides one measure of firms' relative prestige. Michael Powell's (Powell 1988) discussion of the rise of the

popular legal press and its avowedly entrepreneurial values makes clear the press's revolutionary influence on Wall Street firm stratification. The *American Lawyer* and the *National Law Journal*, two national trade periodicals, have been both reporters, prodders, and cheerleaders for the transformation of the large firms over the last fifteen years.[15] By publishing associate and partner salaries, firm size and income estimates, and a variety of "inside-dopester" information, these magazines created the environment of shared knowledge required for market-like activity by social actors.[16] One associate perceptively described the *American Lawyer* as "the *Rolling Stone* of corporate law." In the halcyon times of the 1980s, each magazine combined critical reporting on the cultural shift while also contributing to it through the dissemination of a standardized discourse of exchange.

Further, book publishing has followed where periodicals led the way. A shelf can be filled with the expose-like books often written by the trade journal reporters themselves, personal memoirs, and, what can only be described as "kiss and tell" attempts at personal exoneration books, especially surrounding the cataclysmic end of Finley, Kumble. A representative sample includes, *Turks and Brahmins: Upheaval at Milbank Tweed: Wall Street's Gentlemen Take Off Their Gloves* (Pollock 1990), *Tombstone: A Lawyer's Tales from the Takeover Decade* (Lederman 1992), and *Shark Tank: Greed, Politics, and Collapse of Finley, Kumble, One of America's Largest*

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[15]. The Introduction discusses the rapid growth of the popular legal trade press.

[16]. On markets as being constituted by and, in turn, reconstituting shared social knowledge, see Charles Smith's work on auctions (Smith 1989) and Wayne Baker's work on commodities traders (Baker 1984*a*, 1984*b*).

Law Firms (Eisler 1990). In addition, several publishers have tried to fill the demand for more elaborate information on the big law firms, with directory publications that include previously unpublished firm histories, biographies of powerful partners, and evaluations of the practice (see especially Cherovsky (1991) and the *Insiders' Guide to Law Firms* (1993)).

Of the collegial-driven culture firms, Cravath; Davis, Polk; and Sullivan & Cromwell are generally agreed to comprise the firms at the pinnacle of the New York legal community. Simpson, Thacher; Milbank, Tweed; White & Case; and Dewey, Ballantine follow as a close second-tier. Cleary, Gottlieb is the post-World War II product of a schism of the Root, Clark firm (now Dewey, Ballantine) and has been known for its corporate and tax work, reflecting its founders' specialties (Cherovsky 1991, p. 54). It is perhaps the most prestigious "Jewish" firm in the city, often competing with Cravath, Davis, and Sullivan for the best law students. Surprisingly, Cadwalader is an undistinguished "second tier" firm.

At the other extreme, the highly "entrepreneurial" firms are LeBoeuf, Lamb; Skadden, Arps; Wilson, Elser; Shea & Gould; and Kaye, Scholer. Skadden, Arps, as already discussed at length, is the paradigmatic case of an entrepreneurial-driven firm culture. This firm's location well into the cluster (and opposite Cravath, Davis, and Sullivan) is a strong assurance of the usefulness of these clusters. Similarly, Kaye, Scholer and Shea & Gould are reported to be "hard edged," "bottom line" firms.

Shea & Gould, a young firm, has suffered a series of battles over the distribution of branch office partner shares, resulting in the closing of the Miami

office and the decimation of its Los Angeles office (Cherovsky 1991, p. 174). For instance, when a few key partners of the Miami office left the firm for a competitor, the managing committee announced the immediate closing of the entire Miami office -- effectively firing half the lawyers without notice. Two days later, the managers reversed themselves, claiming they never fired anyone and pledging to rebuild the office. This led the *American Lawyer* to describe the firm's management style as "confused, contrary, and nasty to boot..." (Horne 1989, p. 58). The firm is known for its city and state political work and connections, more so than its national clients and reputation. Founder William Shea was prominent in New York City and state politics, called by one author "the city's most experienced power broker" (Hoffman 1986, p. 23). Shea Stadium is named after him. Milton Gould has been a prominent litigator and friend with many state judges. More recently, ex-New York State Appeals Court Chief Judge Sol Wachtler's daughter, Lauren -- a firm partner -- has provided connections to the Rockefeller-wing of the state Republican party. The firm had a "reputation for taking any and all work...Bankruptcies, lobbying, landlord-tenant disputes -- no job was too small for Shea & Gould" (Horne 1989, p.59). The second generation of firm leaders emphasizes a "more bottom-line oriented" firm culture and a "hardball attitude," according to one commentator (Cherovsky 1991, p. 174). Recent declines in the firm's business and extraordinary overhead costs (Adams 1991) may heighten this firm culture.

LeBoeuf, Lamb's is largely the product of insurance and utilities business; it has weak broader corporate counseling abilities (Cherovsky 1991, p. 120). While it

bills itself as a general service corporate firm, many regard it as a specialty firm. LeBoeuf, like Debevoise (a "weaker" entrepreneurial cluster member), have reputations for being more modern and "humane." This may have produced more bureaucratically formal organizations.

Paul, Weiss is perhaps the premiere litigation firm in New York City. It has strong ties to the Democratic party. It was intentionally structured as a religiously mixed partnership, including Jews, Catholics, and Protestants at its founding. Nevertheless, it has long been lumped with the other "Jewish" firms in the minds of lawyers, law school placement officers, and commentators.

Of the entrepreneurial-driven culture firms, Wilson, Elser is anomalous. Though quite large, it does not emulate the other twenty-nine firms. Further, it only competes with the big firms in a very narrow band of the derogated, litigation practice area -- liability. Specializing in insurance defense and other liability work for insurance companies, the firm not only litigates itself, but also is contracted by insurance firms to manage the litigation work of local counsels across the country.[17] The firm itself was founded by a splinter group of partners who were unhappy with their compensation rates at their prior firm (Cherovsky 1991, p. 232). This firm comes closest to being exemplary of the proletarianization thesis. Academically mediocre associates are recruited from regional and local law schools. Starting

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[17]. For instance, if an Indiana man cuts his hand off with a Black & Decker circular saw and subsequently sues the manufacturer in a local court, the firm's insurance company may hire a local firm (the "local counsel") with lawyers admitted to practice in Indiana to try the case and Wilson, Elser to oversee the local counsel's handling of the case.

associates typically receive half what Wall Street firm associates get. Yet, they work as many hours and often find their work "tedious and disappointing." As one commentator wrote, "Associates at Wilson, Elser are perceived -- and perceive themselves -- as utterly replaceable" (Cherovsky 1991, p. 233). Because this firm makes no effort to emulate the traditional large firm model, it is not properly referred to as a Wall Street firm. Yet, it structures itself as a traditional firm partnership and uses "big" firm organizational methods.[18] It's location well into the entrepreneurial cluster is strong support of the methodology used here.

The remaining four firms, Willkie, Farr; Kelley, Drye; Debevoise; Coudert Brothers; and Chadbourne & Parke are unremarkable second- or third-tier corporate service firms. Several of the firms are quite old and generally thought of as in decline. The mixed cluster is an assortment of old, but Jewish firms, WASP firms in decline, and one of the premiere WASP firms turned monolithic bureaucracy.

Fried, Frank; Proskauer, Rose; and Stroock are old "Jewish" firms with historically close ties to the German Jewish "Our Crowd" investment banks (Cherovsky 1991). While Fried, Frank has expanded its Wall Street securities work, Proskauer and Stroock lost many of their financial sector clients when the Our Crowd investment firms broke out of their social network ties to their "Jewish" law firms, as the first generation of Jewish bankers and lawyers died off. Proskauer's mature reputational specialties of litigation and labor are typically derogated and transactional

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[18]. Unlike equally large, but non-traditionally structured, Jacoby & Meyers -- a new legal provider (see Seron (forthcoming)) and thus excluded from this population, despite its large size.

practices. The firm used mergers and lateral hiring to expand in the 1980s (Cherovsky 1991). Age combined with derogated social status may yield a mixed position. For example, Cahill, Gordon -- historically considered a "Catholic" firm -- has a strong litigation reputation. During the 1980s, it was the primary "outside counsel" law firm for Drexel, Burnham, Lambert.

Winthrop, Stimson; Hughes, Hubbard; Mudge, Rose; and Rogers & Wells are "old line" firms that "have seen better days," as one collegial-driven culture firm partner said to me.

Shearman & Sterling was one of the quintessential WASP firms, when Smigel wrote. It has been thought of as a "factory" by law students and lawyers, for some time. Perhaps bizarrely, I interviewed one associate who left Shearman & Sterling for Skadden, Arps to get away from "the faceless bureaucracy."

Perhaps the most unexpected firm cluster location is Weil, Gotshal (0.00). Weil prospered and grew large during the past fifteen years through its specialties in derogated practice areas of litigation, corporate real estate, and bankruptcy work. It has a reputation being one of the worst work environments for associates. Weil associates joke that the firm's name is "We Will Get You and Mangle You" (*Insiders' Guide to Law Firms* 1993, p. 430).

Overall, the firm structural and practices indicators produce firm culture clusters that match the "word on the street" about the thirty biggest New York City law firms.

* * * * *

This chapter has established firms' cultures, as inferred from indicators of firms' structures and practices which most closely fit the two ideal types of law firm cultures. Chapter Six will address the likely associate selves that arise in response to these same firm structural characteristics and practices, and the resultant partners' cultures.

Table 5.1:
Founding Dates of 30
NYC Law Firms

Firm	Year
Cadwalader, Wickersham	1914
Cahill Gordon	1919
Chadbourne & Parke	1902
Cleary, Gottlieb	1946
Coudert Brothers	1854
Cravath	1910
Davis Polk	1849
Debevoise & Plimpton	1931
Dewey, Ballatine	1909
Fried, Frank	1905
Hughes Hubbard	1872
Kaye, Scholer	1917
Kelley Drye	1841
Leboeuf, Lamb	1929
Milbank, Tweed	1860
Mudge Rose	1869
Paul, Weiss	1946
Proskauer Rose	1875
Rogers & Wells	1871
Shea & Gould	1964
Shearman & Sterling	1873
Simpson Thacher	1884
Skadden, Arps	1948
Stroock & Stroock	1895
Sullivan & Cromwell	1879
Weil, Gotshal	1930
White & Case	1901
Willkie Farr	1888
Wilson, Elser	1978
Winthrop, Stimson	1897

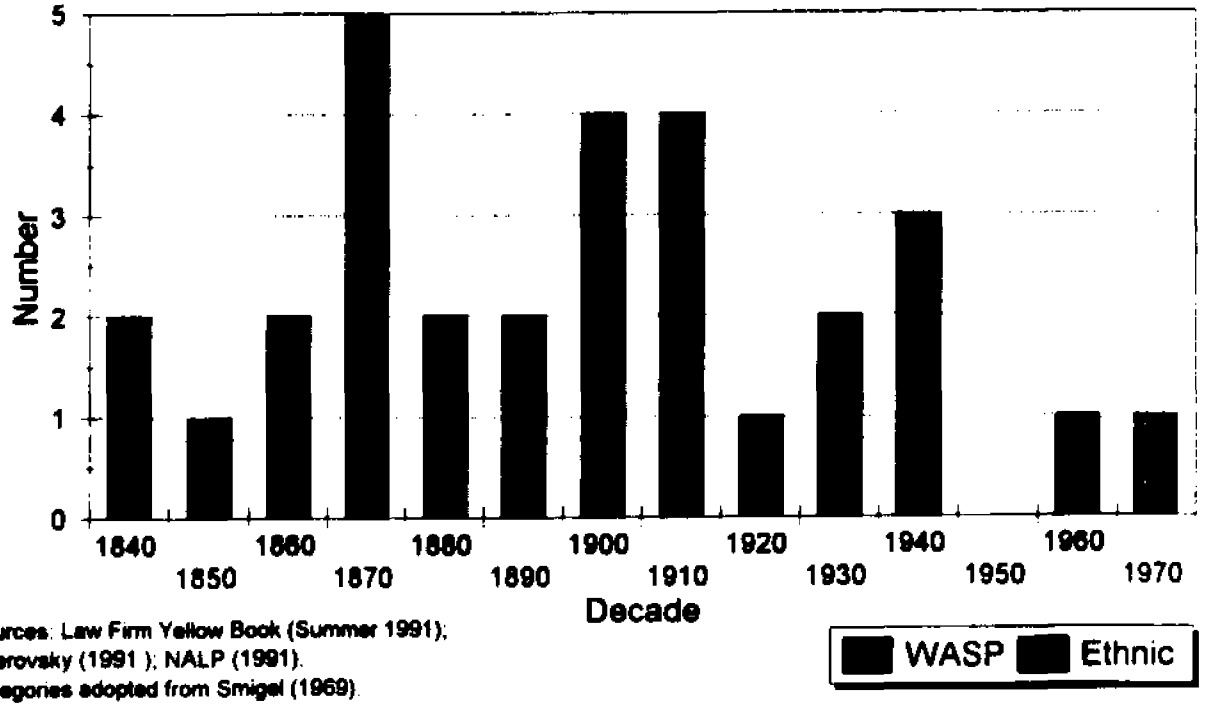
Sources:

Law Firm Yellow Book. Summer 1991. New York: Monitor Publishing Co.

Cherofsky, Irwin. 1991. Guide to New York Law Firms. New York: St. Martins.

NALP. 1991. Washington, DC: National Association of Law Placement.

Figure 5.1: Firm Formation by Decade
30 New York City Law Firms



Sources: Law Firm Yellow Book (Summer 1991); Cherovsky (1991); NALP (1991).
Categories adopted from Smigel (1969).

Table 5.2:
50 Take-Off Point*
30 New York City Law Firms

Firm	50-Size
Sullivan & Cromwell	1928
Simpson Thacher	1940
Shearman & Sterling	1946
White & Case	1946
Milbank, Tweed	1947
Davis Polk	1950
Cahill Gordon	1950
Cravath	1953
Paul, Weiss	1958
Cadwalader, Wickersham	1959
Cleary, Gottlieb	1960
Rogers & Wells	1960
Kelley Drye	1960
Kaye, Scholer	1962
Willkie Farr	1962
Fried, Frank	1963
Proskauer Rose	1966
Coudert Brothers	1969
Weil, Gotshal	1970
Stroock & Stroock	1970
Leboeuf, Lamb	1972
Shea & Gould	1972
Skadden, Arps	1973
Dewey, Ballatine	<<1975
Debevoise & Plimpton	<<1975
Mudge Rose	<<1975
Hughes Hubbard	<1975
Chadbourne & Parke	<1975
Winthrop, Stimson	<1975
Wilson, Elser	1979
Average	1959

Notes:
* Take-off point is year firm crossed 50 attorney threshold.
Average based on actual numbers only.
< = Estimated soon before, though data unavailable.
<< = Estimated significantly before, though data unavailable.

Sources:
National Law Journal. 1978-92. Annual Survey of 250 Largest Firms.
Galanter, Marc, and Thomas Palay. 1989. Data set of big firm growth Center for Legal Studies, University of Wisconsin--Madison.

Table 5.3:
100 Take-Off Point*
30 New York City Law Firms

Firm	100-Size
Shearman & Sterling	1957
White & Case	1959
Dewey, Ballatine	1960
Sullivan & Cromwell	1961
Simpson Thacher	1962
Milbank, Tweed	1964
Cravath	1966
Kaye, Scholer	1968
Cleary, Gottlieb	1970
Davis Polk	1970
Cahill Gordon	1971
Paul, Weiss	1971
Fried, Frank	1973
Rogers & Wells	1974
Weil, Gotshal	1974
Cadwalader, Wickersham	1975
Debevoise & Plimpton	<1975
Mudge Rose	<1975
Proskauer Rose	1976
Coudert Brothers	1977
Willkie Farr	1977
Chadbourne & Parke	1978
Hughes Hubbard	1978
Leboeuf, Lamb	1978
Skadden, Arps	1978
Stroock & Stroock	1979
Kelley Drye	1980
Shea & Gould	1980
Winthrop, Stimson	1981
Wilson, Elser	1982
Average	1972

Notes:
* Take-off point is year firm crossed 100 attorney threshold.
Average based on actual numbers only.
< = Estimated soon before, though data unavailable.
<< = Estimated significantly before, though data unavailable.

Sources:
National Law Journal. 1978-92. Annual Survey of 250 Largest Firms.
Galanter, Marc, and Thomas Palay. 1989. Data set of big firm growth. Center for Legal Studies, University of Wisconsin--Madison.

Table 5.4:
Last Name Change
30 New York City Law Firms

Firm	Last Name Change
Cadwalader	1920
Coudert Brothers	1920
Simpson, Thacher	1920
Sullivan & Cromwell	1920
Winthrop, Stimson	1925
White & Case	1930
Weil, Gotshal	1935
Proskauer, Rose	1940
Cravath, Swaine & Moore	1945
Paul, Weiss	1955
Stroock & Stroock	1955
Cleary, Gottlieb	1960
Dewey, Ballantine	1960
Kaye, Scholer	1960
Cahill, Gordon	1965
Chadbourne, Parke	1965
Milbank, Tweed	1965
Shearman & Sterling	1965
Skadden, Arps	1965
Davis, Polk	1970
Hughes, Hubbard	1970
LeBoeuf, Lamb	1970
Rogers & Wells	1970
Willkie, Farr	1970
Wilson, Elser	1978
Debevoise	1980
Fried, Frank	1980
Kelley, Drye	1980
Mudge, Rose	1980
Shea & Gould	1980

Sources: Martindale-Hubbell Law Directory, various years.
The Bar Register. 1920, 1925.

Notes: Data collected at five year intervals.
Year reflects first five year point after most recent name change.

Table 5.5:
Prestige of Firms' Business*
30 New York City Law Firms

	1985		1991			
Firm	Elite	Derog.	Elite	Derog.	Elite	Derog.
WHITE	65	24	73	26	71	29
WINTHROP					72	28
DAVIS	74	26	69	28	32	25
SULLIVAN			68	28	70	30
CRAVATH	62	34	62	35	64	36
WEIL			60	34	42	48
CADWALADER	55	41	58	35		
DEWEY	66	31	57	29	56	37
COUDERT	81	15	56	40		
MUDGE ROSE	68	29	54	34	55	42
DEBEVOISE	70	26	53	39	66	34
MILBANK	78	22	51	41		
SIMPSON	64	32	51	45	50	46
WILLKIE			51	28	43	36
ROGERS	30	70			51	49
SHEARMAN			50	40	68	27
PAUL, WEIS	51	49	48	49	48	45
FRIED	49	29	45	48	46	53
SKADDEN	32	57	44	36		
STROOCK	40	42	42	51	30	50
LEBOEUF	50	40	38	54	28	58
CHADBOURE	45	32	36	54	52	36
KELLEY	53	46	34	52	32	50
PROSKAUER	44	56	33	62	37	63
KAYE	23	69	29	63	31	58
HUGHES	40	44	25	57		
SHEA	21	49	22	56	22	53
WILSON	5	95	19	74	15	85
CLEARY	37	62				
CAHILL						
Averages	50	43	47	44	47	44

Sources: 1985: National Law Journal. 1985 Survey of 250 Largest Firms
1991, First column: National Law Journal. 1991. Survey of 250 Largest Firms.
1991, Second column: Of Counsel Magazine. 1991. Survey of 500 Largest Law Firms.

Notes: Blanks indicate unavailable data.
* Percent "elite" and "derogated" legal practices (see below).
Elite practice areas include: corporate, securities, banking, tax, antitrust, regulatory, trust & estates, and environmental. Derogated practice areas include: litigation, bankruptcy, product liability, labor, real estate, mergers & acquisitions, and entertainment.

Table 5.6:
Eliteness of Spatial Location*
30 New York City Law Firms

FIRM	55	60	65	70	75	80	85	92
Cadwalader	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn
Cahill	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn
Cleary	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn
Davis	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn
Fried	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn
Hughes	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn
Milbank	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn
Stroock	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn
Sullivan	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn
Winthrop	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn
Cravath	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Up
Dewey	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Up
LeBoeuf	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Up
Simpson	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Up
White	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Up
Mudge	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Up
Shearman	Dwn	Dwn	Dwn	Dwn	Dwn	Dwn	Up	Up
Willkie	Dwn	Dwn	Dwn	Dwn	Dwn	Up	Up	Up
Chadbourne	Dwn	Dwn	Dwn	Dwn	Up	Up	Up	Up
Debevoise	Dwn	Dwn	Up	Up	Up	Up	Up	Up
Kelley	Dwn	Dwn	Up	Up	Up	Up	Up	Up
Rogers	Dwn	Dwn	Up	Up	Up	Up	Up	Up
Proskauer	Dwn	Up	Up	Up	Up	Up	Up	Up
Coudert	Up	Up	Up	Up	Up	Up	Up	Up
Kaye	Up	Up	Up	Up	Up	Up	Up	Up
Paul	Up	Up	Up	Up	Up	Up	Up	Up
Skadden	Up	Up	Up	Up	Up	Up	Up	Up
Weil	Up	Up	Up	Up	Up	Up	Up	Up
Shea	-	-	Up	Up	Up	Up	Up	Up
Wilson	-	-	-	-	-	Up	Up	Up

Source:
Martindale-Hubbell Law Directory. 1955-1992.

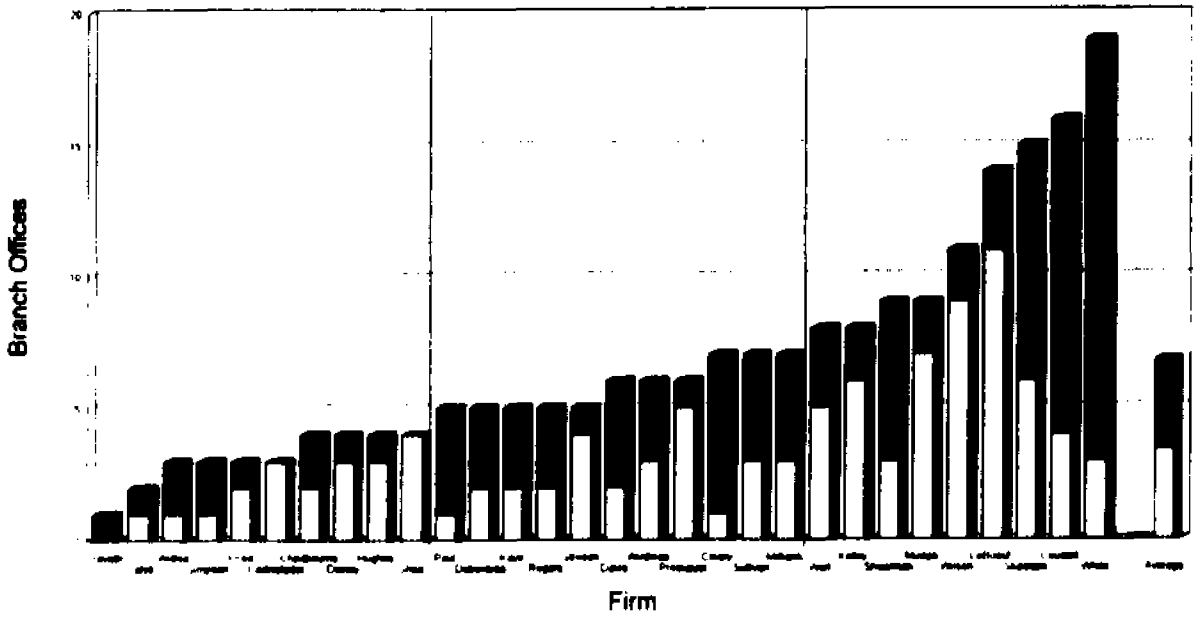
Notes:
- = Firm not formed.
* Smigel (1969) is source of locational eliteness measure.
1965 is the test year, following Smigel.
Dwn = Wall Street, high prestige area.
Up = Midtown, low prestige area.

Table 5.7:
Number of Branch Offices
30 New York City Law Firms (1992)

Firm	Domestic	Int'l	Total
Cravath	0	1	1
Cahill Gordon	1	1	2
Willkie Farr	1	2	3
Simpson Thacher	1	2	3
Fried Frank	2	1	3
Cadwalader	3	0	3
Chadbourne Parke	2	2	4
Dewey Ballantine	3	1	4
Hughes Hubbard	3	1	4
Shea & Gould	4	0	4
Paul Weiss	1	4	5
Debevoise	2	3	5
Kaye Scholer	2	3	5
Rogers & Wells	2	3	5
Stroock	4	1	5
Davis Polk	2	4	6
Winthrop Stimson	3	3	6
Proskauer Rose	5	1	6
Cleary Gottlieb	1	6	7
Sullivan & Cromwell	3	4	7
Milbank Tweed	3	4	7
Weil Gotshal	5	3	8
Kelley Drye	6	2	8
Shearman & Sterling	3	6	9
Mudge Rose	7	2	9
Wilson Elser	9	2	11
LeBoeuf Lamb	11	3	14
Skadden Arps	6	9	15
Coudert Brothers	4	12	16
White & Case	3	16	19
Average	3.4	3.4	6.8

Source:
Martindale-Hubbell Law Directory. 1992.

Figure 5.2: Number of Branch Offices
30 New York City Law Firms, 1992



Source: Martindale-Hubbell (1992).

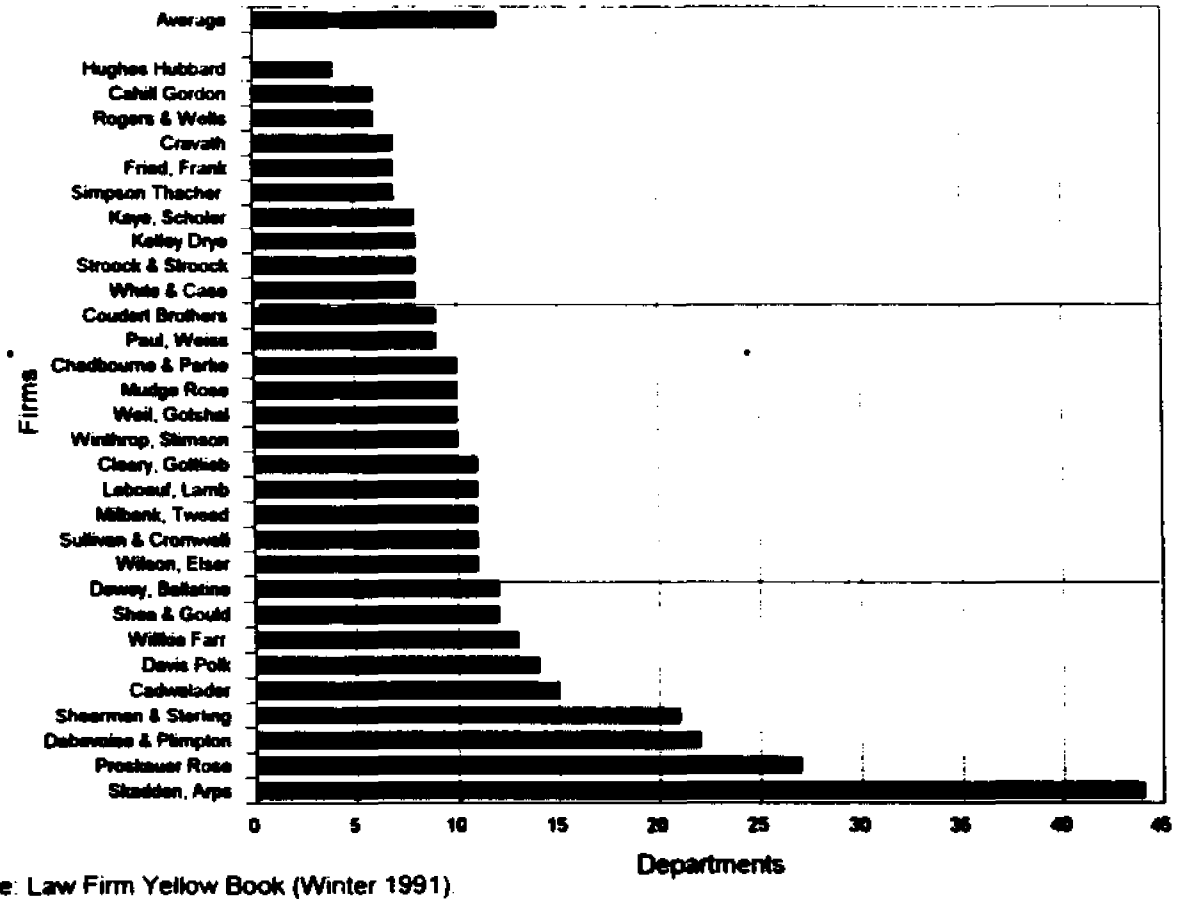
Table 5.8:
Number of Departments*
30 New York City Law Firms, 1991

Firm	Nominal Depts.	Nominal Practice Areas	Departments
Skadden, Arps	n/a	44	44
Proskauer Rose	10	27	27
Debevoise & Plimpton	5	22	22
Shearman & Sterling	9	21	21
Cadwalader	15	n/a	15
Davis Polk	9	14	14
Willkie Farr	13	n/a	13
Shea & Gould	3	12	12
Dewey, Ballatine	4	12	12
Wilson, Elser	n/a	11	11
Sullivan & Cromwell	4	11	11
Milbank, Tweed	5	11	11
Leboeuf, Lamb	7	11	11
Cleary, Gottlieb	1	11	11
Winthrop, Stimson	4	10	10
Weil, Gotshal	10	n/a	10
Mudge Rose	10	n/a	10
Chadbourne & Parke	10	n/a	10
Paul, Weiss	6	9	9
Coudert Brothers	6	9	9
White & Case	4	8	8
Stroock & Stroock	8	n/a	8
Kelley Drye	8	8	8
Kaye, Scholer	8	n/a	8
Simpson Thacher	7	n/a	7
Fried, Frank	7	n/a	7
Cravath	5	7	7
Rogers & Wells	6	n/a	6
Cahill Gordon	1	6	6
Hughes Hubbard	4	n/a	4
Average	6	9	12

Sources:
Law Firm Yellow Book. Winter 1992. New York: Monitor Publishing.

Notes:
* Firms use the terms "departments," "practice areas," and "practice groups" differently. The third column, "Departments," is the larger of the two prior colum

Figure 5.3: Number of Departments
30 New York City Law Firms, 1991



Source: Law Firm Yellow Book (Winter 1991).

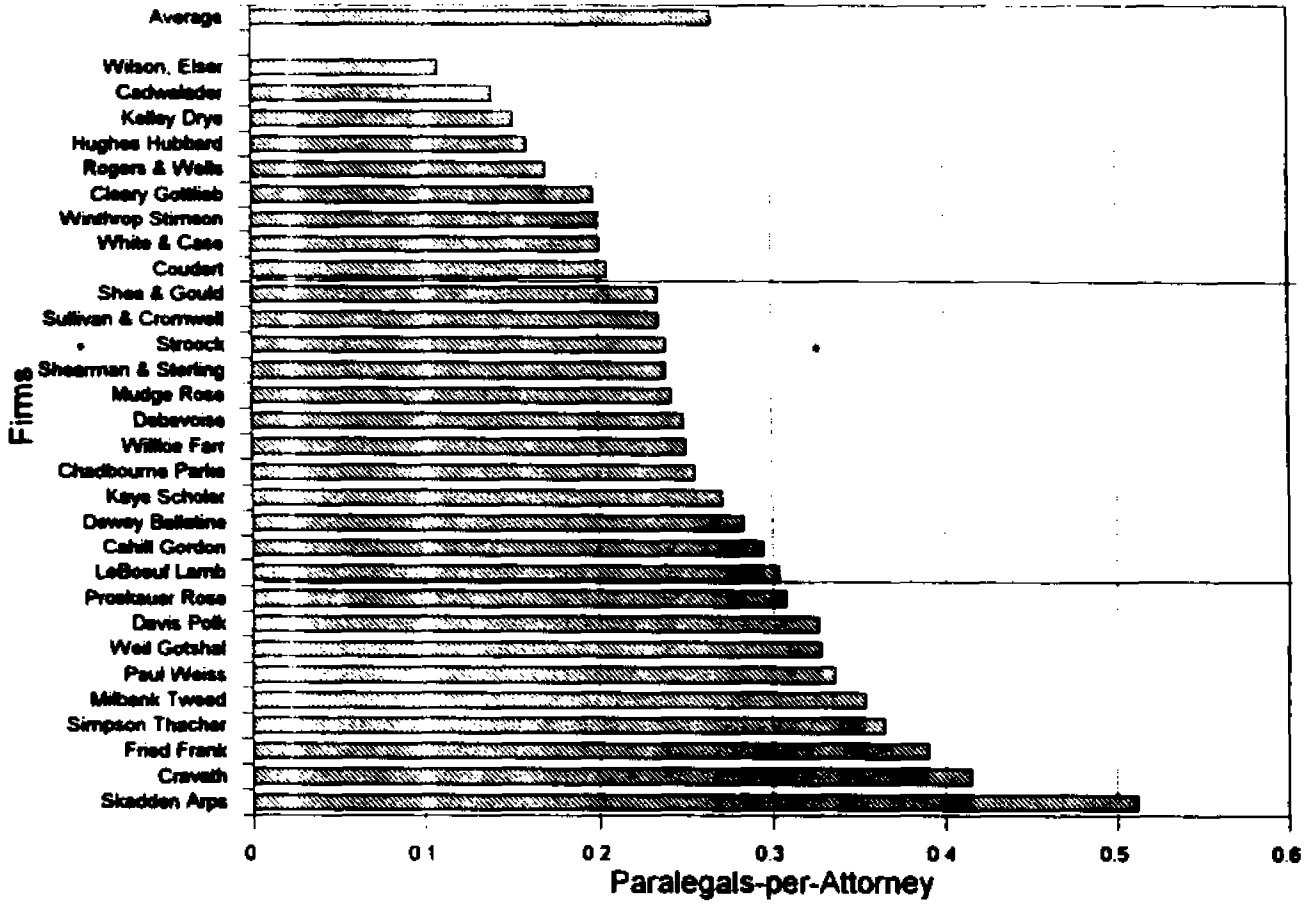
Table 5.9:
Paralegals Employed, 1979 - 1989 and Paralegals-per-Lawyer Ratios, 1989
30 New York City Law Firms

Firm	1979	1980	1983	1984	1985	1986	1987	1988	1989	Paralegals/ Atty 1989
Skadden Arps	56	83	127	110	108	171	352	396	433	0.51
Cravath	45	64	44	51	55	65	63	94	115	0.42
Fried Frank	50	57	50	53	55	96	97	126	143	0.39
Simpson Thacher	28	37	44	51	52	48	74	83	125	0.37
Milbank Tweed	33	34	43	52	53	47	47	62	116	0.35
Paul Weiss	37	36	50	57	60	72	94	91	112	0.34
Weil Gotshal	66	51	33	37	51	71	92	113	137	0.33
Davis Polk	37	65	69	82	95	124	127	125	123	0.33
Proskauer Rose	18	28	38	44	43	50	62	83	90	0.31
LeBoeuf Lamb			53	52	85	91	122	132	110	0.30
Cahill Gordon	26	27	43	47	50	53	70	76	76	0.30
Dewey Ballatine	31	45	35	41	32	37	63	74	81	0.28
Kaye Scholer	65	58	26	46	50	50	54	76	88	0.27
Chadbourne Parke	11	22	24	20	28	25	46	56	55	0.26
Willkie Farr			32	36	34	38	62	63	74	0.25
Debevoise			27	31	29	37	50	66	68	0.25
Mudge Rose	27	31	45	58	65	60	66	69	72	0.24
Shearman & Sterling	56	52	58	59	63	69	89	96	112	0.24
Stroock	30	39	48	55	64	64	66	70	74	0.24
Sullivan & Cromwell	39	40	44	44	44	45	66	75	73	0.24
Shea & Gould	24	29	46	47	56	60	77	94	82	0.23
Coudert	22	29	37	30	30	30	50	45	61	0.20
White & Case	28	33	43	38	39	48	48	63	64	0.20
Winthrop Stimson			14	13	13	20	21	34	42	0.20
Cleary Gottlieb	16	23	42	36	40	48	48	58	62	0.20
Rogers & Wells	10	12	31	35	40	36	37	42	42	0.17
Hughes Hubbard	24	39	53	47	38	42	49	64	35	0.16
Kelley Drye			35	45	37	41	62	57	49	0.15
Cadwalader	47	44	28	43	52	59	61	51	40	0.14
Wilson, Elser			20	32	29	30	34	36	30	0.11
Average	34	41	43	46	50	58	75	86	93	0.27

Source:
National Law Journal. 1981-89. Annual Survey of 250 Largest Law Firms.

Note:
Blanks indicate unavailable data.

Figure 5.4: Paralegals-per-Lawyer
30 New York City Law Firms, 1989



Source: National Law Journal (1981-89).

Table 5.10:
Mean Law Firm Partners' *
Law School Prestige
30 New York City Law Firms, 1991

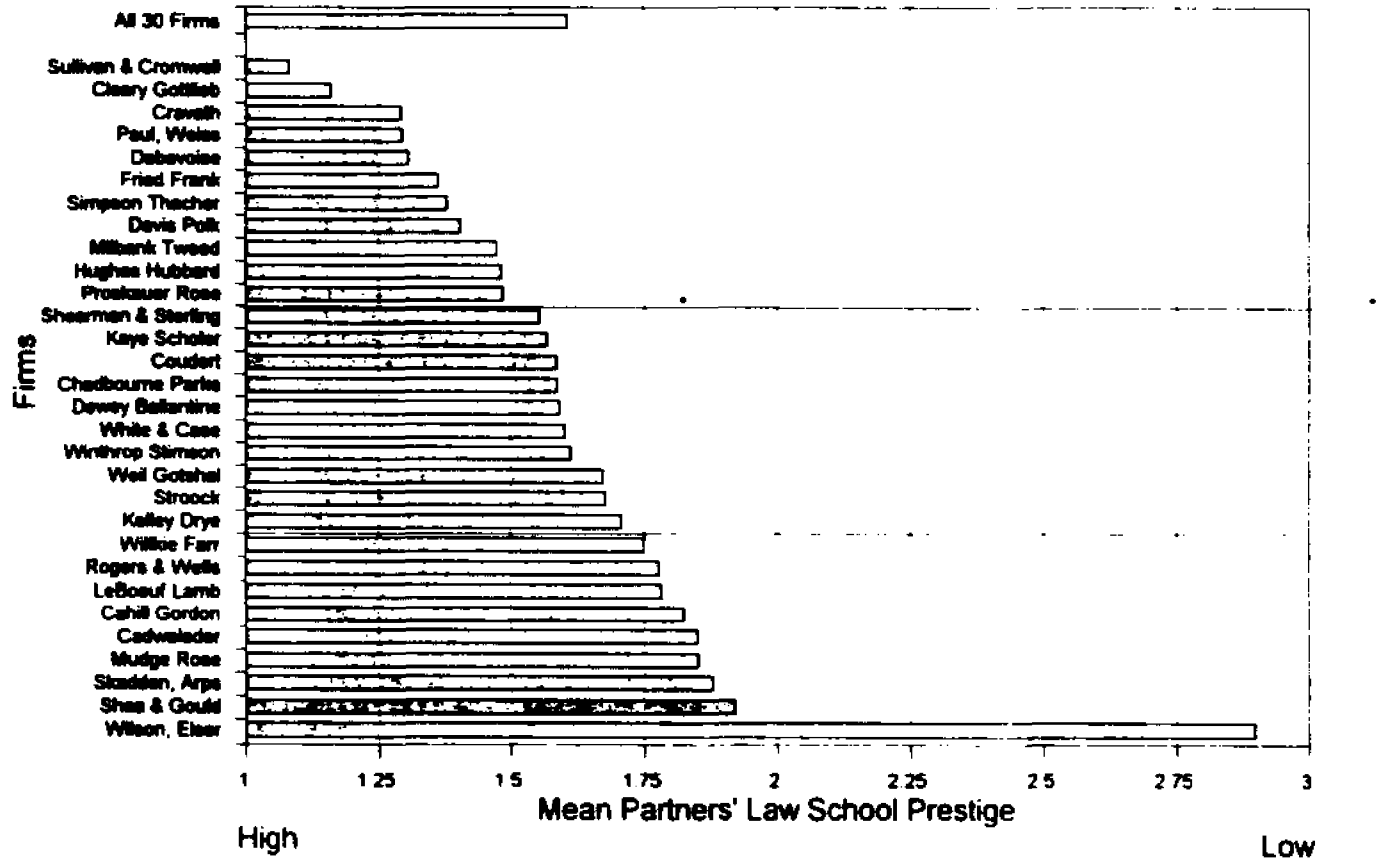
(1=Elite; 2=Prestigious; 3=Regional; 4=Local)

Firm	Mean	Std Dev	Cases
Sullivan & Cromwell	1.08	0.35	85
Cleary Gottlieb	1.16	0.44	74
Cravath	1.29	0.75	82
Paul, Weiss	1.29	0.71	102
Debevoise	1.31	0.70	104
Fried Frank	1.36	0.75	80
Simpson Thacher	1.38	0.72	113
Davis Polk	1.41	0.80	111
Milbank Tweed	1.48	0.80	120
Hughes Hubbard	1.48	0.88	58
Proskauer Rose	1.49	0.91	111
Shearman & Sterling	1.55	0.85	170
Kaye Scholer	1.57	0.95	120
Coudert	1.59	0.92	70
Chadbourne Parke	1.59	0.93	75
Dewey Ballantine	1.59	0.83	103
White & Case	1.60	0.95	95
Winthrop Stimson	1.61	0.96	75
Weil Gotshal	1.67	0.99	110
Stroock	1.68	1.10	102
Kelley Drye	1.71	1.00	85
Willkie Farr	1.75	0.91	88
Rogers & Wells	1.78	0.92	90
LeBoeuf Lamb	1.78	1.05	101
Cahill Gordon	1.82	1.04	74
Cadwalader	1.85	0.95	114
Mudge Rose	1.85	0.98	81
Skadden, Arps	1.88	0.98	149
Shea & Gould	1.92	1.01	75
Wilson, Elser	2.90	0.81	69
All 30 Firms	1.61	0.92	2886

Source:
Martindale-Hubbell Law Directory. 1992.

Notes:
* Law school prestige scores derived from Heinz & Laumann (1982) and U.S. News and World Report (1988).

Figure 5.5: Firm Partners' Law School Prestige Rankings, 30 NYC Firms, 1991



Source: Martindale-Hubbell (1992).

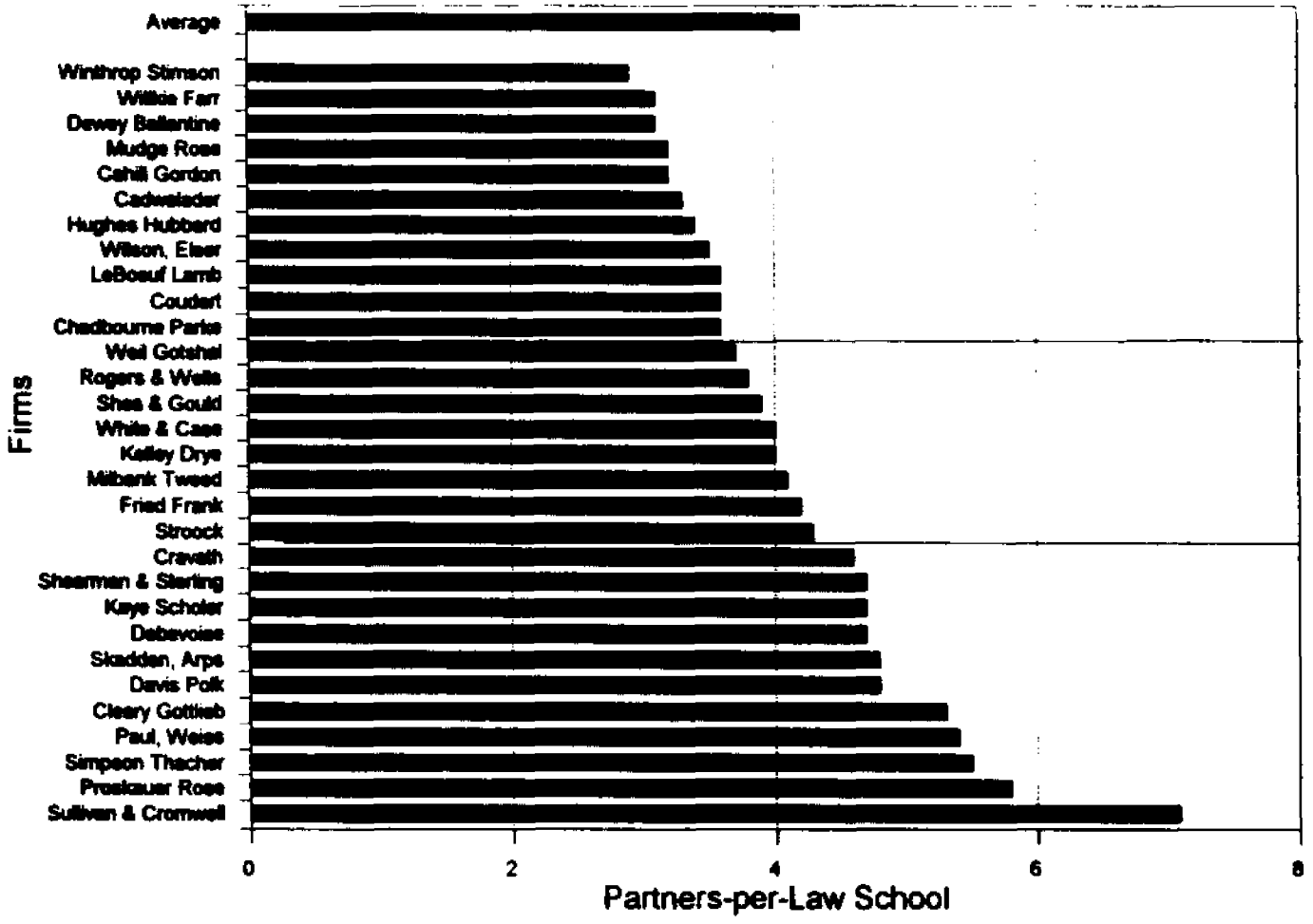
Table 5.11:
Average Number of Partners* Per Law School
30 New York City Firms, 1991

Firm	Partners Per Law School
Sullivan & Cromwell	7.1
Proskauer Rose	5.8
Simpson Thacher	5.5
Paul, Weiss	5.4
Cleary Gottlieb	5.3
Davis Polk	4.8
Skadden, Arps	4.8
Debevoise	4.7
Kaye Scholer	4.7
Shearman & Sterling	4.7
Cravath	4.6
Stroock	4.3
Fried Frank	4.2
Milbank Tweed	4.1
Kelley Drye	4.0
White & Case	4.0
Shea & Gould	3.9
Rogers & Wells	3.8
Weil Gotshal	3.7
Chadbourne Parke	3.6
Coudert	3.6
LeBoeuf Lamb	3.6
Wilson, Elser	3.5
Hughes Hubbard	3.4
Cadwalader	3.3
Cahill Gordon	3.2
Mudge Rose	3.2
Dewey Ballantine	3.1
Willkie Farr	3.1
Winthrop Stimson	2.9
Average	4.2

Source:
Martindale-Hubbell Law Directory. 1992.

Note:
* Figures include partners and "senior attorneys" (see text).

Figure 5.6: Average Number of Partners per-Law School -- 30 NYC Law Firms



Source: Martindale-Hubbell (1992).

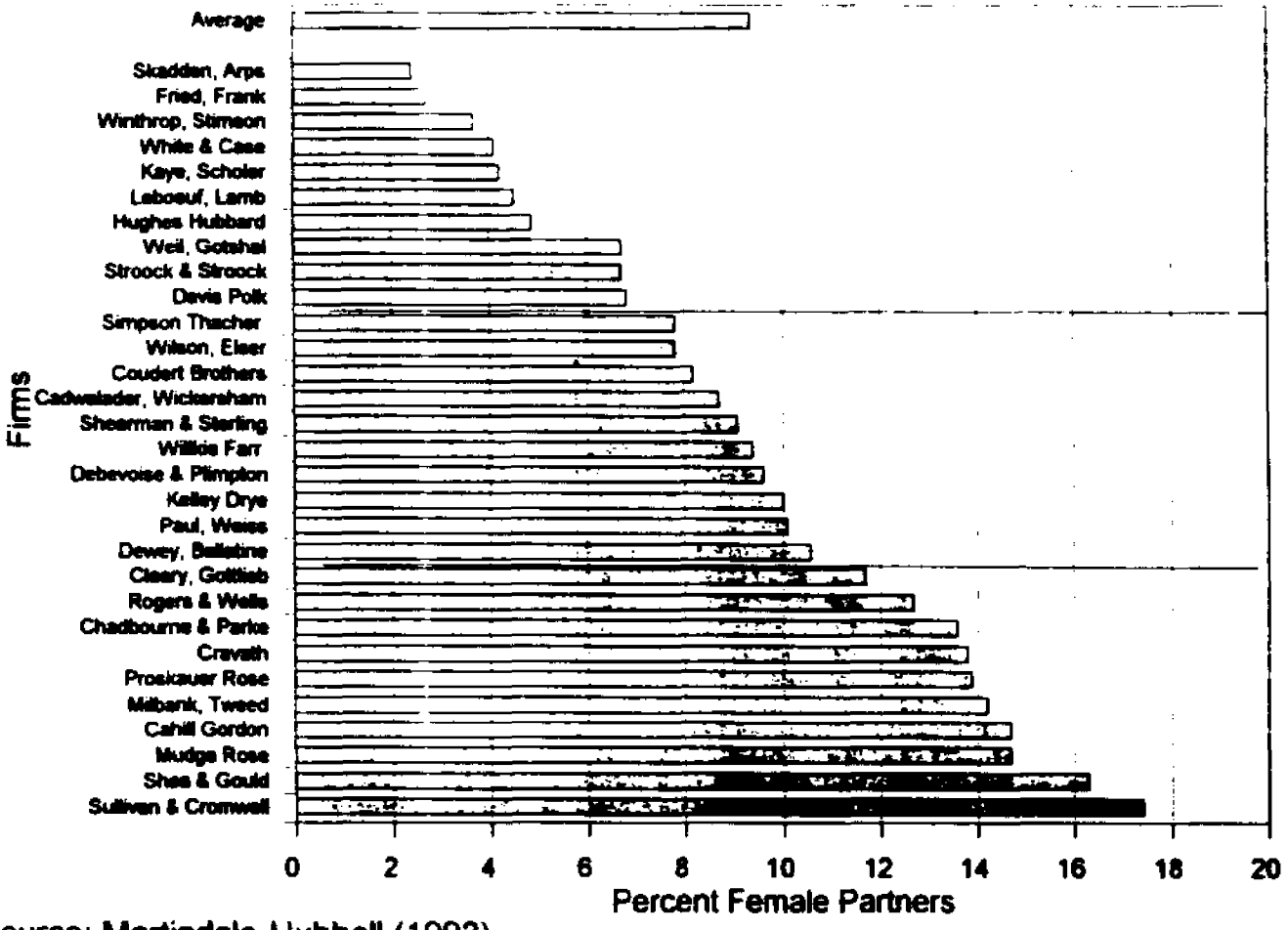
Table 5.12:
Percent Female Partners*
30 New York City Law Firms, 1992

Firm	Percent Female Partners
Sullivan & Cromwell	2.4
Shea & Gould	2.7
Mudge Rose	3.7
Cahill Gordon	4.1
Milbank, Tweed	4.2
Proskauer Rose	4.5
Cravath	4.9
Chadbourne & Parke	6.7
Rogers & Wells	6.7
Cleary, Gottlieb	6.8
Dewey, Ballatine	7.8
Paul, Weiss	7.8
Kelley Drye	8.2
Debevoise & Plimpton	8.7
Willkie Farr	9.1
Shearman & Sterling	9.4
Cadwalader, Wickersham	9.6
Coudert Brothers	10.0
Wilson, Elser	10.1
Simpson Thacher	10.6
Davis Polk	11.7
Stroock & Stroock	12.7
Weil, Gotshal	13.6
Hughes Hubbard	13.8
Leboeuf, Lamb	13.9
Kaye, Scholer	14.2
White & Case	14.7
Winthrop, Stimson	14.7
Fried, Frank	16.3
Skadden, Arps	17.4
Average	9.4

Source:
Martindale-Hubbell Law Directory. 1992.

Note:
* "Partners" includes partners and senior attorneys (see text).

Figure 5.7: Percent Female Partners
30 New York City Firms, 1992



Source: Martindale-Hubbell (1992).

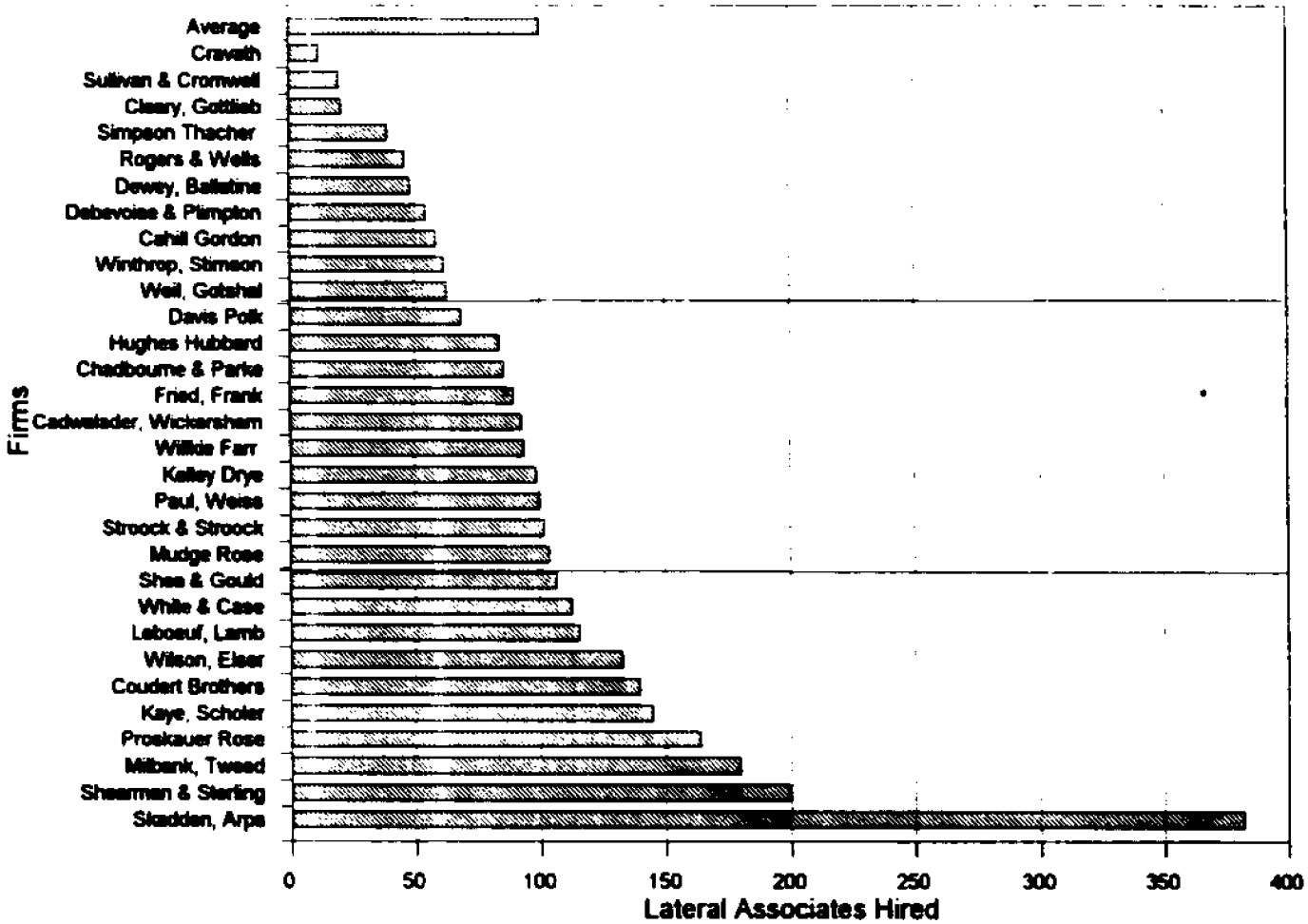
Table 5.13:
Lateral Associates Hired & Lateral Partners Made
30 New York City Law Firms, 1988 - 1992

Firm	NALP Lat. Assoc. Hired 1980-5	Of Counsel: Lateral Assoc. Hired 1988	1989	1990	1991	1992	Total 1988-92	Lateral Partners Made 1988	1989	1990	1991	1992	Total 1988-92
Cravath	0	4	8	0	0	0	12	1	0	0	0	0	1
Sullivan & Cromwell	10	2	4	7	3	4	20	0	n/a	0	0	0	0
Cleary, Gottlieb	60	1	4	7	9	n/a	21	0	n/a	1	0	0	1
Simpson Thacher	60	n/a	20	14	2	4	40	1	1	3	0	0	5
Rogers & Wells	26	14	7	12	7	7	47	14	4	1	6	7	32
Dewey, Ballatine	38	4	18	20	3	4	49	n/a	16	4	0	2	22
Debevoise & Plimpton	50	16	11	12	13	3	55	2	3	2	0	0	7
Cahill Gordon	33	22	17	15	5	0	59	0	0	0	0	0	0
Winthrop, Stimson	42	17	19	7	12	7	62	2	2	2	0	4	10
Weil, Gotshal		n/a	n/a	0	28	35	63	6	3	7	3	7	26
Davis Polk	14	3	2	0	4	60	69	0	1	2	0	0	3
Hughes Hubbard	33	38	17	7	11	11	84	13	4	3	5	4	29
Chadbourne & Parke	38	24	22	11	12	17	86	7	12	2	5	2	28
Fried, Frank	51	39	33	13	3	2	90	5	1	1	4	2	13
Cadwalader	77	21	11	23	17	21	93	5	0	4	3	n/a	12
Willkie Farr	35	20	16	30	16	12	94	2	0	8	0	1	11
Kelley Drye	90	50	7	5	23	14	99	7	1	n/a	3	2	13
Paul, Weiss	176	30	25	24	16	5	100	1	0	0	1	2	4
Stroock & Stroock		16	13	23	20	30	102	7	6	4	0	14	31
Mudge Rose	6	n/a	21	39	17	27	104	n/a	0	1	n/a	7	8
Shea & Gould	60	38	30	24	10	5	107	25	2	2	1	10	40
White & Case		30	19	26	21	17	113	12	5	7	4	5	33
Leboeuf, Lamb	23	24	11	25	30	26	116	7	0	11	2	10	30
Wilson, Elser		36	26	46	n/a	25	133	7	1	2	n/a	0	10
Coudert Brothers	31	42	36	27	23	12	140	1	3	4	6	4	18
Kaye, Scholer		33	29	28	33	22	145	9	1	3	8	0	21
Proskauer Rose		40	35	50	24	15	164	7	5	13	6	7	38
Milbank, Tweed	68	37	67	47	23	6	180	8	6	4	1	5	24
Shearman & Sterling	102	45	26	51	52	25	199	0	3	7	4	1	15
Skadden, Arps		126	106	93	45	12	382	6	5	5	5	1	22
Average	48.8						100.9						16.9

Sources National Association of Law Placement (NALP) *1991-92 Guide to Legal Employers*
Of Counsel Magazine Prentice-Hall Publishers 1988-92

Notes Rank order based on "Total 1988-92" column
Other columns shown for comparison purposes only

Figure 5.8: Lateral Associates Hired
30 New York City Firms, 1988 - 1992



Sources: NALP (1991-2) and Of Counsel Magazine (1988-92).

Table 5.14:
Number of Professional Ranks
30 New York City Law Firms, 1960 - 1992

Firm	1960	1965	1970	1975	1980	1985	1992
Cadwalader, Wickersham	2	2	3	3	4	4	3
Wilson, Elser	-	-	-	-	2	3	3
Dewey, Ballatine	2	2	2	2	3	3	3
Fried, Frank	2	2	3	3	3	3	3
Mudge Rose	2	3	3	3	3	3	3
Weil, Gotshal	3	3	2	3	3	3	3
Willkie Farr	2	3	3	3	3	3	3
Leboeuf, Lamb	2	2	3	3	2	3	4
Cleary, Gottlieb	2	3	3	3	3	3	4
Cravath	2	3	2	2	3	3	4
Kelley Drye	2	3	2	3	3	3	4
Proskauer Rose	2	2	2	2	3	3	4
Shea & Gould	-	3	2	3	3	3	4
Stroock & Stroock	3	3	3	3	3	3	4
Sullivan & Cromwell	2	3	3	3	3	3	4
Winthrop, Stimson	2	2	2	3	3	3	4
Skadden, Arps	2	2	3	3	4	3	4
Simpson Thacher	2	2	2	2	3	4	4
White & Case	2	2	2	3	3	4	4
Chadbourne & Parke	2	2	2	4	4	4	4
Cahill Gordon	3	3	4	3	3	4	5
Milbank, Tweed	2	2	2	2	2	2	5
Paul, Weiss	2	3	2	3	2	2	5
Davis Polk	2	2	2	3	2	3	5
Rogers & Wells	2	2	2	3	3	4	5
Shearman & Sterling	2	3	3	3	3	4	5
Debevoise & Plimpton	3	3	3	3	4	4	5
Coudert Brothers	2	3	3	3	3	5	5
Hughes Hubbard	2	2	2	2	3	5	5
Kaye, Scholer	2	3	2	4	4	5	5
Average	2.1	2.5	2.5	2.9	3.0	3.4	4.1

Sources:
Martindale-Hubbell Law Directories. 1960-92.

Notes:
Numbers reflect listings in law directory, which may not reflect all positions.
Numbers include partner and associate ranks, even when associates were not listed.
3 or more indicates Counsel, Of Counsel, or other "senior attorney" positions.
Retired partners were excluded when listed as a separate category.
- Indicates firm not yet formed.

Table 5.15:
Publicly Stated Minimum Billing Requirements
30 New York City Firms

	Total Hours Worked	Average Billable Hours	Minimum Billable Hours	Notes
Cadwalader	no	no	no	
Cahill, Gordon	no	no	no	
Chadbourne, Parke	2100	1810	no	
Cleary, Gottlieb	2190	1880	no	
Coudert Brothers	no	no	no	
Cravath	2200	2100	no	
Davis, Polk	no	no	no	
Debevoise	no	1950	no	
Dewey, Ballantine	2053	1733	2000	"No minimum, target"
Fried, Frank	no	1800	no	
Hughes, Hubbard	2050	1750	no	
Kaye, Scholer	2053	1928	no	
Kelley, Drye	no	2068	no	
LeBoeuf, Lamb	2100	1877	no	
Milbank, Tweed	no	1717	no	
Mudge, Rose	no	1956	2000	
Paul, Weiss	1786	1660	no	
Proskauer, Rose	no	no	no	
Rogers & Wells	2200	2000	no	
Shea & Gould	1864	1681	no	
Shearman & Sterling	2200	1900	no	
Simpson, Thacher	2028	1864	no	
Skadden, Arps	no	no	no	
Stroock & Stroock	no	no	no	
Sullivan & Cromwell	no	no	no	
Weil, Gotshal	no	no	no	
White & Case	no	no	no	
Willkie, Farr	no	no	no	
Wilson, Elser	no	no	no	
Winthrop, Stimson	1939	1839	no	
Average of Those reporting	2059	1862	2000	

Source: NALP. Law Firm Questionnaire 1991-92.

Note: "No" denotes no figure specified by the firm.

Table 5.16:
Summary Chart of Law Firm Structural Characteristcs and Practices
30 New York City Law Firms

(Scale: 1=Collegial, 0=Mixed, -1=Marked)

Firm	Overall Average	Age	Take-off 50	Take-off 100	Last Name Change	Prestige of Business	Eliteness of Location	Branch Offices	Depart-ments	Paras-per-Atty Ratio	Ptrs' L.S. Prestige	Ptrs -per-Law Sch.	Percent Fem. Ptrs.	Lateral Hiring	Prof Ranks '92	Billing Targets
Sullivan	0.73	1	1	1	1	1	1	0	0	0	1	1	1	1	0	1
Cravath	0.60	0	1	1	1	1	1	1	1	-1	1	0	1	1	0	0
Simpson	0.53	0	1	1	1	0	1	1	1	-1	1	1	0	1	0	0
Cadwalader	0.33	0	1	0	1	1	1	1	-1	1	-1	-1	0	0	1	1
Cleary	0.33	-1	0	1	0	-1	1	0	0	1	1	1	1	1	0	0
White	0.33	0	1	1	1	1	1	-1	1	1	0	0	-1	-1	0	1
Davis	0.20	1	1	1	-1	1	1	0	-1	-1	1	1	-1	0	-1	1
Dewey	0.20	0	0	1	0	1	1	1	-1	0	0	-1	0	1	1	-1
Milbank	0.20	1	1	1	0	0	1	0	0	-1	1	0	1	-1	-1	0
Cahill	0.13	-1	1	0	0	0	1	1	1	-1	-1	-1	1	1	-1	1
Fried	0.13	0	0	0	-1	0	1	1	1	-1	1	0	-1	0	1	0
Rogers	0.13	1	0	0	-1	0	0	0	1	1	-1	0	1	1	-1	0
Winthrop	0.13	0	0	-1	1	1	1	0	0	1	0	-1	-1	1	0	0
Stroock	0.07	0	0	-1	0	0	1	0	1	0	0	0	-1	0	0	1
Hughes	0.00	1	0	-1	-1	-1	1	1	1	1	1	-1	-1	0	-1	0
Mudge	0.00	1	0	0	-1	1	1	-1	0	0	-1	-1	1	0	1	-1
Proskauer	0.00	1	0	-1	1	-1	0	0	-1	-1	0	1	1	-1	0	1
Shearman	0.00	1	1	1	0	0	0	-1	-1	0	0	1	0	-1	-1	0
Weil	0.00	-1	0	0	1	1	-1	-1	0	-1	0	0	-1	1	1	1
Chadbourne	-0.07	0	0	-1	0	-1	0	1	0	0	0	-1	1	0	0	0
Coudert	-0.07	1	0	-1	1	1	-1	-1	0	1	0	-1	0	-1	-1	1
Debevoise	-0.07	-1	0	0	-1	0	0	0	-1	0	1	1	0	1	-1	0
Paul	-0.07	-1	1	0	0	0	-1	0	0	-1	1	1	0	0	-1	0
Kelley	-0.13	1	0	-1	-1	-1	0	-1	1	1	-1	0	0	0	0	0
Wilkie	-0.13	0	0	-1	-1	0	0	1	-1	0	-1	-1	0	0	1	1
Kaye	-0.20	-1	0	1	0	-1	-1	0	1	0	0	1	-1	-1	-1	0
Shea	-0.40	-1	-1	-1	-1	-1	-1	1	-1	1	-1	0	1	-1	0	0
Wilson	-0.47	-1	-1	-1	-1	-1	-1	-1	0	1	-1	-1	0	-1	1	1
Skadden	-0.53	-1	-1	-1	0	0	-1	-1	-1	-1	-1	1	-1	-1	0	1
LeBoeuf	-0.67	-1	-1	-1	-1	-1	1	-1	0	-1	-1	-1	-1	-1	0	0
Average	0.04	0.00	0.20	-0.07	-0.07	0.03	0.30	0.03	0.03	-0.03	0.00	-0.03	0.00	0.00	-0.10	0.33

Cross-reference chart

Table:	5.1	5.2	5.3	5.4	5.5	5.6	5.7	5.8	5.9	5.10	5.11	5.12	5.13	5.14	5.15
Figure:	5.1						5.2	5.3	5.4	5.5	5.6	5.7	5.8		

CHAPTER SIX

The Problem of Associate Culture And Ideal Typical Associate Selves

The two firm ideal types specify partner level firm cultures. Associate selves created under perfectly efficient conditions of cultural transmission would match the firm culture. This is the argument of the "strong" theory of organizational culture reviewed in the Introduction. But such a functionalist, "cookie cutter" theory of cultural influence is undoubtedly wrong. The Introduction made clear that I expect the actual associates' selves to be more complicated and —possibly— contradictory.

Associates — social actors — have agency. But actors' agency does not occur in a vacuum, is itself largely reactive to the prevailing culture, albeit reflected through the prism of associates' ideal and material interests. Confronted with a preexisting lifeworld, social actors express their autonomy largely through selective adaption — contestation at the edges of the dominant culture.[1] Thus, in law firms, we should look for contestations over the meaning-in-use of shared cultural concepts, such as "professional," "membership," and "employee."

On a broader scope, Kristin Luker's *Abortion and the Politics of Motherhood* (Luker 1984) is a signal example of such cultural contestation. Luker examined the worldviews of pro-choice and pro-life activists and found that abortion was a vehicle

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[1]. For the classic statement of the givenness of the lifeworld, see Durkheim's discussion of the monetary system in *The Division of Labor in Society* Durkheim (1933). For the American pragmatists' restoration of agency to social actors confronted with the "social fact" of a preexisting social order, see George Herbert Mead's *Mind, Self and Society* Mead (1934).

for a broader contest of their worldviews' opposing conceptions of the family and motherhood. The activists used the same terms to mean very different things. The divergent meanings were the products of the differences in the activists' material and ideal interests, in that case their relationship to the labor market, class status, and religious orientation.

Returning to lawyers, Nelson is right that the definition of professionalism is open to political contestation. But he errs in limiting his theory of the political contestants to partners. Indeed, as covered in the Introduction, Nelson privileges the partners' interpretations of associates' actions. Partners, and partners' definitions of professionalism, do not freely stamp compliant associates. Associates are full, if unequal, contestants in the battle over the definition of professionalism and professional *self*-identity, not mere pawns.

We must take the structural hierarchy within these law firms seriously in formulating ideal types of selves. Accordingly, I will detail four possible associate selves, two for each type of firm. One is the partner culture-generated self; the other is an associate-generated, reactive self.

Before discussing the four associate selves, I must explain the seeming theoretical leap from the partners' culture to associates' selves and the apparent absence of an intervening associate subculture. I call this the failure of associate subculture.

The Failure of Associate Subculture.

Gary Alan Fine argues that group culture, what he terms idioculture, serves to differentiate and protect members of the group from the surrounding culture Fine (1987, p. 128*ff*). The question is, then, Are the associates structurally capable of sustaining an oppositional subculture?[2] Most of the available evidence indicates that associates are unlikely to be able to constitute a robust oppositional subculture. The reasons for this claim and the implications of it shall be dealt with in turn. Culture is a shared knowledge, broadly defined. By definition, an inability to share the culture means that the culture cannot be sustained. Thus, organizational structural impediments to members' interactive sharing of a culture can be taken as a strong indication of a weak or nonexistent subculture.

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Following Fine's lead, I will inquire as to if associates constitute a self-conscious group. Mead made the distinction between "concrete" versus "abstract" social classes as immediate, functional, physically proximate generalized other constituting groups versus abstract, indirect (potential) social units at the level of self-conscious universal discourse (p. 158). At a broad level of abstraction, associates surely constitute an "abstract class," in Mead's sense. They share similar social structural positional identities. Yet, it is much less likely that they constitute a concrete social class, with its requirement for the full acknowledgement by all

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[2]. A subsidiary question is if associates' abilities to sustain an oppositional subculture vary across firm cultural types.

members in their status as a localized generalized other. This is rather like discussing the viability of prisoners' culture among prisoners who forever and always have remained in solitary confinement. Rather, I am interested in the ability of associates *as a group* to reflexively orient themselves to, and against, partners' culture. Can associates (re-)constitute themselves as a *self-conscious group*?

There seem to be two possible positive answers to this question. First, associates in firms merely reconstitute their shared law school student subculture and adapt it to the problems of firm life. Second, associates constitute a subculture *de novo* with each cohort.[3] The negative answer finds the associates without a shared, self-conscious group identity — without a subculture. While each of these three answers represents an extreme, I can use them as guides for examining the central tendency of associate (group) identity. Both the reconstitutive and the constitutive theses require a viable group.

To form a subculture, a group must meet several minimum structural requirements. It must have a sufficient number to constitute a plurality of the whole group. Too few of the associates would only constitute a clique. There must be enough adherents to the group's identity to provide an incentive for others to consider themselves members. The associates must be physically proximate in order to share a

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[3]. For readers who anticipate my argument, I will explain below the structural difficulties in the new class of associates merely adapting a full bodied, preexisting second-year associate culture already in place. That culture may exist, but the ability of first-year associates to "find it" are severely limited, making a *de novo*-like generation of culture a reasonable description of the process. While this is somewhat of an overstatement, it captures the loose ties of affiliation among proximate classes of associates better than a theory that assumes easy generational transmission.

definition of their new environment. The group must have a status order, whether by age, perceived competence, social prestige, or some other valued attribute. Finally, those associates must have some minimally shared identity. They must see themselves as members of the same group, rather than remaining, in Mead's phrase, mere members of an "abstract class" of associates.

But law firms' structures seem to operate against group formation. The multiple, cross-cutting divisions profoundly work against associates seeing themselves as a coherent group. New associates begin their work at different times, small groups trickling in from August to January of each year. Firm-led new associate group orientations last one day. Then new associates are assigned to an office with another first-year associate, often from a different department. Physically, new associates are separated from each other by their private offices, which are themselves dispersed across the firm's several floors. All lawyers spend the majority of their time alone in their offices. First-year associates' offices are as likely to be book-ended by midlevel or even senior associates, as by another junior associate's office. So there appears to be a proximity limitation on the amount of informal, neighborly contact within a cohort. But cross-cohort socialability is constrained, as well. Junior associates typically have little work-related contact with other first, second, or third year associates (those closest to their experiences and problems). They typically receive their work from, and report to, fourth-year and more senior associates. This severely limits new associates' ability to identify the other associates they work with as being "similar."

Further, under the highly demanding work schedules of all associates, there are limitations on the amount of neighborly, informal interaction associates can initiate with the slightly more senior associates on his/her hall. Socializing with new acquaintances is work. More senior associates who already feel themselves to be overworked probably would prefer to spend their lunchtime restfully with friends, or get out of the office earlier, rather than devote the energy and time to establishing a friendship with a junior associate who has nothing to offer him/her. In turn, junior associates must experience some of the sense of incurring a debt described by Blau in his study of a government agency (Blau 1986 [1964]), thus limiting their overtures to "important" (work task related) questions. Female associates, especially single ones, probably experience an additional burden of wanting the same informal group affiliations with members of their class and more senior attorneys, but not wanting to be viewed as "looking for romance" in their office relationships. Thus, there are several impediments to associates reconstituting themselves as a group: different temporal entry points, departmentalization, the formal assignment system, spatial atomization, the work load, and broader gender relations issues.

Despite this, associates do have opportunities to reconstitute themselves as a group. The summer associate programs at the firms provide almost nightly group events — parties, cruises, ball games, and theater-going — which allow for the informal, less surveilled intermingling necessary for a group to form. During my interviews, I heard many stories of summer romances, a bar brawl, and general group

mischief that indicated a collective sensibility among the summer associates.[4] As associates, the firm still treats the cohort collectively in some ways, such as weekly breakfast lectures on aspects of general corporate law.[5] Further, meals serve an important integrative function at these firms. Lunches and dinners are typically eaten collectively in the lunchroom or conference rooms. All the firms have lunchrooms that allow for the informal associate contact. Most associates eat at least two dinners a week at their firms, typically small groups of friends sharing Chinese food in a conference room. These are often the scene of drop-by, pick-up informal dinners.

On balance, the structure of associate large firm life seems to mitigate associate group formation, though there are contrary tendencies. Added to the firm-level structural disincentives to the formation of an associate group are the broader social inducements to individualized career success in the culture and which are strongly reinforced in elite law firms. Despite the preponderance of structural disincentives, theoretically a preexisting culture might be reconstituted because of the functional needs it serves. So the next question is whether student culture can make a *useful* associate culture.

The re-constitution thesis suggests that student culture can be modified to serve associates needs. The shared law school student subculture might be reconfigured within the law firms for associates' use. There is some evidence of oppositional

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[4]. Though this might just be student culture on an expense account.

[5]. Several partners at firm A2 claimed that all the associates did during these lectures was socialize.

student culture in elite law schools, though doubts about whether that culture lasts all three years (see Granfield (1992) and Stover (1989)). But it is likely that a broader student subculture, found in its most robust form in undergraduate education[6] continues to bridge some of the atomizing influences of grade and first job competition, which is so much a part of law school. Undergraduate culture might be succinctly described as "anything the professor is for, the student is against." Does this student culture travel well? Fine's filtration theory of the incorporation of new cultural items is useful here.

Fine's suggests five factors that constitute multistage filters of a cultural element's possible incorporation into a subculture. Each element must be known to the group (K), usable by the group (U), functional to the group (F), appropriate in terms of the group's status hierarchy (A), and triggered by some group-experienced event (T). Fine sees this as a staged social filtration process, going so far as to offer a Venn diagram "according to the number of potential items that cumulatively meet each criterion": K→U→F→A→T (1987, p. 131}.[7]

Law student culture is clearly known (K) to young associates. While this student culture might be useful (U) to students seeking to differentiate themselves

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[6]. See, for example, Moffat (1989).

[7]. This is a valuable theoretical tool for explaining the incorporation of new cultural elements into the repertoire of a small group. Unfortunately, Fine's empirical research site —seasonal little league baseball teams — prevented him from generating a theory of the complementary social process, the explanation of the perseverance and decay of small groups' cultural elements. Certainly Merton' theory of manifest and latent cultural functions is a significant, but not sufficient, contribution to what might be termed the half-life theory of cultural elements.

from the partners, it seems unlikely that young associates would initially assume such an orientation. The question of the functionalism of the law student culture for associate subculture will make this clear.

Law students' oppositional culture is not functional (F) for the tasks confronting young associates. Young associates are new members to the organization and typically new members to the work-a-day world. Their primary concern is with learning the rules of the organization so that they can fit in. Unsure of their status, unsure of their skills, unsure of their job requirements, unsure of the appropriate relationship with their partners, young associates are likely to pursue a conservative strategy of conformity and adaption until they learn the ropes. They lack the relative autonomy law students have from their professors. As I shall show in the following chapters, one of the chief responsibilities of associates is to adapt themselves to the individualized expectations of the partners they work for. An oppositional student culture is counter-productive to this initial socialization task of associates.

Further, because of the particularistic nature of the challenges associates face in their work with more senior associates and partners, it seems unlikely that any shared strategies for dealing with their predicaments will meet Fine's next threshold filter of appropriateness to the group's status hierarchy (A). The high status law students may not be the associates confronted with the worst problems (e.g., the most difficult partners), thus working solutions may originate from lower status group members, thereby disrupting the status order. Such disruptions may contribute to putting the entire group's status order into play, disrupting the very foundations of the

group. The associates' loss of the ability to allocate status is indicated in their willingness to assign the highest status to those who work on the biggest, most valuable cases. But associates do not control the assignment system's allocation of such high status positions, partners do. By accepting the partners' determination of status by value, associates open up their law school-based group to status conflict.

Finally, Fine argues that the incorporation of a cultural element into a group's culture requires a triggering event (T), where the group is confronted by a threat or problem. The highly individualized nature of associate work and training makes associates' perception of a *collective* threat extremely unlikely. In a world of individualized problems, there can only be individualized solutions. This is not to say that there cannot be partnership actions that are perceived as a collective threat. As I will detail below, a partnership bungle of a tax issue resulted in just such a jelling of a sense of a collective problem among the associates, though even here the perception was far from universal. Reasonably good management in a good market can prevent any such collective perception of threat.

Thus the thesis of the reconstitution of a law school student identity under the different conditions in the law firms seems unlikely. The weakness of the reconstitution thesis would seem to doubly discredit the constitution thesis. How could a robust group culture be formed *de novo* under the anti-group, pro-individualistic structures outlined above? We must look for another level of contestation over the souls of associates.

James Scott's *Weapons of the Weak* (Scott 1985) argues for a "meaning-

centered account of class relations" (p. xviii) in the context of a study of peasant resistance to changing class relations. Scott documents the daily, "quiet acts of routine practical resistance" (p. 326) peasants practice against land owners. After surveying these low-grade acts of resistance, he summarizes their features in a manner applicable to other environments and other levels of power struggle, including large law firms. They require little or no coordinated planning, they make use of implicit understandings and informal networks, they often represent a form of individual self-help, and they typically avoid any direct, symbolic confrontation with authority.[8]

Like the peasants, associates lack the resources and social space to constitute a robust oppositional culture. Instead, they struggle individually to contest the dominant group's definition of the situation. For large law firm associates, the struggle is over the symbolic and practical definition of professionalism. The partners have the upper hand in this contest because of the internal structural constraints on associate subculture formation, the partners' on-going culture that new associates find already in place, and, of course, advantages partners who have a the broader market protection compared with associates.

The partners experience internal structural constraints on their exercise of power, as well. Partners need associate labor and they have a limited ability to

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[8]. "Where everyday resistance most strikingly departs from other forms of resistance is in its implicit disavowal of public symbolic goals. Where institutionalized politics is formal, overt, concerned with systematic, de jure change, everyday resistance is informal, often covert, and concerned largely with immediate, de facto gains" (p. 33).

compel high quality performance from these intellectual workers. But these internal structural constraints of associates and partners take place in a larger context.

This firm-level struggle between partners and associates takes place in the arena of general public opinion. The struggle between the groups is over the symbolic and practical meaning of professionalism. For it is professionalism that describes to the larger society what these lawyers are doing and — more importantly — why they have been granted state-sanctioned privileges to do it. Thus, each side of the struggle is constrained by their similarity of interests in the broader professions–public dialogue concerning professional privileges in a democratic society. Professionalism sets rough constraints on the rhetorics of motive both partners and associates can use.[9]

This societal-level constraint chiefly benefits the associates, who have the most to gain from strengthening the non-market-oriented logic of professionalism and the most to lose from a marketization of professionalism. The associates, like James Scott's peasants, make use of the plasticity of normative discourse to hold elites — at least partially — to the terms of their own ideology of professionalism. In this manner, associates have some power in the battle over the material and ideal

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[9]. See generally Larson (1977), Abbott (1988), and Freidson (1986) on the professions–public interaction.

These professionals' dilemma can be likened to being adrift in a leaky boat. Partners and associates may fight bitterly over who will row, bail, and steer, and how long the shifts last, but they share a common interest in keeping the boat afloat. In this metaphor, the turgid, shark-infested waters are played —appropriately — by the American public, who hold only politicians and stock brokers higher on their scale of disrepute (see the Introduction).

performance of their work. The everyday forms of young associates' resistance are contests over the material and ideal definitions of young associates' necessary and appropriate skills, their appropriate career track, the appropriate mixture of intellectual and clerical labor in their jobs, the level of personal deference to partners, the salary and benefits for their long hours of work, and their level of job security. This power struggle is largely invisible at the level of the organization.[10] It takes place on the phones, in the hallways, at the copy machines, and in the lunchrooms; in small group — typically dyadic exchanges — where the real terms of associate labor are negotiated *real time, as they go*. This has all the makings of a dialectical relationship enacted over the definition of associate professionalism.

Given this power of associates, theorists must posit analytic room for both partner-derived and associate-derived associate selves. Further, the two ideal typical firm types require different partner- and associate-derived selves, in each case. Accordingly, I offer four ideal typical associate selves — two for each type of firm — to test for in pure and mixed form in the firms under study. Figure 6.1 displays the matrix of theorized ideal typical associate selves.

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[10]. However, in another project, I hope to demonstrate that a time series analysis of the terms of exchange of elite associate labor for elite law firm work reveals historical variations in the power of the negotiating parties of partners and associates. Nelson and Galanter & Palay remain so fixed in the mid-range, organizational level that they miss the micro-processes of negotiation and the structural evolution of the organizations' environments, respectively.

Figure 6.1: Four Ideal-Typical Associate Selves

	FIRM CULTURE TYPE	
ORIGINATING GROUP	**Collegial-driven**	**Entrepreneurial-driven**
Partner-imposed	Paternalistic	Bureaucratic
Associate-derived	Collegial	Entrepreneurial

In accord with the theory of internal firm conflict over the definition of associate professionalism, the associate-derived selves in each case are oriented toward (and named for) the public image of their respective firm's professional image. I shall review the expected characteristics of each of these selves, in turn.

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The collegial-driven firm may produce two competing ideal-typical associate selves, the partners' "paternalistic" self and the associates' "collegial" self.

Paternalistic Self. At the extreme, the partner-imposed collegial firm associate self is similar to dutiful son of a family patriarch. The paternalistic self selected the firm because of its high social prestige among law firms, matching his personal social prestige rank. He[11] shares many social status attributes with the other

[11]. I use the male pronoun in the two collegial-driven self models and the female pronoun for the two entrepreneurial-driven self models to further the point of their likely differential selection criteria. However, I do not mean to imply that either organization employs *all* men or *all* women, but rather that they are likely to employ a relatively higher percentage of each gender group, when compared with the other type of firm.

lawyers at the firm — gender, elite education, religion, ethnic background, and social status. Like a private club, these personal attributes act as initial filters of membership into the organization. The young associate has only an inchoate organizational identification, formed from his law review work. He must be shaped through an apprentice-like training regime before becoming a full member of the organization. Accordingly, the paternalistic associate self experiences a strong obligation to fit in to the on-going partner culture. The close personal ties required of any full member require the associate to integrate himself into the group on business, social, and personal levels. Office friendships, or avuncular-like relations in the case of partners, should characterize this associate self's relations with other firm members.

The paternalistic self desires to stay at his firm, as the best possible match of his personality and organizational culture. He has a sense of being chosen for that close alignment of self and organization. But this alignment promotes a pressure to conform to the organization. The associate has a high expectation of job security, because of this match and the shared belief that it is not quite nice to fire a fellow lawyer. The absence of laterally hired associates and additional professional ranks are experienced as additional assurance of his "favorite son" position with the partners. He believes that the firm will always have clients and his job is just to perform the work given him.

The paternalistic associate is oriented toward the firm as a whole, because of the deemphasis of departmentalization in the organization. He views himself as a

general practitioner, or at least potentially so. This associate views the tedious aspects of his work as a ritualistic subjection, an initiation rite, that all the firm's lawyers have passed through, and that may hold value. The generational division of labor is seen as a legitimate allocation of tasks by skill and age level. The training the associate receives and his specialization may be somewhat idiosyncratic and related to the generational gaps in the competencies of the other lawyers. When combined with the obligation of the paternalistic associate to adapt and fit in, this may result in his receiving relatively firm-specific training. He holds a strong expectation of being thoroughly trained by his elders, as part of his apprenticeship.

Primary group, ascriptive-like bonds characterize the associate's relations with his firm. However, this ascriptive equality of associate roles is seen as legitimately subordinated to a hierarchy of age. This results in the associate expecting to be a partner, so long as he is willing to wait his turn in the generational queue.

The firm's strong model of professionalism — its use of a normative control regime — combined with its apprentice-like training system and generational stratification produce an associate who reacts to the personalized control of partners. The paternalistic associate, expected by the partner culture in collegial-driven firms, orients himself to the personal desires and demands of each partner he works for, as legitimate personalized oversight of his obedience and conformity.

Collegial Self. The associate-generated collegial associate self views himself as a full and equal member of his organization. The associate joined this firm

because of its high respect in the broader professional community. This associate experiences a full alignment of his personality and the firm's culture. By virtue of his being a full member of the firm, he feels an obligation to cooperate and get along with his fellow members. But he experiences this normative obligation as an equal, interactive evolution of the shared, consensual partnership norms. This associate is integrated into the group on business, social, and personal levels through a few close office friendships. But these personal ties are voluntary, and there is no coercive requirement for the associate to adapt himself to all the members.

The firm's prestigious market position conforms with the associate's personal social status. He finds his position at the firm a "good match" of individual and organizational statuses. Because of his personal social status, the collegial associate self expects to inherit a leadership position at the firm. The associate has an expectation of job security, from his firm that has a comfortable cushion of transgenerational client relations. He finds client responsibility is focused on the extension of existing client relations and secondarily establishing ties with potential clients.

The collegial associate is oriented toward the firm as a whole, because of the deemphasis of departmentalization. This associate sees himself as a generalist practitioner, though he may have a personal interest in a specialty. He views himself as generally competent in his work and requiring little if any additional training. He holds a craft-like attitude toward his work, recognizing that it contains both interesting and dull, intellectual and clerical, components. But because such tasks are shared by

all in the firm, he is not bothered by clerical work. Both a lawyer's specialization in a body of legal knowledge and reduction of the amount of clerical work performed are peer-bestowed privileges in accordance with an individual's unique talents. In turn, he shares the generalized expectation at the firm of giving and receiving advice and training in areas where a lawyer has gained special experience.

The collegial self has an ascription-like, primary group bond to the other members of the firm. He views partnership as his right, if he elects to stay for eight years. The absence of laterally hired associates causes him to feel little overt competition for partnership positions. The limited number of additional professional ranks in his firm (associates who did not make partner), leaves him without a symbol of associate failure. Those associates who did not make partner are rationalized away by him as interlopers, who never should have been admitted to the firm. Their failure is a personal moral failure of being revealed not to be true members of the primary group.

The firm's strong model of professionalism — its use of a normative control regime — is experienced by the collegial self as a bestowal of partner trust in him. His vague job description is part of the autonomy required to be a professional. The collegial self expects a consultative relationship with other lawyers, when he has questions. The social control he encounters is from group social pressure.

The entrepreneurial-driven firm may produce two competing ideal-typical associate selves, the partners' "bureaucratic" self and the associates' "entrepreneurial"

self.

Bureaucratic Self. The partner-imposed bureaucratic associate self expected of associates is a novice, new entrant to his department. She joined the firm to work under well known specialists in the field. The bureaucratic associate self is primarily oriented toward her department, and may even take a competitive attitude toward lawyers from other departments in her firm. Because she feels that she was hired for documented skills and yet is a new entrant to the organization, she is willing to change her departmental assignments (and even move to a branch office) in accordance with the firm's needs. Though she expects her cooperativeness to outweigh any learning curve setbacks her transfer would cause, in the firm's judgment of her overall performance.

The firm's unpredictable business cycle fosters insecurity over her job security. Under this job tenure uncertainty, the bureaucratic associate self engages in horizontal intra-cohort competition for the narrowing number of slots in each successive year of associateship. The firm's relatively low status offers no advantage to the bureaucratic self identifying herself with the firm. So rather than using the firm's status as a confirmation of her personal social status in the external community, this associate seeks to define her positional social status identity by an internal comparison to other members of the firm. She orients herself, then, to both horizontal (cohort) and vertical (senior-subordinate) status competition, based on rank and office. She expects to maintain her position and advance within the firm through

a series of formal and fair evaluations.

The bureaucratic self is oriented toward her department. Departmentalization causes her to adopt a rule-guided attitude toward performing or refusing tasks. She views herself as a specialist and does not want to risk criticism of overstepping her authority by attempting to do work out of her area. This intellectual division of labor is complemented by a functional segmentation of professional work. Both the circumscription of tasks that are allowed to be performed by an associate of her rank and the internal status competition cause her to expect clerical subordinates to perform the tedious, clerical aspects of legal production. She expects training in her legal specialty, on a need-to-know basis, as she rises in the professional hierarchy.

The bureaucratic associate self feels herself to be a subordinate in her organization. She experiences a significant role distance between the partners and herself. Her current position and her opportunities for advancement are functions of her formally evaluated achievements. She feels great insecurity about her continued employment, because of internal (cohort) and external (lateral hired associate) competition for a narrowing number of senior associate slots. Partnership is a reward for extremely hard work.

The weak model of professionalism of her firm and the attendant overt, panoptic control mechanisms cause her to feel a limited jurisdiction of authority. The formal reporting requirements are only the most public of the constraints on her action. The decentralized, departmental administrative system causes her to feel responsible to her immediate supervisor — typically the partner she frequently works

with. Her positional security is assured by rules and procedures that constrain her partner's actions. Under these conditions, her primary responsibility, as viewed by the partner culture imposing this self on the associates, is to meet the formal and informal performance criteria established by her immediate supervising partner.

Entrepreneurial Self. The associate-generated entrepreneurial self came to the firm that was the highest bidder for her human capital stock. An opportunistic utilitarian, she views her relationship to the firm through the classic model of economists' labor contract — a day long agreement to exchange a fee for a finite quantity of fungible labor. The entrepreneurial associate came to this firm because its net pay (wages plus time-discounted advancement opportunity payoffs) exceeded other jobs' offers. A fungible unit of professional labor, she feels no special affinity to her firm. Moreover, she would abandon law for another line of work, should a better paying opportunity emerge. Her tenure at the firm is contingent upon her personal market power — the firm's inability to find another person to do her job as well for less money.

The entrepreneurial associate rejects the extant status order of law firms and personal social status as irrational inhibitions of free and rational negotiating. She believes in the formal market equality of all actors. Thus, the only conformity required of her is that specified in her contract with the partnership. Similarly, she views client relations as arms-length contractual relations, subject to opportunism by the clients, other attorneys, and herself.

She is oriented to her department, because that is the group that evaluates her performance and determines her job tenure. The specialization and often clerical nature of her work does not bother her, because she views all work as an undifferentiated disutility. However, the entrepreneurial associate tries to avoid repetitive work, because it does not yield her additional, marketable skills. She aggressively competes with other lawyers for those assignments that offer her human capital skill enhancements that would increase her market power. This competition is a war of all against all. There is no expectation of training being given and, in turn, she does not help other associates.

The entrepreneurial associate is a completely fungible employee-at-will. She believes she was hired for her minimum credentials and finds too much diversity in the characteristics of her fellow associates to identify with them. This associate views partnership not as an achieved status, but as the market power of partners' first-mover advantage. Her advancement in rank is a measure of her tenuous market power, which is always subject to changes in market demand and new competition from laterally hired associates.

The firm's weak model of professionalism and overt surveillance regime contributes to the entrepreneurial self's opportunistic orientation and her desire to manipulate the rules. When possible she attempts to deceive the firm, to her own advantage. The bureaucratic rules and offices offer opportunities for opportunism.

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The real selves of the associates will certainly not be as monological as the four selves presented here. Within each ideal typical firm culture is a duality of selves derived from the positional identities of their exponents. Yet, each half of the respective pairs exists in interaction with its positional opposite. The paternalistic and the collegial selves are in a dialectical relationship within the logic of action of their ideal typical firm culture. Similarly, the bureaucratic and entrepreneurial selves are in a dialectical relationship within the logic of action of their ideal typical firm culture. Thus, measurement of selves is only likely to be successful at the firm culture level. Accordingly, in the next chapter, I will assess the associate respondent interviews from one firm for evidence of either a collegial-driven firm culture self or an entrepreneurial-driven firm culture self.

CHAPTER SEVEN

Assessing Collegial-Driven Culture Firm Selves

Having developed a hypothesis based on the claims of the "strong" version of the organizational culture literature, in this chapter I review findings on the attitudes and orientations of actual associates at a firm that approximates the ideal typical collegial-driven culture firm.

The prior chapter specified two ideal typical associate selves that should be found in the respective ideal typical firms, if culture has an effect on the professional self-identity of organizational members. This chapter draws on my research at one firm to test this organizational culture hypothesis. First, I outline the anticipated ideal type selves' responses to the eleven closed- and open-ended questions designed to highlight differences between the ideal types. In addition, I discuss several unanticipated and ambiguous answers that were given and explain how these were coded. Second, I detail the findings of this organizational culture hypothesis test.

The hypothesis is disconfirmed. None of the twenty-nine collegial-driven firm associates manifest pure or even proximate versions of the predicted collegial self. Moreover, while most of the associates manifested mixed and contradictory attitudes and orientations, a notable number manifested primarily entrepreneurial self attitudes and orientations. Third, there appears to be somewhat more consistency across questions, as opposed to across respondents. Using the associates' responses as informant data, I conclude by suggesting possible sub-clusters of salient issues to be

explored by other means.

Assessing the Professional Selves of Associates.

The attitudes and orientations of professional selves were measured by eleven closed- and open-ended questions concerning the associates' orientations to work and the firm. The questions covered the topics of firm choice, professional relations, work relationships, relations with partners, associates' career intentions, sense of reciprocal loyalty, and firm culture. I review each question, the two ideal typical selves' expected answers, and actual ambiguous answers, below.

1) Did you consider your chance of partnership in your firm choice?

Because the collegial self believes that there is a unique match between his[1] personality and the firm's culture, he does not consider chance of partnership in his firm selection. The mutual selection is "up front" in the recruitment process, in his view. Firms and associates mutually select each other during recruitment. The differentials in these firms' hiring rates as contrasted with their promotion-to-partnership rates reflect essentially personal decisions of the associates not to pursue partnership. Thus, this statistical ratio is a product of "luck" and broader social structural forces, that cannot be calculated in his firm matching, even if he had wanted to. A collegial self is very much interested in partnership in his firm, but he

[1]. I continue the practice of using the male pronoun for collegial selves and the female pronoun for market selves, adopted for stylistic reasons, in Chapter Six.

does not make a firm choice based on such judgements.

In contrast, the entrepreneurial self calculates her chance of partnership and the likely return on her labor from a partnership interest in any firm, when selecting her firm. As a strategic actor, she is interested in both short- and long-term gains under conditions of uncertainty and risk. The chance of partnership is an important function in her value-maximization equation of both occupational and firm choice. Believing that all work relations are essentially alike — emotionally vacant, cash nexus relations — she does not value non-market matching elements.

There is a residual case answer to this question that might skew it in the direction of collegial findings. Law graduates who are acting instrumentally by seeking the best firm to work at for a few years before moving on, but have no long term intentions at the firm, might answer this question "no" (a collegial answer). While this response is instrumentally rational, it is not a *strategic maximizing attitude*, as defined by the entrepreneurial self. Associates who fit the entrepreneurial self model of rational action would clearly have to consider their partnership chances in their calculation of the payoff of their work. When available, mitigating comments were used to separate out such non-strategically maximizing instrumentalists from the collegial selves and the entrepreneurial selves.

2) What was the best part of your day yesterday?[2]

The collegial self should answer this question with a work-related topic,

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[2]. Or whatever was the most recent prior business day.

because of his integration of his professional life and work life. The entrepreneurial self views all work as a disutility and thus should respond to this question with a non-work-related question.

Lunch is an ambiguous answer — it could be collegial or entrepreneurial. If collegial — as some answers indicated — it means getting together with peers to chat, gossip, and discuss their work. This is classic informal collegial interaction. On the other hand, the entrepreneurial self could view having lunch as the favorite part of her day because it is an escape from the drudgery of work. This version of the answer looks forward to not discussing work, other than perhaps to complain about it, with friends and possibly to eat outside of the firm, as a further means of avoiding work. Because these responses were ambiguous, "lunch" was coded neutrally.

3) The indispensability index.

An indispensability index was computed for each associate from his or her answer to the questions How many matters did you bill last week? and How many of those were you indispensable to? The indispensability index for each associate is computed by dividing the number of matters the associate felt indispensable to during the prior week by the total number of matters the associate billed the prior week. Collegial selves should report feeling indispensable to most of the matters they are working on. The nature of collegial-driven firm work entails the close cooperation and shared responsibility of all the lawyers working on a legal matter. The minimal division of labor and the craft ethic of production of these firms makes each lawyer's

work integral to the overall work product.

In contrast, entrepreneurial-driven firm's division of labor and segmentation of work make associates feel like fungible units of labor because of their circumscribed work on a narrow area of the legal matter. This type of firm's hierarchy, division of labor, and segmentation leaves the associate without an understanding of the overall client matter, which furthers her sense of dispensability.

This question does not lend itself to binary answers. Even in the most collegial-driven firm, with cooperative work relations, not every lawyer will be deeply involved in every case. Indeed, the cooperative work relations allow for lawyers to ask peers to "help out" during peak work load periods of matters. In contrast, the entrepreneurial firm will exhibit less cooperative helping behavior in its work relations and more proprietary interest case work. Nevertheless, the work structure of the entrepreneurial-driven firm will constantly remind entrepreneurial selves of their circumscribed roles and fungibility. Under these circumstances, it is reasonable to assume that collegial selves will feel more indispensable to their overall work load than entrepreneurial selves. I define "more" as 50 percent or more on the indispensability index.

4) Is billing a certain number of hours an important concern of yours?

The collegial self is not concerned with a minimum billing criterion, because the firm does not announce an expected minimum billing goal. The collegial self is concerned with peer-determined non-tangible measures of performance, such as his

peers' assessment of the quality of his work and doing his "fair share."

The entrepreneurial self is concerned with satisfying her firm's minimum annual billing requirement, as a primary condition of her continued employment. The tangibleness of a quantitative measure, such as hours, tends to overwhelm non-quantitative measures of performance in the minds of entrepreneurial-driven firm lawyers — partners and associates alike — leaving a entrepreneurial self obsessed with "billing enough."

5) Do you have an informal sponsor or mentor?

The collegial self has at least one informal mentor or sponsor. The blurring of work and private social relations is a central component to the collegial-driven firm's work culture. Friendships — social ties — facilitate productivity in non-hierarchical work relations. These working friendships take the form of mentoring relations, given the natural age distribution within the firm. Further, collegial-driven firm associates have the expectation of cooperative work relations, which include the professional development of the younger members by the older members to assure equality of membership.

In contrast, the entrepreneurial self does not have a mentor. The hierarchical work relations and segmentation of work limits the contact between associates and partners, inhibiting friendship ties. Further, the opportunistic entrepreneurial-driven firm partners are unlikely to give time for uncompensated mentoring which would only increase their competition for scarce partner profits. The entrepreneurial self

views her partners as arms-length contractors for her labor — as bosses.

6) What best describes your relationships with the partners you work with, boss-employee, mentor-trainee, or colleagues?

The collegial self will respond "colleagues" or "mentor-trainee," because of the blurring of work and social relations in the collegial firm. The collegial self will recognize the superior experience of the older attorneys, but his relationships with them are premised on presumed equality. The entrepreneurial self, however, views her partner relations as "boss-employee" relations. The hierarchical command structure, the division of labor, and her employee-at-will status all contribute to this relationship of the formal authority of office.

7) Do you feel a loyalty to the firm?

The collegial self feels a loyalty to his firm, because of the ascription-like ties of a shared latent culture. The associate believes that there is a match between his self and the other members of the firm. The very attributes that the firm uses for recruitment reminds the collegial self of his similarity to the other members of the firm. He feels himself to be a member. This evokes feelings of loyalty to the group to which he belongs. Though this loyalty might be expressed in the form of loyalty to specific partners, who the associate works closely with and who mentor him.

The entrepreneurial self feels no loyalty to the firm or individuals in the firm. To her, the partners are just the managers she has contracted her labor power to. In

fact, she may exhibit an open distrust of them. Given her own opportunistic orientation, she must assume the worst of her contracting partners, in order to assure herself the most remunerative possible outcome of her labor contract.

8) Do you think the firm is loyal to associates?

The collegial self believes that his firm is loyal to its associates. His close working relationships with the partners and the blurred work and social relations promote a reciprocity of attachment. Just as the associate generalizes his feelings of dyadic loyalty to partners to the firm as an institution, he expects a reciprocal loyalty from the institution, as well as individual partners.

In contrast, the entrepreneurial self actively distrusts the firm, and engages in perpetual monitoring of its compliance with their contract. This associate understands her firm to be acting in its own interests in hiring her and, similarly, expects it to fire her should its strategic interests change.

9) Do you want to stay and compete for partnership?

The collegial self expects to be a partner at the firm, because of his belief in the unique firm culture-self match and his feeling of membership. His identification with the firm encourages him to think of himself as a full member already. Partnership seems to be the mere formalization of this extant relationship with the firm, a rite of passage of the group, to which he already belongs.

On the other hand, the entrepreneurial self is only interested in staying and

competing for partnership if the firm offers a partnership share in excess of other law firm offers and non-legal work opportunities. The entrepreneurial selves response is thus equivocal and contingent. The entrepreneurial self is not interested in partnership *per se*, but in the monetary value of the partnership.

Mixed answers to this question included "Don't know" and "Don't think so." Don't knows were coded neutrally, because it was often not clear whether they meant they had doubts about their desire to be a partner, and if so, what were the nature of those doubts (*e.g.*, strategic income maximization or something else). Don't think so's were coded entrepreneurially because of the respondents' tendency toward leaving and their frequently articulated alternate career plans.

10) Are you paid enough for your work?

The collegial self judges the sufficiency of his pay by comparison with his peers. The close and interrelated work relations provide the collegial self with information about his peers' effort and work, and reaffirms their shared knowledge of normative standards of work product quantity and quality. The firm's emphasis on the particularity of working styles encourages a "from each according to his ability" ethic, which leaves the associate content with his salary.

The entrepreneurial self, on the other hand, *always* feels underpaid. The entrepreneurial-driven firm's segmentation and division of labor prevent the entrepreneurial self from monitoring her peers' performance, and this contributes to her worries about being taken advantage of by the partners. Understanding her work

relations as a serial string of day-long labor contracts, the entrepreneurial self always asks for more money, to see what the market will bear.

11) If you were moving to another firm, what would be more important, income or a collegial[3] work environment?

The collegial self would opt for a collegial work environment, as an attempt to reproduce his current work environment in the hypothetical, new work site. The collegial self puts the value of a strong firm culture-professional self match above income maximization.

In contrast, the entrepreneurial self will opt for a firm with a higher salary, in accord with her pursuit of the highest possible income.

The Findings.

Consistent with the organizational structural measures assessments, associates responses were coded as "1" for collegial self responses, "-1" for entrepreneurial self

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[3]. Note that this question used the term "collegial" without further definition. Several interviewees' responses indicated that they took the word to be synonymous with "warm," "friendly," and "informal" work relations. This definition would seem to be closest to the *Webster's Ninth New Collegiate Dictionary* first definition, "Collegiate," which it defines *inter alia* as, "designed for or characteristic of college students" (1989, p. 260). Throughout this dissertation, unless otherwise noted, "collegial" is used in the technical sense common in organizational sociology. This definition approximates the second definition in the above source, "marked by power or authority vested equally in a number of colleagues." The colloquial definition used by the interviewees, though not the one intended by the researcher in the question, is sufficiently similar to theorized aspects of collegial-driven firm culture as to allow the use of this question in the determination of types of selves.

responses, and "0" for mixed, ambiguous, and other responses. This coding scheme allows for the averaging of each associate's answers to the eleven questions to create an aggregated ratio statistic for each associate. A pure collegial self's averaged score across eleven questions would equal "+1." A pure entrepreneurial self's averaged score across eleven questions would equal "-1."

Table 7.1 shows the associates' coded responses to each question. The right-most column, the "Averaged Self Score," is a summary ratio statistic for each associate. There are no pure collegial selves in this firm which approximates the collegial-driven ideal typical firm. The rows rank the interviewees from the most collegially-oriented to the least collegially-oriented. Averaged Self Scores range from a high of .64 to a low of -.56. The mean is .09 (std .32).

The most collegially-oriented interviewees (A203, A207) each offered eight collegial self responses, one entrepreneurial self response, and two neutral responses, all to different questions. The most entrepreneurially-oriented interviewees who answered all the questions (A224) offered three collegial self responses and eight entrepreneurial self responses. Twenty of the twenty-nine (69%) interviewees' Averaged Self Scores ranged from .40 to -.40, that is, mixed responses, clearly neither strong collegial selves nor strong entrepreneurial selves. The results are so mixed that even eliminating two or three questions would not appreciably improve the purity of the self scores.

The strong version of the organizational culture effects hypothesis is rejected.[4]

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[4]. Technically, of course, I am not rejecting the null hypothesis.

Ruth Benedict argues that culture is the personality writ large. Reversing her claim, I have tested the strong organizational culture effects' thesis that "personality is culture writ small." Clearly this firm's culture does not stamp professional selves onto the associates, cookie cutter-like. These findings challenge the "strong" organizational culture theories' claims.

Yet, intuitively, it seems that organizational culture should have *some* effect on the professional self identity of organizational members. The formalist methodology does not allow for the assessment of the partial, incremental, and nuanced effects that organizational cultures may have on the professional selves of members. Other means are required to examine these possible effects. In the last part of this chapter I will use the associate responses to develop a "weak" version of the organizational culture effects thesis for examination.

Associates as Informants for the Modified Hypothesis.

In the prior section, the unit of analysis was the associate-respondents (the rows). In this section, the unit of analysis is the individual questions (the columns). By turning the table on its side, associates' responses become informant data on the firm's culture. Viewed this way, two clusters of issues emerge that are relevant to the organizational culture effects discussion.

Associates responses are mixed and contradictory both within questions and within broad defining topics such as career, work practices, and organizational

commitment. For instance, while the associates as a group generally expressed collegial self attitudes toward the firm (consideration of chance of making partner in firm choice (.62[5]) and selecting collegial work environment over income in a firm move (.31)), they also expressed little sense of reciprocal loyalty between themselves and the firm (-.15, -.39). Regarding their daily work practices, they generally offered collegial self responses, regarding if they are concerned about billing enough hours (.52) and their having a sponsor or mentor (.38), but also reported feeling like dispensable (-.33) employees (-.23). In terms of their long-term commitment to the firm, most felt that they were paid enough for their work (.52), but most were also ambivalent or not committed to staying to compete for partnership (-.44).

This hodgepodge of orientations suggests that something might be occurring in this firm that is neither captured by the formalistic methods nor explained by the null hypothesis' market leveling explanation. The firm's culture may be fragmented and/or stratified. Further, this firm culture may only effect associates in circumscribed aspects of their work lives. Accordingly, in the next four chapters, I shall pursue the question of organizational culture's effects on professional selves by interpretive methods that may better capture the actual sources of these contradictory professional selves. Practices provide the unit of analysis for examining firm, partner, and associate interactions that construct, reconstruct, and — possibly — transmit elements of the firm culture to young organizational members.

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[5]. The numbers reported in this paragraph are column averages, shown in the bottom row of Table 7.1.

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Chapters Eight and Nine review partner practices and the cultural elements implied by them. Chapters Ten and Eleven review the associate's responsive practices and the selves implied by them.

Table 7.1: Firm A2 Selves Assessment.

(In rank order by Averaged Self Score)

ID	Chance of Partner a concern	Best Part of day	Indispens-ability Index	Concern with billing enough?	Have Mentor or Sponsor	Relationship with Partners	Feel Loyal to Firm	Is Firm Loyal	Want to stay until Partnership	Paid Enough	Trade Income vs. Coll. Environ.	Averaged Self Score
A207	1	0	1	1	1	-1	1	1	0	1	1	0.64
A203	1	1	1	1	1	1	0	-1	0	1	1	0.64
A211	1	1	-1	1	1	1	1	1	0	1	-1	0.55
A216	1	1	-1				1	-1	1	1	1	0.50
A223	-1	1	-1	1	1	1	1	-1	1	1	1	0.45
A213	1	1	1	1	1	-1			0	1	-1	0.44
A217	1	-1	1				1		-1	1		0.33
A202	-1	0	-1	1	1	1	1	-1		1	1	0.30
A226		0	-1	1	1	-1	-1	1	1	1	1	0.30
A201	-1	0	1		-1	1			0	1	1	0.25
A218	1	-1	-1	1	0	1	1	-1	-1	1	1	0.18
A228	1	1	-1	1	0	1	-1	1	-1	1	-1	0.18
A219	-1	1	-1	1	1	1	-1	-1	0	1	1	0.18
A212	1	1	-1	-1	0	-1	1	1	-1	1		0.10
A210	1	-1	1	1	0	-1	-1	-1	0	1	1	0.09
A220	1	0	-1	1	0	-1	1		-1	1	-1	0.00
A214	1	1	-1		0	-1	0	-1	-1	1	1	0.00
A208	1	-1	-1	1		-1	-1	1	-1	1	1	0.00
A206	1	0	-1	1	1	-1	-1	1	-1	-1	1	0.00
A209	1	1	1	1	0	1	-1	-1	-1	-1	-1	0.00
A229		1		1	0	-1			-1	-1	1	0.00
A221	1	0	-1	-1	0	-1	-1	-1	0	1	1	-0.18
A204	1	-1	1	-1	0	1	-1	-1	-1	1	-1	-0.18
A222	1	-1	-1	1	0	-1	-1	-1	-1	1	1	-0.18
A205	1	-1	-1	-1	1		1	-1	-1	-1	1	-0.20
A225	1	0	-1	1	-1	-1	-1	-1	-1	1	-1	-0.36
A227		1	-1	-1	1	-1	-1			-1		-0.43
A224	1	-1	1	-1	1	-1	-1	-1	-1	-1	-1	-0.45
A215	-1			1	0	-1	-1	-1	0	-1	-1	-0.56

Note "1" = collegial self response; "-1" = entrepreneurial self response; "0" = neutral response
Blank cells indicate no response
Tie scores randomly ranked

mean	0.09
minimum	-0.56
maximum	0.64

CHAPTER EIGHT

Partners' Practices in a Collegial-Driven Firm

As shown in the last chapter, the structurally imputed organizational culture did not predict the professional selves of the associates. Accordingly, I shift analytic modes to examine the data from within the interpretive tradition. First, I will test the alignment of the ideal typical organizational model[1] with the actual partner practices. This will test the usefulness of structural indicators for imputing organizations' practices and, indirectly, culture. This, in turn, provides a basis for assessing the partners' culture, in the next chapter.[2] That chapter lays the groundwork for an interpretive examination of the typical associate professional selves that actually populate the organization, the topic of Chapters Ten and Eleven.

The data I present in this chapter are drawn from five sources. First, some associate interview responses can be used as informant data on the firm practices.[3] Second, I conducted four formal partner interviews with partners in charge of recruitment, training, assignments for one department, and the head of another. Third, I conducted two focus group discussions with members of the firm's managing

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[1]. The collegial-driven ideal typical organizational model is detailed at the end of Chapter Three.

[2]. I remind the reader that I have adopted the convention of referring to firm practices, organizational practices, and partners' practices synonymously. Associates have their own practices that are separate from, and largely respond to, the encompassing organizational practices of the partners.

[3]. The associate interviews status shifts in this section. Where previously these interview data had the status of subject interviews for assessing the selves of associates, I use them here as informant interviews on the partners' practices.

committee and additional partners responsible for associate training and work life issues. A total of eight partners participated in these groups, which were conducted six months after the associate interviews. The group topics were derived from my associate interview findings. Fourth, I have conducted several informal interviews with former associates and partners of the firm for background information. Fifth, I have reviewed firm manuals, billing and assignment procedures and forms, and other internal documents relating to associate work life. In all, these data are sufficient for me to elucidate key aspects of partners' practices relating to associates. Obviously only a full ethnography would be able to fully capture the breadth of the organizational culture. However, my focused questions to partners on topics of partner-associate interaction should allow me to adequately characterize the partners' practices, *as they impact on the associates in the firm*. These actual practices can then be compared with the ideal typical firm model's practices.

Practices are habitualized human behaviors — the usual way of doing things. Some practices are not always consciously known to the actors. Others are known and thus discursively defensible by the actors. Practices' impetuses may originate in either the organizational structure or in the organizational culture. The respective influences of structure and culture on any given practice is an empirical question. Because culture is partially decoupled from organizational structure, not all practices need be efficient or functional to the organization or its members. Thus, practices can embody both instrumental and normative — and majoritarian and conflictual — logics.

At the end of Chapter Three, I presented a model of an ideal typical collegial-driven firm's attributes, practices, and culture. In the schematic model of the ideal typical firm, practices and culture are conjoined, because of their unitary logic of action. The actual collegial-driven firm's practices and culture will remain analytically separate in this chapter and the next to allow for the possibility of internal contradictions within, or the lack of, an organizational culture.

The partner practices that I identified can be categorized under four headings: recruitment, organizational structure, partner-associate relations and membership. While the ideal type firm description specifies a broader range of practices than discussed here, the actual firm partner practices covered here — related to the management and training of associates — are enough to allow a comparison with the ideal typical firm model.

The firm's partner practices generally conform to those of the ideal typical firm model.

Recruitment.

Like the ideal typical firm, this firm recruits associates of high social and educational status, commensurate with the partners status. Many of Smigel's findings concerning the demographics of lawyers at the Wall Street firms are still true today, at least in this firm.

Socio-economic selectivity. These young associates typically come from families of high socio-economic standing, quite similar to the firm's partners. Among all the junior associates, one quarter are female, a comparatively low female

recruitment figure for the Wall Street firms. While I did not collect firm-wide data on the race and religious background of the associates, the data for the sample seem representative. Ten percent of the sample were from a racial minority — African-American, Hispanic, or Asian ancestry. Interestingly, Catholics comprised the majority of the sample associates in this "WASP" firm. This represents a change from Smigel's circa 1960 findings. Table 8.1 reports on the numbers and percentages of the associates who reported religious affiliations. Twenty-three (79%) of the twenty-nine interviewees had parents from the professional-managerial class.[4] Seven of these (25% of the sample) had lawyer-fathers.

Geographically, both the associates and the partners disproportionately come from the eastern United States. Further, the law schools of all the lawyers at the firm are disproportionally located in the northeast corridor, from Washington to Boston.

Thirteen (45%) of the sample attended private high school. Nineteen (66%) of the sample attended undergraduate institutions with "high" or "very high" selectivity.[5] Only one associate attended a "low" selectivity school.

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[4]. Six of these had a solo practitioner professional parent, either lawyers, doctors, or accountants. Children of solo practitioners have been found to value professional autonomy more than children of partners who work in organizations. I shall return to a discussion of the free professional value of personal autonomy, as perceived by these associates, in the subsequent chapter.

[5]. Selectivity is the measurement variable of undergraduate institutions typically referred to as the "Astin Scale." See the appendix to *The American Freshman: Twenty Year Trends* for a discussion of its formulation (Higher Education Research Institute 1987).

Table 8.1. Religious Affiliation of Associates.

Religious Affiliation	Count	Percent
Catholic	11	38%
Protestant	5	17
Jewish	4	14
Other*	3	10
None	6	21
Total	29	100%

* "Other" includes Greek Orthodox and non-Western-origin religions. Note percentages may not add due to rounding.

Academic selectivity. The law school prestige of the associates is equally high, as predicted by the ideal type. The partners are comfortable in their ability to attract some of the best students from the best schools. A former recruiting partner put it succinctly, "We have pretty much restricted ourselves to the top schools" (A2P2). Table 8.2 reports on the sample's law school prestige. The majority of the associates come from the top ten law schools.[6]

[6]. See Chapter Five for a discussion of the law school prestige ratings.

Table 8.2. Law Schools of Sample Associates.

Law School	Sample Associates	
	Count	Percent
Elite (top-10)	19	66%
Prestigious (11-20)	2	7
Regional	4	14
Local	3	10
Total	29	100

Note: Percentages may not add due to rounding. Partner counts unavailable due to confidentiality.

A slightly lower percentage of the firm's partners come from the top law schools. Ten (35%) of the interviewees were on their law school's primary law review — a measure of a student's work stamina.[7] Seven (24%) more served on subsidiary law school journals. Finally, eight (28%) of the twenty-nine interviewees performed some form of judicial or other clerkship before entering the firm.

As judged by the collective characteristics of the associates, the partners recruit associates with the highest academic achievement and solidly middle to upper-middle class social background. By these measures, the associates are identical to the

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[7]. Law review used to be considered a signal of top academic performance. In the 1970s, some schools started allocating slots for the winners of a writing competition. More recently, affirmative action efforts have further altered some schools' law review staff selection criteria. Law firms no longer rely on law review as a signal of academic achievement, but rather use it as a measure of an individual's ability to sustain a demanding work schedule. "Law review is excellent training for law students in the skills that are important to what we do — writing, researching, organizing material, organizing your schedule, because law review is superimposed upon everything else a student has to do. Its value as a predictor of someone's ability to analyze complicated legal issues really varies from school to school" (A2P2).

partners, as expected by the ideal type.

However, the associates have a greater diversity of ascriptive characteristics than the partners. Ethnic and race barriers have lowered somewhat: Catholics, Jews, and Asians comprise significant shares of the entering associate classes. By far the biggest change since Smigel wrote is the arrival of women at the firm. Smigel reported only 18 women practicing in the largest Wall Street firms in 1956 (Smigel 1969, p. 46). In 1968, Epstein estimated 40 women were in, or had Wall Street firm experience (Epstein 1993 [1980], p. 175). In 1992, this firm alone had 30 (27%) women in its first three associate classes. However, this number is significantly below the rate at which women graduate from elite law schools (for instance, 41% of the 1991 Harvard Law School class was female (American Bar Association 1993, p. 29). At least in the early years of practice, this firm appears somewhat receptive to female associates, unlike the ideal type.[8]

Like the ideal typical firm, this firm emphasizes the high academic and social standing of its recruits. The firm's high elite law school recruitment of associates from professional-managerial class families is in line with the ideal typical firm model. Contrary to the ideal typical model, this firm recruits Catholic and female associates in roughly the same percentages as the other large New York City firms.

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[8]. We cannot know the reasons why fewer women go to Wall Street firms than graduate from the elite schools that traditionally feed these firms. Students' grades, geographic limitations, career intentions, practice area interests, and firms' receptivity and biases all contribute to the market outcome. However, the reason why this firm's entering classes have a lower percentage of women than other large Wall Street firms is at least partially attributable to female law students' perceptions of the firm's inhospitality to women.

However, these female associates share the high academic and social background status of their male peers.[9]

Organizational Structure.

The firm has minimal departmentalization and specialization, consistent with the ideal type model firm.

Low Departmentalization. The firm has few formal departmental divisions.[10] I shall refer to them as "corporate," "litigation," and "service." The latter department, while it has its own clients and reputation, derives much of its work from legal matters originating in the other two departments.[11] In an organizational field that has promoted departmentalization and specialization (see the discussion in Chapter Four and the thirty firm survey in Chapter Five), this low formal division of work is probably a product of the partners' intentional resistance to mimicking departmentalization trends of other large law firms.

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[9]. Because of this firms' already elite recruitment practices and the small size of the sample, it is impossible to assess whether the women have to be better credentialed than the men to be hired by the firm.

[10]. Confidentiality prevents a detailed discussion of this topic.

[11]. The service department is the smallest department, representing 14% (n=4) of the associate sample and comprising 9% of the junior associate population. Because most of the practices reported here and in the next chapter are firm-wide, the size of the department does not seem to affect the data reported. However, the smaller department size does cause some differences in associates' practices. I will note when departmental size alters otherwise firm-wide practices.

Low Specialization. Despite the minimal formal departmentalization, some partners and associates do have partial *de facto* specializations. For example, within the corporate department, there are M&A specialists, structured finance specialists, real estate, and banking "specialists." But these specializations are only partially formalized by the firm, and only at the individual level. The firm roster lists lawyers by the broad departmental categories, and footnotes individual attorneys' names who specialize in a narrower body of law "primarily" or "part-time." The majority of partners and associates in the corporate department do not have any listed specialty. Table 8.3 shows the percentage of corporate department lawyers with primary or part-time specialties by rank.

Table 8.3: Percent of Attorneys with Formal Specializations, by Rank.

Specialization Level	Rank / Associate Year								
	Ptrs.	Other	7th	6th	5th	4th	3rd	2nd	1st
Primarily	26%	67%	40%	20%	20%	40%	0%	0%	0%
Part-time	14	17	30	10	40	4	50	38	0
None	60	17	30	70	40	56	50	62	100

Note: The small numbers of senior associates prevent a meaningful analysis of differences across cohorts.

The only group that primarily specializes is the small group of non-partnership track, senior attorneys (the "Other" column). While there appears to be a slight trend toward some form of associate specialization with tenure, inter-cohort fluctuations and the consistently large number of non-specialized associates *and partners* suggest that the firm deemphasizes specialization. Thus, formal specialization appears to have

limited practical effect on *associates'* abilities to acquire diverse work.[12]

As predicted by the ideal typical firm model, this firm has low departmentalization and specialization. To the degree that individuals have specializations, these individuals are typically a minority of their ranks, and the specializations occupy typically a minority of their time.

Partner-Associate Relations.

There is a strong partner emphasis on informality of administrative procedures required to manage this large organization. The informality is demonstrated in associate reviews, assignment systems, and training. As expected from a collegial-driven firm, formal, bureaucratic administrative systems are resisted by the partners, even when formal systems exist.

Vacuous Formal Reviews. Like the ideal typical firm, this firm emphasizes informal feedback over a formal review process. Partners and associates alike agree on the vacuousness of the formal associate reviews. Most of the partners are not concerned that the junior associate review process offers little substance. Several partners reported that associates only start to individuate themselves after two or three years, making their comments on early reviews necessarily vague.

By policy, reviews are supposed to occur every six months for the first two

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[12]. On this topic, more below in the section on "The Informal Assignment System." Associates' strategies for acquiring work will be discussed at length in Chapter Ten.

years and annually thereafter. Often they do not. Most associates I interviewed received their reviews within a few months of the scheduled time. However, 5 (17%) associates claimed not to have been reviewed in over a year and were unsure of the review cycle. Very busy partners do not give junior associate reviews a high priority. "I know that when things get busy, reviews go to the bottom of the list" (MGCOM: 7). While partners generally acknowledge that the firm has problems performing reviews in a timely fashion, each typically claims that his or her department is blameless. The following colloquy between the partner in charge of associate issues (AD) and the head of the service department (SD) suggests the difficulties in imposing administrative rationality on these partners.

SD: I give the formal part of the review on time in December, but I usually don't get to the substantive part of the review until late January.
AD: What do you mean?
SD: In December I go in and tell them the important stuff: "You're not fired; here's your salary." Later, after the New Year and, I'm afraid, often as late as the end of January, I sit down with them for one hour and give them a detailed review of their work. That is separate and apart from the daily chewing out I give them.
AD: I would urge you not to bifurcate the review process.
SD: My system works just fine. Everyone gets reviewed thoroughly.

When the reviews do occur, they only have a limited function. One department head told me that junior associate reviews only serve two functions, "to eliminate bad wood" and to "correct minor flaws in otherwise good associates." The formality, limited purpose, and distance of the reviewing partner from first-hand knowledge of the junior associates' work combine to make the reviews ambiguous. The formal review process operates only to catch the most aberrant behavior, not

unlike the gutter in bowling.

The reviewing partner is the head of the department, in most cases. In the largest department, the assistant head of the department shares some of the first- and second-year reviews. Typically though, the reviewing partner has had no work experience with the junior associate he is reviewing.

I reviewed a non-random selection of twenty-five second- to sixth-year associate review files of their most recent review. The files contain printouts of the associates' last-year and year-to-date client billings, a one-page typed review statement text, and occasionally additional written comments from partners describing particularly good or bad associate work.[13] The review text is written by the reviewing partner, summarizing the comments of partners who have worked with the associate for more than five billable hours in the past half year.[14] At semi-annual departmental review meetings, the reviewing partner takes these verbal comments from the partners in charge of the matters the associate worked on.[15]

The reviewing partner then summarizes these comments in a written review statement that he reads to the associate in a private meeting. Junior associate review statements consist of one half of a ten-pitch typed page of text, with ample margins.

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[13]. Only senior associate files contained additional comment sheets, in my sample of reviews.

[14]. Reviews occur yearly for third- through seventh-year associates.

[15]. Comments are also taken by phone from partners who cannot attend the meeting or have to leave early. In these meetings, the associate classes are reviewed in descending seniority order. The youngest associates are the last to be reviewed — sometimes late in the night of these dinner meetings.

Texts consist of one sentence per partner/deal. An actual review text typical for an "average" second-year associate is shown below.[16]

* * * *

Robert Emerson

November 1992

Joe Jones thought you did good work on the ABC matter. Tom Smith thought you demonstrated strong writing skills on the XYC matter. Thompson felt you demonstrated commitment by your weekend work on the NEWCO matter to get something out to the clients on a Monday morning. Evans felt you learned quickly and understood the issues.

Overall this is a good review.

Bonus $2,000 Your salary next year is $92,000

* * * *

A strongly positive review would substitute "We are happy to have you at the firm" for the "Overall this is a good review" sentence, but otherwise be the same.

Senior associate reviews are the same, though they tend to run three-quarters of a page. Neither is the ambiguity lessened in their reviews. A sixth-year associate

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[16]. All individual and client names are fictitious.

who was characterized as an "easy" candidate for partnership was told "You are quickly becoming an important part of our practice. We think you should devote yourself to spending more time in court." Only the most secure associate, with a perfect memory of his or her past review texts would be able to confidently discern the "strong vote of confidence" the reviewing partner hoped to convey from these statements. Several "good" senior associates' reviews ended with the statement, "While it is premature to discuss partnership, we feel that your current work is encouraging." Partners face the dilemma of wanting to indicate encouragement without making any promises that would imply an implicit contract or invite Title VII discrimination suits.

Criticisms are often equally vague. Most criticisms concern associates "taking on too much" and "spreading [themselves] too thin." Associates are responsible for balancing their work loads. They must remain as busy as everyone else, but never get "over extended," certainly an ambiguous balance. Thus, the fine tuning of correctable problems runs afoul of the system's limited ability to convey nuanced information.

One reviewing partner explained the dilemma of offering criticism in the formal reviews. First, he does not feel that he "has a clue" what these young associates think, so he hesitates to say too much, for fear they may over-react. Second, because he is removed from the work that was criticized, he cannot offer follow-up on a criticism. Third, not all partners who criticize associates want to be confronted with the associate asking for an explanation of what he or she did wrong.

This reviewing partner said that he concludes reviews with problem situations in one of two ways. Either "You may wish to speak with him about it" or "In my judgment you should go speak with him." The former means let it drop, that partner will not be responsive to the associate's follow-up and nothing educational will come of the confrontation. The latter means go talk with him and learn what you did wrong. Of course, the associate is no more likely than a researcher to discern the nice distinction in this partner's choice of words. Researchers, unlike associates, can hear both statements in tandem and can thus ask for clarification.

Some of this fine-tuning does not always work — some criticizing partners do not like to be confronted by the criticized associates they work closely with. A new partner commented on this in the presence of his former criticizing partner. He recalled an event from his associateship.

> So I get this comment in my review that Joe [the criticizing partner] was unhappy with my work, but Tom [the reviewing partner] can't elaborate on what the problem was. So I go to the him and say, "Joe, Tom tells me that you had problems with my work for you on the ABC deal." Joe doesn't like confrontation, so he denied having any problem with me. *And to this day, I have no idea what I did wrong* (emphasis in original) (LITMT).

Other partners prefer to "chew out" their associates "real time" or "at the end of each deal" (LITMT), rather than have the reviewing partner do it. Indeed, associates report informal feedback to be a far more valuable source of information on how they are perceived by the partners, as I will discuss in Chapter Ten.

The normative dynamics of interpersonal relations inhibit the reviewing partner from stating some criticisms of associates. One reviewing partner told me that he

does not tell associates about partner comments that "would be personally embarrassing to the associate in a one-on-one situation," such as a review that suggests the associate is not intelligent enough to make partner. Thus, partner embarrassment may even prevent "useful corrective" criticisms from being offered.

At least some partners believe they have a structural interest in not discouraging competent associates through criticism. One partner stated this clearly:

> There is an unfair structural element in this business. There is no incentive for a firm like ours to push people out, once they've been here four years, if they're doing quality work, but they're not going to become a partner. There's an overwhelming bias to keeping those people around. To a certain extent we delude ourselves. Because at the review session, [a partner] will say, "Look, I am not prepared to say that this guy is not going to become a partner. He is doing a lot of work for me, he's doing fine work, he's not a star, but let's give him time." I think there's a certain amount of self-delusion built into that (A2P2: 20).

This same partner commented on "the great deal of room for self-deception" by the associates afforded by the review process. The assumption of associate partnership-seeking thus appears important to the review process' functioning.

Even some of the worst reviews stopped short of saying, "You are fired." One such review I examined took the same format as the positive reviews, but changed the evaluations. The sentences included "Jones was unhappy with your drafting. Smith said your research was slow and disorganized. Thomas found your work okay." It then summarized the review in a terse paragraph: "Despite any bright spots in this review, on the whole it doesn't look good. You will have to show significant improvement over the next six months." This associate did not receive a bonus. The partner reported that it had the "desired effect," which was to get the

associate to voluntarily leave the firm.

The majority of information associates receive from partners on "how they are perceived at the firm" is delivered informally, through "feedback." The more robust encouragements that associates receive are given informally by partners, in day-to-day feedback. While partners report frank, informal conversations with senior associates who are considered partnership contenders about their partnership chances, they do not report having these discussions with senior associates who they do not anticipate making partner. Thus "stars" learn of their stardom and all the rest are left in doubt.

Junior associates have little access to these informal partner evaluation channels, however. Partners consider it "inappropriate" for junior associates to discuss partnership issues with them. The informal frankness that comes from a sense of reciprocity forged in long-term close working relationships is rarely available to junior associates.

Suppression of the Discourse of Hours. Measures of skill, competence, and judgment may not lend themselves to formal reviews. But the partners are intentionally vague about those measures that do lend themselves to measured evaluations, as well. The now common discourse of billable hours in many law firms[17] is generally suppressed in this firm. Several associates reported asking during their reviews if they were billing enough only to be rebuked by the reviewing partner: "We are not interested in that kind of thing here." Only associates who were at the

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[17]. See the Introduction for a discussion of the "discourse of hours."

extremes of the annual billings distribution hear comments about their hours. But even here the comments are vague. An associate who is not billing enough is only told that "you are behind your class" (A2P3:14).

The dozen partners I spoke with all resisted my attempts to have them categorize an expected annual billing range. Several partners volunteered that most billing discrepancies were the product of differences in associates' billing practices. "It usually turns out that, when you ask them, they just aren't billing the same way. They go to the library for two hours to find something for a client and when they can't find anything, they don't feel comfortable billing for it" (A2P1: 9).

Those partners who did discuss hours reported surprisingly different expectations. For instance, one claimed that 1300 hours "wouldn't work" on the bottom end and anything over 2500 hours "is unsustainable over the long run" (A2P1: 9) on the top end. Yet, another partner in the same department reported 2400 hours being "acceptable," 2700 or 2800 hours as being "typical of those who stand out," with some associates logging 3000 or 3100 hours per year. "The stronger candidates end up between 2700 and 3100 hours" (A2P4: 18). One partner's unsustainable 3000 hours is another partner's partnership contention figure. These discrepancies suggest that partners do not discuss billing targets even among themselves. One associate in this department reported being told that she was "behind [her] class" when she logged 1800 hours in 1991. In fact, all associates combined averaged just over 2200 hours in

1992.[18]

Two points bear mentioning regarding hours. First, actual hours in the office are typically fifteen percent higher than the billable hours for associates, both partners and associates report.[19] Second, even without including those unbilled hours in the office, these are long hard hours. Based on a 48 week work-year, Table 8.4 indicates the hours-per-week billed and the estimated hours-in-the-office (hours-per week billed x 1.15) required to bill at the annual rates shown. Holidays and illness time off are assumed to be made up by additional work at other times, in these calculations.

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[18]. These figures are indicative but not strictly comparable. Partners' comments concern only the first three classes of associates. The actual annual billing average is calculated from all associate classes, including those who are under-billing because of bar review courses, parental leaves, accrued vacations, and slow downs before quitting/termination. Further, averages can conceal other patterns that could influence partners' perceptions of adequacy.

[19]. Such "lost time" includes reading the *Wall Street Journal* every day (mandatory) and the *New York Law Journal* (advisable), personal calls, dealing with firm administrators on such things as personal benefits issues, lunch, etc., and day dreaming, all add up.

Table 8.4. Annual and Weekly Associate Hours Chart.

Annual Hours Billed	Weekly Hours Billed (48 weeks)	Estimated Total Weekly Hours in Office
1800	37.50	43.13
2000	41.67	47.92
2250	46.88	53.91
2500	52.08	59.89
2750	57.29	65.88
3000	62.50	68.75

Note: Annual Hours Billed is the number of hours recorded by the firm's billing system. Weekly Hours Billed is the annual figure divided by 48 weeks (52 minus 4 weeks vacation). Estimated Total Weekly Hours in Office is the Weekly Hours Billed figure times 1.15, as a rough estimate of the actual associate hours in the office required to produce the Billed Hours figure, based on associates' reports.

Assuming a 9AM start time and one hour for lunch, even the comparatively modest 2200 hour/year rate theoretically yields associates going home at 8PM three nights and 7PM two nights of the five day work week. A 3000 hour/year rate requires a 9AM to 11PM workday, five days per week — an onerous schedule by any measure. Actual schedules vary and are more flexible, typically incorporating late nights, early nights, and regular weekend work, as I shall show later.

It is clear that the partners expect long hours from the associates. When they do attempt to define "long," the definition varies dramatically from partner to partner. This variance in partners' definitions of sufficient work and the general suppression of the discourse of hours in the firm combine to prevent associates from using hours as a surrogate for assessing their own prestige. The wide variance in partners' reporting

of acceptable associate annual billing figures appears to confirm the partners' suppression of the discourse of hours, even when partners talk among themselves about assessing associates.

Consistent with the ideal typical firm, this firm only uses its formal review process to control the most aberrant behavior. The most meaningful measures of an associate's partnership potential are not covered in the formal reviews. Quantifiable measures of performance are resisted by the partners of this firm, as in the ideal typical firm. Both this firm and the ideal typical firm use informal mechanisms to convey substantive review signals to associates.

Associate reputation is a primary signal. "Well regarded" associates are "busy" associates. Busyness — how many late nights and weekends an associate is in the office — is a product of the system of allocating work.

Stigma of the Formal Assignment System. The allocation of work is a defining attribute of work organizations. This firm uses both formal and informal assignment mechanisms, but the informal system is dominant, as predicted by the ideal typical firm. Though a significant amount of institutional resources is devoted to the formal assignment system (partners' time, clerical administration, and computer resources), the partners make little use of the system. Only the first- through third-year classes use the system. By the fourth-year, associates are expected to find their own work.[20]

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[20]. "For senior associates, the assignment partner will almost never be involved, because when you've been here five or six years, you've got your network. Also, partners tend to do their own staffing at the senior associate level, because we've got

Moreover, even during the junior associate years, the formal assignment system is the method of last resort for getting work. Informality dominates formality.

Table 8.5 shows the primary response of associates to the question, "How do you typically get your assignments?"[21] Informality typifies the allocation of tasks within this firm, especially in the corporate department. Overall, more than half of the young associates use informal means of acquiring new work. In fact, the largest department, with more than fifty first- through third-year associates, has the least formality in the allocation of tasks, according to the associates.[22] This is not to say that the allocation of assignments is arbitrary.

Table 8.5. Primary Method of Receiving Assignments

Method	Number	Percent
Formal assignment system	8	29%
Informal networks	15	54
Seek out own work	5	18

Percentages may not add due to rounding. n = 28.

Partners and associates believe that the work that flows through the formal

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a pretty good sense for
who is up to snuff and who has got the expertise" (A2P2).

[21]. The categories used for coding the data were "formal assignment system," "an informal call or knock on the door from the person asking you to do the work," and the associate "seeking out work from a more senior attorney." Responses often were made in percentages. The tables reported here are derived by coding each associate by his/her primary method of receiving assignments. A more complex percentage analysis yields essentially the same results. The small number of responses (n=28) prevents a meaningful statistical analysis of department and tenure interactions.

[22]. The small size of the service department makes it likely that its formal and informal assignment systems are analytically indistinguishable.

assignment system is inferior. One partner who typically staffs his matters informally explained his occasional use of the formal assignment system.

> I think we all make value judgements in our own minds regarding less interesting work. I say, "I don't necessarily want the best associate in the class doing this mundane research project." On an informal basis, I'm sure that people are making those value judgements [as to what to put into the formal assignment system]. If you've got people who are very good, who like to work with you, and you like to work with them, if you give them enough rotten things to do, they're not going to work for you (A2P2).[23]

The complement of the bad work is bad associates who predominate in the formal system. "Associates who are not highly regarded are much more likely to depend for their assignments on the structured assignment system, than somebody who is very desirable to have working on your matters" (A2P2).[24]

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[23]. Smigel quotes a partner as parsing work tasks in a similar fashion almost thirty-five years ago. "You can't give a Harvard Law Review guy documents to review, or he'll leave" (p. 87). Associates — at least good associates — are not without some resources in negotiating the terms of their work with partners.

[24]. This partner also develops a generational argument. He believes that he is just much closer to and more approachable by associates than partners were when he was an associate. This gives him the advantage in knowing who he wants to work with, in contrast to "some partners who are just more distant from younger associates...a sixty-three year-old partner who is only going to see the senior associate three times on a deal." This may be a product of his generations' emphasis on interpersonal informality as contrasted with that of his 1950s-era partners. Alternatively, or in addition, this may be because of the narrower age gap between partners' average ages and the associates' average ages in the 1990s, as compared to the 1970s. The enormous growth in firm size starting in the 1970s lowered the average age of partnerships, by the promotion of a high number of young associates.

Later, this partner makes an argument that technology and deal turn-around time have made the practice of law more "anonymous" for young associates, including having far less contact with partners. Inter-personal approachability — a generational change — has been accompanied by structural unapproachability — a technological change.

A stigma attaches to those who use the formal assignment system to get assignments and associates. Associates who get their work through the formal assignment system are held in low regard. Associates respond to a weekly survey of their ability to take on more work. While the paralegal who performs the survey does not provide set categories for answers, the associates characterizations generally are "available," "busy," "very busy," and "swamped."[25] One assigning partner reports that each fall the new class is comfortable listing "available" for the first few months "because it sounds like you're willing to go out and ask for work. But if over time you're always available, then there is a stigma. It means nobody wants to work with you" (A2P4: 17).

This stigma can characterize the partners who use the formal system as well. "Remote sixty-three year-old partner[s]" (A2P2:), who do not know any associates, and "partners that nobody likes to work with" (A2P4:17) will staff their cases through the formal system. As a consequence, only about a third of the work assignments flow through the formal process, according to an assigning partner (A2P4:17). The low usefulness of the formal assignment system is further indicated by partners' belief that the assigning partner position is foisted on "any warm body that comes along."

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[25]. The associates' responses to the paralegal's phone survey are recorded in a data base which is printed out and distributed to the assigning and managing partners on a daily basis. These reports list the associate's name, the active matters s/he is working on, the open but inactive matters s/he is assigned to, the partner in charge of each matter, the number of hours s/he billed to each matter in the last week, the total number of hours s/he billed in the last four weekly periods, and the associate's own characterization of her/his work load. The implications for associates' timely recording of their hours will be discussed in Chapter Ten.

In at least one case, that is the youngest partner in the department. This partner described the job as "a position that nobody covets" (A2P4:1).[26]

The stigma of the formal assignment system is matched by the allure of the informal networks of partners and senior associates. Under these conditions, associates are willing to say "no" to the assigning partner's request that they perform work. The formal system appears to be largely a mock system (Gouldner 1954) responsible for handling new entrants and aberrants. As with the ideal type firm, this firm relies on informal, interpersonal mechanisms to distribute work.

Informal Assignment System. Informal networks of active partners and their senior associates compete for the "well regarded" junior associates. Associates trade on their reputation for competence and partners trade on their reputation for offering "interesting" work.

The partners seek the most competent associates to work on their matters as a

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[26]. However, in another case a now managing partner had just stepped down from being the assigning partner of a department when I was interviewing. The firm may divide partners' labor between administrative tasks and client-related work. Though beyond the scope of this essay, it would be interesting to investigate the rationale behind administrative assignments. Nelson's power theory suggests that powerful partners would seek administrative positions to consolidate their power. Galanter & Palay's neo-utilitarian theory might suggest either that powerful partners seek administrative positions to avoid problems of agency or that they seek to avoid such positions as underutilizing their valuable and finite human capital stocks. This firm provides conflicting evidence for both theories. A more sociological theory could investigate the possibility that administrative work — something that "nobody covets" — is a means of partners demonstrating commitment to the partnership, which may allow them to advance within the partnership's status hierarchy. Law firms — even collegial law firms — may need administratively-oriented partners to facilitate coordination. I discuss this more fully at the conclusion of Chapter Nine.

means of reducing their own work loads. Having a trusted associate on a matter allows the partner to avoid reading every document the associate drafts before it is mailed outside the firm, to not have to attend every meeting or be on every conference call, and to be assured that document distributions will be completed in a timely fashion. All of this translates into allowing the partner to go home earlier, or to take on additional work. Partners' "self interest" (A2P2) dictate that they pursue the best associates: "If you are working on several matters and you are extremely busy and you need help on something, you want someone who can handle it on their own. Word will travel extremely quickly as to who is capable of doing that and who is not. So you pick the right people for that kind of situation" (A2P4:11).

But such "well regarded," competent associates are scarce.[27] Both partners and associates report sometimes heated competitions among partners for the favors of "well regarded" associates. Junior associates typically do not bear the brunt of overt partner conflicts for their time — these competitions are conducted and concluded

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[27]. I do not have data on what percentage of the associates the partners consider "good," but some anecdotal information is suggestive. First, the firm does attempt to weed out "bad wood" in the first two years. Only slightly more than one-third of the associates last until mid-level, the time by which associates are expected to find their own work outside the formal assignment system. While the majority of the attrition is voluntary, much of it may have been encouraged, as discussed above. Second, one partner described the recruiting process as "cherry-picking [about thirty percent of the] candidates and recruiting the rest." The distinction he made was between the "clear stars" and the rest of the beginning associate class. Some "stars" fade and others are "late bloomers," so there may be circulation among the groups of associates regarded as "good" and those who are not. Overall, it appears that about a third of the associates at the junior level are deemed "good."

over their heads.[28] More often, partner competition for good associates is resolved before a conflict becomes public, often by the associate picking a side.

The head of one department told me about a senior associate he works with closely. This associate became increasingly nervous about being known to the widest possible group of the partners in his department before his promotion year. Thus, he was looking for other partners' cases to work on in order to impress a wider circle of partners. His partner warned him "not to overextend" himself. But contrary to this counsel, the associate agreed to "help out" on a "killer case that swallows everyone up that works on it." One weekend's work turned into an on-going assignment. The time demands of this assignment caused the associate to fall behind on his other work. The associate's "error in judgment" in over-extending himself became the core point of discussion in his annual review. The senior partner commented: "I warned him not to get involved in that. But he was so damn worried about pleasing everyone that he really fucked up." While this associate's error was not "fatal," his chief sponsor considered it a serious lapse in "judgment" that apparently lessened his enthusiasm for the associate. Competent associates' time and effort are valuable, *non-fungible* resources for partners.[29]

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[28]. See the Chapter Ten for a discussion of junior associate strategies for dealing with conflicting partner demands.

[29]. Galanter & Palay's rational actor theory claims that partners' and associates' human capital swapping is bounded at one extreme by associates not wanting to acquire too much *firm-specific* human capital (knowledge). It is interesting to note that partners in this firm articulate a theory of *partner-specific* human capital. Associates responses to this will be discussed in Chapter Ten.

Because of the formal assignment system's disuse, associates are solely responsible for managing their time. Every partner told me that they tell associates that their "primary responsibility" is to learn how to manage their time. What associates of all ranks are expected to manage is the conflicting partner demands for their finite hours of sentient labor.

The map of demanding partners' networks is thus important in understanding the firm's practices. The patterns of assignments are best viewed as two pyramids, one of associates that is wide at the bottom and tappers to the top and one of partners that is inverted (narrow at the base and wide at the top). Each pyramid is further vertically divided into senior and junior levels.[30] Junior associates typically work with junior partners[31] on small matters and with senior associates, who themselves work for a senior partner, on larger matters. Only as a partner matures, after about five years, does he or she start to get senior associates assigned to his or her cases. If a matter is large enough to require a senior associate, then it will typically have a junior associate and perhaps even a mid-level associate staffed on it, as well.

There are three paradigmatic models of hierarchical attorney work groups in

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[30]. In fact, the associate seniority pyramid is traditionally divided up into three stages: junior associates (first- through third-year); midlevel associates (fourth- and fifth-year); and senior associates (sixth- and seventh-year). In this discussion, I consider only associates relevant to junior associate work assignments.

[31]. I use "junior partner" here descriptively to characterize a partner's age and tenure, rather than a formal rank. While "junior" and "non-equity" partnership positions are popular intermediate steps between associate and full partner status in firms outside New York City, they do not exist in the firms in this study. Seniority plays an important role in allocating prestige and work in this firm. Indeed, older partners refer to the youngest partners as "junior partners."

this firm. Legal matters are described by the size of the legal team that works on them, from small to very big. Size of work team tracks closely with the value of the issue. Money buys complexity, and in law complexity increases with the number of lawyers. A *very big matter* is staffed by a junior associate, a senior associate, a junior partner, and a senior partner. A *big matter* is staffed by a junior associate, a senior associate, and a senior partner. A *small matter* is staffed by a junior associate and a junior partner. In reality, very big and big matters often have more attorneys assigned to them, to perform specialist work (such as tax and blue sky analysis), and to help out during intensive periods (such as document productions, depositioning, trials, takeover bids, and pre-closings). Figure 8.1 graphically represents these three prototypical models.

Like the ideal typical firm, this firm typically allocates its work informally through overlapping and malleable personal networks. The associates have individual responsibility for managing their work assignments, rather than having the assigning partner monitor their work loads.

Senior Associates' Nodal Positions. Senior associates are often *de facto* gatekeepers to high profile, senior partners' work assignments.[32] Junior partners offer junior associates more responsibility, on typically smaller, routine, less glamorous

[32]. I did not interview any senior associates. However, I did speak with three recently appointed partners who reported on their experiences as senior associates. Because junior partners typically do not work with senior associates, their recollections of senior associate work are unlikely to be contaminated by their partner status.

matters. Thus, for junior associates, junior partners and senior associates are the sources of all work. Unlike the ideal typical firm model, non-partners play an important role in junior associates' relations with partners. But the nature of the senior associates' position lessens the impact of this difference.

Several consequences flow from the nodal positions of senior associates and junior partners in the allocation of work. First, junior associates have little work-related contact with the associate cohorts immediately ahead of them.[33] A two- to six-year gap separates associates who work together. This limits the ability of associates to informally acquire knowledge about the firm and work from slightly more experienced associates. Only through work relationships can they acquire the informal training, advice, and gossip that personal ties across ranks often offer (e.g., Blau). Second, there is a divide between the junior associates and senior associates. Senior associates are junior associates' "bosses" — they assign and evaluate junior associates' work. Senior associates are in partnership competition and thus are oriented toward the partners, rather than the novice junior associates. Senior associates are highly likely to accept the partners' culture — if one exists — in order to improve their partner-like appearance and as anticipatory socialization. Partners demonstrate their trust in senior associates' orientations by letting them perform partners' work, including evaluations.

Senior associate evaluations often form the basis of partners' reviews of junior associates. One partner described a common young associate review at the partners'

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[33]. It is unheard of for two associates from the same class to work together.

associate review meetings, "A partner will say, 'You should check with [a senior associate], because I was away during the most important work and he said that there was a problem you ought to follow up'" (A2P2). Partners recognize their remoteness from junior associates. "A large part of what the junior associate does, I never see. So in virtually every case, I'll call [the senior associate] and say 'How did *X* do on this?' And many other partners do the same thing in the review process. We encourage them to" (A2P2). In a meeting with several partners, I reported on associates' feelings that the partner who gives the review (the department head) has little knowledge of the junior associate. This prompted a nodding of heads and one reviewing partner to comment in humor, "They are certainly right about that!" (MGRMET), which elicited a round of laughter.

The dominant, informal assignment system emphasizes the adept use of personal networks both by partners and associates. Senior associates have a nodal position in allocating many junior associate assignments. As one partner told me, "The assignment system weeds out those who cannot establish relationships with senior associates" (A2P2: 34).[34] The partners thus rely on the senior associates, who are highly likely to have adopted the partners' practices and orientation. Senior associates are the finalists in their cohorts partnership competition. By definition they are the group the partnership has selected as most closely resembling themselves. By that point in their associate careers, senior associates are attempting to look as

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[34]. Note that this partner assumes the modal assignment to be a *big matter*, requiring a senior associate. I discuss partners' small case blind spot in the Chapter Ten.

partner-like as possible in front of the partners and possibly to adopt partner orientations as anticipatory socialization. Thus, from the junior associates' point of view, senior associates are structurally identical to junior partners. They are the source of work, praise, and criticism.

The typical legal matter staffing inserts another layer of lawyers (senior associates) into the partner-associate interactions. This amounts to a work hierarchy contrary to the collegial-driven model. However, this firm's informal assignment system's dynamic approximates the ideal typical model's informality and personal work preference structure.

Informal Training. This firm emphasizes on-the-job, informal training, as predicted from the ideal type. Associates reported being told by partners in job interviews that the firm's training is "sink or swim."[35] While the firm has a year-long series of topical lectures to expose the first-year associates to general concepts in their practice area, the partners seem ambivalent about these lectures' value. Partly this breaks down across practice lines. The body of corporate law lends itself to sweeping topical summaries in a way that litigation does not. The litigation department's lectures are typically more practical, such as "How to run a document production."[36] No one expects the associates to learn much in these sessions, including some of the

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[35] One associate said that she asked a partner about this phrase during a job interview and the partner replied, "Yeah, and we like swimmers" (A207).

[36]. Document production is the reviewing, indexing, copying, and blackening out of confidential information before providing it to the other side in a litigation matter.

associates.

The real training is acquired by doing the work. One partner's comment captures the general partner attitude: "You can learn everything you need to know on the job" (A2P1: 5).[37] Junior partners and senior associates are expected to see that it is in their self-interest to train their junior associates well.

> It's not written anywhere, but if the senior associate does not want to train [his junior associate] well, then the senior associate winds up having to do the distributions, because they won't know how to get it done. So it is in his or her self-interest to go to the young person and say, "Here is what you need to do. Let's walk through it, so you can do it tonight and I don't have to worry about it from now on." It is not a formal training, but it is just the way the system works, and it is in your self-interest to [train junior associates]; to push them (A2P4:14).

This process binds the lawyers' interests. The senior lawyers (senior associates or junior partners) want to off-load work onto the junior associates. The junior associates want the learning experience that comes with greater responsibility — of "being pushed," as the partners say. Senior attorneys who take the time to train junior associates early often are rewarded with (comparatively) skilled, loyal junior associates, familiar with their work styles, and willing to work with them in the future. This is the beginning of the informal assignment networks, discussed above. Like the ideal type firm, this firm emphasizes learning by doing over a formalized training process.

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[37]. Compare this statement with the findings of law firm hiring partners' expectations of law graduates reported in the MacCrate Commission study of legal education (Garth and Martin 1993).

Training-for-Responsibility Trade. Partners make a distinction between a mentoring relationship and an on-going work relationship with a junior associate that entails the acquisition of responsibility in exchange for training and trust. A partner made this distinction clearly:

> I don't think that we have a real mentoring system, even on a *de facto* basis. What I think we have is a circumstance of self preservation as much as anything else. Senior associates make the effort in bringing junior associates along. The term "mentor" conveys a certain solicitousness about the needs of a younger associate. And I don't think that really exists very much in an organization like this. I think most of the "mentoring" — though that is the wrong term — happens in an organization like this because senior associates or partners know that they need to bring these new people along very quickly (A2P2: 33).

This partner went on to claim that "close" relationships do exist between partners and associates. But fostering these are "self-interested" actions by the partner, because the associate does a lot of the partner's work, and so if the associate left, "the partner would have a big problem" (A2P2:33).

Training and mentoring are not *formalized* in this firm. However, training, at least, is recognized as valuable. Discussing the role of senior associates and junior partners as trainers of the junior associates with a group of partners, the head of a department turned to a newly appointed partner and said, "One of the reasons why we promoted you was because you were so good at bringing along the people below you." The young partner looked dumbfounded and after a long pause said, "No one ever told me that. I just did it because I felt I should" (LTMT). The partners thus appear to value and reward training and yet to resist the formalization of the training process.

Partners and senior associates articulate a justification for training because trained junior associates allow them to "shed" work they would otherwise have to do themselves. They are not interested in training for training's sake, or to make the associates well-rounded.[38] However, the partners' orientation toward associate training should not be confused with "need-to-know" basis of training.[39] Partners value and reward associates who push for more responsibility and thus require more training. Second-year associates "should be pushing a partner back, saying, 'It's my deal, I'll take care of it'" (A2P1: 8). An autonomous, responsible associate working for him or her, is a partner's best defense against being overwhelmed by work.

Robert Nelson dismisses law firms' statements to law students that "associates are given responsibility as soon as they are ready" as so much ideological salesmanship to naive law students (Nelson 1988). At least in this firm, this statement has truth. And it is true because both the partners and the associates view it as in their interest to act in accordance with it. Partners recognize that the time burdens of training associates have payoffs in reduced client responsibilities. Associates, in turn, recognize that the burdens of client responsibility yield them training by partners.

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[38]. Compare this orientation to Smigel's reporting that the firms in the late 1950s were adopting rotation systems for junior associates to circulate through several departments before they picked a specialty. The firms justified this practice as making well-rounded attorneys that would better serve their clients (Smigel 1969, p. 149).

[39]. See the entrepreneurial-driven culture firm model in Chapter Three for a discussion of this partner orientation to training.

Thus, like the ideal typical firm, this firm has an informal training regime that emphasizes personalized arrangements between partners and associates. Also like the ideal typical firm, this firm's informal system's reliance on informal networks produces uneven training within cohorts. However, unlike the ideal typical firm model, the partners resist characterizing their on-going working relations with associates as mentoring relations. Instead, like the entrepreneurial firm, this firm's partners characterize their training of associates as mutually self-interested exchanges.

This organization's informality is sustained by several normative structures of control. The formal structures of assignments, training, and reviews exist largely as mock counterpoints to the real, informal systems. But to what end is this informal structure put? Next I turn to the firm's organizational identity.

Membership.

An organizational identity is the story organizational members tell to themselves and to outsiders about the origins, purpose, and goals of their organization, and their personal roles within it. I conceive of organizational identity as similar to Burton Clark's organizational "sagas" (Clark 1971), only organizational identities do not require an initially clearly defined organizational "mission," as Clark does. Organizational identities bear some relationship to the "myths" made popular by several neo-institutional and organizational culture theorists.[40] These identities tie

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[40]. See generally, Meyer & Scott (Meyer and Rowan 1983) and Frost, *et. al* (Frost, et al. 1985, Frost, et al. 1991).

individuals to the group that comprises the organization. Thus, this definition serves a predominantly cognitivist, boundary demarcating function of differentiating members from nonmembers.[41] A strong shared organizational identity is central to the ideal typical firm.

Few Lateral Hires. Like the ideal typical firm, this firm hires a relatively small number of lateral associates and partners because of partners' fear that laterals will not share the firm's binding "culture" and its effect on morale. "I think among most of the partners there is a feeling that if you haven't had the trial by fire, you haven't had the full immersion in the culture. If you haven't been through the fire together, I think that changes the fabric of the firm" (A2P1: 17-18). Every partner indicated that concern with associate morale discouraged the hiring of lateral attorneys. The following long quote is indicative of the partners' dual concerns.

> I think there's a culture problem and I think it's bad for associate morale. It's bad for the culture of the firm, to do significant lateral hiring. I think an organization with a concentrated, shared experience by most of the members of the organization, is going to be a superior place in a lot of ways. It will be somewhat inbred [that's the down side to it.] But I think from a morale and culture standpoint, having the vast majority of people go through a similar experience, and having gotten to a similar point, is a significant positive.
>
> Also, I think it's bad for associate morale in a more pragmatic sense, in that associates see themselves in a group, judge themselves by their group, make decisions, career decisions, within the group, for example I have no doubt that an associate might look at a class of 25 people and say, I'm going to concentrate on banking, because nobody else is doing it in this group, and I can do a superior job. I think it's

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[41]. The cognitivist tradition is an important wing of the organizational culture literature. See generally, Schein (1985), Weick (1979), Van Maanen (1984, 1985).

terrible for morale, two years after that to say, "We've just brought in this banking associate who we think is terrific, from XYZ firm" (A2P2).

Low lateral hiring both preserves the uniformity of members' experience and gives associates access to information about their partnership chances. This is in accord with the ideal type.

Co-present work. The partners watch the associates for evidence of their hard work. Like the ideal type firm, this firm uses informal, normative means of enforcing standards of effort, in this case watchful eyes. Hard work is primarily evidenced by co-presence in the office.

DP: So how do you know that an associate is working as hard as he or she can?

P1: Well, we don't want them to work as hard as they can. We want them to work at what most people would perceive as a pretty arduous rate, but one that we feel is appropriate here, and sustainable. How do you know? You ask this person to take something on. [Do you think they] are stretching occasionally, or are they always saying, "I can't do it." If they are never here at night, or they are never here on the weekends, or they are just not having an impact on the practice, [that is a problem]. Or, you sit next to one, and you are in before they are, and you are here after they are, and—we don't have people going around the halls clocking them in and out, but impressions are formed over the years. I don't think the impressions are wildly unfair. It's a question of degree (A2P1: 9).

Hard work, doing one's "fair share," "staying busy," not being perceived as a "slacker," and "having an impact on the practice," all require long hours. But the partnership refuses to say how many hours. So associates' constant visible presence in the office becomes the means of assessing their commitment.

Subordination of Private Life. Contrary to the ideal typical firm's collegial integration of lawyers' private and work lives, this firm insists on the suppression of all non-firm interests. All the lawyers work long hours. But the partners expect associates to cede control over determining which sixty or more hours of the week they will work, as well.[42] "It isn't necessarily the hours, it's the commitment you've got to make. The fact that any Friday afternoon at five o'clock your whole weekend can be ruined. You have to accept that and deal with it" (A2P3: 7). Organizational membership requires a voluntary eclipsing of the member's non-organizationally-defined time commitments. Associates may harbor *residual* interests that have time demands, such as a love of travel or the theater, sports activities, relationships, and even children. But these interests must be subordinated to the changing, unpredictable needs of the organization.

Partners attitudes toward the scheduling of vacations by associates is an example of the firm's demand for the suppression of private life interests. The lawyers' office manual reads in part:

> Vacations are essential to good health and should be taken regularly. Only extreme emergency should be permitted to interfere with a vacation. No lawyer should postpone a vacation beyond the time planned without the knowledge and approval of the partner in charge of the matter requiring the postponement and the managing partner of the

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[42]. I shall discuss the effects of relegating private life to an interstitial temporal zone in Chapter Eleven. Suffice it to state here that temporality is a central component of modern social life. The commonsensical meaning of "dinner time" is one example of the power of socially defined temporality (see generally, Zerubavel (1979) and Simmel (1950)). Social relations, such as marriages, are hard to sustain when one party flaunts the accepted temporal ordering of the relationship. Of course, this is why "sacrifice" is a good measure of commitment, in the partners' eyes.

lawyer's department.

> It is important that vacations be spread as evenly as possible over the entire year and not concentrated in July and August or other popular vacation periods in order that work may be properly staffed in those periods. Each lawyer will be asked to submit, not later than April 15 of each year, a memorandum stating his or her preferred vacation period and indicating whether the lawyer's plans are flexible. After this information is received, a tentative vacation schedule for all lawyers in the office will be prepared and some lawyers may be asked to change their vacation times if this is necessary in order to avoid undue concentration of vacations during a particular period.

Of course, forms and employee manuals have a life of their own in organizations. But in this firm, many partners are openly antagonistic to their written policy on vacations. As one assigning partner (the person who is most likely to utilize the long range vacation plans information) told me:

> My black assignment book always says "vacation intended." People sometimes have [requests entered] nine, twelve months away from now. That I think is preposterous. Not even the most senior partner does that. Because you can't unless it's something really important and there is no moving it around. It's one thing if you're getting married, but ... it's a give and take.[43]

Managing partners describe the firm's policy as "no permission is needed to take a vacation, just make sure all your matters are covered." The above quoted assigning partner described how he views "the give and take" of associates scheduling vacations:

> I'll stay off their case. But on the other hand, they've got to time their vacation so it doesn't disrupt what they're already doing. If you're working in the middle of a deal and it's coming to a critical part next week, they can't say, "I'm going today." If they've done their planning properly, I won't screw up that timing [by giving them

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[43]. A novice associate's compliance with the Firm Manual would result in his/her actions being deemed "preposterous" by at least one assigning partner.

another assignment]. That's sort of the way it works.

But, when the formal assignment system only accounts for a third of all the assignments — those of the less well regarded associates — this partner's forbearance is little help to most associates.

Because the associates get their work from partner networks, they are subject to those partners' *multiple* case load work needs. Each type of legal matter has a generally predictable schedule, which includes fast and slow periods. Active partners realize that they cannot have a junior associate working on more than one matter that is on the same schedule, so they try to stagger the matters they ask any given associate to do for them. In this way, one matter's slow period often (and hopefully) coincides with the other matter's busy period.[44] But this staggering can result in associates never being able to foresee a period when *all* their matters are covered.

While all the partners agree with the department head's formulation that "all the associates have to do is cover their matters," they disagree on who should determine the coverage. The head of a department expressed surprise when I reported that the associates felt they had to strategically send memos requesting a vacation. He retorted that they do not have to memo anyone in advance.[45] As soon

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[44]. This is the ideal sequencing. Real life work loads tend to go in "spells" or "spurts," many associates believe.

[45]. All attorneys must fill out a sheet advising the switchboard of when they will be out of the office for more than a day, where they will be, how they can be contacted, and when they will return. But this is just another *pro forma* form. Associates and partners agree that it is the decision to be out of the office that is under contestation, not actually being out of the office. The "Attorney Absence Form" is an artifact of the real conflict.

as he said that, two partners objected, in a rare moment of interrupting the head of the department. "I want all my associates to check with me before taking a vacation. What if a [matter] heats up. They don't know what's over the horizon" (LTMT). A newly appointed partner then spoke up. Referring to two active and "notorious" partners, he said, "When I worked for [Jones] and [Smith] I never took a vacation. They wouldn't allow it. Those associates who work for them don't take vacations" (LTMT: 12). The two objecting partners acknowledged the assessment of the predicament of associates who work for [Jones] and [Smith], but offered only a shrug in response to the substance of the complaint. Because the organization's temporal demands are so diffuse, they become all encompassing.

Unlike the ideal typical firm's integration of members' private lives and work lives, this firm eclipses lawyers' private life interests as the price of (incipient) membership.

Vague *Partnership Criteria*. The ideal typical firm balances clients' needs and associates' merit in its promotion decisions. These dual vague criteria and the heavily interactional nature of the collegial-driven ideal typical firm governance makes partnership determinations the product of an extended process, not subject to concise criteria descriptions. This firm shares the imprecision of partnership criteria.

Elite law firms are partnerships. All the theories agree that the sundry benefits of partnership in an elite firm are central to an explanation of members' behavior. So the question of how partnership decisions are made is of primary

importance to explaining these organizations.[46] The nature of private partnerships severely limits the amount of information available on how partnership decisions are made at law firms. Firms are so sensitive to such questions, that I quickly learned not to ask, in order to preserve my rapport. But associates come to a firm ostensibly to compete for partnership. Thus, I expected the firm to have some form of public statement that it makes to prospective and current associates about their criteria for selecting partners. Surprisingly, none of the partners at this firm had ready at hand a list of partnership criteria — however vague.[47]

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[46]. Because they are partnerships and thus not subject to public reporting of financial and governance information, little information is available about law partnerships' voting procedures on issues such as promotion to partnership, partner compensation, and management. The available data are overly condensed and/or dated. See, for example, *The American Lawyer*'s survey of law firm governance issues (American Lawyer 1990) and Roger Siddall's 1950s survey of law firms (Siddall 1956).

[47]. Lawyers, perhaps more than most mortals, worry about being sued. Several partners reported concerns about keeping too much in writing regarding their promotion to partnership deliberations for fear of being sued under Title VII of the Civil Rights Act of 1964. Two large firms have been sued by female associates who contended that they were denied partnership because of the firms' gender discrimination (see the Introduction).

I attempted to distance myself and my questions from such knee-jerk paranoia by foreswearing any interest in "how partnership decisions are actually made." Rather, I told the partners, "I'm interested in what you tell the 'green' third-year law student who asks 'What do you need to do to become a partner here?'" I was interested in partners' mundane representations to non-employee inquirers. I believed that these responses could be treated as public utterances that were designed not to be particularly revealing of the truth, but would conform to the partners' conceptions of their firm's image. These statements would be very much like public relations department press releases, I anticipated. To my surprise, most partners seemed at a loss for words and claimed that they were rarely asked.

As I will show in Chapter Eleven, these associates do not report speaking with partners about partnership issues. This is a case when the theorized expectations of partner-associate interactions were far from the empirical reality.

Partnership criteria are not discussed with associates. One young partner's comment is representative of all the partners on this topic.

> DP: Do you have a set speech for young associates on the criteria that are used for partnership decisions?
>
> P4: No. I don't think anybody ever talked to me about partnership until I was a fifth- or sixth-year. It's just not talked about. If you want to find out, you can ask someone. But no one will talk to you about it (A2P4: 22).[48]

Disagreements among the partners may inhibit them from articulating partnership criteria.

> There used to be a partner here who said that partners made themselves, and there still are a good number of those people. Those are the easy decisions. After five or six years they have their own practice, the clients are dealing with them directly. It's clear that they're going to be partners. With others you get solid but not spectacular work; then you've got to ask each of [the] partners.
>
> Everybody has a little bit different criteria. Some people say "need" is a criterion. Others say we should never consider "need." They make some mythical cut-off point and argue that in fairness to the associates everybody who meets that should be partners. Over time we'll be able to use those people, even if today they may not be needed immediately. Two or three years from now they'll be fully employed.
>
> Is this person capable of making a contribution to the firm? There are myriad ways of deciding that (A2P1: 12).

When partners do attempt to articulate the criteria of partnership they are not

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[48]. This young partner told the story of his becoming disillusioned as an associate and making plans to leave the firm. "I started looking around for something else...a couple of partners heard about it and called me in and said, 'That would be a great mistake on your part, because we think you have a very strong chance.' That was not until my sixth year. Had that not happened, I might not have heard about [the partnership promotion process] until later" (A2P4:22). It seems that these partners feared losing their able and valuable senior associate enough to break the otherwise prevailing code of silence regarding partnership criteria.

much more precise. One partner said that "you have to be a terrific lawyer" (A2P2: 17) — a derivation on another partner's comment that "It's like Potter Stewart and pornography — you know it when you see it" (A2P1: 2). Almost all agreed that you "do not have to be brilliant to do this job" (A2P4: 8), though a reasonable level of intelligence is required. Others described the *je ne sais quoi* as comprised of "judgment,"[49] "self-confidence" (A2P3: 15), "presence" (A2P2), "fire in the belly," the "ability to stick with it" (A2P4:8), and "commitment." The first three attributes are qualities that may lend themselves to judgements by partner-observers. Some people are smarter than others, some are more sophisticated than others, and some are more self-assured than others. These talents are, at least theoretically, knowable and permit the ranking of associates. But the latter three qualities — that can be summarized under the term "commitment" — are not so easily discerned by partner-observers.[50]

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[49]. "What you really look for is a sense on the person's part as to when is the right time, when it's not the right time [to ask a question]. And what's really amazing is, people who do very well here seem to have a sense of that. I mean, it's basically common sense, but there are those who just have the sense of when things are right and when they're not right" (A2P4: 7).

This young partner's structural-functionalist-like orientation was demonstrated throughout his interview. He marveled at how nicely the partnership selection process worked, without ever mentioning the individuals who people the process. Interestingly, he suffers from a "not being able to see the trees for the forest" complex while most lawyers suffer from the inverse myopia of "not being able to see the forest for the trees." Getting lawyers to make generalizations about their work is one of the most challenging tasks of law firm researchers.

[50]. Perhaps because of the nebulousness of "commitment" in contrast to "intelligence" many partners seem to focus on the commitment of associates. "I've never understood what intelligence means in this context. So much of it just has to do with an interest in and willingness to stick it out" (A2P4: 8).

The ideal typical firm balances clients' needs and lawyer merit in its promotion decisions. But clients' needs and merit are revealed through the process of an associate's work. If the client directs its work directly to the associate, and the associate handles the work himself or herself, then perforce he or she becomes partnership quality. But this processual determination does not lend itself to numeric or other facile criteria statements. Similarly, this firm has a processual partnership determination process and an inability to articulate the criteria. "Does the associate have an impact on the practice?" as one partner characterized the partnership criteria, is only revealed over years of the associate working with various clients and partners, with increasing autonomy. The associate's fate is in large part the outcome of a complex interaction of his or her success in the informal training and assignment systems.

* * * * *

Chapter Seven demonstrated the limits of organizational cultures' — imputed from structural variables — effects on the professional selves of these associates. So far this chapter reviewed fifteen actual partner practices of the firm to test whether they correspond with the ideal typical firm model's practices. This allows a test of the accuracy of structurally imputed practices and culture. I conclude this chapter with a summary assessment of the comparability of the actual firm's partner practices with the ideal type's. The next chapter will assess these partner practices for strong consistent interrelationships that are the basis for an organizational culture. These

steps, in turn, lay the groundwork for examining the actual associates' practices, in Chapter Ten, and associates' selves in Chapter Eleven.

Comparison to the Ideal Typical Collegial-Driven Culture Firm.

This review of the actual partners' practices allows for a comparison with the practices imputed from the structural attributes of ideal typical collegial-driven firm. The predicted collegial-driven firm attributes are detailed at the end of Chapter Three. A consistent pattern in the firm's practices paralleling the ideal type model should allow me to make provisional statements about the firm's underlying values, norms, and beliefs.

I have presented data on four categories of practices for this firm: recruitment, organizational structure, partner-associate relations, and membership. As assessed by the available data, this firm generally approximates the ideal typical collegial-driven firm model.

Recruitment. The collegial-driven ideal type firm model has a homogeneous population of typically WASP, male, high social class attorneys from top law schools and with law review participation. Social status criteria are an important recruitment filter in the model.

This firm's partners and associates share a notably homogenous social background. They are largely white males. Most of the associates come from high socio-economic status families. All of the associates have outstanding academic credentials — almost all from elite law schools. A few associates come from lower

prestige law schools, but they were at the top of their classes. More than half the associates served on a law review. And about half the associates served clerkships. While the firm is dominated by white men, there is a notable number of female and racial minority associates. Nevertheless, the firm hires a substantially lower percentage of female and minority associates than graduate from the elite law schools. Unlike the ideal typical model, the largest group of associates is Catholic, a previously derogated religion. This firm appears to be using social status criterion in hiring, as predicted by the ideal type model, though the societal changes since Smigel wrote have opened up high social status ranks to increasing numbers of Catholics and women. Thus, while broader social demographic shifts in the pool of elite law school graduates has affected this firm, it remains relatively close to the collegial-driven model's recruitment process.

Organizational Structure. The ideal typical model firm has certain structural attributes,[51] including its old age, its long-term client ties, and its high status location on Wall Street, few departments, and limited specialization.

This firm meets all these structural criteria. It was formed before 1920 and was located downtown in 1965 (the location indicator cutting point year). Further, the partners' emphasis on providing the best possible service to their extant clients

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[51]. I present structural data here in the practices discussion, even though they were already discussed in the chapters which assessed the firms' structural indicators. This is because the structural indicators are only correlates of the ideal types, and some actual firms may diverge from the ideal typical indicators on a few measures. Thus, it is necessary to briefly revisit some of the structural indicators not discussed in this survey of partner practices, to assess the fit of this firm and the ideal type.

suggests that on-going client relations predominate for them. It has only a few departments and limited specialization both within departments and within individual attorneys.

Partner-Associate Relations. The collegial-driven firm model emphasizes informality, recognizes the idiosyncratic nature of professional practice, and has an aversion to bureaucratic administration. Work assignments and training are informally arranged among the senior and junior lawyers in accordance with individual talents and interests and personal compatibility. There is a strong emphasis on mentoring relations. These practices embody the central values of the collegial-driven firm model's culture — an equality of membership and a respect for individualistic accommodations to work life, within broad normative standards.

This firm shares some of these practices. The firm's general aversion to bureaucratic procedures manifests itself in the informal review, assignment, and training practices that dominate the mock formal systems. Like the ideal typical firm model, this firm uses an informal assignment system of personal network ties to allocate the majority of work. The formal system serves a gutter function of channeling the efforts of those few members who are beyond the bounds of the informal system.

The ideal typical model firm emphasizes associate-centered mentoring to produce broad generalist lawyers through departmental rotation programs and strong mentoring relationships. Personal relations form the basis for idiosyncratic mentoring relations. These practices are a form of broad associate-centered *mentoring*, which

produce generalist lawyers.

In this firm, associates go directly into broad departmental specializations. But within their department, the informal assignment system affords associates opportunities to pursue multiple *de facto* sub-specialties, by working with various partners. Recursive working relations with partners produce *de facto* training relationships between senior and junior attorneys, but these are characterized as self-interested actions of self-preservation. While opportunities exist for an expansive associate training, these opportunities are circumscribed by the partners' needs. Formal training exists in the firm, but it is little emphasized by the partners. The partners give associates the real on-the-job training because of their "self-interested" motive of off-loading work onto competent associates. Partners are not training generalist associates, though this may occasionally happen as a consequence of the assignment and training practices. These combined practices make a partner-centered form of associate *training*. This firm occasionally produces quasi-generalist lawyers through the combination of its *de facto* training and its informal assignment system, but without that intention by the partners. More typically, it produces *de facto* specialists defined by individual partners' needs. Here the firm more closely approximates the entrepreneurial-driven firm model.

Membership. The ideal typical collegial-driven firm encourages the personal loyalty or commitment of its associates to the organization. It facilitates this associate devotion by normatively suppressing competition and encouraging cooperation among the associates. The ideal typical firm model's partnership criteria balance merit and

client demand while restricting partnerships to internal candidates — which assures the associates of merit-based partnership decisions, based on their performance over an eight-year associateship.

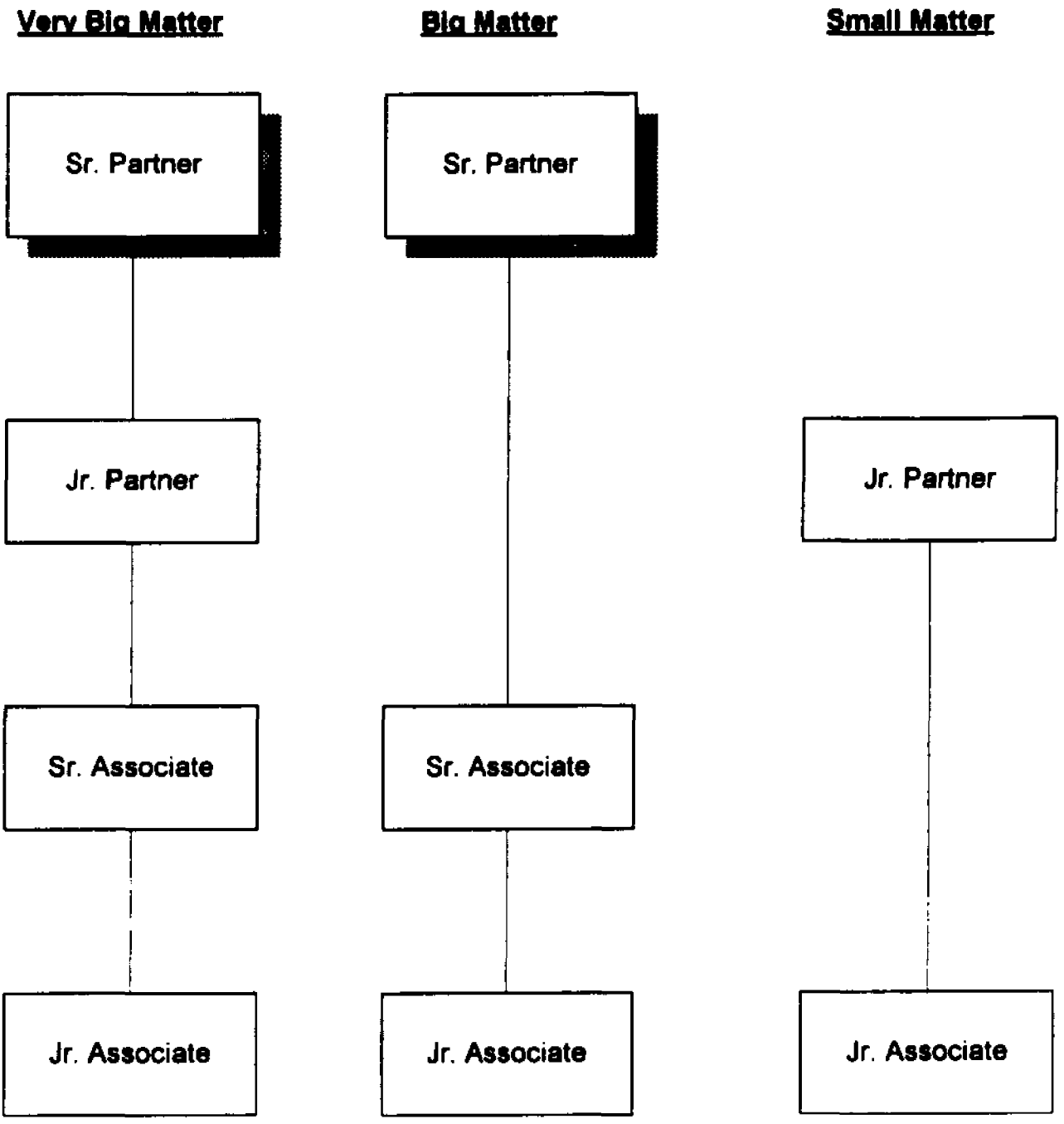
This firm encourages associate loyalty by limiting the number of laterally hired associates, limiting associates' external interests through the insistence on co-present work and the subordination of private life time demands. By limiting the number of lateral associates it hires, the firm encourages associates to think of themselves as members of a select group of potential partners. The partners use associates' visible presence in the firm to assess their effort. Co-presence thus comes to be equated with membership. Unlike the ideal type's integration of lawyers' private and work lives, this firm separates them. The partners' insistence that private sphere time demands be relegated to a residual status, by the their insistence that associates be available to work nights, weekends, and during their scheduled vacations, all bind associates' interests and membership identities to the firm.

While I did not report on partners' views on associate competition, it is likely that an organization that is reliant on informal work groups and training mechanisms would suppress associate competition. If partners rely on senior associates to train junior associates through an informal process, they have an interest in fostering a non-competitive atmosphere of cooperation among the associates. The dominant informal assignment system makes partners dependent upon associates who must be able to call upon their peers for cooperation and guidance, because partners cannot be assured which associate they will work with. Here too, the firm fits the model's attributes of

binding commitment and promoting cooperation. Further, the vagueness of the partnership criteria leaves the determination of associates' partnership qualities a perpetually open question — an on-going process — which tends to bind the associates to the other membership binding practices. To the degree that commitment is measured by an associate's relative willingness to sacrifice her or his private life interests for the firm, this might be thought of as meritocratic. The partners' assumption of comparative equality of intellect among the associates focuses their determination of partnership on the issue of individual effort revealed over time. Further, the relatively few lateral associates the firm accepts suggests the processual nature of the determination of associate merit. Associates' partnership qualities must be demonstrated over time, consistent with the ideal type model.

In summary, this firm generally resembles the ideal typical firm in the recruitment, structure, bureaucratic orientation, and membership practices for which data are available. This survey of actual partner practices was limited to *behavioral* practices of the partners. In the next chapter, I will use other partner statements to assess these practices for evidence of a partner culture. I will assess these partner practices for the norms, values, and beliefs that drive them and then see if these norms, values, and beliefs form a coherent interlocking pattern that can be termed a partner culture.

Figure 8.1:
Paradigmatic Attorney Work Groups



Note:
"Matter" is the generic term used to describe law firm assignments -- either cases or deals.

CHAPTER NINE

Partners' Culture Revealed Through Patterned Practices

The prior chapter compared the partners' practices with the ideal typical collegial-driven firm's practices. In this chapter, I examine the actual firm's partner practices for evidence of an integrated set of underlying norms, values, and beliefs that would condition the development of a partner culture. The first section defines six values and beliefs that underlie the partner practices. The second section reviews the groups of practices for these six values and beliefs, and assesses their complementary and/or contradictory interactions. The third section of the chapter examines other data from the partner focus groups for confirmation of the findings in the second section. Finally, I explore possible conflicts within the partnership for indications of a dominant, or majoritarian, culture under change.

The ideal typical firm model is the product of a unitary set of collegial value orientations which produced the posited ideal type partner practices. The ideal type firm's culture and practices are inextricably related. For researchers, real firms are not so pure. Accordingly, we cannot assume the unity of the values and beliefs driving the practices of the firm — the basis of a culture. Rather, this is a thesis that must be tested empirically.

The *verstehen* tradition does not permit exact cutting points. Thus, the determination of the adequacy of factors required to constitute a positive finding is

inexact. However, for this chapter, if the norms, values, and beliefs[1] *largely* form a consistent constellation of complementary and mutually-reinforcing values and beliefs, this will constitute a partners' culture. This definition does not preclude contradictory elements existing within a culture. Rather, it merely requires that the *preponderance* of cultural elements be complementary and reinforcing, forming a lattice-like system on a single plane. I term this a majoritarian culture. If, however, the practices seem to reveal a large number of cultural elements that do not largely complement and reinforce each other (tangential lines on multiple plains), then I will deem no partner culture to exist.

Six Values of the Collegial-Driven Firm

Six values and beliefs underlie the fifteen partner practices reviewed in Chapter Eight. I will define each cultural element, before linking them back to the partner practices they shape.

Personal autonomy/informality is the value of individual freedom of action devoid of the constraints of administrative office and rank. Contrary to the Weberian notion of legitimate bureaucratic authority's limitations (the separation of the person from the office) (Weber 1946) personal autonomy/informality links the person and the formal role. The individual's character is believed to constrain his/her behavior,

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[1]. Values may be considered "should" statements. Beliefs may be considered "is" statements. Thus, when I use the term "value" in this chapter, it is usually synonymous with "belief." For ease of reading, I will also refer to these individual components of the traditional definition of culture (Kroeber and Kluckhohn 1963), as "cultural elements."

rather than formal bureaucratic procedures. This is a core value of the traditional ideology of the free professions (see Carr-Sanders (1964 [1933])). Freedom of the free professions assumes professionals that can regulate themselves, in the first instance by self-control through their "character." Indeed, the early ideology of professionalism closely linked professional autonomy and personal character.[2]

Social Skills — interpersonal competencies — are valued as the essential coordinating mechanism of collective action under the conditions of personal autonomy and informality. Absent formal coordinating mechanisms, lawyers must rely on their communicative abilities, and their "good judgement" to know when a situation of collective action requires more explicit coordination or Goffmanian/Garfinkelian "repair." Social skills are a form of cultural capital[3] that are both interactional tools and emblems. As tools, they constitute a level of presentational competency for an actor's self. As emblems, social skills are highly

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[2]. "Character was the internal and psychological symbol of continuity that corresponded to the sociological course a person ran in a [professional] career. Character and career were the two faces of a single phenomenon" (Bledstein 1976, p. 112).

[3]. Interpersonal social skills are part of Bourdieu's broader term *habitus*, not synonymous with it. Bourdieu defines *habitus* as "a system of cognitive and motivating structures," "which generate and organize practices and representations that can be objectively adapted to their outcomes without presupposing a conscious aiming at ends (Bourdieu 1977, p. 53). Social skills are limited to the actor's conscious and unconscious ability to present his/her self as consisting of normatively appropriate looks, actions, manners, beliefs, dispositions, and interests. Where Bourdieu highlights the social structural embeddedness of cultural capital and *habitus*, Goffman emphasizes social skills' quality as a practical accomplishment for an actor in the copresence of others (see generally, Goffman (1959, 1961*c*, 1962 [1952], 1974).

class-specific and represent the typified dispositions and interests of the actor. I will use social skills and interpersonal skills synonymously, below.

Common Goals is the value of the identity of interests of organizational members. Members' interests lie in the achievement of a common goal, in this case partnership. The potentially ambiguous actions of organizational members become understandable when viewed through the assumption of shared interests, or common goals. It is an integrative value because it posits a shared, abstract end state that all members seek. It posits a collectivity that is then defined by the other values, and which in turn contributes to the definition of the members (see self-sacrifice).

Self-sacrifice is the value of subjecting individual interests to the interests of the collectivity. Closely related is the value commitment to *common goals* shared by the partners.

Equality is the value of the social structural positional identity of two or more actors. Equality is antihierarchical. Substantive equality flows from formal equality of position. Both informality and equality are central to the traditional definition of professional colleagueship (see Carr-Sanders (1964 [1933])).

Partners' self-interest is the value of personal interests directly underlying a partner's practice. This is distinct from an over-arching claim that ultimately all espoused values are in the partners' self-interest.[4] Rather, this is the immediately proximate justification for a practice. This justification is potentially destructive of

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[4]. Of course, this is the functionalists' and neo-utilitarians' claim, which is a tautologous because they refuse to admit actors' preference formation into their explanatory scheme.

the coordination required of collective action (Olson 1965). Partners' self-interests may conflict. However, personal interest may itself be constrained by another firm value of partners' commitment to common goals.

These six cultural elements appear individually and conjointly in the partner practices reviewed in Chapter Eight. I will review each practice for the underlying values and beliefs.[5]

A Review of the Practices' Cultural Components.

Recruitment. Both the socio-economic selectivity and the academic selectivity practiced by partners are shaped by the cultural elements of social skill, common goals, and equality.

The socioeconomic and academic selectivity of partners' recruitment practices of associates with typically professional-managerial family backgrounds is an attempt to assure the common interpersonal abilities and common goals of the associates. As one former recruiting partner told me, the firm tries to recruit as diverse a group of associates as it can, but as much as they attempt to recruit widely, eastern private school students have a general "familiarity with the folkways of corporate America that it takes others two to three years to acquire." Familiarity with corporate folkways, a form of social capital, in Bourdieu's terms, enables associates to put clients and partners at ease. Familiar associates are trusted associates. As Goffman

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[5]. For the readers' ease of cross-referencing this section to Table 9.1, I continue the presentational practice of organizing this discussion around the practice categories. These categories are heuristics for organizing the large number of empirical elements. The readers' attention should remain squarely fixed on the actual empirical practices which may overflow the bounds of their heuristic categories from time to time.

has demonstrated throughout his work,[6] normality and familiarity are achieved states, constructed interactively by skilled actors. Partners use socio-economic background as surrogate measures of associates' social skills. And these skills are essential to efficient, coordinated work in an informal work environment.

Shared social skills, as indicated by associates' socio-economic backgrounds and academic performance, also serve as surrogates for direct measures of associates' valuing the partners' shared common values. Partners, like all humans, use actors' interpersonal practices as signals of their typified motives. Thus, associates who are impressed to be interviewed by such a high prestige firm as A2 share the partners' belief in the significance of the partners' version of status honor. Accordingly, they fit into the firm. Similarly, academic success is a measure of associates' valuing performance-based praise and institutionally-determined success. The knowability of associates goals is deduced from the familiarity of their behaviors.

Both the socio-economic and academic selectivity practices of the partners further implicate a valuing of equality. The often heard statement that "every associate the firm hires is capable of becoming a partner" has a formal truth. On the abstract, stereotypical level of recruitment practices, partners are attempting to select hard working, devoted young lawyers. In this sense, these young associates are deemed to be incipient equals of the partners. Concretely, the partners recognize that those who are truly equal in sharing their skills and goals, will be revealed through the eight-year partner selection process. Partners hire associates who look and act

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[6]. See generally, Goffman (1959, 1967, 1974).

like them in the hopes that they will think like them, as well.

Specialization and Segmentation. The organizational structural practices, low departmentalization and specialization, are shaped by the values of personal autonomy/informality, social skills, and common goals. In an environment where most firms have emphasized departmentalization and specialization of attorneys (see the discussion of Departmentalization Trends in Chapter Four), this firm has remained informally structured. Areas of expertise and working groups are informally identified and constituted. The dominance of the informal assignment networks manifests the partners' valuing of informality in facilitating individual action to achieve coordinated ends, such as the formation of a work team. Personal initiative — associates seeking work skills and partners asking associates to work for them — is the basis of the specialization that exists. The broad departmental divisions allow for the maximum flexibility of partners and associates finding agreeable coworkers.

This administrative informality in allocating lawyers to work teams assumes robust informal means of efficient allocations. The partners rely on the shared social skills of associates and themselves to identify complementary work interests and to coordinate assignments. The long rein that low departmentalization and specialization gives associates requires normative social controls on associates' behavior in the form of the expectation of associates' shared goals. Indeed, an informal assignment system can only be expected to operate efficiently if associates' goals are known and predictable by partners.

Partner-Associate Relations. All the practices in this category share the

complementary cultural elements of personal autonomy/informality and social skills. Some of the practices also imply additional cultural elements.

Vacuous reviews, the suppression of the discourse of hours, the stigma of the formal assignment system, the informal assignment system, senior associates' nodal position in assignment networks, the informal "sink or swim" training, and the training for client responsibility trade-off all are shaped by the central values of informality and coordination through interpersonal skills. In each practice, informal, personal methods of accomplishing a task are valued over formal, administratively dictated means. For example, the stigma that attaches to the formal assignment system and the popularity of informal means of partners acquiring associate workers and associates acquiring "good" work — often mediated by the nodal roles of senior associates in the allocation of partner work — devalues formal systems for informal systems predicated on the interpersonal competencies of all involved. This internal "market" for the allocation of work and workers is foremost a social network that requires social competency. The formal system serves a gutter function for catching those who are unable to master the social skills of getting work or whom abuse the personal autonomy.

In addition to the personal autonomy/informality and social skills, the suppression of the discourse of hours practice is shaped by the partners' belief in the common goals of all the organizational members, which include the belief in self-sacrifice for the good of the organization, and the equality of all members' sacrifices. Billable hours is a popular metric for assessing effort (see the discussion in the

Introduction), without having to inquire into associates' ultimate goals. The partners' suppression of quantitative measures emphasizes qualitative measures such as the equality of members' self-sacrifice toward shared goals. "Doing your share" is determined interactively.

The dominance of the informal assignment system in allocating work and the trading of training for client responsibility practices are further shaped by the belief in the shared values of the organizational members. Partners seek the reliable performance of work by associates. They seek associates whom they "trust" to do their important work. Trust is partially determined by their belief that they know the associate's goal (*i.e.*, partnership) and thus can predict his or her behavior. When they trust an associate, they trade their valuable time training the associate in exchange for the associate taking on client responsible work formerly performed by the partner. The known, shared common goal of partnership seeking is thus implicated in partners' allocation of responsible work. Partners' belief in associates' partnership-seeking is an essential inducement for them to train the associates. For only if the associate remains at the firm, will the partner be able to benefit from his training "investment." As one partner told me, "If [your senior associate] left, that would be a big problem" (A2P2: 22). Partners invest their training time in associates with long-term commitments to the firm and to themselves.

Three practices, the informal assignment system, informal training, and the trading of training for client responsibility, are justified by partners' self-interest. This contradicts the cooperative orientation of the other cultural elements. Partners

believe that their personal self-interest is served by competing for the best associates to work on their matters. Similarly, they believe it is in the interest of a senior lawyer to train a good junior lawyer, in order to be able to off-load client-responsible work onto the junior lawyer. This training is not formalized, but rather negotiated individually by each partner-associate dyad. This implies intra-partnership competition among partners for the scarce resource of "good" associates. Indeed, I was even told of "heated" partner arguments over "good" senior associates' time.

The value of informality/personal autonomy coupled with self-interested justifications of action suggests possible destabilizing, entropic tendencies within the partnership. The atomistic implications of the first order invocation of self-interest is potentially stabilized by its coupling with the belief in firm members' shared goals. In this way, even individualistic competition toward a common end is seen as functional to the organization. The relative status of self-interest compared to the other cultural elements will determine its cultural effects.

Membership. The partner practices of limiting the number of laterally hired associates, requiring co-present work in the office, the insistence on the subordination of lawyers' private lives, and the vagueness of partnership criteria all are shaped by the cultural elements of common goals, self-sacrifice, and equality. The partners explain the limitations on lateral hiring as an attempt to preserve the common culture of those who survived the "trial by fire" associateship. Both the associateship and partnership require lawyers to work long, hard hours in the office. The insistence on co-present work reinforces the equality of each lawyer's sacrifice for their shared

interest. The abnegation of private life interests both assumes and produces partners' shared, firm-based interests. This implies an equality of sacrifice which is reinforced by the belief in the value of after-hours co-present office work.

The vagueness of partnership criteria articulated by the partners is shaped by the familiarity of partnership-*ness* to the partners. The partners can exercise informal, case-by-case judgements of associates' partnership qualifications, because of the centrality of partnership-*ness* to their own definitions of self, which includes a central component of belief in the mutual (and equal) self-sacrifice of the partners. "I know it when I see it" can be a useful guide to judgement only when that which is "known" is so familiar as to have become invisible.

Thus, the practices implicate multiple underlying values. Table 9.1 is a matrix of partner practices and the cultural elements underlying them. It graphically displays the interlocking values and beliefs that underpin the fifteen practices. Five of the cultural elements are complementary. The sixth cultural element, self-interest, is potentially contradictory to the other elements, but it was only implicated in three practices. Further, those practices simultaneously contained complementary cultural elements. Thus, the atomistic effect of this value expression may be constrained by the overall partner belief in their shared goals and their use of interpersonal competencies to monitor each other's continued acceptance of the shared goals.

There appears to be a strong interlocking pattern of mutually reinforcing beliefs and values underlying the partner practices. Informality, coupled with individualized coordination of actions, facilitated by shared interpersonal

competencies, allows for the pursuit of shared individual (partnership) and collective (profitability) goals, that require self-sacrifice as a central definitional element of membership, which in turn require and reproduce the equality of members' skills and efforts.

The value of partners' shared, common goals is central to most of the practices. The high value partners put on their organizational membership, as evidenced by their repeated references to self-sacrifice, and their belief that all other organizational members *share* this value, underlie many of the practices and other cultural elements. Indeed, the belief in the unity of interests of the members can be reduced to syllogistic form. Partners believe that partners and associates alike think as follows:

(1) I am (I want to be) a partner.
(2) Self-sacrifice furthers the partnership's ends.
(3) Therefore, self-sacrifice furthers my personal ends.

This overly schematized syllogism captures the meritocratic logic of the partnership. In fact, when asked if the firm was a meritocracy, all the partners asked responded "yes" or "I hope so."

Table 9.1: Collegial-driven Culture Firm Partner Practices and Underlying Values & Beliefs.

Category	Practice	Cultural Elements (Values & Beliefs)					
		Per Auto / Informality	Social Skills	Common Goals	Self-Sacrifice	Equality	Self-Interest
Recruitment	Socioeconomic Selectivity		■	■		■	
	Academic Selectivity		■	■		■	
Specialization & Segmentation	Low departmentalization	■	■	■			
	Low specialization	■	■	■			
Partner-Associate Relations	Vacuous Formal Reviews	■	■				
	Suppression of discourse of hours	■	■	■	■	■	
	Stigma of formal assignment system	■	■				
	Informal assignment system	■	■	■			■
	Senior associates' nodal position	■	■				
	Informal training	■	■				■
	Training for responsibility trade	■	■	■			■
Membership	Few lateral hires			■	■	■	
	Co-present work			■	■	■	
	Subordination of private life			■	■	■	
	Vague partnership criteria	■		■	■	■	

Note: Shaded cell denotes the value or belief is present in the practice.

The partners' inarticulateness about partnership criteria further suggests the centrality of their belief in common goals. Partnership discussions are highly indexicalized, in Garfinkel's term (Garfinkel 1967). Partners believe that they share a common understanding about partnership-*ness* and thus feel little need to explicate its attributes. Partnership decisions are made, after seven years of interaction with the associate, by asking the question, "Is s/he like us?"

The values underlying the partner practices form a partially coherent, consistent, and mutually reinforcing matrix of cultural elements. Additional data from the focus groups support my argument for the six cultural elements forming a partially unified partner culture.

The Majoritarian Culture.

Organizational members define themselves relative to other members and in contrast to non-members (Durkheim 1965). The tales partners tell of what constitutes members is indicative of their shared values and beliefs. The explanations partners give to differentiate themselves from others — including the current cohort of junior associates — even more strongly define the boundary of full organizational membership. Thus, membership statements — both positive and negative — demonstrate the values and beliefs of the collectivity. Internal conflicts over values espoused in membership statements offer a view both of the dominant organizational

culture and its possible past or future directions.[7] In this section I review a series of partners' membership statements as additional support for the prior section's finding of a coherent partners' culture.

Organizational membership in law firms is stratified. Partners are *full* members. Associates are *incipient* members.[8] But the validity of associate membership claims are only revealed through a process of a seven-year "ordeal by fire." Thus, the promotion to partnership process logically holds the possibility of a third organizational membership role of incipient *non*-members. That is, some associates will be deemed not to be partnership-quality and others may not intend to seek partnership at the firm, but whom nevertheless may serve the firm's short-term needs for associate labor. The partners' conflation of *organizational* membership with *partnership* membership leaves them unable to incorporate a definition of an *organizational* member whose interests do not complement partners' interests. How

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[7]. Because of the synchronic nature of these partner culture data, I will not be able to make definitive statements about which cultural elements are on the rise and which are in decline. Conflicts among the partners that, other things being equal, are resolved in favor of the majoritarian culture, should support the cultural matrix suggested here.

[8]. Non-professional employees — staff — of the organization are technically "members" of the organization, as well, of course. But the divide between lawyers and staff is far greater than between associates and partners. One example must suffice. In discussing this firm's reaction to the down turn in the market for legal services in the 1990s, several associates volunteered that they felt that the firm was loyal to associates to the degree that the firm "fired a lot of secretaries so that they didn't have to fire any lawyers." Whatever solidarity this professional organization fosters apparently stops at the edge of the law school parchment, in the lawyers' eyes.

Professionals' use of non-professional staff is a little explored research topic (but, regarding legal secretaries, see Murphree (1980)).

do partners identify partnership-quality members-to-be? And who do they define as non-members to be?

Like the ideal typical firm, this firm's partners view associates as incipient partners with shared interests. The partners assume that *every* associate is at the firm to seek partnership. Partners feel that they must maintain a "working hypothesis [that] in every case ... people are here laboring and trying to impress partners and do a good job, because they want to become partners themselves.... It would be completely unwarranted and out of place for someone to come forward and say 'I don't want to become a partner'" (A2P2: 22). Even associates who are unsure of their commitment contradict the partners' view of membership, "You are not going to make it here if you are just testing the waters" (A2P4: 3).

The ordeal of the eight years of hard work as an associate is thus viewed as a mechanism for filtering out associates with divergent goals.

> It's a hard, long slog here. There are not too many places where you have to work as hard as you do for seven or eight years before knowing whether you've succeeded. You're down here a lot of nights and weekends by yourself, when friends and clients are at the beach or whatever. And you asked yourself, 'Why am I here?' (A2P1: 4).

For partners, the only believable associate answer to the question, "Why am I here?" is the pursuit of partnership.

The strength of the partners' belief in the voluntary nature of their commitment to the goal of partnership is further evidenced in their explanations of the numbers of associates who leave the firm. All the partners individually estimated that

about 90 percent of the associates who leave the firm leave voluntarily.[9] An analysis of this firm's associate roster for the period 1980 to present reveals an average firm tenure of [3] years, for former associates. This firm's annual attrition rate is [comparable to] the available historical large firm associate attrition data (Smigel 1969, p. 78).

Partners' explanations of why associates voluntarily leave the firm highlight their belief in the requirement for all the firm's lawyers to share the singular devotion to the goal of partnership. Geography, private life, and lifestyle represent competing, divergent interests to partnership seeking. "A lot of people leave for geography reasons....They want to move back to Denver. Other people leave for family reasons, a spouse gets transferred to another city. We have women who leave because they want to have families, and make a decision not to come back" (A2P2: 20).[10] Other voluntary associate departures are attributed to lifestyle choices. Many feel that quitters "burn out" and leave because they cannot sustain the hours. The associates decide to go to smaller firms where the hours and lifestyle are easier. These partner-told stories of associate departures amount to moral tales told of the

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[9]. There is no way of independently confirming this figure and the discussion of the associate review practices further complicates the meaning of "voluntary," even if the 90 percent is correct. Recall the associate who was given a bad review, "which had the desired effect," of her leaving the firm. I assume the partners include such "cooling out" (Goffman 1962 (1952)) actions under the voluntary category.

[10]. It bears note that this statement assumes that only women confront this choice.

fallen.[11] Importantly, partners do not equate partnership with wealth. If wealth is an individual's goal, then partnership is not in his or her interest, partners believe.

> A lot of people say "If I'm going to work these hours I'm going to go to an investment banking firm and make *real* money." I'd say that is the overwhelming majority [of people who leave](emphasis in original)(A2P3: 20).[12]

The eight years of hard work, abdication of private life, with good, though not the highest wages, is seen as filtering out all associates who do not share the goal of partnership, and value its shared, equal, self-sacrifices.

One managing partner's joke to other firm leaders seems to confirm my argument that partners value a myopic focus on partnership as part of membership. After I told a group of partners of my surprise that several associates thanked me for giving them "new insight" into their lives, one partner joked, "We'll have to do a study to see how many of the associates Dan interviewed quit six months later"

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[11]. Implicit in these tails is the personal skills, attributes, and stamina explanation of "survival" (see note 15). It's only human that the self-congratulatory and functional explanation predominates partners' explanations of failure, as the existential anxiety of the "luck" component of success is no longer a concern to them.

[12]. This quote is interesting for several reasons. Foremost, for the majority of associates it is wrong. It implies a high voluntary attrition rate by associates in pursuit of higher salaries. Investment banks hired comparatively few associates away from law firms as investment bankers. Most associates moving to investment banks --especially since the decline in the market in 1989, -- went to the legal departments, where the hours and salaries are slightly below those of Wall Street firms. Legal departments of investment banks are popular destinations for female lawyers with Wall Street firm experience, because of their comparatively predictable hours.

Further, this quote is reminiscent of the era when Smigel researched the Wall Street firms. In the late 1950s, an associate could double his salary by going "in-house" to a client's legal department (Smigel 1969, p. 74). That made for a high voluntary attrition rate.

(MGMT).[13] These partners fear associates acquiring different interests than partnership-seeking and express a hope to limit associates' acquisition of these competing interests.[14] We might term this partners' Pygmalion-like conceit.

Partners feel that their shared formative experiences as associates assure them of their shared interests as partners. They share a "survivors" culture of self-sacrificing hard work. A "well regarded" associate's comment captured the partners' self-image. During a meeting with several of the managing partners, I mentioned what the associate termed "the scourge of competence" (A227: 27), to which one partner interrupted with the reply "That's us. You're looking at a room full of survivors."[15] To the partners, the long years of self-sacrifice only make sense if the associates are exclusively interested in partnership. If the associates have other interests, such as making the most money, family, suburban living, then their work at

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[13] The joke revealed the same underlying logic used by some of the partners at firms that refused to participate in my study. At two firms, my partner-contacts explained their firm's refusal in nearly identical terms. I was told the firm leaders "don't want someone asking questions that would cause associates to think about things that they shouldn't be thinking about."

[14]. The neo-utilitarians are right that partners believe that they derive value from the partnership-seeking activity of associates. However, the partners' orientation suggests that utilitarian theory may be wrong in assuming that the partners believe associates' preference schedules are both stable and exogenously determined. If one trader believes that s/he can restructure the other's trading preferences, then a central tenet of the market model is violated.

[15]. In American culture "survivor" has several connotations. It suggests personal endurance and steadfastness that are functions of a person's skill or character. In this sense, survival connotes personal achievement. But it also often suggests an element of luck, as when a human survives against the overwhelming elements of nature. Survivors of airplane crashes and floods are seen as lucky victims rather than skilled achievers. Both meanings are implicit in this lawyer's use of the term.

the firm does not make sense, under the logic of the partners' culture.

On the individual level, it is clear that legitimate associates are partnership-seeking associates, whether they are actual partnership material or not. Yet, not all associates make partner and some are not even competing for partnership.[16] Partners' comments regarding the unproven quality of associates further reveal the values they associate with partnership.

Negative Definition of Partnership: Associates as *Other*.

One way to capture a group's culture is to ask them to differentiate themselves from adjacent groups. Partners' statements about differences between their associate experiences and the current cohorts of young associates reveals the partners' underlying cultural values and beliefs. Partner's nostalgia-like remembrances of the hard old days of their associateships are likely to provide distorted information. Individually, these *when-I-was-your-age-I-walked-five-miles-to-school* distortions of historical reality may be idiosyncratic. However, shared partner claims to associate generational differences are likely products of the partners' shared culture. They are organizational myths (Trice and Beyer 1984). That young partners in their thirties and older partners in their fifties report the same associate experiences and the same opinions of the current cohorts of associates may be the product of an extraordinary institutional stability in this firm, despite the enormous changes in the surrounding legal community. Alternatively, and more likely, it may be a sign of a strong, shared

[16]. I will detail this latter point in the next chapter.

majoritarian culture. This is testable when young partners speak about their associate experience during a period for which independent data are available.

The partners generally believe that associates do not work as hard today as they did when they were associates. When I asked one managing partner (age 53) about the historical trend of associate hours he frowned as he gestured sharply downward with his hand. Other partners made similar claims about the diminution in associate effort since their associateships. One young partner (age 36) told me, "You can walk around here at night, there are a lot more dark offices than there were back then [when I was an associate]" (A2P4: 26).[17] The associates these days have it easy, according to the partners.

In fact, the average associate hours have generally increased since 1976, the earliest year for which data are available.[18] Over the last seventeen years, average associate hours ranged from a low of 2044 in 1979 to a high of 2369 in 1992, a variation of sixteen percent. The seventeen year average is 2201 hours — one hundred hours less than the average logged by all associates in the last five years (see Table 9.2).

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[17]. Note that this is a claim about average cohort behavioral changes not individual differences. I will test this "average" claim below.

[18]. Comparing effort across cohorts is difficult, as teachers know. The average hours worked is a convenient way of tracking changes in the normative attitude toward "acceptable" effort. While obviously a complete billing analysis requires information on the minimum, maximum, and median hours billed as well, regrettably this information is not available.

Table 9.2: Average Associate Hours, 1976 - 1992.

Year	Chargeable	Non-Chargeable	Total Hours	Yearly Percent Change
1976	2003	127	2130	-
1977	1927	156	2083	-2.2%
1978	1897	172	2069	-0.7%
1979	1841	203	2044	-1.2%
1980	1898	216	2114	3.4%
1981	1934	220	2154	1.9%
1982	1962	158	2120	-1.6%
1983	1893	242	2135	0.7%
1984	1845	259	2104	-1.5%
1985	1945	261	2206	4.8%
1986	2080	243	2323	5.3%
1987	2123	173	2296	-1.2%
1988	2032	281	2313	0.7%
1989	1983	329	2312	0.0%
1990	1984	335	2319	0.3%
1991	1991	332	2323	0.2%
1992	2024	345	2369	2.0%
Average	*1962*	*238*	*2201*	-

Notes: Chargeable hours are hours billable to clients. Nonchargeable hours are "office charges," such as training and administrative work.

All of the partners I interviewed, became partner between 1970 and 1990. It seems unlikely that the hours associates worked fell significantly in the ten years prior to 1976. In terms of hours worked, the "hard old days" of partners' memories are somewhat less arduous than the current associates' days. For example, the associates averaged 2130 total hours in 1976 — that is 44.38 hours per week, based on a 48 week work year. In 1992, the latest year for which data are available, the associates averaged 2369 total hours — that is 49.35 hours per week. The five hour increase in associate hours is the difference between the fictional "average" 1976 associate leaving at 7PM every evening and the "average" 1992 associate leaving at 8PM,

assuming both came in at 9AM and took one hour for lunch.[19]

Smigel reported that the average associate at the Wall Street firms billed 1800 hours per year in 1960 (using the same "average" assumptions as above, this yields a quitting time of 5:30PM each night). In his 1969 Epilogue, he detailed changes in the recruitment and work practices that suggest an *increase in the collective bargaining power of associates* vis a vis *the partners* (see the Introduction). Increased associate bargaining power suggests stable or even declining associate hours in the late 1960s and early 1970s. For partner reminiscences to hold true, there would have to have been an enormous spike in associate billings beginning after 1968 and subsiding by 1976. This seems unlikely. Moreover, even a spike would not explain the youngest partners' claims that associates worked harder when they were associates in the early 1980s — something the data demonstrate is incorrect.

Of course, two possibilities could explain this disjuncture between the averages and the partners' recollections. First, the averages may conceal a skewed distribution. Perhaps a few "slackers" logged only a 1000 hours back in those days when "it is not professional to fire a lawyer" (Smigel 1969, p. 77). (Now the firms fire the slackers it appears, *i.e*, the 10 percent non-voluntary departure rate). This would deceptively lower the historical averages. Second, the partners may well have resided at the very top of their cohorts' hours distributions. Though the partners refer to the associates as a class ("*the associates* worked a lot harder back then"), they may

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[19]. Of course real associates come in late and leave early some days (see the next chapter). But the point still holds that these annual billing figures only increase associates' already long days, on average.

in fact be remembering their personal experience of rate busting. This possibility suggests that partners may retroactively view their fellow associates who did not make partner as illegitimate non-members of their cohort. Looking back, partners may see those associates who drove down the billing averages as interlopers who were not part of the associate "we."

Partners' nostalgia-like distortion of their own partnership seeking efforts, combined with the suppression of the discourse of billable hours, may foreclose most associates' abilities to perform at (partner-defined) satisfactory levels. Nevertheless, the point is clear that partners believe in the centrality of long hard hours of self-sacrificing work as a defining characteristic of themselves. When I reported to one partner on associates' disappointment that they could not take more advantage of the New York City cultural events, such as museum openings, music, and the theater, he quipped, "Yeah, I'm hoping to do some of that stuff too when I retire."

As discussed above, partners' practices require that these long hours of work be performed in the office, in the co-presence of the other organizational members. Partners continue to substantially define commitment by whether the associate is in the office before they get in and if the associate is there when they leave at night — copresent office work. But these values persist despite partners' increasing use of technology that allows them to work outside the office.

Low cost PCs and laptops with modems, portable FAX machines, and video teleconferencing enable partners to work from home on nights and weekends. While these technologies represent a further erosion of attorney's private life terrain by

work, the partners describe these technologies as liberating. Partners with weekend homes in the East or South Hampton, Long Island or Bucks County, Pennsylvania can get to their retreats more consistently, even if they have to work while there. In one focus group a junior partner commented on "how wonderful it is that [she] can hook into the LAN [computer network] and do my work from home" (MGMT). A managing partner who lives in a far suburb told the group "how much easier my life has become once we got [video teleconferencing]. I can just tell the clients that Mary [,a senior associate,] will be in the office to coordinate the conference call and I can stay home" (MGMT). But these technologies frustrate the positive, camaraderie-building aspects of copresent work situations. They increase the social distance between the partners and the associates, because it allows the partners to work from home at just the hours (late nights and weekends) when *partners* report the bonds of "going through the fire together" are formed. The partner's quote about associates requiring commitment "when all [their] friends and clients are at the beach" (see page 341), increasingly must include "and partners."[20] The persistence of judging associates by their copresence in the office, even when the partners work at home, indicates the strength of this cultural element.[21]

The recent technological changes in office production have increased firms'

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[20]. The point is not meant to imply that the partners are not working. Indeed, they appear to work quite long hours. Rather, the personally liberating freedom these technologies offer has organizational costs. The normative control and motivation that physical proximity facilitates in human interaction might be lost, as technology frees partners from their desks after business hours.

[21]. Indeed, the technology could allow associates to work at home, as well.

overhead costs, especially for the staff who operate the technologies (see the discussion in the Introduction). Partners report that the increase in support staff has changed the attitudes of young lawyers. Size has led to hierarchy — a type of inequality — the partners claim.

These new layers of semi-professional and semi-skilled office workers — paralegals, word processors, PC specialists, FAX operators, and copy clerks — provide essential interstitial work operating the technologies.[22] Many lawyers are dependent on the staff to perform these interstitial functions of office production.[23] But these workers are also another layer of personnel contributing to the anonymity of the work. Many partners experience these anonymous ranks of staff as encouraging a decline in the work ethic of associates, who resist performing "menial" tasks.

"Menial tasks," such as proofreading, typing, cite checking, Shepardizing, and "running up and down to word processing six times in an hour" are typically performed by the non-professional staff. But committed associates must be willing to do these *non-professional* tasks too. They must have the attitude of being willing to do,

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[22]. America is far from the "paperless office" promised with the arrival of the personal computer in 1981. PC software, laser printers, copy machines, FAX machines, and even telephones have problems and break. Further, they are not instantaneous. These time saving technologies often take a good deal of time to operate. A significant function of office support staff is to do the waiting these technologies require on behalf of the lawyers.

[23]. Any Ph.D. who has attempted to program a VCR for the first time has felt the humbling experience so-called "user-friendly" technology can induce in intelligent people.

> whatever it takes to get this [document] out now. If you can get help, fine. If you can't, you have to do it yourself. That's perfectly normal. All the partners do that too, if they are stranded at night (A2P4: 20).

Of course, it is the copresence of the associates that prevents the partners from being "stranded at night" and having to do the work themselves. This willingness to perform any menial task required to expedite the partner's work forces the associates to suppress their own status interests in the office. Offices have sacred and profane realms. Lawyers, with private offices, are sacred. Staff, who work in semi-public spaces, such as copy machine stations, are profane. Yet, associates must be willing to abandon their sacred status markers and run the copy machine, check the copies, type the labels, and lick the envelopes. This requires the temporary abandonment of a marker of the professional self in order to validate themselves as organizational members, in the partners' eyes.

The willingness to do whatever is required, including the performance of profaning tasks, is an important element of partners' definition of the self-sacrifice of partnership. This is the subsumption of *individual* professional interests (in validating oneself as a professional) to the *collective* professional interests of the partnership (in getting the work done by any means necessary). The following long quote from a partner who started his career well into the age of word processing and photocopying captures partners' attitude toward current associates' defense of their *individual* professional interests over the firm's interests.

> One thing that bothers me is we have gotten bigger. When I was an associate there were thirty people in a class. Now there's [more than double that]. And—I think, we used to kill ourselves when there were thirty. I'm not sure you've got to kill yourself as much when there's

> [such a big class], especially now the M & A boom has stopped. There just are more people available, [so we tend to staff the matters more heavily now].
>
> And that kind of thing I don't like, It develops the "I don't do cite checking" mentality. People at too early an age have people working underneath them. They start delegating and that's bad. Because what you should do in your early years is, learn to work hard from the bottom line. Learn everything that has to be done in putting a brief together, from the analysis to the stapling. And do it. And that's the way you learn how this firm works. That's the way you learn what things can go wrong.
>
> And in the sense that we've got more people and there's more people to delegate to, I think something's lost, and I think that's to the associate's disadvantage. It retards the training process. It doesn't develop in people the certain — I don't know how to put it — taking a job personally. As much as I think you should.
>
> I never would have dreamed of going into [his department head's] office when I was a first- or second-year and saying, "I did the whole brief, it's beautiful, but I don't do cite checking, get yourself a paralegal." I couldn't imagine doing that. Because who cared [about my opinion]? Why should he care? (laughs) (A2P3: 28).

"Taking the job personally," as this young partner phrased it, is the alignment of the associate's singular interest with the partnership, even at the expense of the associate's self-image.[24]

Another young partner echoed the belief in co-present office work as a defining experience for organizational members and the disappointment in the current associates' lack of commitment to this value, which results in "a lot more dark offices [around here at night] than there were back then" (A2P4: 26). Further, suggesting the role of culture in motivating organizational members, he went on to claim that the current associates' complacency can be infectious.

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[24]. Associateships might fruitfully be viewed as a seven year passage of on-call liminality. Associates are not always profaned, but they must be prepared to be at all times.

> The class is bigger, and I think that the quality of skills and commitment is different now than it was a few years ago. Because it is a bigger class. There is a larger number of people here who are not willing to put out what it takes to go the long distance. With a bigger class, you get more people like that, and that has an effect on the mentality of the class [as a whole] (A2P4: 26).

Further, some partners are dismayed at the generational change in the orientations of law students to the issue of the balance of work life and private life.

> I think...people's attitude coming out of law school is much more [concerned] with balancing career and quality of life, so-called. That is a much stronger element than it was five or six years ago. Now it is discussed in law reviews. People would never have thought of asking, "Can I have a family? What time do you go home? How do you balance the two?" That was *verboten* ten years ago (A2P4: 26).[25]

Implicit in my interview with this young partner was his belief that discussions of private life concerns still should be *verboten* among incipient firm members.

Beyond the boundaries of organizational membership are the employees.

The Employee Role.

The antithesis of the partners' self-definition is the employee role. "Employee" is the derisive term used by partners to characterize associates who manifest a wage labor orientation to work — "there are a few whose hearts aren't in

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[25]. The generation of the "generation gap" seems unable to recognize a new generational divide in American office life over the balance of work life and private life. This issue arose from the nexus of three social forces: the arrival of women into managerial and professional careers; which itself is partially a product of the general decline in American's families' standard of living, which compelled women who in prior generations would have been housewives into the paid labor force; and the general increase in the average yearly hours worked by Americans squeezing out private time (See generally, Schor (1992)).

it, they really seem like they are just here to collect the check" (A2P4). Employees lack the "ambition and drive" the partners expect. Employees are just in it for the money, unlike legitimate members.

More accurately, these associates' interests diverge from the partners' interests, which results in their lack of "commitment." A young partner described an employee's interests as, "I'll go for a couple of years. [The firm name] will be on my resume. I'll make a lot of money and I'll leave" (A2P3: 6-7).[26] Another partner expressed partners' concern about non-partnership seeking associates, "The concern you would have is if they are prepared to go the extra mile in every case, to do things perfectly. Or would they have a more flippant or slipshod attitude to what they are doing" (A2P2: 22).[27] In a work environment where typos matter, partners only trust fully committed partnership-seeking associates to care about typos. As we have seen, partners use the informal assignment system to attempt to avoid associates whom they believe lack commitment.

In summary, partners' views of current associates provides a mirror image of

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[26]. Note that this is the same partner who earlier maintained that many associates who leave the firm do so because they can make more money, what he called "real money," elsewhere. Yet, here he terms the pay "a lot of money." Everyone contradicts him/herself from time to time, but rational actor theory would predict more stability in an actor's valuation of an important asset — especially something so central as salary. That salary is loosely used to justify other interests raises doubts about the rational actor model's claims to maximizing rationality.

[27]. The conditional tense is important. This partner did not believe such associates survive the first-year review.

partners' views of themselves. Partners work long hours together in the office. They believe that they are equal in their status and willingness to sacrifice for the partnership, including the performance of menial tasks and sacrifice of their private life interests. Partners have ambition, drive, and commitment to the partnership, which encourages them to perform their work flawlessly. The partners willingness to differentiate themselves from the current cohort of associates indicates possible positional limits to the value of equality of membership. The partners disagree about the scope of the equality of membership.

Cultural Conflict within the Partnership.

Partner conflicts and their resolution is another measure of the values underlying this partner culture. As I define majoritarian culture, I expect some conflicts over the dominant values and beliefs of the group. These value skirmishes occur at the periphery of an otherwise consistent cultural pattern of the firm. Disagreements over the appropriate scope of the value of equality led to groups of partners utilizing and violating other partner values in defense of their position. The following discussion suggests the dynamic quality of the partners' culture, but also the constraints which the culture imposes on actors who seek to defend or change the culture.

While informality, and the personal autonomy that it allows, are dominant values, contending values are articulated at times. Multiple discourses emerged from

the partners I met with. Below I review the contending "vocabularies of motive,"[28] describe the partners who voiced them, and then detail the implications of these conflicts. As we shall see, the administrative logics of the most senior, and presumably the most powerful, partners who hold top administrative positions often lose out to the anti-administrative logic of informality expressed by less senior partners and the legacy of the partnership. Yet, these administrative logics are mobilized to preserve other elements of the partners' culture. Partners' defense of the value of informality facilitates the generational conflict between partners over the meaning of membership.

Two partners with administrative responsibility — one the head of a department and the other in charge of associate issues — articulate an administratively rational logic of action. For example, when I reported that the associates in his department felt that they could not plan vacations because of the likelihood of having to cancel them due to a conflict with their workload, the head of the department suggested that this could be solved by making all associates who wished to cancel their vacations due to work conflicts get approval from him. On the subject of late associate reviews, the partner in charge of associate issues suggested to a group of firm leaders that they "send around a tickler memo" reminding them when an associate is due to be reviewed. "Let's make a policy," and "Let's write a memo" were their reactions to associates' grievances. From their positions of power, they

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[28]. I use "discourses," the now popular term, interchangeably with the pragmatists' terms of favor, "vocabularies of motive" (Gerth and Mills 1953, Mills 1940) and "rhetorics of motive" (Burke 1969 [1950]).

decide on reasonable, fair policies that the partnership should adhere to in dealing with associates.

These administratively-inclined actions were in response to fairness claims being made by the associates. These associates claims came from several sources. First, the associates themselves, through statements to partners and through an informal protest (see Chapter Eleven) make some grievances known. Second, my presentations to the partner focus groups summarized the associates' attitudes. Third, at least some young partners continued to express associate attitudes.

In one group meeting, as I articulated associates' grievances, a brand new partner repeatedly turned to the administratively inclined head of his department and exclaimed, "That's what I've been trying to tell you!" When he spoke he would physically turn away from two forty year-old partners at the conference table and physically addressed only the older administrative head. He used a logic of fairness that subordinates use to appeal to superiors. As such, this rhetoric used the partners' value of the equality of membership to make membership claims on the partners. This rhetoric is likely a relic of his associate position. The two administrative partners were willing to entertain associate membership claims and to attempt solutions.

In contrast, a second group of partners in their 40s (including the two partners the junior partner turned away from, in the above paragraph), had little sympathy for these associate membership claims. This group — the head of a smaller department and assistant heads of departments — articulated a utilitarian rhetoric of motive to

defend the *status quo* against administratively rational structuring of their behavior. For example, I reported to the partners that the associates feel that they cannot avail themselves of New York cultural life, because of their long hours. The older head of the department (discussed above) suggested that the firm encourage the associates to take opera, symphony, and theater subscriptions. Two forty-year old, utilitarian partners objected that the associates are really not that busy, "their hours just don't bear that out." One went on to claim that it is a matter of "choice."

> They are home by eight o'clock. They *could* go out. But they are tired, they have been stimulated all day, they don't want to go to the theater and be stimulated some more. They would rather sit in front of the TV and watch the Knicks [basketball] game and not be stimulated. It's their *choice* (emphasis provided).

The other suggested that "maybe if they have fifty bucks hanging in the balance they'll get their work done quicker."[29] Choice and incentives are two classic utilitarian principles that are contrary to the administrative logic of the most senior partners.[30]

Utilitarian choice is an undercurrent to the partners' emphasis on personal autonomy and informality. For instance, the administratively-inclined head of the department, discussed above, expressed a similar belief in recounting his associate

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[29]. Extrapolating the logic underlying this comment suggests this partner would not be happy if the associates did, in fact, finish their work "quicker" and then left for the theater. Most likely, he would insist that they perform additional work.

[30]. The first absolves the partners of responsibility for associates' conditions — it is their choice. The second suggests that incentives — especially economic incentives — to personal conduct are a better director of human behavior than rules or norms.

days. In expressing his perplexity with the associates' claims that they do not get out to cultural events in the city, he commented on his own associateship's time demands.

> When I came here I was married and had a child. I realized that there were four things that I wanted to do: my work; my family; a private social life with my wife; and social, charitable, and political activities. I gladly sacrificed the last one for the other three (LITMT: 10).

At base, his explanation is founded on a choice analysis, as well.[31]

Informality allows partners to evade administratively dictated policies designed to address associates' membership claims. The exchange between the head of the service department and the administrative partner in charge of associate issues over the former's "bifurcation" of associate reviews (see Chapter Eight) demonstrates the limits of administrative power. The administratively inclined partner wanted the reviews conducted in accordance with the firm's policies. The head of the department felt he was too busy to give detailed reviews at the end of the year, so he only told the associates the "important stuff: 'You're not fired; here's your salary'" (MGMT:7). He only gets to the detailed review of the associates' work a month or more later. When the administratively-inclined partner urged him not to bifurcate the process, this partner replied, "*My* system works just fine" (my emphasis), and the

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[31]. His use of the word "gladly" implied a willing compliance that's absence from current associates' attitudes baffles him. He seemed genuinely willing to entertain the associates' worldviews, if he could comprehend them. In contrast, the utilitarians' choice argument contained the implicit statement to the associates, "take it or leave (it)" — a type of coercive compliance enforced by the marketplace. This defensive and fixed attitude might be a product of this new generation of firm elite's lack of experience with the problem of motivating distant organizational members. Or, it might be a product of the managerial rhetoric of motive made popular in the age of Ronald Reagan and Michael Milken.

conversation ended. None of the other managing committee members in the room objected to this department head's idiosyncratic style. Here, at least, the partners' value of informality/personal autonomy dominated over some partners' administrative attempts to grant certain associates membership claims.

One more example of the dominance of informality bears mentioning. The partner discussions of the "is" and the "should be" of associate vacation planning, reviews, and other topics occurred without reference to the firm's attorney manual. The manual clearly addresses each of these topics,[32] yet only one partner demonstrated any knowledge of the policies articulated in the manual during the course of more than eleven hours of discussions. This was one of the administratively inclined partners. In fact, at one point another administratively inclined partner suggested setting a policy that already existed in the attorney manual, but he was talked out of "setting" such a policy as impractical by the other partners in the meeting.

The dominance of informality appears to be the historical legacy of the firm. As one administratively-inclined partner told me about his associate reviews in the 1960s, "They were conducted once a year, by the head of the firm. At Christmas time, he would walk in your office and give you your bonus check and tell you how your were doing. It only took five minutes." While this partner thought he was contrasting the casualness of those 1960s reviews with the formality of the current

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[32]. For example, see Chapter Eight for the Attorney Manual's discussion of vacation policy.

associate reviews, he actually was confirming the historical continuity of the associates' experience of nebulous, uninformative annual reviews.[33] He apparently confused the more elaborate procedures on the partners' side of the review with more perceived formality on the associates' side of the review.[34] The norm of informality appears to be a vibrant legacy handed down from prior generations of partners. But informality (and self-interest) were constrained by other partnership values, such as equality and common goals. This may be changing.

This example demonstrates the possibility of value conflicts within the partner culture. This conflict can be thought of like a vector analysis. Associates make membership claims on the partners, using the rhetoric of fairness, with the implicit claim to equality of membership. The oldest partners, with administrative authority, feel obliged to respond to the associate membership claims, in part because they share the assumption of associates (incipient) membership equality. Yet, these partners attempt to use formal means (rules and procedures) to enforce associates' partial membership equality, contrary to the firm's cultural value of informality. A slightly younger set of partners, the next generation of firm leaders, rejects the associates' membership claims to equality. These partners defend an essentially hierarchical

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[33]. Associates' perceptions of reviews will be detailed in the next chapter.

[34]. There are two discernable differences in the review *descriptions* (the realities, of course, may be different). Then, the head of the firm performed the reviews; now the head of each department performs the reviews. And, then, the partner came to the associate's office; now the associates go to the partners' offices. This partner may well dislike the assembly-line quality of giving reviews to associates in his office, one after another.

definition of partner-members and associate-workers organizational bifurcation, where these groups pursue their self-interest against the other, contrary to the firm's culture.[35] This group of younger partners uses the value of informality to attack the value of equality. Yet, these same partners defend the expectation of equality of sacrifice, when applied to associates in pursuit of the shared goal of partnership. Finally, the administratively-inclined partners belief in informality prevents them from imposing administratively rational rules of membership fairness on their more junior partners.

The historical definition of equality of membership is under attack by self-interest and the weapon of choice is another partner value — informality. Employee equality can be divided into negative and positive components. The negative component is that of the partners demanding equal sacrifices from associates to prove their membership qualifications. The positive component is that of partners granting associates (partial) equal membership rights. While associates have always been subordinate, employees-at-will, it appears that the firm successfully balanced these two components of equality. The next generation of firm leaders appear determined to enforce the negative component of associate equality (membership demands of

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[35]. The partner's use of the value of self-interest was left incompletely specified in the definitions that opened the chapter. The possibility existed for self-interested action to be functional to the partnership, because self-interest was constrained by a higher order value of partners' shared goals in maintaining the partnership. The same partners who articulated the self-interest value who were quoted in the beginning of the chapter were among the forty year-old utilitarians discussed at the end of this chapter. Their definition of self-interest appears to be group-based, rather than individual-based. Partnership remains a binding value; organizational membership has lost this quality.

sacrifice) while increasingly denying associates the positive component (membership rights). Ironically, this may well result in the production of employee-like associates, with wage laboring orientations toward their work — the antithesis of partners' values.

The partners' inability to differentiate partnership membership from organizational membership leaves them unable to recognize "employees" among their associates. Partners elision of two types of membership may have left them blind to the important binding quality of their cultural values of equality and shared goals. The next generation of leading partners' refusal to respond to associates' membership claims may soon cause the associates to diminish their response to partners' membership demands.[36]

But this cultural conflict is occurring in a highly stable overarching partner culture. The utilitarian partners are not contesting the values of informality, social skills, shared goals, self-sacrifice, or equality. In fact, they are staunchly defending extant partner definitions of most of these values. They are attempting to change the marginal scope of the definition of equality, and even then only the rights/claims half of the dual definition. Moreover, older administrative partners — powerful partners — appear to be at least partially contesting the utilitarians' attempts to role back membership claims from the organization's border to the partnership's border. Importantly for this discussion, this partner conflict over the applicable scope of the value of equality is bounded by the other cultural elements of the partnership. This

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[36]. Assuming the associates have the market power to exercise such autonomy.

strongly supports my finding of an only partially unitary, consistent, mutually reinforcing majoritarian culture, unlike the ideal type.

Conclusion.

In this chapter I inferred six values from partners' practices. Values can become partially independent from the practices and form a unified culture that has an autonomous effect on partner practices. The coherent, complementary, and mutually reinforcing values underlying the partner practices constitute a partner culture. Partners' statements indicate that these cultural elements are widely shared and are the historical legacy of the partnership.

The six cultural elements strongly coincide with the ideal typical firm model's culture. Informality/personal autonomy, social skills, common goals, self-sacrifice, and equality are all consonant with the collegial-driven culture firm ideal typical model. However, partners' value of self-interest is contrary to the ideal typical model. The partners' use of self-interest may not be as atomizing as individualistic neo-utilitarianism would suggest, but it violates the underlying logic of a collegial culture.

Indications of cultural conflicts among the partners suggests a declining majoritarian culture. While the values nominally remain intact, their organizational scope is receding. The conflict examined here suggests cultural change over time, which may coincide with generational succession in the partnership. But this change is slow and inertial, when compared to the heavy weight of the partners' cultural

tradition.

This discussion indicates that this firm makes an important distinction between associates and partners. All the partners, regardless of age or value orientation, to some degree found the current cohort of associates lacking. The partners continue to demand co-present work while they increasingly utilize technology to work from home. And, the partners dislike the associates' invocation of hierarchy when they refuse to perform menial tasks, but several partners invoke just such a hierarchy in their efforts to staunch associates' membership claims. The collegial-driven culture ideal typical firm model recognizes the division of the lawyers between partners (full members) and associates (incipient members), yet that firm operates under the assumption of associates' future full membership. This actual firm is clearly moving farther away from any vestige of such a view of associates. While not enough data are available to make a definitive statement, it appears that this actual firm may never have approximated the ideal type firm's orientation to associate membership.

To this point, I have examined partners' practices and imputed cultural elements those practices imply. These provide an organizational structure and culture into which new associates enter out of law school. The nature of the associates' responses to partners' practices and culture will reveal the effects, if any, of the actual collegial-driven culture firm's partner culture on the professional selves of the associates.

ORGANIZATIONAL CULTURE AND PROFESSIONAL SELVES:

The Impact of Large Law Firm Practice Upon Young Lawyers

by

Daniel C. Poor

VOLUME TWO

A dissertation submitted to the Graduate Faculty in Sociology in partial fulfillment of the requirements for the degree of Doctor of Philosophy, The City University of New York.

1994

CHAPTER TEN

Associates' Practices

Chapters Eight and Nine examined the collegial-driven culture firm partner practices directed toward the associates and the cultural elements underlying those practices. I now turn to an examination of the effects of those partner practices and cultural elements on the practices and selves of the associates. This chapter details the behavioral responses of the associates to the practices and culture of the partnership. It documents the work relations between partners and associates that result in associates' long work hours. But, this chapter leaves open the question of why the associates voluntarily commit themselves to these arduous labors. The next chapter performs two tasks. First, it attempts to address the problem of associate commitment implied by this chapter. Second, it surveys associates' attitudinal statements for internally-consistent vocabularies of motive in accord with the partners' culture. At the end of this survey of the collegial-driven firm associate practices and self attributes, I will be able to explain the nature of associates' evident commitment and assess the impact of the role of partners' culture on associates' selves in this commitment, if any.

Partners make money from the labors of associates. In the service sector, the labor theory of value remains true. The more associates work, the more partners make. Like Marx's industrial workers, associates' efforts vary both intensively and extensively. Both the length of the day and the intensity of the day must be

examined. However, in the reality of office work, the analytic distinction between extensive and intensive work loads breaks down often. Associates' work is highly interdependent on other lawyers, staff, clients, and imperfect technology. These interdependencies limit associates' abilities to intensify their efforts (classically termed a "speed up"). Nevertheless the pressure to do more work continues, which forces associates to "voluntarily" extend their work day (which could be termed "mandatory overtime without pay"). The partners' euphemisms of "doing your share" and "getting the job done" result in both long and hard hours for associates. I will review the extensiveness of the associates' work days by reviewing associate statements on their typical hours and days. Then I will examine the source of the pressure on them to take on more work, in a discussion of the assignment systems at the firm.

Associates Hours and Work Days.

Two measures of associates' effort can be used to assess their work effort — their annual hours and their typical work days. As discussed in Chapter Eight, the partners actively suppress the discourse of hours. Under these circumstances, partners reported using visibility as a surrogate measure of associate effort. Long hours of co-present work in the office has become the measure of associates' work effort, for the partners. I will examine the associates' orientation to the partners' suppression of the discourse of hours and then examine associates' perceptions of their typical work days as another measure of their effort.

Associates' Billable Hours.

Partners refuse to specify billing targets when speaking with associates. But the junior associates arrive at the firm having read the trade journals that focus on billable hours during law school and having classmates who are working at firms that emphasize billable figures (see the Introduction). Determining the sufficiency of their effort is a practical problem for associates who wish to remain in good standing in the firm that is frustrated by the partners' refusal to use billable hours as a measure of associate effort. Associates' reactions to the partners' suppression of the discourse of hours is a measure of the respective influences of the partners' culture and the surrounding environment which encourages quantitative measures of effort.

There are two associate orientations to the billable hours issue. The majoritarian view follows the partners' line — billable hours are not what is important. A small, but notable, minority emphasize their hours billed in assessing their efforts. When asked, Is billing a certain number of hours important? most associates (n=19, 76% of 25 responses) responded, No. Four (24%) responded, Yes. Both groups share roughly the same estimate of the appropriate level of effort.

For those associates who reported no concern with billing, a common story developed. Partners, these associates believe, are not interested in hours. Rather, it is just assumed that the associates will stay "busy." Several associates reported partners' refusals to discuss billable hours in reviews. "I tried to bring it up in my

last review — how many hours I billed — but they[1] just refused to talk about it. They just said 'That's not what reviews are for. We don't look at your hours'" (A209:28). Many of this group of associates appear to take these statements at face value, as indicated in the following colloquy.

> A222: No one has ever told me you've worked *x* amount of hours per week, per year. It's just not discussed here. No one knows how many [hours] they worked — 2,000 or 3,000 or however many hours. It's just not discussed here at all.
>
> DP: And yet you fill in daily time sheets. Don't you think someone is totaling up the hours someplace?
>
> A222: I really don't think so.

Repeatedly, associates stated that it is partners' *assumption* that an associate will work hard. Two of the many associate statements will suffice to make the point.

- I guess there's the assumption that if you're here, you're going to be busy, and they don't have to worry about it. There's no number that anyone has ever given me (A203: 39).
- I've never heard a single person say anything about hours. I think it's just taken for granted that you're gonna work hard (A208: 24).

The associates contribute to the suppression of the discourse of hours. Some of these associates expressed open hostility to billing reports. "I really wouldn't like [to get a monthly billing report] at all. I have friends at other firms who get those, and it sounds just horrible" (A206: 15). Five years ago, the corporate department distributed to each associate his or her monthly and year-to-date billing figures, because, as one of the senior partner told me, "We thought they would like to know"

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[1]. "They" is in fact "he." Reviews are conducted by one partner. I discuss the reviews and the significance of the associates' use of the partnership "they" more fully below.

(A2P1). But there was a strong negative reaction by the associates, so the partners ended the distribution of hours after one month. The partner reflected, "They thought it was an effort on our part to get them to work harder" (A2P1: 32). Only one third-year associate reported knowing of this event. He said that the partners retreated under pressure by blaming a "secretarial error" for the distribution of the billing figures — a response that he claimed was widely disbelieved by the associates at the time.[2]

The associates' participation in the suppression of the discourse of hours is further evidenced by several other associate statements. Three associates expressed doubts that partners had access to associates' hours data. They believe that only the accounting department made use of their daily time logs. Another associate told me in a conspiratorial whisper that some partners "have a book that lists everyone's assignments and hours" (A227: 32). When asked how he knew this information, he told me of a friend who was asked by a partner to retrieve a document from the partner's office. While in the office, the associate "looked around and found this book... which he started looking through.... and he read me [over the phone] the hours of the people in our department" (A227: 32). This associate went on to claim

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[2]. I did not discuss the face-saving strategies of this partner error with the partners, so I cannot verify the accuracy of this associate's claims.

It should be noted that only one of ten third-year associates interviewed reported knowing of this event. At least for some partner blunders, associates' collective memory lasts less than five years. When I discussed this with a group of partners, they concurred, with one stating "It takes a generation [an eight-year associate track] to work out of the system" (MGMT). Actually, I believe this demonstrates a far shorter "half life" of associate collective memory.

that he and his friend were the only two associates who knew about the existence of this book. In fact, each department's managing partner, deputy managing partner, and assigning partner have this assignment book, which is updated daily. Most associates, it seems, do not want clear quantitative measures of their performance and they actively resist them through protests and self-mystification.

A smaller group (n=6) did report a concern with billable hours. Most of this group (n=4) maintained that it was their personal "obsession" and that the partners did not concern themselves with billable hours. Only two associates felt that the partners were concerned with billable hours. This group appears to speak a great deal about hours — "I think it's something that every associate is very preoccupied with" (A224: 26).

Yet, even this hours-conscious group has difficulty estimating the appropriate number of hours to bill. Only three of the twenty-nine interviewees reported knowing what they billed in the prior year[3]. Most associates claimed to have no idea what they billed last year. The absence of precise threshold figures or means leaves associates guessing about the adequate level of effort, and relying on the "grapevine" (A209: 28). "If you billed 1500 hours a year there would be a big problem" (A214: 30). While several lawyers at the firm agreed that 1500 was not adequate,[4] the

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[3]. For the nine first-year associates, the time period was since their employment, typically nine months.

[4]. This figure was used by several other associates as an example of an "unsustainable" (A227: 29) work load. The same figure was used by the partner in charge of associate issues as an example of inadequate performance (see Chapter Eight).

estimates of associates' effort were more diverse. One associate reported a senior associate's speculation that the firm average was between 2,000 and 2,200 hours (A221: 24). Another reported his belief that the average associate annual billing is "something like 2,600 or 2,700" hours per year (A216: 32). Of the twenty-one associates who reported on their "typical daily hours billed," the average daily figure was 10.02 hours,[5] or roughly 2600 hours per year.[6] This figure is substantially higher than the actual average of 2369 hours for all associates in 1992.[7] The associates seem to overestimate their own efforts (on an annualized basis) and lack a means of comparing their effort with their peers. Thus, they both receive and perpetuate the ambiguity over the acceptable number of hours.

Associates' inability to measure the efforts by a precise quantitative measure, such as billable hours, leaves them seeking other means for assessing their position in the eyes of the partners and relative to their peers. The billable hours discourse is

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[5]. The low was 7.00 hours and the high was 12.25 hours billed per day. The median figure was 10.50. These same associates reported working an average of 11.59 hours per day in the office. Thus, sixteen percent of their time in the office was unaccounted for, from the point of view of the firm.

Several associates expressed dismay with their loss of billable hours because their tardiness in filling out time sheets caused them to "lose" hours, by forgetting what they did and for whom. Other associates accounted for their time another way: "I just sort of figure out when I came, when I left, subtract an hour for lunch, subtract an hour or two for gossip, and allocate the difference" (A227: 29).

[6]. That is, 10.02 hours times 5.5 days/week times 48 weeks equals 2645 hours per year.

[7]. Other data indicate that it is unlikely that associates' hours systematically vary by tenure. Indeed, senior associates who are soon to be up for partnership are generally reputed to work the longest hours. Thus, it is unlikely that this difference is a tenure effect. Instead, it appears that the associates over-estimate their average annual billings and effort by roughly 300 hours.

transmuted into the discourse of "hard work." "There is definitely a feeling around here that if you're around here late at night that is good. People like to meet each other late at night and acknowledge they work hard" (A202: 18). Hard work, long hours, is valued by the associates in part because, when viewed as a measure of the partners' "demand" for their services, it provides one of the few mechanisms for associates to assess their reputations. "If I didn't feel like I was putting in a good days work I'd feel a little uneasy, but that's not because I wasn't billing enough hours, but because that might mean that people didn't want to work with me" (A203: 39). Staying busy is also a strategy for avoiding bad work, as we shall see in the discussion of the assignment system below.[8] While billable hours do not provide associates with useful information to reduce the ambiguity of how they are perceived and the performance requirements of the partners, their overall number of hours present in the firm might.

Associates' Work Days.

One of the components of the partners' definition of membership is co-present work. Associates' typical arrival and departure times are a direct measure of their co-present work in the office. While no specific office hours are prescribed for the associates, they are aware of the partners' expectations of their long hours in the office.

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[8]. "My personal goal is just to have good work so that I don't get stuck with bad work" (A222: 22).

Formally, the associates are not subject to mandatory arrival and departure times. The attorney's office manual states:

> The office officially opens at 9:30AM and closes at 5:30PM. Most members of the clerical staff begin work at 9:30 and leave at 5:30. *No specific office hours are prescribed for lawyers.* Secretaries will advise the receptionists on duty as to the arrival and departure of lawyers, so that the telephone operators and others will know which lawyers are present in the office at a particular time (emphasis added).

The mean of the twenty-nine associates' "typical" individual arrival times was 9:11AM.[9] They reported that the "typical" arrival time for the other associates at their level was 9:27AM, just prior to the official office hours. Twelve of the twenty-nine (41%) felt that they generally arrive before the other junior associates. Twelve felt that they arrive within 14 minutes of their peers, and five (17%) felt that they arrive later than their peers. When asked to report on their actual behavior on the immediately prior business day, the median arrival time was 9:30AM. The earliest associate arrived at 7:45AM and the latest arrived at 10:15AM, on the prior day. Nine of the associates arrived later than their reported personal averages. Two arrived earlier than their averages.

The average of associates' individual "typical" departure times was 8:57PM. The associates estimated their peers' average departure times as 8:33PM. Twelve (41%) of the twenty-nine associates reported typically leaving later than the cohort's average time. Thirteen (45%) reported typically leaving within 14 minutes of the

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[9]. The arrival and departure time questions each had three parts. First, when did you arrive (depart) yesterday? Second, what is your typical arrival (departure) time? Third, what is the other associates' typical arrival (departure) time? Means and medians were then calculated for each of these six sets of answers.

cohort's average time, and four (14%) reported typically leaving earlier than the cohort's average.

Associates' actual behavior on the immediately prior business day revealed somewhat less strenuous associate work than their reported averages. Actual associate departure times ranged from 5:00PM to 4:30AM the next morning. The median departure time was 8:00PM. Fourteen of the sample left work earlier than their self-reported average departure time. Eleven left within 14 minutes of their average departure time, and four left later than their average time.[10]

Overall, the average of the individual averages yields a reported typical junior associate day of nearly twelve hours (9:11AM to 8:56PM). The average of actual prior business day arrival and departure times yields a 10½ hour day (9:15AM to 7:41PM). Even the shorter, 10½ hour day average yields a 2500 hour year.[11] This estimated, average annual time-in-the-office figure is close to the associates' estimated annual billing figures (see the discussion immediately above), suggesting that the associates may confuse their time in the building with their time billed.

Associates' responses to the question, "Is there some time before which you

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[10]. Some of these earlier departures might be a seasonal artifact of my summer field research. I conducted the interviews in May and June, when the business cycle reduces lawyers' work loads (as business clients go on vacation). Further, national holidays and the firm's summer outing occurred during my interviews, potentially causing an uncommon reduction in some interviewees' prior day hours. On the other hand, several partners and associates reported attempting to shift their work to free up their weekends in the summer. This time shifting should lead to increased associate hours on weekdays, on average.

[11]. That is, 48 weeks times 5 days times 10.5 hours/day equals 2520 hours/year. See Table 9.3 for a history of associates' actual annual billing rates.

would not like to be seen leaving?" is a further indication of the normal work day's length. The majority of associates reported that they would not like to be seen leaving before an average time of 6:10PM (median 6:00PM). Four associates felt no time constraints. The distribution of responses to this question of the earliest acceptable departure time are shown in Table 10.1. Zerubavel's study of hospital workers revealed the normative pacing of time among shift workers (Zerubavel 1979). Even this non-shift-work organization had "normal" quitting times. Associates reported leaving at a median time of 8:00PM on the prior business day while preferring not to be seen leaving before a median time of 6:00PM. Table 10.1 shows that actual departure times compared to the normative departure times. Only four associates reported leaving the office on the prior business day before the median "earliest acceptable departure time."

Table 10.1: Earliest Acceptable and Prior Day's Actual Departure Times.

Time	Responses	
	Earliest Acceptable Departure Time	Actual Prior Day's Departure Time
4:00PM	1	0
5:00PM	1	2
5:30PM*	5	0
5:45PM	1	0
6:00PM	6	2
6:30PM	3	3
7:00PM	3	3
7:15PM	1	0
7:30PM	1	3
7:45PM	0	1
8:00PM	1	1
8:15PM	0	1
8:45PM	0	1
9:00PM	0	3
10:00PM	0	3
10:30PM	0	1
10:45PM	0	1
11:00PM	0	1
11:30PM	0	1
Midnight	0	1
4:30AM	0	1
No time	4	n/a

Note: * = official office closing time. n = 27

Excluding the four associates who claimed there was no earliest acceptable departure time, 21 of the 23 associates actually left after their own stated earliest acceptable time. Two left before their own stated time. The average of the differences between each associates' actual and earliest acceptable departure time was 32 minutes. Why

do they work so late? Why do they worry about being seen leaving?

Partners eyes enforce the associates' work routines, according to the associates. Leaving early does not bother the associates; being seen leaving early does.

> Once I did feel a little uncomfortable. I left at 5:45PM. I didn't feel uncomfortable about leaving that early, but I happened to be the same elevator as a partner who made a joke, "Oh, have you been keeping busy?" And I was like, "Oh great," you know! (laughs). But ah, otherwise I would have no qualms about leaving at 4:00 if I have nothing to do (A207).

In high rise office buildings, the common elevator banks act as a control mechanism. Associates repeatedly referred to their fear of being in the elevator with one of their partners, "I remember one time I was leaving at 5:45PM, because I had been working to 1AM for the last five days, and when I went to the elevator I got in with a partner who said, 'Are you getting enough work?' or 'What are you up to this weekend?' I felt trapped in the elevator" (A208: 3).[12] Elevators are the modern version of the nineteenth century factory gates, accentuating associates' anxiety at leaving "early," it seems.

Some associates reported using deception to avoid the judgement implicit in others witnessing their departures. The same associate just quoted reported great relief when he was moved to a new floor on a separate elevator bank that partners rarely used. Another told me of using fire stairs to avoid partners, gossiping

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[12]. The elevator stories/nightmares are endless. One more will suffice: "If I leave at 6:00 and I meet five partners on my way to the elevator, and I'm obviously leaving, it's always a little embarrassing" (A202: 18).

receptionists, and even cleaning staff:

> A216: I know all the ways out [without anyone seeing me]. There is a back door to the elevator banks. If I left at seven, I would not go past the receptionist. I would not want to be thought of by senior associates as leaving early on a regular basis.
>
> DP: Would the receptionist tell senior associates about your departure time?
>
> A216: The receptionist is just another set of eyes [to be avoided]. If there is a cleaning lady, that is another set of eyes. I feel guilty if I leave before 7PM (A216n: 6).

Two associates reported using props to convey the impression of their still being in the office. For example, "If I left before 6:30, I'd probably leave my jacket in the office" (A228: 19).[13]

Every associate acknowledged the widely shared concern among the junior associates of not being seen leaving too early too often. Even the four who reported not being concerned with such matters acknowledged being aware of their peer's concerns. The common thread running through most of the associate responses were feelings of "guilt" and being "uncomfortable," if they left "early."[14]

Several of the associates indicated this pressure derives from associates' desire to be seen as "carrying their share" and being "well regarded." The associates are

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[13]. The shared meaning of being jacketless is indicated by other associates who mentioned the jacket ruse, positively or negatively. Leaving a jacket in the office implies that the attorney is just going out for a personal errand or to another floor for firm business and will return. Of course, this is only possible during the summer months. In winter months, briefcases are the props of choice.

[14]. The very construction of "leaving early" implies that the normal, or non-early, time is later than 5:30 or 6:00PM: "If you leave before say 7:00 or 7:30, it really *feels like* you're *leaving early*" (A210: 20) (emphasis added).

expected to "stay busy," and busyness has become defined as working to at least 8:00PM.

> A212: If you have your work under control and you're carrying your share, [there is no time before which I would mind being seen going home]. Now, however, we're short handed, there's a lot of work, and yes, I probably would feel kind of uncomfortable very publicly walking out at 4:00 or 5:00 at night. But that's not a problem, because I can't (laughs).
>
> DP: The assumption being that if your work was under control and you left at 5:00, that you weren't taking on as much as you should?
>
> A212: Exactly (p.16).

At least some associates who can get home "early," feel the need to check in for their messages, in case they received an unexpected important call. "You're always on call here. There is never a weekend when you can just take off and not be aware of what's happening at the office" (A222: 13).[15]

According to a few associates, it is not just the partners who are watching. "There's some [senior] associates who will sort of look and see who's staying late and who's going home early....And they make a judgment about you, but they don't know

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[15]. The partners emphasize the need for associates to "do their share," and largely determine that by looking for associates' early arrivals and late departures from the office. One way to analyze the force of partners' control over associates would be to compare particular associates' departure times with the departure times of the partners they work for and partners whose offices are near them. Associates who leave soon after their proximate partners would further support a theory of visual surveillance. If associates tend to stay substantially after their partners departures, then either associate-generated norms or internal, individual constraints, such as the individual competitiveness, probably generate the behavior. Of course, if the associates leave before their partners, this would be strong evidence of the lack of partners' power. Regrettably, these data are not available.

you or the type of work you do and have never worked with you before, so it's really silly" (A206: 32). This group of senior associates are perceived by the junior associates as lackeys for the partners. Consistent with senior associates' nodal position in the assignment system, these associates appear to be using partnership criteria for assessing junior associates, from the junior associates' perspective.

One associate felt that the pressure was generated more by his peers than the partners.

> I would say that the pressure, to the extent that it exists, is mostly imposed by ... associates more than partners. And that is one problem with this office. I don't know if it is competitiveness or just self-imposed anxiety or something else, but they feel the need to talk about how late they stay all the time. In an [already] fairly nervous environment, it makes things really a little tricky about how people feel when they really have legitimately completed their work and are trying to leave (A210: 20).

The ambiguous work criteria foster anxiety in the associates.

Competitiveness among some associates may further this. When associates do not know what constitutes adequate effort either on a daily or annualized basis, they are left vulnerable to negative comments from partners and associates. We have already seen the effect of partners' elevator comments. Among the associates, there appears to be a norm against conspicuous free time. For example, during the summer months, suntans are equated with workdays out of the office. In an office where busyness is established the associate status order (see below), suntans imply either shirking or low status, or both. Two associates told me of separate incidents of being sanctioned by a peer with the same comment, upon seeing them after the Fourth of July weekend, "Nice tan! No work?" The longish average work days are expected to

include the daylight hours of Saturday and Sunday, as well. While this represents the normative control predicted by the collegial-driven ideal type, it comes at the expense of associates' private lives, contrary to the ideal type.[16]

In summary, the associates are without formal constraints on their arrival and departure times. Nevertheless, they come and go with substantial regularity, averaging at least 10½ hours in the office per day. Most of the associates equate being seen leaving the office "early" on a regular basis as a potential indictment of their efforts. When they do leave "early," some use deception to disguise their premature departures. The ambiguity of the terms used to evaluate time issues — "early," "full plate," and "doing your share" — translates into associates' presence in the office long after the close of business.

The typical start and end of the work day allow us to judge the extensiveness of associates' days. What associates do while in the office loosely approximates an intensiveness measure.

The Assignment Systems.

Associates face a relentless pressure to take on more work. The pressure comes from the formal assignment system, with its reputation for having bad assignments, and from the informal partner assignment network system, with its reputation for offering good work and a modicum of associate control over their fate.

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[16]. See the discussion of the colonization of associates' private lives in the next chapter.

But associates' abilities to negotiate the unrelenting demands of these parallel systems is hindered by their lack of knowledge about what their peers are doing and the ambiguity of the common definitions of being busy.

Informality typifies the allocation of tasks within this firm, and associates used this to their advantage. Table 10.2 shows the primary response of associates to the question, How do you typically get your assignments?[17] Overall, more than half the associates use informal means of acquiring new work. In fact, the largest department, with more than 50 first- through third-year associates, has the least formality in the allocation of tasks, according to the associates. This is not to say that the allocation of assignments is arbitrary.

Table 10.2: Primary Method of Receiving Assignments

Method	Number	Percent
Formal assignment system	8	29%
Informal networks	15	54
Seek out own work	5	18

Note: n = 28. Percentages may not add due to rounding.

There is an internal "market" for associate labor at the firm. Associates trade on their reputation for competence and partners trade on their reputation for offering "good" and "interesting" work. But to gain the benefits of the informal partner

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[17]. The categories used for coding the data were "formal assignment system," "an informal call or knock on the door from the person asking you to do the work," and the associate "seeking out work from a more senior attorney." Responses often were made in percentages. The tables reported here are derived by coding each associate by his/her primary method of receiving assignments. A more complex percentage analysis yields essentially the same results. The small number of responses (n=28) prevents a meaningful statistical analysis of department and tenure interactions within one table.

networks, associates must first avoid the formal system.[18]

Each department has a formal assignment system. As discussed in the prior chapters, a partner in each department is designated to coordinate partners' requests for associate labor with associates' availability. Each department has a paralegal who circulates weekly assignment lists to each associate. These sheets list all the assignments the associate is known to have. Associates add new assignments they have received since the prior week's list and categorize their availability. The associates are free to use their own terms to categorize their availability. The terms of favor are "available," "busy," and "swamped." Associates use the freedom of these self-classifications to maneuver. For instance, one associate told me that he prefers to report his availability in musical terms.

> You have a lot of freedom in what you put down. I've known people who put "swamped," "drowning," "go away." I always do mine in musical terms. My last one was *allegro ma non troppo*. That's how I do mine, and the assigning partner knows it.... Then again it doesn't say anything. Because there are people who leave here at 7:00PM and put down "busy" and "swamped." And there are those of us who stay until 10:30PM every night, and who won't put down "swamped" unless we're here till midnight (A209: 26).

"Bad work,"[19] "shit work,"[20] "nightmare projects,"[21] and "asshole partners

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[18]. A network analysis would reveal the nodal partners and the "well regarded" associates. Unfortunately, this was not possible under the terms of access. This would have indicated the percentage of strongly "tied" and outlier associates, which, in turn, would have yielded a "competition index" for the likely limited number of "good" partner work assignments (see the discussion of "good work," below).

[19]. "That doesn't give you new responsibilities" (A216).

[20]. "Proofreading, distributions, thirty-minute assignments, things that the senior associate should have done himself" (A207).

nobody wants to work with" (A227: 32) are believed to disproportionately flow through the formal assignment system. One first-year associate told me that the "fear" of a call from the assigning partner had more to do with the "unknown quality" of the assignment rather than the assurance that it would be dull. But he contradicted himself with his reply to the request to describe a typical assignment from the formal assignment system. Categorizing all formal assignment system work, he said, "It's hard to call a room full of documents interesting, no matter how exciting the underlying legal principle" (A208).

Associates assume the worst from any call from the assigning partner of their department. The phones display the name and extension of inside callers when they ring. Associates habitually turn to see who is calling them, even when they have asked their secretary to take their calls during an interview. As one first-year associate told me, referring to his assignment partner, "There's only one name I dread" (A225). While all associates feel pressure to take on more work, they seek control over the type of work they take on.

The formal assignment system's unpredictability is perceived as a loss of control by the associates. As one told me, capturing a generally shared view, "It's a matter of control. If you throw yourself at the mercy of the system, you have no idea what's going to come down the pipe at you" (A229: 23). By avoiding the formal

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[21]. Large due diligence and document productions. These tasks require associates to read and index boxes (sometimes hundreds of boxes) of documents while looking for the use of certain names, terms, or phrases relevant to the deal or case. It is an often dull, needle-in-the-haystack task performed under time pressure.

system, associates believe they can exercise control over their work. "I find that in the informal system I can be much more selective in what I do and, more importantly, in who I work with, than in the formal system where I'm taking what comes along and working with people I don't know" (A205: 29). Informal partner networks offer associates at least a partial sense of control, allowing them to avoid partners they do not like.

The central method of allocating associates to work assignments is through informal ties. Senior associates and partners who have worked with a junior associate in the past call him or her and ask the associate if he or she has time to work on this similar legal matter. Associates term these recursive work relations "repeat business." These relations start with the associates' summer associate experience: "You work with a couple of people over the summer and then you sort of get into their network" (A225: 28). Associates who did not spend their summer associateship at the firm are at a disadvantage in the first year. "My office mate did not spend the summer here, so she didn't really know people. I think it's been more difficult for her to get assignments from particular people. She just gets them through the assignment pool, which is less interesting work, because those are always the nightmare projects" (A206: 33).

The networks' repeat business is bred of the efficiency of stable working relations for superiors and subordinates. "Good" work is work that grants the associate learning opportunities through increased responsibility. Associates' familiarity with the issues and tasks required in a matter and with the working style of

the partner promotes the partner's comfort and trust in the associate. This trust encourages the partner to grant the associate more responsibility. By the second or third matter with a partner, an associate typically is granted significantly more responsibility for the day-to-day components of the matter. Thus, attaching himself or herself to a partner's network of assignments offers the associate better training opportunities than the formal assignment system's random assignments. Associates fill their schedule with informal system assignments so they can say no to the presumptively bad work from the formal system. "I can pretty much fill my plate the way I want to now, and then turn down [bad work]. The way I do it is just to load up with [his favorite partner's] assignments, if I don't want to do any of the other type of work" (A213: 5). But, the associate pays a price for good work.

The first price of associates' ties to partner networks is that the partners' assignment networks are jealous of the associate's time. They are miniature versions of what Lewis Coser termed "greedy institutions" (Coser 1974). Once in an agreeable partner's network, associates feel that they cannot turn down additional work requests from that partner. Associates who have developed a relationship of being the "right-hand man to certain aspects of [a partner's] practice, and ... want to keep on being right-hand man" (A209: 29) do not feel that they can say "no" to their partner's work requests, for fear of losing that good work.

> There are a couple of partners here who I do not feel I can say no to if they call [to ask me] to do work, because they give me good work to do. I don't want to say no when they call me with something that's good, [because that might] get them out of the habit of calling me with good work. [So,] to that extent I get overloaded (A205: 29).

In turn, the partners continue giving work to the associate who perform well and cheerfully accept all work requests.

> If I show the partner that I'm working with that I can run this transaction smoothly, the next thing he'll do is ask me to run three of them so he can go home early or so he can handle other matters. There's no limit to how much you can be expected to do (A219: 12).

Associates feel that they are penalized for being good workers.

> I think people get a reputation around here for whether or not they're good or bad. In a sense you get penalized for being good, because the better you are, the more word goes out [that you are good], the more people want to work with you. ... I know a couple of friends who were as certain to make partner as any third- or fourth-year could be. [They] left the firm because they felt that the work wasn't being distributed equitably (A213: 19).

Good work and the good training that it affords, has a significant cost, the associates realize. Yet, they are unsure of when and how often to say, "No." "You have to figure out how to put up the barriers [to additional partner work requests] yourself" (A219: 12).

The second cost of associates' attachment to partners' informal assignment networks is that after a point, partner's work can become redundant and constraining. Several associates reported taking on work in order to *avoid* having to work with a partner, who either they did not like[22] or whose work became repetitive. "No one is really keeping track of what you're working on and what you've been doing, so that you could get to be pigeon-holed very, very easily and no one would be watching out

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[22]. One associate described his work with a partner as originally interesting and valuable and thus worth tolerating the "abusiveness" of the "biggest living asshole on earth" [*i.e.*, the partner](A227: 32). But when he felt he reached the end of the learning curve on that partner's work, he sought to flee the relationship.

for you" (A221: 22). These associates were engaged in a conscious strategy of partner network jumping.[23]

> In a large law firm like this, you have to make your own fate, in a way. You have to take responsibility for your own professional development.... You really have to think about what you want to learn how to do and what you want to get out of the job.... And so when I feel like I need an assignment in a certain area, I go to [a partner and say] "I really want to work with you on [that partner's legal specialty]" (A203: 38).

Many associates recognize the possibility of exploitation by the informal assignment system. Some partners, associates report, do not take "no" for an answer to a request for their help.

> There are certain partners with whom I've worked who don't take no for an answer. They just say "You're on the team, and this is something that needs to be done. Please prepare the memo." In one instance the partner tried to get me to work on a project [while] I was real busy. I dodged him for awhile. His solution was to send me a memo copied to the chairman of the firm, who happened to be [involved on the deal]. So it ... was quite forcefully [conveyed], "You're on this. You're gonna do it. Let's get it done." I had no choice. (A219: 31).

One associate, who frequently worked with his assigning partner, whom he disliked, felt in a double bind in trying to avoid both the formal system and his natural informal network. He did this by throwing himself into other partners' work.

> The way you control your destiny so that you have time to search out [good work, requires] that when you do have a breathing point, you've got to teach yourself not to take it. The minute you have free time you need to run and throw it away. That's very hard. Most of us would rather take a free moment. And so we take a free moment, and we get

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[23]. The three third-year associates who reported their primary method of receiving assignments as "seeking them out" were quite consciously engaged in expanding their own network by jumping partner networks.

> a call, and get caught with our pants down with nothing to do, and we've got to take on the job [from the partner we have been trying to avoid] (A227: 22).

In the associates' world, all roads lead to more work.

Associates face contradictory pressures from the partner culture. On the one hand, the associates are expected to take on a hefty work load. They experience relentless pressure from the formal and informal assignment systems to take on more work. On the other hand, the partners emphasize that associates "should not become over extended" or "spread themselves too thinly," which might cause them to make mistakes. Echoing almost to the word a managing partner's statement, an associate told me, "I'd rather piss someone off for thirty seconds [by refusing their work], than to have them hate me for the rest of their life, because I screwed up the assignment" (A213: 19).[24] The associates perceive no room for error in their work for partners. Others repeated the philosophy in similar terms, "It's definitely impressed upon you, even by the partners, that it is better to turn down one project to do the others well" (A212: 23). Yet, the same associate continued that associates experience "various levels of pressure to take on extra work" (A212: 23).

Associates' Mistakes.

One way to assess the associates' perceptions of the partners' requirements of them is to ask them about their mistakes. "Mistakes," as defined by social actors, are

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[24]. The head of litigation used the same phraseology to characterize his advice to associates.

negative examples of normatively expected behavior. One indication that the socialization process is on-going for associates is that the majority believe that mistakes happen everyday. Associates learn on the job, through trial and error. Associates' examples of their most recent mistakes indicate the range of issues they must attend to in working for partners.

- Distributed a memo to a client with a typo in it (A210).
- Relied on a former associate's legal memorandum on a point of law in advising a client rather than checking the research himself (A218).
- Assumed a minor party in a large transaction did not have comments on the draft documents, because they did not call. When they did have comments, this delayed the deal (A224).
- Forgot to attend a weekly meeting with a client (A217).
- Wasted a partner's time, by asking the same question twice (A209).
- Wasted a partner's time, by asking a "stupid" question (*i.e.*, a question that could have been answered by someone other than the partner) (A226).
- Did not check every page of copied documents distributed to clients. The fourth and all subsequent pages of every copy of the distributed documents were blank (A220).
- Misinterpreted legislative language and subsequently misadvised a partner and client (A212).
- Misread a lease's provisions during due diligence and ignored a important provision, thinking it unimportant (A222).
- Failed to convert foreign currency figures to U.S. dollars in an attachment to a draft filing with the S.E.C. (A225).
- Suggested language for a legal brief to a partner, who ultimately did not use the language (A226).
- Did not know to perform a standard task of the junior associate on a type of deal, even though it was this associate's first deal of this kind (A229).
- Missed a case of relevance to a partner's query, because the associate used the case cross-referencing index incorrectly (A215).

- Allowed opposing counsel to file a brief that exceeded the normal page limit allowed by the court, "as a professional courtesy," without conferring with his partner. The partner "reacted violently," telling him never to give the opposition an unnecessary advantage (A226).

Associates' views of mistakes range from the silly (making a suggestion that was rejected) to the serious (delaying a deal and forgetting a regularly scheduled client meeting).

What unifies this disparate group of examples, is the shared associate belief in the definition of a "mistake." Mistakes are only "mistakes" when someone "points them out" (A206) Another associate described the operative definition of a mistake as,

> a Watergate type of mistake where it is only a mistake if it's caught. I think that's the best definition you have around here (A209: 24).[25]

Errors that are "discovered" (A228) are mistakes. In their discovery they become indictments of the associates. One partner is fond of exclaiming "Gotcha!" (A207: 31) to his associate, when he discovers typos in final form documents the associate prepared. While the associates recognize that one typo will not doom them, several reported worrying that even trivial errors (such as typos in draft documents) might "contribute to a reputation for carelessness" (A203: 35). "I always think little things add up," another told me (A204:27). One associate admitted using the discovery of others' errors to his advantage.

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[25]. Another associate used more colorful language in her definition. When I asked her, When was the last time you made a mistake? She replied, "You mean what they call a 'fuck up'?" She went on to describe a fuck up as, "It's usually when you screw something up. And then people get mad. And you have to fix something" (A221: 21). Implicit in people getting mad, is their discovering the screw up, of course.

> Everybody screws up. I see screw ups from senior associates and partners. I correct them without comment. Sometimes I comment on them. If they are people who I don't particularly like, I will point them out and rub it in their face. In the sense that I will simply mention it and not go further with it, and that will make them think that I'm thinking terrible things about them. You know, the "games people play" (A216: 27).

While this overt competitiveness is unusual, this associate's use of understatement and silence to his tactical advantage suggests the fear partners' comments about even minor errors must engender, under the conditions of ambiguity.

The ambiguity is furthered by the fact that associates do not discuss their mistakes with each other. One associate reported that he only hears about other associates' "screw ups" from the clients, "It's not something that [the associates] would talk about" (A213: 18). Echoing a generally shared associate feeling, this associate continued: "You certainly don't want to promote the fact that you've made a mistake. And if telling [your friends] does that, which it probably does, then I would remain guarded in what I say even to [my closest friends at the firm]" (A213: 18).

This silence contributes to the attitude at the firm that one associate characterized as, "Screw ups are a sign of mental deficiency. Smart people don't screw up" (A216: 27). This leads to a firm that is "obsessed with typos" (A207: 31). Typos "are the errors you really should catch, because the firm likes to project the perfect image. That's the stuff the partners hate to see" (A220: 17). Typos break the aura of perfection, both of the document and of the author. One mistake implies other, as yet undiscovered, mistakes. "That kind of thing will bug you. It bugs me because I think there's got to be another mistake and I don't even want to look at the

papers, because I'm scared to find another mistake" (A207: 31).

Associates live with the contradiction that they are expected not to make mistakes, but "depending on how much sleep [they] had the night before" (A206: 31) and how much time they have (A210, A225), both functions of their workloads, they know that they inevitably will make mistakes. Further, discovered mistakes may exponentially contribute to a "reputation for carelessness," because of the gnawing belief that one error implies other, undiscovered errors.

The associates are caught in the bind between partners' contradictory values which emphasize both more work and high quality, flawless work. One associate captured associates' dilemma in describing the "logic" behind the assignment system.

> The logic is they will make you do as much work as you will take. And when you take on too much, and you're not able to focus adequate attention on the work, you make a mistake, and then you don't get more work from that person. [So] then you get less work. And when you have less work you do a good job. When you do a good job, you get more work. And when you get too much work, eventually you make a mistake again, and then you get less work. So, I've found that the only reward for good work is more work (A228: 27).

When associates do make mistakes, the partner's withdrawal of trust is often immediate and palpable. One associate told of the aftermath of his misreading a statute.

> I think it has definitely been held against me. Not necessarily [in] making partner, but I've detected a little more tendency on that partner's part to kind of look at the issues himself. To look at the rules. A couple of times, when I told him the law, he'd ask for the law, and he'd flip through it himself to look at it. So I've definitely sensed a little bit less confidence from him (A212: 22).

In an environment where there is "zero tolerance for mistakes" (A201), and senior

associates and partners have avowedly long memories for those who make mistakes, this assignment system puts junior associates under severe pressure.

Further, the associates have little external help in their assessments of where to draw the line in accepting additional work, before committing an embarrassing or "fatal" error. Associates' decisional criteria for saying no are ambiguous for at least three reasons. First, corporate deals and litigation cases are unpredictable. Partners usually cannot predict in advance if a particular matter will be routine or unusual, slow paced or frantic. The stock market, clients, judges, and opposing counsels all contribute to "heating up" or "killing" deals and cases. Associates have even less information about the future schedule and intensity of legal matters they work on. Second, when associates do try to draw the line and refuse work, partners regularly challenge their judgement of their busyness. "Partners will definitely not take your judgment that you're busy. They'll [make you] list everything you're working on, and then they'll call [those partners and ask], 'Are they free enough to work on this [matter too]?' or they'll just say 'This won't take too much time'" (A206: 33). Third, associates lack comparative knowledge of their peers' levels of effort and work loads. Most associates reported little knowledge of what their peers did. They recognize their knowledge as limited and idiosyncratic. When asked if work was distributed equitably, half the associates indicated that they did not know. One associate responded to the question, "That's a difficult question. It would be interesting to know the answer" (A204: 28). Another echoed the common theme, it is "hard to say, because I don't know what everybody else is doing" (A203: 38).

Despite these structural impediments to associates making informed decisions about the level of work to sustain, the partners' culture emphasizes their personal responsibility for making the judgment.

One indication of the placement of responsibility on the individuals is the language used to describe a full work load. Partners and associates, alike, refer to a full work load as having "a full plate."[26] Implicit in the term is the *voluntaristic* nature of associates' work load judgments. Associates can — and should — decide how much work they can digest, just as they can decide when to say "No thank you, I've had enough" at a buffet dinner. The dominant informal assignment system is like a cafeteria line with associates free to chose among the partner offerings, but the cafeteria has both a secret per-customer minimum and a requirement that every customer clean her plate. From the associates' point of view, not taking enough is as risky as taking too much.

Associates attempt to deal with the ambiguity of their work load judgements in one of three ways — by never saying no, by using outside criteria to determine when to say no, or by perpetuating their state of ambiguity. Some associates chose to turn down work infrequently, often at the expense of their private life. Another type of associate described this group.

> In my experience there are some senior and junior associates who work like dogs. Many of whom want to work like dogs. [They] have literally no social life, literally no outside concerns, and [they] know nothing else than to work in law school and now to work here. For them, this environment is a great comfort, because no one is ever going

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[26]. Food and eating metaphors are central to lawyers' talk about themselves.

> to say, "You should really go see an opera, or work out" or something. These people don't want to hear that and no one here will say that (A216: 30).[27]

Associates in small departments do not feel that they have the choice to say no to more work, even if they want to. As one service department associate reported, "I would never say no to the head of my group. I said no once to someone in my group and a remark was made. It came up in my review. I was given a lecture — 'You can never have too much to do'" (A215: 14). Yet, even the associates who feel that they cannot say no, worry about making mistakes — making compromises.

> DP: Do you feel that you can say no to additional work?
>
> A227: Yes, when it is really out of control. I recognize that the expectations are very high and there are other people who are staying until midnight. Until I get to that level it's not fair for me to be turning stuff away, so I have a hard time saying no until I have a really, really full plate. And a really, really full plate means I'm compromising all the time.

Some associates do turn down work. Of this group, outside interests motivated the associates to draw the line. Two men reported that their wives insisted that they start turning down work after periods of twelve- to fourteen-hour days.

> I have [said no], although it's at the insistence of my wife. After I started, for a period of about two months I was just never getting any sleep, and I was never going home. Then I said "I just can't do this. This is stupid. I've got to tell people I won't do their work." And I have told them no. ...It was all part of a learning curve for me (A222).

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[27]. Of course, the head of one department suggested saying just this to associates and his younger adjutants rejected the associates' needs to be told to pursue outside interests with the claim that it is associates' "choice" whether to be stimulated in the evening or just "watch the Knicks on television."

A female associate claimed that women are more willing to say no to work than men.

> I've had this conversation with other [women] at the firm and it seems as though women are more likely to assert themselves and say, "Look. I'm busy. I have too much work." Whereas men, and I've noticed it among my peers, always say yes. And they kill themselves. ... Maybe it's because the women that I know have short-term [goals. They] know that they're not gonna spend their life here at the firm. And maybe these men feel like "Maybe I have a chance of becoming a partner here and I don't want to get anyone upset at me." But I don't have any qualms about saying, "No, I'm busy" (A207).

Regardless of gender, those who say no to work are perceived by the partners and their fellow associates, alike, as being "less serious." Neither of these strategies is sustainable over the long-run. Associates need rest and partners want associates' maximal effort. Accordingly, every associate grapples with competing partner demands on an on-going basis, perpetuating their ambiguity. As we shall see, the lack of other clear measures of how they are perceived furthers associates' doubts about turning down work.

The Review Process.

Junior associates seek to validate a double sense of competency through their work. They seek both a sense of themselves as competent organizational members and as competent supra-organizational professionals. One logical way to assess their competency is through the reviews given by partners — the more senior organizational members/professionals. Associates' responses to the question, How do you know how your are doing here? reveal the ambiguity of their position. *Every* associate responded, "You don't." The associates find little information on how they

are perceived in the formal evaluations, so they turn to informal means to measure how they are assessed by the partners.

The associates view the formal evaluations as contentless. The uniformity — down to the language used — with which most associates described the formal reviews suggests that this generic description is passed down from class to class in informal conversations.[28] The generic description is as follows:

> They[29] tell you that you are doing fine so far. "We don't have any problems with you, if you don't have any problems with us." It is over in less than five minutes. They only become substantive if there is a problem.

The reviews are thought to be "broad checks on your performance" (A210: 31), making sure that "no one is completely off track and not showing up to work or something" (A211: 23).

Only three associates reported hearing criticisms in their reviews. For example, one was criticized for her hours being "behind [her] class" in billable work (A221: 25). Another "made a screw-up on a proxy statement, and they did say, 'I see you had a problem with the XYZ Company proxy statement'" (A213: 21). But, this associate continued, overall the reviews "are a little rosy."

Four associates discounted the reviews, because of the partners' perceived

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[28]. This is indicated by three first-year associates who had yet to be reviewed, but who used the same language to described "what I've been told the reviews are like" as those associates who had received one or more reviews used.

[29]. Though the reviews are conducted by one partner, associates use of the third person plural indicates that they accord the reviews the gravity befitting the partnership's judgement.

distance from their work. One characterized them as the partners "read[ing] things the senior associates say about you ... because I'm a junior person, [the partners] can't really say anything useful, so they are just very general comments" (A221: 26). Some associates felt the reviews would become more substantive in later years.

Two associates reported that they ask to hear the comments the reviewing partner has collected, as a means of getting more tangible information. "If you go in there, and accept, listen, and leave, you're only getting a limited amount of information. ...So I ask" (A226: 27). Yet, they both were "unsure of the propriety" of their requests, despite the reviewing partners' willingness to read the comments and identify the authors of the comments.

Virtually all the associates articulated a binary model of reviews. The two possible results of reviews are that the associate is either fired or not.

> Your review is the time when you would be told to start looking around for another job. So far my reviews have been very good, so I feel that I'm not about to be asked to start hunting for a job. But short of that, I have no idea [how I am doing] (A214: 31).

Another associate echoed a recurring theme, "You have very little sense of [how you fit in], except for the fact that they don't kick you out the door" (A218: 21).

The associates explain the lack of substantive reviews in several ways. Many feel that partner ineptitude in interpersonal/personnel management issues is the reason. A smaller but notable group believes that the absence of feedback is a "conscious strategy of the partners" either because the ambiguity causes associates to work harder or to avoid "implied contracts" that would compromise partners' power to terminate associates at will. At the extreme, they view partners as practicing

conscious deception:

> I don't believe a word they say in the review. ...They certainly wouldn't want you to think that you might not have a future here ... they don't want you leaving early on, until they are done with you. They don't make enough money off of you first and second year. It's a business. They don't have an incentive to tell you second year that you're a pretty good lawyer but you are not partner track (A215: 15).

The associates' reports on partners' practices partially confirms the partners' reports. Both groups agree that the primary function of formal reviews is "to eliminate bad wood." However, the partners also feel that formal reviews can "correct minor flaws in otherwise good associates." Clearly, the associates do not feel that they are receiving this nuanced, corrective guidance in their formal reviews. The associates reported several informal strategies for getting a more concrete, nuanced view of how they are doing. But these were unsatisfactory, as well.

Associates measure their performance by the amount of marking up more senior attorneys do to their initial drafts of documents. Seeing their own words go out on firm stationery to clients or the courts is a reassuring measure. When a partner "really doesn't change much ... [in an associate's draft document] that's a good thing" (A208: 25). Occasionally, partners will write compliments in the margins, rather than marking up the document. For example, one associate told me, "In three instances — these stand out in my mind because they're not very common — [the partner] wrote things like 'This is an excellent memo'" A219: 32), which caused the associate to be "quite proud." But, positive comments "are so fucking rare" (A227: 30), as to appear anomalous. Most comments are not like this. More typically, the margins contain changes or questions — "Where is this? Where is that?

This is not working. Why did you do this? Why did you omit that? Have you thought about that?" (A202: 31). These written comments and marginalia do not carry the same weight as a face-to-face review of a work product. A first-year associate made the distinction, "If you give somebody a draft of a memo and it comes back with comments ... that's not really feedback" (A206: 36).

"Feedback," a face-to-face conversation, provides important nonverbal information, through facial expression, tone of voice, and body posture. This contextual information aids the associates in interpreting the more senior attorneys' written edits and verbal evaluations. A few associates aggressively pursue feedback.

> Whenever I give something written to someone I'll always try to follow-up a day or two later and say, 'How is it? Do you need me to make any revisions?' .... Sometimes they get back to me and there's lots of changes, but usually they say, 'Oh, it's pretty good.' So I try to get back the next draft so I can see what they changed to learn, but a lot of times I don't have time (A228: 29).

Another associate described how associates can "loiter for snippets of encouragement. You sit there and hope that somebody will give you words of encouragement. And, it's very nice when it happens" (A226: 27). Yet, this associate went on to claim the words of encouragement are as likely to come from clients as from partners.

Yet face-to-face conversations have limitations for the associates trying to get a sense of their position in the firm. Even these informal interactions with partners lack the content associates desire. Language fails the actors, from the associates' point of view. As one associate described it, "I've never been yelled at, and never heard anyone being yelled at. When people are unhappy with you it's pretty subtle.

[Though,] not subtle enough that you wouldn't notice it" (A202: 31). Another associate commented on the limited vocabulary of praise at the firm:

> A216: "Good" is the word that people use here. It's an ambiguous word, you know.
>
> DP: It's not "great."
>
> A216: No one would ever say "great" here. No one would ever say "great" or "very bad," or "bad." They would say "good" or they just wouldn't say anything.

Even words apparently intended as praise are interpreted as painfully ambiguous by the associates. By training, these young lawyers interrogate every utterance for all its possible denotations and connotations. The associate environment of ambiguity combines with their subordinate position as junior, at-will employees in a bad job market to encourage them to assume the worst of ambiguous partner utterances. Commenting on the standard review scenario, one associate pointed out the tentative, past tense nature of the already ambiguous review phraseology. "You're doing fine, *so far*." The "so far" takes away with one hand what the other hand just granted, in this associate's view. Partners may be in a bind because anything short of effusiveness is regarded as evasive by the associates.

Associates' recent emergence from at least nineteen years of the norms of competitive classroom achievement may account for some of this. They are a group of high achieving students who are accustomed to receiving teachers' most effusive praise. In this context, associates' unfamiliarity with partners' *different vocabulary of praise* may account for some of what they view as partners' *reticence to praise*. This is a failure of cultural transmission.

Another feature of the years of classroom experience may affect the associates' feelings of ambiguity in their performance evaluations. As students, they were accustomed to grades that positioned them relative to their peers and on an absolute scale (*e.g.*, A+ or 97%). The false substantiality of these educational grading schema offers just the concreteness that students anxious to locate themselves within their peer group crave. Associates crave the same concrete positional identity, no matter how inappropriate and unavailable such information is.

Distrusting words, associates use behavior as a surrogate evaluative scale. Busy associates are "well regarded" associates, all interviewees reported. An associate explained the inferential process he uses to translate a partner's informal request that he do more work for him into a surrogate measure of praise. "You can infer, 'Well gee, they could have gone through the normal [assignment] channels, they can go [to the assigning partner] and ask for someone to be assigned. They didn't have to come to me'" (A201: 57). "Repeat business," when "the people you've worked with before call you back directly" (A207: 36) with more work, is associates' best guide to their standing. Inversely, "if people stop calling [directly], you're not doing so well" (A224: 27), the associates agree.

Associates attempt to judge the quality of the work they are given, relative to their peers, but lack the necessary information to do so. Associates try to assess their level of responsibility on matters they work on and the sophistication of those matters relative to the others in the firm.

- The way you try to get a sense of how you're doing is to see what kind of work you are doing. Are you on interesting deals. Do you feel in command

of those (A212: 25).

- The more hassles I can take away from people, the better I feel about them relying on me and their confidence in my work (A214: 31).

While associates can get a sense of their responsibility on a legal matter relative to the others working on it, they have little knowledge about what their peers are doing on other matters.

> People who are getting good work are silent, because they don't want to seem like braggarts. And people who are getting bad work will never tell you, because they're embarrassed about it. So the end result is very few people talk about the calibre of work they're getting (A224: 27).

Senior associates are the brokers of junior associates' reputations, "You get a sense by talking to the senior associates, as to who's doing a good job and who isn't" (A222: 23). But many of the junior associates either do not work frequently with senior associates or do not have the close informal relations that facilitate the sharing of candid opinions.

Lacking a substantive measure of their relative standing, junior associates use "busyness" as a measure of their reputations. Busyness is measured by how many late nights and weekends someone is in the office, discounted for the assumption that a percentage of the people are actively creating the false impression that they are busy.

But the use of busyness as a surrogate measure of partners' evaluations of associates has costs for the associates. Foremost is, what one associate termed, "the scourge of competence." He elaborates: "Anybody who is any good gets to be known that way and so they get repeat business, and they get a full plate. And,

anybody who is notoriously bad will not get much work. Because nobody wants his help" (A227: 27).[30] Most of the associates probably fall between the two extremes in the above quotation, perpetuating their ambiguity. Reputations for being "good" develop over time. Thus, first-year associates are effectively foreclosed from this mechanism of self-assessment. "I think a large indication of how you're doing here is how busy you are. But see, that's so hard on a first year. You don't really have a reputation yet" (A203: 41).

The ambiguity of how much work is sufficient combines with the associates' ambiguity in assessing their relative standing within their cohort to propel them into greedy partner assignment networks. And these greedy networks keep them busy enough to sustain them in their peers' busyness-based status assessments. However, the associates recognize the low informational value of busyness, and partially distrust it, as well. Unsure of the quality of the legal matters they work on, their ambiguity persists:

> It's really tough to know. The best indicator is that people keep assigning you work, and the work you're doing is *enjoyable*. Because you may keep getting work from somebody, because it's work that nobody [else] wants to do, and they know you're a sucker enough to take it. If the work is *good* and the same people keep coming back, you can be pretty confident that you're doing a good job (emphasis

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[30]. "A full plate" is itself a highly ambiguous phrase. It means something between "extremely busy" and "overworked." Its proximity to either pole is probably a function of the associate's mood for the day. See the discussion of the "full plate" metaphor earlier in this chapter.

Let me further note the continuance of the binary language of evaluation, which only permits top-of-the-class success and failure, in this quote. Associates' lack of knowledge about their competence and positional status is indicated by their lack of any language to describe this middle ground.

added)(A224: 27).[31]

While they may fear being "suckers," associates rely on partners' greedy assignment networks to sustain their self-image as competent young lawyers.

A few associates either bring a sense of personal and professional competence, often from their clerkship, or acquire it while at the firm.

> There comes a point where you just have to believe you have a brain, you can do the work; and you do it. Maybe I should pay more attention to [the reputational contest]. I know a lot of people who are very paranoid about that, but I just can't get caught up in that (A215: 15).

For a group of highly intelligent, highly motivated, successful for their age adults, there were surprisingly few expressions of self-confidence, such as this. Feelings of personal and professional self-confidence are apparently difficult to sustain outside of the reputational competition of busyness, or more of these highly talented associates would have made similar statements.

But, even this small group of associates expressed feelings of ambiguity. One third-year associate made this point clearly:

> You can get a sense [of how you are doing] based on people's reactions to your work on individual projects, and maybe on people who want to work with you, but that might just be a coincidental thing as well. There are some partners who work particularly with certain associates and some who work with others. It is very hard to read the map of those connections to come up with a sense of how you're doing as an individual. I feel I've been doing good work here. ... I don't feel like I've neglected anything or made mistakes. So I feel good, but it's very hard to get a concrete sense of whether those feelings are justified

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[31]. "Enjoyable" and "good" are adjectives that lack the specificity necessary to establish a rank order of associates. I discuss associates' idiosyncratic and contradictory definitions of "good" work below.

(A210: 31).

In summary, junior associates seek validation of themselves as competent organizational members and as professionals. The formal review process does not provide the substance necessary for associates' self-assessments, instead it offers only a binary, fired/not fired, judgment devoid of nuance. Associates attempt to use informal mechanisms — partners' marginal comments, or their absence, compliments, and feedback — to assess themselves relative to their peers. But this too provides only ambiguous signals. With language's failure, associates use behavior to measure themselves. But self-assessments through busyness come at the price of associates subjecting themselves to partners' greedy assignment networks. Further, they are structurally ignorant of their peers' work. In the end, associates still wonder if doing lots of work is the same as doing good work. I now turn to associates conflicting definitions of "good work."

Good Work.

"Good work," the associates agree, is work that gives them responsibility. Yet some associates parse the sufficient level of responsibility differently, and others are willing to trade off some responsibility for exposure to high profile, "sexy" deals and cases. One associate offered a standardized definition of "good work" and explained how the shared definition remains elastic.

> A224: Good work is work that requires you to think. Bad work is work that requires you just to do mundane mindless tasks over and over again. ...Work that doesn't require you to think is proofreading [and] distributions. You have ten people, and you

have to get twelve documents to them, and writing the cover letters which are very simple and menial. That's bad work. Good work is: the more complex the legal problem, the better it is. But it doesn't necessarily mean you'll enjoy it, but it means that the people value your abilities.

DP: Can associates discuss the assignments they are getting and rate them on a scale of good work, bad work? Or is that something you all pretty much keep to yourselves?

A224: If we were reminded to talk about it, I think we could. We'd understand each other, and we'd be able to draw distinctions immediately between what's good and bad. But people who are getting good work are silent, because they don't want to seem like braggarts. And people who are getting bad work will never tell you, because they're embarrassed by it. So the end result is very few people talk about the calibre of work they're getting.

"Good work" is work that values associates' professional abilities. Foremost among their abilities is associates professional legal training. "Bad work" is work that "paralegals should be doing," often because "micro-managing partners" (A216: 12) prevent the associate from taking responsibility. Thus, understanding associates' conception of appropriate professional roles reveals their definition of good work.

Associates Competing Professional Roles.

There are two paradigms associates use for their professional roles — counselor and technician. Both emphasize the expert knowledge the associates believe professionals should have. They differ because the counselor role views the associate's expertise in relationship to a lay client. This is the role of a "helping professional," common in the popular culture. In contrast, the technician role views associate expertise as an autonomous set of skills used to further the goals of more

senior professionals, in this case, partners. This is almost a laboratory model of technical knowledge for technical knowledge's sake. Validation comes from other, more senior professionals, in these associates' views. Most associates embrace the associate-as-counselor role ("counselor role"). But a notable minority hold to the associate-as-technician role ("technician role"). These idealized self-concepts affect associates' views of "good" work and, thus, the work they pursue in the firm. I review each in turn.

The litmus test of the counselor role is the amount of one-on-one lawyer-client contact the associate has. As one associate summarized the opinion of this group, client contact is "*real* legal work, like what you expect law [to be] — real client contact, helping some person" (emphasis in original)(A220: 16). This contact is a venture into the complexities and unpredictability of the "outside," "real" world. It is both stressful and rewarding, these associates report. Out of the stress of "not quite knowing what [they are] doing" (A213: 8) comes a sense of personal accomplishment. Embodied, individual clients lend additional weight to the associates work, as well. As we shall see below, associates report that they get this counselor experience with small cases and *pro bono* work, rather than the more typical large cases.

Client contact entails challenges and stress. Associates are inexperienced with clients' needs and new at the law. They cannot predict what the client will want, nor do they typically know the answer to client questions.

> I think it's one of the biggest challenges is being able to [explain] something properly to your client and accomplish what they've framed for you, even though they really don't know what questions to ask [you] and what they're looking for. You have to translate it into what needs to be done (A205: 14).

Client contact under uncertainty can be scary. "When I deal with clients — and I do have some, I do some *pro bono* work where I actually have a client — that's probably the scariest time for me" (A207: 10). Client contact can be "nerve wracking": "You have to remember to say everything you need to, without saying too much, that could get you in trouble" (A225: 8). For many junior associates typically in their mid-twenties, client contact entails the additional burden of managing client expectations of having older lawyers. The petite, female associate quoted above continues,

> It's probably the scariest part for me. ... Part of it is I'm young, and the other part of it is I don't really look like they expect most of the time. So (laugh) being smaller and female and looking about twelve (laugh)! I feel like I have to make up for that. ...I try to dress the part. I'm a lot quieter and I think a lot more before I talk (A207: 10).

While clients' expectations of Raymond Burr may frustrate some young associates, the clients' real legal needs provide them with the opportunity to validate themselves as expert counselors.

One-on-one lawyer-client contact is rewarding. It humanizes the work and motivates these associates. In most cases, there is at least one more senior attorney between the junior associate and the client, leaving the associate to feel that he or she is a back office technical functionary. "I've really found my job to be largely as a functionary. It's just getting deals done that the firm has. I haven't found that my opinion valued" (A228: 12). Most legal matters have "a couple of tiers of people in

between [the associate] and the client" (A210: 12). "In a large firm you often just deal with corporations and the people are just in the background" (A208: 12). An important part of the one-on-one client contact is the clarity of the associates' role as expert. "It's rewarding to have somebody call you up frantically, saying 'God, can I do this or not?' And you tell them, 'Don't worry, you can do it'" (A212: 11). The experience of having someone *need* their advice is emboldening to the junior associates. "I was helping [some clients] and I could see that the [clients] didn't know what to do, and I had the expertise. I felt good about showing them what they needed to do" (A219: 9).[32] The personalizing of the lawyer-client relationship is often mentioned as rewarding, as well. Speaking about his *pro bono* work, one associate explained, "I think it's gratifying in the sense that you tend to be working with people you can empathize with and not some enormous corporation that you can't. So it's more gratifying. ...It's the personal satisfaction of helping *someone*" (emphasis added)(A229: 21). Corporations with the myriad officers, lawyers, and accountants cannot garner the empathy that motivates the associates the way embodied, individual clients can.

> I have one case where I see the client, he's the president of the company. I talk to him, or see him, once a week when the case is active. Because of that, there's a real sense of (pause) ... there's a person who I talk to and see, who knows me, and knows who I am. And because of that, I always want to do a good job. I want to even do a better job because I have some kind of personal rapport with him instead of just a name of a company or a person, as the client (A218: 18).

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[32]. This associate went on to say, "That's not the common experience here."

Client contact is "real" legal work, for this group of lawyer-as-counselor associates. Client contact *interactionally* validates a professional self-image of the associates. Despite the anxieties and frustrations of direct client work, these associates find it more motivating than having corporations as clients, because of their lawyer-as-counselor professional self-image. This group comprises the majority of the junior associate sample. It consists of virtually all the litigation associates, and some of the corporate and service department associates. The minority group has no use for clients.

The second group of associates value a role of lawyer-as-technician, a functionary removed from the counselor-client interactions. These associates assess themselves in relationship to their partners and their work.

> Client contact is often (sigh) more trouble than it's worth. I find that the clients I work with should be able to do a lot of the things that I do for them. So that's not the most challenging part of my job. And I by the end of the day I don't go home and say "Well, I really made that company happy, because I filed their registration statement on time." I'm much more concerned about whether the partner that I work with is happy and whether I feel internally like I did the best work I could. And I'm probably not spurred on by the pleasure of my clients in very many cases. That's probably the nature of corporate and securities practice, in general. There's no person that you can usually get through to at my level (A219: 9).

Large corporate clients have multiple officers interacting with the lawyers on each legal matter. This means that junior associates typically deal with lower level corporate functionaries on one-time, "fact finding" calls or visits. These interactions offer little to the junior associate. The low status of his or her corporate contact reminds the associate of his or her low status within the firm. The nature of the

associate's task is typically factual — seeking information from the client[33] — rather than legal — giving advice to the client. One counselor role associate who "thrives on client contact" described the technician role associates' office-focused work orientation: "I know a lot of guys who prefer to just grind in an office. Get in and out ... no hassles" (A213: 9). One associate in this group who likes "having corporations as clients" described why.

> I like this idea of being a service industry in the sense that your clients come to you with concerns and goals that they wish to achieve, and you help them do it ... in a way that's divorced from determining what those goals are. That's an attractive sort of profession to be [in]. It's almost content free in a way (A209: 11).

Two of the technician role associates recognized the personal rewards of client contact, but did not feel that those were in their best interests. One associate told me that while client contact is important to him and he has "more opportunity for client contact here than at any [other] corporate law firm in the country," he prefers to work on deals that afford him little direct client contact, but have, "in my judgement more sophisticated clients, [that] I can learn more from" (A216: 9). Another corporate associate expressed enjoyment at using his "client advocacy skills," typical of a litigation practice, but then explained why he chose corporate practice. "It's a question of priorities. And, if I think that my prime concern is to make a certain

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[33]. For example, on a corporate financing that requires collateral, the junior associate on the deal would typically acquire the information to create a "Schedule" (*i.e.*, Appendix) to the security agreement listing all the corporation's patents. This is not an easy task, if the corporation is not well organized. Further, internal corporate politics may give the associate's lower-level corporate contact little incentive to cooperate with the associate on the essentially clerical task.

amount of money over a short period of time, corporate practice is the best thing for me" (A224: 9).[34] These two associates sought to use their legal expertise to gain business world sophistication. They felt that they could get this more readily from reading the documents on big corporate matters, than from clients.

The technician role associates try to avoid client contact as a nuisance or a distraction. Their goal is to use their expertise to please their partners, enjoy the self-satisfaction of doing a good job, or to acquire other information. Their professional self-image does not require clients.

These competing definitions of the appropriate associate role *vis a vis* clients affect the associates' interests in the informal distribution of partners work. The biggest, most important cases, typically overseen by the most important partners do not offer the associates all that they are looking for in work training. "Big," "cutting edge," "sexy" matters that are reported in the *Wall Street Journal* are attractive to associates because they lend penumbral prestige. Indeed, several associates indicated the importance of their partner to me by invoking the names of front page legal battles of the 1980s — "He worked on the XYZ deal." These big cases gave junior associates knowledge of the cutting edge legal issues and exposure to prestigious cases and deals, but little client responsibility.

But "smaller," "predictable," and "simple" legal matters, which "require little

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[34]. He went on to explain that he believed his corporate practice experience would give him business management skills that would enable him to become an entrepreneur and "make a lot of money" in a few years time. Law practice was a research project for his real goal of running a business to become rich.

partner involvement" hold their own attractions for many junior associates. These legal matters never appear in *any* newspaper, but they offer the associates opportunities for exercising independent judgment and responsibility by working closely with the clients — important markers for many associates' sense of professional competence. Associates' definitions of professional competence and "good" work compete, and often conflict, with partners' definitions. The informal assignment system allows associates to pursue the markers of professional competence offered by client contact and responsibility. Those who seek these markers acquire them in the least prestigious legal matters — small cases and *pro bono* work.

Small Cases and Pro Bono *Work*.

> Because of the clientele that we handle, and some of the large cases we handle, it's hard for them to have someone junior do things ... for the first time. That's why I like the smaller cases. [The big cases are] discouraging sometimes, because you spend seven years in higher education to come out and just read a document. So it is discouraging. I like to write a lot. I wish I had more of an opportunity to write. That's why I like my *pro bono* cases, because I've had the opportunity to do some legal writing (A208: 44).

Smaller cases and *pro bono* work offer the associates valuable markers of their own professional competence. Client contact, court filings, defending and taking depositions, brief writing, negotiations, and court appearances are the professionalism markers young associates use to construct competent professional selves. These are the "things people expect lawyers to know how to do" (A227). Moreover, associates have greater control over the pace of this training: "That's the way a lot of people get early training — deposition training, trial training — is by doing *pro bono*" (A203:

33).

The associates articulate two separate, but related values of small cases and *pro bono* work — autonomous responsibility and experience dealing with clients, opposing counsels, and the courts. One associate captured a general theme used in describing the effect of direct, autonomous client responsibility on the associates' professional selves, "It's an opportunity for you to make your own decisions [which provides a] sense of independence, and that's a good feeling." (A218: 17).

This work also serves as "hands on," associate controlled professional training. "I don't know how much the firm thinks about your professional development... so I like to keep one or two small cases at the same time I have my big ones, because you get more experience on the small cases" (A203: 21). One associate contrasted the value of large versus small cases for associate training.

> For the most part you're in charge [of *pro bono* work].... One draw back of being in the big firm is that the client is paying a lot of money, and when they pay that much money, they want a partner actively involved in their case. Usually the partner is going to argue the motions before the judges, do the trials before the juries, do the oral arguments before the court of appeals. You don't get a chance to do that kind of stuff until you are a very, very senior associate. So taking on *pro bono* projects allows you to do that stuff right off the bat...it gives us the experience that we otherwise wouldn't get (A211: 19).

Pro bono cases provide the client contact that most associates feel is — or at least should be — the *sine quo non* of lawyering and a vital skill for their future marketability.

> Client contact is important.... It's important both to know that there's someone outside that you're just not talking through a partner. And also because client contact helps me personally as a lawyer, because if I'm not here for the rest of my life, it's going to come to a point where

> I'll go to a smaller firm and where I'll have more client contact. And that should be the nature of the practice of law. It shouldn't just be these large entities where you write memos and they just fall into this black hole (A218: 8).

Thus, small cases and *pro bono* work provide young attorneys "with interesting work that otherwise would go to more senior associates" (A211: 19).

There are structural limits to the number of small cases available. Small billable cases are the equivalent to "having your cake and eating it too" for associates so inclined. They cannot be criticized for taking on the less prestigious billable work some associates prefer to avoid. Not every associate could fill his or her schedule with thirty to fifty percent small cases. Law firm economics promotes larger cases and larger case staffing. While there is a limited number of small billable cases, there is boundless *pro bono* work available. *Pro bono* work is voluntary and generally suspected by associates not to be treated on a par with billable hours in the partners' eyes.

The associates confirmed that these cases do not conform to the partners' value hierarchy when they reported a hesitancy to ever use *pro bono* work as a reason for turning down "paying" work, or even missing a meeting with a paying client. Every associate who was asked (n=17) said that he or she did not feel that *pro bono* work could be used as the reason for turning down partners' requests that they perform billable work. Corporate associates may have even more difficulty in taking on *pro bono* work that affords them professional markers.

> I'm in corporate, so I don't know what [the partners'] response might be to my court appearances for *pro bono* litigation. They encourage us to undertake *pro bono* work which involves not-for-profit filings, the

> sort of thing which won't heat up. The bottom line is, I think it would be seen very negatively if you attempted to say "No, I have this *pro bono* thing I'm working on." It's not an acceptable answer (A229: 21).

The partners' interests and at least some of the associates' interests conflict. One litigator captured this value conflict, "I was billing eight hours a day to the *pro bono* cases and sometimes I felt guilty, but on the other hand, those are the only cases I'm really getting good experience on" (A208: 25).

Not all associates pursue small cases and *pro bono work*. One associate claimed that she was "an exceptional case, because [she] asked to be on cases that are tiny" (A207). Eight (28%) associates admitted to not doing any *pro bono* work, mostly because they "have no time." This group held the associate-as-technician view of lawyering.

Many associates seek out smaller cases for the access to professional competence markers the cases offer. But these "small cases" are typically not overseen by the partners Nelson termed the client-responsible elite.[35] Associates can articulate and pursue a definition of professionalism that is askew of the definition

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[35]. While I have no data on which partners were responsible for getting cases in the first instance, the following event seems to confirm my assumption that the firm leaders were not concerned with these small cases. During a meeting with three senior litigation partners I explained the associates' interest in smaller cases. All agreed that they too liked working on small cases as associates. Then the head of the department asked half rhetorically, "Where have all those small cases gone?" After a long moment of silence as the partners contemplated the disappearance of the small cases, one commented that "They are not as profitable anyway." Despite these elites' obliviousness to them, their department had enough small cases to occupy at least some of the time of nearly half the litigation associates I interviewed. In a separate meeting with non-litigation firm leaders, no interest was expressed in promoting associate training through small cases and *pro bono*.

Nelson's organizational dominance model predicts. Nevertheless, the associates' definition remains recognizable to the partners, as several litigation associates reported that they believe the partners recognize that small cases and *pro bono* work are good experience (A208; A226).

Conclusion.

Partners make money by charging clients more for associates' work than they pay the associates for the work. Because the associates are salaried workers, the more hours they work, the more money the partners make. This chapter has documented the consequences for associates and their behavioral responses to several of the partner practices detailed in Chapter Eight. The low specialization, the stigmatized formal assignment system, the informal assignment networks, and the informal "sink or swim" training all keep the associates working hard, as they seek good work, try to avoid bad work, and seek training from senior associates and partners in exchange for accepting additional client responsibility. The vacuous formal reviews and the suppression of the discourse of hours leave associates always doubting the sufficiency of their labors. Their lack of knowledge about their peers furthers their uncertainty and ambiguity. Many associates receive further inducement to work long, hard hours by their own pursuit of a counter-definition of junior associate professionalism from the one held by elite partners.

Thus, there is a clear structure created by the partners' practices, and reinforced by the associates' responses, for facilitating the maximum amount of

associate effort. More work is almost always regarded as better. But this structure does not *force* the associates to provide the maximum possible amount of labor, it merely facilitates it. The associates *voluntarily* contribute the last ten percent of their sentient effort. Indeed, all the associates could follow the example of some of the women cited and refuse additional work after fifty, or even forty, hours. In the absence of such collective action, however, each associate must decide his or her appropriate level of effort. This raises the problem of commitment. Why do these associates give their employer-partners more effort than they have to? What are they committed to? In the next chapter, I will argue that three levels of commitment must be examined to explain the actions of these associates within the collegial-driven partner culture — professional, work, and organizational commitment.

CHAPTER ELEVEN

Commitment and Associate Selves

Introduction.

This chapter surveys the interviewees' tri-level commitment to the professional institution of law, their organization, and a set of work practices. Commitment is the alignment of personal and group identity. As Kanter argues, commitment is a

> reciprocal relationship, in which both what is given to the group and what is received from it are seen by the person as expressing his true nature and as supporting his concept of self. . . . Commitment thus refers to the willingness of people to do what will help maintain the group because it provides what they need (Kanter 1972, pp. 65-66).

In this study, the "group" to which the associate may be committed, has three possible levels. First, it may be the institutional level of the profession. Individuals associate meanings, values, and social status with the profession of law. Associates, as law student lawyers-to-be, may identify with a broader, more generic, or even a different type of professional identity than the one they inhabit at their elite firm. Family background, personal life course, and the media may affect this sense of lawyer identity. Second, the "group" may consist of an organizational level. The associates may identify themselves in relation to their particular firm. While being a lawyer *per se* may hold little value, associates may feel that being a member of the high prestige firm, A2, is consistent with their self-image. Third, the "group" may consist of shared sets of practices — habitualized behaviors. Membership based on shared practices is not necessarily bounded by organizations. Certain practices may be shared by all big firm lawyers. Though this membership is likely to be less

encompassing than the institutional and organizational levels of meaning. The shared practices may be limited to the lawyers in one department of the firm.

Just as there are three different levels of the group, so too there are three different possible levels[1] of commitment. At the institutional level, it is commitment to the profession. On the organizational level, it is commitment to the firm or partnership. On the behavioral level, it is commitment to shared work practices and work relations. These three types of commitment may overlap or exist separately from the others.

The measurement of commitment requires a methodology for examining the alignment of the self with the surrounding institutional, organizational, and behavioral values.

Vocabularies of Motive and the Measurement of Commitment.

Vocabularies of motive are socially sanctioned justifications of behavior under conditions of choice or conflict for the actor. "Motives are acceptable justifications for present, future, and past programs of conduct" (Gerth and Mills 1953, p. 116). The verbalization of acceptable motives by an actor constrains the actor to conform his or her behavior to behavior appropriate to the articulated motives. These utterances articulate a logic of action that itself becomes a constraint upon future actions of the speaker.

Institutions are the carriers of the competing vocabularies of motive available

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[1]. I use the term "levels" here in a structural sense, not to convey gradations.

to actors. In modern society, individuals operate across multiple institutional domains and thus have multiple vocabularies of motive available to them. However, other actors may differentially view specific vocabularies of motive as legitimate or illegitimate within a particular institution. For example, a rhetoric of care is encouraged within the institution of the family, while a rhetoric of utilitarian self-interest is discouraged. Yet, actors may attempt to import "foreign" rhetorics into other institutions as a means of legitimizing their conduct. Continuing with the example of the institution of the family, both the Chicago School of Economics (Becker 1976) and feminists analyses of "domestic non-wage labor" have attempted to import market rhetorics into the domain of the family.

At the same time, and of predominant effect, actors impose institutional rhetorics of motive on other actors as a means of social control. The majority's refusal to acknowledge the minority's attempts to import a new rhetoric of motive, often backed by material resources, both limits and defines minority actor's "legitimate" motives and conduct.

> In the course of our biography, our motives are imputed to us by others before they are avowed by ourselves. Such vocabularies of motive then become components of our generalized other; they are internalized by the person and operate as mechanisms of social control (Gerth & Mills 1947, p. 117).

The stability of institutions provides for the stability and sense of unity of selves that reside in an institution. Institutional conflict and change can lead to fragmented and conflicted individual identities. Similarly, individuals in modern society inhabit several institutions simultaneously, which potentially limits the unity of their selves

while providing them with additional vocabularies of motive.

Vocabularies of motive are consciously available social justifications of action. Potentially problematic action is thus justified by reference to shared value ends. Action here denotes stable, legitimate goals or values to be achieved. Thus, vocabularies of motive only concern instrumentally rational — *zwertrational* — action, one of Weber's four types of action (Weber 1947, p. 116). The other three forms of action, traditional, affective, and substantive do not entail the conscious separation of means and ends, and thus cannot be defended by recourse to an overarching, shared value.[2] Vocabularies of motive do not contest values (ends), but invoke them for the purpose of justifying contested actions (means).[3] The more stable the value orientation implicit in the invoked vocabularies of motive, the more stable the institution to which the vocabulary of motive and the values are anchored.

In turn, actors' stable use of a vocabulary of motive across institutional domains is a strong indication of the centrality of those invoked values to the actor's self.[4] Thus, identifying clear and stable vocabularies of motive used by a group of actors potentially allows the specification of both the defining values of the institutional order and the legitimate means of achieving those values, as well as the

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[2]. Weber indicates that traditional and affective action reside at "the borderline of what can be considered 'meaningfully' oriented" (Weber 1947, p. 116).

[3]. "Thus, making others understand us, we can understand ourselves and reconstruct our image of self" (Gerth & Mills 1959, p. 128).

[4]. "Those vocabulary of motive which are consistently used by the person when in public, when in private, and when alone have the highest chance — other things being equal — to become fully integrated with the psychic structure" (p. 120).

self-image of the actors invoking those institutionally-derived values. This definition is similar to Alford and Friedland's concept of "logics of action."[5]

Logics of action are legitimate institutional systems of values and the modes of action for achieving those values. Logics of action canalize behavior. Like the waters of the Mississippi and its human-made levees, human actors are significantly constrained by, but not limited to, institutionally legitimated modes of action.

Empirically, vocabularies of motive, or logics of action, provide a view of the social selves of individuals. Individual psychological differences may well tinge individual's conduct. But individuals justify their conduct through language, a social phenomenon. In this way sociologists have access to the inner dialogue that constitutes the self during action. Following a Meadian theory of the self, we can probabilistically predict individual's future actions from the cluster of their prior utterances, to the degree that these utterances revealed a stable and consistent vocabulary of motive. However, consistent with Mead's theory of the "I," actors' past utterances can never be taken as *determinative* of their future actions, only *prescriptive*. This theory is similar to Bourdieu's conception of agents' dispositions.

This methodology does not give us access to the "real motives" of actors, as

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[5]. Alford and Friedland define institutional logics of action as "an empirically and historically variable combination of explicit norms governing behavior..., a legal rule with a sanction attached..., and an implicit premise of action that permeates all social relationships.... Where an institutionalized logic is reinforced by explicit norms, sanctioned law, and action premises, it is likely to be relatively stable" (1985, p. 428, n. 1).

Gerth and Mills called them.[6] Rather it gives us access the actors' judgments of the legitimate, allowable, and even rewarded explanations of conduct. The examination of vocabularies of motive is the study of actor's symbolic agency under the limitations of severe normative social control. Understood this way, there is no concern with historical accuracy of the associates' reports. Goffman's concept of the "moral career" shares Gerth & Mills' idea of the situationally-based identity of the self.

> Given the stage that any person has reached in a career, one typically finds that he constructs an image of his life course — past, present, and future — which selects, abstracts, and distorts in such a way as to provide him with a view of himself that he can usefully expound in current situations (Goffman 1959, p. 150).

We need not concern ourselves with whether an associate *really* wanted to be a lawyer since age eight, for instance. Rather, we are merely interested in the associates' comfort in telling a unknown researcher, who has been invited in by the firm's management to conduct a study, whether he or she always wanted to be a lawyer or just became a lawyer because the pay was the highest. Each answer implies different value commitments and, by implication, different organizational commitments. It further implies differences in the repertoires of permissible behaviors of organizational members.

Actors' consistent vocabularies of motive are an indication both that the actor resides squarely within one institution or a stable system of institutions and that the logic of action articulated by the vocabulary of motive is indicative of the actors' self-

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[6]. "Real motives" is the sociological term for economists' "revealed preferences" and political scientists' "interests."

concepts. Actors' inconsistent vocabularies of motive are an indication of value conflict within the institution, or between multiple institutions the actor resides in and the limited relationship between the logics of action and the actors' self-concepts.

Ideal Types' Predicted Vocabularies of Motive.

The two ideal types of firm cultures suggest clear differences in the legitimate vocabularies of motive actors would use. I shall review each level in the chronological order associates encounter these levels of the professional identity.

On the institutional level, actors must chose a career and then chose a firm. The collegial-driven firm culture should produce selves that are oriented to the values of the profession of law. These selves should emphasize their life-long "calling" to the law and their desire to help people. The helping behavior may take the form of direct advocacy or scholarly intellectual engagement in the discourse of rights and the law. These selves should have picked their firm in accordance with the image of professional legal practice they wished to pursue. A collegial self should recognize ethical responsibility of lawyers to serve the community through public service. Alternatively, the entrepreneurial-driven firm culture should produce selves that emphasize the maximization of income, both present and deferred. These selves both picked their professional career and their firm based on informed estimates of the highest likely return (partnership) on their human capital investment (education). The practice of law holds no special importance to entrepreneurial selves, other than the consumption of goods it affords. Entrepreneurial selves do not recognize, let alone

feel an obligation to, the concept of public service to the community.

On the behavioral level, associates perform standardized work roles that implicate work practices and work relations. The collegial-driven firm culture should produce selves that derive enjoyment and fulfillment from their work practices and work relations. Collegial selves should feel like indispensable members of their work teams; as such, their relations with the firm's partners are best characterized as colleagues. Their integration in their work groups is reflected in their integration into their daily work. Work-oriented activities should comprise the best and worst parts of the day, for these selves that identify with organizations that have successes and failures. In contrast, the entrepreneurial-driven firm culture should produce entrepreneurial selves that feel like fungible employees in all their work tasks. This combined sense of dispensability and subordinacy confirms the entrepreneurial selves' sense of work as a disutility. Because of this, their best and worst parts of the day will not be work-oriented.

On the organizational level, actors must negotiate the "trade" of their labor for money and chose to pursue partnership or make other plans. The collegial-driven firm culture should produce selves that are directed toward the goal of partnership in the firm. These collegial selves should feel adequately compensated, but focus on the perceived firm culture-self match. Because they intend to stay to become partners, they should express and expect reciprocal loyalty with the firm. In contrast, the entrepreneurial-driven firm culture should produce selves directed toward the goal of maximizing their income, for the highest value mixture of consumption and leisure

utilities. Entrepreneurial selves are only interested in partnership to the degree that no more profitable careers arise. They do not believe they are paid enough. Entrepreneurial selves should be pursuing alternative long-term career options as a risk reduction strategy, should they not make partner, and for possible higher value employment opportunities. Entrepreneurial selves should not feel a reciprocal loyalty with the firm.

A word of caution is required about a finding of entrepreneurial selves, through the assessment of vocabularies of motive. As Gerth and Mills write, "Due to the great weight which the economic order has in the American social structure, pecuniary motives tend to form a sort of *common denominator* of many other roles and motives [when] in modern life there is no ... stable or unquestioned vocabulary of motives available" (my emphasis)(p. 122). In other terms, if the law firm's culture is unstable or contested, actors residing within it — especially weak actors, such as associates — may resort to a safe "common denominator" vocabulary of the market as a self-justificatory strategy. In a collegial-driven firm, this would be a clear indication of the absence of a firm culture effect on associate selves. However, caution must be taken in finding that the firm culture *produced* entrepreneurial selves. Under these circumstances, the consistency of the usage of market vocabularies of motive will differentiate a firm cultural effect from a null finding in a generally market-oriented surrounding culture.

I will review the associates' responses on the three levels of commitment. I will proceed in the chronological order with which the associates encounter these

commitment issues, starting with their choice of profession and their choice of firm (career commitment), then their daily work practices (work commitment), and finally their long-term plans in or beyond their firm (organizational commitment).

Career Commitment.

Career commitment entails the associates' choice of career, choice of firm, what the associates find important about being a lawyer, and the associates' sense of professional moral obligation to public service.

Associates' Career Choice(s).

The interviewees divide into two distinct groups based on their age at the time of their career choice (see Table 11.1). One-third of the associates "always wanted to be a lawyer," having decided early in their childhood. I term these "lawyers-from-the-cradle." Two-thirds of the associates decided to become a lawyer during college or after. I term these "lawyers-by-default." As we shall see, age and reasons for becoming a lawyer are closely related.

Table 11.1: Age at Reported Career Choice.

Age at Career Choice (Educational Level)	Number	Percent
5-14 (Pre-Secondary School)	9	31%
15-18 (Secondary School)	2	7
19-21 (Undergraduate School)	7	24
22-33 (Post-Undergraduate Degree)	11	38

Notes: n = 29. Mean age 18.6, median age 20, and modal age 20. Responses to the question: "When did you decide to become a lawyer?"

Lawyers-from-the-Cradle. About one-third of the interviewees reported an essentially life-long desire to be a lawyer. This small group's life-long career ambition approximates Weber's concept of a "calling." Of the nine who "knew" that they wanted to become a lawyer before high school, five had lawyer fathers or close relatives. These aspiring professional children were raised in a milieu that made law a familiar profession.

> Growing up with a lawyer in the family, I had a lot of exposure to my father's cases, and I worked in his office a little bit part-time one Christmas and liked what he did. And I think that in a way genetics or upbringing played some role in it, because my grandmother went to law school. She never graduated. Her father was a judge. I didn't feel the weight of family history encouraging me to go, but I think that has some part in it (A203: 3).

Several other lawyers-from-the-cradle identified adults' reactions to their verbal precociousness with law. One associate who grew up in a small town, said that townspeople would respond to his "natural argumentativeness" by telling him that "you ought to be a lawyer" (A216: 2). Another found his career predestined.

> It was ... sort of organic thing from the time I was young. Right after I wanted to be a fireman, I wanted to be a lawyer and that never changed. And then everything I ever did pointed to being a lawyer. Every aptitude test said, "Be a lawyer." Society says, "Be lawyer. The market says, "Be lawyer." So I became a lawyer (A209: 3).

Whether their image of a lawyer derived from "dad" or "Atticus Finch" and "Perry Mason," this small group never seriously considered another occupation. They are the minority.

Lawyers-by-default. The majority of associates became lawyers by default. Law is the refuge for liberal arts majors with upper-middle class lifestyle expectations. The majority of those who made their career choice after high school feel that they ended up in law by "default" (A220). This group is evidence of the vibrant tracking systems in American higher education. Unsure of what to do for a living, the educational system apparently channeled them toward law school with the justification that it is the appropriate career for smart students who are not inclined to the natural sciences. "I wasn't a mathematician, and I wasn't into the sciences at all. My mode of thinking is more analytic, like the law, than ... math or the sciences" (A218: 3). Other associates reported ending up in law school because "I had nothing better to do" (A225), "without much introspection" (A216), by a "process of elimination" (A202:; A221), by "default" (A220), or because they "didn't decide for anything else" (A218: 3). Law was generally viewed as an intellectual challenge, at the time of entering law school (A202; A205; A207; A209; A212; A213; A215; A217; A218; A223; A229). Undergraduates with literature, history, political science, and philosophy degrees found law "a logical" or "the only" thing they could do, other

than becoming an academic.

> Not wanting to grade undergraduate philosophy papers, I chose law. It looked to me like a career in which you get to do research, you get to do thinking, and you get to make arguments. Which was a lot like philosophy. Without the down side of grading endless undergraduate papers and the mundane aspects of academic life (A217: 2).

A few of these associates were paralegals in New York or Washington, D.C. law firms to "see if [they] liked it before going to law school" (A206).

Every one of the lawyers-by-default expressed some income, status, and/or job stability considerations in their "choice" of law. One associate's statement is representative, "I thought it was the best job the market could offer for someone who is intelligent. Not someone who is intelligent in a science and technology way, but for someone who is oriented toward words and humanities" (A209: 3). Many voiced a desire to "make a nice living" (A220), with job security (A203; A222), knowing that they "wouldn't starve" (A214). While no associate reported wanting to "get rich" as a reason for practicing law, it is reasonable to assume that these associates' definition of a "nice living" required an income substantially above the national median family income. One associate who had left her intended career in publishing after one year because she was "very, very poor" opined.

> Salary was definitely a part [of my career choice]. In publishing, I looked around and saw that the second highest person in the company was making what I considered not very much money. I thought that [salary] is a real measure of how society values you. And, I decided that wasn't valuable enough! (laugh) (A223: 3).

Salary and occupational status are often intricately connected in these associates' statements. Minorities and some children of professionals felt pressure from their

parents to become professionals for the social status considerations. For several associates of upper-middle class families, both income and occupational status were important for their families' approval. A promising, academy-trained violinist explained why he left the performing arts for law school:

> Respectability. Redeeming a life that was full of promise but was really fizzling out quickly. If you know what I mean. Well, you're 27 years old, you're kind of — have done music conservatory, done [a top ivy league school], you're in graduate school, you're kind of pretty convinced now that it's kind of ersatz creativity. You don't want to be a Ph.D. You wonder, "What the hell do you do? — Got to do something." So you talk to people. Everyone says, "For a bright young cultivated person, law is a great profession." So you sit there thinking. I found that I limited my choices — "I can't go to medical school." So law seemed like an easy thing to do. And it was a relatively easy thing to do. ... I could never say I wanted to be a lawyer. Nor can I say that I particularly admire or think the degree is worth very much. I just thought, "It's time to get some sort of solid income-based respectability, and everyone else seems to do this, so it shouldn't be too hard. I'll do it too" (A215: 3).

For many of this group, law offered a generic form of "income-based respectability." This group divides into two on the issue of the career mobility their law degree offers.

The associates disagree as to whether their law degree tracked them into a finite set of corporate legal jobs or if their law degree is a generalist advanced degree that will allow them to move across industries and sectors. Eleven of the eighteen lawyers-by-default stated that they did not feel constrained to law firm jobs. "I looked at law school as a five year commitment, when I entered. Three of it being the formal training in law school and two of it really learning how to be an attorney rather than a law student. I plan to evaluate [my career] after two years" (A228: 3).

Another associate told me that "I knew I would work in a big firm for a couple of years, but not as a long-term career" (A206: 3). In contrast, another group of lawyers-by-default feels that their law degree has tracked them to law firm or in-house counsel legal work. The normal "track" leads from law school to the firms, not to business, government, or solo legal practice. One believer in tracking commented on the generalist degree model of law degrees.

> That was the position that a lot of professors took at law school when people expressed dissatisfaction with the profession, especially in the later years. Professors would say "Well, it's a good credential, and you can do whatever you want with it." But as a practical matter, I, and most of my classmates, didn't really consider other options very seriously, just because that was the road not taken by most of the people we knew, and you were very much out on your own if you decided to do anything other than work for a firm. It's very difficult to pay for law school and incur that kind of debt and try to make up ground in another profession (A210: 3).

Most of the lawyers-by-default believed in their occupational mobility.[7] Those few lawyers-by-default who recognized the structural constraints on their occupational mobility, appeared unhappy.

The professions literature has long argued that the professions are defined by a cluster of values, including, *inter alia*, beliefs in a personal devotion, or "calling," to the work, work autonomy, and public service. As we have seen above, only a third of the associates grew up feeling destined for a career at the bar. Professional work autonomy is not valued by these associates either. Most of them defined "work autonomy" as being a solo practitioner. Only one of the associates expressed any

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[7]. I shall discuss their intended careers in a later section.

interest in *ever* being a sole practitioner. Several commented on their lack of entrepreneurial, salesman-like personalities preventing them from ever leaving the firm environment. "When you work in a firm, all sorts of things are taken care of, and you can just focus on your work. You don't have to worry about getting clients. You don't have to be entrepreneurial" (A202: 4). Associates like the stability of income.

> I would love to be my own boss, but I am too conservative to do something like that. I like to know that I'm gonna get paid the same amount every two weeks no matter what. I am very uncomfortable with the idea that how much I get paid the next week is gonna be based solely on how much I can go out and sell myself. I've never considered myself the salesman type. I like to think of myself more as the person who is sort of in the back office, doing research, doing more of a service type thing, rather than a person on the front line who has to impress the clients and bring in clients, and make rain (A205: 4).

Nor were political or social commitments an influence on these associates' career choice. The vast majority of associates, when asked if any political or social commitments influenced their desire to become a lawyer, responded with one word — "No." Their terseness suggested that they felt no need to explain this self-evident answer. A few appeared annoyed and impatient at the question. Two associates did elaborate, stating that "lofty social goals" (A205) and "high ideals" (A210) were never part of their reason for choosing law. The former was a lawyer-by-default, the later was a lawyer-from-the-cradle.

Five of the lawyers-by-default volunteered statements that challenge the rational actor models of individual career choices and law firms. These associates reported their ignorance at the time of entering law school, and in some cases well

into law school, of the existence of the large New York City law firms and top starting associate salaries. Their comments are evidence of the tracking of all elite law school students and top students at less prestigious law schools. One associate, who only discovered her "aptitude" for law school after she began, described the dual effects of being editor of the law review and having $45,000 of educational debt on her expected career.

> In my wildest dreams I never pictured coming to a firm like this. In my first three months of law school, I was really uninformed. I assumed that I would get out and go to work in the public defender's office, that kind of work. But when you happen to do well in law school, you get these opportunities, these financial boons, that were hard for me to turn down because of my deficit in the bank (A214: 3).

Other associates reported "hav[ing] no idea what corporate lawyers did all day, sitting in their office, talking on the phone" (A216). Three claimed not to be aware of the salaries they could make in a Wall Street firm, when they started law school. Finally, two associates told me that they had never heard of firm A2 until the interview season in law school. Clearly, these lawyers-by-default, the majority of the associates, were not performing even a minimal "search" for information on their career and employer options.

In summary, the majority of associates are lawyers-by-default. Intelligent liberal arts majors with nothing better to do, they ended up in law school. Because they did well in law school, they ended up on Wall Street, even when they did not know about Wall Street firms before entering law school. While the lawyers-from-the-cradle approximate the ideal typical collegial self, they are a minority of the interviewees. The lawyers-by-default neither approximate the ideal typical collegial

self nor the entrepreneurial self, because they both lack a sense of calling and did not strategically choose their career. Associates reasons for picking this firm is the next aspect of their career commitment I shall address.

Firm Choice.

A2 associates pick their firm under the assumption that they will not stay until partnership. Instead, they seek the firm with the highest prestige, which they feel will help them in their anticipated career mobility. Geographic location and firm prestige have an interactive effect on associates' choice. When choosing among equally high prestige firms, associates gravitate toward the firm that's culture they perceive as most closely matching their personality or that's practice areas conform to their interests. These findings contradict the decisional logic predicted by both the collegial-driven and entrepreneurial-driven culture firm models.

As discussed in the Introduction, large elite law firms disproportionately hire elite law school graduates. The connection between this firm and Harvard Law School is wide, deep, and old. Students in the top third of their class at Harvard and other top-ten law schools can find themselves in this firm by default. "The path of least resistance"[8] guides these students to New York City firm interviews, and eventually to New York City large firm jobs, the associates reported. Because these elite associates are the most sought after by legal employers, they should have the

[8]. Kahlenberg (1992) uses this phrase, as did several interviewees. See also the discussion of career choice by default.

greatest market power of law graduates. Accordingly, they make the easiest test of the neo-utilitarian model's assumptions. From the neo-utilitarian perspective, we would expect the best students from the best schools to have a significant market advantage in negotiating with employers. Elite law graduates would likely "shop around," acquiring information and negotiating for the best offer, as measured by income, deferred income (as measured by partnership chances and profits), and hours. In fact, most associates appear to put little effort into their "search" and firm choice.[9]

Associates do not consider their chance of partnership in selecting this firm. As Table 11.2 shows, eighty percent of those responding to a direct question reported that partnership was not a consideration in their firm choice. One associate glibly summarized the prevailing view of associates when asked if his chance of partnership was a factor in his firm choice, "Obviously not, because I came here" (A228).

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[9]. Some neo-utilitarian followers of Simon's theory of "satisficing" behavior may see this as proof of associates' rational efficiency under conditions of extremely limited information. This claim is dubious for three reasons. First, the law firm-specific theories of Galanter & Palay and Gilson & Mnookin require associates to calculate based on such information as chance of partnership and present and future income. Associates' intentional ignorance of these available data leaves these authors' theories stillborn. Second, the neo-institutionalist economists recognize that perfect information is impossible but insist on actors acquiring all information that is available, as a means of limiting uncertainty. Yet, it is generally known, and well documented, that partnership chances are substantially better *any place but New York City*. Thus, graduates who go to the New York City labor market versus any other city, appear to be acting suboptimally at the market level. Third, as I will demonstrate below, information is available to differentiate individual firms within a geographic market (indeed, virtually all the thirty firms' structural measures data in Chapter Five were acquired from law school placement counseling offices), but associates neither seek this information out, nor utilize it in their decisions.

Table 11.2: Considered Partnership Chances in Firm Choice.

Chance of Partnership a Consideration?	Number	Percent
No	21	81%
Yes	5	19

Notes: n = 26.
Responses to question: "Did your chance of partnership influence your firm choice?"

One associate told a story about discussing his partnership chances with a partner who was recruiting him.

> [The partner said,] "Well [Smith] we wouldn't make you this offer if we didn't think that you could become a partner in our firm." And to that I almost laughed out loud. I was so astounded. And I said to him, "Oh come on, you can't be serious about this. You don't make that many partners. Last year, how many partners did you make?" [They made none.] He gave some explanation for how they looked beyond, and if they saw better candidates in the class ahead that they'd like to bring in, then they pass over the [current group]. I said to him, "Who knows what it will be like in seven or eight years. You may look beyond my class too. I don't think there's any kind of assurance that if I come here and work hard I can become a partner." I think he more or less agreed with me that it was a difficult process and there were no ways of predicting (A219: 9).

Associates do not select firms to maximize their chance of partnership.

Associates do select their firm based on the dual issues of prestige and location. In an opened ended question, associates were asked, What factors they considered in deciding among their 'short list' of firms?[10] Nineteen of the twenty-

[10]. Categories were inductively derived from the responses and assessed on a four point scale: very important (1), important (2), mentioned (3), and not important/considered (8). Factors that the interviewees independently described as "very important" and "essential" were coded "1"; those described as "important" were coded "2"; all others mentioned positively were coded "3"; and factors mentioned

nine interviewees reported location to be a factor in their firm choice (seven of these classified location as "very important"). Twelve of the nineteen considered firms in other cities on their "short list." The firm's reputation (n=15) and the type of work the firm does (n=19; 3 of which were "very important") were the other most frequently cited decisional factors.[11] There is a significant overlap between location, firm prestige, and type of work done, because of the special position of large New York law firms in national and international corporate legal services.

> I consider New York, and this firm in particular, to be really the top of the heap as far as the legal profession goes. That really played into why I am here (A228: 7).

Because the associates are not planning to remain at this firm, they selected the firm to maximize their extra-organizational career goals. The firm's prestige is believed to translate into greater career flexibility by the associates. Coming to this high prestige firm with a low chance of partnership was their "safest choice" (A204: 4). Repeatedly, associates referred to their firm choice as an effort "not to foreclose any options." Two quotes are representative:

- The most risk adverse decision I could have made was to come here (A217: 5).
- It really was not clear to me what I wanted to do in terms of [firm] size and location. And this is a no lose situation to me, because I can always go, for example, back to [Denver] and work at a smaller firm (A203: 6).

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negatively were coded "8."

[11]. By comparison, "chance of making partner" was mentioned *negatively* twelve times and positively only twice in the open ended question.

Indeed, rather than selecting a firm in the hopes of staying for a lifetime, almost all the associates selected their firm based on the assumption that they would be leaving within a few years.

> At the time I joined the firm, there was a tremendous amount of lateral movement within the industry and outside the industry into the financial industry. And this was a hell of a place to be if things didn't work out. As opposed to [Firm B-X], where things probably had a better chance of working out [making partner], but if they didn't work out, I would not have been so well off (A213: 5).

Associates come to this firm for the "experience" on "cutting edge" legal practice.

> My attitude was just going to learn as much as I can — to get experienced. And that's basically what they sell to younger people, and the salaries. And I didn't know that I really wanted to be a private practice lawyer for my whole life, and so I thought "Get in, get the experience, and go from there" (A212: 7).

One third-year associate who was interviewing at investment banks when I spoke with him explained the rationale for coming to a firm where he had little chance of partnership. As when Smigel wrote, elite firm training is the post-graduate education for elite law school graduates.[12]

> To me the question was whether or not I should go directly to some place that I might be happy at for a longer period of time or whether I should come to a place like this first and then go there. It became apparent that it would be wise for me to come to a joint like this first, to complete my education. And then go there. In fact, as I go to interviews I see now that two or three years at one of these firms is sort of obligatory, it's almost like your having gone to law school. It's what people expect (A227: 8).

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[12]. Smigel's discussion of young associates demand for broad "experience" at their firms is titled "The Firm as a Post-graduate Law School" (pp. 62*ff.*)

This educational period is believed by most associates to last about two years (see Table 11.3).

Table 11.3: Associates' Estimates of Years of Big Firm Experience Required To Be Marketable.

	Years of Experience to be Marketable				
Number of Associates	1.0	1.5	1.8	2.0	3.0
	3	3	1	10	3

Notes: n = 20.
Responses to question: "How long to your have to work here to be marketable someplace else?"

Several associates told me of being counseled by older students and lawyers to "take their career two years at a time." One associate's comment was indicative of many others when she told me that she felt she "still ha[d] all [her] options open" by coming to this firm for her first two years.

> I was told by friends who were lawyers that you're supposed to take your legal career two years at a time. So I just decided what I wanted to do for my first two years [and did not consider partnership chances]. Once I've been here for two years, I'll reevaluate and think about another two years. If I was interested in partnership, I would have gone to [the midwest] instead of New York (A203: 6).

She went on to say that she felt that she could still go back to several midwestern cities to pursue partnership, if she decided to. These associates come to New York City firms for a few years of legal work experience and the prestigious firm's name on their resume, contrary to the collegial-self model.

Many of these associates received offers from more than one of the "top tier" law firms. Their choices among top firms were further disconfirmation of the neo-utilitarians' theories of rational actors. A half dozen associates reported deciding between two elite (Type A) firms based on their perception of the firm's practice area

differences. Another half dozen associates reported deciding between two elite firms based on their liking the people they interviewed with better. Yet, neither group could offer verifiable information to substantiate their choices. Two volunteered that, in retrospect, their distinctions were false. Of those who reported being influenced by the firm's practice, four expressed interest in the firm's international work, though the firm has a substantially smaller international practice than some other New York firms. Three others reported being interested in the firm's lack of a specialty reputation, which they felt would translate into a more diverse training, though the same has often be said about the other firms they were considering. None of these associates sought information on the firms' practice mix, other than asking questions of the recruiting partners. Of those who reported deciding because of "liking the people," four were attracted to the firm's "decorous," "staid, professional," "old world," "somewhat stuffy" atmosphere. One associate explained why he did not believe law students could differentiate among firms by the people they interview with.

> When you interview, you try to get a feel for the place. But it's very difficult, because you're only there for three to four hours, and usually you're talking to people they want you to talk to. As a result, you end up meeting a lot of nice people. And it's difficult to differentiate among the nice people. ... Until you work somewhere, it's really hard to get a feel for the place. So if I said to you, "I came to A2 because I really liked the people," that would be a lie, because while I liked them, they all seemed interchangeable (A219: 9).

This associate reported making "a gut instinct decision" on firms because he liked a place "where the partners valued the same kinds of things that I do, like over-stuffed armchairs in the library" (A219: 7). Because most associates considered themselves

to be accepting temporary employment, they selected among elite New York firms based on their felt sense of "fit" with the practice and with the firm, not the odds.

In summary, associates conceive of themselves as passing through elite New York firms for a few years of post-graduate legal training. Wall Street firm experience is believed to give them a good credential for later work in government, smaller firms, or back in their home town, "without shutting any doors." Because most associates do not intend to compete for partnership, they pick among firms primarily in accordance with their reputation and secondarily in accordance with their felt sense of "fit" with the firm's culture. Neither present, nor possible future, income affects their choices, contrary to the neo-utilitarian entrepreneurial self model. The predominant reason give for firm choice — training for future mobility — is not clearly a characteristic of either ideal typical model of the self. While training is an important goal of the entrepreneurial self model, the model does not allow training acquisition to override partnership chances in firm choice. Similarly, some associates expressed a sense of "fit" between themselves and the firm's culture, consistent with the collegial self model. However, in all but one case, "fit" was mentioned by associates who also claimed to have chosen the firm for training to facilitate their future mobility.

Because the associates picked this firm for their future career mobility, rather than their partnership chances, it seems appropriate to shift to a broader level of career commitment. What is important about being a lawyer?

Important About Being a Lawyer?

The central trichotomy among the interviewees is between those who consider law an intellectual challenge, those who like the client contact, and those who claim to have no attachment to their legal careers. The associates divide into three roughly equally divided groups in responding to the question, "What is important to you about being a lawyer?"[13] About a third report that they enjoy the problem solving/intellectual challenge of law. Another third report that client contact and helping people is an important part of being a lawyer. The last third report that there is nothing important about being a lawyer to them. A notable number of this group

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[13]. After interviewees' initial open-ended responses, topical probes were used to elicit their responses on several areas of importance to associates, as determined during a pre-test, for those topics the interviewee did not mention in his/her initial response. Most of the negative responses are in response to the probes. The probes included: client contact, helping people, working in business environment, social justice, intellectual challenge, and status, income, and stability of job. This procedure allows for a double coding of each respondent's answer. First, their unprompted open-ended answer can be treated as their *primary* response. Second, their response to probes can be used as their commentary on their peer's primary responses. These *secondary* responses can be given second order importance. The ratio of positive to negative responses recorded under the primary and secondary methods yields essentially similar results. The categorical responses reported in the text are for the primary response codings. This method allows for the inductive inclusion of unanticipated categories into the analysis. This procedure allowed me to identify important, unanticipated *negative* factors that associates consider important (see the discussion of fear, below).

For most associates, this job is their first experience of working in a legal office. Only five interviewees previously worked as paralegals. For seventeen of the interviewees, this is their first full-time work experience. Because of this, there is likely to be a confounding of their current position's attributes with their expectations of their profession's attributes. First job experience is likely to predominate over career expectations in associates' answers to questions about their occupational values. This respondent bias is likely to make responses *better* data for the current research question on the adaptation of associates selves to their workplace culture.

views lawyering as a human capital investment for some other, future career. A few associates mentioned the importance of income, status, and job security, but most seem to take that for granted. Finally — and unexpectedly — five associates volunteered negative elements that they considered important to being a lawyer.

Intellectual Challenge. Nine associates reported that the intellectual challenge of their job was important to them. But the majority of this group qualified their judgment of their work as "intellectual." Most felt that their work more closely approximated the finite problem solving of a "game." Several associates repeated two popular statements among partners, "This isn't rocket science" and "This isn't brain surgery." Rather, many felt that their work required a less taxing form of "disciplined analysis" (A209). Game metaphors were used repeatedly.

> By nature I'm a problem solver, a solution seeker type. And so that aspect of being a lawyer I think is appealing to me, to just receive a set of facts, someone's in a bind — whether that someone's a person or a company — and try to logically come up with the conclusion and how to best get at it. I would not necessarily call that intellectual challenge. Because I just don't think it's that difficult. But I think it's fun, it's a game (A214: 21).

and

> Tax work is like doing crossword puzzles. If you consider a crossword puzzle to be intellectual, and I do to a degree, then this is somewhat of a[n intellectual] challenge (A215: 8).

and

> I like the federal securities laws, because they're excessively complicated. It's like playing *Dungeons and Dragons*. It's very much like that. Yet there is an answer or there is a resolution to the problem. It is not as in litigation where you simply propose an argument that treats one party's side of the issue. It is more holistic than litigation and yet you achieve a resolution and go on to the next problem much more quickly than litigation (A216: 7).

The game-like challenges motivate this group of associates. But even in these ranks there is dismay at the "mindless" (A206) "document pushing" (A220) that is central to legal production. The associate who compared his tax work to the crossword puzzle continued, "I'd say at least fifty percent of [my work] is really exceedingly boring. *Really boring*. Boring to the degree that I become very inefficient doing it" (emphasis provided)(A215: 8). for another group of associates, this categorizes all of their work.

Nothing Important. Six associates reported believing that there was nothing important to them about being lawyers. One person's game is another person's hell:

> I do a lot of securities work where you'll have to draft a registration statement and prospectus, and get them turned around [run through word processing, copied, and distributed to clients], and get people's comments. It's just getting things out the door. It's not particularly challenging! (laugh) (A206: 14).

Others reported that it was "hard to think of anything" (A219) or "not much" (A220) important to them about being a lawyer. Echoing this group's typical career-choice-by-default attitude, one associate commented that the only reason he remained a lawyer was the "lack of fulfilling alternatives" (A226).

Eight associates spoke of their work experience as associates being important to their future career mobility. Being a lawyer is a means to a distant end.

> I always thought of it as a means toward an end rather than an end in itself. At no stage would I like to see myself spending the next 40 years of my life practicing law. I just thought it was a way to expose myself to other potentially interesting opportunities. And, meanwhile I'm making a nice living and getting some qualifications through my experience at this firm (A220: 5).

These associates view law — and their firm in particular — as a learning experience for their real, future career. It is a way to learn "about how the world works" (A222), largely through osmosis.

> It's not the specific rule of law that you memorize, or the specific certificate you're learning to draft that matters around here. It's just to be around these guys and know what they're talking about, and absorb the language of these particular types of transactions. I think that's the most important training that I'm getting out of being here (A227: 10).

By learning "business skills" through their law firm work, this group hopes to "open doors" (A229) that will enable them to pursue their "larger objectives" (A224), which in one case included "making a great deal of money" (A224). This group holds a purely instrumental orientation toward law practice as a form of post-graduate education for business and entrepreneurship careers.[14]

Client Contact. A third group of associates finds client contact and helping people important. While I discussed some associates' expectations of client contact in the prior chapter's section on competing associate roles, the general point should be repeated, because the associates repeated their emphasis during two separate questions. Client contact allows associates to play the role of knowledgeable expert.

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[14]. See the section below on "Future Plans" for a discussion of entrepreneurship as the model of individual autonomy for the 1990s, heretofore held by the "free professions."

"I enjoy people calling me up and asking me questions, and then thinking about them. Trying to figure out what law applies [and] calling them back with the answers" (A223: 10). Others reported client contact to be "fun" (A206), "nice" (A207), and a "welcome change of pace" (A210). Another associate "thrives on it" (A213). Many reported finding client contact both enjoyable and a "nerve wracking" (A225) "test" (A205). "I like dealing with people because it really puts you to the test. It's a challenge. [However,] life is much easier when you don't have to deal with clients. There are a lot of days when I wish the phone wouldn't ring and I wouldn't have to talk to clients" (A205: 13). In a "helping profession," interaction with clients ("the outside world") is important for at least some associates' sense of professional self.

Status and Income. A few associates mentioned the importance of occupational status and income. One minority lawyer reported that "It gets you a certain amount of respect when you mention to someone that you're a lawyer. Plenty of people tend to look at you differently" (A204: 8). More typically for children of predominantly white middle class, professional-managerial parents, an associate commented:

> Status is important in the sense that my parents think about my career. [For them,] I would have the same status if I were at [firm A2] in New York City or "Joe Divorce lawyer" from my hometown. I would still be, "My son the lawyer." And as far as that's concerned, there's not much in it. Income is important, if only to pay off student debt. And that's important (A209: 12).

Two other associates made the point that they felt money is important to them and to the others at the firm. Money appeared to be a surrogate for status, however.

> I would be less inclined to admit this in another context, but [income is important]. I was reading *The Firm*, by Grisham, today and my emotion having read the first twenty pages is that this "gee whiz" stuff about lawyers making $80,000 and him being paid more than New York firms pisses me off. Because, I make more than 80 and if everybody back home is reading this and thinking that 80 is the top in our field, then they won't know that I'm making more than that. (DP laughs) I'm sorry to say that, but to be candid that is very important to me — I think it's very important to everybody at this firm. It's probably not so at other places (A216: 7).[15]

At least for some associates, the importance of status and income seems to confirm Bledstein's professionalism as a individual class mobility project thesis (Bledstein 1976).

Fear. Five associates reported "fear" was an important part of being a professional. I was not anticipating negative factors being important to associates sense of professionalism, so I did not probe for them. However, the quality of these associates' spontaneous comments, makes it likely that other associates have similar anxiety over their individual adaptation to the organization. I conclude by examining a potentially powerful adaptation force — middle class performance anxiety.

As the prior chapter's examination of associates' reviews, attitudes toward mistakes, and methods of getting assignments made clear, associates work under a high degree of ambiguity. This ambiguity may well induce anxiety and fear in some associates. A small group reported what might be termed, "middle class performance

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[15]. John Grisham's book, *The Firm*, was originally published in 1991. Grisham describes "Wall Street" firms as offering $76,000 (p. 2) and the fictional Memphis firm as offering "Eighty thousand first year, plus bonuses" (p. 14). The typical starting salary, including bonuses, was $76,000, on Wall Street in 1988, when Grisham was apparently writing.

anxiety." Associates' internalized conscientiousness, work ethic, and desire for approval from authority combine with their ambiguous work criteria to make them fearful.

> I'm a very conscientious person. I agonize about outstanding projects, and the fear culture in this place did not add much to my own personal drive to dispose of anything on my plate. But the fear is another part of it. Not fear in the true sense of fear, but in some not-so-subtle way, fear of humiliation. Something that you might not have done perfectly, or if you're not absolutely dazzling on every phone call, every spontaneous event that pops up in your life, there's a not very subtle fear of just being embarrassed. And so that drives me a lot. I don't think the things that drive me here are very healthy (A214: 13).

This associate articulated dual pressures, half external, the "fear culture," and half internal, her internalized conscientiousness and fear of humiliation. Others experience similar dual pressures from the partners and themselves.

> What gets me out of bed in the morning is the sheer fright that I haven't finished the ten things that everyone is relying on me to do. And the fear comes from two places. From the outside, of course, because there are CEO's and partners who are expecting work to be done. But, also, at least half of the fear comes from the inside, from the shame that I would feel if I didn't prove that I could in fact do what was asked of me. The difficulty with that is that they will always ask more than I can do, and I will always find that there are things I need to [improve] on. And that can spiral into itself (A219: 12).

The gnawing fear of making a mistake (or having made a mistake that is yet to be discovered) troubles the sleep of some of these associates.

> Fear of fucking something up [motivates me](laughs)! I'm just one of those standard people who respect authority too much. This morning I got up, and I was really thinking about this thing that I was working on, because I wanted to get it done. I don't think that's what woke me up, but it was on my mind when I got up (A225: 8).

Partners who are "difficult personalities" (A202; A203; A206; A219; A229) — some

prefer the term "assholes" (A215; A227) — may contribute to some of the morning anxiety. One associate described his young corporate partner, who he claimed "has a bit of an attitude," which may have contributed to his use of the plural pronoun:

> The way these guys interact is pretty amazing. When you hand something to them, they stand up and say, "What the hell is this shit?!" and throw it back in your face. And then you talk a little bit, they call you stupid a few times. Then the conversation evolves. It turns out that we all agree. You're just fine. The document is just fine. "We love you and everything is okay." — That is *very tense* (emphasis provided)(A227: 10).

But even associates who report having good working relationships with partners experience this performance anxiety. The competition for "good work" in partner's greedy assignment networks and the expectation of error-free work products takes an emotional toll on associates trying to adapt to the organization's expectations.

> Everything I try to take on is a challenge in one of two ways: either just to learn how to do it at all or to show that I have mastered it and can do it with skill. A lot of mornings in the last six months I have woken up frightened, because I haven't gotten enough work done the day before. I have so many obligations to meet in any given day that no matter what time I wake up, I'm already late for work. I need to get in there and get started, because I already have a list of twenty things in my head that I haven't done.
>
> I didn't like that. I felt I was losing control of my environment. I've worked pretty hard in the last month to say, "I'm not afraid to go to work. I don't have to go there just to succeed at these things. I'm going to set out what I can accomplish today, and I'm going to do it, and I'm going to go home and feeling like I can leave it behind and move on." That's a difficult challenge (A219).

Fear of humiliation, middle class performance anxiety, is probably an important component to the sense of professionalism of many other associates who did not mention it. The fact that one of the most and one of the least impressive associates (as measured interpersonally and by formal credentials) each made the same point

suggests that this experience may be more pervasive than the five reports of the "fear culture" indicate.

In summary, the associates evenly divide among three axial values of being a lawyer. Some like the game-like intellectual challenge. Some do not like any part of lawyering. And, some like the sense of helping people that client contact fosters. A few associates have an important negative motivation in their career commitment, the fear of humiliation — middle class performance anxiety. The two-thirds of the associates who reported liking law as an intellectual challenge and in order to help people approximate the collegial self model. However, those associates who reported finding nothing interesting in the practice of law and those who liked the status and income resemble the entrepreneurial self. Those who reported negative aspects of the practice of law, what I have termed middle class performance anxiety, are clearly not entrepreneurial selves. The collegial-driven culture model predicted a positive sense of membership. This fear of humiliation may be a negative component of normative social control, unpredicted by the ideal type.

Those associates who reported liking to help people presage the final element of associates' career commitment, associates' professional moral obligations.

Associates' Professional Moral Obligations.

The professions, by both formal and popular definitions, are supposed to serve higher ideals. Doctors' Hippocratic oath pledges them to alleviate suffering, for

instance. Lawyers are pledged to facilitate justice, it is commonly believed.[16] Lawyers, as interstitial agents, should classically fit Durkheim's definition of morality as recognizing interdependent ties among actors. Parsons makes this argument.[17] Several studies demonstrated that a significant percentage of entering law students arrive with "do-gooder" intentions.[18] Despite the anti-idealist, anti-social change bias of elite law schools' training, we might expect some of these students' idealism to persist into their professional careers, even if temporarily dormant.[19] Some firms attempt to exploit these latent law student interests in their recruitment efforts. An example is Cahill, Gordon's prominent display of Floyd Abrams to prospective recruits during the fall interview season. Abrams is famous because of his First Amendment work defending newspapers in the Pentagon Papers prior censorship case and other front page constitutional law cases.[20] *Pro bono publico*[21] work is the likely

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[16]. This is not to say that the public thinks of lawyers exclusively in this noble way. Indeed, public opinion polls suggest that this perception of lawyers drastically declined after Watergate and has continued to erode every since. My only point is that among the negative images are several widely shared positive images of lawyers as defenders of the right — Clarence Darrow, Perry Mason, Atticus Finch, and Thurgood Marshall. On the public images of lawyers, good and bad, see Mindes, *et al.* (1982). I discuss the public portrayal of lawyers and its effects on the junior associates' selves in the Introduction.

[17]. On Parsons, see generally, (Parson 1954*a*, Parsons 1954*b*, Parsons 1968). On Durkheim, see (Durkheim 1957).

[18]. See generally, Granfield (1992), Kahlenberg (1992), and Stover (1989).

[19]. On medical students temporary suppression of their idealism, see Becker & Geer (1958).

[20]. Less than 10 percent of the firm's revenues come from such cases and very few associates work on constitutional law cases. The firm is selling the "sizzle," not the hamburger of most associates' work content. See Kahlenberg (1992, p. 114).

site for the emergence of a sense of professional moral obligation. Accordingly, I now turn to examining the moral universe of these young lawyers through their discussions of their billable work and *pro bono* work.

Most associates view their billable work as morally vacuous. Repeatedly, I was told by associates that their work concerned the distribution of money among competing big, already rich corporations and that the outcome of a case or a deal had no moral component. As one said, "In terms of the work we do here, if something goes wrong, it's just ... a question of someone who is already pretty well off just making a little less money" (A206: 29). This leaves the associates feeling morally neutral about their work, as well. "I would image that an assistant district attorney would feel better about his work than someone who is just making money for corporations" (A202: 5). Associates who hope to move into policy roles in government see no direct connection between the content of the work they are doing in the firm and the policy issues that interest them. "My contribution to the world on the big scale is very minimal. I'm accomplishing something here, [but] its for big companies and it's all for money. I find it challenging ... getting things done and moving the process along" (A202: 11). Some associates see no moral implication in moving the process along, others see it as uncomfortably immoral.

> I feel like "Rent-A-Brain" here. There's really no moral difference between what we do and what a prostitute does. He or she rents his or her body. We rent our minds. There's no moral distinction (A209: 31).

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[21]. Literally, "for the public good." In the legal profession, it has come to mean the representation of clients who otherwise could not afford legal services.

Even self-identified politically-motivated associates do not see big firm work as a forum for furthering their political beliefs. When asked if one of the things that is important to them about being a lawyer is a political or social commitment, those few who claimed to hold such a commitment stated that their work at the firm is not part of that commitment. Self-described conservatives and liberals, alike, did not see the firm as furthering a political agenda. One lawyer did volunteer that politically she would rather be on the other (government) side in her Latin American privatization work, but then she said, "But that's really not part of being at this firm or part of my concerns" (A204: 9). Another liberal said that he liked to do *pro bono* work to "ease his conscience" (A226:) about working at a large Wall Street firm, but he went on at greater length about the professional training he also receives from his *pro bono* work. Helping the system along is seen by some associate to be of social value.

> Social justice is important, but what I'm doing is helping a large investment bank to raise money for a stock issue. There's not a lot social justice benefit other than the fact that you're helping to raise money for a corporation, that then may be able to throw that money to a good cause and generate jobs. On the M&A side, a lot of your transactions will result in the elimination of the work force, however (A213: 10).

Law firm work serves no political end, they feel. If the role of counselor to faceless corporate giants holds no moral force for the associates, counseling individual clients does.

Direct client contact, the paradigm of the professional counselor role, is valued by associates. It "is nice to deal with people, because in a large firm, you often deal with just corporations, and the people are just in the background" (A208: 12). The

counseling role is seen by some to have more moral weight because individuals are relying on the associate-counselor.

> *Pro bono* work is slightly more interesting in the sense that you feel indispensable to your client. Whereas here I don't particularly feel that I'm doing a service to humanity representing a big corporate client. There are *pro bono* cases where you really do feel that huge amount of responsibility, and you do feel like you're helping people (A206: 30).

"The satisfaction of helping a person is a lot of fun" (A203: 33), another agreed. Client counseling is fun, in part, because it conforms with the culturally shared expectations of what lawyers *should* be doing. Speaking of his planned *pro bono* work, a first-year associate told me:

> You feel like you would be doing "real" legal work. Like what you [would] expect — client contact, helping some person. You don't feel like you're really doing that when you're just working for a giant bank or something. So I think it will be more satisfying (A220: 16).

Pro bono cases are the primary means for associates to have client contact and responsibility. All associates agree that *pro bono* cases offer associates more "responsibility" (A208; A225), "independence" (A218), and decision-making "leeway" (A214; A226), which makes it more "interesting" (A206; A208; A224; A226). But these cases have a cost which discourages some of the associates.

Pro bono work can be morally messy and even offensive, for some associates. A small but notable group of associates reported disliking the nature of the *pro bono* cases made available. They lodged essentially political objections to the performing work for civil liberties cases that had been prominent in the news at that time, only

some of which this firm had been involved in.[22] "I'm not interested in subway begging, [but] I would like to do a little something on immigration" (A225: 24). Another made an explicitly political judgement.

> I question the idea of *pro bono* and the necessity for it. I think that sometimes it's not really for the public good.... I just don't agree with a lot of the *pro bono* work done. I think the guy who is just starting his own business and just needs a helping hand to deal with government regulations [would be a better *pro bono* case]. To me, that would be more for the public good than helping a prisoner who's been beaten up by a prison guard sue the state (A222: 19).[23]

Among this group of associates, homelessness, prisoners' rights, IRA terrorists' extraditions, and subway begging were out; Central American and Caribbean political asylum seekers were in.[24]

While some associates do not perform *pro bono* work because of political objections, the majority of associates make their decisions about whether to perform *pro bono* work on non-political grounds. Seven (25%) of the associates responded that they either had no interest or were too busy to take on *pro bono* work. Fifteen (52%) of the associates spoke positively of *pro bono* work as offering good experience. Especially for litigation associates, *pro bono* work offers the opportunity

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[22]. An indication of how little effort they devote to reading the firm's weekly circular describing *pro bono* cases that they could volunteer for is that this group apparently was unaware of the cases *their firm* was involved in.

[23]. Another associate said he "could get interested in *pro bono* work to relieve the tax burden of retired middle class couples, like [his] parents, but not many other topics" (A216).

[24]. The head of Litigation told me that associates' *pro bono* interests and efforts fluctuate with the issues. "Right now it is immigration, for some odd reason," he told me (LTMG).

for associates to counsel a client, write a brief, defend and take depositions, argue motions in court, and (occasionally) go to trial well before their billable work would permit these activities. Associates take on *pro bono* assignments for the training they offer, not for the cause they defend or any feelings of professional obligation.

> I don't do it for charitable reasons, out of feelings of responsibility for society's less fortunate people. ... It's an opportunity for me to make my own decisions. I do it because it requires legal skills that I don't get to use most of the time. I do it because in some ways its more challenging than what I do most of the time (A224: 21).

Another associate echoed this orientation when he said, "I have no burning desire to prevent people from being evicted" (A211: 12). Associates perform *pro bono* because they believe it offers "a professional experience that [they] couldn't otherwise get" (A216: 26) at a big firm. It provides them with professional skills and status markers that billable work does not.

The moral neutrality of associates' approach to both their billable and *pro bono* work is further supported by comments of one of the self-described liberals. Though this associate appeared to be more active in *pro bono* issues than any other associate I interviewed, he reported that he has never spoken with other associates about their reasons for volunteering for the work. "I guess it's a concern with foisting your moral views — of appearing self-righteous — if you say that you do *pro bono* for moral-political considerations" (A226: 12). The moral discourse of law is suppressed. As in the later years of law school,[25] only the discourse of pragmatic

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[25]. Robert Granfield's book on Harvard Law school documents the mechanisms students and faculty use to suppress expressions of idealism (See especially, Chapter Five, "The Moral Transformation of the Law Student").

self-interest is allowed.

Moreover, most corporate and service department associates saw little practical use for *pro bono*-acquired skills in their branch of legal practice. These associates expressed less value in the career benefits of *pro bono* work and performed less of it. Those associates who voiced political objections to the *pro bono* cases where from these departments.[26]

A popular compromise *pro bono* activity was the Volunteer Lawyers for the Arts (VLA). VLA work offered client contact, independent responsibility, some practical training, and apolitical and interesting clients, in the form of artists, and staff members of museums and other non-profit organizations. Several associates mentioned their interest in helping out VLA-referred clients. "I think [VLA] would be interesting. It would be satisfying. You might meet some interesting, fun people" (A220: 16). For single associates, whose work lives prevent them from regularly meeting non-lawyers, VLA offers the further allure of a pool of non-lawyer potential dates. Several corporate associates expressed an interest in helping non-profit arts groups negotiate loan agreements and to incorporate. VLA's upscale and morally neutral clients with corporate law concerns made it an attractive *pro bono* client for corporate associates and lonely associates.

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[26]. It is unclear if these associates spoke with others about their political views, thus I cannot report on whether the firm has an overall shared political orientation which only tolerates contrary *pro bono* work or if all overt expressions of political beliefs are suppressed. While the "conservatives" were more vehement than their "liberal" opposites, as measured by the number of sentences they devoted to expressing their overtly political opinions, neither group qualified as *homo politicus*. Political and corporate legal work do not mix, for these associates.

In summary, associates approach *pro bono* work with the same moral vacuity with which they view their billable work. The moral discourse of law is suppressed as presumptuous moral soap boxing. Especially for the litigation associates, *pro bono* work offers practical skills training that is unavailable through billable work in their early years at the firm. For corporate and service department associates, who do not value courtroom-based legal skills, many *pro bono* assignments are morally messy. Finally, as we have seen, associates are under constant pressure to perform billable work, leaving little time for additional work they are not committed to. For example, one associate spoke of wanting to volunteer at the National Abortion Rights Action League (NARAL) one night per week. But, when asked why she had not actually volunteered, she explained, "If I had enough time I would (laugh)! I'm just overwhelmed with work. I'm a single-minded person, which means that I have difficulties working a ten hour day, going home, and then doing something else" (A223: 28).[27] Most associates respond to this by not performing *pro bono* work. Others advise non-profit groups, such as VLA.

No recognition of lawyers' professional *obligation* under the ABA Code of Ethics to perform *pro bono publico* work was uttered by the associates. For some litigation associates, *pro bono* offered career enhancing skill acquisition. For some office practice associates, *pro bono* offered the chance for a date. The associates' vocabularies of motive certainly do not match the collegial self model. However,

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[27]. When asked if she would prefer a less time consuming job, that would give her one or two nights a week to volunteer her professional services for political causes she believes in, she said, "No."

they are not like the entrepreneurial self model either. While the latter emphasizes training as human capital acquisition, the training these associates are pursuing will have more practical application in smaller, less remunerative firms than at this firm. A maximizing agent would thus be unlikely to risk his or her good standing with current employers to acquire training that's chief value would be realized only in lower paying firms.

Career Commitment Summary.

The ideal typical model selves are only loosely present in these measures. Most associates have a weak career commitment, as judged from their statements of career choice, firm choice, the important aspects of being a lawyer, and the absent moral obligation to professional service. They are lawyers-by-default in fact and orientation. A smaller group of lawyers-from-the-cradle have a life-long commitment to the career, but they report the same mixture of intentions and attitudes toward firm choice and professional moral obligation, as the larger group. These committed lawyers represent most of the associates who report liking to "help people" in their professional work, an absolute minority of the sample. Even here, those who prefer corporate law's game-like intellectual challenge and those who find nothing rewarding out number the committed few. Among this group, lifestyle aspirations and expectations is a recurrent theme of positive and negative motivation. These associates are not collegial selves on these measures. However, their self-interested vocabularies of motive lack any hint of strategic calculation either. Their practical

orientation seems too short-term to qualify as entrepreneurial. At best, they are weak entrepreneurial selves.

If career commitment only loosely binds these associates to the practice of law, other commitment mechanisms may be more effective. After all, very few workers probably knew what occupation they would pursue when they graduated from high school. We should not hold lawyers to an unfair, pre-modern concept of a "calling." More likely, for most lawyers and other workers, commitment is forged in the day-to-day work in a legal organization. Organizations and individuals are the carriers of institutional values, such as a profession. Rather than assessing associates on a broad and ideal commitment to an abstraction such as a profession, we should look for commitment being forged in the mundane practices and interactions the associates have with co-workers and clients.

I turn to an examination of associates' work commitment.

Work Commitment.

Work commitment entails associates' sense of indispensability to their work teams, the work-orientedness of the best and worst parts of their days, and their descriptions of their relationships with the partners.

Associates' Indispensability.

One way to probe junior associates' sense of commitment to their work is to ask them how indispensable they feel to the work that they do. Most legal work is

done in groups.[28] Associates' sense of tight integration into their group would be a likely basis of their sense of integration into the organization. I asked the associates, How many matters did you bill last week? and then, How many of those were you indispensable to? By dividing each associate's second answer by his or her first answer, I calculated an "indispensability index." Table 11.4 reports on the associates' indispensability indices and tenure at the firm. Then I summarize the prevalent associate comments in response to this question.

Table 11.4: Associate Indispensability and Tenure.

Class Year	Indispensability Index											Number
	.0	.1	.2	.3	.4	.5	.6	.7	.8	.9	1.0	
3rd	2		1	4		1		1			1	10
2nd	2	1			1	1	2				1	8
1st	4			2	1	1					1	9
Total	8	1	1	6	2	3	2	1	0	0	3	27

Notes: Indispensability index is the percentage, rounded to one decimal place, of matters indispensable to divided by all matters billed during prior week. For example, .1 means that the associate feels indispensable to 10% of her cases and 1.0 means that the associate feels indispensable to all her cases. Associates who just returned from vacation were asked to answer the question for the week prior to their vacation. n=27.

Statistics derived from responses to the questions: "How many matters did you bill last week?" and "How many of those were you indispensable to?"

Table 11.4 shows the associates' responses by their class tenure at the firm. It seems reasonable to predict a greater employee sense of indispensability with longer tenure. That is theoretically, there should be a trend from the lower left (junior and dispensable) to the upper right (more senior and indispensable). While the small

[28]. See the discussion of work group size in Chapter Eight.

number of responses prevents a meaningful crosstabular analysis, these numbers suggest some positive tenure effect on associates' sense of indispensability to their assignments. However, the marginal numbers alone offer some interesting information. Eighteen (67%) of the associates felt indispensable to less than half of their assignments. Eight of those (30% of the total) felt completely *dispensable*. There is no apparent relationship between number of matters billed and sense of indispensability. For instance, A201 billed three matters and felt indispensable to all of them. A209 billed twelve matters to which he felt indispensable. But A212 billed eighteen matters and A222 billed two matters, and neither associate felt indispensable to any of them. *Pro bono* matters accounted for some or all of several associates' indispensability reports. It appears that it is a rare junior associate who feels himself or herself to be an integral member of a work team. The associates' comments suggest that even those associates who consider themselves the "right hand man" of a partner, recognize the evanescent nature of their relationship.

"I'm always dispensable. That's how we are — we're dispensable commodities. There's always someone else who can do it" (A225: 23). A majority of the associates agree with this comment. As indicated in the table, several associates feel completely fungible.

- They could certainly get someone else on short notice to replace me (A222: 18).
- If I had been sick last week, someone else could have done what I did pretty easily. I don't think anyone is indispensable, because it is such a big place that skills are interchangeable (A202: 25).

Many of the associates felt that efficiency required their continued presence on a legal matter, but stopped short of describing themselves as "indispensable." These associates felt that their non-fungible labor derived from the "learning curve on any given project" (A212: 33), which made them "familiar with the cast of characters, the issuer and the client, and it [is] easier for [them] to do than to get someone else 'up to speed'" (A221: 18).[29] Associates' fungibility may result in their *temporary* indispensability, when clients complain.

> The thing I was working on yesterday until 4:30AM this morning, [is because] the client is not very happy, because a lot of the people who work on their matters have left the firm recently. And one of the partners who usually works on the matter is out of the country for three weeks, so they requested that somebody who's worked with them before work on this matter. I'm one of probably four or five people in the firm who is still around, who works on their matters. It was appeasing to the client that I be put on this, but by no means was I either the most qualified or the most indispensable person to work on this matter (A205: 28).

Corporate clients' expectations of a traditional lawyer-client relationship may limit firms' abilities to standardize associates as fungible labor units. These associates report typically familiarity-based indispensability to their work assignments. But this indispensability ends with each assignment. No one described themselves as integral to a work group or partner, for non-deal-specific knowledge reasons.

Significantly, several of the associates reported that they only felt

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[29]. "Getting up to speed" is the phrase used to described the acquisition of the basic facts of a legal matter — the "players," the decision makers, the issues or "deal points," and the schedule. Like most organizations, the actual business relations out pace the written documentation of legal matters, making on-the-job integration a requirement of getting up to speed.

indispensable to their *pro bono* matters. In fact, removing *pro bono* cases from the above table would significantly shift the middle of the table (.3 to .7) to the left (.0 to .3). One associate's response was indicative. "Someone else could have done all of them, except my two *pro bono* cases. Because no one else knows about them" (A208: 23). This is further evidence of the importance of small cases and *pro bono* work to the professional self identity of those associates who pursue them.[30]

In summary, few associates feel like indispensable members of their work groups. When associates do feel indispensable, it is typically because they are the only lawyer with knowledge of the legal matter. Most often, this is on *pro bono* matters. This acute sense of fungibility probably leads to a low sense of commitment to their work and clients. These findings suggest the presence of entrepreneurial self model characteristics. While not universal, most associates feel themselves to be fungible employees. Indispensability does not bind the associates' selves to their work.

If teamwork does not bind the associates to their work, what does? Associates' discussions of the best and worst parts of their day offers an indication.

Best and Worst Parts of the Day.

Asking associates about the "best" and "worst" part of their prior work day is a deceptively simple form of "vectorial analysis" for assessing work commitment. If the high spots of their mundane activity are work related, directing the associate *in*

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[30]. See the discussion of *pro bono* and small cases in Chapter Ten.

toward the organization, this is a likely measure of individual adaptation and commitment to the organizational work, consistent with the collegial self model. However, if the high spots of associates' days are not work related, if they direct the individual *away from* the organization, then this is a likely sign of a low level of individual adaptation and commitment to the work of the organization, consistent with the entrepreneurial self. Responses to the converse question offer similar data. All jobs have annoyances. Even professionals like to complain, as any assistant dean will confirm. The nature of the associates' complaints should indicate the direction of their work frustration. Associates who are bothered by not being able to find the right case to make the argument — a substantive work issue — have a different orientation to their professional role than an associate who is bothered by having to do his own photocopying for a Federal Express mailing. The former's self is aligned with the work goals (collegial model), the latter self is in conflict with his or her assigned work goals (entrepreneurial model). Time — and its scarcity — is the central theme of most of the responses.

Table 11.5 shows the interviewees' responses to the question, What was the best part of your day yesterday? Lunch and socializing on the phone with other lawyers and friends account for one third of the responses. This group is disarmingly clear on the most enjoyable part of their days. As one associate sincerely replied to my question, "Besides eating? Are you saying besides food? I look forward to lunch" (A221: 18). Many of the others responded with a one word answer, "Lunch" (A201; A202; A207; A220; A226). Food and communal dining are of central

importance to nearly all the associates at this firm.

> I have never been in the company of so many consistently bright people. And I've really enjoyed that. When the firm had a dining room that was cheap — now you have to pay a lot — everyone ate there. And that is where I did feel the tiny bits of camaraderie that there are here. I felt it there, and I loved lunches there, because it was just absolutely, in my view, witty banter. I learned a lot about what is going on in the world, about this profession, anything you could think of. I learned a lot from the casual social conversations with people at lunch here (A214).

Minor changes in the traditional luncheon arrangements resulted in a significant associate protest.[31] The point is that lunch and telephone conversations with other lawyers — interaction with peers — are important to many associates. Going home, going to the gym, playing softball, and hearing that an abusive partner would be out of town for two weeks accounted for the other non-work related responses, which combined accounted for just over half of all the responses.

Nearly half the associates offered work related answers, broadly defined. Substantive work issues, such as, demonstrating a command of an area of law in front of a client and a partner, having the Securities and Exchange Commission (SEC) accept a filing drafted by the associate, and preparing a witness for trial testimony, were the best parts of five associates' days. Another five reported on a pleasure in the "sense of closure" that comes with "finish[ing] a memo and fax[ing] it out" (A205: 23) and "Knowing that everything was on the table [for the closing], and I was done. Then calling each party involved and telling them that the transaction was closed" (A227: 23). The relentless pressure to take on more work probably makes

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[31]. See the discussion of *Loyalty and Lunch*, below.

the pleasure of "getting something off your plate" an enjoyable, if fleeting sensation. Two other associates reported enjoying not "being bothered by anybody" (A222: 17) while working. "The best part of my day was from 9:00PM to 12:00 at night, when everybody had left and I could get work done (laugh)!" (A228: 24). In one case, this was only because the associate skipped the firm's annual summer outing to work in the office on a day when it was officially closed. Their pleasure in having quiet work time is mirrored by many associates' displeasure with its absence.

Table 11.5: Best Part of Associates' Prior Business Day?

Best Part of Day	Number	Percent
Lunch	7	25%
Substantive Work Issue *	5	18
Sense of Closure *	5	18
Leaving	4	14
Socializing	2	7
Sports	2	7
Working Quietly *	2	7
Other	1	4
Total	28	100%

Notes: See text for coding discussion. * denotes positive "work related" responses, broadly defined, totaling 12 responses, 43% of the total. Responses to question: "What was the best part of your day yesterday?"

Table 11.6 reports on the associates' responses to the question, What was the worst part of your day yesterday? Nearly half the responses (42%) concerned the juggling of competing time demands placed upon them or the exogenous forces obstructing the completion of work tasks — all issues of time. Associates are

expected to handle multiple, often conflicting, assignments, each of which has a deadline that they cannot control.

> The worst part was having to deal with so many of these different things at once — getting some calls from somebody on something that was due, but that I hadn't had any time to do. I was trying to get that done while getting this European thing going and trying to mark up disclosures, get them on the fax, get it to everyone, and knowing that time was short. That day was supposed to be the day that all comments were to be final [on the first deal], and so there was an extreme deadline pressure. So that was....just incredible stress and time pressure. It's a number of different things that have to be done, and you end up doing so many different things at the same time, and not being able to concentrate as well on one as you'd like (A212: 20).

Under these conditions, the opportunity to complete a task must hold great appeal. But when even small legal matters often have twenty names on the "participants list" — nothing can be done without the coordination and compliance of distant others. Clients, courts, federal regulators, senior associates, partners, and copy machines were the externalities that frustrated associates' attempts to complete a project and "get it off [their] desk" (A219: 30). The two associates who reported anxiety over receiving new assignments were primarily worried about the schedule conflicts the assignments might pose. Finally, some busy associates often forget to complete their daily billing sheets and they found their retrospective attempts to reconstruct their hours from a week or more before anxiety provoking.

Two associates reported being annoyed by substantive work issues, such as not being able to find a case to ground their argument (A211) and "small minded" comments by an SEC clerk reviewing a corporate filing (A219).

Clerical work, unreasonable partner demands and behavior, and just coming to

work accounted for ten (35%) of the responses. Six of the associates complained about having to do "clerical" or "menial" tasks.

> Being told that you have to do a particularly ministerial task like going through an agreement and checking the references to sections of another agreement, or something like that. Or, being told that you have to stay over the weekend to get out a distribution to client. The low points are when you're told to do something that no one else wants to do. But you have to, because you can't just give it to a secretary to do it. That is the most annoying part about this job (A222: 17).

Jammed photocopiers (A226), waiting on word processing (A206), and rushing to make a Federal Express pickup deadline (A203) are the type of work these associates feel they should not have to perform. The associates' annoyance over unreasonable partner demands concerned disagreements over associates' time. A exchange with a second year associate makes this clear.

> DP: What was the worst part of your day?
>
> A209: Getting a call from a partner at 10:20 in the evening.
>
> DP: What was the reason for that call?
>
> A209: To discuss a document that I had submitted to him awhile ago. It was his assumption that I would still be here at 10:20PM — *that* really bothered me (emphasis provided) (p. 22).

These associates object to elements of their work roles.

Table 11.6: Worst Part of Associates' Prior Business Day?

Worst Part of Day	Number	Percent
Competing Time Demands *	6	21%
Externalities Obstructing Work Flow *	6	21
Clerical Work	6	21
Partners' Demands & Behavior	2	7
Substantive Work Issues *	2	7
Anxiety Over New Assignments *	2	7
Coming Into Work	2	7
Completing Time Sheets	2	7
Total	28	100%

Note: See text for coding discussion. Percentages may not add due to rounding.
* denotes "work related" issues, broadly defined, totaling 16 responses, 57% of the total.
Responses to question: "What was the worst part of your day yesterday?"

When I combine the best and worst parts of the days responses, just under half the responses can be broadly categorized as displaying associate integration and adaptation to work — characteristic of a collegial self. That is, about half the responses indicated associates whose pleasures and concerns were defined by work — demonstrating a competency, getting an SEC acceptance, not being able to find a case to support an argument, and worrying about juggling conflicting work demands.

In contrast, slightly more than half of the combined responses focused on non-work-related topics — characteristic of an entrepreneurial self model. These associates pleasures and concerns dis-integrated them from their work — for example, socializing with friends, sports, the clerical nature of the work, and even just coming

to work. All of these discourage associate selves' adaptation to their work.

This roughly equal division may be biased toward too many integrative responses, however, because of my coding scheme. The broad definition of integrative work issues may have incorrectly captured unhappy workers' ambiguous responses. For example, I coded associates' negative feelings over competing time demands as an integrative response, assuming that each respondent manifests the middle class performance anxiety desire to do well. Yet, some associates may find competing time demands and conflicts unprofessional, though none expressed this to me. If so, this would be an indication of a dis-integrative force separating these associates' selves from their work.

In summary, half the associates' daily high and low points remind them of the foreignness of their work to their selves — implying a low level of work commitment. More than half of the associates manifest this attribute.

Relations with Senior Attorneys.

Another aspect of work commitment can be measured by the working relationships associates feel they have with more senior attorneys. The ideal types of organizational cultures outlined in Chapter Three specified two opposing types of professional relationships. The collegial-driven firm should be typified by professional *colleague* relations among the attorneys' collegial selves. The opposite is the entrepreneurial-driven firm, which should be typified by *boss-employee* relations between the partners and the associates, who are entrepreneurial selves. In any

organization, new, novice members require direct oversight and direction for a period of time. Whereas in a entrepreneurial-driven firm this close oversight and direction will remain throughout the professional's employment, in a collegial-driven firm this oversight and direct supervision should comprise a transitional phase before the establishment of full collegial relations. A significant facilitator of this transition would be mentor-trainee relationships between the senior and junior personnel. Mentoring relations can be conceived of as a transitional phase for new entrants into a collegial-driven firm. Regardless of which paradigm is used, the work relationships between partners and associates mediates associates' relations with their work, and thus affects their work commitment.

To assess the presence of such partner-associate relations, I asked a series of questions regarding associates' work and mentoring relations with senior associates and partners. First, I asked associates to characterize their relationships with their partners, using the tripartite typology just discussed. Second, I asked the associates the rank of the person they turned to the last time they needed advice. While technically these responses constitute reporting on a practice, here I shall focus on the associates' reported self-imposed prohibitions on what they can ask partners — a belief. Third, I asked the associates if they felt they have a sponsor or mentor, if they need a sponsor or mentor to succeed at the firm, and what a sponsor or mentor does (or should do, if they had one) for them. In combination, these questions provide three perspectives on the inextricably entangled authority and co-worker relations between associates and partners. Associates' minimal characterization of

their work relations as collegial suggests little work integration flowing from their work relations.

When asked what best characterized their working relationships with the partners they most frequently work with — boss/employee, mentor/trainee, colleagues, or something else? — the majority of interviewees responded "boss/employee" (see Table 11.7).

Table 11.7: Associates' Characterization of Their Primary Relationships with Partners.

Characterization	Number	Percent
Boss/employee	16	64%
Colleagues	5	20
Mentor/Trainee	3	12
Friends	1	4

Notes: n = 25.
Responses to question: "What best describes your relationship with the partners: boss/employee, mentor-trainee, colleagues, or something else?"

"It's more boss-employee. It's usually a no nonsense work relationship. Although, occasionally people I work with will chat with me about sports" (A210: 33). Several associates mimicked the "partner as boss" attitude with the terse command, "Go do this!" (Some associates simultaneously gestured like partners by thrusting a paper across their desk at me, while looking away, mimicking the avoidance of eye contact). A few attributed the "partner mode" of terse, unexplained commands as due to the "time pressures partners are under" (A229: 27).

A small but notable group characterized their partner relations as "colleagues." These "friendly" (A202) work relations seem to be forged through the forced intimacy

of repeatedly working late into the night on tight deadlines. Physical proximity of this work is often mentioned as the basis of the collegial bond. Working side-by-side probably has a different effect on a working relationship than the same joint labors coordinated by intercom and periodic meetings.

> Actually, the partner was down here [in the associate's office]. We've worked at this computer and drafted briefs from start to finish [in the course of a night]. I sat with one partner — one I'm friendly with — and we just sat overnight, researching, writing, thinking about [the argument], to get the [reply brief done]. And that's how we got to know each other (A201: 25).

While partners' willingness to work closely together with a junior associate may indicate a personal style which predisposes them to treat these young associates less as subordinates, another associate's comment indicated that associates do not view proximity-bred colleagueship as dependent upon partners' friendly personalities. "I've worked for partners here and *sat in their offices* and done assignments. Then I meet them at a cocktail party a month later and they don't know me" (emphasis added) (A207: 38). Associates desiring a sense of professional competence put great weight on the status leveling significance of partners "who are willing to get their hands dirty" (A207: 38) by helping with menial tasks or who invite them into strategy meetings.

> I would say [some partners are] much more along the lines of colleagues. I've been called in to strategy meetings with these people, and involved in all aspects of the case. Settlement down. The good stuff and the bad stuff. So I have had some kind of colleague-like experiences with people, to the extent that you can consider yourself one. But, I would say, day in and day out, it's employee-employer (A214: 32).

Associates who feel like colleagues, feel that their opinion counts. One tax

specialist told me with evident pride of his partner reviewing a legal opinion the firm was about to render for a client and asking him, "Are you comfortable with this?" (A212).

> Initially I was hesitant to ever give my opinion on an issue. You don't want to rock the boat or say anything stupid. But I really have learned, especially with partners that I have a lot of contact with and a good relationship with. I will say, "Well, I think we need to make this argument" or "We should do this" or "We should do that." They may shoot me down, but they take me seriously — the ones I really like to work with (A202).

Being included, feeling like a "member" rather than an employee is important. "They include me in conversations about the direction of the department and the firm. It's little things, like they gossip with me about stuff. They make me feel like I'm really a member of the department as opposed to just being an employee" (A223: 24). Of course, there are limits to the equality of membership.

> The people that I'm designating as colleagues generally make you feel like your opinion counts for something. They want your input, and you talk to them just like they're a friend. ... *But, when I say colleagues, I'm speaking roughly, because there will be moments when it's clear who is in charge* (emphasis added)(A224: 30).

One of the limits to colleagueship associates experience is the availability of training. Partners are *very* busy, all the associates recognize. Thus, the opportunities for partners to train or mentor associates are seen as rare and valuable. Most associates concur with the associate who said, "I've rarely felt mentored here" (A212). Getting a "big picture" of a legal matter, an explanation of why things are being done, is what many associates crave. But partners' time pressures limit their ability to mentor associates, the associates believe. "A correlate of being a partner is

being under time pressure and not having a lot of time to chit chat or explain things [to associates]" (A229: 27). Even partners who may want to mentor cannot, because of the time pressures. "The hiring partner often [has] a mentor-pupil relationship with me. He'll sit down and explain things to me. But he's a busy guy, so he doesn't have that much time to really take me through it sometimes. But I definitely get a feeling that he wants to" (A220: 21).[32] When partners do "drop out of the partner mode and explain things" (A229), associates remember and value the experience.

Whom Do You Seek Advice From? Because most partners, most of the time, do not have time, associates feel that they must conserve the mentoring that they do receive from partners. Associates reported a series of topical limitations on their attempts to seek advice from partners.

In any organization there are two general types of information a new employee requires. First, technical, in this case legal, information is required. How many copies of a Form S-8 do you have to file with the SEC? Do your initials go on the caption cover of a motion filed in the Southern District of New York court? Second, political information about the unwritten normative rules of conduct in the organization is required. This is often referred to as "office politics," by the associates. How do you deal with a difficult partner? How senior should an associate be before giving work to a junior associate? Should I comply with a partner's request

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[32]. To emphasize the rarity of this interaction, this associate continued, "And then there are the other partners that you're a completely faceless human being to" (A220: 21).

that I move to his floor?

Technical Advice. The cardinal rule guiding associates' interactions with partners is "Never ask a partner a stupid question." "Stupid" is defined as any question that could be answered by other means than asking a partner.

> As a general rule, I think it's better not to bother a partner with things that aren't terribly important, that are not worth their time to bother them about. I would rather not ask a partner on a case certain questions about how to get things done if I feel like I can go to an associate about it. If there is no associate in between me and the partner, I will go to the partner (A203: 20).

The limited mentoring available from partners encourages associates to circumscribe the amount of technical information they seek from even those partners on the legal matter in question. Asking an unnecessary question of a partner is "wasting a partner's time ... and that is not appreciated" (A209: 25). Many associates' "big picture" questions fall into partners' "stupid" category, the associates feel.

> But this very obnoxious person who I'm describing ... gives me a lot of my work assignments. He makes me painfully aware of the fact that not only am I not in the decision-making loop on this matter, but for his purposes, it's a waste of his time to even let me know [about the matter's progress]. His response is, "If I really wanted to know, I could find somebody who would tell me that" (A214: 29).

This associate went on to comment that she "just learned not to ask" about the matter.[33] Junior associates feel that they must get most of their technical legal information from friendly senior associates or the library. Partners just do not have the time, "Rarely do I ask partners' [for] advice — they don't have time" (A220: 9). Table 11.8 clearly indicates that associates' behavior and beliefs conform on this

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[33]. She also told me that she was interviewing for jobs at other firms.

issue. Those who have working relationships with sometimes-mentoring partners like to save their mentoring "credits" for "big picture" discussions of the legal matter they are working on with the partner.

Office Politics Advice. If associates feel that there are limitations on legal issues they can ask partners about, they feel that there is an absolute prohibitions on discussing political issues with partners. All[34] the associates agree that they cannot speak to partners about "us/them" issues.

> You can't really talk to partners about office politics matters. No matter how nice they are, and no matter how good a relationship you have with them — you may work with them on twenty deals and you like them and they like you — they are still partners and you are still an associate. There is a vast divide across which you really cannot talk about things like, the rumored layoffs and things of that nature. Or even as basic as, "Am I well regarded." You cannot pose that question to a partner. And they will make no effort ever to tell you (laughs) (A209: 14).

Nor can associates speak to partners about other partners. "I would not go to the next partner's office and say, 'I really hate working with this other partner. He's such a jerk. Can you get me out [of the assignment]?' That would not be very well received" (A202: 15). Nor can they discuss their ambivalence about remaining at the firm to compete for partnership, associates feel. All three associates who revealed to me that they were planning to, or actively trying to, leave the firm within the year were adamant about not letting partners know about their intention not to stay until

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[34]. The one associate who reported seeking political advice from a junior partner is anomalous. The partner is in another department ("He might as well be in another firm") and they share non-work social ties. Despite these friendship ties, this associate reported that there are "some things that I would not discuss with him."

partnership. "I think it's vital that you maintain the outward appearance of [contending for partnership], or your career suffers (A226: 19). When the topic implicates the power relations of partners over associates, as it often does in assignments, reviews, promotions, office moves, and career plans, associates feel that they must keep a poker face.

These associate-perceived limitations on permissible topics for discussion with partners leaves junior associates in an informational vacuum. Mid-level and senior associates are the source of most of their legal and political information. Table 11.8 indicates that junior associates seek advice from senior associates more often than even their peers, their natural allies.

> Informally, senior associates become your advisers. When I came I knew nothing about registered bearer bonds. I didn't know any of this stuff, and I needed a lot of guidance. And I got it; it was good. I'm happy now that I'm a second year and people are coming in beneath me ... and they call me with questions. It's not the most structured system of training, and for some people it just doesn't work. But, it worked for me (A217: 24).

These senior associate-junior associate mentoring relationships are often described as "friendships" that grew out of working relationships. Junior associates go to senior associates for advice on Tax Code interpretation, SEC regulations, how to get transferred to the firm's branch office, whether to accept a partner's invitation to join a practice specialty group, how to avoid work from an insistent partner, and whether the firm "really" encourages junior associates to be interviewed by a sociologist, as a memo stated. While senior associates can provide technical-legal and political information, they cannot provide another element of junior associates' definition of

mentoring — protection.

Table 11.8: Rank of Last Source of Advice, by Topic.

Rank	Legal Issues	Political Issues	Totals (%)
Sr. Partners	212 (4%)	- (0%)	1 (2%)
Jr. Partners	206;209;215;223;226 (22%)	201; (4%)	6 (15%)
Sr. Associates (4th-8th year)	202;203;204;211;213;214;217;218;221;222; 227; (49%)	201;202;204;209;212; 213;216;219;221;225; 227; (49%)	22 (54%)
Associate Peers (1st-3rd year)	207;210;220;224;229; (22%)	206;210;214;215;217; 223;224;226;229; (39%)	9 (22%)
No one	228 (4%)	207;228 (9%)	3 (7%)

Notes: Percentages are for columns. "Legal Issues" are assignment-related issues of law, such as how to interpret a statute. "Political Issues" are office and interpersonal political issues, not strictly assignment related, such as how to handle an "asshole" partner and whether to move to another floor at a partner's request. Respondents were encouraged to bifurcate their "legal" and "political" answers. The row labeled "Sr. Associates" is a composite of what are traditionally called mid-level (4th and 5th year) and senior (6th - 8th year) associate ranks. The row labeled "no one" represents associates whose preference was to ask help from their friends or spouses, who are lawyers at other firms — they consciously prefer not to be seen as "needing help" (see text). There were 41 separate responses by advisor(s) rank, by n = 27 interviewees. The chart measures ranks of advisors, not number of advisors. For example, 201 reported getting "political" advice from one junior partner and one senior associate, and so was recorded in both rows. Associate 202 reported receiving "political" advice from two senior associates, and so was recorded once in the senior associate row. The sensitivity of the topic prevented the taking of a "census" of advisors. From the data that I do have on actual numbers of advisors, the centrality of senior associates as conduits of legal and political information is significantly *underestimated* here.
Responses to question: "The last time you needed advice, whom did you ask?"

The Need for Patrons. A notable group (n=11) believes that it is important for junior associates to have a partner mentor "for protection." Mentoring partners are expected to

> keep and eye out for you, give you good work, give you work that will help you develop, and protect you at times from others. If you are getting too much pressure from somebody, they can talk to that partner

on a one-to-one basis, in a way you can't (A205: 32).

In other terms, partners can scare off other partners from raiding their stable of associates. Associates can form unspoken alliances with partners to get good training and protection, in exchange for doing the partner's work.

> It's very easy to get barraged with calls asking you to work on X, Y, Z. Nobody really is looking after your interests saying, "Is she getting enough of this type of work, or let's make sure she's not doing too much of this." You really have to protect yourself and it's nice if you have somebody who's looking over your shoulder who can sort of fend some people away (A206: 37).

Protective partners can prevent an associate from being transferred to a floor dominated by another specialty practice that wants the associate (A216).

But these unspoken alliances of good work and protection in exchange for the associate's devotion to the partner-protector's work have costs for the associate. Foremost is being "swallowed up" (A219) by their partner's greedy assignment network. One associate explained the associates' Faustian predicament.

> You need a protector who can intervene when things are getting out of control and say, "[Smith] can't do that right now." But I also think that it is not such a good idea. I don't want to become anyone's person, so to speak. I'm sure in the next stage I'll start working for somebody else (A225: 32).

A smaller group (n=3) does not believe that junior associates require mentors. "There are a lot of people who are very independent. They just go about their business and don't feel like they need anyone's advice" (A218: 22). If the associate is not interested in partnership, mentoring relations are not essential. "If you just want to keep your job for five years, you don't need a mentor. You just need to crank out the work and not piss anyone off" (A213: 22). At least one associate feels

that the partners are not interested in mentoring junior associates, because of the high likelihood that they will leave.

> They are not willing to dedicate themselves to someone who is first-year or even second-year, because you haven't really shown that you're committed to this place in the long-term. I think you have to wait until you're a third- or fourth-year for someone to really find it in their interest to spend time actually training you in particular (A228: 29).

Most of junior associates (n=20) believe that they need a sponsor or mentor to succeed at the firm or, at least, it helps to have one. Most of these associates spoke of having one or more partners "go to bat" for them during their later associate years and during the partnership decision.

It is important to note the change in meaning that the associates have applied to the term "mentor" here. In the earlier question, asking them to describe their relationship with the partners they work with, few associates reported having "mentors." When I asked them about their sources for legal and office politics advice, most associates made clear that they tried to avoid seeking advice from partners. Now in response to this question — asked just moments later in the interview — one third of the associates claimed to have a partner-mentor and two-thirds responded that such a relationship is valuable. Yet, the associates' comments reveal that they view their "mentors" as "protectors." The associates are using "mentor" here to describe a form of patron-client relationship, that I tried to capture with the term "sponsors" in the question.[35] These associates trade their loyalty,

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[35]. My question was, Do you need a sponsor or mentor to succeed here? All the answers used the term "mentor."

devotion, and hard work for the partner's limiting the conflicting partners' demands on their time, if not necessarily limiting the *amount* of demand for their time. The informal assignment system may create inordinate psychological stress in the associates, which encourages them to flee to the greedy network of a powerful partner.

Of course some associates can cope with the conflicting partner demands. As shown in the last chapter, at least some women are comfortable saying no to partner work requests. Other associates go about their business without forming patron-client alliances. Finally, by definition, only a fraction of the partners have the power to protect their associates from other partners, which limits the availability of patron-client relations. While this associate-altered definition of "mentors" as patrons may be *recognized* by most associates, it probably is not *available* to most associates.

Two associates maintain the traditional definition of partner mentoring, which includes, as one partner quoted in Chapter [Eight] termed, "a certain solicitousness for the needs of the associate" (A2P2). This associate described the mentoring role that is absent from this firm and how it would help her now and in the future.

> A mentor would take you under his or her wing. If they take you under his or her wing it was because they think that you're talented and that you're making valuable contribution to the firm. They want you to succeed in the firm. They will help you get the kinds of assignments that you need to show your capabilities. They will give you feedback and sit down and chat about how you can improve yourself. I think it's very important. I think that's how most people succeed. I think that fifty percent is yourself — just hard work and your talent. The other fifty percent is a lot of luck — finding a mentor, being at the right place at the right time, and political savvy. That other half can get you very, very far (A221: 27).

Mentors are essential to making partners of associates. Yet, few associates feel that they have such patron-mentors.

In summary, the majority of associates experience their relations with partners as boss-employee relations. Only one in five feel that their opinion counts (the collegial self model) and even fewer report ever feeling mentored. The predominance of hierarchical work relations inhibits the associates' comfort in seeking advice from partners. But many associates report that they consider partner-protectors important to their short-run ability to cope with competing work demands and their long-run ability to succeed at the firm. This group uses a patron-client model of partner associate relations. The low percentage of "colleague" responses and the emphasis on hierarchical work relations suggests a low level of work integration flowing from these work relations. These associates do not conform to the collegial self model. The dominance of the boss-employee characterization of the partner-associate relations does conform to the predicted entrepreneurial self model. The hierarchical relations in the associates' belief in the need for a sponsor as protector conforms with the entrepreneurial-driven firm model. However, implicit in the associates' description of the value of such a partner-protector is a model of differential power relations which separate partners from each other, as well as from associates.

Work Commitment Summary.

Overall there is weak evidence for the associates' work commitment. Associates' work practices and work group relations do not appear to bind the

associates' selves. Associates describe themselves as dispensable, fungible employees in relation to their assignments, contrary to the collegial self model. The primary exception to this is for the small group of associates who perform *pro bono* work on their own. In describing the best and worst parts of their day, slightly more than half the associates responses were non-work-related, indicating an absence of alignment of their selves with their work roles. Slightly less than half offer work-related responses that suggest a self-work role alignment and integration. The scarcity and conflicts over time were of central importance to most of the associates' responses — an unanticipated finding not covered by either model. The majority of associates characterize their work relations with partners as hierarchical, boss-employee relations. There were only a few reports of either mentoring or collegial relations, typical of the collegial self model. For the majority of associates who describe themselves as passing through the organization, mentoring relations with partners are not believed to be essential. Yet, for associates who intend to compete for partnership, a client-*patron* relationship with a partner is thought to be essential, contrary to both the self models.

A small percentage of associates identify with their more senior co-workers as individuals or members of work teams. There is little evidence of the work commitment predicted by the collegial self model. Further, there is substantial evidence that the associates experience their work relations in a form predicted by the entrepreneurial self model. These work relations may be organization specific. Accordingly, I now examine the organizational level of commitment.

Organizational Commitment.

Organizational commitment consists of associates' views of their labor contract (are they paid enough and other considerations that affect the value they receive for their efforts), their plans to pursue partnership and/or alternative career intentions, and their sense of reciprocal loyalty between themselves and the firm.

Associates' Views of Their Labor Contract.

Paid Enough? A direct way to test for the presence or absence of entrepreneurial selves or collegial selves is to ask associates, Are you paid enough? As discussed in the Introduction, the largest firms adhere to an informal cartel arrangement in setting starting associate salaries. Thus, all the associates in this study started at the same rate of pay, $86,000 for the classes of 1991 and 1992.[36] Because salary data are publicly available through law school recruitment directories and trade publications, much of the stigma of discussing salaries with interviewees was absent here.[37] Absent the normal reticence to discuss income, I expect rational actor associates to say if they feel under-compensated.[38] Of greater interest is the language

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[36]. Other compensation, bonuses, health care, retirement accounts, bar review stipends, moving expenses, and wardrobe expenses are generally offered in equal value by all the firms, meaning that firms typically vary by less than $3,000 in their total compensation packages for starting associates — less than 3.5 percent of the base salary.

[37]. Indeed, three of the respondents prefaced their answers to this question with the statement, "Well, you know how much we make...."

[38]. The neo-utilitarians would surely urge a disgruntled associate to verbalize her intentions to leave because of the inadequacy of her pay, before actually carrying out the threat. The associate would seem to have no interest in withholding information

the associates use to explain their answers. My follow-up probe attempted to elicit the explanatory logic the associates use for understanding their "trade" with the firm: Would you trade less hours for less pay? The two ideal types predict different vocabularies of motive in their explanations of their "trade." Entrepreneurial selves should be dissatisfied with any wage bargain. By definition, they would always desire more. Collegial selves should be satisfied with their wage, which is subordinate to their perception of their self-firm culture match. Because most of the associates complained about their hours, I wanted to see if they would be willing to make a different wage bargain, of less hours for less money. Their answers indicated that they were trying to maximize several different, and often incompatible, values.

Table 11.9 shows that three quarters of the associates feel that they are paid adequately. Two volunteered that they are "overpaid" (A226: 28) and "wildly overpaid by any reasonable standard" (A214:37). Seven (24%) associates said that they were not paid enough. The seven associates who felt themselves underpaid do not conform to the expected collegial self, on this question. Twelve of the associates reported being willing to trade less hours for less money. Twelve said they were

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that might result in a better contract, in the transaction cost paradigm. Surely, economists would say, "maximization knows no manners."

unwilling to make such a trade.

Table 11.9: Are You Paid Enough?

Paid enough	Number	Percent
Yes*	22	76%
No[†]	7	24

Notes: n=29. * Two of the "Yes" answers said that they were "overpaid" and "wildly overpaid."
[†] One of the responses coded "no" used a pure market logic to answer, "They can get other people to do it for the same price, so that's enough" (A227: 37).
Responses to question: "Are you paid enough for your work?"

Beyond these differences, there was significant commonality in the themes both self-perceived "well-paid" and "underpaid" associates used to describe their wage bargain. Control over the predictability and number of hours, educational debt, and the cost of living in New York City were the most commonly cited negative reasons for associates' willingness or refusal to trade less hours for less money.[39] The sole positive reason associates cited was the training they were receiving, by working long hours with sophisticated clients on "cutting edge" legal work. Only two associates used market vocabularies in their replies.

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[39]. The thematic analysis of associates responses yields the following "reasons." Several associates offered more than one reason.

Table 11.10: Reasons Given for Compensation Attitudes.

Reason	Number
Control & number of hours	11
Work as education	9
Burdens of educational debt	6
Cost of NYC living	5

Notes: 31 reasons given by 22 interviewees.

The number and unpredictability of hours was associates' chief negative reason. The shear number of hours has a personal cost, for some. One "underpaid" associate commented, "What I get paid would be fine if it was a sixty-hour week, every week job. But I'm usually here eighty, sometimes one-hundred, hours. That bit at the end makes it very expensive to me personally" (A205: 36). Long, unpredictable hours prevents these associates having a private life, they felt. "I think if I could work a [basically] routine schedule of nine to five, or nine to six, and be able to plan my life, I would take less money" (A206: 43). The desire for predictability in hours was the central theme of these associate reasons.

> If I could be in complete control of my hours — even if it was the same number of them — if I knew exactly when they were going to happen, what time I had to be here, what time I had to leave, then I'd take less money (207: 45).[40]

One associate responded to the question, Are you paid enough? by saying "My wife doesn't think so, because of my hours" (A229). Another rhetorically responded to my question, "That's a funny question, because how much do you need to get paid to sell your soul?" (A214: 37). While associates' souls are not for sale, their private lives are. Associates appear to view their high salaries as *partial* compensation for

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[40]. Control was a common theme among these reasons:

> I don't care what the bottom line is for hours, but I would like the expectation to be that you can count on having your weekends off. I just want it to be the firm culture that you can count on your weekends off, unless you have something heinous going on, like a trial the next week (A214: 37).

the subordination of their private lives.[41]

Educational debt and the cost of living in New York City were two other reasons given by the associates. Several associates linked the two factors,

> For any other part of the country, it would be an awfully lot of money. I think for New York [City] it's not crazy. It makes sense when you're trying to pay back loans and the place I live. I compare it to people who make half of what I do elsewhere and oftentimes they have a better standard of living than I do here. ... The first couple of years at this salary rate, you're just getting by (A222: 27).

One "underpaid" associate explained the pressures of debt and cost of living in New York City and associates' *expectations of a normative consumer-based lifestyle.*

> It's really difficult for me. It varies with the person. There should be some equalization for the people who's parents have paid their way through [school] against those who financed themselves through student loans. For [the former], I think this is totally adequate salary. They can live and have the nice things in New York. But, it's not easy to live in New York on the salary that we're paid when you are backed up with student loans. ...Some allowance has to be made for the fact that the student loan burden can be quite impressive. Someone who's at my level who's parents put them through school is living a much nicer life — is seeing a lot more of the money — than I am (A209: 31).

These associates measure the adequacy of their wage by its ability to purchase a normatively expected upper-middle class urban lifestyle, after servicing their educational debt. Rather than using supply and demand in the labor market to assess their wage bargain, these associates use their private sphere expectations to assess the "fairness" of the wage. While most find the salary adequate, they also find the hours prohibitively "expensive" to their private lives. At most, these associates can be

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[41]. I shall return to the associates' sense of the conflict between their work lives and private lives in the next section.

described as Simonian "satisficers," rather than strategic maximizers.

The two associates who seemingly used entrepreneurial vocabularies require detailed discussion. The first said he deserved a bigger share of the revenues he earns for the firm.

> Judging the level of revenues that I theoretically bring into the firm, [I want] a little bigger percentage, not a huge percentage. I worked 2900 hours. The billing rate for an associate at my level is something like $130-140. Theoretically, assuming those billable hours are actually collectable, I'm bringing in $400,000 a year in revenue. Now granted what I take from that should be a small, nominal percentage of that because, the revenue isn't here because I am, it's here because other people are here. I'm just a cog in the wheel of bringing that in, but that's a pretty hefty sum. I use all of my efforts to bring it in, [so] a little more [money] would make me a little more comfortable ... so I didn't have to worry about finances. [Plus, the long] hours, are very expensive personally, because they just don't let me do what I want to do personally (A205: 36).

Embedded in this statement is a fairness claim ("I deserve a bigger percent"), a market claim ("the revenue does not come to the firm because of me"), and two competing (private) value sphere claims ("reducing financial worries" and "the high hours have a personal cost"). Private sphere concerns seem to be the motive for his mobilization of fairness and market vocabularies.

The other associate who seemingly used the vocabulary of the market in his reasons would be the pride of every neo-utilitarian. When asked if he was paid enough, he replied, "'Paid enough' is what they can get the next guy to do it for. There are plenty of more bodies at this price, so that's all that matters" (A227: 37). Yet, this market man went on to explain that his choice of firm was driven by status, not money. "I came here to check out the whole Wall Street, machismo, big firm ...

culture [and] to learn by doing state-of-the-art transactions" (A227: 37). Like several of his peers, this associate came to the firm for the unique, "cutting edge" training Wall Street firms offer, not for the current or deferred income. He believes that firm status and reputation will translate into a better future job for himself, thus it can be seen as a form of human capital acquisition. However, his interest in the human capital value of law firm training is predicated on his intention to leave the firm. With associates uninterested in the "pay-off," the partners' theoretical hedge against associate opportunism fails.

Trade Money for Hours? Half the associates responded that they would not trade less hours for less money, under any formula, because of the training and status they were getting at this firm. While my question was ambiguous regarding whether the "trade" would require a change of employer, most of the twenty-four associates who answered this question assumed I meant a firm change.[42] Despite the long hours, and burdens of debt servicing and living in New York City, nearly all the associates were happy with their firm choice, because of the work they do. For some associates, the training they believed that they are receiving is more important than money to their wage bargain. "The hours are my way of educating myself, whether or not they're paying me" (A219: 39). Another concurred that other factors prevail over income in his determination.

[42]. This suggests market stratification, or niching, of labor markets that market theories deny.

> It would really depend on factors other than just the money. If I could stay here and do exactly what I do, not changing anything other than the money and the hours, I would take $50,000 and work nine to five (A228: 39).

Many associates like the sophisticated, cutting-edge work they were doing for high profile clients. Fewer hours would mean a "smaller firm," which would mean smaller clients, which would mean "less interesting work" (A222: 27).

> You're dealing with real professional people, like the people in [a high prestige investment bank client]. It's very pleasant, because these people are so sharp. And they're doing such interesting things. If I were to trade for [reduced] hours I might have to do compliance work or something like that (213: 27).

This associate liked both the training and the prestige of his clients. Other associates, who were dissatisfied with the training they were receiving still like the "package deal of the firm's good name on the resume and ... working with the leading investment banks rather than one of the medium size investment banks, even if [they are] going to be doing the same boring stuff" (A229: 31). Closely entwined with associates' conceptions of the "training" they were receiving is their expectation of the penumbral "social status" they are receiving by working at this firm.

Neo-utilitarians would argue that the associates' pursuit of cutting edge training is a rational human capital acquisition strategy. Experience is bankable. But human capital is not perfectly fungible. Some of it is firm-specific. Some of it is sector-specific. An associate's knowledge of one-of-a-kind, "cutting edge," billion dollar transactions may be of little value to a potential employer, that wants someone to efficiently perform standard-form business transactions and compliance work. Associates' long-term career intentions thus affect the future value of their current

training. But, the associates had mixed feelings, about the quality of the training they are receiving.

It is not clear that these first-time lawyers were qualified judges of the quality of their current training relative to other legal work settings and their training's future marketability in other sectors. After all, these associates came directly from law school to the firm. Few held prior jobs. None held prior legal work jobs, other than a few temporary judicial clerkships. It seems likely that the status of the firm and the status of the firm's clients may play a bigger role in these associates' wage determination than they acknowledge. Throughout the above quotes is the associates' conflation of training and the firm's prestige. At times, associates seem to equate size with prestige. One associate compared this firm's clients with the clients at his "girlfriend's" firm, Dewey, Ballantine.

> I would not be happy there. They do not get the type of transactions that we get. They do not have the type of clients that we have. My girlfriend's first offering [that she worked on] was on a form S-18, which is an SEC registration statement pertaining to a *very* small offering, $7.5 million. The company was Cluck-for-a-Buck (laugh), a fast food, fried chicken outfit. I have not worked on a transaction yet where our fee was less than $1 million. We don't do anything less than $30 to $50 million. And that's pushing it; that's doing a favor for a client here. We have clients who are more sophisticated and have more intellectually interesting work. [Whereas,] they do not plow new ground there, as far as I can see (A216: 37).

It is doubtful that the associates can adequately assess the value of their training. But, by being successful elite students, they are highly likely to recognize the value of acquiring elite organizational credentials for their future career mobility. Indeed, associates' near universal claim that coming to a big firm was a "no lose

situation" because it did not "close any doors" for their future mobility is recognition of the importance of status considerations. "Doors" and "opportunities" is the language of elite stratified social networks, not free market competition. The "good name of the firm" on their resume is a clear and direct recognition of the assumed value of their law firm's social status. The neo-utilitarian's possible claim that the "good name of the firm" provides information is weak, at best. It is an indirect and ambiguous signal of the value of an associate's performance as a skilled laborer. Thus, it seems clear that associates consider part of their compensation package to be high status network credentials in addition to more traditional human capital and financial inducements.

In summary, most associates viewed their labor contract as a fair trade of large salary for the loss of control over their time and the burdens of debt and New York City living. Associates emphasized the training and status they receive from their employment, which they feel will benefit them in the future. A substantial part of what this organization offers associates is a first-class ticket out of the organization, according to the associates. The associates felt well compensated, which conforms with the collegial self model. However, the reasons they offered to justify their compensation highlighted their belief that their high pay rate is partial compensation for the near total subordination of their private life to the unpredictable demands of their work life. This sense of conflict between the associates' work and private spheres temporal demands is contrary to the collegial-driven firm culture and collegial selves models developed here and in Chapters Five and Six. The associates appeared

willing to tolerate this, because of their belief that it was a temporary sacrifice to acquire training and penumbral status before moving on. Contrary to the entrepreneurial self model, the associates emphasized the value of the firm and its clients' *status* for their future career mobility.

This raises the question of associates' long-term organizational commitment. Do they intend to stay and compete for partnership? Or do they intend to do something else?

Associates Long-Term Plans.

Central to any associate's long-term career plans is his or her assessment of the costs and benefits of partnership. Partnership is certainly the clearest, most concrete career goal available to the young organizational member. An associate's pursuit of partnership will serve to bind him or her to the organization. Associates' statements on what is required to make partner and their willingness to meet those requirements is a direct measure of their organizational commitment. Absent such willingness, associates' statements about their alternative long-term career intentions further indicate their commitment to an organization like this firm — a form of career commitment.

How Do You Make Partner? When I asked the associates what they thought they needed to do to become a partner at the firm, there was near unanimity in their answers — forsake all else for the firm. Neither brilliance nor client getting skills are required, several stated.

> Work very, very hard. That's the main thing, I think. Just really dedicate yourself to the firm. You also need to have some skills (A210: 33).

The theme was repeated often: "work really hard" (A220: 22), "work really hard for eight years" (A222: 23), and more colloquially, "just work your ass off for seven years" (A225: 33). These years of hard work are perceived to edge out most other interests and goals of the associates. Partnership-seeking associates have to "put work as a priority over everything else" (A207: 38). They must demonstrate their "commitment" by the number of hours they work.

> You need to be ... totally committed to [the firm], and really virtually nothing else. By totally committed, I mean, you are billing 3,000 hours a year. I think it's highly likely that you will make partner here (A227: 31).

This commitment, as measured by years of long hours, means that associates must sacrifice private life interests.

> You need to be willing to sacrifice a lot. I don't think it's really based upon how bright you are. You have to have a certain level [of intelligence] to get in the door, but after that it's really a matter of acting how you are supposed to act, being constantly here, and sacrificing a lot of personal things (A228: 30).

This means the abandonment of private sphere sources of the self for work-defined sources of the self.

Given this perceived significant sacrifice that is required to become a partner of the firm, associates' plans to compete for partnership or to leave the firm after a few years of training are an indication of their willingness to adapt to the demands of the firm's sources of self. Partnership-contending associates should be girding for the effacement of their private life selves over the coming years. Non-partnership-

contending associates should be making plans to leave the firm. Like Simmel's stranger, these associates may be defined by their plans to leave (Simmel 1950).

Associates' Career Intentions. Table 11.11 shows associates' reported intentions to stay until a partnership decision or leave. Uncertainty characterizes

Table 11.11: Associates' Reported Partnership Intentions.[43]

Partnership Intentions	Number	Percent
Will stay until partnership	3	11%
Don't know	9	33
Don't think so	6	22
Will not stay	9	33

Notes: n = 27. Percentages do not add due to rounding.
Responses to question: "Do you want to stay and compete for partnership?"

the associates' organizational commitment. Nearly nine out of ten associates either do not plan to stay at the firm until partnership or are uncertain of their career plans. First-, second-, and third-year associates stated that it was too early to know if they are interested in partnership. Seemingly, just having made a career choice and then firm choice, these associates find themselves having to decide what to do *again*. "It's very hard, I'm just in the part right now where I have to figure out what I want to do again" (A222: 26). Career choices under conditions of uncertainty may lead to denial. "Everybody has [partnership] in the back of their mind, but I don't want to think about it" (A207: 41). This may account for the associates' "culture of

[43]. Smigel reported the following responses to a similar question. "When associate lawyers who were members of the sample were asked if they wanted to become partners, 62.3 percent answered affirmatively; 18.8 percent said no; and 18.8 per did not know" (Smigel 1969, p. 91).

complaint."[44] When speaking among themselves, associates encourage statements of frustration and the intention to quit the firm, but discourage statements of the intention to seek partnership.

> A228: I don't know if it is a defensive mechanism, but everyone will come in and say, "I'm leaving. I can't take it anymore. This is ridiculous. This is no life." If fact, this is a theme that really repeats itself. I don't know if people are serious about it, or if it is just a kind of joke.
>
> DP: Has anyone said, "I'm here to compete for partnership?"
>
> A228: No. I think that when someone says, "I'm going to be here for four or five years," that it is a statement on their part that they want to make partner. No one is so bold [as to] declare themselves at this point. But, there is this one [fellow] first-year who was blabbing about the fact that she is going to become a partner. She's been the subject of much mocking because of that (laugh)![45]

Partnership promises rewards for those who wish to pursue it as well as costs for those who do not. For the three interviewees who admitted being interested in partnership, it offers accomplishment, status, and responsibility. Partnership would be "the fulfillment of a goal,... the satisfaction of starting something and completing it" (A216: 35). It is a "rewarding, high status achievement" for someone who "lives to work" (A223: 28). And, "Being a partner at a firm like this means that you're at

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[44]. I am grateful to Lynn Furth for suggesting the use of this apt title in the discussion of lawyers.

[45]. Echoing the hard work criterion of partnership, this associate continued, "But she works incredibly hard so you can't take anything away from her." Associates may have been more willing to mock an overt female partnership-seeker than a male one, but this does not diminish the point of the associates' shared sense of distance separating associates and partnership, suggested by the mocking.

the forefront of interesting intellectual issues and you may even get the feeling that you're somehow shaping the law" (A226: 13). Partnership in an elite Wall Street law firm has much to recommend it and thus can motivate associates. Yet, the costs of partnership weigh more heavily in most associates' minds.

Both the ambivalent and determined non-partnership-seekers emphasize the private life sacrifices the pursuit of partnership, and partnership itself, require. These associates do not want to abandon their image of their private selves to pursue the Wall Street partner version of a professional self.

> I just don't know if I want to make that kind of commitment with my personal life to be a partner. The work definitely doesn't slow down the minute you become a partner. Partners are still here all night, working a lot and giving up their family commitments. I'm not sure if I want to do that (A205: 35).

After describing two young partners in his department as "workaholics," this recently married associate elaborated on his plan to return to his hometown to practice.

> But the thing is I don't know if I want to stick around and give away eight years of my life. I just don't think this is an atmosphere that's very conducive to family life. It might just be the way I was brought up, but I don't think getting home at 9:00PM every single night during the week, at the earliest, you're going to [be able to] see your children. When I have children I don't want to be getting home every single night that late. I think there are other [geographical] areas where I can have a happy medium (A208: 34).

The partners' values of commitment and self-sacrifice are too all consuming for the multiplexity of self definitions associates hold.

> I'm not sure that I would like to be at this firm. Not that there is anything in particular bad about this firm. It's just that the sheer work ethic makes it very hard for me to have a fulfilling life. I want to have children. I want to be able to spend time with them. This place tends to be a little too all consuming for that to become a reality. So, at this

> point, I find it hard to imagine that I would be here more than two or three years. That might change. But, it just seems the people here are so dedicated and so involved in what's going on at the firm that it's hard to imagine that I would get involved in that lifestyle (A210: 37).

All three of the associates just quoted are childless males. One married female commented that she would like to have a better sense of her partnership chances before deciding whether to "sacrifice" her "time for a family" in order to seriously pursue partnership (A221: 31). Yet another childless married male summarized the overall theme when he said, "I want more out of my life than just working in this law firm all the time and I can see very clearly from the people who work here who have made partner that it absorbs all of their lives" (A219: 39). The associates see partnership at this firm and fulfilling private lives as mutually exclusive.

> The partners here who are particularly busy, or authorities on something, are either still single or they can't have much of a family life. So I think you have to make a choice. You have to decide. If you really want to be the best lawyer you can be, you couldn't have kids here. They are just two divergent things (A222: 30).

Why do these associates view their predicament as such a stark choice between work life, on the one hand, and private family and social life, on the other hand? Why does this collegial firm not provide a friendly, social environment to complement the work environment, as predicted by the ideal type? Part of the answer is because the associates do not view this firm as "collegial," that is, by their definition, "friendly." (Throughout this dissertation, I have used the term "collegial" in its formal organizations connotation, specifying non-hierarchical, unsegmented

formal relations among coworkers.[46] The associates use this term to mean "friendly"). The other part of the answer is associates' preexisting conceptions of the role of professionals and the balance of professional work and lifestyle. I will address each in turn.

Absence of a 'Friendly' Work Atmosphere. The associates do not find their firm's work environment "collegial" (*i.e.*, friendly). Though, this is not to say that they dislike their work environment. Some describe it as "a little stuffy" (A208: 37) and "*really* stuffy" (A220: 26), others call it "formal" (A215: 32). One associate compared the sociability and friendliness of the associates at another elite firm she summered at with this firm.

> At [the other firm], people would stop by and say "hello." If you just arrived, people would introduce themselves. You would know everyone on your hallway. Here that's not the case! You could arrive and nobody would ever come and say, "Hi. I'm so-and-so. I'm two doors down from you." You have to make an effort to meet people.
>
> When I arrived, one person on my floor introduced himself. Everyone else was just sort of busy in their own world. Some people come to work and say, "I'm just going to work and get out of here as soon as I can." I've noticed, as a generality, that people are not as friendly here. Or they don't make the extra effort to be friendly, as opposed to [the other firm] (A206: 44).

This lack of friendliness leads to the feeling of the firm being "like three hundred different law offices next door to each other in a building" (A216: 37). Many associates like this separation of their work and private lives.

Several associates reported enjoying the separation between their work

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[46]. *Webster's Ninth New Collegiate Dictionary*'s (1989) definition 2a is the appropriate meaning for my usage: "marked by power or authority vested equally in each of a number of colleagues" (p. 260).

relationships and their social relationships. A few quotes capture the view.

- I don't want to work at a place where I have to be friends with everybody that I work with, because, ultimately, that degrades the notion of friendship (A209: 32).

- I enjoy the atmosphere here and I enjoy the people I work with. I like them, but I'm not expected to go out for group dinners or anything like that (A223: 28).

- I'm content to have a few people that are reasonable and have a sense of humor, and not [have the firm be] a fraternity house (A225: 38).

Associates who were married or had a companion universally supported this separation norm. Three female parent-associates reported a variety of techniques to "work most efficiently ... to get home" (A202) to their children, which often resulted in less informal interaction with their peers. Typically they skipped lunch and ate dinner alone in the far corner's of the firm's dining room, to avoid lengthy conversations (see the discussion of lunch, below).

These associates are not without informal social interactions, they just do not seek close friendships in the firm. One associate responded to the question, Is this a collegial work environment? by saying, "The answer is eighty percent 'no' and twenty percent 'yes'" (A229: 33). The interviewees reporting having a median of one "close friend" at the firm. Table 11.12 shows the number of "close friends" at the firm, associates reported having.

Table 11.12: Number of Close Friends at the Firm.

Number of Close Friends at Firm	Number	Percent
0	14	48%
1	3	10
2	6	20
3	1	3
4	3	10
5	1	3
7	1	3

Notes: n=29. Percentages may not add due to rounding. Mean = 1.5, mode = 0.
Responses to questions: "How many friends do you have at the firm?" and "How many of those are among your closest friends?"

Close friendships typically arose from sharing an office during the associates' first-year or with a person from the same law school who the associate befriended during the summer associateship. Much of the informal, friendly, "collegial" interaction that occurs at the firm happens during lunch, the topic of the next section.

Because the firm does not provide the social environment to complement the associates' work lives, associates seek to defend their private sphere lifestyles (actual or anticipated) against the further encroachments of work.

Long-Term Career Plans. Associates' preexisting conceptions of their professional roles and lifestyles conflict with their newly acquired associate-level view of what is required to be successful at the firm. As we have seen, the majority of associates are not willing to make the private life sacrifices they believe partnership requires. Associates' statements about where they would "like to end up in six or

eight years" (the approximate time of a partnership decision, if they stayed at the firm) revealed several lifestyle expectations the they probably brought with them to the firm.

Table 11.13 shows the associates' alternative career plans, should they not remain at the firm. As shown in the discussion of career choice, elite law students are encouraged to go to elite law firms "for the training." The law students are reassured that if they do not like the big firm environment, after two or three years they can readily move to a smaller firm in New York City, or out of town,[47] to an in-house legal department of a corporation, to government, to the district attorney's office, or to academia as a professor.[48] About two out of three associates offered one of these traditional career destinations. Yet, more than one-third of the associates reported intending to leave law for a non-legal position in business or consulting. Several reported wanting to become "entrepreneurs."

[47]. Most plans took the associates out of New York City, but only three of these wanted to return to their home town.

[48]. Smigel documented these career paths in the 1960s. The recent law school literature has documented the truistic quality of these law school cultural tales. See the Introduction for a discussion of recent structural changes in the market for associate labor on ex-big firm associates' career options.

Table 11.13: Associates' Career Plans in 6-8 Years.

Career plan	Number
Entrepreneur / business/ consultant	14
Partner in Small Firm	10
Government or NGO	6
Professor in Law School	4
Return to Home Town	3
U.S. District Attorney	1

Notes: 38 responses from 27 interviewees. Some plans were multiply coded. For instance, "Return to Boise and be a partner in a small firm" was coded both as "Partner in Small Firm" and "Return to Home Town." Most of the entrepreneur/ business/ consultant responses represent associates' desires to become investors or investment advisors, in both cases "being their own boss." Another example of an associate who hoped to turn to business to enable him to be his own boss expressed the desire to open a bar.
Responses to question: "Where would you like to end up in 6 to 8 years?"

By far the most popular single destination among this group is entrepreneurship, typically investment. When these associates spoke about what would be different in their planned destination occupations outside of law, phrases that have long been associated with the free professions were applied to small business owners. These associates wanted to "be [their] own boss" and to have "freedom to do what [they] want," while still making a "decent living." These entrepreneurships and consultancies often had the flavor of daydreams.

> I would love to be a sole proprietor where I didn't have to worry about whether I was making money or not. Sort of the person who runs his or her own bar, or a little store, somewhere in the country. It would be very relaxing. What would make it intellectually challenging to me is that hopefully I would have enough money that I could invest and manage my money (A205: 35).

Work should be defined by a lifestyle choice, many associates seem to believe. Even associates who hope to end up in a traditional legal position emphasized non-work elements of their choice. "I would like to end up as a partner at a small firm with [sophisticated clients] and teach at some local law school, somewhere out west, San Francisco, Denver, or even Portland" (A217: 26). These associates believe they should give their lifestyles — their private selves — equal weight to their work selves.

These associates' selves manifest the cultural contradictions of capitalism. They do not find the traditional work ethic of capitalism rewarding. They are at the very top fraction of socio-economic status, given their credentials and income. Yet the "golden handcuffs" appear to tarnish just as they are tightened. As a group, they seem willing to trade long hours of hard and even boring work for their substantial income that affords them upper-middle class living standards and consumption practices. But when work demands encroach on the sacred private sphere — after about 8:00PM and on weekends — they are angered at being denied the time to enjoy the lifestyle that their income affords them. In their descriptions of what they want out of their jobs, they often seem to conflate two modes of private sphere activity — the ethic of care of the family and a consumerist orientation, a lifestyle ethic. Most do not mention law.

In summary, these associates equate partnership with the complete subordination of their private life to their work. Virtually none of the associates find this an enticing long-term goal. Instead, most associates plan to leave the firm. Many plan to leave law, to realize the idyllic integration of work and private realms

as entrepreneurs. Contrary to the collegial self model's integration of work and private life spheres, these associates view the spheres as mutually exclusive in this firm. Some even seek to reinforce the separation. Further, contrary to the collegial self model, they intend to pursue the value of work and private sphere integration in other organizations. One-third believes that this classically professional value will best be realized *outside of* the institution of the profession. Yet, the associates do not use the vocabulary of the market to articulate this balancing of competing life spheres. While most feel fairly compensated, they do not wish to continue the "trade" indefinitely.

Clearly, their commitment to their organization is faint, as measured by long-term career intentions. The associates do recognize the partner value of commitment and self-sacrifice to the firm, that was demonstrated in the chapter on the collegial firm partners' culture (Chapter Nine). Yet, the clarity of their recognition of the partners' values is matched by the clarity of their rejection of them. They evidently recognize the partners' vocabulary of motive of membership, and reject it. In its stead, most offer a belief in their extra-organizational future as entrepreneurs, a future career that will realize the collegial-driven firm model values that they find lacking in the actual firm. Most painfully absent is the time for and the integration of their work and private lives.

Perhaps the firm's culture generates an affective attachment beyond calculative career plans.

Loyalty and Lunch.

Loyalty. Loyalty is commitment to the organization, but it is only possible when the actor perceives the commitment as reciprocal. Both Kanter and Hirschman make this point. As we have seen, Kanter's defines commitment as a "reciprocal relationship, in which both what is given to the group and what is received from it are seen by the person as expressing his true nature and as supporting his concept of self" (pp. 65-6). In his classic essay, *Exit, Voice, and Loyalty*, Albert Hirschman points out that an actor's expectation of influence over an organization's "repairable lapses" is what "distinguishes loyalty from faith." The former is an inclusive view of membership, "our organization," the latter is an exclusive view, "their organization." Asking associates about their reciprocal loyalties with the firm is another way of asking about their sense of organizational membership and commitment.

Associate Loyalty. Associates do not feel a loyalty to their firm. Instead, they use the vocabulary of self-interest to describe their relationship with the firm and partners.

> I would go to great lengths for the people in the branch office to secure my ability to go there. I'm happy with the firm and happy I came here. But I don't think the firm, as an entity, cares much about me. And I don't particularly care much about it (A219: 37).

Several associates reported having a sense of loyalty to partners that they work with. "Whenever you work hard with a group of people, you kind of bond with them a bit" (A220: 22). But none of these "ties" were "unseverable" (A210), and none of the associates' trusted their partners with their "secret."

Most associates plan to leave the firm, as we have seen, but they cannot reveal

this to the partners. Associates do not discuss their short- or long-term intentions to leave with partners or other associates.

> Never tell partners! Because they don't have the same interests as I do! They would have less of an interest in the training that I'd like to receive. I don't view it as deceitful to try to get as much as I can out of a place even though I know that it is very likely that I'll be leaving here within the next several years. Why would they want to bother investing their time in me, if they knew that? (A228: 38).

Associates are counseled by senior associates to conceal their true career intentions. Stating an intention to leave — just like stating an intention to stay until partnership — is "just not really done...it doesn't reflect well on you" (A212: 30). Associates cannot talk with most senior associates about their career intentions, because "you don't know which partners the [senior] associate is friends with" (A225: 32), in an environment where senior associates affect partners choices of "well regarded" junior associates. Further, many associates do not even speak with their peers about their intentions. One soon-to-be-departing associate told me that he recently broached the subject with his classmates only to discover that "they don't intend on staying either" (A227: 25). From "external appearances, [even classmates] can't really tell who's going to contend for partnership and who isn't" (A203: 1).

The associates' perception of partners' demand that they be interested in partnership forms the work commitment linchpin for the partner practices of emphasizing "sink or swim" on-the-job training and the informal, competitive assignment system. Law students are told to come to a firm like this for the "good training," even if they do not wish to become partners. Once the associates arrive at the firm, they discover that the firm is only offering the good training on the

condition that the associates compete for it in the informal assignment system. And a central criterion of partners for selecting associates to work with and train is the associates' overt display of partnership intentions as a surrogate for work commitment.

Associates have more immediate reasons to conceal their career intentions, in a period when large elite law firms were laying off associates for economic reasons.[49] The poor market for associates with two- to five-years of big firm experience has caused associates to remain at their firm longer than associates only three years ahead of them did. Yet, the firm's pyramidal associate staffing requires a more than fifty percent attrition rate by the fifth year. Under the current market conditions, associates worry that forced attrition will soon take the place of what has historically been mostly voluntary attrition. A third-year associate made this point clearly.

> Over the last couple of years the market has been so bad that people just haven't been leaving. I think the firm will begin to weed people out. And, I'm worried that I'll be one of them (A226: 35).

Under the concern of impending firings, associates want to make themselves indispensable to one or more partners, until they are ready to leave.

> Giving the impression that you are not interested in partnership would be dangerous to your career. If you give the impression that you're not interested in a career at the firm, then I suspect the firm sees you as someone who is essentially dispensable. There is something to be said for loyalty to the firm, or the impression of [it] (A226: 30).

Both for the short- and long-run, associates believe that their self-interest is served by

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[49]. See the Introduction and Chapter Two for a discussion of this period and its effects on the sample.

feigning an interest in partnership.

Firm Loyalty. For its part, associates offer contradictory interpretations of the firm's loyalty to them. Often the same associates articulate both views of the firm's loyalty. On the one hand, they describe the firm as a "business" that knows no loyalty, only self-interest, and will fire associates if business requires. On the other hand, many of the same associates feel that the firm has demonstrated "loyalty" to an implicit *social contract* by not firing lawyers. The associates' contradictory views of their relations with the firm leave them expecting the best, while fearing the worst.

All the associates recognize the firm's profit motive. "The firm is a business, and they run it as a business" (A203: 44).

> I think of law as a business. Business reasons dictate whatever decisions they have to make. We're basically paid employees. If economics dictates getting rid of us, then that's what they are going to do (A218: 24).

Those who pointed out positive things that the firm does for associates, often characterized them as being "in the firm's self-interest." Similarly, the partners' cutting associates' bonuses was described as a logical business decision: "If you can get away with paying lower salaries, who in their right mind wouldn't? But, it affects attitudes" (A228: 31). "Attitudes," which lie beyond the bounds of economic reason, suggests associates' other point of view.

Many of the same associates characterized the firm as being "loyal" by not firing associates, as other big New York firms had. I described the betrayal associates at another firm in my broader study felt, when the firm laid off associates for "economic reasons," to one associate. She responded, "If you're being fired for

economic reasons, I can see the [sense of] betrayal. But, if you're incompetent, that's different" (A203: 1). Implicitly, moral failure is the only justifiable grounds for termination. Competent, hard working associates expect the firm's loyalty in return. "The firm is loyal in the sense that I don't expect them to start firing people, if things are a little slow" (A206: 39). When associates compare their firm's response to the general downturn in business to other firms' responses, they are heartened.

> From the time I started, people have been very concerned about layoffs at other firms. It's been encouraging to us to see that the firm has ... taken some pride in not laying off attorneys for economic reasons. It's still been scary, though. You see constant efforts around the firm to cut back in various areas, but still the firm has stopped short of laying off people for economic reasons. And, that's something we're all very appreciative of (A210: 11).

"People," in this case, consist of attorneys. Another associate described the firm's loyalty as being demonstrated by their willingness to "cut support staff in order to keep attorneys" (A208: 27).

The associates view the firm as a form of protection from the ravages of the market.

> This place is more insulated than other places. It's becoming less so, but still, I think relative to other places it's more insulated (A225).

Several associates reported that the "insulation" extends even to those who are asked to leave, because they "are not working out."

> That's been one of the things that this firm has been traditionally known as being terrific about. They don't really fire people. If they ask someone to move on, they give them as much time as they need to find something else (A228: 31).[50]

The associates link their hard work to job security, while assuming that the firm agrees with this implicit social contract.

> The only time I could worry about losing my job is if our business was dwindling. Other than that, I don't think so, because I think I'm a hard worker. And I always get a job done that I'm asked to do (A208).

Nevertheless, their recognition of the general recession in the market for corporate legal services and of the firm's character as a "business," leaves the associates cautious. They are unsure of the permanency of the firm's recognition of this implicit social contract.

> I think there's some people that feel super confident, because I guess they think they work well, they put in long hours, they do all they need to do, and they think they should be fine. [But,] I think there's general talk as to whether they're going to be laying off people or whether jobs are going to be lost, *etcetera* (A204).

Because of this uncertainty, the associates are alert to any sign of the firm's retreat from the unspoken contract.

The associates found a sign in their lunch.

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[50]. Another associate gave a glowing example of this insulation in his department:

> If it's not working out they will ask you to leave. There's one person that happened to. They said it around November, in the review, "This is not working out, and we'll give you a few months." He couldn't find anything, so they extended [his grace period], and they made calls, and he finally left in May. Almost six months they kept him on and made good efforts to try to get him another job (A212: 26).

The Significance of Lunch.

Lunch serves an important social function for the associates and the firm. The nature of their work requires the associates to work alone in their office (at the phone) for most of their day. Lawyering, many of the associates commented, is lonely work. Further, the associates reported knowing little of what their peers were doing. Under these conditions, the firm's lunchroom becomes the "water cooler" of office lore. Lunch allows the associates to acquire some knowledge of their peer's work. It is a time to informally exchange "horror stories," "commiserate,"[51] discuss legal issues, joke, and gossip. While there were only a limited number of close office friendships, most associates reported spending the majority of their weekday socializing with fellow associates during meals. Office friendships become a *de facto* important part of associates' lives. Often these friendships were manifested at lunch. The lack of time for a private life encourages associates to participate in the lunchroom social life, or have none at all.

Many associates reported being part of lunchroom cliques that range in size from three to seven. Some call around in advance to coordinate their eating time or just go in and sit with whomever they know. "I try to kind of call around and [get] a few people to eat lunch with, and then if it gets beyond the regular time, then I just go ... and eat with whoever I know there" (A212).

Fortuitous lunch meetings allow for the establishment of new friendships,

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[51]. "You know, there is a good camaraderie among the junior people. I mean, really, just sort of circle of concentration camp victims" (A209).

contact with former summer associate peers, and perhaps the only *informal* daily contact with partners. Associates stated that the lunchroom tables tend to divide up as either all-partner or all-associate, with a few "neutral ground" tables where associate-partner mixing occurs.[52]

The lunchroom provides an opportunity to see the firm as a whole, something otherwise impossible because of the private offices and multiple floors. One female associate made this point about the lunchroom as a group forum that allows new associates to view the lawyers as a whole, and thus to see how they do (or do not) fit it,

> When I was a summer associate here, it was very funny, I hadn't noticed it at first. I mean, I knew there weren't many women, but when I walked into the lunchroom and this other woman associate came up to me and said, 'Oh, you must be new.' And I tried to introduce myself, 'Yeah, I'm so-and-so.' And she [said] 'Oh yeah, I know, there are not many of us here.' And I started looking around and noticing there aren't that many [women](A206).

The partnership historically encouraged the associates use of the lunchroom by heavily subsidizing the private contractor's operating costs. An average lunch cost under $3. Thus, both the company and the food were good — and cheap. Most associates used the lunchroom, most days.

On January 1, 1992, a new, broader IRS interpretation of employee benefits required all employers to begin treating employer-provided "services" as "in-kind income." Health insurance, retirement account contributions, personal use of private

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[52]. While staff eat in the lunchroom too, no attorney mentioned staff in their discussions of lunchroom seating and socializing. Staff apparently sit together, separate from the attorneys, often in the smoking section.

limousine services, and subsidized meals all became fully taxable. Conveniently, this IRS ruling came at a time when all the big firms were looking for cost savings measures — firms were ending around-the-clock support services, contracting out mail room services, laying off support staff, moving to lower rent buildings, seizing attorneys' frequent flier miles, and reducing retirement account contributions, among other measures. Many large law firms chose to eliminate perquisites, rather than engage in complex value assessments of employees' use of the in-kind income, for the purposes of withholding the appropriate taxes. Thus, the IRS ruling was an impetus for cutbacks at several firms, which resulted in significant savings for the partnerships.

This firm ended its subsidy of the lunchroom. Prices went up more than two-fold. For example, a roast beef sandwich, chips, soda, and dessert previously cost about $2.75. The same lunch now costs about $8.00. Lunchroom attendance plummeted. The daily average number of attorney lunches served for the six-month period before the fee imposition was 140. The average for the six-month period after the fee imposition was 90, a 36 percent drop.[53] This decline continued one year later, during my follow-up visit. Based on the associates' accounts, the majority of this drop is among the youngest associates.

Several associates volunteered that they and their friends were "boycotting" the attorney lunchroom. The associates reported typically going to lunch outside the

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[53]. Six month averages before and after the fee imposition reduces the likelihood of any seasonal variation in this decline.

firm, in smaller groups or alone. These associates were angry at the firm for what they perceive as a "cutback."

> Then January 1st it became a full-price cafeteria. And, the people I socialize with avoid it. The reason why is ostensibly for IRS reasons. The associates here — the feeling I have is there was some doubt about ...whether it was a measure of economy [or what]. We went through a whole bunch of [speculative reasons]. ... People I know were sort of pissed at the way the whole thing was handled by the partnership (A229).

The partners were dumbfounded by the associates' reaction. As one partner commented to me, "It's hard to understand why someone making $90,000 a year should be bothered by paying $4 extra a day for lunch" (A2P1).[54] Lunch was a central theme in the partners' focus-group sessions, six months after the associate interviews.

The subsidized lunch symbolically represented the firm's prosperity and thus the associates' job security. In discussing secondary issues that contributed to his firm choice, one associate mentioned the symbolic role of the subsidized lunch. This associate was fond of referring to it as a "free" lunch.

> [The firm] seemed prosperous in the extreme. The ability to cover one's expenses, every type of expense, from taking a cab in on the weekends, taking a cab home at night, to dinner [was impressive]. At that time we had free lunches, every employee worldwide was given *a free hot lunch*. That was a huge psychological selling point (emphasis in original) (A216).[55]

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[54]. Four dollars underestimates the before and after price differential by at least 20 percent.

[55]. Despite his apparent confusion over the uniqueness of the firm's typical off-hours expense reimbursement policies, his emphasis on the psychological force of the "free lunch" policy most likely impressed other associates on some level, as well.

Associates see the lunchroom price hike as an omen of the encroachment of the broader market issues of the downturn in the market for corporate legal services into their previously insulated work lives. One associate made a connection between associate anger over the end of the lunchroom subsidy and the fear of firing by specifying "levels" of firm loyalty.

> I don't feel like they're looking out for my best interest. Well, just for an example, we used to have a lunchroom where we had cheap lunches. And we no longer have.... [details of lunch taxation issue]. But it was sort of a close call, and they just decided to get rid of the lunchroom and now we have to pay a lot. So obviously they don't care enough to keep subsidizing the lunchroom, that sort of thing, but I don't see them firing people left and right if things get slow (A223:).

The severity of the associate reaction to the lunchroom price hikes was driven by the associates' fear of losing their relatively strong job security. Other firm actions, such as the reduction in the associates' bonuses,[56] likely fueled associates' concern about the firm reneging on the implicit social contract of hard work in exchange for job security. While there is no safe way to protest a "pay cut," the lunchroom provided a low cost (because other dining facilities were available nearby), no risk (there is anonymity in not going to lunch), and symbolically powerful (partners eating lunch probably noticed the loss of one-third of their fellow diners) protest method.

However, one boycotting associate highlighted the cost to the associates of this boycott while confirming the significance of lunch.

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[56]. Which many associates insisted upon terming a "pay cut."

> But I think it is bad from the perspective that I used to interact a lot more with my peers, [my] associate class.... Having forty-five minutes with one's peers and exchanging views and information and chit chat. I think that was a big loss (A229).

Ironically, the very isolation and insecurity that many associates reported the lunchroom helped them overcome has been reinforced by the boycott's atomization of lunch groups. Associates collective action to protest the apparent "cutback" resulted in less peer-to-peer interaction because of the greater difficulty in coordinating off-premise lunches. This may result in the junior associates being even more dependent on senior associates and partners for information and fleeting moments of colleagueship.

In summary, the associates feel little loyalty to their organization, but expect some loyalty from the organization. What they expect is protection from the ravages of the market. Though, they intend to use this market to their advantage when they leave the firm for other legal work or an entrepreneurial position. Here the associates manifest clear entrepreneurial selves. The associates' invocation of the firm's loyalty for their protection from the market surely serves their interests, yet they feel no reciprocal loyalty requirement.

Organizational Commitment Summary.

The associates manifest little organizational commitment. Their desire to gain more private sphere time, their intention to leave the firm after a few years training, and their absence of a sense of loyalty to the firm leaves them without a sense of the alignment of their selves and their organization. They are clearly not like the

collegial self model. They express self-interested motivations — to acquire high status, cutting-edge training; to gain more private life time without sacrificing their standard of living; to gain more work autonomy and flexibility; and to benefit from non-reciprocal firm loyalty to them. The associates largely approximate the entrepreneurial self model. Yet, they fall short of being "pure" entrepreneurial selves because of their lack of *strategic* planning. Indeed, they appear to be more akin to the short-term "gradient climbers" that Jon Elster has explicitly ruled *non*-rational action (Elster 1979). Yet, the strategic action-inhibiting "bounds" placed on these actors appear to be largely self-imposed. Under these conditions, it is hard to term them unqualified entrepreneurial selves.

Conclusion.

These associates do not comprise clearly defined selves. Their responses invoke mixed and often contradictory vocabularies of motive, oftentimes consistent with the entrepreneurial self model attributes, occasionally consistent with collegial self model attributes, and sometimes invoking unanticipated logics of action. Commitment, the alignment of the associates' self with the institution, behavior, and/or organization, within which they work, is very weak.

This suggests two theoretical findings. First, the institutional sphere of the large law firms is unstable and in conflict. No single vocabulary of motive is recognized as singularly legitimate. There were no questions that evoked an unified, "pure" answer, nor did any associate manifest a unified, "pure" orientation. While

the vocabulary of motive of the market is most prevalent, it is not universal. I would expect essentially market-oriented, entrepreneurial self associates to invoke self-interested maximization motives on such issues as career and firm choice, adequacy of the labor contract, partnership and future career intentions. Yet, these associates demurred from such motives. The lack of a consistent pattern along the predicted lines suggests that the frequent invocations of self-interested, market vocabularies of motive may be the result of associates invocation of "safe" common denominator vocabularies under conditions of cultural conflict within their institution and organization.

Clearly, these associates are not collegial selves. Yet, their confused and conflicting vocabularies of motive indicate they are not completely entrepreneurial selves, either. I suggest that these associate selves are a hybrid product of their structural position. They are "employee" selves. They recognize their tenuous structural position as employees-at-will in a declining legal market. They never explicitly planned to come to the firm. And, they are always tentatively planning on leaving the firm, should conditions warrant or require. At the same time, they are interested in the possibility of full membership in the organization. They seek to comply with the cultural norms of the firm, even at substantial cost to themselves. They appear willing to negotiate partial "side contracts" of reciprocal sacrifice and reward, premised on trust, with partners and senior associates, above their minimum employment criteria. But these "side contracts" rarely result in economic value to the associate. The rewards are typically in the currency of status, friendship, intellectual

challenge, self confidence, and a sense of personal accomplishment — foreign values to economists. They would sacrifice a lot for full membership, but typically define the membership and its costs in non-economic terms. They are neither blindly loyal, nor steadfastly self-interested. I will develop this self definition further in the next chapter.

Second, the associates demonstrated their willingness to invoke non-organizationally sanctioned vocabularies of motive to define their disagreements with the partners' culture. The associates repeated emphasis on their desire to improve the balance between their work life and private life temporal demands is directly contrary to the partners' cultural value of "self-sacrifice" (see Chapter Nine). Indeed, these associates can be viewed as invoking a value commonly associated with the institution of the profession to contest their organization's culture. Many of the associates invoked a conception of private sphere values, such as, leisure, raising children, and social time with their companions, which was antithetical to the prevailing partner work values. Subtly, like cultural sniper fire, these harried associates are raising the previously "*verboten*"[57] issue of the balance of work life and private life. If modernity brought about the separation of the private and public roles of individuals, the 1990s — reaping the efforts of the feminist movement and demographic changes — is demonstrating their inextricability. Professional selves appear to be dual selves.

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[57]. See the partner quote in Chapter Eight.

The Duality of Professional Selves.

Work is the site of the intersection of occupational income and status expectations with private life consumption, status, and practices expectations, because in modern capitalist society, it is through work that a consumerist self can be validated. But just as Marx had predicted on the macro economic level, a crisis of capitalism has arisen on the social psychological level. The hours required of these upper middle class jobs are verging on preventing the realization of upper-middle class lifestyles. There is a realization crisis, but this social psychological realization crisis has always been born by workers. What the last twenty years has changed is that now this realization crisis is being born by some of the most affluent workers. In other terms, what Daniel Bell termed the "cultural contradictions of capitalism" are here full force. But again, these cultural contradictions have individual analogues, manifested among these young lawyers as the conflicts between two life ethics — one of a productive self and one of a consumptive self.

It is too crude to say that the productive self is an epiphenomena of the consumptive self, as the utilitarians would have it. For *rational, strategically maximizing,* consumptively-driven selves would seek to conserve their labor by guile and deceit — something that was little evidenced in these associates' behavior. Large law firms do not have assembly line foremen and forewomen shouting at plodding associates to "speed it up." The associates work long and hard *voluntarily*. Yet, neither are the associates driven by the certainty, or even partial certainty, that x amount of labor now will redound in $x*y$ deferred income later in partnership.

Rather, these associates perform their labor now, in part, for the sense of personal competence that it offers. "Being good" at something, perhaps even "being the best" is rewarding by itself, for this group of upper-middle class professionals. Alasdair MacIntyre (1981) made this point about chess as a practice. "Running my own deals," "making the decisions," and "being the one who argues in court" are central elements to these associates' occupational, career, and life course plans. The productive self is a *sui generis* component of these associates selves. These associates engage in constructing rules of meritable work conduct that is rewarding in itself, not for its possible cash dividend.

At the same time, these associates look to their work as a means to the end of generating sufficient income to sustain a robust conception of themselves in the private sphere. As the inheritors of the partial democratization of Veblen's ethic of "conspicuous consumption," they seek a partial validation of themselves through their purchases of high status objects and activities. In an age when the popular culture has moved from politicizing to therapeuticizing private relations, these associates — male and female alike — seek to validate a positive private conception of themselves, through their families and leisure activities. For these associates, private life is not defined negatively as that which is not work. Baby photos, exotic travel mementos, gym bags, and suntans are markers of the associates' private selves in the office.

The law firm is thus the site for a complex redemption of private and professional expectations of these associates' selves. The partner culture's discouragement of an overlap between the associates' work lives and private lives

only heightens the structural level conflict between work and private lives in the broader culture, as experienced by the associates.

CHAPTER TWELVE

Conclusion

Introduction.

In this dissertation, I argue that historically produced structures are likely to produce a set of complementary practices and values. Partner interviews and focus group data provided independent confirmation of the hypothesized practices and values among the partners at one firm. But the associates' practices and values did not conform to the predicted associate selves, if partner culture were to have a strong effect on young organizational members. The actual associates' selves are more complex and extra-organizationally-oriented than predicted by the extrapolation of the ideal types. In fact the associates' structural position of subordinacy would suggest their predisposition to form an oppositional subculture. Yet, no evidence of a robust associate subculture was found. The associates' structurally-induced atomism, their individualistic accommodations to the partners' practices, and their embrace of the values of personal autonomy and freedom combine to prevent the rise of an associate subculture within the organization. This resulted in the paradoxical finding of a partnership culture that is not unitary and encompassing across the organization. Subordinate organizational members have contrary collective interests, but are unable to form an oppositional subculture because of their structural location and practices of accommodation.

This dissertation was designed to test the effects of the implicit cultural thesis

shared by the neo-utilitarian and the power theories. Both theories argue for a unified culture's constraint and imprinting of organizational members' selves. This unified and static culture forms a structural "glue" that binds the otherwise entropic tendencies of actors.

As I have shown, the partners' culture in this firm is not as unified and static as predicted by the theories' implicit views of culture. Further, there are structural limits to the transmission of the partners' culture to associates. While the associates appear able to identify elements of the partners' culture, they neither adopt that culture nor collectively generate an oppositional subculture. The strong partners' culture and practices prevents the formation of a junior associate culture. Theoretically, the effects of social structural location and human agency must be accounted for in any adequate theory of organizational culture production, transmission, and adaptation.

We do not know what an entrepreneurial-driven firm culture would look like, so these findings must remain tentative. However, the collegial-driven firm is most likely to have a stronger and more distinct culture than the entrepreneurial-driven firm. As I argued in developing the ideal types, the highly selective "homosocial" recruiting, the low departmentalization and specialization of the work, the equality of membership, and the normative control regime are among the structural factors that are likely to produce a group culture. This distinctiveness, setting the members apart from the market, would further the cohesiveness of the culture. Further, this collegial

culture should stand in stark contrast to the background of the broader society's entrepreneurial culture of individual self-interest. The absence of a profound organizational culture effect on the associates selves in a collegial firm makes it extremely unlikely that such an effect would be found in an entrepreneurial firm, that's structure is designed to discourage membership and encourage fungibility.

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Below I review the two competing theories of firms' "strong" organizational cultures in light of the data reported here. Then I argue for problematizing the concept of organizational culture and the selves within organizational cultures. A multi-institutional theory of the origins of law firm associate selves implies the need for a more complex, contradictory, and multi-dimensional theory of law firm cultures. This will better explain the data presented. Finally, I argue that the structure and practices that generate the dominant organizational group's largely coherent culture may paradoxically inhibit the formation of a subculture among the organization's subordinate members. The associates exercise their agency in resistance to the dominant partner culture and practices individually and without a collective purpose.

The Competing Theories of Firms' Cultures.

I argued in the Introduction that the neo-utilitarian and power theories share an implicit conception of a "strong" organizational culture. Each theory views culture as unitary, static, and encompassing the entire organization in its scope. All members of

the organization are seen to share the same values, beliefs, and practices. A unitary culture produces a unitary self, devoid of conflicting values, beliefs, interests, and practices. This study seriously questions such theories. I will review some of the theories' particular claims in light of my findings before offering a multi-institutional theory of organizational culture.

The Neo-Utilitarian Theory.

I argued that the neo-utilitarian theory's implicit concept of culture was unitary and controlling of organizational members' values. Yet, even granting these theorists' claims for the momentary suspension of disbelief of the exogenous origins of actors' preferences, this theory fails on its own terms. This review of some of the empirical findings raises severe doubts about the theory's ability to comply with the goal of positive economics — predictive adequacy. Briefly, these theorists postulate humans to be self-interestedly, means-ends calculating maximizers, based on a stable, complete and transitive preference ordering, which is derived from exogenous value sources. However, opportunism and information "search" costs prevent actors from having complete information and thus limit their calculative power in open market transactions. Knowledgeable, self-interested human agents are the best defense against managerial and other forms of tyranny, liberalism tells us. Yet, here the institutional economists propose hierarchy as a solution to the tyranny of self-interest.

Neo-utilitarian theory fails to explain the empirical data reported here. Real actors display both an unwillingness to perform even minimal search and a less than

maximizing rationality. I will briefly address five of the theory's empirical failures.

First, the associates do not consider their chance of partnership in their firm choice.[1] These associates were clearly not seeking to maximize their income when selecting a firm. Despite the fact that the costs to law students of search is minimal since the mid-1980s, these associates did not search. Law school placement offices offer elaborate data bases on firms' salaries, benefits, annual hours, minority hirings, lateral hirings, attrition rates, partners made, and per-partnership profits, as well as extensive subjective reports from summer associates on each firm's atmosphere and work practices. Most importantly, the associates did not check two types of information that are crucial to the functioning of the neo-utilitarian model — chance

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[1]. Of course, this raises the question of whether a theory that posits opportunism can trust the answers given by respondents and informants (see Chapter Two for a fuller discussion of the data and reliability issues). There are two possible forms of deception recognized by rational action theory: associates' deception of me and of themselves (*akrasia*, lack of will).

It is unlikely that the associates attempted to deceive me because their interests in deception would indicate the opposite answer. Because the partners expect associates to be pursuing partnership, researchers should be suspicious of unanimous associate claims that they were interested in partnership. But these associates told me that they were not interested in partnership, a decidedly unself-serving answer for any associates who suspected me of being a spy of management. Further, if associates are rational maximizers, they would use their bargaining advantage of partners' sunk costs in their training to attempt to renegotiate their contracts with the partners. Threatening to leave a transaction is a classic bargaining method for testing negotiators' positional power. Rational associates should periodically threaten to leave. Thus, there is some reason to believe that they were not knowingly deceiving me of their "true" intentions and beliefs on this question.

Of course, associates may be deceiving themselves about their "true" intentions. Economists and rational actor theorists have been unable to explain the multiple self and *akrasia* without sacrificing their assumptions of wealth maximization and stable preferences (see for example, Schelling (1984) and Elster's edited volume (1985).

of partnership and partners' profits. Galanter & Palay argue that the *only* check on partner opportunism is law students surveillance of firms' adherence to stable promotion rate. But real associates neither look at these rates nor consider them relevant to their plight.[2] Similarly, the associates do not report using partner profits to pick among firms, preventing their ability to make long-term tournament pay-off calculations.

The associates do pick their firm based on a shared status ordering in the legal profession and the society. But status is not money and it does not always lead to money. For instance, working at a high status, large law firm provides "state of the art" training which also serves to limit the marketability of associates. Economists refer to this as firm-specific human capital. If associates come to this firm primarily to "invest in" status to enable them to move to another firm where they can "cash in" on this status investment, I would expect to see at least commensurate incomes at the smaller firms and in-house legal departments, yielding a reduction in hours "payoff." But available data indicate that there are significant drops in salaries when associates move to smaller firms. It defies logic and stable preference assumptions to describe an actors' intention to move from a high income firm to a lower income firm as "maximizing." Moreover, the firm-specific training that the associates receive may

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[2]. This may itself be a form of rational opportunism. If law students "look the other way" while a firm reneges on its traditional promotion-to-partnership rates, this would have the effect of clearing out a whole generation of partnership-contenders lying between the law students and partnership. Law students and law partners may form a conspiratorial coalition at the expense of current associates. But, of course, this would only be to the advantage of law students if they had some assurance that the future generations of law students would forswear such opportunism.

actually diminish their chances of securing smaller firm employment. The longer an associate remains at a large firm, the more specialized s/he becomes. Yet, smaller firms and in-house legal departments often prefer to hire generalist competency attorneys.[3] This further calls into question the rationality of the big firm work, if income maximization under uncertainty is the goal.

Second, most of the associates expect to leave the firm before partnership, with good reason — most do. Both sets of neo-utilitarian authors assume that associates are at the law firm to compete for partnership. Strangely these authors assume that market actors with preference sets that are only knowable *ex post* as revealed preferences gain clear, knowable, and *ex ante* predictable preferences after they enter an institution. Interests no longer reside in the actor, but in the institutional location the actor inhabits (sociologically, the role). For the model to work, these theorists require singularly partnership-seeking associates. Mark Granovetter (1985) has demonstrated the theoretical problems with this "oversocialized conception of man" in these theories. My data demonstrate that these theories are empirically weak. Most associates either plan not to stay until partnership or, at least, have doubts about remaining in the firm. These real associates are quite aware of their exit option provided by the market, and most plan to use it. There is a strange absence of the market from these market-derived theories of organizations.

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[3]. I have had been told by several mid-sized firm partners that they consider large firm associates "spoiled."

Third, the associates feel well paid. The neo-utilitarians' maximizing assumptions are clear. For instance, Galanter & Palay write: "We adopt the convention of describing this maximizing in terms of monetary gain, but 'more' can be more of anything" (1991, p. 93, n. 27). Unlike the theorized agents, real associates do not say "more" but "enough."[4] Market actors know neither fairness nor contentment, but that is the language used by real associates to assess their exchanges with partners.

Fourth, the associates voluntarily work long hours while their structural position makes them prime candidates for a cooperative constriction of effort — unionization.[5] From the rational actor perspective, the institutionalization of market relations is a structural inducement to collective action. Indeed, law firms would seem to produce the structural relations among associates required for a Pareto-optimal, small group provision of a collective good in the form of less work through a restriction of trade.[6] The associates comprise a small group, who could achieve daily face-to-face contact with little effort, reducing transaction costs. They share equally

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[4]. Utilitarians might claim that marginal utility would explain the satedness of these associates. After a certain point, money is not worth as much — associates lite their cigars with $50 bills. But if they invoke a diminishing marginal utility argument, they must provide another *non-economic* incentive for associates to seek partnership (their opportunism stanching *deux en machina*).

[5]. One of Larson's interests was why professionals have not unionized.

[6]. Mancur Olson argues that small groups are the only exception to his claim of the pervasiveness of the free rider problem in the provision of public goods, absent coercion. Olson claims that small groups will tend to produce sub-optimal results because the "surprising tendency for the 'exploitation' of the great by the small" (Olson 1965, p. 35). The structural equality of associates in law firms would seem to diminish this veto effect, present in Olson's small groups of unequals.

subordinate positions within their organization. Most importantly, they share an interest in reducing the costs of intra-group competition over hours worked. They could continue their competition for scarce partnership slots by other, less onerous, means, such as producing typo-free documents.[7] Indeed, cartels and unions are a rational means of groups maximizing their bargaining power under the small number bargaining conditions transaction cost theory addresses. Strangely, associates appeared to *abandon* their opportunism at the door of the institution that was "invented" to *channel* their opportunism, in this theory.

Fifth, the associates did not pursue the information that is available to them at minimal search costs. As I documented, these associates did not acquire readily available information concerning firms' promotion rates and partner profits, when selecting an employer. They worked under the profound ambiguity of both partners' assessments of their performance and the criteria used by the partners. Yet, they made little effort to individually or collectively reduce their ambiguity by specifying performance criteria publicly. Not everything in legal work production need be ambiguous. For instance, partner and associate agreement on the number of hours required would seem to be to the associates' advantage — associates could significantly reduce their anxiety by then knowing when to say "no" to additional work requests. Further, associates contributed to their near total lack of knowledge

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[7]. The economist Robert Frank has discussed the destructive effects of idealized "cut throat" market competition on all involved and the purpose behind the societal imposition of restraints on market freedom (Frank 1985). Game theorists' Prisoners' Dilemma game have demonstrated the optimality of cooperation over competition under institutionalized interactions (Axelrod 1984).

about their peers' performance by not searching out information from colleagues. Recognizing the limits of information acquisition and abandoning the requirement for search are two different theoretical positions. The neo-utilitarian theorists must explain the continuance of their rational maximizing assumptions in the face of contrary empirical data.[8]

In summary, even in its own terms, rational actor theory does not predict and explain actual associates' behaviors in law firms. The momentary suspension of disbelief required by these theories' disavowal of an explanation of the origins of actors' values and preferences is not justified by the predictive power of the theory.[9] There is little evidence of maximizing, as defined by the theory. There is little evidence of information-based calculative rationality, as defined by the theory. And, there is a great deal of directly contradictory evidence. In the marketplace of ideas,

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[8]. Herbert Simon's theory of "bounded rationality" was one attempt to defend the rationality of actors in a near information vacuum. Simon argued that agents "satisfice" rather than maximize. Satisficing is the use of "rules of thumb" to guide actors' choices from among immediately available alternative actions to achieve a "satisfactory" profit, not a maximal profit. This behavior can only achieve local maxima, Simon admits, suggesting that he has abandoned neo-classical definitions of "(global) maximization" and "(strategic) rationality." Other rational actor theorists dismiss this "gradient climbing" behavior as not rational — *i.e.*, strategic — action (Elster 1979).

Galanter & Palay cite Simon's bounded rationality concept, but not his theory of satisficing, suggesting that they recognize the need to maintain a theory of *strategically opportunistic* agents in order to save transaction cost theory from internal contradictions.

Simon's rules of thumb guides to action sound very much like Schutzian "typifications" and remind us of the glaring absence of explanations of value and preference formation in all these theories.

[9]. This is Milton Friedman's rationale for positive economics (Friedman 1953).

there are few large law firm associates at the neo-utilitarians' booth.

This is not to claim that associates and partners do not ever act opportunistically or maximize. This dissertation has offered abundant examples of what might be termed "bounded opportunism."[10] Associates use deception, such as leaving their coats behind and office lights on, when they leave early. Some do not answer their phones when their assigning partner's name appears on the phone display. Some associates are "more fulsome" in their billing than others. Others rummage through partners' desks reading confidential firm management documents, such as lawyers' billing logs and partner income distributions. Others play one partner off another in an attempt to avoid bad work, and sometimes to just plain avoid work. Finally, *most* associates leave before being fired, taking with them "human capital" skills the partners "invested" in them. For a good portion of associates I interviewed, the young partner's lament quoted in Chapter Nine is accurate. He described the "employee" associates' attitude: "I'll go for a couple of years. [The firm name] will be on my resume. I'll make a lot of money and I'll leave" (A2P3: 6-7). This attitude is prevalent among the associates and clearly opportunistic. But this does not make it rational maximizing.

The neo-utilitarian theorists offer an implicit theory of a unified organizational

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[10]. I will adopt James Scott's term, "everyday forms of resistance," below, but I take these phrases to be synonymous.

Mary Douglas makes a similar argument about the givenness of the social tools of resistance and control: "First people are tempted out of their [institutionalized] niches by new possibilities of exercising or evading control. Then they make new kinds of institutions, and the institutions make new labels, and the label makes new kinds of people" (Douglas 1986, p. 108).

culture that makes associates' actions channelable and predictable. Even on the theory's own terms, it fails the tests of descriptive accuracy and predictive power. This suggests that an adequate theory cannot glibly posit a fixed and finite culture populated by actors with fixed and finite, but exogenous to the system, values and preferences. The neo-utilitarians contribute the useful concepts of opportunism and maximization to a reconstructed model of law firms as organizations. However, this theory's assumptions of a unitary firm-wide culture that specifies a knowable self of members is empirically inaccurate and theoretically problematic. It shares these flaws with its competitor theory.

The Power Theory.

The power theory shares with neo-utilitarian theory assumptions of a unitary organizational culture and culturally-specified individual values. Nelson argues that the client-responsible elite partners generate a self-serving definition of professionalism that associates adopt whole. The definition of professionalism is bounded by the firm. The partners generate the symbols associates use to construct their professional self-identities. I presented data that undermine this claim. Some associates come to the firm with a preexisting definition of professionalism. Other associates pursue specific practices and skills that are contrary to the leading partners' interests. The power theory is a better predictor of associates' orientations than the neo-utilitarian theory, but it still fails to account for all the associates' values and behaviors. The sources of the symbolic materials of professional self-definition need

not be firm-bound.

Alvin Gouldner's distinction between cosmopolitans and locals (Gouldner 1957 & 1958) in organizations is useful in understanding the conflict between partners and associates over the definition of professionalism. Partners want to make the associates locals, oriented to the firm. Indeed, "local" describes well the social status of associates in greedy institutions. Locals are both emotionally aligned with the firm and reliant on the firm for employment, because of their firm-specific human capital. The alignment of associate sentiment and dependency makes them extremely productive workers for the partners. Associates, in turn, want to remain cosmopolitans, oriented to the broader market for lawyers. They abjure any emotional attachment to the organization and seek the most marketable, generalist skills training. The origin of associates' definition of professionalism determines whether they become cosmopolitans or locals.

Junior associates seek to acquire a sense of professional and personal competency through their work at the law firm. As I have shown, most consider their big firm work a form of obligatory post-graduate education before their real career work begins. Because this is the first full-time job for most of the associates, it is also a period of adult socialization, where they learn to project self-confidence and claim competence in their interactions with partners and clients. While such feelings of competence are interactionally validated, the metric is largely determined by the associate's definition of professionalism. Partners' and associates' contestations over the definition of professionalism is at the same time a contest over

the self-definition of associates, because of the central importance of occupation in complex adult identities.

The origin of each associate's definition of professionalism determines the associate's measure of personal and professional competency. Nelson argues that client-responsible partners specify the definition of professionalism that best meets their organizational interests. This can be termed an organizationally-derived professional identity. I have shown evidence of associates maintaining an *extra*-organizationally derived professional identity, in contradiction to an organizationally-derived professional identity. Associates' chosen professional identity predisposes them to find certain types of work rewarding, to expect certain types of training, to value certain types of working relations with professionals, to value or fear client contact, and to be oriented toward different long-term career plans. The combination of these differences produces distinct organizational and career potentialities for each group, to the degree that the firm structure allows them to pursue their varying professional values. Those associates with organizationally-defined professional self-definitions have more circumscribed future opportunities within and beyond their law firm — they become locals. Those associates with extra-organizationally-defined professional self-definitions may limit their opportunities within their law firm, but they have greater long-term career mobility — they are cosmopolitans.

Based on my findings reported in Chapter Eleven, I can define clusters of characteristics that are strongly correlated with the two types of professional identity. These characteristics overlap each other to form loose, discrete clusters. They should

not be taken as identical with two professional identities. I will describe each in turn.

Locals, with organizationally-derived professional identities, are the lawyers-by-default. They became lawyers because they had nothing better to do. Thus, they typically acquire the professional identity offered them when they arrive at their first job. They are like Nelson's associate's. Following the organizationally-based incentives and values, they emulate a partner-centered, technical functionary role of professional. They assess their competence by their proximity to the biggest, "cutting edge" deals and cases, run by the most powerful, client-responsible partners described by Nelson. Their training is often firm- and, even, partner-specific as they adopt the practices, skills, and values that are rewarded by their powerful sponsor-partners. By more or less uncritically adopting the organizationally(*i.e.*, partner)- determined definition of professionalism, they may optimize their chance of partnership within the firm.

Yet, they run the risk of acquiring too much firm-, and even, partner-specific human capital that will not serve them well should they leave the firm. The biggest matters with the heaviest staffing offer junior associates the least client responsibility and training. All the associates agree that if they leave this firm, they can only go "down" in the legal job market. But these lesser legal employers — in house counsels offices and smaller firms — have little use for highly specialized associates, with little practical deal and case management experience. Further, even within the firm, associates who are too closely identified with one or a few partners are generally agreed to be poor partnership contenders. Associates who adopt the organizationally-

derived definition of professionalism as partner service contribute to making themselves locals, with limited mobility within the firm and the wider profession.[11]

Cosmopolitans, with extra-organizationally-derived professional identities, are lawyers-from-the-cradle. They wanted to be lawyers from a young age and thus collected images and expectations of their professional selves long before their entrance into the firm. Solo practitioner professional parents, television shows, fiction, and small town lawyer-neighbors all provided material for these associates' anticipatory socialization into the professional identity prior to law school. This is not to say that the self-image is clear, precise, and accurate. But it is an emotively charged image that derives its power from extra-organizational experiences, values, and beliefs. Importantly, this extra-organizational view of professionalism is partially anchored in the professional's family life, community service, or client's chair. Undoubtedly the mature associate also acquires organizationally-derived self-definitional components. In comparison to the lawyers-by-default, the lawyers-from-the-cradle have an emotively charged, historically embedded counter-definition of professionalism and professional selves with which to interrogate the partner's definition. These extra-organizational symbolic resources allow the cosmopolitan associate to feel confident in, and derive value from, pursuing a client counseling role of professional. This role further encourages the associates to seek out smaller cases and *pro bono* matters as vehicles for acquiring client responsible skills and training at

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[11]. For instance, I would predict that the associates who have a formal partial or primary specialization, are more likely to have organizationally-defined professional self-identities.

an earlier age. These associates may even avoid some of the largest legal matters, run by the most powerful partners, because they offer little value for associates engaged in the practical problem of acquiring a competent professional self. The cosmopolitans extra-organizational ideal interests predispose them to pursue skills and training that is more likely to be valued by future employers (smaller firms and in-house counsel offices). Even cosmopolitans' abilities to act on their extra-organizational ideal interests are constrained by the plastic, but not infinitely elastic, practices of the firm.

There is evidence that both may be successful strategies for partnership. At least two partners I interviewed clearly thought of themselves as lawyers-by-default. Hard working locals, with no place else to go, may well be the closest approximation of partners' requirement for self-sacrificing commitment to the firm. On the other hand, several of the litigation partners indicated that they too valued small cases and pro bono work when they were associates. Cosmopolitans may develop the client-responsibility skills, confidence, autonomy that result in their "having their own practice"[12] by the time of their partnership decision. Yet, pure cosmopolitans who avoid big partners' big cases may lack the necessary opinion-defining sponsoring partner support necessary to be elected.

However, associates with extra-organizationally-derived professional identities have symbolic and material advantages over their local brethren. Symbolically, they

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[12]. The easiest kind of partnership decision to make, according to the hiring partner.

can mobilize a counter definition of professionalism to contest the partner-defined definition within the firm. This potentially yields them a more marketable mix of skills and training, within their firm and in the broader market for associate labor.

Because these contending definitions of professionalism are themselves constructed within a broader societal context of societally-sanctioned professional jurisdiction, the partners are constrained in their ability to deny this counter definition. Indeed, professional privilege requires some identity between all types of legal practice. The socially sanctioned mythic image of the Main Street practitioner — the other hemisphere of the profession — cannot be dismissed by the Wall Street firm partners. The ideology of professionalism may be largely generated by the big firms, as Nelson argues, but this ideology still must take account of the other hemisphere of professional practice in order to protect the coherence of its own jurisdictional claims. In this moment, cosmopolitan associates find their symbolic resources of resistance to partners with power.

Summarizing recent theories of law firms, both the neo-utilitarian and the power theories' implicit theories of organizational culture are largely consistent with the *partners'* culture. The partners do share a generally unitary, consistent constellation of practices and underlying values, norms, and beliefs. However, neither theory explains the associates' practices, values, and beliefs. The theories fail to take account of the encompassing social structural position of associates and the pesky impertinence of human agents acting opportunistically in pursuit of their own

values and interests.

What I term the "strong" theory of organizational culture effects predicted "pure" selves that would be produced by the organizational culture. Inverting Benedict's theory of unified culture, this hypothesis predicted that selves would be the culture *writ* small. This was consistent with both Goffman's and Foucault's theories of selves produced by institutionalized sites of power. My research revealed no such "imprinting" process of the culture onto the selves. The actual selves of the young associates in this firm were complex and contradictory. This law firm was not a total institution, as Goffman defined them.[13] Indeed, contrary to Goffman's conception of the backstage and Foucault's notion of subversion, the resistance of these associates is not completely subterranean. An element of associates' resistance appears to be quite public, in the contested definition of appropriate professional selves.

The "strong" theory of culture implicit in these two theories fails to predict the actual scope of organizational culture and its effects on the selves of associates. The unitary and static culture implied by these theories must be problematized.

Problematizing Culture and Selves.

A full theory of organizations must recognize culture as a practical

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[13]. Goffman characterizes "total institutions" as including "First, all aspects of life are conducted in the same place and under a single authority. Second, each phase of the member's daily activity is carried on in the immediate company of a large batch of others, all of whom are treated alike.... Third, all phases of the day's activities are tightly scheduled.... Finally, the various enforced activities are brought together by a single rational plan purportedly designed to fulfill the official aim of the institution" (Goffman 1961*a*, p. 6).

accomplishment of agents with multiple sources of values and beliefs that sometimes complement and sometimes contradict each other. These culture-producing interactions themselves are constrained, but not determined, by the structural position of the organization in the environment and the structural position of the actors within the organization. In turn, the partner culture's scope is limited by the social structural positions of the human actors who interact within it.

Associates are simultaneously members of their organization and subordinates within it. Thus, associates' identity and culture producing practices are largely defined by, or in reaction to, partner practices and cultural elements. Yet, their structural dislocation from the partners problematizes their sharing of the partners' culture — or any culture for that matter. My findings suggest a "weaker" theory of organizational culture effects. The associates can identify, comply with, and even manipulate the partners' culture, without adopting it.[14]

The empirical findings in the partners' and associates' practices support this "weak" theory of organizational culture. The partners have an identifiable and generally consistent culture. But this culture has limited applicability to the associates. The boundaries of the partnership culture reside at the partnership level not the organizational level. Thus, the essential bifurcation of the professionals in the organization between partners and non-partners, a product of the partners' power,

[14]. For an overview of this developing theory, see Martin review of what she terms the "differentiation" perspective (Martin 1992).

significantly defines the limits of junior associate[15] cultural adaptation. I found the associates responded to their position of structural subordinacy primarily with pragmatic adaptations.

Greedy Institutions and the Social Psychology of the Self.

I argued in the Introduction that the "strong" theory of organizational culture effects implies an "imprinting" theory of the production of organizational selves. This bears striking similarities to Foucault' and Goffman's claims about total institutions. I believe these organizations are more fruitfully thought of as a "greedy institution" than a total institution. This concept allows the emphasis on the largely symbolic, interactional production of associates' professional selves in relation to their organizations. Further, it leaves open the possibility of non-organizational sources of professional identity.

Lewis Coser defines "greedy institutions" as institutions that "seek the exclusive and undivided loyalty and ... attempt to reduce the claims of competing roles and status positions on those they wish to encompass within their boundaries" (Coser 1974, p. 4). Unlike Goffman's total institutions that rely on physical separation of the individual from the broader society to enforce their will on occupants, often under coercion, greedy institutions rely on non-physical, symbolic means of separating the group members from the outside world. They typically rely

[15]. I have left open the question of senior associates' adaptations to partners' culture. As indicated in prior chapters, I believe they are structurally predisposed to more closely conform to the partner's culture and selves.

on voluntary compliance, based on loyalty and commitment, by making their lifestyles as appealing as possible to members. They insulate members from competing, external anchors of personal identity (status positions and role-sets) through the members' voluntary abnegation of these identity anchors. In other terms, greedy institutions *demand*[16] a unified self — in Merton's terms, a single social status as organizational member.

Associates exist within an organization that is largely defined by the needs, interests, and values of the partners. Yet, the associates arrive at and remain at the organization *voluntarily*. Several psychological effects may flow from this.

On the one hand, to the degree that the young associates attempt to protect themselves from their junior, subordinate status by articulating to themselves and others a market logic of their "just passing through" the organization for a few years of training, high salary, and New York living (the partner's definition of pure opportunism), they limit their ability to complain about their current lifestyle. After all, by their own rhetoric, they did *choose* to be at the firm. Who is to blame but themselves for their choices? Further, their belief in their own limited tenure at the firm legitimizes the partners' logic of not wasting time training those who are not "in it for the long-run." By defining themselves as temporary workers by their own choice, they logically foreclose their ability to complain about being treated like temporary workers. Yet, most of the associates do not like their current lifestyle.

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[16]. Just because an institution demands something of its members does not mean it gets it. There is a moment of human agency in this construct that is missing from the "imprinting" theory.

By rejecting the partner-specified desirable lifestyle of membership, associates leave themselves unhappy with their current conditions and subject to exploitation (through partners' denial to temporary workers of the substantive training necessary for future employment) which might prevent them from ever being able to move to a more desirable lifestyle.

On the other hand, to the degree that associates identify with their partner-specified role in the firm, they adopt a self-definition derived from a social status of novice subordinate — a less than ego-enhancing identity. In this firm, such a social status is not highly valued, as judged from the partner's nostalgic claims that associates are not as good as they used to be. An associate can only get him/herself out of the lowly rank by autonomous initiative, given the lack of mentoring relations at the firm. Yet, voluntarily adopting the values of the partners — cognitively feeling oneself a member of the firm — entails risks to the associate's self-image. As I have shown, most associates do not make partner. Therefore, an associate who seriously pursues partnership has by definition left at the firm door all the other social status identity anchors that could protect her/his self-image in the likely event s/he is denied partnership.

Thus, the structural position of associates within their organization subjects them to contradictory pressures on their self-formation. Under these conditions, junior associates are likely to invoke any available extra-organizational identity-stabilizing resources in their navigation of their conflicting needs and interests. The real selves are not as pure as the two logical extremes just cited, but this only adds to

associates' ambiguity.

Multiple Sources of Selves.

Simmel's theory of the multiplexity of personal identity influences through group affiliations (Simmel 1955) is more closely consonant with the data reported here. Associate selves can best be described as being formed from a multi-dimensional field which includes the societal definition of professionalism, the current market conditions for elite lawyers, their specific organization's values and practices, and, at least for some of them, their own family-derived sense of professionalism and upper-middle class lifestyle. These extra-organizational sources of the self provide the basis of associates' resistance to the structural power of the partners and their greedy institution.

Perhaps the clearest empirical finding of my research is the associates' sense of the colonization of their private lives by their long and unpredictable work hours. These young associates, male and female alike, *expect* to be able to have week nights after 8PM and weekends free for their private life activities — typically raising children and being with companions. But they hold this expectation along with the expectation of maintaining their upper-middle class living standard. The conflict between demands of private life and work life is central to their thoughts about work. Obviously, this is partially a product of the topicality of the issue in the broader society. But it *may* be tinged by a heightened sense of betrayal in the associates for two reasons. First, because of associates' sense of upper-middle class entitlement,

they expect to "have it all," lots of money and lots of free time to spend it in, as seen on TV. Second, their embrace of the popular cultural belief of professionals being uniquely able to blend their private and public work lives into a coherent and mutually rewarding whole, epitomized by the country doctor and the solo practitioner lawyer. Their actual work lives belie these mythic expectations. But, these extra-organizational sources of self-definitional expectancies point out the complexity and variability of associates' definitions of professionalism.

The popular image of professionalism has changed for some associates. I asked many of the associates if they watched *Perry Mason* on television when they were growing up and few claimed to have been swayed by such romantic images of the profession.[17] Nevertheless, their descriptions of their ideal future job sounded very much like the mythic upper-middle class, pillar of the community, solo professional symbolized in the 1960s by Atticus Finch, Dr. Marcus Welby, and Perry Mason. Interestingly, these associates did not identify their paradigmatic lifestyles with doctors or lawyers, classic "free professionals."

Rather, entrepreneurialism has become the depository of the values heretofore associated with the "free professions": autonomy, responsibility, freedom, and the integration of work, family, and community. Some of the associates who spoke most like "professionals" looked forward to leaving law to become entrepreneurs, where

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[17]. See the Introduction discussion of the public's perception of the profession for proof of the significant effect of Perry Mason on public's view of law. It seems reasonable to include these young lawyers with the general public, during the former's youth.

they felt they can better enact their values! Perry Mason and Marcus Welby have been replaced by Ross Perot and Steven Job as the mythic embodiments of professional values for the generation that came of age in the late 1980s. Here associates invoked the ideology of a counter-institution to professions to disassociate themselves from their employers' definition.

A second theme that appears often and is closely related to the prior discussion of professional lifestyle is the purely consumerist, lifestyle expectations most associates have. For a large group of the associates, law just happens to be the track elite educational institutions put them on to acquire the normative "Ivy League graduate lifestyle." This lifestyle is expected to deliver in excess of $60,000 a year and offer social prestige and a cosmopolitan existence. For this group, their associate positions exceed their income expectations, but at the cost of foregoing their expected social prestige (given their singular low social status position in the greedy institution) and their lack of free time to enjoy New York City. This group defines themselves primarily through their consumption patterns.

Of course, this points to a straightforward life course issue. Everyone must rebuild their identity when they get their first "real" job. For most of the associates, this is their first full-time job. They define themselves through their private sphere activities and acquisitiveness because this has been the *only* way for them to define themselves heretofore, growing up as student-children of professional-managerial parents. Full-time work is as yet too new in their lives to have significantly affected their sense of self. Indeed, the high salary and low forced attrition of this firm may

make working as an associate a particularly enticing form of denial and postponement of facing the realities of the "compromises" that "adults must make" in negotiating conflicting career and private life demands. Junior associates may just be too young for the type of occupational and organizational socialization that I hypothesized.[18]

Many of these associates appear content to opportunistically utilize partner values for personal ends unrelated to their *professional* identities. Yet, despite their extra-institutional self-definitions, they demonstrate significant work commitment. This suggests a theory of the complex origins of organizational selves.

A Multi-Institutional Theory of Associate Commitment.

By combining the insights of the neo-utilitarian theories and the power theory with a robust, interactional theory of organizational culture, associate work commitment becomes explicable.

The neo-utilitarians argue that associates must be interested in partnership for their theory to work.[19] Yet, I have shown that most of these associates are not competing for partnership. Historically, most associates have left the big firms voluntarily. The pursuit of partnership is not an adequate explanation of associate

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[18]. The ideal typical selves might better be found in the mid-level and senior associate survivors of the third- and fourth-year shake-outs.

[19]. My entrepreneurial models of firm culture and selves have tried to use a less bounded, naive theory of opportunism that recognizes the centrality of "exit" in utilitarian models. However, the leading authors in applying rational action and economic neo-institutionalism to law firms insist on the necessity of partnership seeking by associates.

commitment. Even a looser utilitarian theory that could sustain the tournament model, while allowing a large number of associates to quit voluntarily before partnership, fails. These associates do not act like the opportunistic, strategic maximizers the theory requires. Indeed, they voluntarily work far harder than they have to, if their goal is merely to acquire legal skills (human capital) that will serve them well in other jobs. Neo-utilitarian theory offers an important reminder of the centrality of antagonistic relations of production, even in the service sector. *Associates maximize, to be sure, but they are not maximizing income.*

Robert Nelson's power theory argues that client responsible partners at the largest firms are able to control the *profession's* definition of professionalism. Elite partners manipulate this definition to meet their specific organizational needs, while appealing to lesser partners, other lawyers, clients, and *associates* in traditional professional terms. The highest status partners, in the highest status firms, control the definition of professionalism in the society. For Nelson, associates' definition of professionalism is what their elite partners say it is. In this theory, associates, as professionals, must then conform to the professional role dictated by the powerful partners. In this way, the partners' ideological hegemony makes invisible the antagonistic exchange relations highlighted by the neo-utilitarians. For a notable number of associates, this is clearly not the case. Many of these associates present counter-definitions of professional work practices, organizational and work-team structure, professional relations, and work life-private life integration. Many of this group were able to manipulate the partners' structures, practices, and cultural

elements to partially realize their counter-definition while keeping their jobs. Associates are not the unquestioning workers driven by fear and false consciousness that Nelson's theory implies. Yet, Nelson is clearly right that the client responsible "partners with power" stand at the pinnacle of their firm's and the profession's prestige order. In the contemporary legal profession, the power structure and the prestige structure are homologous. *Elite, Wall Street firm partners have both power and high status.*

By combining the insights of these theories and adding a strong cultural component, the associates' actions become explicable. I believe that the associates are primarily trying to maximize their social status ranking[20] by coming to this firm. As Weber argued, class, power, and status are analytically and empirically separate phenomena, operating under different logics, though they often can be closely aligned (Weber 1946*b*). All of the associates had opportunities to go to other firms, in other cities, that pay a comparable wage[21] and offer a much higher chance of partnership. Clearly, they are not driven by a formula of *(current income + (projected partnership income * discounted partnership chances))*, though they do like their high salaries. Nor are these associates uncomplainingly doing what the partners' interests dictate they do, though they do recognize their radical subordinacy. It is in the overlap of these associates' work life identity and private life identity that their actions and the

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[20] I use this phrase here in the conventional sense of a position in the society's prestige hierarchy, not the Mertonian sense.

[21]. After adjusting for the cost-of-living.

partners' cultural effects become explicable.

The associates seek to acquire the high social status of the firm through their affiliation[22] with the partnership. The data I have presented indicate that they believe their affiliation will serve them well in the future. Coming to the firm "does not close any doors." As I argued above, the language of "doors" and "opportunities" is the language of social networks, not markets. These elite law school graduates recognize the status stratification of social networks and seek to invest a few years of labor in the "cultural capital" of high status honor to assure their maximum career mobility. In this sense, they appear very much like actors in Mark Granovetter's network critique of Williamson's transaction costs theory.[23] However, these associates clearly articulate another, non-pecuniary interest in acquiring status honor.

Occupational identity has long been viewed as a central component of Americans' personal identity.[24] Individuals' affiliations with high prestige professions and organizations redounds onto their private sphere identities. Using Bourdieu's terms in a modified manner, individuals can use the cultural capital of an organization to which they are affiliated to increase their personal cultural capital. The mechanism

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[22]. I use "affiliation" here to distinguish associates' *organizational membership* from partners' *partnership membership*. Because of the structural distinction between partners and associates, the use of the term "membership" would be confusing. Associates are members of the organization, which places them in close proximity to the locus of prestige, the partnership.

[23]. Granovetter (1985). For a critique of Granovetter's cultureless network theory's step onto the slippery slope of rational action, see Friedland & Alford (1991).

[24]. For example, see, Parsons(1951), Hughes (1958), Becker *et al.* (1961), and most recently Lamont (1992).

of this transference is the individual's adoption of the organization's *habitus* through shared practices.

As I have argued, the associates treat their work as a means of generating a sense of their own personal and professional competence. Part of the competence associates attempt to acquire is practical and technical professional competence. However, another part is personal competence, which is publicly manifested through a lifestyle of status honor. It is not only the mother that is proud, when she utters the phrase, "My son the lawyer" (A219).[25] Personal manifestations of occupational and organizational prestige are valuable to these associates' in their *private sphere*, non-pecuniary activities.[26]

I have cited significant evidence for this claim. For some associates, working for a elite Wall Street firm is a step up in socio-economic status. For some children of wealthy families, their affiliation with the firm is a means of "redeeming a promising bourgeois life that was fizzling out fast" (A215). The "fear of humiliation" at the core of what I have termed associates' middle class performance anxiety now becomes explicable as the fear of being rejected from a prestigious group. Despite

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[25]. I use an actual quote. Obviously, the dynamic applies to both parents and both genders of children.

[26]. Here I wish to distance myself from Bourdieu. While I am attracted to much of his theory of practice, *habitus*, cultural capital, and cultural fields, I do not believe that all fields are ultimately redeemable in the coin of economic capital. The prestige value of the son/daughter/spouse/friend/guest *cum* Wall Street lawyer need not have first- or second-order economic value, to be valuable to the lawyer. See Lamont (1992) for an argument of the non-transitive nature of various fields' capital.

their fears that the firm's practices may change,[27] the associates are quick to embrace the partners' claim that fired associates amount to moral failures, not surplus workers.

Partnerships are qualitatively different than jobs. Competing for partnership has a status component as well as an economic component.[28] Associates seek to "penumbrally" acquire some of the high status honor of the partnership through their affiliation with the firm.[29] Their emphasis of their work's intellectual challenges and client counseling is largely valuable to their self-image that they present in their private sphere activities. Neither the market nor power value self-image; the private sphere does. Finally, the associates' contradictory statements that they would not move to another firm to reduce their hours and yet they feel that the firm is unfair in requiring them to sacrifice their private lives for work now can be explained. Because of the associates' short-term affiliation plans, they do not want to adopt the complete lifestyle of the partners status honor group, which requires the sacrifice of private life activities. Associates' lifestyle complaints derive from their frustration at not being able to "redeem" their newly acquired status honor gained through affiliation in their private lives, because of the onerous time demands of their status

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[27]. See the discussion of Loyalty and Lunch in Chapter Eleven.

[28]. As one partner told me, "Nobody wants an asshole as a fellow partner." In the market, everyone is presumptively an "asshole" — *i.e.*, opportunist.

[29]. Indeed, the responses to the question, How long do you have to stay at the firm to be marketable someplace else? Table 11.3 might be read as a measure of the question, How long does it take for some of the status honor to rub off onto you?

honor granting organization.[30]

The partners emphasize the partnership's status honor in their interactions with the associates. Partner's ideology can hold a powerful sway over the associates on some issues, because of the alignment of the partners' ideology, culture, and practices. For instance, partners can straight-facedly make the statement to law students that, "We wouldn't make you this job offer if we didn't think you could be a partner here," because they believe it (cultural value) and it is true (practice). Of course, this conveniently omits the fate of 85 to 90 percent of the associates, which is what makes this self-interestedly ideological, as well. But it also conforms to the partner's cultural values of equality and shared goals (realized through selective hiring practices) and the practice of "home grown" promotion from within the firm. The partner claim that "Associates have to work damn hard and sacrifice a lot to make partner" operates on all three levels, as well. Factually, on the level of practice, it is demonstrably true. Ideologically, it serves the partners' interests. And, culturally, it is consistent with partnership values.

When the associates seek to gain penumbral status honor from the partnership, they must adopt the practices of the partners, to assure their affiliation. In the case of these two partner ideology statements, the associates must adopt the ideology too. Indeed, because they wish to use the status honor acquired through affiliation to their advantage in their private sphere and future career track, it is in the associates'

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[30]. Like workers who get off work after all the stores close, they are impatient with the obstacle that work imposes on their ability to spend their pay checks.

interest to adopt the partner ideology, as well. The personal sacrifice required of the partnership lifestyle is what makes it valuable to the associates. But as I have shown, the associates need not adopt the *values* of the partnership to benefit from the penumbral effect of the partnership's status honor. The associate selves were not defined by the partnership's values. The tri-level depth of the partner utterances give them a motivating power beyond a mere ideological claim. The associates adopt the practical and ideological components of the partner utterances because they assure the associates continued affiliation with the partnership. Affiliation offers the associates *symbolic and material* value in their private sphere and future work sphere relations.

In the pursuit of status honor through affiliation, associates volunteer themselves for economic exploitation. The partners use the associates' status acquisitiveness (and economic complacency) for their economic ends. By joining a group in pursuit of status through affiliation, the associates abandon the protection of the formal equality of market exchange relations, available to a mere "employee." Employees can invoke a labor contract to circumscribe their involvement with their employer. Members of a status group cannot circumscribe the lifestyle demands of their status group membership. Whether the associates intend to stay to compete for partnership or not, the associates' desire to acquire the status honor through affiliation with their prestigious firm makes them subject to the lifestyle dictated by the partners. Even those associates who hold and enact a definition of professionalism contrary to the partners, voluntarily submit themselves to the long and arduous hours of work at the firm. Their recognition of the value of the firm's prestige to their own future

careers should not be confused with their acceptance of the elite partners' definition of professionalism.

A complex theory of the self is required to account for organizational members' interactions with organizational cultures. Individuals move across multiple institutional domains in the course of their daily lives in modernity. They are not obliged to limit themselves to the logics of action of the "home" institution. Institutional logics of action, values, and practices can "leak" into adjacent institutions. This leakage is produced by creative human agents mobilizing alternative vocabularies of motive and practices to change institutions' logics of action from within. What these associates demonstrate is that humans can transfer valuative schema from one institution to another institution to (partially and incrementally, to be sure) alter the central values of an institution, as well. Partners may rue the dominance of "employee" associates in the firm, but they nevertheless must respond to the valuative schema articulated by the associates who make the partners' profits.

This theory of the multiple sources of associate self identity has parallel implications on the level of organizational culture and politics.

Agency & Resistance.

Associates — social actors — have agency. But actors' agency does not occur in a vacuum, it is itself largely reactive to the prevailing culture, albeit reflected through the prism of associates' ideal and material interests. Confronted with a preexisting lifeworld, social actors express their autonomy largely through selective

adaptation — contestation at the edges of the dominant culture.[31] Thus, in law firms, we should look for contestations over the meaning-in-use of shared cultural concepts, such as "professional," "membership," and "employee."

On a broader scope, Kristin Luker's *Abortion and the Politics of Motherhood* (Luker 1984) is a signal example of such cultural contestation. Luker examined the worldviews of pro-choice and pro-life activists and found that abortion was a vehicle for a broader contest of their worldviews' opposing conceptions of the family and motherhood. The activists used the same terms to mean very different things. The divergent meanings were the product of the differences in the activists' material and ideal interests, in that case their relationship to the labor market, social status, and religious orientation. The plasticity of the shared language both circumscribes and facilitates the conflict.

Returning to lawyers, Nelson is right that the definition of professionalism is open to political contestation. But he errs in limiting his theory of the political contestants to partners. Indeed, as covered in Chapter One, Nelson privileges the partners' interpretations of associates' actions. Partners, and partners' definitions of professionalism, do not freely stamp compliant associates. Associates are autonomous, if unequal, contestants in the battle over the definition of professionalism and professional *self*-identity, not mere pawns.

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[31]. For the classic statement of the givenness of the lifeworld, see Durkheim's discussion of the monetary system in *The Division of Labor in Society* (1933). For the American pragmatists' restoration of agency to social actors confronted with the "social fact" of a preexisting social order, see George Herbert Mead's *Mind, Self and Society* (1934).

Power exists and has influence at all levels of society and all levels of organizations. Similarly, human agency likely resists the dull force of power at all levels of organizations and societies. It is important not to romanticize resistance. Some struggles are truly life-and-death encounters. Some struggles are merely two well-to-do individuals higgling over profit shares.[32] Both share the analytic structure of the more powerful attempting to mobilize his/her power to compel the less powerful to do what s/he would not otherwise do.[33] Resistance, whether grave or trivial, is the attempt by subordinates to resist mobilized power. At least two forms of associate resistance and contestation are possible — individual and collective. I will review each in turn.

The (Cultural) Weapons of the Weak (Associates).

Resistance can be individualistic. James Scott's *Weapons of the Weak* (1985) argues for a "meaning-centered account of class relations" (p. xviii) in the context of a study of peasant resistance to changing class relations. Scott documents the daily,

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[32]. Indeed, the transaction costs literature concerns itself strictly with this latter category.

[33]. Simmel's discussion of superordinacy and subordinacy makes clear this dynamics' applicability to a spectrum of social interactions. At one extreme might be the romantic image of the North Vietnamese Army soldier attempting to shoot down a U.S. Army helicopter gunship with her bolt action riffle — a Sartian confrontation with existential consequences. At the other extreme might be the elite Wall Street firm associate cheating on his expense report because he is angry with his partner's work demands — petty theft with small change consequences. Both share the same dynamic of the (relatively) weak against the (relatively) strong. All such assessments of relative power are positionally determined.

"quiet acts of routine practical resistance" (p. 326) peasants practice against land owners. After surveying these low-grade acts of resistance, he summarizes their features in a manner applicable to other environments and other levels of power struggle, including large law firms. They require little or no coordinated planning, they make use of implicit understandings and informal networks, they often represent a form of individual self-help, and they typically avoid any direct, symbolic confrontation with authority. Most importantly, they do not contest the prevailing social order. Instead, they confront elites with their failure to live up to their own ideology's promises, while exploiting the plasticity of elite language to their own (incremental) advantage.

I believe Scott is injudicious in his use of language in his formal definition of everyday resistance:

> Where everyday resistance most strikingly departs from other forms of resistance is in its implicit *disavowal of public symbolic goals*. Where institutionalized politics is formal, overt, concerned with systematic, de jure change, everyday resistance is informal, often covert, and concerned largely with immediate, de facto gains (my emphasis)(p. 33).

Scott means to preclude only those global class-for-itself ideological symbolic jousts between contending classes. Peripheral, marginal, local *symbolic* confrontations are central to the everyday resistance both of Scott's Malaysian peasants and the associates under study here. Subordinate groups using everyday forms of resistance[34] — by definition small groups or individuals -- do not contest the prevailing property

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[34]. Everyday forms of resistance include "foot dragging, dissimulation, desertion, false compliance, pilfering, feigned ignorance, slander, arson, [and] sabotage" (p. xvi).

relations of the society. Rather, they contest elites at the margins of the social order — has the landlord shown the tenant farmer the proper respect? Are the associates treated like professionals? Such contestations are *both symbolic and material*. Most importantly, they require a shared language (Scott 1985, p. xvii).

In law firms, everyday forms of resistance are both practical and symbolic. Practically, some associates attempt to hide from partners roaming the halls with dread "spot" assignments. Some do not answer their phones when the assignment partner is calling. Others over-bill clients to pad their hours or pad their expense accounts. But more often, or at least more evident to the outside researcher, associates engage in symbolic struggles with the partners that have material consequences.

For example, associates' sundry definitions of professionalism and "good work" are examples of a subordinate groups' use of the plasticity of the dominant discourse. Among themselves, partners value the hard work and personal autonomy of client responsibility. To the degree that partners define themselves as professionals, they define professionalism as client counseling. But this does not mean that they want associates evading the largest legal matters that make the partners the most money but offer the associates least in client contact, skills, and professional self-definition. Yet, the plasticity of the concept of professionalism allowed one group of associates to claim small case and *pro bono* work as lying within the broad parameters of the partners' definition of professionalism. The partners' own definition of professionalism constrained their ability to prevent associates from

pursuing this suboptimal (from the partners' point of view) work.

The lunchroom boycott is another example. As I argued in Chapter Eleven, associates believed in the existence of an implicit social contract that exchanges hard work for protection from the market. In an environment of large firm layoffs, they interpreted the bonus cuts and cafeteria cost hike as proof of the partners' reneging on the "contract." No one protested the bonus cuts, whereas roughly half the junior associates protested the lunchroom price hike. Because of the availability of other eating facilities nearby and the anonymity of not going to lunch, protesting associates could deliver a powerful symbolic message while maintaining deniability.[35] The associates were not protesting the fact that the average partner makes nearly $800,000 per year largely from their labors, while they make slightly more than one-tenth the amount. Instead, they were fighting over lunch money — and all that it symbolizes. Certainly a central component of the symbolic value of lunch was the implicit social contract, which the associates argued gave them membership protections from the ravages of the market. The associates were enacting a form of "symbolic jujitsu" (Scott 1992), by invoking membership rights to parallel the partners' enforcement of (associates' pseudo-) membership obligations.

This firm-level struggle between partners and associates takes place in the arena of general public opinion. The struggle between the groups is over the symbolic and practical meaning of professionalism. For it is professionalism that

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[35]. What better excuse for not appearing at lunch, when challenged by a partner, than, "I was working on your assignment."

describes to the larger society what these lawyers are doing and — more importantly — why they have been granted state-sanctioned privileges to do it. Thus, each side of the struggle is constrained by their similarity of interests in the broader professions-public dialogue concerning professional privileges in a democratic society. Partners cannot treat associates like mere wage laborers in a cash nexus relationship. Associates cannot act like purely opportunistic wage laborers and expect protections from the market. If law firms really looked like factories, professional jurisdiction would quickly be jeopardized. Professionalism sets rough constraints on the rhetorics of motive both partners and associates can use.[36]

Societal-level constraint chiefly benefits the associates, who have the most to gain from strengthening the non-market-oriented logic of professionalism and the most to lose from a marketization of professionalism. The associates, like James Scott's peasants, make use of the plasticity of normative discourse to hold elites — at least partially — to the terms of their own ideology of professionalism. In this manner, associates have some power in the battle over the material and ideal performance of their work. The everyday forms of young associates' resistance are contests over the

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[36]. See generally Larson (1977), Abbott (1988) and Freidson (1986) on the public professions interaction.

We can liken these professionals' dilemma to being adrift in a leaky boat. Partners and associates may fight bitterly over who will row, bail, and steer, and how long the shifts last, but they share a common interest in keeping the boat afloat. In this metaphor, the turgid, shark-infested waters are played — appropriately — by the American public, who hold only politicians and stockbrokers in higher disrepute (see the discussion in the Introduction).

material and ideal definitions of young associates' necessary and appropriate skills, their appropriate career track, the appropriate mixture of intellectual and clerical labor in their jobs, the level of personal deference to partners, the salary and benefits for their long hours of work, their lifestyle, and their level of job security. This power struggle is largely invisible at the level of the organization. It takes place on the phones, in the hallways, at the copy machines, and in the lunchrooms; in small group — typically dyadic — exchanges where the real terms of associate labor are negotiated *real time, as they go.*

The partners' dominant definition of professionalism is subject to manipulation from below. As James Scott writes, "We may consider the dominant discourse as a plastic idiom or dialect which is capable of carrying an enormous variety of meanings, including those which are subversive of their use intended by the dominant" (1992, p. 236). While Nelson was correct in emphasizing the social structurally-determined differences in interests of partners and associates, he failed to allow for this conflict to emerge at the level of organizational practices and culture. The pesky agency of complex selves and the organization's social structural location channel and constrain powerful partners' brute exertion of power on the prostrate selves of associates.

The Failure of Associate (Sub)Culture.

We might expect associates to form a subculture of implicit or explicit resistance to the dominant partners' culture. However, there is little evidence of a

robust subculture.

Gary Alan Fine argues that group culture, what he terms idioculture, serves to differentiate and protect members of the group from the surrounding culture (Fine 1987, p. 128*ff*).[37] The question is, then, Are the associates structurally capable of sustaining an oppositional subculture? Most of the available evidence indicates that associates are unlikely to be able to constitute a robust oppositional subculture. The reasons for this claim and the implications of it shall be dealt with in turn.

Following Fine's lead, we must inquire if associates constitute a self-conscious group? Mead makes the distinction between "concrete" versus "abstract" social classes, as immediate, physically proximate generalized other constituting groups versus abstract, indirect social units at the level of self-conscious universal discourse (Mead 1934, p. 158). At a broad level of abstraction, associates surely constitute an "abstract class," in Mead's sense. They share similar social structural positional identities. Yet, it is much less likely that they constitute a "concrete" class, with its requirement that all the members recognize their shared, collective identity as reciprocal generalized others. To form a subculture, associates must have the ability *as a group* to reflexively orient themselves to, and against, partners' culture. Can associates constitute themselves *de novo* as a *self-conscious group*?

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[37]. There is a defensiveness claim that runs through much of the subculture literature. Culture-as-defense from the surrounding community theories often have a functionalist bent that omits the non-functional components of culture — the very thing that these theories often criticize "strong" cultural theories for omitting. This need not be resolved here, only noted.

At least four structural factors facilitate the formation of a subculture.[38] Group members who share some personal characteristics may use that identity in their work organization.[39] Shared past and present work experiences are a further means of group self-identification. Individuals who differentially interact with each other rather than other members of an organization are likely to develop common sub-cultural forms. Finally, group formation is encouraged by an affective cohesion promoted by shared needs for anxiety management and sense-making. The junior associates have little of these in their position. Thus, they remain, in Mead's phrase, mere members of an "abstract class" of associates.

Clearly the associates share a minimal identity as a group — they are all junior associates at an elite New York City law firm. Nearly all of them share the same socio-economic background and race. They all share elite educational credentials. Their shared backgrounds, combined with the normative constraints on dress and speech prevalent in all top managerial environments, makes ethnicity and religion little apparent and never discussed. Elite law schools' and law firms' recruiting practices continue to produce a largely homogeneous group.

Associates initial interactions with the firm probably furthers the group cohesiveness of law student culture. The summer associate program treats associates as a collectivity. Nightly group events, parties, cruises, ball games, and theater-

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[38]. This paragraph is adapted from Trice & Beyer's summary discussion of organizational subcultures (Trice and Beyer 1993, pp. 176-7).

[39]. This is Becker & Geer's theory of latent culture (Becker & Geer 1960).

going, allow the informal, less-surveilled intermingling necessary for a group to cohere. I was told stories of summer associate romances, bar brawls, and group mischief that indicated some collective sensibility of dissent among the summer associates. However, the lack of any mention of similar events at the associate level suggests that these actions might well be "student culture on an expense account." The associate quoted in Chapter Ten to the effect that he felt associates would easily agree on what constituted "good work, *if we remembered to talk about it*" suggests the structural similarity of their experiences of subordinacy and atomization.

However, virtually every other aspect of associates' work experience frustrates the formation of a subculture.

First, multiple, cross-cutting divisions frustrate attempts to constitute a plurality of the whole group. The temporal sequencing by which associates join the firm segments each cohort. New associates begin their work at the firm at different times, as small groups trickling in from July through October of each year. Associates who have clerked are processed with first-year associates, but are treated as second-years in terms of assignments and seniority, further dividing each entering cohort. The firm has very few occasions when all of an entering associate cohort is grouped together. When this does occur, the presence of partners discourages intra-cohort socializing. Spatially, new associates are assigned to separate offices spread across the firm's several floors. First-year associates' offices are typically book-ended by more senior associates, rather than fellow junior associates, so there are proximity limitations on informal, neighborly cohort contact. This produces little

sense of a shared experience among the associates.

The assignment system and typical work team structure prevent work-related intra-cohort contact. It is unheard of to have two first-year associates on one matter. The informal assignment system's promotion of competition may even promote associates' reticence to speak with peers. Further, first-year associates have little work contact with their immediate seniors, second- and third-year associates. The junior associates have little interdependent interaction with their fellow junior associates.

Typically, a first-years' next more senior level associate contact on work assignments *begins* with fourth-year associates. But by fourth-year, these associates have probably already adopted the partner-defined supervisory attitude toward more junior associates. Thus, they are of little use to the junior associate's attempt to identify an existing subculture. As I have shown, junior associates recognize senior associates' nodal position in the assignment networks and their different, partnership-oriented interests. Thus, there is virtually no opportunity for work-related cohort or adjacent cohort contact.

The highly demanding work load required by the partners further inhibits informal contacts between junior associates and their peers or more senior associates.[40] Most legal work is done alone in the lawyers' offices, thereby physically

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[40]. Work load time demands dampens all social contact, the associates claim. One associate told me that it has been so long since he has interacted with anyone but lawyers, in work or socially, that he has "forgotten what other people do. ... I know there are doctors and engineers, but I have no idea who those people are and what they do" (A219). While these associates surely exaggerate their work-induced

limiting informal contacts between even socially-inclined coworkers.

Informal socializing is discouraged by the spatial separation and the taxing work demands. Socializing with new acquaintances takes time and energy. Senior associates probably prefer to spend their limited free time with friends, rather than "working" on a new office relationship with a junior associate who has nothing to offer him/her. Similarly, junior associates probably experience any senior attorney contact as incurring a debt, as described by Blau (1986 [1964]). Thus, they probably conserve their overtures to important, work-related questions. As I have shown, associates at this firm do not "drop by" and introduce themselves.

Female and minority associates face additional burdens of identifying a cohort group (in formation). Female associates, especially single ones, may be additionally constrained in looking for friends and mentors who might impart cultural knowledge, for fear of being viewed as "looking for romance" in their office relationships.[41]

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isolation, there is undoubtedly some truth here. Even a partner quoted in Chapter Eight implicitly suggested he preferred watching basketball to socializing in the evening because of the "over stimulation" of high stress legal work.

Fine & Kleinman critique limiting subcultural definitions to social structural position attributes, pointing to multiple group ties and communications mechanisms that allow individuals to traverse social structural and time-space boundaries (Fine and Kleinman 1979). While I agree with their argument, I do not believe it has relevance here. The long hours of work required and, more importantly, the *unpredictability* of associates' hours leads to the colonization of their private sphere relations by work and the withering of non-work group relations. Under these perhaps extraordinary conditions, I believe structural criteria of subcultural formation are appropriate and dominant.

[41] No male associates voiced a similar concern *vis a vis* their relationships with more senior female associates, though this may be a function of the small number of senior female associates. There was no mention of same sex romances at this firm.

Minority lawyers[42] may feel they must be cautious about being seen together by others. I was told of one same-race, more senior associate reacting hostilely to a minority junior associate's knock on the door to introduce him/herself.

In summary, the structural arrangements of associates' work prevents the formation of a group identity and subculture, despite associates' desire for the normalizing force of collective sense-making of their highly ambiguous situation.[43]

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[42]. The low number of minority associates of African-American, Asian, and Hispanic descent in the firm prevents me from being more detailed in my discussion of "minorities" under the requirements of confidentiality. The extremely small number of minority interviewees means that this discussion should be read as tentative and exploratory only.

[43]. The structural influences on culture formation may not be limited to gross present/absent binaries. For instance, structural differences internal to the partnership may divide the partners' culture too. The difference between the older, administratively-inclined partners and the younger, market-oriented partners in their orientations toward the junior associates may be due to their structural distance from the junior associates. The junior partners are in daily working contact with the junior associates and must cope with the latter group's opportunistic conduct, divergent professional values, and extra-organizational orientations. This may well promote the younger partners' remorseless desire to exploit junior associates as mere workers. In contrast, the senior partners' relations with the very same junior associates' behaviors is mediated by senior associates and junior partners. Senior partners have very little work-related contact with junior associates, thus shielding them from exposure to the junior associates' opportunism, divergent professional values, and extra-organizational orientations. Junior partners and the senior associates buffer the more senior partners, by overseeing the majority of junior associate work. Because the more senior partners typically only come into contact with the senior associates, who have largely adopted the partnership's cultural values, these older partners may well see the associates as more compliant, dedicated, firm-oriented, and deserving of benevolent paternalism, than the junior partners see the junior associates. Seen in this way, it is unclear if the differences among the partners are indeed generational cohort effects of the encroaching market, or if this is more of a core/periphery and sacred/profane spectrum effect. Seen in this way, the nodal role of the senior associates in the informal assignment networks and evaluations of junior associates may be to protect the partnership's cultural elements from environmental pressures (at least in terms of their labor management concerns). The young partners' distrust and even, at times,

Besides their structurally-induced atomism, the extra-organizational self-orientations of the associates and their practices of coping with the partners' practices and culture further discourage collective action on their part. Associates who believe themselves to be at the firm for only a few years have little incentive to risk partner retaliation for collective actions that they will likely not be around to benefit from. Instead, they pursue personal strategies of career skills enhancement through individualized bargaining with partners for "good work" and responsibility in exchange for long hours of devoted service. These short-term, individualized strategies result in the optimal distribution of effort, from the partners' point of view, but an irrational competition to the last associate, from the associates' collective point of view. This is a paradoxical form of Mandeville's paradox. The associates' individual pursuit of personal "vice" leads to irrational virtuelessness on the collective level of associates, while yielding a monetary form of "virtue" to the partners.

The associates further contribute to their atomized ambiguity by the form of

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resentment of "employee" associates may in part be due to the stressful nature of their intermediating role between two value systems of the (more senior) partners and the extra-organizational world of fungible associate professional workers.

This suggests a modification to Nelson's view of the division within partnerships. He believes that it is the client-responsible partners who are mediators between the organization and the environment, the younger "minder" partners are fully captive by the organization, consistent with a resource dependence theory. However, organizations need at least two types of resources — clients and workers. I believe that different strata of the partnership may provide different environmental adaptation functions for different resource needs. While the big name partners may get law students to the firm's hiring interview, the younger partners must select, hire, train, and manage these young associates. Associates are an essential resource to partner profitability, yet the biggest partners have little to do with the *day-to-day* management of this resource.

their accommodations to partners' practices. The structured competitiveness of the associate relations is furthered by the associates' distrust of their peers who they do not know personally. Associate groups never seem to rise above the level of suspicious, competitive friendship cliques, which range in size from three to seven. Even in the lunchroom, a favorite location for associate socializing, a robust subculture is lacking. The associates preferred to eat in small groups of friends. Several associates reported anxiety over missing their clique's appointed luncheon hour and having to sit with distrusted peers. When unfamiliar associates joined a table of friends, conversations became decidedly more cautious, I was told. The associates, thus, adapted the firm's culture of viewing "mistakes as a sign of mental defects" to their intra-cohort social relations.

Finally, a few broader professional and partner cultural elements may further contribute to associates' willing adaptation to atomism. By their training associates privilege fact-based distinctions over categorical generalizations. This may encourage a self-imposed cognitive atomism. Repeatedly, associates responded to my questions about their peers' typical practices by claiming that they did not know what other associates did. While the origins of this ignorance of kind is largely structural, in may contribute to self-told stories of uniqueness that discourages any effort to acquire information about peers, even when it is available. The partners' cultural elements of personal autonomy and responsibility provides a ready-made justification for associate feelings of uniqueness. Finally, some associates do make partner. Like so much operant conditioning, the low historical partnership rate may be just high enough to

allow the associates to maintain private fantasies of succeeding, which further separates them from their cohort.

* * * * *

In conclusion, the structures and practices reviewed here produce the paradoxical findings of a partnership culture that is not unitary and encompassing across the firm, associates with contrary collective interests which predispose them to forming a subculture of opposition, and yet, the associates inability to form a subculture because of the structure of their work relations and work practices adopted from the partners' culture.

Conclusion.

The neo-utilitarian model is overly determined by its monetary maximization. The power model is overly determined by its emphasis on the omnipotence of power. Both theories assume a unified, static culture that is fully consonant with the central logic of the model. Yet, the empirical data reported here raise grave questions about the usefulness of such a view of culture. These "strong" views of organizational culture fail to account for the influences of social structures and human agency on the production, reproduction, and transmission of organizational cultures. Rather than backgrounding culture as an unobtrusive interstitial "glue" that holds the entropic tendencies of the neo-utilitarian and power theories together, I believe we must problematize culture in organizational analysis.

Culture must become both a theoretical and an empirical question. An adequate theory of organizations must theorize the origins, reproduction, and transmission of culture *via* the structure of the firm and the practices of the workers. It must allow for the possibility of contradictory cultural elements, because of the dual origins of culture. Only by making culture the third leg of the theoretical tripod, along with self-interested maximization and power, will an adequate theory of organizations be possible. The presence and scope of organizational culture within each organization and at each level must be problematized.

The development of a complex theory of organizational culture will allow for a complete theory of selves within organizations. Contrary to the unitary culture theories reviewed here, selves are not stamped out, cookie cutter-like, by organizational cultures. Rather, creative human agents draw from multiple institutional sources to craft goals, values, preferences, strategies, practices, and vocabularies of motive that generate individual identities. The symbolic and material resources available to them for self-identity production are determined by the actors' social structural locations, within the firm and the society. When actors are located in a social structural position which is devoid of a culture, the actors selves will be anchored to one or more extra-organizational institutions.

In short, organizational culture and its influences on the selves of organizational members cannot be assumed. Empirically, it must be demonstrated. Theoretically, this dissertation demonstrates that researchers must take account of the social structural position of the actors under study in assessing the "objective

probabilities" of their values, goals, preferences, sense of compulsion, and sense of autonomy.

While organizational theory has much to gain from the study of culture, theorists cannot assume the existence, scope, or dominance of a single culture. These findings suggest that professional self-identity is subject to the multiple influences of culture, power, and self-interest — all embodied in mundane human practices. Nor can theorists assume the existence of a culture for all members of an organization. Proximate cultures are not necessarily the most efficacious cultures on organizational members' selves.

Appendix A

Thirty Largest New York City Law Firms, 1991

Full Name	Short Name
Cadwalader, Wickersham & Taft	Cadwalader
Cahill Gordon & Reindel	Cahill, Gordon
Chadbourne, Parke, Whiteside & Wolff	Chadbourne
Cleary, Gottlieb, Steen & Hamilton	Cleary, Gottlieb
Coudert Brothers	Coudert
Cravath, Swaine & Moore	Cravath
Davis Polk & Wardell	Davis, Polk
Debevoise, Plimpton, Lyons & Gates	Debevoise
Dewey, Ballantine, Bushby, Palmer & Wood	Dewey, Ballantine
Fried, Frank, Harris, Shriver & Jacobsen	Fried, Frank
Hughes Hubbard & Reed	Hughes, Hubbard
Kaye, Scholer, Fierman, Hays & Handler	Kaye, Scholer
Kelley Drye & Warren	Kelley, Drye
LeBoeuf, Lamb, Leiby & MacRae	LeBoeuf, Lamb
Milbank, Tweed, Hadley & McCloy	Milbank, Tweed
Mudge Rose Guthrie & Alexander	Mudge, Rose
Paul, Weiss, Rifkind, Wharton & Garrison	Paul, Weiss
Proskauer Rose Goetz & Mendelsohn	Proskauer, Rose
Rogers & Wells	Rogers & Wells
Shea & Gould	Shea & Gould
Shearman & Sterling	Shearman & Sterling
Simpson Thacher & Bartlett	Simpson, Thacher
Skadden, Arps, Slate, Meagher & Flom	Skadden, Arps
Stroock & Stroock & Lavan	Stroock
Sullivan & Cromwell	Sullivan & Cromwell
Weil, Gotshal & Manges	Weil, Gotshal
White & Case	White & Case
Willkie Farr & Gallagher	Willkie, Farr
Wilson, Elser, Moskowitz, Edelman & Dicker	Wilson, Elser
Winthrop, Stimson, Putnam & Roberts	Winthrop, Stimson

Source: *National Law Journal.*
Note: Size is measured by number of attorneys.

Appendix B

[Form of Firm Memo to Junior Associates]

Re: Study of Professional Life of Associates.

The firm has agreed to participate in a study of the experience of young associates in the large New York law firms. The study will be conducted by Daniel Poor, a sociologist at the Center for Social Research, City University of New York, and will include approximately twenty-five interviews with randomly selected first- through third-year associates at the firm. The identities of the interviewees and the participating firms will remain confidential. The firm will not know which individuals the researcher contacts.

You may be contacted by Mr. Poor in [month] to schedule an interview. The firm encourages you to participate, but your participation is voluntary.

Appendix C

[Form of Letter to the Sample]

[Name]
[Firm]
[Address]
New York, NY [Zip]

Dear [Atty name]:

I write to request your participation in a multi-firm study of the experience of junior associates at New York City law firms. Your firm has agreed to associate participation in this study and you should have received a memo to this effect recently. I would like to interview you in your office, at your convenience. The interview will take about one hour.

This interview will be strictly confidential. Neither you, your coworkers, nor your firm will be identified. Further, other members of your firm will not know which associates participated in this study.

I will call you in a few days to schedule an appointment, or you may reach me at the number shown above..

Sincerely,

/s/ Daniel Poor

Daniel Poor
Research Fellow

Appendix D

Associate Interview. Version 6.0

A. **Confidentiality statement and request to record.**

This interview is strictly confidential. Everything that would identify you, your firm or your clients will be altered. I do not wish to know any of your clients identities. If you slip, it will not go beyond this room. I am only interested in what it means to you to be a professional and what it is like to be a professional in the large firm environment. I would like to record this interview to assure accuracy and to speed the interview itself. Of course, I can turn off the tape at any time you wish.

B. **Personal Information.**

1. [*Fill in* sex and race] ☐M ☐F ☐W ☐O
2. What year were you born? __ __
3. Do you have a religious affiliation? ☐P ☐C ☐J ☐O ☐No
4. Are you married or living with a companion? ☐M ☐S

[*If Yes,*]

   a. For how long? __Yrs

5. What High School did you attend? ☐Pr ☐Pu
6. What College did you attend? _____
   a. Year you graduated? __ __
   b. What was your major? _____
7. What Law School did you attend?
   a. Year you graduated?
8. Where you a member of law school student organizations or publications? ☐LJ ☐Jr ☐Other ☐No
9. What are your parents occupations? F_____
   a. siblings occupations? M_____
   b. Were any family members or friends lawyers? ☐Y ☐N
10. Where you employed full-time before this job? ☐Y ☐N

[*If Yes,*]

   a. Where and doing what?

C. **Career Choice.**

1. When did you decided to become a lawyer? _____

2. What were your reasons for becoming a lawyer?

- ☐ Occupational status
- ☐ Salary
- ☐ Political/social commitments
- ☐ Desire for a generalist advanced degree
- ☐ Be your own boss / autonomy

3. Did Law School change your conception of law and lawyers?

4. Were you a summer associate or intern during law school?

   a. Where?

D. **Firm Choice**.

1. Why did you pick corporate law?

   a. Did you consider

Read each

- ☐ legal departments of corporations
- ☐ small firms
- ☐ legal aid/public interest law

2. Do you have educational debt?

   a. How much when you left law school? $_____

3. Which firms did you consider?

4. What attracted you about this firm?

- ☐ Location
- ☐ Reputation/Prestige
- ☐ Type of work done here
- ☐ Training
- ☐ Liked the people
- ☐ Chance of becoming a partner
- ☐ Opportunity for advancement
- ☐ Salary
- ☐ Knew someone here

5. What were the drawbacks of coming to this firm?

- ☐ Hours
- ☐ Competitiveness
- ☐ Stuffy atmosphere
- ☐ Other...

6. Did your chance of becoming a partner enter into your choice?

[*If Yes,*]

a. How did you determine your chances?

b. Where did you get that information:

- ☐ partners
- ☐ associates
- ☐ law school discussions
- ☐ publications

7. How did you come to be in this practice area?

a. Did you prepare for this or other practice areas in law school?

E. **Firm Differentiations**.

1. What is important to you about being a lawyer?

- ☐ Client contact
- ☐ Helping/counseling people
- ☐ Working in business environment
- ☐ Social justice
- ☐ Intellectual challenge
- ☐ High status
- ☐ High income
- ☐ Stable position

2. Is hard work rewarded at this firm?

[*If Yes,*]

a. Is hard work the only thing rewarded?

[*If No,*]

b. What is rewarded?

c. Is it possible to not work hard and be rewarded?

3. What is a better control of attorney malfeasance?

Read Each

- ☐ The market
- ☐ The profession?

a. Why?

4. Do you believe partner compensation should be based on:

Read Each

- ☐ Seniority?
- ☐ Business brought in?

5. At this point in your career, what skills do you need here?

- ☐ Expert legal knowledge
- ☐ Organizational skills
- ☐ Clerical Skills
- ☐ Research/Writing skills
- ☐ Speaking skills
- ☐ Social skills
- ☐ Business sense
- ☐ Political savvy
- ☐ Stamina
- ☐ Ability to manage others

6. And in the long-run do you are those the same set of skills you will need to succeed?
7. Is your success dependent upon others?
   - ☐ Senior Associates or Partners
   - ☐ Staff
   - ☐ No one else

   a. What will happen to you if that person leaves the firm?
8. The last time you needed advice, who did you go to?
   - ☐ Your partner
   - ☐ Your senior associate on the deal
   - ☐ A peer in your practice area
   - ☐ Someone outside your practice area

   a. Why that person?
9. Would you describe your training here as?

Read Each

- ☐ Generally comprehensive
- ☐ Haphazard
- ☐ Generally neglected

10. What is the most important aspect of the training you are receiving here?
    - ☐ Working with Clients
    - ☐ Legal Analysis
    - ☐ Business sense
    - ☐ Practical work skills
    - ☐ Time management
11. How long do you have to be here to be marketable somewhere <u>else</u>? ____Yrs.

F. **<u>"Snapshot" of the Day</u>**.

For the following questions, I would like to get a detailed sense of a typical day for you. Let's take yesterday, if that was typical. If it would be helpful, please refer to your phone and billing logs to refresh your memory. And, please just characterize the type of issue or person, without naming names.

1. When did you <u>get here</u>? _____AM

a. Is that typical for you?

b. Is that typical for the other associates?

2. When did you go home? _____PM

a. Is that typical for you?

b. Is that typical for the other associates?

c. Is there some time before which you would not like to be seen leaving the office? _____PM

3. What calls did you make and receive?

a. Without naming names, what were the positions of the people you spoke with?

b. For each of these calls, did they concern issues of:

☐ Fact ☐ Law ☐ Administrative/coordination

☐ Fact ☐ Law ☐ Administrative/coordination

☐ Fact ☐ Law ☐ Administrative/coordination

☐ Fact ☐ Law ☐ Administrative/coordination

c. Is that typical for you?

d. Is that typical for other associates?

4. What did you read and research?

a. What type of document(s) or publication(s) and what was the reason you were reading them?

b. For each of these documents, did your work concern issues of:

c. Is that typical for you?

d. Is that typical for other associates?

5. What did you write/edit?

☐ Fact ☐ Law ☐ Administrative/coordination

☐ Fact ☐ Law ☐ Administrative/coordination

☐ Fact ☐ Law ☐ Administrative/coordination

☐ Fact ☐ Law ☐ Administrative/coordination

a. Did you use

Read Each

☐ a pre-existing boiler plate, *or*

☐ earlier draft, *or*

☐ start from scratch

b. Who saw that document after your wrote it?

c. Is that typical for you?

d. Is that typical for other associates?

6. Did you perform any clerical tasks?

- ☐ Filling out forms
- ☐ Typing
- ☐ Making copies
- ☐ Page checking
- ☐ Making files

a. Is that typical for you?

b. Is that typical for other associates?

7. What was the best part of the day?

8. What was the worst part of the day?

9. How many matters did you bill last week?

10. How many of those matters were you indispensable to?

G. Work Issues.

1. Do you like to do *Pro Bono* work?

a. Is it different from your regular assignments?

(1) In what way: responsibility or social justice?

b. What is your department's attitude toward *Pro Bono* work?

2. How long do your assignments last?

3. Are you in control of your own schedule? ☐Y ☐N

a. Can you make a dinner date? ☐Y ☐N

4. When was the last time you made a mistake?

a. Who discover it?

b. What happened?

c. Is that typical for you?

d. Is it generally the same for the other associates?

5. Do you ever feel that you are being watched? ☐Y ☐N

[*If Yes,*]

a. By Whom?

b. Why do you think they are watching you?

6. Do you typically get your assignments?

Read Each

- ☐ A formal assignment system.
- ☐ A request from a partner or senior associate.
- ☐ Seeking out your own assignments.

7. Is the work distributed equitably? ☐Y ☐N

8. When was the last time you were asked to take on more work than you could handle?
   a. What did you do?
   b. Can you say "No"?

9. Is billing a certain number of hours important?

10. Do you get reports on how you are doing toward that goal?

[*If Yes,*]

   a. In what format?
   b. How often?
   c. Do associates compare and calculate their relative standings?

11. How do you know how you are doing here?
   ☐ Formal Evaluations
   ☐ Informal feedback/conversations
   a. [For each,] Is the information you get that way useful and reliable?

12. When was the last time you meet a client in person? _____
   a. What was the reason?
   b. Was this typical?
   c. Is it the same for other associates?

H. Advancement.

1. Do you have a sponsor or mentor?

[*If Yes,*]

a. How did you come to get him/her?

b. Do you need a sponsor or mentor to succeed?

c. What would happens to you if your mentor leaves the firm?

d. Is that typical of the other associates' views?

[*If No,*]

e. Do you think your advancement at the firm is hindered by not having a mentor?

f. Is that typical of the other associates' feelings?

2. How would you describe your relationship with your partner?

Read Each

- ☐ Boss-employee?
- ☐ Mentor-trainee?
- ☐ Something else...

3. What do you need to do to become a partner here?

4. Is your ability to get clients important to your success at this firm? ☐Y ☐N

5. Do you receive any training in client development? ☐Y ☐N

[*If No,*]

a. So how do you become a partner if it is important but they don't train you in that?

6. How do your chances of becoming a partner compare with your classmates?

Read Each

- ☐ Pretty good
- ☐ Only fair
- ☐ Low

7. Do you feel a loyalty to the firm? ☐Y ☐N

a. Is the firm loyal to associates? ☐Y ☐N

I. Friendship Networks.

1. Do you have friends at the firm? ☐Y ☐N
   a. Did you meet them here?
   b. Are they in your class and department?
   c. What are their genders?
      ☐ Same ☐ Opposite
      ☐ Same ☐ Opposite
      ☐ Same ☐ Opposite
   d. Are they among your closest friends? ☐Y ☐N
   e. Are they lunch buddies or outside social friends? ☐Lun ☐Out
   f. When did you last socialize with them?
      ☐ Last week
      ☐ Last month
      ☐ More ...
   g. Are there some things you don't discuss with them?
2. Do you have friends who are lawyers at other firms? ☐Y ☐N
   a. Is their work life generally better or worse than yours? ☐Better ☐Worse
3. Do you socialize with partners? ☐Y ☐N
   a. When was the last time?
4. Have you gone to lunch with a partner? ☐Y ☐N
   a. When was the last time?
   b. What was the reason for that?
   c. Is that typical for the other associates? ☐Y ☐N
5. Do you socialize with clients? ☐Y ☐N
   a. When was the last time you met a client?

J. **Expectations**.

1. Do you want to stay to become a partner?

   ☐ Not Sure
   ☐ Yes
   ☐ No

[*If Yes,*]

   a. Why?

[*If No,*]

   b. Where would you like to end up in six or eight years?

      (1) Why are you here then?

      (2) What would be different there?

2. Do you enjoy your work? ☐Y ☐N

   a. What would you change?

   b. What would you keep the same?

3. Are you paid enough for your work?

   a. Would you trade less money for less hours?

4. Is there any part of lawyering that makes you uncomfortable?

5. If you were considering moving to another firm, what would be more important:

Read Each

   ☐ Income?
   ☐ Collegial work environment?

6. What would it be like to be at [*other firm name*]?

   a. Would you prefer that?

K. **Work Life / Private Life**.

[If MARRIED]

a. Does your spouse/companion work?

b. Her/his occupation?

1. Do you have children?

[If CHILDREN]

a. The child[ren]'s age[s]?

b. How do you handle child care?

c. Has having [a] child[ren] affected your career plans?

d. Have you discussed child care responsibilities with your spouse?

e. Are you generally comfortable or uncomfortable with the balance of your work and family obligations?

[No Children]

f. Do you plan to have children in the future?

[If Yes,]

g. How will you handle child care, do you think?

h. Have you discussed this with your spouse/companion?

i. Are you generally comfortable or uncomfortable with the balance of your work and family obligations?

j. Will having a child affect your career plans?

k. Is this a good place to be if you have parental responsibilities?

[If SINGLE]

2. Are you comfortable with the balance between your work life and your private life?

a. Do you foresee any problems?

3. Are you able to meet people and date, while working here?

4. Do you have plans to have children in the future?

[All]

5. Daily routine.

a. When did you get up; go to work; eat; come home; go to sleep?

6. When was the last time you worked on the weekend?

a. In the office or at home?

b. How many hours did you work?

L. **Closing**.

1. Are there any issues that you think I left out that I should know to have a complete picture of your experience?

Thank you.

[Post Interview Information Sheet Given to Interviewees]

Large Firm Associates Study

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If you have questions about your participation in the study, at a later date, you may reach the Principal Investigator, Daniel Poor, at (212) 229-5777 or the City University of New York -- Graduate Center's Office of Sponsored Research at (212) 642-2059.

Thank you for your participation.

Appendix E

Associate Self Measures

1. Did you consider your chance of partnership in your firm choice?

2. What was the best part of your day yesterday?

3. [Indispensability Index]
   How many matters did you bill last week?
   How many of those were you indispensable to?
   Probe: If you were hit by a bus, how many matters would they have had a hard time replacing you on short notice?

4. Is billing a certain number of hours an important concern of yours?

5. Do you have a sponsor or mentor at the firm?
   Probe: How about informally?

6. What best describes your relationship with the partners you work with: boss/employee, mentor/trainee, colleagues, or something else?

7. Do you feel a loyalty to the firm?

8. Do you think the firm is loyal to associates?

9. Do you want to stay to compete for partnership?

10. Are you paid enough for your work?

11. If you were moving to another firm, what would be more important, income or a collegial work environment?

Note: These questions were part of the complete interview outline, which appears as Appendix D.

Appendix F

Core Partner Interview Questions

[Confidentiality statement].

Allow me to explain the reason behind the following questions. I do not begin with any naive assumption that all members of an organization can or should know everything about their organization. Rather, I find that individuals selectively 'hear' only parts of the information they are given. What they selectively hear, recall, and perhaps even distort, is a good window on how they view their world. The questions I will be asking you are to help me establish a factual base-line of information about your organization, so that I may better understand the associates' selectivity and, through that, their world view. And in addition, to get your perspective on some of the issues I asked associates about.

1. Did you come to this firm with the intention of staying in New York City and competing for partnership?

2. How do you determine the schools you will recruit from?

3. Do some law schools produce associates who are a better fit with this firm than some other schools?
   a. Why do you think that is?

4. What qualities and skills are you looking for in a third year law student?

5. Why do law graduates come to this firm?
   - ☐ Location
   - ☐ Prestige
   - ☐ Type of work
   - ☐ Training
   - ☐ Partnership chances
   - ☐ Salary
   - ☐ Likes the people

6. What skills do junior associates need to do their jobs here?
   - ☐ Intelligence
   - ☐ Expert legal knowledge
   - ☐ Organizational skills
   - ☐ Clerical/Office skills
   - ☐ Research/Writing skills
   - ☐ Speaking skills
   - ☐ People skills
   - ☐ Business sense
   - ☐ Political savvy
   - ☐ Stamina
   - ☐ Ability to supervise others

7. Several people have told me it is important for associates to have "people skills" or the "ability to inspire confidence".
   a. How does a junior associate inspire confidence?
   b. Is that something you could teach people, or is it more of an unalterable character trait?

8. How long does associate training take before associates can work consistently without direct supervision?

9. When do you start to know if an associate is partnership material?

10. Why does this firm not hire laterally?

11. Is one of the job requirements of senior associates to train junior associates?
   a. Practical knowledge of being a lawyer -- filings, timing, distributions, handling objectionable clients.
   b. In the absence of a mentoring system and several young associates telling me that they shouldn't waste the time of partners by asking "stupid" questions, how do young associates learn the practical knowledge of law office work?

12. How does an associate know how he or she is doing here?
   a. formal reviews
   b. informal reviews
      i. conscious end of deal summary conversation or more informal conveyance of opinions

13. Would you explain how you allocate assignments?
    a. Do you give out the assignments verbally, through your secretary, or by email?
    b. How do you know how busy the associate is?
    c. Can associates say "no" to you?
    d. What percentage of the total number of assignments is distributed by you for the first year class, second, third...?

14. What is your expectation of a reasonable year's billings for an associate?

15. How do you know an associate is working as hard as he or she can?

16. As a practical matter, how do you know the work an associate gives you in draft form is adequate?
    a. Do you really know all the law and facts entering into the document s/he prepared?
    b. If so, why did you need the associate?

17. Are there limits to what you can ask an associate to do?
    a. Type of work?

18. What information do you give associates about how partnership decisions are made?
    a. When did you get a sense of your partnership chances?
    b. When were you sure?
    c. Did you have an informal sponsor who kept you informed of partnership discussions or were you in the dark?

19. What does an associate need to do to become a partner?
    a. Is the ability to bring in new clients a criterion for partnership?

20. Are associates best described as
    ☐ colleagues
    ☐ employees
    ☐ apprentices
    ☐ or something else _____

21. Is competiton among the associates a good thing?

22. Historically, an average of 10% of the entering class of associates remain to become partners at a firm like this. How do the remaining 90% divide out, on average, between voluntarily leaving and being asked to leave?

23. Where do associates typically go after leaving this firm?
    ☐ Smaller NYC firms

☐ To another city
☐ In-house

24. What do you do with a skilled, hard working associate, though who a slightly lesser commitment?
    a. Is there a place for him/her here?
    b. When does the narrowing pyramid toward the top run out of room for the noncommitted?

25. Associates tell me that they think it would be "foolish" to tell a partner that they do not intend to stay for partnership. Why do you think that is?

26. How many day a week do you eat in the lunch room?

27. Do you socialize with associates?
    a. When was the last time?
    b. Without naming names, what was the level of the associate?
    c. Is that typical for you?
    d. Is that typical for the other partners?

28. Do you socialize with clients?
    a. When was the last time?

29. Do you socialize with partners?
    a. When was the last time?

30. Do associates address you by your first name or "Mr. _____"?
    a. [If applicable] does that change with their tenure?
    b. Is that typical for the other partners?

31. In your opinion, what is a better control of attorney malfeasance?
    ☐ The market
    ☐ The profession

32. Do you believe partner compensation should be based on:
    ☐ Seniority
    ☐ Business brought in

33. Are you in control of your own schedule?

34. Has the experience of young associates changed since your days as a junior associate? How?

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