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# THE LEGAL PROFESSION: CLIENT INTERESTS, PROFESSIONAL ROLES, AND SOCIAL HIERARCHIES

John P. Heinz\* and Edward O. Laumann\*\*†

There is a natural urge to study the extreme. The extreme case is likely to be conspicuous and dramatic. Sociological research on the American legal profession has not, for the most part, resisted the urge.<sup>1</sup> The best-known studies examine lawyers at the extremes of the profession's prestige hierarchy—*e.g.*, Carlin's study of solo practitioners and Smigel's study of the Wall Street lawyer.<sup>2</sup> The profession's center has more often been neglected and few data are available on the bar's overall social structure. Ladinsky's study of Detroit lawyers<sup>3</sup> covers all types and specialities, and contributes

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1. In addition to this tendency, sociological research on lawyers is, overall, a bit sparse compared to that on doctors. *See, e.g.*, E. FRIEDSON, *PROFESSIONAL DOMINANCE: THE SOCIAL STRUCTURE OF MEDICAL CARE* (1971), and the literature cited at note 34 *infra*. Moreover, many of the major studies are now rather dated. For example, the well-known work of Jerome Carlin, Jack Ladinsky, and Erwin Smigel, cited in the next two footnotes, is all at least ten years old. More recently, sociological interest in the legal profession has begun to grow. *See* D. RUESCHEMEYER, *LAWYERS AND THEIR SOCIETY* (1973); D. ROSENTHAL, *LAWYER AND CLIENT: WHO'S IN CHARGE?* (1974); J. HANDLER, E. HOLLINGSWORTH & H. ERLANGER, *LAWYERS AND THE PURSUIT OF LEGAL RIGHTS* (1978). *See also*, A. BLAUSTEIN & C. PORTER, *THE AMERICAN LAWYER* (1954); H. O'GORMAN, *LAWYERS AND MATRIMONIAL CASES* (1963); S. WARKOV & J. ZELAN, *LAWYERS IN THE MAKING* (1965); J. CARLIN, *LAWYERS' ETHICS* (1966); J. HANDLER, *THE LAWYER AND HIS COMMUNITY* (1967); A. WOOD, *THE CRIMINAL LAWYER* (1967); Q. JOHNSTONE & D. HOPSON, *LAWYERS AND THEIR WORK* (1967); H. ROSS, *SETTLED OUT OF COURT* (1971); Stevens, *Law Schools and Law Students*, 59 VA. L. REV. 551 (1973).

2. J. CARLIN, *LAWYERS ON THEIR OWN* (1962); E. SMIGEL, *THE WALL STREET LAWYER* (1969).

3. Ladinsky, *The Social Profile of a Metropolitan Bar: A Statistical Survey in Detroit*, MICH.

substantially to our understanding of the profession's general social structure, but it rests on a limited data base. Rueschemeyer's commentary on the legal profession has a broader, comparative viewpoint and includes useful theoretical propositions, but it presents no original data on American lawyers.<sup>4</sup>

This Article attempts to supply some of that data by systematically describing and analyzing the social structure of the legal profession in a major city. The Article first describes the types of differentiation that might be expected within the profession, and then examines the extent to which those differences in fact occur within the Chicago bar. It concludes that the most important determinant of the profession's social organization is the impact on the bar of client interests rather than of forces generated within the profession or compelled by the logic of the law. Finally, the Article compares law with medicine to demonstrate why the characteristics of the persons served more significantly determine the profession's structure in law than in medicine.

We present data on a large random sample drawn from the full range and variety of the legal profession in a major American city. The sample appears to be a reasonably representative cross section of the population.<sup>5</sup> As part of a larger study of the legal profession and the organized bar,<sup>6</sup> our staff personally interviewed 777 lawyers with offices in the city of Chicago<sup>7</sup> and gathered information about the nature of the respondents' legal practice and clients, the respon-

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ST. B.J., Feb. 1964, at 12. See also Ladinsky, *Careers of Lawyers, Law Practice and Legal Institutions*, 28 AM. SOC. REV. 47 (1963); Ladinsky, *The Impact of Social Backgrounds of Lawyers on Law Practice and the Law*, 16 J. LEGAL EDUC. 127 (1963).

4. D. RUESCHEMEYER, *supra* note 1.

5. We defined the population universe to include all lawyers with office addresses within the city limits of Chicago, as listed in either *Sullivan's Law Directory for the State of Illinois, 1974-75* or *Martindale-Hubbell Law Directory, 1974*. We used two directories to increase the coverage and to avoid biases of individual directories. (These procedures would not, of course, eliminate biases that the directories may share.) We then drew a true random sample from these lists. Our 777 completed interviews represent 82.1% of our original target sample. Only 8.4% explicitly refused to grant an interview; we missed the remaining 9.5% due to the subject's illness, time constraints, scheduling problems, and the like. An examination of the known characteristics of those lawyers we failed to include, for whatever reasons, suggests that we may slightly underenumerate nonmembers of the Chicago Bar Association and lawyers engaged in solo practice, especially those who maintain only accommodation addresses in the city. This underenumeration, however, is sufficiently small that for most purposes we can treat the completed sample as representative of the defined population universe.

6. Heinz, Laumann, Cappell, Halliday, & Schaalman, *Diversity, Representation, and Leadership in an Urban Bar: A First Report on a Survey of the Chicago Bar*, 1976 AM. B. FOUNDATION RESEARCH J. 717 [hereinafter cited as *First Report*].

7. The interviews were conducted in the spring and summer of 1975, averaged sixty-six minutes in length, and were almost always conducted at the respondent's place of work during regular business hours.

dents' personal and social characteristics, their attitudes toward major social and legal issues, and their membership and participation in the various bar associations.

### I. DIFFERENTIATION OF THE LEGAL PROFESSION: THE VARIABLES

The fields of law differ in their substantive doctrines, in their characteristic tasks, in the settings in which the fields are practiced, and in the social origins of their practitioners. But we hypothesize that these differences are secondary to yet another variable: the type of client served. We suggest that differences between clients profoundly influence many of the other types of differentiation among the fields—that the legal profession is, to a great degree, externally oriented, and in consequence is shaped and structured by its clients.

Many of the recognized fields of law correspond to bodies of doctrine generally regarded as distinct legal subjects and taught as separate courses in law school—*e.g.*, crimes, real estate, commercial transactions, personal injury, tax, labor, corporations, antitrust, and securities.<sup>8</sup> But the practicing bar commonly distinguishes between two sides of many of these doctrinal areas, sides that serve adverse clients—*e.g.*, criminal defense versus prosecution, personal-injury plaintiffs' work versus personal-injury defense, labor law on the union side versus the management side, and so on. Other fields divide into parts that, though not necessarily adverse, are nonetheless distinct. Corporate tax planning differs from personal income tax work, real estate development work from home-mortgage preparation and title searching, and corporate litigation from a "general trial" practice that may encompass bits of divorce, commercial, personal-injury or even criminal work. As these examples make clear, lawyers are accustomed to think in terms of categories of work that distinguish, within broader doctrinal areas, fields or sub-fields defined by the types of clients served.<sup>9</sup> One of the objectives of our

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8. In another paper, we have discussed the organization of lawyers' work into various fields of practice, and we will not reiterate that discussion here. E. Laumann & J. Heinz, *Fields of Law Practice: Volume of Professional Activity, Intensity of Specialization and Patterns of Co-Practice in a Major Urban Bar* (1978) (an unpublished paper read at the Annual Meeting of the American Sociological Association in 1978) [hereinafter cited as E. Laumann & J. Heinz].

9. Indeed, the type of client may even determine in good measure the recognized doctrinal categories. And doctrinal areas with no corresponding type of client—constitutional law, for example—may not produce any distinct specialty or field of practice. By noting that the fields of practice often correspond to courses taught in law school, we do not intend to imply that the treatment of a subject as a unit of law school instruction establishes that it is proper to regard that subject as a coherent body of doctrine, analytically severable from other bodies of legal

research, therefore, was to ascertain the extent to which the operational definitions of the customary categories of legal work—which may, themselves, influence the structure of the profession—are determined by corresponding categories of client-types rather than by doctrinal categories or other systematic theory.

The needs of a particular client or type of client often dictate the character and the diversity or homogeneity of the work of a lawyer or a law firm. The practitioner who serves a neighborhood's small businesses will often also handle the personal income tax returns of the owners of those businesses, will file their divorces, and will settle their automobile accident claims. The large firm that deals with a corporation's antitrust problems is also likely to handle its real estate acquisitions, its securities issues, and its corporate tax returns. But a lawyer who represents labor unions in one case is unlikely to represent management in another, and in this country a lawyer may not both prosecute and defend criminal cases simultaneously (though many young prosecutors later become defense lawyers). Broadly, the tendency of lawyers' work to address congeries of problems associated with particular types of clients organizes the profession into types of lawyers: those serving corporations, and those serving individuals and individuals' small businesses. Fields within each of these broad sectors of the legal profession have more in common—on a whole range of social variables—than do fields from different sectors.

The referral systems through which lawyers find clients or clients find lawyers may also structure the relationships among the fields of law. Patent lawyers, for example, may maintain close ties with counsel for corporations likely to invent patentable products, and lawyers specializing in commercial litigation may seek contact with office lawyers who represent commercial enterprises, while criminal defense lawyers may cultivate court clerks or prison wardens. The shared interest of lawyers and clients in an uninterrupted supply of each other creates mechanisms to insure this supply, and these mechanisms tend to bring together otherwise disparate fields of law, as the examples demonstrate. By contrast, other types of lawyers—criminal prosecutors, for example—may not need to seek clients, and this deprives those fields of one incentive for decreasing their social isolation from professional colleagues in other fields of practice.

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theory. Law schools may well organize their curricula in response to demand, which may in turn be structured by client-type.

Similarly, referral networks among graduates of particular law schools may bind together some fields and separate others. To the extent that practitioners of the most elite forms of corporate law graduated from the same few law schools, while personal injury or criminal lawyers studied at less prestigious, "local" law schools, "old school tie" networks may lengthen the social distance<sup>10</sup> between these types of practice. This phenomenon is part of a more general tendency toward equal-status contact.<sup>11</sup> That is, lawyers in fields that enjoy similar levels of prestige within the profession are more likely to associate with one another than are lawyers from fields with widely differing prestige.

Obviously, these mechanisms reinforce one another. Practitioners in fields concerned with corporate clients' legal problems probably recruit at the same law schools, participate in the same client-referral networks, and share similar prestige within the profession. The tendency of all these factors will be the same: to forge relationships among the fields of corporate-law practice and to separate them from noncorporate fields.

Characteristics more intrinsic to the practice of the various fields of law may also contribute to the degree of their social differentiation. Similarities in the legal doctrines, statutes, or regulatory schemes dealt with by two fields might, thus, beget a kinship that would increase social proximity. So might their general modes of analysis or the strategic problems they characteristically address. Some fields of law, for example, involve "symbol manipulation," and others "people persuasion." The former category might include preparing securities-registration statements or similarly complex, technical documents; divorce, criminal, or personal injury work might fall into the latter category.

This distinction relates, of course, to the more general differentiation of the types of tasks performed. The practitioners in some fields are nearly always in court or preparing for it, while other fields con-

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10. There are two kinds of "social distance." E. LAUMANN, PRESTIGE AND ASSOCIATION IN AN URBAN COMMUNITY (1966); McFarland & Brown, *Social Distance as a Metric: A Systematic Introduction to Smallest Space Analysis*, in BONDS OF PLURALISM 213 (E. Laumann ed. 1973). One is the extent to which two or more phenomena (in our case, the fields of law) differ on any number of social variables. Thus, this sense of the term simply describes the degree to which the phenomena are socially distinct. For an indication of social distance among the fields of law, see Figure 1 in text following note 21 *infra*. The other kind of social distance refers to the extent of social interaction among specified persons or groups. The first kind of social distance may, of course, influence the second. Thus, the differences or similarities in the fields' substantive law, in their characteristic tasks, in the settings of their practice, in their practitioners' social origins, or in their clients may increase or decrease the social interaction among the practitioners of those fields.

11. See E. LAUMANN, *supra* note 10, at 134-35.

sist almost exclusively of office practice. And, within both litigation and office practice, further fundamental distinctions may be drawn. Within litigation, important distinctions of status and task type exist between state court and federal court litigation and between trial and appellate work. Within office practice, lawyers in some fields primarily advise clients (on possible tax or antitrust consequences of alternative courses of action, for example, or on techniques of real estate acquisition). Lawyers in other fields, such as matrimonial law, devote much time and energy to the emotional needs of clients, to personal counseling, or to smoothing ruffled feathers. Lawyers in still other fields characteristically spend considerable time drafting legal documents such as wills, trust agreements, debentures, or contracts. To the extent that these distinct tasks call for distinct skills, the mobility of lawyers among fields requiring dissimilar skills is inhibited. The likelihood that a lawyer will do a substantial amount of work in two fields of law is, of course, one measure of the social distance between the fields. Once that probability passes a certain point, we would say that no social or behavioral distinction exists between the two fields and that any distinction between them is purely conceptual or doctrinal.

For similar reasons, the fields of law that deal with statutory or regulatory codes may be more insular than those that work primarily with older common law. Every lawyer learns the basic principles of the common law in law school and, thus, may accept a simple tort or contract case even though he principally attends to some other field. By contrast, lawyers may be less confident of their skills, or less willing to invest the time necessary to acquire them, in fields such as broadcast regulation or labor law, and there may be less tendency to accept the occasional case in that kind of field. Much of the innovation in regulatory law, with the consequent growth of multi-volume codes, has occurred at the federal level, spawning entirely new specialties in federal regulatory law. Because these new fields share some common elements or common skills (and also because of the types of clients, the networks among clients and lawyers, and the differences between federal and state procedural rules), the distinction between federal practice and state practice also tends to create social distance among the fields—federal law tends to involve larger, corporate clients and to enjoy higher prestige within the profession.

Finally, fields of law that process large numbers of individual clients through the state courts are socially distant from the fields that often require several man-years of lawyers' time on each case (antitrust work, for example). But a fundamental socioeconomic dif-

ference corresponds to this difference among the fields. High-volume cases and the lawyers who handle them are unlikely to resemble the processing or the processors of "unique" legal problems, but the discovery of a unique issue is likely to be a function of the amount of time that lawyers devote to a case, and thus of the amount of money that the client spends on lawyers. If the stakes are high, the problems can become very complex; if the client lacks money, his problems are likely to be routine.

Service to the individual client is often repetitious and therefore dull. Although a divorce, a limb wasted by an automobile accident or by medical malpractice, a home-mortgage foreclosure, a sanity hearing, a criminal charge, a lost job, or an adoption or child-custody proceeding may all involve anxiety and suffering for the client, the specialized lawyer often finds them routine. The intellectual challenges they present will usually not be great. Since the law is a "learned profession," we may expect the profession to value and respect intellectual acuity and effort and to assign prestige within the profession to the intellectually demanding fields. Because clients with deep pockets create the complex work, the value placed on intellectual challenge will tend to lead lawyers into the service of a socioeconomic elite. In this respect, the legal profession differs from medicine. An exotic medical problem may afflict rich or poor (though such a problem is no doubt more likely to be detected in the well-to-do), and prestige within the medical profession may not, therefore, correspond so closely to the wealth of patients. Even poor people can have prestigious diseases.

One could posit a great many legal professions, perhaps dozens, and to some degree real distinctions separate all these types of lawyers. But one fundamental difference accounts for much of the variation within the legal profession: the difference between lawyers who represent large organizations (corporations, labor unions, or governments) and those who represent individuals or individuals' small businesses. Let us proceed, then, to the data that lead us to that conclusion.

## II. MEASUREMENT OF THE CATEGORIES

Differentiation within the legal profession has occurred despite official endorsement of a holistic conception of the profession. Unlike the medical profession, which formally recognizes and certifies many specialities, the legal profession enshrines the myth of the omniscient practitioner. With only minor and recent exceptions, the profession's ethical rules forbid lawyers to represent them-



selves as specialists except in three small, abstruse fields: patents, trademarks, and admiralty.<sup>12</sup> Nonetheless, many distinct fields of legal work clearly exist, and we began our research by categorizing those fields.

In compiling the list of thirty fields of legal work that we presented to our lawyer-respondents, we consulted the literature and sought to employ categories that would be familiar to lawyers. The list, therefore, consisted of labels that practicing lawyers commonly use to describe recognized legal specialties or types of practice. We decided to use fairly fine-grained categories and to combine them later if our sample contained too few respondents in any specialty to permit separate analysis of it.

We asked each respondent to indicate whether he devoted less than five percent, five to twenty-five percent, twenty-five to fifty percent, or more than fifty percent of his professional time to each of the thirty types of work. The respondents who reported that they devoted twenty-five percent or more of their professional time to a field are the practitioners whose responses were used in computing the characteristics of the fields that are reported here. For example, we derived the attributes of "securities" law and of its practitioners from the responses of lawyers who estimated that they spend at least a quarter of their legal effort on securities law.

Obviously, this criterion is largely arbitrary and, because our categories unavoidably overlap, our respondents' classifications of their work must be imprecise.<sup>13</sup> If we had set the inclusion level at fifty percent of legal effort, we would have had "purer" categories—categories less contaminated by the responses of practitioners not strongly committed to or involved with the field—but we would also have lost data and our findings would have been based on smaller numbers. Had we chosen the five-percent level, we would have been more inclusive, but we would also have had a weaker, more contaminated measure of the field's characteristics. At the

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12. See ABA CODE OF PROFESSIONAL RESPONSIBILITY DR 2-105(A)(1) (1977); Zehnle, *Specialization in the Legal Profession*, in LEGAL SPECIALIZATION 20 (Specialization Monograph No. 2, 1976).

13. Since we also asked the respondents several other questions about their practices, we can distinguish somewhat more finely within certain fields of law. Within the tax field, for example, corporate tax attorneys differ considerably from personal tax attorneys. Similarly, we can distinguish between lawyers who handle corporate real estate transactions and those who primarily handle residential real estate matters, and between litigators who represent corporations and those who represent individuals. Thus, we determined whether practitioners who reported doing tax, real estate, or litigation work received 80% or more of their professional income from business clients. If they did, we designated those lawyers as active in business tax, business real estate, or business litigation. We assigned all others to the personal tax, real estate, or litigation categories.

twenty-five-percent level, of course, the respondents we counted in a given field may be even more active or involved in one or two other fields of law, where they will also be counted in our data.<sup>14</sup> This measure, then, conservatively states the degree of differentiation among the fields of law.

### III. THE FINDINGS

Notwithstanding our conservative measure of the differentiation among fields of law, we found that differentiation to be quite substantial. Rather than recite the scores for the full set of twenty-five fields on all forty variables analyzed—an even thousand observations—we present our data more parsimoniously. The nuance lost by reducing the data is compensated for by the increased comprehensibility of the overall structure. We summarize the data here, thus, in two simple tables and one rather more complex figure. The first table displays the differentiation among selected fields of law on a number of social variables; the second examines the hierarchical structure of that differentiation, on the same variables, across a set of categories that includes all of the fields; and the figure graphically represents the structure of the relationships among the twenty-five fields of law, simultaneously accounting for several sorts of social variation among them.

Table 1 presents the findings for six selected fields of law on twenty variables. The variables, which were drawn from several types of data, include characteristics of the fields' clients and of the patterns of the practitioners' relationships with clients, the tasks performed in the fields, the nature of the social organizations or institutions in which the fields are practiced, the types of law schools attended by the fields' practitioners, and some information about the practitioners' social origins.

Even a cursory inspection of Table 1 discloses large differences among the fields on many of the variables. Client volume, for example, ranges from a median of 3 in public utilities to 102 for divorce. (A field not presented here, personal injury plaintiffs' work, has an even higher client volume: a median of 151 clients represented in the past year.) The percentage of lawyers in each field who are solo

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14. The extent of this double-counting is discussed briefly in the text at note 19 *infra* and detailed in E. Laumann & J. Heinz, *supra* note 8.

practitioners ranges from zero to sixty-one, and the percentage of those who practice in firms with more than thirty lawyers ranges from zero to seventy-five. (This range of variation occurs among only five fields, excluding criminal prosecution.) Similarly, the percentage of lawyers who attended "elite" law schools ranges from zero to fifty, that for "local" law schools ranges from fifteen to sixty-seven, and each of the three religion categories has a range of at least forty percentage points. The percentage of practitioners reporting that their work involves "technical procedures" rather than "negotiating and advising" ranges from ten to seventy-one across the six fields. Thus, the fields are highly differentiated on these important variables. Moreover, we will argue that this striking differentiation is highly ordered, that it is organized in a consistent hierarchy.

The pattern of the differences among the fields on many of the variables seems clear and interpretable. The mean percentage of blue-collar clients served by these six fields ranges from zero to thirty-eight, while the mean percentage of income received from major corporate clients—the other side of the socioeconomic scale—ranges from four to sixty-one (columns 2 and 3). Disregarding criminal prosecution, where by definition government is the only client, the rank orders of the fields on these two client-type variables are, without deviation, exactly reversed. Many of the other variables reproduce this same rank order to a greater or lesser degree. If we measure the adherence of the other variables to this order by the rather stringent criterion that no more than one field may depart from it and that that field may depart by no more than one position in the rank, we find that the following variables qualify:

- the volume of clients served by the field (median number of clients represented during past year—column 5);
- the frequency of state court appearances (median number per month—column 6);
- the degree of specialization by practitioners in the field (percentage of respondents indicating high specialization—column 10);
- the percentage of lawyers in the field who are solo practitioners (column 11);
- the percentage of practitioners who work in law firms of more than thirty lawyers (column 12);
- the percentage of practitioners who attended a "local" law school (one of four law schools located in Chicago and serving primarily a "local" market—column 15).

Several more of the variables, while less strongly associated with this rank order, nonetheless share it to an obvious degree.

If we inspect the intercorrelations among four of the variables

TABLE 1  
DIFFERENTIATION AMONG SIX SELECTED FIELDS OF LAW\*

COLUMN NUMBERS	FIELDS	CLIENTS					TASK TYPE					PRACTICE SETTING			LAW SCHOOL		PERSONAL CHARACTERISTICS						
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
	Number of Practitioners	20	0	61	61	30	0	35	33	10	75	0	75	10	50	15	40	5	15	65	38	68	
	Securities	20	0	61	61	30	0	35	33	10	75	0	75	10	50	15	40	5	15	65	38	68	
	Public Utilities	21	5	54	95	3	1	40	10	31	71	10	14	33	24	19	19	19	33	90	43	59	
	General Corporate	133	6	38	72	36	2	33	25	19	50	19	20	17	31	34	13	26	38	72	46	59	
	Criminal Prosecution	14	government is only client					11	21	71	12	50	all government employees			0	64	7	50	21	86	39	44
	Probate	98	14	22	69	65	5	37	28	37	26	30	13	8	24	43	17	35	22	73	50	58	
	Divorce	57	38	4	42	102	15	52	11	47	23	61	0	0	11	67	0	27	57	94	44	35	
	TOTAL SAMPLE	699	13	35	67	35	3	30	28	31	45	21	17	14	20	46	13	30	33	78	44	50	

TABLE 2  
DIFFERENTIATION AMONG SIX GROUPS OF FIELDS OF LAW AND "GENERALISTS"\*

COLUMN NUMBERS	GROUPS	CLIENTS					TASK TYPE					PRACTICE SETTING			LAW SCHOOL		PERSONAL CHARACTERISTICS				
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
		Number of Practitioners	Mean % Blue-Collar Clients	Mean % Business Income from Major Corporate Clients	Mean % Stable Clients	Median Number Clients Per Year	Median Number of State Court Appearances Per Month	% High Encroachment on Practice	% High on Technical Procedures	% High Para-Professional Could Handle Practice	% High Specialization of Work	% Solo Practitioners	% Firms of More Than 30 Lawyers	% House Counsel	% Attended "Elite" Law Schools	% Attended "Local" Law Schools	% Type I Protestants	% Catholic	% Jewish	% Metropolitan Origin	Mean Age
	Large Corporate	170	2	63	69	25	1	28	35	22	55	6	42	25	29	32	15	30	29	73	42
	Regulatory	70	8	52	82	20	0	26	31	23	74	13	7	20	19	36	20	24	27	73	44
	General Corporate	215	6	42	71	35	2	32	30	26	33	15	23	17	27	36	13	31	33	76	43
	Political	30	2	8	84	2	8	20	54	20	40	0	3	0	13	57	17	43	23	80	39
	Personal Business	207	16	16	66	50	5	37	28	37	34	29	11	4	19	48	11	35	29	77	47
	Personal Plight	166	34	9	49	100	15	35	19	41	35	42	3	2	13	65	4	32	43	93	44
	"Generalists"	90	15	41	72	50	3	24	21	35	33	26	12	20	18	54	15	27	38	78	45
	TOTAL SAMPLE	699	13	35	67	35	3	30	28	31	45	21	17	14	20	46	13	30	33	78	44

\* The following notes explain the correspondingly numbered column headings in Tables 1 and 2:

(1) "Number of Practitioners" refers to the number of persons who devoted at least 25% of their time to the field of law or, in the case of Table 2, to the group of fields. All other entries in the row rest on this sample base but are reduced to exclude those few individuals who did not provide the information reported in a given column.

We asked the following question to determine the lawyer's distribution of time across fields of law:

While a lawyer's time is often spread over many different areas of the law, we wish, for comparative purposes, to characterize those areas in which you spent the major part of your time during the last twelve months. [The respondent received a card listing thirty fields of law.] In which of the listed areas have you spent more than fifty per cent of your time, between twenty-five and fifty per cent of your time, between five and twenty-five per cent?

The 30 fields of law were reduced to 25 as follows: We excluded four fields of law from our analysis because of their insufficient size (Admiralty, Environmental Defense, Environmental Plaintiff, and Condemnations). We redefined three areas of law to include fields that by themselves had insufficient cases. (Family Law was transformed to include General Family Practice-Paying clients, General Family Practice-Poverty level clients, and Consumer-Buyer Law. Commercial Law was transformed to include Consumer-Seller Law. Personal Real Estate was transformed to include Landlord/Tenant.) Lawyers who spent time in Tax, Real Estate, and Civil Litigation were classified as follows: if they derived 80% or more of their income from business clients, they were classified as Business Real Estate, Business Tax, and Business Litigation; if they derived less than 80% of their income from business clients, or if this information was missing, they were classified in Personal Real Estate, Personal Tax, and General Litigation.

(2) "Mean Percent Blue-Collar Clients" refers to the average percentages reported by the respondents in answer to the following question:

Would you now think about the clients for whom you have handled personal matters in the last twelve months. [The respondent received a card listing five occupational categories.] What proportion of your clients fall into the occupational categories, Professional, Technical, Managerial, Sales and Clerical, Blue-Collar Workers, Unemployed, Retired, In-School, Keeping House?

Column 2 is the average percentage of Blue-Collar Clients. We assigned a value of zero to house counsel, government lawyers, and lawyers who spent less than 10% of their work on "personal matters" (defined as legal work for persons rather than for businesses), as they were not asked this question.

(3) "Mean Percent Business Income from Major Corporate Clients" refers to the average percentage reported by those respondents who had indicated that they received 10% or more of their income from work for businesses and who then answered the following question:

What proportion of your "business income" would come from the following size business clients?

The categories were major corporations (Standard Oil, American National Bank, Abbott Laboratories, Playboy Enterprises, Pepper Construction—those with over \$10 million in sales per year), medium-sized firms, or small businesses (neighborhood stores, local restaurants, local real estate brokers, etc.—those with less than \$250,000 sales per year). Practitioners who responded that they were employed as corporate house counsel were recorded as deriving 100% of their income from major corporate clients. We recorded government-employed lawyers as deriving no income from major corporate clients.

(4) "Mean Percent Stable Clients" refers to the average of the estimates reported by the respondents in answering the following question:

What proportion of all your clients have you represented for three years or more? We did not ask house counsel or government lawyers this question and assigned them a value of 100% on this variable.

(5) "Median Number of Clients per Year" refers to the medians of the numbers reported in response to the following question:

During the past twelve months, approximately how many clients have you done some work for—more than just going through a file, or turning over a file to another lawyer? Again, house counsel and government lawyers were not asked this question and were assigned a value of one.

(6) "Median Number of State Court Appearances per Month" refers to the median number of state trial and state appellate court appearances per month over the past year, as reported by the respondents.

(7)-(10) refer to the following question: Different kinds of law require different kinds of professional activities. [The respondent received a card listing seven pairs of statements.] Each pair represents polar opposites. If the situation in your practice is midway between poles, circle code 3; if your situation is at one or the other extreme, circle 1 or 5; if your position leans somewhat to either pole, circle 2 or 4.

The percentages reported in columns 7 through 10 of these Tables are based on the two values closest to the specified extreme (that is, either values of one or two, or values of four or five).

(7) "Percent High Encroachment on Practice" refers to the proportion of respondents who described their legal practice in the following way: "There are aspects of my professional work which are being encroached upon by other occupations." This contrasted with an alternative description: "No other occupation is engaging in the kinds of legal matters with which I am primarily concerned."

(8) "Percent High on Technical Procedures" refers to the proportion of respondents who described their practice in the following way: "My area demands skills in handling highly technical procedures rather than skills in negotiation and advising clients." This contrasted with an alternative description: "My specialty and type of practice requires

skills in negotiating and advising clients, rather than detailed concern with technical rules.”

(9) “*Percent High Para-Professional Could Handle Practice*” refers to the proportion of respondents who described their legal practice in the following way: “A para-professional could be trained to handle many of the procedures and documents in my area of the law.” This contrasted with an alternative description: “The type and content of my practice is such that even an educated layman couldn’t really understand or prepare the documents.”

(10) “*Percent High Specialization of Work*” refers to the proportion of respondents who described their legal practice in the following way: “The area of law in which I work is so highly specialized that it demands I concentrate in just this one area.” This contrasted with an alternative description: “The nature of my legal practice is such that I can handle a range of problems covering quite a number of different areas of legal practice.”

(11)-(13) refer to the average percentages reported in response to the following question:

Which category [the respondent received a card with ten types of practice: solo; firm; federal, state, municipal/county or military government; corporate, insurance, banking or railroad house counsel; or other] best describes your job?

We combined the four house counsel subcategories into one category (column 13). We then asked the respondents “How many lawyers are in your firm/office now?” Column 12 reports the percentages of respondents who are in firms with more than 30 lawyers.

(14) “*Percent Attended ‘Elite’ Law Schools*” refers to the proportion of respondents who received their law degrees from Chicago, Columbia, Harvard, Michigan, Stanford, and Yale. The 104 law school deans who responded to a survey by Blau and Margulies ranked these six schools among the “top five” law schools substantially more often than they did any other school. See Blau & Margulies, *A Research Replication: The Reputations of American Professional Schools*, CHANGE, Winter 1974-1975, at 44. Though unsatisfactory in some respects, the survey seems adequate for our purposes. The lowest ranked of these six schools, Stanford, was rated in the top five by 45 of the 104 deans. The next closest school received only 19 such ratings.

(15) “*Percent Attended ‘Local’ Law Schools*” refers to the proportion of respondents who received their law degrees from De Paul, Kent, Loyola, and Marshall, all located in the city of Chicago. The other two law schools located in Chicago, Northwestern and The University of Chicago, are more commonly regarded as serving a national clientele.

(16)-(18) refer to the following question in the interview:

Do you have a religious preference? That is, are you either Protestant, Roman Catholic, Jewish or something else?

We then asked Protestants to specify their denominations and Jews to specify whether they were Orthodox, Conservative, or Reform.

(16) “*Percent Type I Protestants*” refers to the percentage of respondents who indicated an affiliation with the following Protestant denominations: Congregational, Presbyterian, Episcopal, and the United Church of Christ.

(17) “*Percent Catholic*” refers to the percentage of practitioners who said that their religious preference was Roman Catholic.

(18) “*Percent Jewish*” refers to the percentage of practitioners who either expressed a preference for Judaism in response to the above question or indicated that they were of Jewish origin in response to the question: “What nationality background do you think of yourself as having—that is, besides being American?”

(19) “*Percent Metropolitan Origin*” refers to the percentage of respondents reporting that they resided during their high school years in a metropolitan area with a population in excess of 250,000.

(20) “*Mean Age*” is the average age of the respondents in the field or group of fields.

(21) “*Prestige Score*” refers to the standardized prestige scores of the fields previously reported in Laumann & Heinz, *Specialization and Prestige in the Legal Profession*, 1977 AM. B. FOUNDATION RESEARCH J. 155. A random subsample (N=224) of the total sample of Chicago lawyers was asked the following question:

On the following specialty list would you please indicate the general prestige of each specialty within the legal profession at large.

The respondents rated each of 30 “specialties” or fields of law on a five-point scale, from “outstanding” to “poor.” We then computed the mean rating for each field. To facilitate comparing the prestige ratings, we calculated a standard score for each field by determining the grand mean of the 30 field means and its standard deviation and then subtracting the grand mean from each field mean and dividing by the standard deviation. To eliminate decimal points and negative numbers, we multiplied the standard score by 100 and added 50 to the result. Thus, “fifty” represents the average mean prestige rating, with ten points being the standard deviation. To illustrate: “Securities,” the most highly regarded field, is 1.8 standard deviations above the average mean prestige rating, while “General Family (Poverty),” with its score of 34, is 1.6 standard deviations below the average mean.

included in Table 1—the percentage of blue-collar clients (column 2), client volume (column 5), the percentage of solo practitioners (column 11), and the percentage of practitioners who attended local law schools (column 15)—computed across the full set of twenty-five fields, we find that all six of the correlation coefficients in the matrix range between .78 and .89. Since these are correlations of aggregated data (that is, they are performed on the averages or composite scores for whole fields rather than for individual respondents), we would expect relatively high coefficients, but these are high by almost any standard. In fact, one of the most vexing problems we confronted in analyzing these data is that the variables are so highly associated with one another, either positively or negatively; that is, the variables have the statistical property of multicollinearity.<sup>15</sup> This makes it difficult, at the least, to distinguish each variable's independent effects, but the thing to note at this point is that a strong, overarching structure appears to organize these variables when they are analyzed at the level of the fields of law. It is less important for our purposes to state precisely each variable's effect on the legal profession's overall social structure than it is to observe their coincidence. The variables appear to reflect interrelated social processes that reinforce one another to produce an impressively persistent and highly coherent structure; the legal profession, in our view, is what quantitatively oriented sociologists call an "overdetermined" social system. We will argue that the types of clients served—the characteristics of the clients and of their use of lawyers—are the primary explanatory variables that organize and control the others, but such proofs as we will be able to offer are necessarily less statistical than sociological.

To facilitate our observation of this structure of differentiation within the profession, we present a second table utilizing data on all twenty-five fields grouped into six hierarchical categories. Table 2 is similar in form to Table 1 and includes the same set of variables, but, rather than report values at the level of individual fields of law, it presents scores for larger groupings of the fields. As Table 1 indicates, our sample includes relatively few practitioners in many of the fields, and the groupings of fields thus provide larger, more stable numbers for analysis.<sup>16</sup>

Because the groups contain fields that differ substantially, the ag-

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15. See H. BLALOCK, *SOCIAL STATISTICS* 454-64 (2d ed. 1972); Gordon, *Issues in Multiple Regression*, 73 *AM. J. SOC.* 592, 596 (1968).

16. For an analysis of the number of lawyers practicing in the various fields of law, the extent of co-practice of the fields, and other patterns in the allocation of lawyers' time, see E. Laumann & J. Heinz, *supra* note 8.



gregation of the fields suppresses the degree of variance, as compared with that at the level of the individual fields. Nonetheless, the differentiation among the groups that we observe in Table 2 remains quite substantial. Very large ranges still occur on the two variables relating to socioeconomic type of client (columns 2 and 3), client volume (column 5), frequency of state court appearances (column 6), type of practice organization (columns 11, 12, and 13), and percentage of high-status Protestants among the practitioners (column 16). Five more of the variables have a range of at least 100%; that is, the maximum value at least doubles the minimum. These are the "technical procedures," "paraprofessional," and "specialization" task variables (columns 8, 9, and 10), and the law school types (columns 14 and 15). Thus, thirteen of the nineteen variables exhibit differences among the groups of at least this magnitude.

Four of the groups of fields lie in the corporate sector or "hemisphere" of the profession; the remaining two fall in the sector that primarily represents individuals or small businesses. We have distributed the fields among the groups as follows:<sup>17</sup>

## CORPORATE SECTOR

## PERSONAL SECTOR

*Large Corporate Group*

Antitrust (Defense)  
Business Litigation  
Business Real Estate  
Business Tax  
Labor (Management)  
Securities

*Personal Business Group*

General Litigation  
Personal Real Estate  
Personal Tax  
Probate

*Regulatory Group*

Labor (Unions)  
Patents  
Public Utilities

*Personal Plight Group*

Civil Rights  
Criminal (Defense)  
Divorce  
General Family Practice  
Personal Injury (Plaintiffs)

*General Corporate Group*

Antitrust (Plaintiffs)  
Banking  
Commercial  
General Corporate  
Personal Injury (Defense)

*Political Group*

Criminal (Prosecution)  
Municipal

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17. Not entirely by accident, the six fields of law presented in Table 1 include one from each of the six groups listed, in the same order.

We intend the groups of fields to comprehend cognate areas of practice. As indicated above, we believe that the types of clients served primarily define these areas. We have refrained, however, from simply using statistically generated clusters of fields to maximize homogeneity in the client-type data; though those data informed our categorization, we did not derive the groups solely by empirical methods. Instead, we also took into account conceptual notions about the nature of the fields, including subjective characteristics of the clients and of the substance of the work.<sup>18</sup>

The tables also include a category of "generalists"—ninety respondents who did not devote as much as twenty-five percent of their time to any one field and thus are included in none of the fields or groups of fields. Seventy-eight more respondents (ten percent of our random sample) were not then practicing law; the tables include only the responses of the 699 practicing lawyers. As noted above, we "double-counted" some of those respondents in ascertaining the characteristics of the individual fields. Many respondents qualify for inclusion in more than one field within the groups used in Table 2, but in computing group scores we counted each respondent within the group only once. A respondent who devoted at least twenty-five percent of his time to fields in two or more groups, however, was included in the analysis of each of those groups. With the twenty-five-percent-time criterion, therefore, a respondent might theoretically be included in as many as four fields. We discuss overlap among the fields and groups in detail in our paper on the organiza-

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18. Thus, the "regulatory" group is distinguished from the "general corporate" by a substantive concern with economic enterprises that are regulated by independent or quasi-independent governmental agencies, and the "political" group includes fields concerned with formal governmental functions, fields in which a successful practice or career reputedly depends upon good political connections. (For our purposes, governments and labor unions are corporate bodies.) Cf. Coleman, *Loss of Power*, 38 AM. SOC. REV. 1, 1 (1973) (corporate bodies are juristic persons capable of possessing resources and interests). The "large corporate" group includes those fields we thought most likely to serve the largest business corporations. In the mean percentage of practice income received from "major" corporate clients, however, personal injury defense work ranks higher than some of the fields that we included in the large corporate group. Nonetheless, our categorizations seem appropriate. Though the insurance companies represented by personal injury defense lawyers are certainly corporations with large assets and dollar volume, the law and the facts involved in personal injury cases distinguish their problems from the legal problems of large corporations per se. By contrast, securities and antitrust defense problems are the sorts of legal matters that afflict large corporations almost exclusively. Though businesses of all sizes are concerned with taxes, both the complexity and the consequences of tax problems tend to be directly proportional to a corporation's size. A corporation is also likely to be sizeable if it is concerned with the legal problems involved in real estate development, and only large corporations can afford to use litigation regularly as a corporate strategy. We might well have placed the practice of labor law for management clients in the "regulatory" group with the representation of unions, but we included it in the large corporate group instead because the companies with union difficulties

tion of lawyers' work,<sup>19</sup> but we may note here that, of the 699 practicing lawyers, the 90 "generalists" are included in none of the groups, 380 respondents are counted in only one group, 209 in two groups, and the remaining 20 in three groups. In general, this double counting has the conservative effect of understating differentiation among the fields of law.

#### IV. THE MULTIDIMENSIONAL SCALOGRAM ANALYSIS

We have noted the magnitude of the differences among the fields of law on several variables and have observed the more obvious patterns of those differences, but it is difficult to grasp the overall structure of the differentiation by pondering numbers in a table. If we consider simultaneously several kinds of similarities and differences in the fields and group the fields accordingly, what will be the resulting structure? In a graphic representation of that structure, will the fields be grouped by type of client or will some other dimension or dimensions appear to determine the structure?

Multidimensional scalogram analysis is one approach to answering these questions.<sup>20</sup> Figure 1 depicts the relationships among the fields of law, representing them as points in two-dimensional space and accounting for their positions on a number of variables. Fields with similar profiles lie in close proximity (that is, share a region of

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sufficiently serious to warrant hiring a labor lawyer are likely to be quite large employers. In their study of the Missouri Bar, Watson and Downing treated union representation as a distinct specialty but included management labor work in their general corporate law category. R. WATSON & R. DOWNING, *THE POLITICS OF THE BENCH AND THE BAR* 24-25 (1969).

Our division of the personal client sector into two groups rests upon a similar distinction in the substance of the work. The "personal business" group includes fields concerned with the financial transactions of individuals (or of small businesses owned by individuals or families), while the "personal plight" group includes fields concerned with emotional issues, with personal freedom or liberty, or with personal anguish. We do not mean to suggest that the latter fields have no financial consequences for the clients. Significant financial burden may accompany personal anguish—especially in personal injury work, general family practice, or divorce—but the distinguishing characteristic of the "personal plight" fields is their emotive content.

Several hierarchical cluster analyses (diameter method), see Johnson, *Hierarchical Clustering Schemes*, 32 *PSYCHOMETRIKA* 241 (1967), were performed using selected combinations of the client characteristic variables described in Table 1. In each case, the first two principal components of a factor analysis of the relevant intercorrelation matrix were used as the proximity estimators for the clustering routine. The cluster structure was quite consistent across the various solutions. In devising the clusters used in this paper, however, we decided for substantive reasons to assign labor union law to the corporate client sector rather than leave it with the personal client fields with which it had clustered. Similarly, we moved civil rights from the corporate client sector to the personal plight cluster for definitional reasons.

19. E. Laumann & J. Heinz, *supra* note 8.

20. Specifically, we have used MSA-I. See *GEOMETRIC REPRESENTATIONS OF RELATIONAL DATA* (J. Lingoes ed. 1977) [hereinafter cited as *GEOMETRIC REPRESENTATIONS*]; Laumann & House, *Living Room Styles and Social Attributes: The Patterning of Material Artifacts in a Modern Urban Community*, in *THE LOGIC OF SOCIAL HIERARCHIES* 195 (1970).

Euclidean space); those with greater differences on the variables lie at greater distances from one another.<sup>21</sup>

The twelve variables used in this analysis are:

1. Business clients (mean percentage of income received from clients who are businesses rather than persons).
2. Client volume (median number of clients in the past year).
3. Client stability (mean percentage of clients represented for three years or more).
4. Lawyer referrals of clients (mean percentage of clients obtained through referrals from other lawyers).
5. Choice of clients (percentage of practitioners indicating "wide latitude in selecting" clients).
6. Technical procedures versus negotiating and advising (percentage of practitioners indicating their work involves "highly technical procedures rather than skills in negotiation and advising clients").
7. Litigation in state courts (median number of state court appearances per month).
8. Size of practice organizations (median number of lawyers in the firm or other organization in which practitioners work).
9. Government employment (percentage of practitioners employed by federal, state, or local government).
10. "Local" law school (percentage of practitioners who attended any of four "local" law schools in Chicago).

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21. The Euclidean distances are assumed to be a monotonic function of an underlying, multidimensional construct, "legal role," that creates social distance among the fields of law because of dissimilarities in some specified set of their characteristics. We have previously argued that we can conceptualize the fields of law as a set of differentiated social roles and that an individual lawyer may occupy a number of these roles simultaneously. E. Laumann & J. Heinz, *supra* note 8.

In the multidimensional scalogram analysis, our interval level data were transformed into ordinal data. (MSA-I requires, in fact, only nominal level data. See GEOMETRIC REPRESENTATIONS, *supra* note 20). The derived Euclidean distances represented in the figure are, of course, metric and fully at the interval level of measurement, but the data used to derive these distances were at the ordinal level. That is, we specified the rank order of the fields on each variable, but not the distances between fields.

The algorithm required a reduction in the number of values used on each of the variables. Therefore, we collapsed the range on each variable into two to four categories of fields. For example, we converted the percentages of Jewish practitioners in the fields into a four-point scale. We gave six fields with percentages of 10 to 15 a value of one, or "low"; five fields with percentages from 21 to 25 a value of two, or "medium low"; seven fields with percentages ranging from 30 to 40 a value of three, or "medium high"; and seven fields with percentages from 42 to 57 a value of four, or "high." Except where extreme outlying cases occurred, we preserved natural breaks in the distributions. We simply dichotomized the percentages of government employees in the various fields: we gave the twelve fields with zero to five percent government employees the value one, and the remaining 13 fields, all having 15% or more, the value two. Five of the variables were trichotomized. For example, in the percentage of income received from business clients, we classed as "low" the ten fields with scores of less than 50%; as "medium" the eight fields with 50 to 80%; and as "high" the remaining seven fields with over 80%. The input matrix thus consisted of the 25 fields in the rows and 12 columns of variables having entries of "1," "2," "3," or "4" corresponding to the respective field's position on each scale.

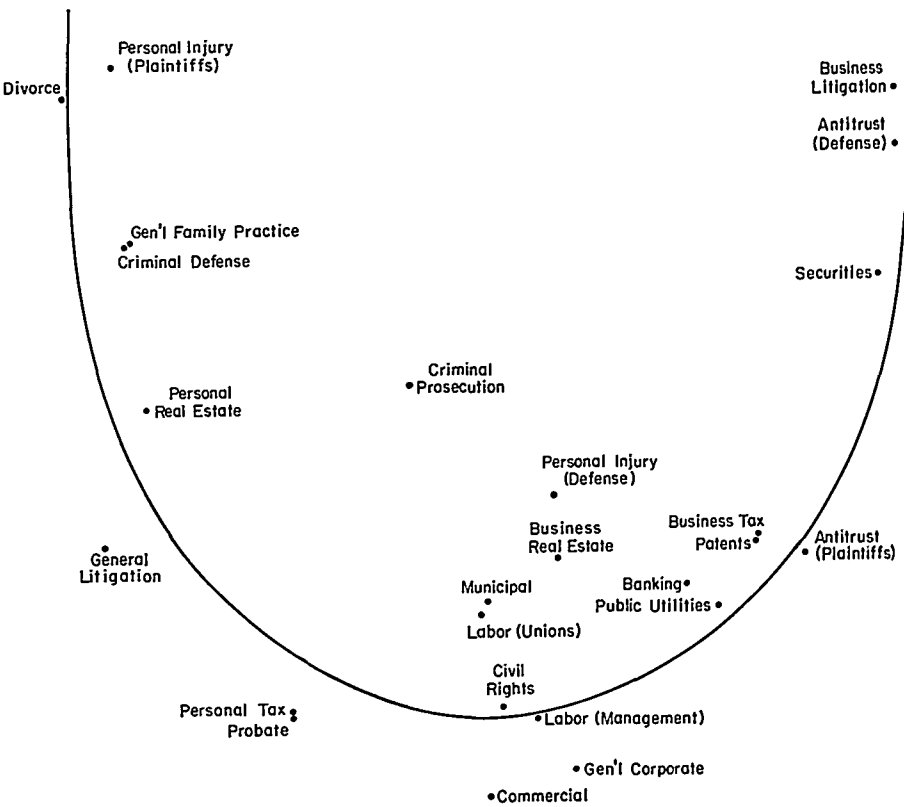
Figure 1 portrays the two-dimensional solution, which had a very satisfactory coefficient of contiguity of .959 (a perfect fit would be 1.00) for only 50 iterations.

11. High-status Protestants (percentage of practitioners who state a preference for one of the "Type-I" Protestant denominations).
12. Jewish origin (percentage of practitioners who report either Jewish religion or ethnicity).

Three criteria determined the choice of these 12 variables. First, to minimize the redundancy built into the model, we sought to avoid choosing highly intercorrelated variables. Because of the multicollinearity in the data set, this was particularly important and difficult. Given the structured nature of the data—and, presumably, of the social system under study—we could have avoided substantial intercorrelations completely only by choosing variables of tangential relevance or doubtful substantive significance. Second, we sought to represent the full range of types of data in the variables chosen and to avoid over-representing any one type. Thus, the twelve variables include one client-type variable, two concerning the nature of the

FIGURE 1

MULTIDIMENSIONAL SCALOGRAM ANALYSIS OF TWENTY-FIVE FIELDS OF LAW ON TWELVE SELECTED VARIABLES



lawyer-client relationship, two on sources of clients, two task types, two types of practice organizations, one law school type, and two ethnicity variables. Finally, and perhaps most importantly, we required that the variables chosen have substantive significance. There is a persuasive case that each of the variables used might have important influence on the social distances among the fields. Those arguments have, in fact, already been summarized in Part I.

As we see from the figure, the relationships among the fields form a U-shaped structure. The fields that serve corporate clients lie to the right; fields that serve persons rather than corporations lie to the left. Fields that serve either a mixture of the two or special sorts of corporations such as governments or labor unions fall toward the middle. If one draws a vertical line just to the left of the point representing criminal prosecution, we find that, with the sole exception of civil rights, all of the fields to the right of that line belong to our corporate sector and all of the fields to the left to the personal sector. The reader will recall that only one of the twelve variables used in the multidimensional scalogram analysis explicitly measures type of client—though, as we have already noted and argued, client volume and stability relate to these distinctions, and some of the other variables correlate with client type.

The vertical dimension of the structure reflects the differences between litigation and office practice. The fields with higher rates of court appearances tend to be higher in the space; those that litigate less tend to be located lower. Other general patterns in the structure are perhaps less striking, but they are surely discernible. The fields with higher percentages of practitioners reporting a free choice of clients lie outside the U, while those with less client choice are found in the inner rim of the U-structure. The median size of the law firm or other practice organization increases as one moves from the upper left counterclockwise around the U. Client volume and the percentage of practitioners who attended a “local” law school both move in the opposite direction, increasing as one proceeds clockwise around the U. The percentage of stable clients generally increases as one moves toward the bottom of the figure. From previously reported research, we know that the most prestigious fields of law are at the upper right of the U and the lowest are at the upper left;<sup>22</sup> prestige

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22. One might wonder why litigation fields should be high on both ends of the U—meaning that corporate litigators have higher prestige than many of the other corporate fields, while litigators in the personal sector have lower prestige than other personal-client fields. It may be that the greater visibility of litigators enhances their prestige if the substance of their cases is regarded as prestigious and enhances their derogation if the kinds of cases and clients with which they deal are derogated.

decreases in a generally orderly clockwise fashion. The correlation between the prestige order of the fields and their order on the U is .9.<sup>23</sup>

The groupings of fields used in Table 2 also emerge rather clearly in the figure. A small cluster of high status fields representing the largest corporations lies at the upper right of the U. Moving clockwise, we then encounter a group of fields dealing with administrative law, particularly with federal regulatory agencies. These include patents and public utilities from our "regulatory" group and banking, business tax, and antitrust plaintiffs' work from our "general corporate" group. Further clockwise, another cluster, with more of a vertical dimension, contains the remainder of both of those groups. The work for larger business corporations appears to be concentrated higher on the right side of the U, and the size of the businesses represented decreases as one moves down. Our "political" group, which consists only of municipal work and criminal prosecution, lies just to the left.<sup>24</sup> Criminal prosecution, obviously *sui generis*, is off by itself. Though criminal prosecutors represent a corporate client, the substance of their work and perhaps the networks of relationships among practitioners move criminal prosecution away from the corporate fields and toward the "personal plight" group. Returning to the rim of the U, and still proceeding clockwise, we next find the four fields of the "personal business" group. Of these, the two that deal most with the transmission of wealth and thus with wealthier personal clients—probate and personal tax—lie nearest the corporate fields. Finally, at the upper left of the U, we find four of the five fields of the "personal plight" group. The fifth, civil rights, is a special case. Because half of its practitioners are full-time govern-

23. Laumann & Heinz, *Specialization and Prestige in the Legal Profession*, 1977 AM. B. FOUNDATION RESEARCH J. 155. The prestige rankings in that study used a somewhat different list of fields than that employed in this Article. Specifically, the prestige rankings did not differentiate between the "personal" and "business or corporate" sides of the tax, civil litigation, and real estate fields.

To compare the prestige rankings with the order of the fields on the U-shaped multidimensional scalogram analysis, therefore, we had to generate prestige scores for both sides of each of these three fields. We did so by computing a regression model, utilizing characteristics of the fields as the variables, that explained 80% of the variance of the prestige scores in the original list of fields. We then used that model to create prestige scores for the new fields according to their observed values for the same set of characteristics, as weighted by the regression equation.

Finally, we calculated a rank-order correlation on the fields' prestige ranks, including the newly created prestige scores, and their ranks along the U-structure. This correlation is .90, and it is significant at and beyond the .01 level.

We determined the ranks on the U by placing the fields on the smooth U-curve depicted in the Figure at the intersections with the curve of the shortest lines that could be drawn from the fields' points to the curve.

We are indebted to Scott Marden for his assistance in this analysis.

24. Note the proximity to these fields of labor union work.

ment employees, we could in fact define civil rights work as a governmental function and place the field in the "political" group of the corporate sector, which is about where it appears in the figure.<sup>25</sup>

These findings suggest that even though the measures used to determine the characteristics of the fields of law (principally, the twenty-five percent time criterion) generate rather weak or contami-

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25. Including civil rights work among the "personal plight" fields greatly increases the heterogeneity of that group on most of the variables. The civil rights field is atypical in that a substantial portion of the cases are handled as a public service without fee ("pro bono publico"). Ideological motivations may thus attract to this work lawyers who are unlikely to be found in the other personal-plight fields. For example, the distribution of civil rights lawyers among law school types looks much more like that of a field from the "large corporate" group than like any of the other fields in the personal-plight group—the percentage of civil rights lawyers who attended elite schools is more than twice that of the next highest personal-plight field.

Still, the substance of its work seems to dictate the placement of civil rights. The civil rights field probably exemplifies *par excellence* the sort of legal work that deals with personal liberty and freedom. A plausible argument can be made, however, for placing civil rights work in the corporate sector. Outlining that argument illustrates how the variables interrelate and shed light upon the interpretation of one another.

It is commonly believed that most of the practitioners doing civil rights work are corporate lawyers from large firms who handle a few such cases on a pro bono basis. As an elite of the bar committed to the protection of civil liberties, these lawyers are thought to include disproportionate numbers of Jews and higher status Protestants. Arthur Corbin asserted as early as 1922 that the profession's elite were more likely to serve "the poor and the friendless" than were lower status lawyers. Corbin, *Democracy and Education for the Bar*, 4 AM. L. SCH. REV. 725, 731 (1922). While some elite lawyers may devote small amounts of their time to civil rights law, however, the data on the 15 lawyers in our sample who devote 25% or more of their time to work that they label "civil rights" shows that both Jews and high-status Protestants (Type I) are underrepresented, that Catholics are represented in about the same percentage as in the total sample, and that both lower status Protestants (Type II) and the nonreligious are substantially over-represented. Some of the lower status Protestants are probably blacks, who are overrepresented in the civil rights practice by a factor of about six times their percentage in the bar (15.4% versus 2.5%). About twice the normal percentage of Southern and Eastern Europeans are found in civil rights work. The distribution of civil rights work by practice setting probably explains these results. Almost half of the lawyers who report devoting 25% or more of their time to civil rights work are government employees (47%), and another third practice in firms of less than 10 lawyers. Only 13% of these civil rights lawyers are from large firms with more than 30 lawyers, and only 7% are from corporate law departments. Solo practitioners apparently cannot afford to do civil rights work; they are not represented at all. Nor, indeed, are lawyers from medium-sized firms. Thus, Catholics and Southern and Eastern Europeans may have disproportionate shares of civil rights work because they are over-represented among government lawyers. See *First Report*, *supra* note 6, at 779-80 app. We do not wish to make much of all this, especially since our sample includes only 15 civil rights lawyers at the 25% level of activity, but the general pattern seems clear.

Perhaps the most interesting point to be noted here is that civil rights work, rather than being motivated by *noblesse oblige*, appears to be in large part a public function, performed by government employees who are compensated by tax funds. Accordingly, we could with almost equal justification place the civil rights field in the corporate client sector with other government work. Though this reclassification would increase the sectors' homogeneity on several variables, the conceptual reasons already advanced have induced us to sacrifice this "tidiness." The work of the profession is, in fact, a bit untidy in places, and it is important to note where points of ambiguity or overlap occur. The civil rights field presents one of the relatively rare opportunities for full-fledged corporate lawyers to practice law that deals with personal plight, with human suffering. Thus, the civil rights field, with a few others, is a point of intersection in the profession. Though quite a small field, it is one of those special places where residents of the profession's two hemispheres may meet one another.



nated categories, the variables display a consistent structure based primarily on the nature of the clients served by the fields. Because particular types of clients are frequently associated with corresponding types of legal issues, however, it is often difficult to determine whether some aspect of the structure of the fields of law is more plausibly attributed to the nature of the clients served or to the knowledge or skills used in the fields. For example, in analyzing the overlap among the fields of law in the allocation of lawyers' time,<sup>26</sup> we found a small, tight cluster consisting of patent law and the two sides of antitrust law. What common attributes of patents and antitrust enhance the likelihood that a lawyer who practices one will also practice the other? Broadly, both fields involve legal doctrines that in some way regulate competition, and they share common origins in English legal history.<sup>27</sup>

But this overlap in the doctrines of the fields is confounded by a corresponding overlap in the types of clients served. We may often think of patent lawyers as dealing with "inventors," and we may also think of inventors as individual entrepreneurs, independent, idiosyncratic, obsessive, and quirky. This is, of course, a romantic, nineteenth-century view of the inventor, fostered by juvenile fiction of the Tom Swift genre. However quirky they may be, most commercially significant inventors are now surely organization men in the research and development departments of major corporations, and most valuable patents are now owned by large corporations or exploited by them under license. As with antitrust specialists, therefore, patent lawyers' principal clients are corporations. The patent lawyers in our sample estimated that they derived an average of ninety percent of their practice income from businesses rather than persons.

Moreover, the historical importance of using patents as a means of monopolizing further exacerbates this confounding of knowledge base and client type. One of the methods used by the classic trusts to monopolize an industry was acquisition of the patents for the key

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26. E. Laumann & J. Heinz, *supra* note 8.

27. During the sixteenth century, the Crown increasingly granted favored individuals monopoly privileges or exclusive licenses through proclamations known as "letters patent" (that is, open or public letters). The Statute of Monopolies, 1623, 21 Jac. I, c. 3, curbed this practice. It voided the licenses or "patents" previously granted and provided that persons injured by a monopoly in the future could sue for treble damages, but it excepted patents granted to "the first and true inventor or inventors of . . . manufactures." Thus, Holdsworth observes that the Statute of Monopolies was "the foundation of the patent law of the present day." 4 HOLDSWORTH, A HISTORY OF ENGLISH LAW 353 (1924). See also J. RAHL & R. KENNEDY, CASES AND MATERIALS ON ANTITRUST LAW (1978).

manufacturing processes.<sup>28</sup> The clients who owned the patents became, then, the clients charged with restraint of trade, and the legal issue became whether the scope of the patent-granted monopoly privilege conflicted with the scope of the antitrust laws.<sup>29</sup> Today, litigation brought by the Justice Department, the Federal Trade Commission, and private plaintiffs frequently charges illegal restrictive practices in the licensing or use of patents. Patent-infringement claims are also met with antitrust counterclaims or a defense of misuse of the patent; that is, the defendant in the infringement action charges that the plaintiff used the patent to restrict competition in violation of the antitrust laws or of the policy favoring competition. Thus, both the doctrines and the types of clients served by the two fields at some points merge.

To attempt to distinguish the independent effects of client type and of knowledge base on the structure of the fields would, in such circumstances, be not only difficult but artificial and misleading. We should, instead, appreciate that the two are inextricably entwined and then seek to understand their relationship and how the legal and social systems produced it.

In some areas of the law, however, the adversary system provides a natural control of the two variables. In criminal law, labor law, or personal injury work, a rather rigid division separates practitioners serving opposing sides of the cases—with their corresponding, distinct types of clients—while the substance of the law is constant within each area. Therefore, where one doctrinal area of the law contains specialized fields of practice that are dictated by the type of client, we may want to examine the extent to which those fields are socially differentiated. How socially distant is labor law work for unions from the representation of management, criminal prosecution from criminal defense, or plaintiffs' antitrust or personal injury work from defendants'? We may, of course, look at the differences between those pairs of fields on any variables that particularly concern us, but the multidimensional scalogram analysis summarily measures the extent of their social distance. Inspecting Figure I, we find the two sides of labor law located relatively close together near the lower middle of the U. The other pairs, however, lie quite a bit further apart: criminal prosecution and defense are both in the figure's

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28. *See, e.g.*, *United States v. United Shoe Mach. Co.*, 247 U.S. 32, 52-55 (1918) (United Shoe's acquisition of key patents by merger with and acquisition of companies holding those patents did not violate the antitrust law). In addition, see Justice Clarke's dissenting opinion, 247 U.S. at 77-78.

29. *See, e.g.*, *United Shoe Mach. Co. v. United States*, 258 U.S. 451, 460-64 (1922).

mid-left region, but they are sufficiently separated to be clearly distinct; antitrust defense is considerably higher on the U's right side than is antitrust plaintiffs' work; and personal injury plaintiffs' work reaches the far upper left corner, while personal injury defense falls into the "general corporate" cluster located at the lower right.<sup>30</sup> In some cases, therefore, differences in the clients served apparently produce clear social distinctions between the fields even though the fields' knowledge bases are substantially identical.

We would argue, in fact, that the more the clients of two fields differ, the more socially distant the fields will tend to be. Consider, for example, the comparisons just made between these pairs of fields. Though labor unions and the corporations that battle them doubtless differ in many significant ways, both are usually large organizations with substantial assets. The differences between criminal defendants and the government officials whom prosecutors consider their clients are probably greater (though the two kinds of clients do on occasion coincide), and greater yet are the differences between clients of the pairs more widely separated in Figure I. The two sides of antitrust work appear to serve distinct sorts of businesses. Antitrust defense lawyers report that they derive seventy-seven percent of their practice income, on the average, from major corporations, while an average of only twenty-two percent of the income of antitrust plaintiffs' lawyers comes from major corporations. The plaintiffs' lawyers serve a much higher proportion of individual clients—they receive an average of forty percent of their practice income from individuals while only six percent, on the average, of defense lawyers' income comes from individuals. Of these four pairs, however, the distance is greatest between the two sides of personal injury work, and the difference in the clients is probably greatest there also. The clients of the personal injury defense lawyers are almost exclusively insurance companies—major corporations with very substantial assets.<sup>31</sup> By contrast, the clients of the plaintiffs' lawyers are usually individuals, and, although doubtless drawn from a range of social classes, they

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30. Similarly, if we compare "general litigation" with litigation for business clients, thus holding the task type constant, we find business litigation at the far upper right but general litigation diagonally across the entire space at the lower left. In this case, however, the substantive law no doubt differs systematically with the kind of client.

31. Our sampled personal injury defense lawyers reported that, on the average, 57% of their income from business clients came from "major" corporations (which we had defined in the survey as corporations with sales in excess of ten million dollars annually). This percentage may sound modest, but it is quite large when compared with most fields—"general corporate" lawyers, for example, reported an average of only 38% of their income from major corporations—and is roughly equal to the average percentage of the corporate litigators, who reported 55% from major corporations.

are from the lower classes far more often than are the clients of most lawyers.

Again, therefore, we conclude that the most plausible interpretation of the findings is that the nature of the clients served by the fields primarily determines the fields' social structure. If correct, this reading of the data raises an important question: given the tendency of the profession's structure to respond to interests and demands of clients—that is, of parties external to the profession—how much autonomy does the legal profession enjoy in defining professional roles, in determining which lawyers will perform which services for which clients, and in organizing the delivery of those services?

## V. THE LEGAL AND MEDICAL PROFESSIONS COMPARED

Sociological literature discussing the professions posits freedom of occupational activity as one of the principal identifying characteristics of a profession.<sup>32</sup> This autonomy is said to result, at least in part, from the professionals' possession of arcane knowledge that their clients lack.<sup>33</sup> Since, by hypothesis, the client does not know the essentials of the professional's work and cannot evaluate it, the professional acts with a freer hand than do members of occupations whose consumers have a broad understanding of the occupation's work. A professional's client will, of course, usually know whether his lawsuit has been won or lost, or whether his illness has been cured, but he may not know whether another result should have been expected.

Sociological thought concerning the professions has largely been shaped by the model of the medical profession, about which the literature is richest.<sup>34</sup> The law may differ from medicine, however, in the extent to which the problems it addresses are defined by clients rather than by the professionals. Physicians use professionally defined standards to discriminate between cases that need attention and those that do not. The lawyer's client, by contrast, plays a large

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32. See, e.g., Greenwood, *Attributes of a Profession*, SOCIAL WORK, July 1957, at 45. See generally D. ROSENTHAL, *supra* note 1.

33. Other factors possibly contributing to this autonomy are, for example, social class differences between professional and client, or mystification that sets apart the role of the professional regardless of any real difference in knowledge.

34. See, e.g., J. BERLANT, *PROFESSION AND MONOPOLY* (1975); M. LARSON, *THE RISE OF PROFESSIONALISM* (1977); ROBERT STEVENS & ROSEMARY STEVENS, *WELFARE MEDICINE IN AMERICA* (1974); ROSEMARY STEVENS, *AMERICAN MEDICINE AND THE PUBLIC INTEREST* (1971). Dietrich Rueschemeyer has explicitly compared the legal and medical professions. Rueschemeyer, *Doctors and Lawyers: A Comment on the Theory of the Professions*, 1 CANADIAN REV. SOC. & ANTHROPOLOGY 17 (1964). His perspective differs from ours, but he covers some of the same points and we have benefitted from his analysis.

role in defining legal problems, in deciding whether and when he needs help. Indeed, there may be a distinction between the role of "client," a person who employs an expert to perform more or less well-defined services, and the role of "patient," a person whom the physician treats. It is only a bit too glib to put the point this way: The doctor decides when the patient needs an appendectomy, but the client decides when the client needs a divorce.

Within the legal profession, however, the extent to which the client defines the problem may well vary with the type of law and the nature of the client. Securities lawyers or corporate tax experts serve sophisticated business enterprises that can recognize and define their legal problems in considerable degree, while the generally less sophisticated clients of family lawyers are much less aware of their legal needs. Thus, the corporation planning a securities issue, an acquisition, or a merger will present a relatively specific set of issues to the lawyer, while the blue-collar worker may not recognize that he has entered into a contract or may not see the need for a formal divorce. This suggests somewhat ironically that lawyers doing high-prestige work are less likely to define their clients' problems than are lawyers doing lower-status work.<sup>35</sup> On the other hand, in the legal work that enjoys high professional prestige, those who bring cases to lawyers will often be other lawyers. Large corporations that have significant securities and antitrust problems will also have corporate "house counsel" who will identify and analyze the businesses' legal problems and select specialized outside counsel to whom the work may be referred. Thus, though the client identifies the problem in such high-status work, a professional is still in control—it is a lawyer, not someone outside the profession, who defines the need for legal work. But these lawyers are, after all, full-time employees of the client-corporations, answerable and, no doubt, responsive to the wishes of corporate management.

Like the medical specialties, most of the fields of law are characterized either by a substantive concentration (nephrology or cardiology, antitrust or tax) or a common technology or skill (radiology or surgery, drafting or litigation). The legal system's adversary mode, however, frequently bifurcates some of the legal fields, causing lawyers to specialize according to the type of client or side of the case. This phenomenon reflects a more general tendency of legal specialties to be organized around the needs of clients who are distinguishable by social type. Law differs from medicine in this respect. While

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35. Laumann & Heinz, *supra* note 23.

a "general family practice" exists to some extent in both law and medicine, and while a few members of both professions specialize in work with the poor, a patient may be classified as a "kidney problem" without any reference to his wealth or social position, but a client is unlikely to have antitrust or securities law problems unless it is wealthy. In fact, such a client will probably be a corporation with substantial economic and, perhaps, social and political power. Certain diseases disproportionately afflict the rich, and many others are more likely to be diagnosed in rich than in poor patients; indeed, some doctors specialize in treating the rich. But social implications seem likely to flow from the organization of legal specialties much more ineluctably than they do from medical specialization.

The identification of lawyer with client may reflect the process and criteria by which clients select lawyers. The intimate nature of many medical problems notwithstanding, personal intimacy perhaps more often characterizes the relationship between lawyer and client than that between doctor and patient. Our relations with doctors tend to become routinized. In our early years, we submit to pre-school physical exams; later, as the indignities of age afflict us, we are told to have routine annual physicals. Though these occasions involve some procedures that are, in a sense, intimate, the procedures tend to follow a standard format and to become familiar. Even when we are ill, the doctor's questions are often standard: "Any nausea?" "Any abdominal cramps or pains?" Most of us see our lawyers, however, only when "ill"; we do not get routine annual legal examinations. When lawyers perform strictly legal functions, as opposed to general business or tax planning, the client has usually determined in advance that he has a problem and often that he faces some particular sort of "trouble."

It is important that the lawyer, in discussing a client's problems, speak the client's language, both literally and symbolically. The legal profession's greater reliance on extensive conversation between lawyer and client, rather than on a checklist of symptoms, may require that the lawyer and client share a range of discourse. But beyond this, the patient with nephritis probably cares less that his doctor share an outlook on life than that he be a good kidney man. The client, of course, also wants his lawyer to be technically competent, but the matters that law addresses frequently require a trust that goes beyond confidence in professional skill. The client must trust the lawyer's discretion and may even feel a need to have the lawyer sympathize with his position. Therefore, a client may often prefer a lawyer who shares his social characteristics. It is probably

more often important to clients than to patients that their professionals are of their own ethnic group, went to the same sort of school, or belong to the same clubs. This, then, is another reason why social types of clients tend to produce corresponding groupings of lawyers.

## VI. CONCLUSION

A crucial issue in the study of any profession is this: To what extent does the profession manifest client interests (or, perhaps, the interests of others outside the profession) and to what extent does it reflect its own concerns, interests, or values? Common lore says that lawyers are "hired guns," that within the vague limits of "professional responsibility" they do their clients' bidding. But the lore also holds that some forces or agencies within the legal profession serve to unify it, to give it a sense of identity or coherence. Thus, the bar associations, the law schools, or the court-appointed boards that control lawyer discipline and admission to the bar may be thought to create or enforce norms and values that originate within the profession. How accurate is the lore? Or, to put the same question in a manner that more clearly restates the research issue posed at the beginning of this paragraph, what balance does the legal profession strike between competing intra-professional and extra-professional interests?

As our statement of the question implies, the issue is one of degree. Every profession reflects to some extent the economic, social, and ideological interests of its clients. All the professions also reflect norms and values of the professionals *qua* professionals—tenets that spring from the profession's own interests, ideology, and socialization process. To varying degrees and in varying ways in the different professions, the professionals sometimes speak for themselves and at other times advocate the interests of persons or groups outside the profession. Beyond their "hired gun" role (but by no means unrelated to it), lawyers and other professionals may adopt their clients' views and, thus advocate client interests because they have accepted them as their own. A cancer specialist may campaign for the control of environmental carcinogens even though a successful campaign might reduce the number of his patients. A tax lawyer may seek to simplify the tax code even though simplicity would reduce the demand for his professional advice. (If our study is correct, however, a lawyer is not likely to advocate the abolition of a tax shelter if that would conflict with his client's interests.) Though we did not attempt it, one way to assess the relative importance to a profession of inter-

nal and external interests might be to examine the frequency with which the professionals advocate each sort of interest.

Professions may reflect this co-existence of interests, however, in a more subtle, but perhaps more fundamental manner. The interests may affect the social structure of the profession itself—they will influence the organization of the bar into groups or fields, the distribution of lawyers from different social origins among those groups, and the patterns of relationships among the lawyers. External influences that may shape the legal profession's social structure include the interests of clients and the baggage that the professionals bring with them into the profession. The attitudes and behavior of professionals as professionals are, no doubt, affected by their other roles—as spouses, parents, churchmen, Daughters of the American Revolution, or Sons of Italy (*i.e.*, as clansmen or Klansmen). The early socialization of professionals may also be relevant to their professions, as may their commitments to religious, political, or social values.

But what is the relevance of our findings to these issues, and what are their implications for the profession? Our findings suggest that the second piece of lore is wrong. Bar associations, law schools, and court agencies appear to accomplish little social integration of the profession. Even the organized bar functions less as an interest group than as a forum within which interest groups compete for power. Unless some coalition within the bar can mobilize powerful constituencies, often from outside the bar, and can thus impose its will on the profession as a whole, the profession is unlikely to take a definite stand on a consequential issue. The legal profession can and does take definite stands, however, on issues that lack moment for most of the profession and most of its clients, and the organized bar often delegates such decisions to the concerned subgroup within the profession.<sup>36</sup> In sum, the profession is so riven by conflict—reflecting the conflicting interests of its clients—that the bar can reach a consensus only on inconsequential issues or on symbolic issues that permit the profession's differences to be “papered-over.”<sup>37</sup>

The data that we have collected and analyzed suggest that the legal profession is highly differentiated, that that differentiation is systematically structured, and that that structure is determined largely by the impact of client interests. As we noted above, auton-

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36. That occurred in the Chicago Bar Association, for example, when it delegated the drafting of a new criminal code to a committee composed almost exclusively of criminal lawyers. See Heinz, Gettleman, & Seeskin, *Legislative Politics and the Criminal Law*, 64 Nw. U.L. REV. 277, 317-25 (1969).

37. See generally *First Report*, *supra* note 6, at 771-75.



omy is said to be one of the characteristics that distinguishes the professions from other occupations.<sup>38</sup>

Except to the extent that lawyers' clients are lawyers themselves (corporate house counsel, for instance), the dominance of the profession by its clients deprives lawyers of this autonomy. If nonprofessionals control the work of lawyers and thus determine the profession's social organization, the profession will lack the power to draw the boundaries that separate lawyers' work from that of other occupations (to define "unauthorized practice of law"), to set standards of professional conduct, and thus to control the course of the profession. In sum, the influence of client interests may threaten the profession's coherence and identity. If clients' interests rather than professional norms determine the attitudes and behavior of lawyers, the profession will tend to fragment—the social integration of the profession will suffer. Whether or not we can properly characterize the state of the Chicago bar as "social disintegration," we believe that our research provides substantial evidence that sharp, systematically structured divisions exist within the profession.

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38. See text at note 32 *supra*.