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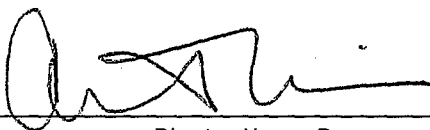
Thesis title Gender and Justice: The Experience of Female Lawyers in Indiana

Intended date of commencement May 8, 2010

Read, approved, and signed by:

Thesis adviser(s) Elise Edwards  5/5/10
Date

Reader(s) Scott Swanson  5 May 2010
Date

Certified by  5/13/10
Director, Honors Program Date

For Honors Program use:

Level of Honors conferred: University Magna Cum Laude
Departmental Highest Honors in Anthropology
Highest Honors in History

Jessica Louise Nelson
Gender and Justice: The Experience of Female Lawyers in Indianapolis

A Thesis

Presented to the Department of History and Anthropology

College of Liberal Arts and Sciences

and

The Honors Program

of

Butler University

In Partial Fulfillment

of the Requirements for Graduation Honors

Jessica Louise Nelson
May 7, 2010

Gender and Justice: The Experience of Female Lawyers in Indianapolis

“Gentleman M.B”. is recorded in United States history as far back as 1638, and was a successful landowner, local leader, and attorney to the governor. What is not translated is that this gentleman was, in fact, a woman: Margaret Brent was the first known female attorney, and would be the only one allowed entrance to the Bar for more than 200 years. Even though centuries later, in 1869, Myra Bradwell (Illinois), Mary Magoon (Iowa) and Belle Mansfield (Iowa) gained access to the legal community, women remained an outcast minority until very recently.¹ A mere two percent of the profession was female in 1970, rising to 12% by 1980.¹ The American Bar Association’s 2008 statistics place women law students at 47%, while only 18.3% as partners of a firm, and report a grand total of 31.6% of all attorneys.² The reluctant acceptance of women into the legal field still bears an effect of female status, progress and success. Prevailing stereotypes about a women’s place and responsibility for society have created difficult stigmas and challenges for females entering the legal field.

Historically, the legal profession, culture and images surrounding it were all exclusively masculine. Despite female admittance into this elite profession, cultural expectations about appropriate femininity compete with this age-old stereotype of the dominant male attorney. It was my hypothesis for this project that due to their gender, female attorneys have a different experience than their male counterparts in regards to relationships with colleagues, employers, employees and clients. These women, for the amount of work they put in, appear to have a more difficult time and limited access to

¹ Epstein, Cynthia F. *Women In Law*. : Basic Books, 1981. Pgs. 20-25

² American Bar Association: Commission on Women in the Profession, *A Current Glance at Women in the Law 2008*

high-powered careers in the legal profession. I am especially interested in how they have to conduct themselves in the workplace and also believe that raising a family, having children and choice of life partner dramatically influence in the kinds of advancements and opportunities available to them throughout legal careers. Texts such as Cynthia Epstein's *Women in Law*, Karen Morello's *The Invisible Bar: The Women Lawyer in America* and articles such as Deanell Tacha's *Changing Roles of Women in the Law and Legal Practice* are used to provide historical reference and contemporary perspectives. I compared this written information to what my interview subjects revealed in our discussions. In this way, ethnography helps bridge the gap between what the outsider theorizes and how the cultural subgroup actually views their world.³ Indeed, since anthropologist Bronislaw Malinowski asserts that meaning is derived from social interaction, I felt the best way to understand this specific microculture was to not simply read about them. I prepared myself for daily interactions as an intern at a law office in order to observe minute details through participant observation and to communicate with them through conversation about their personal experiences. I set out to collect stories, advice and perceptions from the minds of female attorneys, their male colleagues, and office staff as I am interested to see how gender plays a role in their lives and careers.

Women in the Public Sphere

After Margaret Brent's success in 1638, no other female attorney would be on record until 1869.⁴ An overwhelming mindset of the time was that a woman's place was in the private sphere: at home taking care of children and under the control of her

³ Malinowski, Bronislaw. *Argonauts of the West Pacific*. Pgs. 10-20.

⁴ Morello, Karen B. *The Invisible Bar: The women lawyer in America, 1639 to the present*. New York: Random House, Inc, 1986. Pg. 8-9.

husband. However, Karen Morello, in *The Invisible Bar*, explains three significant changes occurring in the 1800's which created a window of opportunity for female advancement in the legal field. The Industrial Revolution brought women out of their homes to work, many times alongside men in factories and other economic endeavors. Specifically, Morello cites that the "combination of increased technology and immigrant labor" freed middle and upper-class women from some household duties.⁵ Housewives now had more time for leisure, or study. The expansion westward, beginning with the Louisiana Purchase in 1803, contributed to the beginning of a breakdown of class and gender distinctions. It also changed the face of law in the form of military court-martials, Indian tribal justice and "squatters courts." These were a result of an immediate need to settle boundary disputes, and women proved capable.⁶ The standards for the profession began to drop as resources out west were limited and the demand for attorneys outweighed gender preference. Women were needed out west for all types of work and settlements, helping elevate their status in general. Finally, Morello notes the abolitionist movement, which included a link between equality not only for blacks, but for women as well.⁴ Cynthia Epstein corroborates this, stating that the "change in attitudes...came as more and more women entered the labor force and the growing women's movement proposed an ideology of equality underscoring women's commitment to work."⁷ Although men could no longer ignore women's involvement in the economy, the legal field would continue to enforce barriers to female success and acceptance within the community.

⁵ Morello, Karen. Pg. 76.

⁶ Morello, Karen. Pg. 39.

⁷ Epstein, Cynthia. Pg. 4.

The first women who attempted to gain access to the bar association were met with disdain and a patronizing attitude. For example, Myra Bradwell was refused in Illinois, even after passing the Chicago Bar, specifically because of her married status.⁸ Lavinia Goodwell was similarly denied in Wisconsin, 1872, when Supreme Court Justice Joseph Bradley stated that womanhood was suited and created for better, gentler endeavors such as the household and children.⁸ The language used for both of these women was similar and reflected the prevailing ideas that women belonged to their husbands first and foremost, that the female sex was meant for motherhood, and that women had a timid and delicate disposition. Cultural expectations assumed that women, by nature, would not be able to survive the competitive nature of the legal field, or be able to cope with difficult issues involved in cases. Both women and men were equally affected by this counter-productive mindset, making it a spectacular feat for the first women to enter the legal profession.

Despite the outward rejection of women, a few were still able to succeed early on. Cynthia Epstein provides a general picture of women who pursued legal education. Typically, the husband was accepting of his wife's interest in law, and some husbands even campaigned for and championed women's right to practice law.⁹ Many women got their start helping out their husbands with their own legal work. Women were more likely to have fathers, husbands or other relatives that had prior experience in the law. This attitude prevails today, as I found out through my interviews. One of my informants Beth, 25, said that her older brother who went to law school had influenced her to do the same. She said she "saw that he could do it," and used his advice and support to excel

⁸ Morello, Karen. Pgs. 14-24.

⁹ Epstein, Cynthia. Pgs. 24-33.

herself in law school. Early on, however, many women had to heavily rely on family members to get law experience, education or a job after graduation.

Furthermore, women who pursued legal careers in general tended to have educated parents, and came from higher income families.⁹ Certainly, a husband at this time would not be expected to put his wife through law school if the funds were not already available. Myra Bradwell got her start working in her husband's law office before the Civil War, and then during the war worked to help soldiers and immigrants.⁸ The odds were set against women, whether they were trying to be recognized as certified attorneys or pursuing a legal education. Industrial advances, integration of economic endeavors, expansion westward and the abolitionist movement created an avenue for women to begin an uphill journey to the top ranks of the legal hierarchy. Of the few women who pursued a legal education, typically middle- and upper-class citizens, all faced a challenge from not only the rigors of law school, but also the strong attachment of masculinity to legal school, practice and culture.

Law School Barriers and the dreaded "Ladies Day"

Law school also proved to be a challenging barrier for women. The first female student was Lemma Barkaloo in 1869, who was first turned down at Colombia Law School before finally being accepted at Washington University in St. Louis.¹⁰ Until the 1950's, many schools would follow Colombia's early example of excluding women, which encouraged the creation of all-female law schools. However, prevailing stereotypes of women as less intelligent and incapable pushed them to excel, and even

¹⁰ Black, Barbera Aronstein. *Something to Remember, Something to Celebrate: Women at Colombia Law school*. *Colombia Law Review*, Vol. 102, No. 6. Oct 2002. Pgs. 1451-1468.

then some professors, peers and institutions failed to recognize their accomplishments and merit. Men often resented women for taking “their places” in law schools and for providing more competition. In regards to law school acceptance (47% in 2008), persistent and successful female students have eased, perhaps eradicated gender discrimination. However, this was no easy task, as women had seemingly *always* been rejected from legal culture, being “notably absent from American legal education for its first 100 years.”¹¹ An exclusive, elite male culture had evolved by this time, making women unwelcome outsiders, but women were able to begin a new evolution of law – one including both sexes. Women face even more challenges ahead in the job market, but the first step – law school – became a difficult but not impossible hurdle.

Ronald Chester, in *Unequal Access: Women Lawyers in a Changing America*, provides some of the motivations women had for enrolling in law programs. He explains that some women went to law school with no intention of having a career as an attorney.¹² Despite passing the bar, many still did not practice. A significant proportion of female lawyers had male relatives, simply because it gave them an advantage and an actual chance to practice law. Others studied it just because of an interest in the subject, not because they expected to practice. Indeed, a female student at Portia Law classified students into two groups. There were secretaries, usually older women, who wanted to further current employment abilities (i.e. clerkship), and then younger women, who were less serious and many of these were not interested in taking the bar.¹³ This does not necessarily demonstrate a lack of ability for women to be successful attorneys, but

¹¹ Epstein. Pg. 49.

¹² Chester, Ronald. Pg. 16.

¹³ Chester. Pg. 30.

instead represents limited opportunities. A woman was accepted as an assistant, secretary or clerk, but not yet as a full-fledged, certified member of the elite attorney community. Until the 1970's, there was little room for women, and many had to take an alternative route if they wished to be involved in legal matters.

Drawing from Epstein, Morello and Chester, there appears to be a variety of ways female students were perceived and treated. All would likely agree with Epstein's claim that women "were not participants in the male culture of the law schools."¹⁴ Furthermore, a majority of males believed that if a woman was offered a seat in a law class, she was taking the place of a more-deserving male student. Women were not perceived as the breadwinner of a family. Male peers had a difficult time accepting women because they were seen as "unnecessary competition."¹⁴ Perhaps some of this resentment can be explained because of the pre-existing male-female superiority complex. Female students often scored better, or did just as good as male peers because they had strong motivation to prove themselves capable. Indeed, an older male professor from Columbia University was quoted as saying, "I knew she would be prepared because they were in a defensive position. They had to prove they were good."¹⁴ This was certainly enough pressure to go above and beyond both expectations and their male peers. The women who were likely to be seen in early law classes might have an attorney relative, a current job relating to law, and would have to work extremely hard to prove herself both in the classroom and beyond.

No matter how hard worked to be recognized and accepted, they were still discriminated against and abused in schools across the country, even throughout the late

¹⁴ Epstein. Pg. 61-65.

20th century. Abuses from peers and superiors in law school included the complete refusal of a diploma, banning pregnant women from class, and commonly the ridicule of female classmates. The early example of Belva Lockwood in Washington DC demonstrates the tenacity necessary to combat these forces. She had successfully completed law school requirements, but was refused a diploma until she wrote Ulysses S. Grant – president of the law school at the time. He finally granted her the diploma himself after her relentless efforts.¹⁵ Women would see little change in attitude and acceptance levels in law school until World War II. In 1869, Lemma Barkaloo was an anomaly in legal education, and by the 1920's, a fierce debate raged about co-education. In 1920, a student law school publication from Colombia demonstrates the reluctance to include women. The author vehemently states his position; "there is a very practical reason against such admittance; namely, that the school is already crowded with the number of men students."¹⁰ It was simply unacceptable for a woman to take the place of a man in law school or beyond. Colombia finally accepted female students in 1928, but remained worried they would lose male applicants to Harvard or other non co-educational schools. Barbera Black's article about law school explains the change that occurred in World War II. Women were actually needed to take the jobs men left behind, and law schools were desperate for enrollment. A female had a better chance of being accepted in the mid to late 1930's, but by 1947, they were forced to compete with returned war veterans. Indeed, "everyone conceded Rosie's skill at riveting, but when Johnny came marching back, Rosie was out of a job no matter what her wishes or domestic situation."¹⁰ Black correlates the unusually high number of female students in her

¹⁵ Morello. Pg. 72.

Colombia class of 1955 (18 total out of 260) to the Korean War. This timeline explains a gradual, reluctant admittance of women into law schools, but women could still expect resistance from male peers, professors and employers.

Women were an unwanted minority and their legal education often considered a waste of training. Ideas of appropriate femininity followed them throughout the 20th century. For example, Ronald Chester mentions that at Boston University, women were asked to leave the classroom if sex was to be discussed.¹⁶ This related to the previously-explained social phenomena: the belief that femininity was delicate, weak and needed to be protected. Another woman, Morello notes, was pregnant during school, and later found out school authorities had wanted to throw her out because it was considered improper for young men to be around pregnant women.¹⁷ Unfortunately, these negative perceptions led to years of discrimination – ranging from professors ignoring women completely to male peers stomping their feet while female students answered questions.¹⁸ At Harvard University, one of the last schools to accept women in 1950, the first 12 females ever admitted shared that they had to be careful how they conducted themselves. These women wanted to avoid making a spectacle or drawing unwanted, negative attention.¹⁹ Even in the 1960's, New York University professors were reported to still be making disparaging remarks directed against their female students. In 1967, NYU law held its last Ladies Day. "Ladies Day" was a wide-spread annual humiliation across the country, where women were made to answer all the questions in class for the day. At

¹⁶ Chester. Pg. 44.

¹⁷ Morello. Pg. 85

¹⁸ Morello. Pg. 97.

¹⁹ Morello. Pg. 103-104.

Harvard University, where the following description occurred, intimidation and harassment of female students was a natural and ignored phenomenon.

“Professor W. Barton Leach, who taught property, would allow female students to speak only on Ladies' Days... On Halloween 1961, like trained seals doing tricks for an eager audience, the five women in Leach's section, dressed in high heels, skirts, blazers and pearls, were ready. They left their seats in the front row of the large, fan-shaped classroom seating, mounted the steps to the dais, sat down on five folding chairs that had been arranged in a line facing the rest of the class, crossed their ankles, and waited calmly for the first question they already knew was coming...Nancy (my classmate) remembers, 'It was sort of like Picnic at the Zoo Day-and we were the animals in the cages.’”²⁰

Some questions would be sexually related, and the annual day of persecution would continue as late as 1968 at some schools. Morello explains the triumph of the special group of women at NYU in 1967, who were expertly prepared for class, and then concluded by throwing lingerie at shocked male students.¹⁹ This spectacle was a complete success; it ended Ladies Day at NYU forever. By 1980, NYU women enrollment was up to 40%, and female students claimed it was one of the best atmospheres in the country for them.²¹ In a mere 12 years since their last Ladies Day, NYU's atmosphere and treatment of women had dramatically changed. This school is used as an example to explain parallel treatment of women across the nation. This idea also supported by Epstein, as she observed that “by the end of the 1970's, law school had become a viable choice for women graduates intent on pursuing higher education.”²² These authors attribute the Civil Rights Act with corresponding ideas of equality, to be what finally broke law schools' glass ceilings and allowed women entrance into the

²⁰ Sachs, Andrea. "Taking the Law in her Hands." *Ms. Magazine*, Summer 2003.

²¹ Morello. Pg. 86.

²² Epstein. Pg. 35.

highly selective legal society. Despite higher acceptance levels, hardships women face in the classroom and legal culture prove to continue into the 21st century.

Morello, Epstein and Chester certainly help provide a historical timeline for women's struggle and entrance into legal society and education. However, what these books lack is 21st century information from the minds of their subjects, which can be used to analyze the progress female attorneys have made since their existence in the 17th century. I immersed myself in the legal culture by volunteering as an intern at a legal aid firm in Indianapolis (specific references to the identity of this firm as well as my informants will be omitted for privacy purposes). This firm represents the 125th percentile of poverty in civil cases, usually divorce, custody, adoption, guardianships and paternity battles. The attorneys in this firm accept a pay cut for this rewarding work, but are nevertheless extremely talented and experienced. I spoke to the office manager Danielle, receptionist Jessica, and six attorneys at the office. Sarah is a full-time associate, whereas Jane and Ashley are part-time. Beth is a part-time attorney on a fellowship from her law school, which pays her salary for six months. Daniel and Jeff are male attorneys at the firm, a valuable perspective I chose to include. I also spoke to Katie, who works in a lucrative all-female firm in Carmel. In his anthropological work, Malinowski stresses participant observation, especially of small details that may otherwise seem meaningless. By working alongside this office staff filing papers, creating legal documents, shadowing in court and in client interviews, I was able to observe these attorneys on a daily basis in their own atmosphere. I spent about 7 months in the firm, and the following information reflects what I learned from my informants

from daily interactions, observations and also from formal interviews over this time period.

Although centuries of harassment and discrimination have seemingly ended within the last 50 years, my own informants remarked on their personal 21st century law school experiences, revealing a changed attitude, yet one with an underlying tenor of sexism remaining. Overall, in regards to educational opportunities, women represent 47% of all law students, showing a substantial increase from the previous half century. Numbers these days range about equal between acceptance and enrollment of males in females. Interestingly, Daniel remarked that I would have a better chance getting into a law school based on my gender. He said that nowadays, white males face the most competition because they have no such advantage. However, he is misguided, as due to Supreme Court rulings over affirmative action at the University of Michigan, race and gender cannot be rigidly defined or considered under any sort of quota system.²³ Nevertheless, this attitude is certainly recent, and groundbreaking in some ways, as Daniel reflects a new idea – that being a woman is somehow now an unfair advantage in the legal field.

My interviews revealed that none of the women felt unduly uncomfortable or discriminated against in law school, and all reported that women made up about half of their classes. Sarah and Katie said they had absolutely no problems, and Sarah mentioned that she “loved law school” and found it to be an enjoyable experience. Jane was able to help answer this question, as she recently graduated from the University of

²³ Page, Scott and Suhay, Elizabeth. "A Decision-Making Guide to the Michigan Civil Rights Initiative." University of Michigan Diversity Files. http://www.cscs.umich.edu/~spage/diversity_files/MCRI.pdf.

Michigan Law School in 2004. She said that there were more women in her class, but said there was hostility underneath a peaceful demeanor from the males. For example, she said the Women's Club at the school had a discussion board (like the other clubs) that asked people to comment on interview experiences. A male student anonymous wrote that he wished he could "show a little cleavage in an interview," as if to gain the upper hand! She slyly added that this was foolish, as turtleneck sweaters were in vogue and frequently sported by the female students. She also recounted a disturbing tale of a law professor who was known for attending parties, and picking up female students. He engaged in sexual relationships with them, which Jane said created an unreasonable expectation that one had to "put-out" for good grades. She mentioned that males would not openly express their hostility, but would do it in passive aggressive ways such as with the example of the discussion board.

Beth was an excellent source on law school, as she graduated from Florida Coastal School of Law in May 2009. She recently passed the bar this October, and through a fellowship with her school, is able to work for legal aid for six months. She mentions that there were "some jerks" in her classes, but that there are some of those people everywhere. She said she never personally felt attacked by any of them, but noted that males in general seemed more relaxed than the females, "maybe because guys just worry less." Perhaps the idea that women still have to prove themselves effects many still today, making them appear to be "worrying more" about their grades. She gave me some personal advice about how to survive law school, explaining that there will be people who act like they are superior and know everything. She said her brother, who previously went to law school told her to keep in mind "you don't know shit and neither

does anyone else.” This statement blankets both genders, but she felt that the male students were more likely to have this “know it all” attitude. This attitude can be attributed to the longstanding idea that the male gender is the natural, appropriate choice for an attorney. This perceived authority that Beth recognizes in her male peers is the result of centuries of exclusion of females.

My respondents revealed that there is still a noticeable gender difference in law school. Even though equal numbers of both are represented, the attitudes men and women have appear to be influenced by their respective status in the legal field. Beth noted that males in the classroom were more likely to have an arrogant attitude, and women tended to worry about their work more. Jane described a more severe treatment of women including snide comments and sexual expectations. Comparatively, women have made great strides since Belva Lockwood’s fight for her diploma and the days of the annual Ladies Day inquisition. Until the 1970’s, it certainly would not have been expected for half of my informants to note a lack of noticeable gender discrimination. Despite this apparent success in the treatment of women in law schools, cultural expectations still dictate how confident the separate genders are, and the likelihood they will succeed in the legal profession.

Women in the Workplace

The conviction that women should (and therefore inevitably would) marry and belong to her husband and children, would prove to hamper work opportunities for female attorneys. It comes as little surprise knowing that women were discouraged and prevented from joining the Bar Association and law school that they were also faced the same problems when first entering the workforce. Men were not comfortable facing

competition from women for the same scarce resources (i.e. the top jobs) and acquisition of wealth.²⁴ Epstein and Morello agree that employers were worried women would not be able to pull in as many clients, that they would eventually leave to have children and that it was simply not right for women to have more power and money than a man. Morello agrees that there was, and to some extent still is, a bias against women because they would get “knocked up.”²⁵ Specifically, she explains what happened to a woman turned down for a job because “she admitted she was planning to get married.” As she states, “they said I would get pregnant and it would be a waste of their training.”²⁵ Males had the advantage in hiring situations because of their status as the breadwinner, and an accepted detachment from child raising. Even though cultural norms would prove to be set against women, the Civil Rights Act in 1970 greatly helped break down barriers in hiring practices and contributed to the expansive growth of female attorneys 1970-80 (growing by 50,000).²⁶ Although the legal field is starting to even out, from law school upwards, my interviews were able to reveal a more complete picture. The culture and attitude surrounding both women and lawyers proves to be a prevailing force, one grounded in centuries of exclusion.

Women, since the dawn of the Industrial Revolution, have been seen working side by side with males, but the legal field continued to be male-dominated for more than a century afterwards. Danielle, 73, is currently the office manager and has been at the office for 51 years. She reported that for many years, perhaps up until the 1980’s or so, women were not hired at this legal aid firm. She said the reason the firm hired only

²⁴ Epstein. Pg. 74.

²⁵ Morello. Pg. 185

²⁶ Epstein. Pg. 5

males was that there were simply few women going to law school, and thus they had none to choose from. Since more women have been going to law school, she says the firm has kept the balance between genders about equal. Jeff, an older attorney noted the same, saying that he regularly goes to Indiana Bar reunions, and only until the 1980's or so started seeing women attending these as well. As noted in earlier statistics, women's entrance into the legal field jumped exponentially during this time, and now women can be seen working in all areas of the law.

I asked each of the women if they felt they had a harder time than male classmates getting a job, and the answer was no. Katie mentioned the overall lack of job opportunities, but Ashley said she passed the bar in multiple states in order to practice whenever her family relocated. Sarah began a private practice with a partner to deal with bankruptcy cases and was able to maintain a profitable stream of clients. A rather disturbing remark Katie provided was that she believed in one of her jobs at a firm single women made less than a man with a family, because he was perceived as the breadwinner. Indeed, the American Bar Association's Commission for 2008 reported that women make 77.5% of what men do on a weekly basis.² It seems that women are still perceived as the secondary salary provider, furthermore one that is not always necessary. The current salary discrepancy can explain this, which relates back to the historical material provided. Women had the most access to law school and careers when they were needed out west or men were away at war. As soon as men returned, women were once again excluded. It was perceived that males needed the job more than a woman because he had a family to support. The 2008 statistics prove that part of this

reasoning may still remain. Although women may feel equal levels of competition from male peers in relation to employment opportunities, they are paid less and often face discrimination from clients, employers and co-workers. I used interviews and observations to analyze how women are treated at work, and if this relates to their specific gender.

Although legal aid is Beth's first job as an attorney, she held three internship positions during law school. These proved to be helpful in describing different atmospheres in each of these work places. Beth was especially critical of an experience she had working as a clerk in a small private law firm. She said it was the "good old boys club," as the male attorneys were "jerks" towards her. Beth said they did not respect her, and gave a direct example of an attorney, who said the following when it was time for her to leave for the day - "um, yeah, I don't have time to pick up the dog food, and neither does my wife." He asked her to pick up the dog food, and even though she was frustrated with him even asking her, she said she got it for him anyways. She said that he would have never asked a guy, even a clerk, to do that for him. Another time she said she was independently helping an attorney with contractual work for some extra money, and he asked if they could meet at Hooters. When she pointed out the inappropriate location to him, he brushed it off saying it was merely a convenient spot for him to meet. She compared both of these experiences to a job she had at a courthouse, working with a magistrate judge. She said the atmosphere was always very professional and respectful. Certainly Beth's status as a law student and her youth may have something to do with the treatment she received in the small private firm, but she felt it was contingent on her gender. The treatment of women, as the authors of the historical

references maintain, varies with each workplace, but there is still the danger of one's gender playing a role in how one is treated and perceived at work.

I understand that the legal field is extremely time consuming, and wanted to know how women were able to raise families under this constant pressure and time demands. I wondered about spouses, children and pregnancy affecting their career. Indeed, as Ruth Ginsburg's article²⁷ states, a recent Yale study announced, "roughly 60% said they would stop, or cut back on, work once they had children..." Following up with this, in Deanell Reece Tacha's article,²⁸ and reiterated in *Women in Law*²⁹, they note that in previous years, women had been denied access to legal education and jobs due to the fact that they were first and foremost supposed to be a wife and mother, not a busy attorney! I spoke to Katie, a 37-year-old attorney practicing at a successful all-female firm in Carmel. When I asked how friends and family responded to her interest in law, she said her father asked, "why not be a teacher? It is a good career for a woman for raising children." Although she said he became supportive of her plan as time went on, he still continued to have other careers in mind for her. He perhaps reflects the idea that modern women can work, but at the same time, should plan ahead and choose a career that will allow them to be flexible (for their children).

Early skeptics, notably the male community, believed that a woman's duties would be ignored if she were able to pursue a high-powered career. However, the responses I have gotten from Jane and Ashley certainly suggest differently. Both of these women work part time at the firm, although Jane fills up the rest of her hours in the week

²⁷ Ginsburg, Ruth. *Remarks on Women's Progress at the Bar and on the Bench*. Harvard Journal of Law and Gender. Winter 2007.

²⁸ Tacha, Deanell.

²⁹ Cynthia, Epstein. 1981

as a public defender. Ashley met her husband while she was in law school at St. Louis. After they both graduated, he from medical school, she followed him to the East Coast where he finished his rotations. She said at this time they talked about having children, so she got her PhD in order to become a professor and be able to spend time at home. However, she said he was offered a job as a transplant surgeon here in Indianapolis, and she was able to find a part time job that allowed her to raise her children. She is very content with the situation, saying she gets to play a positive role in society, and spend time with her family. I witnessed her rearranging her schedule so that she would be able to accompany her son in 5th grade to a field trip in Chicago. Her husband was unable to get off of work, as that was a day he would be in the clinic doing procedures, so she switched the days she usually works at the firm. Ashley has four children and says it is difficult at times to balance work and family, but her part time status enables her to work things out. Jane, the other part-time attorney at the firm (but still has full-time hours between both jobs) is a new mother, so I was wanted to see how this new experience was working out for her. She said she met her husband during their undergraduate careers in Michigan, and after both graduate and law school, she followed him to Indianapolis where he was offered a job. She had her first son in 2008, and she says he makes her job much harder. She says she now has to balance two jobs and family, and would be much easier if she only had to handle one career. I asked her how she works with her husband, and she smiled and said she had just had “a talk” with him about this exact issue. She notes that at the beginning, she began to resent him (she mentions the word “hate”) because her natural mindset when she gets home is to pick up around the house, etc., while he sits and plays video games as soon as he returns from work. She says she got

tired of asking him to help around the house, and reminded me that it is necessary to “nip such things in the bud” so to speak, before they ruin a relationship. She says she would like to have more children in the future, and knows that relocating will likely be in the plans as well, as her husband’s four-year job contract is almost up. Jane says she shares her experiences with Ashley, and that they help each other deal with these balancing problems.

I spoke with Katie, who is content with her single status. She explained that she was able to date in law school, but that it was not serious because school came first. Now, she says she is “awfully busy” for a relationship and that men treat her differently now that she is a law school graduate. She said some are flat out intimidated by her, making dating rather difficult. Sarah divorced her husband before law school (it was finalized on her first day of classes). She remarked that she could not have dealt with a spouse and the demands accompanying one during school. She came out as a lesbian during school, and married a woman a few years after graduation. She said that while she had a private practice, she did not know how she would have been able to have a relationship or family because your loyalty lies with the clients and their money. She said she spent a great amount of time soliciting and advertising for new clients, and had to work around when the clients had time to talk to her. She also said one must have an understanding spouse (as she does now), and that one lawyer is enough for any family to deal with! The women I spoke to were quite successful, despite these perceptions, at work and at raising their respective children. Even so, they still face the prevailing mentality that women cannot be as professional (or successful) as men because they

cannot – and do not – put in the same hours.³⁰ A successful legal career requires a profession to dedicate a significant portion of his or her time to their work. Although modern culture still typically prescribes child care and housekeeping to these female professionals, they are able to balance both work and family - an ability that is slowly equalizing the legal profession.

Femininity is not only associated with child rearing, but as previously mentioned, also with being less assertive, aggressive and is therefore something to be protected. A part of the legal aid job was understanding the clientele, a “hazard” of the job as Daniel mentioned to me during my first week at the firm. Although difficult clientele are not uncommon to attorneys in firms who charge money, I noticed that the attorneys here had to deal with uncooperative clients, or those who were upset they had been turned down (usually due to making too much money, if still very little) nearly on a daily basis. Common problems included misconceptions about the legal system, formed via information from friends, relatives, etc. The attorneys had to re-explain the process sometimes numerous times if it went against clientele expectations. I personally witnessed a side of the law that I had not understood or anticipated – the stress of dealing with unreasonable clients, and some who became violent as a result. I saw that more attention was given to cases where the female attorneys had to deal with potentially dangerous clients, with the underlying assumption they are less equipped – either physically or mentally – to deal with the situation.

On my third day at the office, I was shadowing Ashley as she spoke to clients. At legal aid, a computer database is used to record client information. An attorney asks

³⁰ Epstein. Pg. 315.

about their address, marital status, number of children or dependents in household, equity, income and then proceeds with questioning them about the problem that has brought them into the office. They make notes about the case, and if the adverse party happens to make an appointment for the same issue, it is politely explained that the office is not allowed to even give them advice on the same matter. On this day with Ashley, the man whom she was about to meet with was listed as the adverse party in a divorce case from years ago. On top of that, the wife (whom legal aid helped) mentioned he had a history of violence, abuse, and was mentally unstable. Daniel told Ashley to leave her office door open so he could listen in to see if anything began to go wrong. The man was polite and calm and his problem was unrelated to the divorce, but Ashley was asked by multiple people in the office how things went. I found this interesting as if a man had taken this client, such concern over his well-being would not be expressed. I believe the physically weaker association with women creates this protective relationship from the male staff. I was slightly bothered by this at first as I saw it to be condescending; can a woman not take care of herself? However, while I was working on paperwork one morning by myself in one of the vacant offices that day, a man who had been turned down earlier came back and let himself in. He looked for someone to complain to, and found me. He was noticeably upset; he loudly demanded I explain how we could turn him down if he only made \$10 an hour. As I started to explain the firm's policies, he got irate and began yelling that he needed help, could not afford it, etc. I started to get a little nervous as he began to approach my desk, but the security guard came in and physically kicked him out of the building. The office secretary returned to this side of the hallway and asked why it smelled like booze! This sparked my curiosity about the statistics of

violence against attorneys. I found that the Forensic Psychiatry and Medicine site had an article stating, "In today's climate of hostility toward the law and legal authority, there is a real possibility that an enraged litigant may assault the representing attorney or opposing attorney, or even a judge."³¹ It appears the hazards of the job affect both sexes, but it seems colleagues see females as more vulnerable naturally. Part of being a successful attorney is having a strong, assertive demeanor, while vulnerability is certainly seen as a weakness. Is this negative trait perhaps attached to women automatically due to gender stereotypes?

I was able to compare unreasonable clients between both male and female attorneys, a benefit of interacting with both sexes. I sat in as Carl interviewed a disgruntled client. He expressed to Carl that although he "needed no lawyer to speak for him" as nobody could possibly understand his situation, he demanded advice. He wanted to know why the court had not gotten back to him with a date for his hearing (he filed papers the day before), and went into a lecture about his horrible wife, mother of his daughter. He argued with Carl over taking (stealing basically) his child from day care after Carl firmly advised him not to, and then with me sitting beside him announced loudly "all women are 'effing' bitches." Carl promptly wrapped up the meeting, apologized to me about it and expressed his annoyance with clients such as this man who have a complete lack of respect for others. I was not personally offended, but if Carl had been female, how rude would this man have been to her, and what would the reaction have been? It is safe to say there are difficult clients that have the potential to offend any

³¹ Bursztajn, M.D., Harold J., and James T. Hilliard, J.D. "Ask The Expert – Violence Against Attorneys and Judges." Forensic Psychiatry & Medicine. <http://www.forensic-psych.com/articles/artAskexp06.php>.

attorney, but males seem to have a perceived advantage being the majority in the legal profession. Noticeably, no one seemed concerned that Carl had a mentally unstable, unpredictable client. It is assumed here that since he is male, he will be able to fend off potentially violent clients himself, whereas Ashley's situation raised concern throughout the firm about her ability to do so.

I got multiple responses explaining the advantage women have in the eyes of some clients. I had read nothing of the sort in the three books and various articles about what the women were about to explain. Katie had a previous experience employed in a firm that chose to only represent male clients. She said that on a whole, these men were equally respectful to her as to her male colleagues, and they occasionally preferred to have a female attorney instead. Katie said that some men felt that having a woman on their side in the courtroom would be helpful. For example, during a divorce, it would not appear that the husband was ganging up on his wife with another male. She did say they were sometimes worried that she might not be as mean or aggressive enough, but it did not deter them from hiring them (and she always proved them wrong!). I asked Jessica, the front desk secretary, if the clients calling for an appointment ever specified which gender they wanted. Indeed, they said they had come across this, although rarely because the clients are receiving free legal help and thus are not really allowed to be picky with their attorney. In any case, she said she has heard women asking for a female attorney, which is likely due to a past abusive relationship and the need for a divorce. They said the male attorney's higher education and authority intimidate some women, especially if they are mistrusting of men to begin with. She said that on the other side, men do ask for male attorneys, sometimes giving no reason. Jessica says she once heard a man ask for

another male, citing religious reasons as justification. They both agreed that when a person (usually a male specifying a male) asks for a specific gender, they say that it depends on whichever attorney receives them in the order they check in (it is random for the most part). The head of the firm Daniel reasserted this claim, saying that some people perceive women to have a better chance at winning an adoption or paternity case because a woman is expected to have a special understanding of parenting, children, and thus might have more sway with the judge. This was an unexpected development on my end, having read only the negative aspects of client and colleague perceptions. It was helpful to hear the other side of the coin, perhaps proving that the gender discrimination that once kept women out of work and labeled them as weak and feminine can now be a helpful trait with clients.

A theme I came across was the idea that came out of men trying to box women into a specific part of law, and this is the idea that women should "do good." Certainly a lawyer at legal aid, who accepts a major pay cut for a rewarding job, is doing such, and has included men since its founding. Cynthia Epstein mentions women were pushed towards probate and domestic work, as giving women a place (a lower paid one at that) helped men cope with their existence in the field. Another way of looking at it is that women would take the cases men simply refused to, because they were desperate for any legal experience before the Civil Rights Act was enacted. In other words, women were more willing to take the pay cut that these legal aid practices are forced to provide. Around 1980 when her study was done, one-third of women were in governmental work and another one-third chose legal aid work. At legal aid places, women were given rape, murder, assaults, torture, etc. cases, as it was seen as performing social work versus

legal.³² Karen Morello expands on this idea as she mentions that a large amount of female attorneys were active in suffrage, equal rights, fair labor, birth control, and especially temperance where they knew the use of law would be necessary.³³ Indeed, the women lawyers from New York marching for suffrage at President Wilson's inauguration, "made it clear that being a lawyer wasn't just a job, it was a way of bringing about important changes in society."³⁴ She follows that women had the "notion that the commitment to a cause was more important than financial success," which "inspired many of these women to study law."³⁵ Perhaps because it was well known that law was a tough place for a woman to find a job (and more so for a high paying one), women were more accustomed to the start to putting their degree to "good" use. I asked the three females at the legal aid firm why they decided to take this job, and their responses supported Epstein and Morello's findings.

Sarah, the full time attorney, said she had started out after law school in her own private practice with another attorney from school. However, she found it to be extremely time consuming and entirely focused around getting and retaining clients. She found legal aid and knew she could "help protect and help people being taken advantage of." She first became interested in law when her mother was having legal problems in the 1970's and it "seemed she was being taken advantage of." She also had the expectation that law "would be a more cooperative sort of world – that lawyers would work together towards a common good, but found instead "it is more of an adversarial world – one is an advocate only for the client." Sarah expressed discontentment with

³² Epstein. Pgs. 111-122

³³ Morello. Pg 110.

³⁴ Morello. Pg. 117.

³⁵ Morello. Pg. 125.

this, saying she does not think this is good for society. She said she justified taking a two-thirds paycut from six figures to \$42,000 a year, by the fact that legal aid helps the community. Ashley, a part time attorney and mother of four, enjoys her work and took the job at legal aid because it enables her to work part time, works well with her schedules, and enables her to feel like she is doing something productive for society. Jane has a background with this kind of work, as she has a masters in social work and worked for a year being involved with kids in custody battles. She saw that the lawyers here were helpful and had more of a direct influence, while she found herself doing research instead. She mentioned that she was also working alongside attorney's advocating for civil rights, and was influenced by them. She works part-time at LAS and fills the rest of her time as a public defender. Clearly, all three women have a commitment to making a difference in society, and all report this is a rewarding (if severely underpaid) job. Katie, who used to work at legal aid, said the only reason she left was because she was unable to keep up with her student loan payments, and had to look for a more lucrative job. She suggested that I graduate with as little debt as possible so I do not have to search strictly for a high-paying job. I have heard this as well from others in the legal aid office, namely Daniel (who suggest I come back to work for them in the future!). I think this is an important concept to keep in mind, that the loans accumulated during law school can make a major impact on where and what kind of work is available post-graduation. It is encouraging that while women could once only expect "social work" cases in law – legal aid – there are a variety of opportunities available. The motivations that these women have do not relate to their inability to get a job elsewhere, but a strong desire to help people. It is important to note that at the same

time, some female attorneys prefer or need a higher-income career and are enticed by a higher salaries. Luckily, expanding equality in the 21st century has allowed them to pursue either career path.

Appearances can be Deceiving

“This was a man’s profession and the harder you worked and the less you acted like a woman.... the better off you were going to be.”³⁶



For Gladys Root in the 1920’s, her flamboyant dress and hair were a challenge to the court room, but she refused to accept either the role of a mannish aggressive woman or the typical passive, ladylike timid picture usually painted.³⁷ Epstein has similar evidence, explaining a judge’s bias for males, in that “you will be met with rudeness, be patronized, swept aside and often have to fight for the merest right.”³⁸ Treatment of women, in courtrooms, included terms of endearment such as “young lady, sweetheart,” etc. Morello’s book includes testimony from women who dealt with questions about bikinis or perfume preferences.³⁷ Women, by rule, need to exude self-confidence, assertiveness and self-assurance to succeed, and studies show that self-esteem in women

³⁶ Morello, Karen B. *The Invisible Bar: The women lawyer in America, 1639 to the present*. New York: Random House, Inc, 1986. Pg. 209.

³⁷ Morello. Pg. 188.

³⁸ Morello. Pg. 175.

is generally higher than in male peers.³⁹ Despite that, some men connect attractiveness with success (such as showing cleavage during an interview). Attractiveness helps, because Morello says men like to have good looking around, in a similar way to have pleasing décor in the office. Her studies show that women agree that “competence ranks second to beauty.”³⁹ Epstein agrees, citing the worry that an attractive or pregnant woman would sway the jury and/or judge with her appearance.⁴⁰ In 1926, a woman “8 months pregnant and the sight of a woman in court was unusual enough – a pregnant woman just wouldn’t be tolerated.”⁴¹ The male worry was so strong, that a man supposedly wrote a recommendation to Yale, saying it was O.K for women to be in law, “provided they are ugly.”⁴⁰ Although these might seem like competing ideas, the main argument is over the power of a woman’s looks.

Along with interviews, I have been observing and experiencing some of the gender dichotomy as well. I was warned that at this firm some of the clients can be ill mannered. About two weeks into shadowing the attorneys, I was introduced to a client I would be sitting in on, and he remarked as I walked in front of him to lead the way that I was the “sexy lawyer,” and “how could anyone pay attention to what I was saying, because I was sexy.” I was also approached walking out of the court house by two males who quite literally blocked my way, believing I was an attorney that would help them. They needed legal advice, and were both considerably larger than I was, and I had to talk my way out of the situation. Would they have come up to a tall male and done the same? Likely he would have been able to diffuse the situation faster. I came back to the office,

³⁹ Morello. Pgs. 305-309.

⁴⁰ Epstein Pgs. 89-91

⁴¹ Epstein. Pg. 181.

having led the two men (who did qualify for an appointment) to the front desk, with this story and was told it was because I was an approachable person by looks alone. I expressed my frustration to one of the attorneys, who told me because I was dressed nice, and simply looked nice, they felt comfortable coming up to me. I do not think leaving the court house with a scowl on my face will help anything, but I do make sure to walk along the sidewalk where there is a police officer stationed, just in case I run into the same problem.

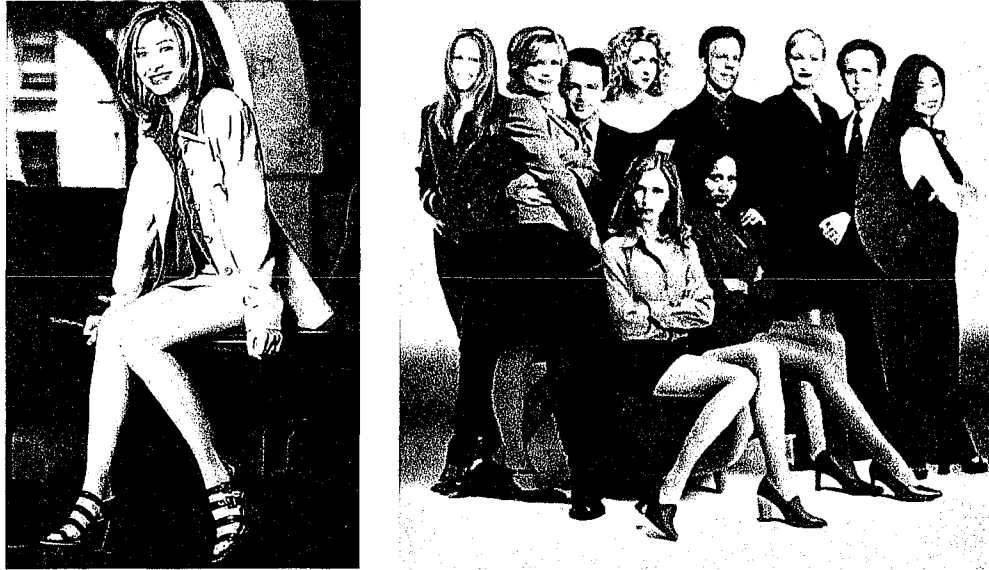
Katie, the attorney from Carmel, introduced a specific problem she feels women still face because of stereotypes, and this is the level of aggression they are allowed to portray. Katie warned me to be careful and feels she must temper her aggression as one runs the high risk of being labeled a "bitch." She said men are allowed to be more aggressive when litigating in the courtroom, talking to clients, etc. Epstein explained that a woman, especially those making financial gains in private practice or large firms, "entering that world is guilty of exhibiting masculine and therefore bad behavior."⁴² It seems women experienced (and still do to some extent) a double standard as men tried to ban them from the law due to their feminine characteristics that were associated with the private sphere, yet were quick to dismiss a woman who attempted to act more masculine and aggressive.

Beth, being a recent graduate of law school, is only 25 years old, and feels that her age and appearance affect employers and client perceptions of her. Instead of expressing aggression, her young looks make her appear less credible. She reported that more than a few clients have asked if she was in high school, or if she was really an

⁴² Epstein. Pg. 272.

independent interest in law, and maintains that her life's real success lies in her ability to have a successful marriage.

The images surrounding depict Ally in mini-skirts, blazers and fashionable heels. It is an odd mixture of formal business wear, but one with an emphasis on the actress' legs.



In the group picture, Ally is once again pictured in a short skirt. There are other female attorneys pictured, all but one in either a dress or a skirt. Notably, this skirt length would be extremely inappropriate in the office or courtroom setting, but it is an acceptable representation for television. The men are in typical business suits, the staple of any popular representation of a male attorney. The target audience was likely female viewers, so the fact that television producers chose to sexualize these lawyers is a disturbing reminder of how women can easily be objectified and de-legitimized based on appearance.

The character Elle Woods in the film "Legally Blonde" (2001) resembles Ally, but is an even more exaggerated stereotype of femininity. Although Elle manages to be a

success in the end, it is an assumption throughout this film this is somehow extraordinarily lucky. Elle is hit on by a professor, whom she valiantly defends herself against, and cracks the major case at the end. However, her motivations for going to law school once again rest on her boyfriend. A quick scenario describes the plot; “When a blonde sorority queen is dumped by her boyfriend, she decides to follow him to law school to get him back and, once there, learns she has more legal savvy than she ever imagined.”⁴⁴ Elle gets into school by having a very high LSAT score, but also by sending in a video application, including her in a bikini. She is seen in matching pink skirt suits, toting her miniature Chihuahua dog. She surprises everyone, including herself, by been actually good at law school, and beating out her ex-boyfriend come graduation.



Elle’s fashion choice, her high voice, exaggerated movements and cheery disposition create an unreasonable model of a female attorney. This picture more resembles a Barbie doll than a legitimate, successful female lawyer. Nevertheless, this film is well-known, and even if many do not take the character seriously, its prevalence in the media shows the influence of this popular stereotype.

⁴⁴ IMDB “Legally Blonde”

TV series Raising the Bar (2008) and Boston Legal (2004-2008) focus on both male and female attorneys, but the comparison of the two genders in appearance alone mirrors the treatment of Ally McBeal and Elle Woods. Take just the cast pictures from each show.



Raising the Bar



Boston Legal

In both of the pictures, males are the clear majority. Perhaps it is unthinkable for women to outnumber males in a firm? All of the male figures are dressed almost identically. They sport black tailored suits with a tie. The women however, are dressed in pencil skirts, mini-skirts, tight dresses, and in only one case, a pantsuit. The lone woman who is shown in a pantsuit (Boston Legal) is an older woman compared to the others, and blends into the background with the other males. The two young females in the Boston Legal picture are sitting in a way that displays a gratuitous amount of leg, visible under their mini-skirts.

It seems that female lawyers, in order to be accepted into a “man’s world,” need to be attractive to be accepted in popular culture. Ironically, Beth felt that a woman who looked too youthful lost her credibility, and had a harder time being recognized for her abilities. These shows depict the near impossible: a sexually attractive, short skirt-wearing, female attorney who still manages to wield power in the office and/or courtroom. If Elle Woods walked into a courtroom in a pastel matching skirt-suit, she

would likely be laughed at and in no way be taken seriously. These cultural icons are a reminder of the dangerous impact stereotypes can have on popular representations of women.

Concluding Thoughts

Even though educational and employment barriers have been lifted for women, there are still obstacles in the way. The legal community successfully barred women for centuries, but was ultimately forced to allow women as economic pressures, westward expansion, equal rights and violent conflicts created a pocket for women to excel. In regards to law school, women no longer face the harassment of Ladies Day, booing or hissing when answering questions and are accepted in equal numbers. Nevertheless, due to women's minority status, my informants reported passive-aggressive comments, sexual expectations and lower confidence levels. As women are assumed to be the primary caregiver of children, and responsible for the upkeep of the home, they are given additional time-consuming responsibilities. With mainstream cultural expectations in mind, "missing a family dinner may be disappointing, but failing to have it on the table brings more complex and more troubling emotions."¹⁰ It seems our society and culture need to catch up with the accomplishments of female attorneys, and acknowledge their ability to balance both work and family. Ideas of femininity and the appropriate ways to express it compete with the confident nature of a successful attorney and the masculinity associated with this elite profession. Specifically, my informants mentioned keeping aggression in check and frustration over a youthful appearance. In order to be a successful attorney, a woman must defy face cultural expectations about motherhood and

femininity. Overtime this approach has broken career and educational barriers, but prevailing gender stereotypes still affect the female attorney's experience.