YOU CAN'T CHANGE WHAT YOU CAN'T SEE

Interrupting Racial & Gender Bias
in the Legal Profession

**Commission on Women
in the Profession**
American Bar Association

MCCA ™

YOU CAN'T CHANGE WHAT YOU CAN'T SEE

Interrupting Racial & Gender Bias
in the Legal Profession

Commission on Women
in the Profession
American Bar Association

MCCA™

Contents

Foreword

For decades, the American Bar Association Commission on Women in the Profession ("the Commission") and the Minority Corporate Counsel Association ("MCCA") have worked tirelessly to combat gender and racial bias in the legal profession. Nonetheless, statistics on women's advancement have not changed appreciably over the years. In 2016, the Commission and MCCA partnered with the Center for WorkLife Law at the University of California, Hastings College of the Law to conduct research to understand further law firm and in-house lawyers' experiences of bias in the workplace. This new research confirms that many of the traditional diversity tools we have relied upon over the years have been ineffective, and the findings have served as the foundation in developing the next generation of diversity tools that you will find in *You Can't Change What You Can't See: Interrupting Racial & Gender Bias in the Legal Profession.*

The first part of this research report details four main patterns of gender bias, which validate theories that women lawyers long have believed and feelings they long have held. Prove-It-Again describes the need for women and people of color to work harder to prove themselves. Tightrope illustrates the narrower range of behavior expected of and deemed appropriate for women and people of color, with both groups more likely than white men being treated with disrespect. Maternal Wall describes the well-documented bias against mothers, and finally, Tug of War represents the conflict between members of disadvantaged groups that may result from bias in the environment.

The second part of the research report offers two cutting-edge toolkits, one for law firms and one for in-house departments, containing information for how to interrupt bias in hiring, assignments, performance evaluations, compensation, and sponsorship. Based upon the evidence derived from our research, these bias interrupters are small, simple, and incremental steps that tweak basic business systems and yet produce measurable change. They change the systems, not people.

Considerable time, energy, and money were invested to develop persuasive proof of why we need to take a different approach to diversity issues and to develop the toolkits that can be used to make those changes. Taken together, the survey results serve as a reminder of the importance of the connections we make between individuals. Through sharing, we are reminded that we are not alone in our experiences in the workplace, and that is an important first step in making the work environment more inclusive and welcoming.

Jean Lee, President and CEO
Minority Corporate Counsel Association

Michele Coleman Mayes, Chair, 2014–2017
ABA Commission on Women in the Profession

Acknowledgments

The ABA Commission on Women in the Profession and the Minority Corporate Counsel Association would like to thank the following individuals for generously donating their time to this important project.

Working Group Members*

Ricardo Anzaldua, MetLife (Retired)
Kara Baysinger, Dentons
Lois Bingham, Yazaki North America, Inc.
Jennifer Daniels, Colgate-Palmolive Company
Kathryn Fritz, Fenwick & West LLP
Julie Gruber, Gap Inc.
Stasia Kelly, DLA Piper
Kim Koopersmith, Akin Gump Strauss Hauer & Feld LLP
Nancy Laben, Booz Allen Hamilton
Wendi Lazar, Outten & Golden LLP
Wally Martinez, Hunton & Williams LLP
Erika Mason, Constangy Brooks, Smith & Prophete LLP
Lorelie Masters, Hunton & Williams LLP
Rick Palmore, Dentons
Tom Sabatino, Aetna
Mark Roellig, Massachusetts Mutual Life Insurance Company
Tom Sager, Ballard Spahr LLP
James Silkenat, World Justice Project
Mary L. Smith, Illinois Department of Insurance
Grace Speights, Morgan Lewis Bockius LLP
Laura Stein, The Clorox Company
D. Jean Veta, Covington & Burling LLP
Robert Weiner, Arnold & Porter Kaye Scholer LLP
Joseph K. West, Duane Morris LLP
Kathleen J. Wu, Andrews Kurth Kenyon LLP

Additional Acknowledgments

You Can't Change What You Can't See

Executive Summary

This report is the first of its kind to provide a comprehensive picture of how implicit gender and racial bias—documented in social science for decades—plays out in everyday interactions in legal workplaces and affects basic workplace processes such as hiring and compensation.

In April 2016, the American Bar Association's Commission on Women in the Profession, the Minority Corporate Counsel Association, and the Center for WorkLife Law at the University of California, Hastings College of the Law launched a survey seeking to understand in-house and law firm lawyers' experiences of bias in the workplace: 2,827 respondents completed the survey, and 525 respondents included comments.

The survey asked respondents whether they had experienced the patterns of gender and racial bias that have been documented in decades of experimental social psychology studies. In addition, the survey asked whether attorneys had experienced implicit bias in basic workplace processes (hiring, assignments, business development, performance evaluations, promotions, compensation, and support). Also included was a series of questions about sexual harassment.

To examine how bias affects workplace experiences in the legal profession, we compared the reported experiences of women of color, men of color, white women, and white men. This report shares the survey findings and paints a picture of how bias affects law firm and in-house attorneys. All differences discussed in the following text are statistically significant unless otherwise noted.

Women and people of color reported Prove-It-Again (PIA) and Tightrope bias

Prove-It-Again. Women of color, white women, and men of color reported that they have to go "above and beyond" to get the same recognition and respect as their colleagues.

- Women of color reported PIA bias at a higher level than any other group, 35 percentage points higher than white men.
- White women and men of color also reported high levels of PIA bias, 25 percentage points higher than white men.
- Women of color reported that they are held to higher standards than their colleagues at a level 32 percentage points higher than white men.

Mistaken for janitors? Men of color and women of all races receive clear messages that they do not fit with people's image of a lawyer.

- Women of color reported that they had been mistaken for administrative staff, court personnel, or janitorial staff at a level 50 percentage points higher than white men. This was the largest reported difference in the report.

- White women reported this bias at a level 44 percentage points higher than white men, and men of color reported this bias at a level 23 percentage points higher than white men.

Tightrope. Women of all races reported pressure to behave in feminine ways, including backlash for masculine behaviors and higher loads of non-career-enhancing "office housework."

- White women reported doing more administrative tasks (such as taking notes) than their colleagues at a level 21 percentage points higher than white men, and women of color reported doing more of this type of office housework at a level 18 percentage points higher than white men.

Significant bias against mothers reported—and against fathers who take parental leave

Maternal Wall. Women of all races reported that they were treated worse after they had children; that is, they were passed over for promotions, given "mommy track" low-quality assignments, demoted or paid less, and/or unfairly disadvantaged for working part-time or with a flexible schedule. Women also observed a double standard between male and female parents.

- White women reported that their commitment or competence was questioned after they had kids at a level 36 percentage points higher than white men. Women of color reported this at a level 29 percentage points higher than white men.

About half of people of color (47% of men of color and 50% of women of color) and 57% of white women agreed that taking family leave would have a negative impact on their career. 42% of white men also agreed, indicating that the flexibility stigma surrounding leave affects all groups, including majority men.

Bias is pervasive throughout lawyers' work lives

Most of the biggest findings of the survey had to do with bias existing in the basic business systems of attorneys' workplaces. Women and people of color reported higher levels of bias than white men regarding equal opportunities to:

- Get hired
- Receive fair performance evaluations
- Get mentoring
- Receive high-quality assignments
- Access networking opportunities
- Get paid fairly
- Get promoted

In other words, gender and racial bias was reported in all seven basic workplace processes.

Women of color often reported the highest levels of bias of any group

In almost every workplace process, women of color reported the highest levels of bias. For example:

- Women of color reported that they had equal access to high-quality assignments at a level 28 percentage points lower than white men.
- Women of color reported that they had fair opportunities for promotion at a level 23 percentage points lower than white men.

As a trend throughout the report, we often found that women of color reported the highest levels of bias overall.

Bias in compensation

The gender pay gap in law has received significant media attention, but much less attention has been paid to bias in compensation systems. Large amounts of bias were reported by both white women and women of color, and these were some of the widest gaps in experience described in the report:

- Women of color agreed that their pay is comparable to their colleagues of similar experience and seniority at a level 31 percentage points lower than white men; white women agreed at a level 24 percentage points lower than white men.
- Similarly, when respondents were asked if they get paid LESS than their colleagues of similar experience and skill level, women of color agreed at a level 31 percentage points higher than white men, while white women agreed at a level 24 percentage points higher than white men.

The racial element of the gender pay gap is rarely discussed and demands closer attention.

In another surprising finding, in-house white women reported roughly the same level of compensation bias as their law firm counterparts. With so much attention placed on the partner pay gap, in house is thought to be a more equitable environment for women in terms of pay. These data suggest that may not be the case.

Differences between law firm and in-house lawyers' experiences reported

Women of all races and men of color reported lower levels of bias in house than in law firms, whereas white men reported lower levels of bias in law firms than in house.

Sexual harassment

About 25% of women but only 7% of white men and 11% of men of color, reported that they had encountered unwelcome sexual harassment at work, including unwanted sexual comments, physical contact, and/or romantic advances. Sexist comments, stories, and jokes appear to be widespread in the legal profession: more than 70% of all groups reported encountering these. Finally, about one in eight white

women, and one in ten women of color, reported having lost career opportunities because they rejected sexual advances at work.

Although implicit bias is commonplace, it can be interrupted

Implicit bias stems from common stereotypes. Stereotype *activation* is automatic: we can't stop our brains from making assumptions. But stereotype *application* can be controlled: we can control whether we act on those assumptions. We've distilled that research in our Bias Interrupter Toolkits, available at the end of this report. These Toolkits provide easily implementable, measurable tweaks to existing workplace systems to interrupt racial and gender bias in law firms and in-house departments. Many bias interrupters will help individuals with disabilities, professionals from nonprofessional families ("class migrants"), and introverted men, in addition to leveling the playing field for women and attorneys of color.

Introduction

"Being a minority woman lawyer in a male dominated industry is difficult. The continued lack of support, respect, and compensation is draining and enraging."

—Black woman, in-house lawyer

Since 1970, the legal profession has more than doubled in size.[1] One of the main factors for this increase is the entrance of women into the profession. Whereas women comprised only 3% of lawyers in 1971, today women make up 36% of the legal profession.[2]

In 1970, black lawyers were just 1.3% of the legal profession and Latinos less than 1%. Today, 5% of lawyers are black, 4% are Latino, and 3% are Asian Pacific American[3]—numbers that have barely changed since the early 2000s.[4] People of color remain underrepresented in the legal profession although they comprise almost 27% of J.D. recipients.[5]

Though the total number of women and people of color in the legal profession has increased overall, most diverse lawyers remain stuck in the lower ranks of the profession. Only 18% of equity partners are women, which is only 2% higher than it was ten years ago.[6] Only 7.5% of law firm partners are people of color, which is less than 5% higher than it was twenty-four years ago.[7]

In response to this lack of diversity, law firms and legal departments have invested considerable resources in diversity trainings and other measures,[8] such as mentorship programs and employee resource groups. Diversity efforts largely have been unsuccessful.[9] Women and people of color are not advancing through law firms and legal organizations in the manner or at the pace of majority men's continued advance.[10]

The glass ceiling for women has been documented for decades,[11] as has the lack of progress for attorneys of color.[12] Women of color are leaving the profession at alarmingly high rates: 75% leave by their fifth year and 85% before their seventh associate year.[13] That attrition rate, which is the highest of any group, has remained consistent since at least the late 1990s.[14]

This study differs from previous studies for several reasons. One reason is that it uses a unique methodology. Long-established literature in experimental social psychology documents both racial and gender bias by means of laboratory studies. Typically, these are matched resume studies, in which the same resumes, some bearing male or white-sounding names and others bearing female or African American–sounding names, are reviewed. These studies have documented implicit bias over and over, but they raise an obvious question: Do they describe what actually happens at work?

A few experimental studies attempt to answer this question. One asked law firm partners to evaluate a memo by a third-year associate.[15] Each partner evaluated the exact same memo, except half of the partners were told the associate was white and half were told the associate was black. The partners found 41% more spelling errors

in the memo they thought was written by a black associate. Partners graded the white author as having "potential" and being "generally good" and graded the black author as needing "lots of work" and "average at best," even though the memos were identical.

An important study about the legal profession is the 2006 report by the American Bar Association's Commission on Women in the Profession titled *Visible Invisibility: Women of Color in Law Firms*. It was the first study in the legal profession to focus specifically on the experiences of women of color (prior studies had focused on either women or people of color). The *Visible Invisibility* report surveyed a national sample of lawyers to try to understand the experiences of women of color in law and to understand why the attrition rate for women of color in the profession was so high. In doing so, it revealed that women of color reported hostile work environments and little access to opportunities to advance or receive support, compared to white men.* The results of this study were startling. When writing this report ten years later, we wondered "have things gotten better?" We often refer to *Visible Invisibility* as a benchmark to assess how much the experiences of women of color have—or have not—changed.

Experimental studies rarely involve practicing attorneys. Most experimental studies involve college student subjects; the obvious question is whether the kinds of bias documented in the laboratory occur in actual legal workplaces. The Center for WorkLife Law developed the Workplace Experiences Survey, which is a ten-minute survey designed to assess whether the patterns of implicit bias documented in experimental studies are occurring in today's workplaces—and to document which specific business systems are affected. For this report, we asked attorneys whether they had encountered the kinds of bias documented in experimental studies during their careers. Then we compared the answers of white women, men of color, women of color, and white men.

We put special focus on the experiences of women of color, building on the work of *Visible Invisibility* and other studies that have shown that the experiences of women of color differ from both white women and men of color.[16] One-way ANOVAs testing differences between racial groups showed that in some instances, Asian women reported statistically significant differences in experiences when compared with other women of color (black women, Latina women, women of other races.) To present as full a picture as possible, we reported these findings throughout the report where significant differences arose.†

We found precisely the same kinds of bias that have been documented so often in the lab. The Workplace Experiences Survey provides a vivid picture of the everyday workplace interactions that can create an unwelcoming climate for white women, for men of color, and especially for women of color.

The Workplace Experiences Survey also tested for bias in basic workplace processes: hiring, assignments, business development, performance evaluations, promotions, compensation, and support. Our study was designed to compare law firms with in-

---

* In this report we use the terms *white men* and *majority men* interchangeably.

† Comparisons between Asian men and Black men, Latino men, and men of other races are available upon request. A technical appendix with means tables used in ANOVA calculations is available at http://www.worklifelaw.org/projects/women-in-the-legal-profession/biasinterrupters.

house legal departments. We found that attorneys from different demographic groups experienced workplace processes in different ways.

Both in law firms and in house, we found important parallels between patterns of racial and gender bias. Three of the four basic patterns of bias are triggered by race and by gender: Prove-It-Again, Tightrope, and Tug of War. A fourth type of bias, triggered by parenthood, affects not only women and people of color but also white men. Women of color often reported the highest levels of bias of any group, especially for Prove-It-Again and workplace processes.

Prove-It-Again bias has been documented in studies for more than forty years.[17] The studies show that women and people of color often need to provide *more* evidence of competence than majority men in order to be seen as *equally* competent.[18] Prove-It-Again bias stems from the fact that when most people think of a lawyer, a white man comes to mind. Because women and people of color don't fit that image, they often have to prove themselves more than majority men do.

All groups stereotyped as less competent than majority men will encounter Prove-It-Again bias. Studies have documented that not only women and people of color but also individuals with disabilities and professionals from blue-collar backgrounds (class migrants) tend to encounter Prove-It-Again problems.*

Tightrope bias. Prove-It-Again bias stems from stereotypes about how certain groups *do* behave; Tightrope bias stems from stereotypes about how certain groups *should* behave. The Workplace Experiences Survey found that often a narrower range of behavior is accepted from women and people of color than from white men.[19] Most of the forty years of research on Tightrope bias examines gender dynamics.[20] Prescriptive stereotypes mandate that women should be modest, self-effacing, and nice—good team players. Prescriptive stereotypes mandate that men should be direct, assertive, competitive, and ambitious—leaders. Consequently, the kind of competitive, assertive behavior needed to get ahead in the law often is more readily accepted in men than in women.[21] Women often walk a tightrope between exhibiting the kind of behavior expected of women and the kind of behavior expected of lawyers.

The Workplace Experiences Survey found that a similar phenomenon is triggered by race. Not only women of all races but also men of color felt less free to express anger at work compared to white men.

---

* Researchers Lauren Rivera and András Tilcsik sent more than three hundred fictitious resumes to 147 top law firms. "All applicants were in the top 1% of their class and were on law review" and had identical (and impressive) work and academic achievements. The researchers also inserted subtle cues about social class "via accepted and often required portions of resumes: awards and extracurricular activities." For example, the lower-class applicant was listed as enjoying pick-up soccer and country music and volunteered as a mentor for fellow first-generation college students, whereas the upper-class applicant enjoyed sailing and classical music and volunteered as a generic student mentor.

The employers overwhelmingly favored the higher-class man: over 16% of his resumes resulted in a callback. Only about 1% of the lower-class man's resumes did so, even though he was just as qualified. Unfortunately, this study was published after our survey ended, and we did not ask about social class.

The bottom line: both women and people of color have been invited into today's legal workplaces, but the kinds of behaviors white men exhibit in order to get ahead are less likely to be accepted from other groups. Instead, women and people of color are more likely than white men to report that they are expected to be "worker bees" who keep their heads down but do not seek the limelight.

Maternal Wall bias is triggered by motherhood, and once triggered, it can be the strongest form of bias. More than twenty years of studies show that motherhood can trigger negative competence and commitment assumptions.[22] In addition, mothers walk a special tightrope: if they work too much, they may be seen as bad mothers; if they work too little, they may be seen as bad workers. Our survey found that this type of bias can affect fathers too.

Tug of War bias occurs when bias against women or people of color creates conflict within each group. For example, if there is a slot for only one woman, women may compete against each other to claim that one spot—a pure example of how gender bias in the environment fuels conflict among women. Similar dynamics sometimes affect people of color.

Each of these four types of bias can influence workplace processes such as hiring, performance evaluations, and compensation. The first goal of this report is to pinpoint how bias affects workplace interactions. The second goal is to introduce bias interrupters that organizations can use to interrupt the constant transmission of bias through basic business systems. Bias interrupters are small tweaks to existing systems that interrupt bias in an evidence-based, metrics-driven way. This approach to eliminating bias is very different from traditional bias trainings. Indeed, bias interrupters often work without ever talking about bias.

———

Bias interrupters are small tweaks to existing systems that interrupt bias in an evidence-based, metrics-driven way.

———

We all have biases. Now it's time to interrupt them.

About This Study

This study was commissioned by the ABA Commission on Women in the Profession and the Minority Corporate Counsel Association. The Center for WorkLife Law at the University of California, Hastings College of the Law designed and implemented the survey and analyzed the survey data. The survey consists of fifty-two Likert scale questions and twenty-five demographic questions. The Likert scale questions were based on social science studies documenting implicit bias in the workplace.* The Workplace Experiences Survey asked whether respondents had experienced bias during the past five years of their career. Survey respondents rated fifty-two statements on a 6-point scale from strongly disagree to strongly agree. This is the first comprehensive attempt to measure whether lawyers report having experienced the kinds of bias that are documented in experimental studies.

_____

* A bibliography is online at www.biasinterrupters.org.

The survey was distributed between April and June of 2016 through the membership mailing list of the ABA, MCCA, and minority bar associations, such as the Native American Bar Association, the National Asian Pacific American Bar Association, and the Asian American Bar Association. We received 2,827 completed responses. Of the respondents, 63% are women, 28% are people of color, 74% are law firm lawyers, and 63% are below fifty-five years old.

For this report, we conducted group difference comparisons using the Likert scale data. We conducted one-way between subjects ANOVAs for each DV and post-hoc comparisons using the Tukey HSD test. All significant group differences noted in the paper used this method. However, in the text and charts, we collapsed responses to the Likert scale questions into two categories: "agree" (which includes responses "strongly agree," "agree," and "somewhat agree") and "disagree" (which includes responses "strongly disagree," "disagree," and "somewhat disagree"). This choice was made with our intended audience in mind to allow us to discuss the data in a way that promotes ease of understanding.[*]

The Workplace Experiences Survey also asked four questions regarding sexual harassment. Three of them are on a different metric from the rest of the survey. The three questions covered three main types of sexual harassment and asked the respondents about the frequency of encountering them (never, rarely [once/twice per year], somewhat frequently [once/twice per month], frequently [once/twice per week], very frequently [several times per week], and daily). Thanks to Jennifer Berdahl of the University of British Columbia for allowing us to use the three questions she developed.

Throughout the report, we discuss the differences among the responses of different groups. To maintain consistency and promote accessibility to our audience, we developed the magnitude scale[†] set forth below:

Difference (D) in Percentage Points		
D<=9.32 (at and below 20 percentile)	Small	Slightly (higher/lower)
9.32<D<=13.6 (between 20 and 40 percentile)	Medium	Higher/lower
13.6<D<=23.24 (between 40 and 80 percentile)	Large	Considerably (higher/lower)
D>23.24 (above 80 percentile)	Very large	Substantially (higher/lower)

Finally, 525 survey respondents included comments with their survey. The comments were used throughout the report as qualitative evidence to support or further illustrate quantitative findings. Comments from the survey are indented and in quotation marks.

We begin with the results under the four patterns of gender bias.

---

[*] A technical appendix with means tables used in ANOVA calculations is available at http://www.worklifelaw.org/projects/women-in-the-legal-profession/biasinterrupters.

[†] Methodology for the magnitude scale: we pooled the group differences together (using the percent agree/disagree difference between white men, white women, men of color, and women of color on each question) and noted percentiles of all the statistically significant differences.

Prove-It-Again

> "I feel men still don't respect women in the workplace like they
> respect men. . . . We have to work harder and deal with more,
> for less pay. . . . I was passed over time and time again for
> promotions. I left and started my own firm, because I felt it was the
> only way I might achieve my career goals."
>
> —*White woman, firm lawyer*

Prove-It-Again bias is very common. One survey found that two-thirds of women have experienced it.[23] One reason it is so pervasive is that what pops into most people's minds when they think of a successful lawyer is a white male.[24] People of color and women aren't as good a fit,[25] so they need to work harder to prove themselves. This lack of fit was reflected in comments such as this one:

> "Old white men *know* what a successful lawyer looks like: an
> old white man. When they see a woman, or a person of color,
> they *know* that's not a successful lawyer."
>
> —*Male, race unknown, firm lawyer*

Because majority men fit the stereotype of a good lawyer, they typically have to provide less evidence of competence than people of color and women in order to be judged as equally competent.[26] Because high competency is part of the male stereotype, and low competency is part of the female stereotype,[27] when a woman produces strong work, the stereotype of low-competency sometimes leads her to be judged more harshly.[28] On the other hand, majority men's work product is "presumed to be competent, their mistakes understandable, and their work ethic unquestioned."[29] Women and people of color are not afforded such privilege, and as such are often forced to repeatedly demonstrate their commitment and competence. This can feel exhausting and demoralizing:

> "The bar to advancement has been moved several times, and each
> time the expectations change, there is no 'credit' given for the fact
> that I was there when the expectations were very different than the
> current ones, so I feel like I am always running to stay still."
>
> —*White woman, firm lawyer*

> "The disparity has made me regret ever going to law school. It i[s]
> very disheartening to get to a point, know that you do excellent
> work, but are just not wanted and treated like crap because you
> are a black woman."
>
> —*Black woman, firm lawyer*

Have to prove themselves more than colleagues
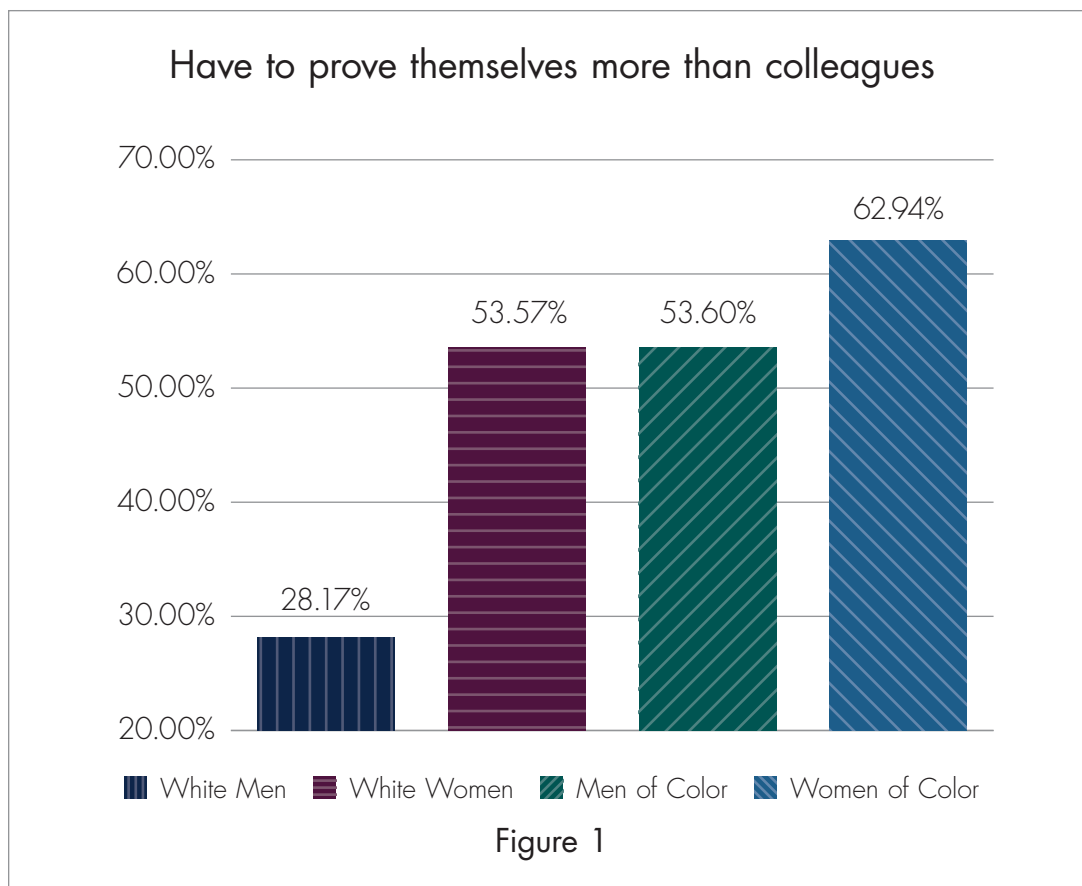
Figure 1

The Workplace Experiences Survey data show that women and people of color reported experiencing Prove-It-Again bias.

Women of color reported PIA bias at the highest level, 35 percentage points higher than white men (see Figure 1).[*] White women and men of color reported almost the exact same level of PIA bias, 25 percentage points higher than white men. Overall, we see that women and people of color feel they have to prove themselves substantially more than white men to get the same level of respect and recognition as their colleagues.

Looking closer at women of color, we found that black women, Latina women, and women of other races reported higher levels of bias than white and Asian women (who reported similar levels of bias).

Survey comments illustrated the situation of women of color in the workplace:

> Women of color reported PIA bias at the highest level, 35 percentage points higher than white men.

---

* To reiterate our methodology for those who may have skipped that section, group differences were calculated using Likert scale data, but findings are discussed using percentages for clarity and ease of understanding. Only significant findings based on mean differences are discussed in the report. For those who do not regularly deal with statistical data, a percentage point is the simple numerical difference between two percentages and a percentage is a number or ratio expressed as a fraction of 100.

> "Being a minority woman means your intellect is systematically discounted and caucasian hetero men are unfailingly trusted no matter their competency. I felt like I was constantly trying to prove myself no matter how impeccable my work product was."
>
> —*Woman, race and workplace unknown*

Higher standards

Double standards in the workplace have been documented for decades.[30] Blind resume studies show that double standards are often applied to women and people of color.[31] One study gave participants two identical resumes, one with an African American–sounding name (Jamal) and the other with a white-sounding name (Greg). Jamal needed eight additional years of experience to get the same number of callbacks as Greg.[32]

The Workplace Experiences Survey found this effect reported in actual workplaces for both race and gender (see Figure 2). Women of color again reported bias at the highest level. Women of color agreed that they are held to higher standards at a level 33 percentage points higher than white men. Men of color and white women also reported being held to higher standards at a level considerably higher than white men. One white woman commented:

> "In a male-dominated field I am clearly held to a different standard and treated in a different way, although others may not do this intentionally."
>
> —*White woman, firm lawyer*

Held to higher standards

White Men: 34.61%
White Women: 51.95%
Men of Color: 57.60%
Women of Color: 67.36%
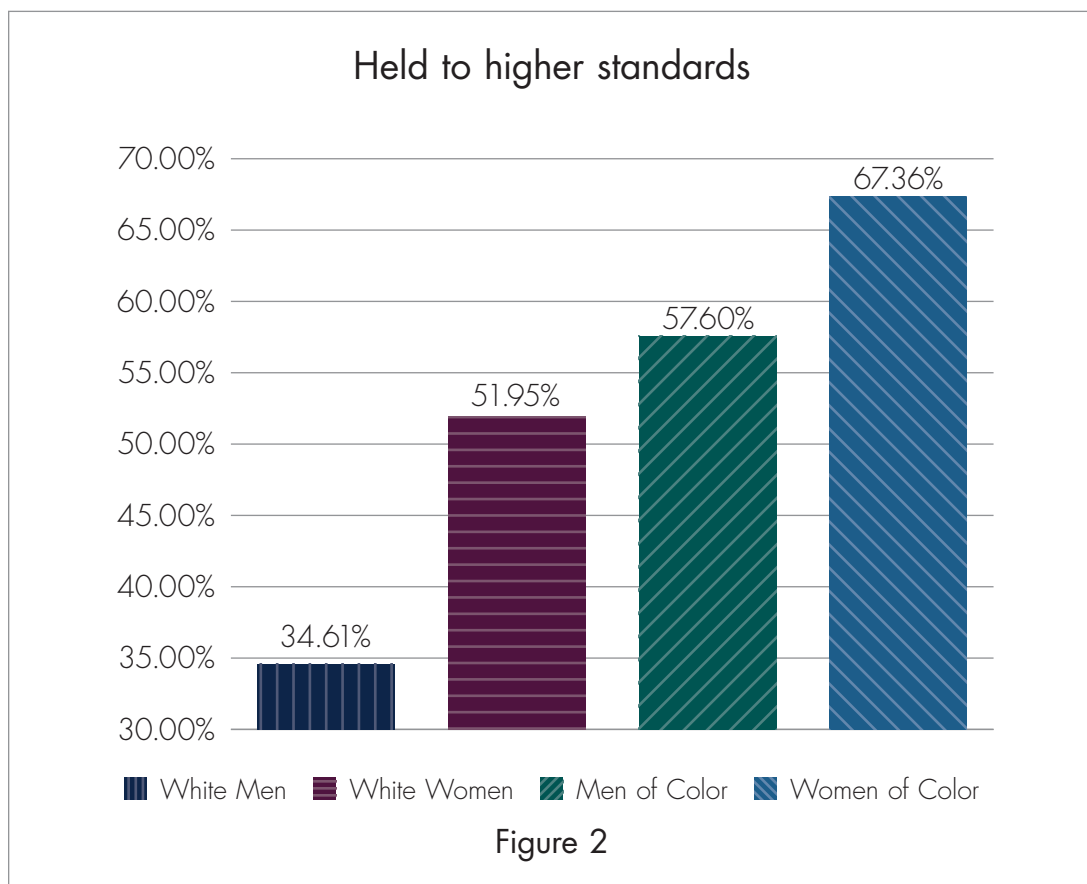
Figure 2

Ideas valued

Another Prove-It-Again effect is that majority men's ideas gain respect at a higher level: 91% of white men and 89% of men of color surveyed thought that their ideas are valued in the workplace (see Figure 3).

Women of color agreed that their ideas were valued at a level 13 percentage points lower than white men; white women's agreement was 9 percentage points lower.

The good news is that most groups feel that their ideas largely are respected at work, although we see a clear gender effect: women feel their ideas are less respected than their male colleagues.

Ideas valued

- White Men: 91.45%
- White Women: 82.20%
- Men of Color: 88.80%
- Women of Color: 78.40%

Figure 3
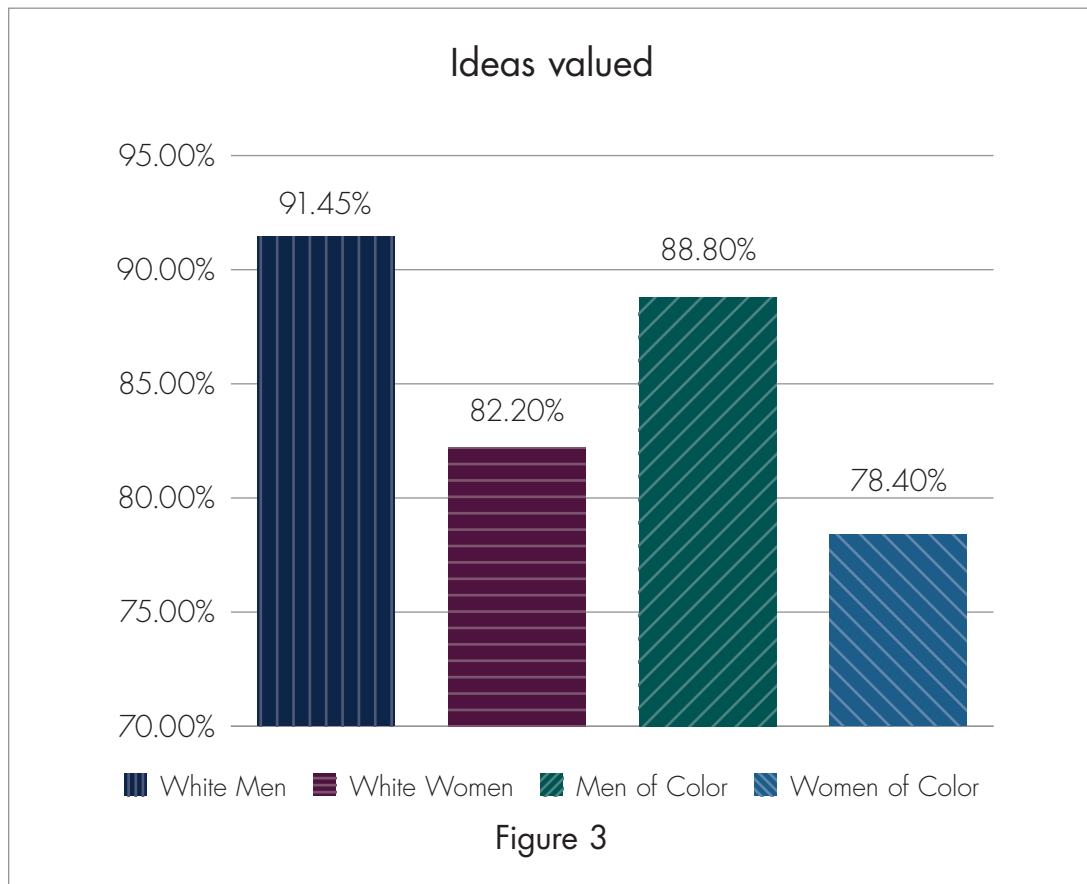
Stolen idea

Others often get credit for ideas women originally offered.[33] Often termed the "stolen idea," this is an example of stereotype expectancy: we see what we expect to see. If a brilliant idea is offered in a meeting, we are more likely to implicitly associate that idea with a white man.

White women and women of color reported very similar levels of the stolen idea: about 50% of women have experienced the stolen idea (see Figure 4). Only about 29% of white men reported experiencing the stolen idea. The gap—about 20 percentage

> If a brilliant idea is offered in a meeting, we are more likely to implicitly associate that idea with a white man.

Contributions attributed to someone else

	White Men	White Women	Men of Color	Women of Color
	28.91%	48.59%	35.20%	51.40%

Figure 4
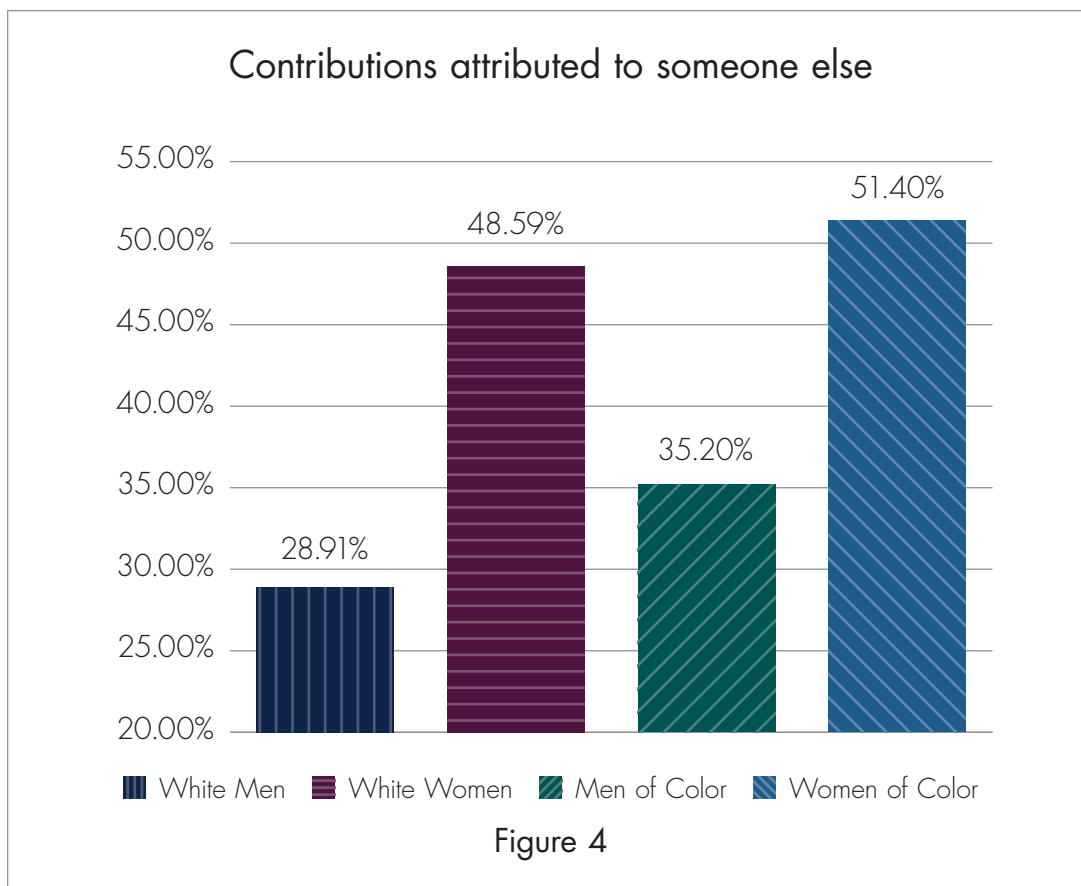
points—is considerable and suggests that women in the legal profession consistently feel as though their contributions are being discounted and attributed to someone else. (The difference between white men and men of color was not statistically significant.)

As one survey respondent commented:

> "I have had at least one male attorney take credit for my idea, and it was a substantial idea (forming a new practice group). Same guy has taken credit for numerous briefs written by female associates and is widely disliked, yet got promoted and I didn't."
> —White woman, firm lawyer

Mistaken for administrative staff

Being mistaken for an admin, or court personnel, or even a janitor is something we've been hearing anecdotally from women and people of color for years.[34] Because of the automatic association of lawyers with majority men, lawyers from other groups are much more likely to be mistaken for, or viewed as, less than a lawyer.

In a dramatic finding, the Workplace Experiences Survey showed white men rarely get mistaken for admins or janitors, but women and people of color often do. Only 7% of white male lawyers reported this happening to them, compared with

58% of women lawyers of color (see Figure 5). Half of white women also reported being mistaken for administrative (or custodial) staff. Men of color also reported experiencing this happening at a much higher level than white men: 30% vs. 7%.

This question revealed the largest difference found in the report: the 50 percentage point difference between women of color and white men. Many survey comments illustrated this bias:

"I have been mistaken for the court reporter countless times, by everyone from the JA, to opposing counsel (both male and female), to a judge."

—*White woman, firm lawyer*

"I've compared notes with the young male attorneys of comparable age and experience (and attractive ones, too)—they never . . . get mistaken for a secretary. The ladies I've spoken with, however, get it constantly."

—*White woman, firm lawyer*

"I have frequently been assumed to be a court reporter. In my own firm, I've been asked if I am an [legal administrative assistant] on multiple occasions, even after making partner."

—*White woman, firm lawyer*

"I have been mistaken for administrative staff, custodial staff, or court personnel."

- White Men — 7.07%
- White Women — 50.85%
- Men of Color — 30.36%
- Women of Color — 57.52%

Figure 5
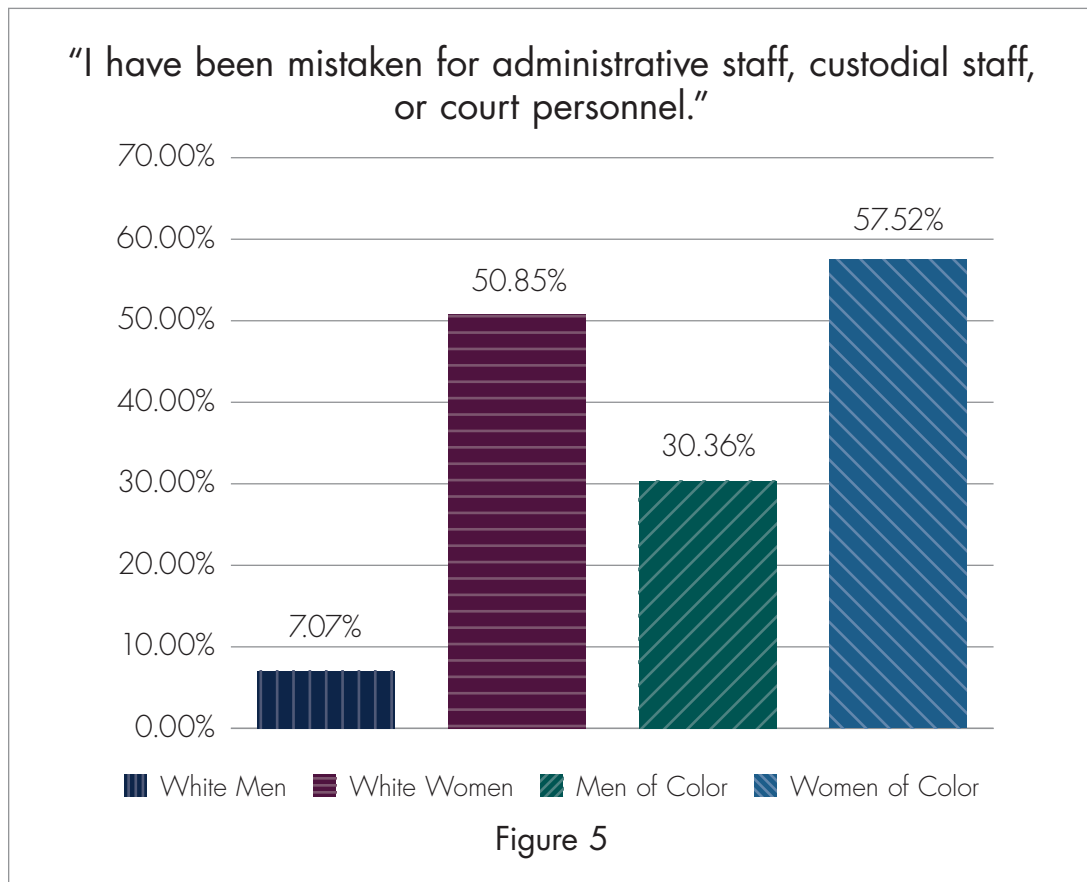
Prove-It-Again conclusions

Overall, the Workplace Experiences Survey data showed that white women, women of color, and men of color all reported Prove-It-Again bias in their workplaces at higher levels than white men. The women lawyers we surveyed reported statistically significant differences from white men for every Prove-It-Again question.

Survey results also showed that women of color sometimes face double jeopardy in the workplace: low-competency stereotypes, triggered by both their race and gender, combine to create an environment in which they have to prove themselves more than any other group to be judged equally competent.

Regression analysis confirmed that women reported higher levels of Prove-It-Again bias after controlling for race, age, workplace type, firm/department size, caregiving responsibilities, and geographic location. White and Asian lawyers reported similar levels of Prove-It-Again bias regardless of gender and other demographic characteristics. Black, Latino, and other lawyers of color reported higher levels of Prove-It-Again bias than white and Asian lawyers regardless of gender and other demographic characteristics. We found a gender difference for people of color who were not of Asian descent: of that group, men reported *substantially* higher levels of Prove-It-Again bias than other men, but women reported only *slightly* higher levels of Prove-It-Again bias than other women.

Tightrope

"I have learned that as a woman, I can't get away with as much as a man. I've learned to let men think I'm young and inexperienced, and it's to their detriment when they opposed me in court because I'm intelligent and always well prepared."

—*White woman, firm lawyer*

"In the past year, I've been called 'overconfident' and 'not deferential enough' by co-counsel, another Asian American female. It was extremely frustrating as I was finally starting to feel confident and assertive and direct—acting as any normal white male attorney in a law firm would. I was subsequently removed from that case."

—*Asian American woman, firm lawyer*

Prescriptive stereotypes dictate how people should behave. Women should be "communal"—helpful, sensitive, modest, and nice—whereas men are expected to be "agentic"—direct, assertive, competitive, and ambitious.[35] Thus, when a man acts assertively, no one blinks an eye. But when a woman behaves in exactly the same way, she may be criticized as "bitchy," "overly aggressive," or told to "calm down." Women walk a tightrope because much of the behavior expected of a lawyer is not expected of a woman.

To succeed as a lawyer, you are expected to be assertive, ambitious, emotionally detached—qualities traditionally coded as masculine.[36] If women behave in those traditionally masculine ways, often they will find themselves being respected but not being liked.[37] On the other hand, if women behave in traditionally feminine ways, they risk being liked but not being respected[38] and thus not "having what it takes to be a lawyer."

A narrower range of behavior often is accepted from men of color too. On the Workplace Experiences Survey, men of color reported being less free to express anger, even in contexts in which anger is accepted for majority men, and reported more pressures than majority men to be a worker bee.

Interruptions

Men interrupt to show they are competitive and ambitious—that's socially appropriate behavior for men. But women are supposed to be self-effacing and nice, so interruptions that are accepted in men may well be seen as inappropriate in women.[39]

Rarely interrupted

70.00%			
65.00%	63.84%		63.71%
60.00%			
55.00%			51.57%
50.00%		51.15%	
45.00%			
40.00%			

■ White Men ■ White Women ⧄ Men of Color ⧄ Women of Color

Figure 6
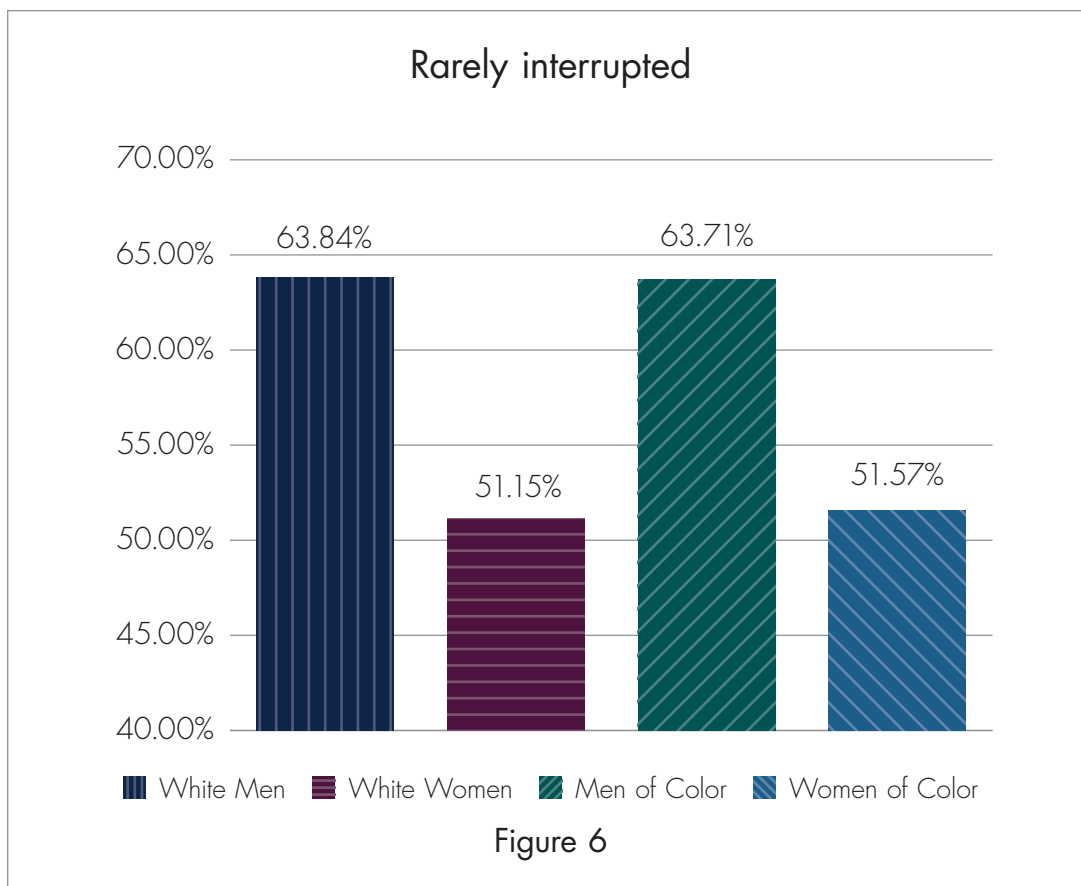
Experimental studies document that women in mixed-sex groups are more likely to be interrupted than men.[40] The Workplace Experiences Survey confirmed this: white women and women of color reported that they are interrupted at meetings at a higher level than white men and men of color (see Figure 6).

Almost half of women lawyers surveyed reported being interrupted in meetings, compared to only about a third of men.

> "White men don't realize how much 'space' belongs to them or that they unconsciously feel that they own space. They frequently interrupt others, but if a woman on a conference call states her thoughts, she's immediately criticized as interrupting."
> —Asian American woman, firm lawyer

Assertiveness

Because women are expected to be self-effacing team players, they may run into problems when they act assertively as "good" lawyers.[41] One study revealed that men viewed women who spoke tentatively as more trustworthy and likeable than women who spoke assertively.[42]

The Workplace Experiences Survey confirmed that women often receive pushback when they behave assertively. About 60% of white men and men of color reported

Not penalized for assertive behavior
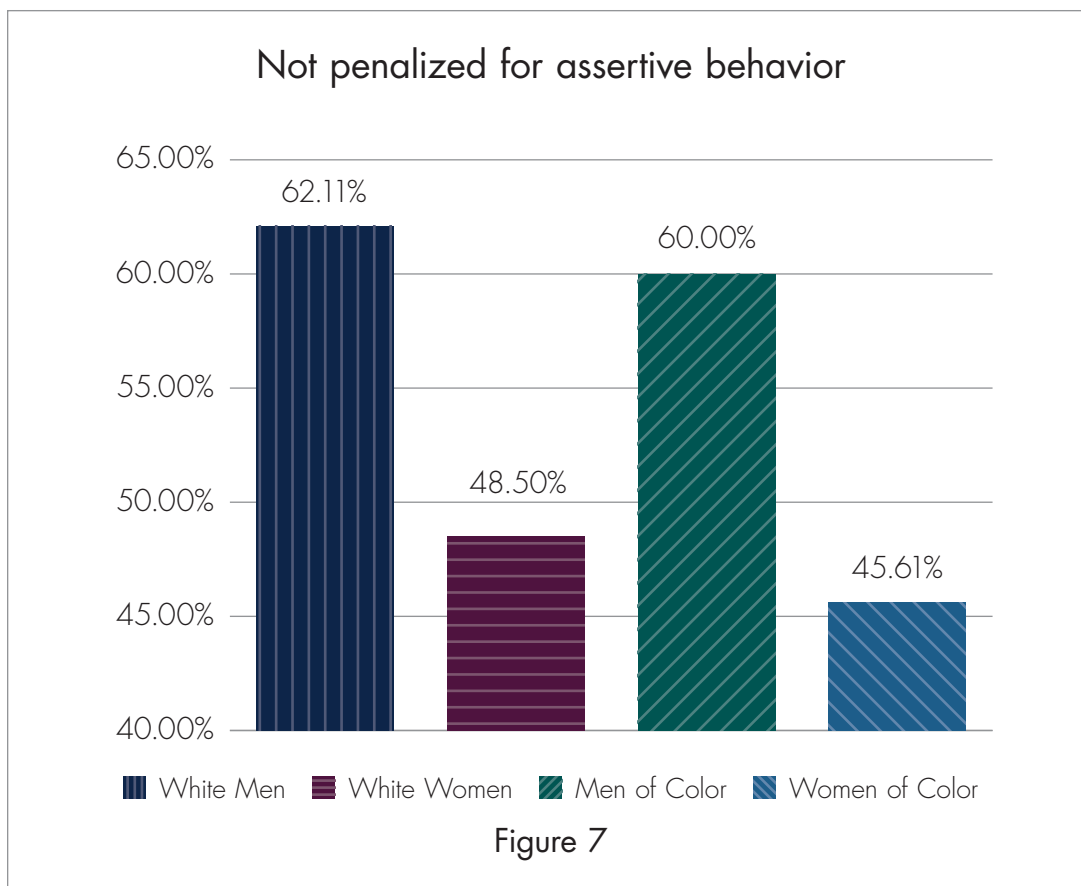
Figure 7

that they are not penalized for assertive behavior (see Figure 7). Less than half of women lawyers agreed. Not being able to act assertively makes it harder for women to be seen as forceful and effective lawyers.

White women reported very similar levels of bias as women of color. Comments provided examples:

> "I have experienced the most push back from being an assertive and authoritative woman (and minority woman); so there is resentment of my perceived 'masculinity' such that people accuse me of wanting to be feared, when men [are] deemed to simply be 'demanding' or as having 'high standards.'"
> —*Black woman, in-house lawyer*

> "When I am assertive, I am considered a 'diva' or 'bitch.' I often feel frustrated as it is more difficult, as a woman, to be taken seriously regardless of my qualifications or experience."
> —*White woman, law firm lawyer*

> "When women are assertive or ambitious it is seen negatively as opposed to when men are."
> —*White woman, firm lawyer*

Accomplishments

Studies show that self-promotion is often more readily accepted from men than women.[43]

Sixty-one percent of white men reported that they are rewarded for self-promotion, making them the group with the highest level of agreement, followed closely by men of color (see Figure 8). White women reported that their self-promotion was rewarded at a lower level than white men. This was the only statistically significant difference between the groups.

Rewarded for self-promotion

- White Men: 60.77%
- White Women: 50.98%
- Men of Color: 58.73%
- Women of Color: 54.04%

Figure 8
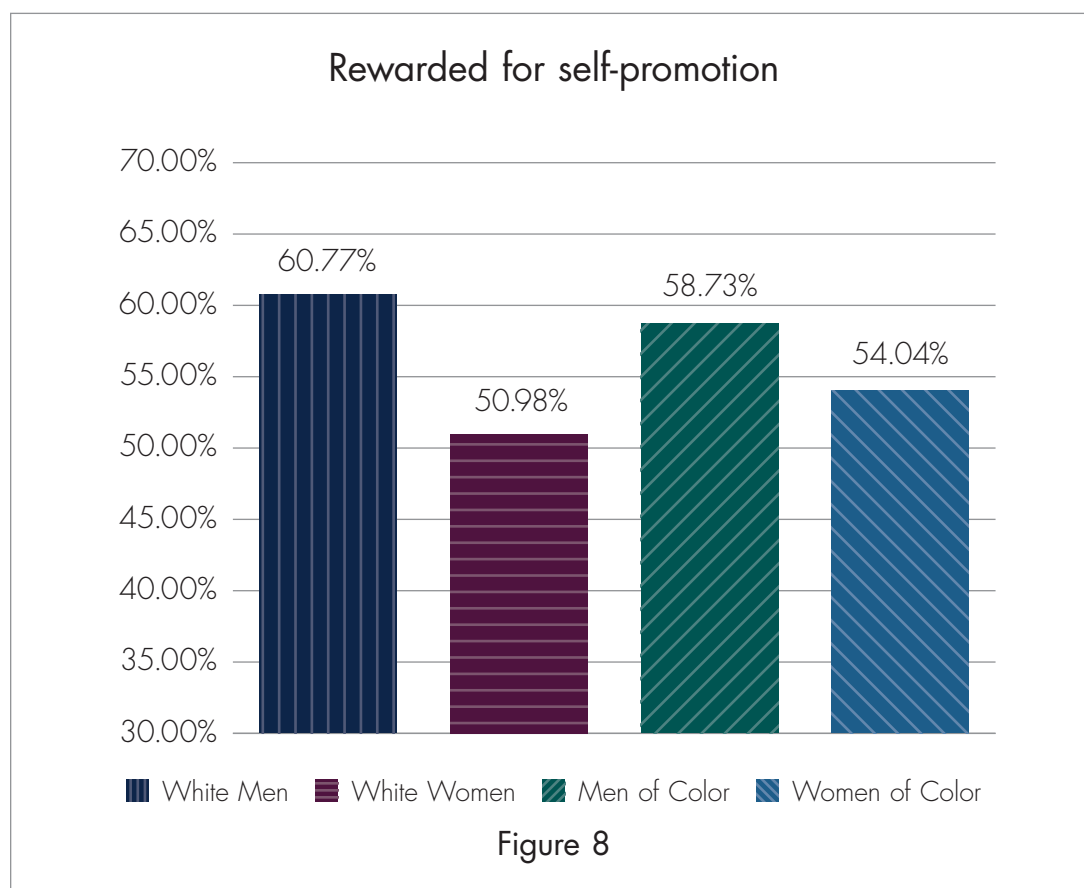
This suggests that women find it harder to advocate for themselves without receiving pushback, which is an important part of getting raises and promotions in many legal workplaces.

Anger

Under the looming stereotype of the "angry black person," black lawyers may feel pressures to avoid showing anger even when anger is justified.[44] Latino lawyers—who may be stereotyped as "fiery" or "emotional"—also may feel pressure to avoid showing anger at work.[*]

_____

* In one study of female scientists, 60% of Latina scientists reported backlash for expressing anger at work.

Gender also can affect who feels free to express anger at work. Studies show that displaying anger at work tends to *increase* the perceived status of a man but *decreases* the perceived status of a woman.[45]

The Workplace Experiences Survey confirmed that white men felt free to express anger at the highest level of any group (see Figure 9). Statistically significantly lower proportions of white women, men of color, and white women all reported that they feel free to express anger.

Free to express anger

Figure 9
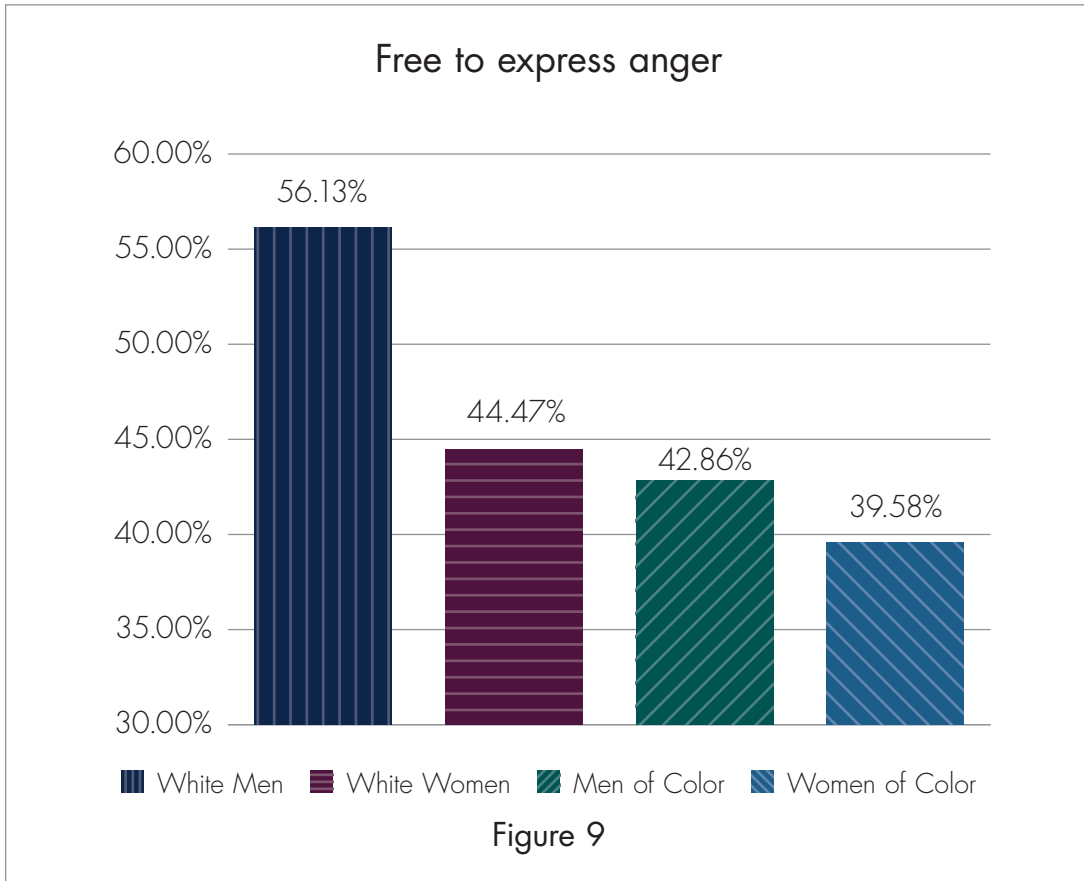
Office housework

Women are more likely to engage in "organizational citizenship behavior"—and get less credit when they do so.[46] Across industries, studies show that women perform more service-related tasks: tasks that help the organization but don't necessarily lead to promotion.[47] We call this "doing the office housework." It includes literal housework (washing the cups), administrative tasks (scheduling meetings), and emotion work (being the peacemaker). Women also do less high-profile, career-enhancing work (the "glamour work") and more behind-the-scenes work (the "undervalued work.")[48]

Why do women do more of the office housework? For one, in keeping with prescriptive stereotypes, women are expected to be helpful and "communal."[49] Because of these stereotypes, women are under social pressures to volunteer for office housework types of activities.[50]

Furthermore, a recent study indicates that women are more likely to be *assigned* the office housework tasks because of the assigner's belief that the woman will accept the task.[51] The consequences of unequal distributions of non-career-enhancing work is that women are less often given the opportunity to develop the skills they need to advance in the workplace, or to prove that they can handle riskier, higher-profile matters.[52] Unequal task assignment is one of the reasons for the lack of women leadership in the law.[53]

The Workplace Experiences Survey found that women do more of the office housework (discussed here) and have less access to the glamour work (discussed later). Women do more literal housework such as cleaning up the food after the meeting, planning parties, and getting the lunch orders (see Figure 10). White women and women of color reported doing this kind of work at a higher level than men did. Among women, Asian women lawyers reported this kind of work at a slightly higher level than white women, who reported it at a slightly higher level than other women of color.

Women lawyers of all races reported doing more administrative tasks at a higher level than their male colleagues

More literal housework than colleagues

- White Men: 19.31%
- White Women: 35.89%
- Men of Color: 15.52%
- Women of Color: 30.74%

Legend: White Men ▪ White Women ▪ Men of Color ▪ Women of Color

Figure 10

You Can't Change What You Can't See
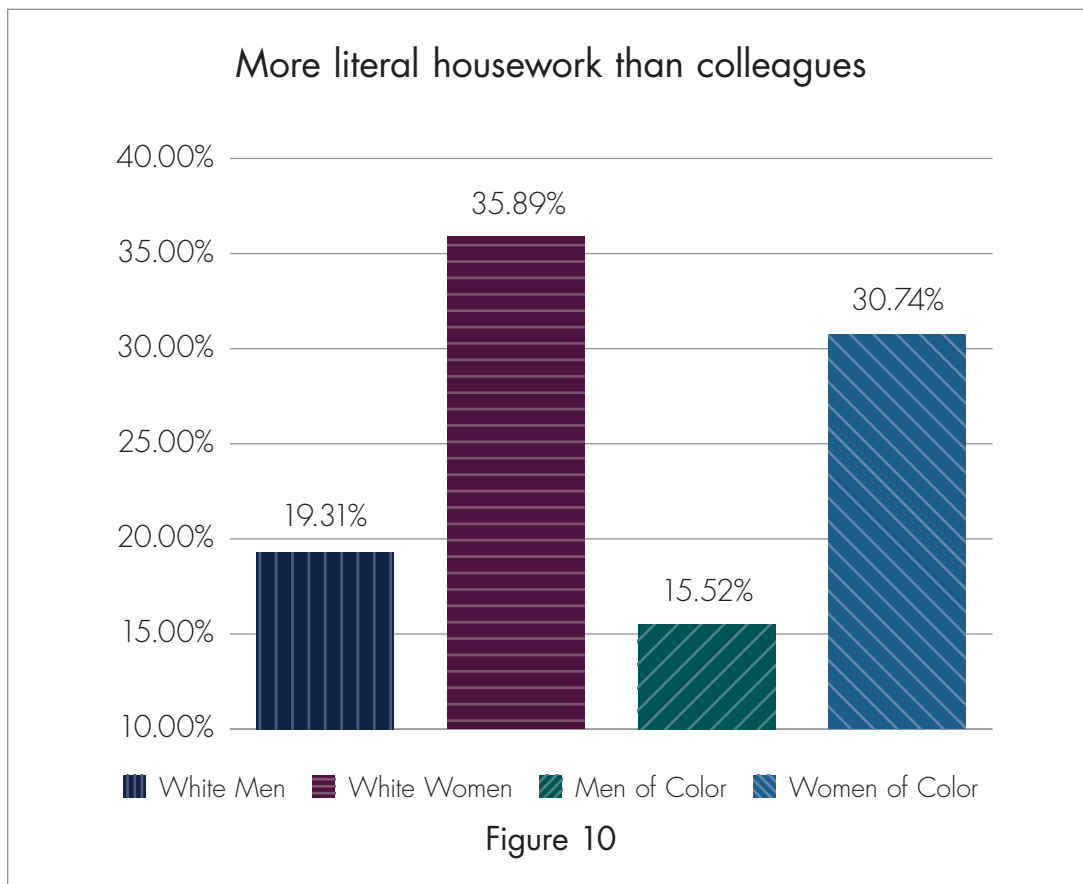
Women lawyers of all races also reported at a considerably higher level than men that they did more administrative tasks (such as coordinating schedules to find a time that works for everyone or taking notes for the group) than their colleagues (see Figure 11). White women reported doing more admin tasks than their colleagues at a level 21 percentage points higher than white men. This is a considerable gap and speaks to a stark difference between the quality of assignments given to men versus women in the legal profession. (The difference between men of color and white men was not statistically significant.)

More administrative tasks than colleagues

White Men: 25.77%
White Women: 46.70%
Men of Color: 19.66%
Women of Color: 43.51%

Figure 11
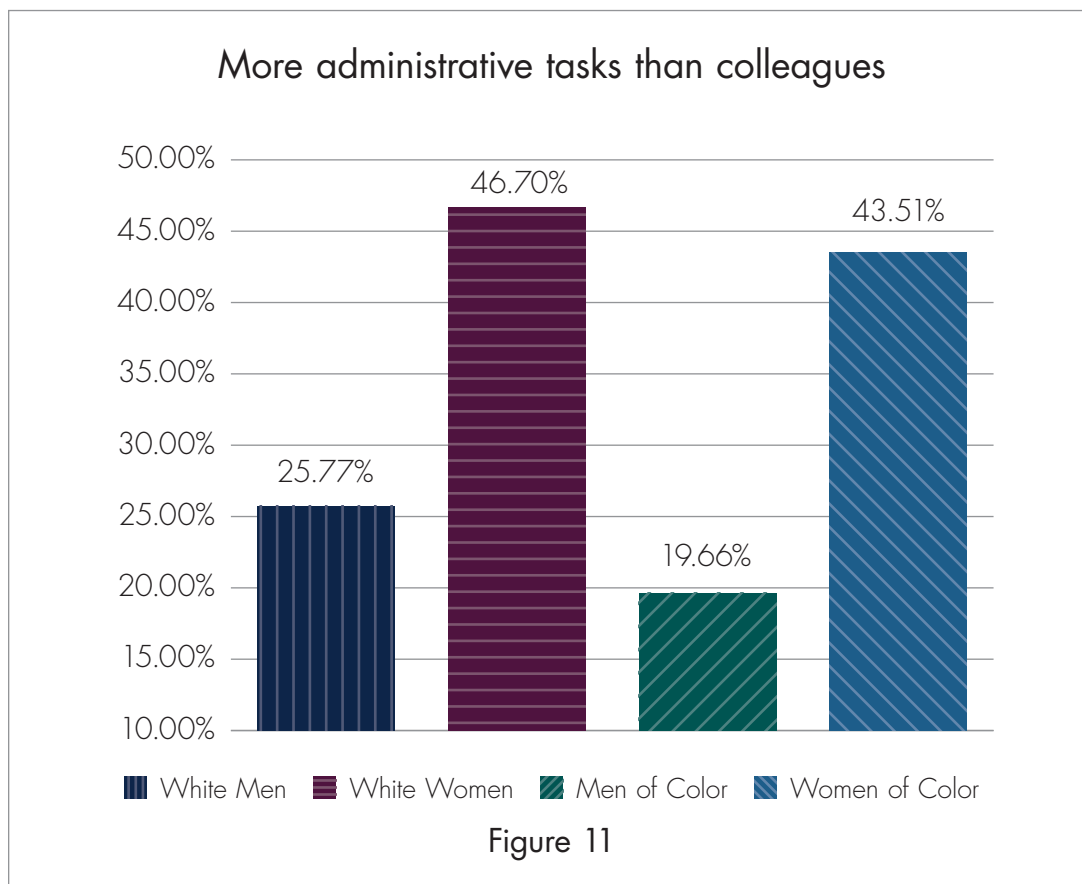
Asian women reported this bias at a slightly higher level than white women and other women of color.

Some comments:

> "Despite superior educational credentials and being a lateral transfer from a far more prestigious firm, I was given an appropriate title but slotted into the subservient, support role (i.e., expected to take notes, get coffee, hang men's jackets, etc.)."
> —*White woman, firm lawyer*

> "I was made to take notes during meetings when other associates were invited to participate."
> —*White woman, firm lawyer*

Overall, the finding that women report doing more office housework than men may help explain why women equity partners work more hours than male equity partners, but bill only 78% as much time. [54]

"Worker bees" vs. leaders

Workplace Experiences Survey responses indicated that women and people of color feel they have been invited into legal workplaces but are expected to exhibit a narrower range of behavior than white men and to play different roles. Majority men are encouraged to be competitive and ambitious, but women and people of color reported at higher levels that they felt pressure to be worker bees who work hard but do not demand leadership roles. White men reported that they felt pressure to be a worker bee at the lowest level of any group (see Figure 12); women of color, men of color, and white women all reported considerably higher levels of this bias.

"I am expected to be a 'worker bee' who works hard, avoids confrontation, and does not complain."

White Men: 40.95%
White Women: 58.15%
Men of Color: 55.36%
Women of Color: 61.19%

Figure 12

You Can't Change What You Can't See
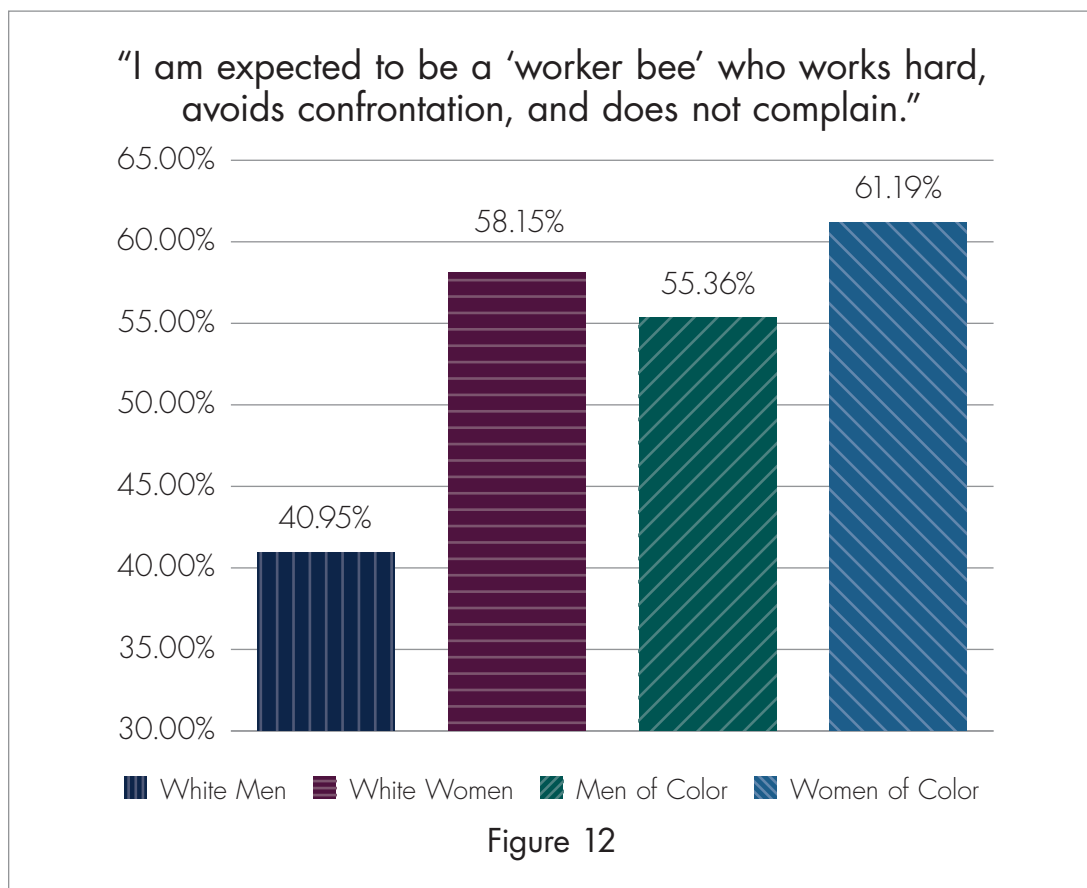
In contrast, a very high proportion of white men (87%) reported that people at work saw them as leaders (see Figure 13). Women of color and white women reported that people saw them as leaders at the lowest levels of any group. Men of color fell in between, with no statistically significant differences emerging between men of color and other groups.

"People at work see me as a leader."

White Men	86.99%
White Women	78.46%
Men of Color	81.08%
Women of Color	76.49%

Figure 13
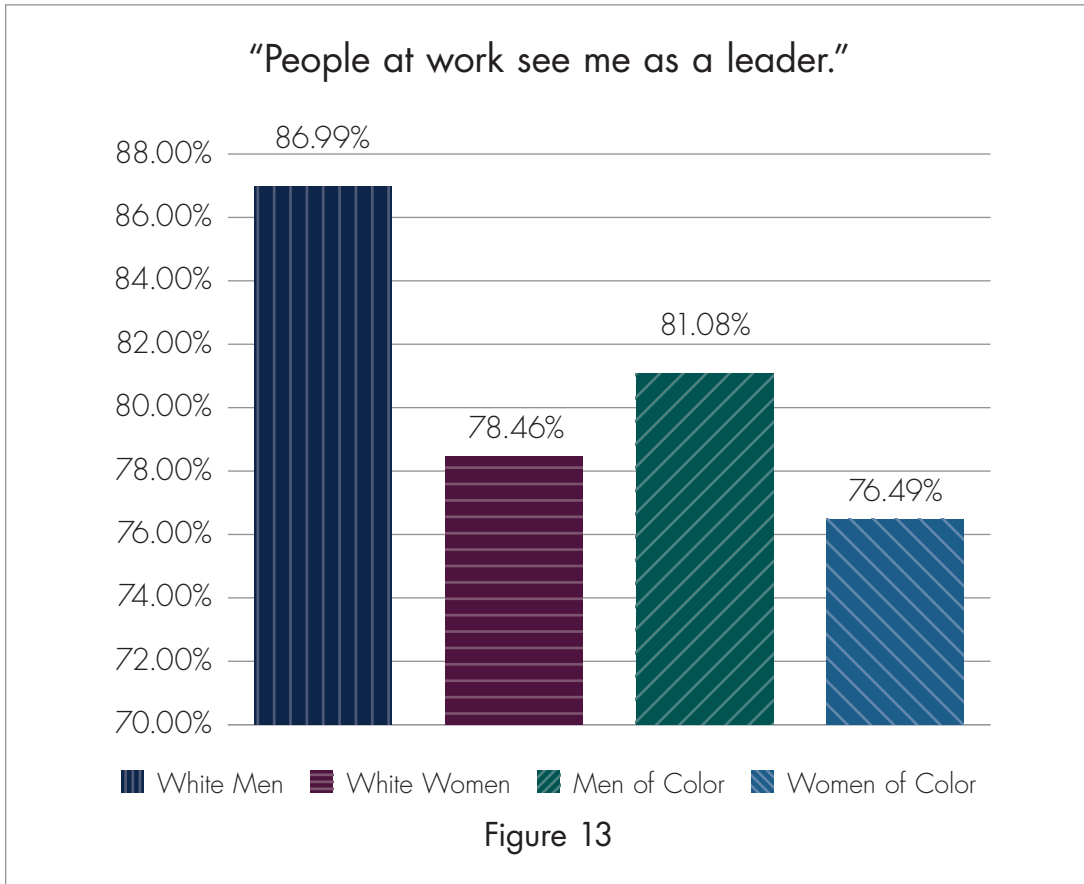
Tightrope conclusions

Overall, the Workplace Experiences Survey revealed that a narrower range of behavior is expected of both women and people of color and that both groups report being treated with disrespect at higher levels than white men do. Women, as compared to white men, reported higher levels of agreement that they are interrupted and penalized for assertiveness; women reported at lower levels than white men that they were rewarded for self-promotion and could express anger when it was justified. In addition, women reported higher levels of agreement that they were expected to be worker bees and to do more office housework. Women also reported lower levels of agreement than white men when asked if they were seen as leaders.

Women of color reported experiences similar to those of white women for the Tightrope questions. This was an interesting contrast with the Prove-It-Again questions, in which women of color reported higher levels of bias. When we separated women of color into Asian women and other women of color, we found generally the same result, with two exceptions noted earlier: Asian women reported

higher levels of bias than all other women for the two Tightrope questions regarding literal housework (like planning parties) and administrative roles (like taking notes at a meeting).

Men of color also walk a Tightrope: they reported lower levels of agreement that they could show anger at work than white men did. Men of color also reported higher levels of agreement when asked if they were expected to be worker bees.

Regression analysis confirmed that women reported more Tightrope bias regardless of race, age, workplace type, firm/department size, caregiving responsibilities, and geographic location.

Maternal Wall

> "I have had male firm owners ask me if I was single or planning on getting married, etc. Completely illegal questions, because they still don't want to hire and/or promote women in case they go out on maternity leave. Unbelievable!"
>
> *—White woman, firm lawyer*

Bias against mothers is well documented. One influential study asked participants to review two identical women's resumes—the only difference between the two was that one resume listed membership in the PTA (signaling motherhood) and the other didn't. The study found that mothers were 79% less likely to be hired, only half as likely to be promoted, and offered an average of $11,000 less in salary than women without children.[55]

Negative competence assumptions

Many other studies have documented that motherhood triggers negative competence and commitment assumptions.[56] The American Bar Association's *Visible Invisibility* report found that 72% of women of color but only 9% of white men thought that their colleagues doubted their career commitment after they had (or adopted) children.[57]

The Workplace Experiences Survey confirmed the prior research: a substantially higher proportion of both white men and men of color agreed that their colleagues' perceptions of them didn't change after having children, as compared with women: about 80% of men did not report having their commitment or competence questioned after having children, compared to only 51% of women of color and 44% of white women (see Figure 14). These 29–36 percentage point gaps between men and women reveal very large differences in experience between men and women when they become parents, and this is one of the most dramatic findings of the report.

Parenthood didn't harm perceived competence

Figure 14
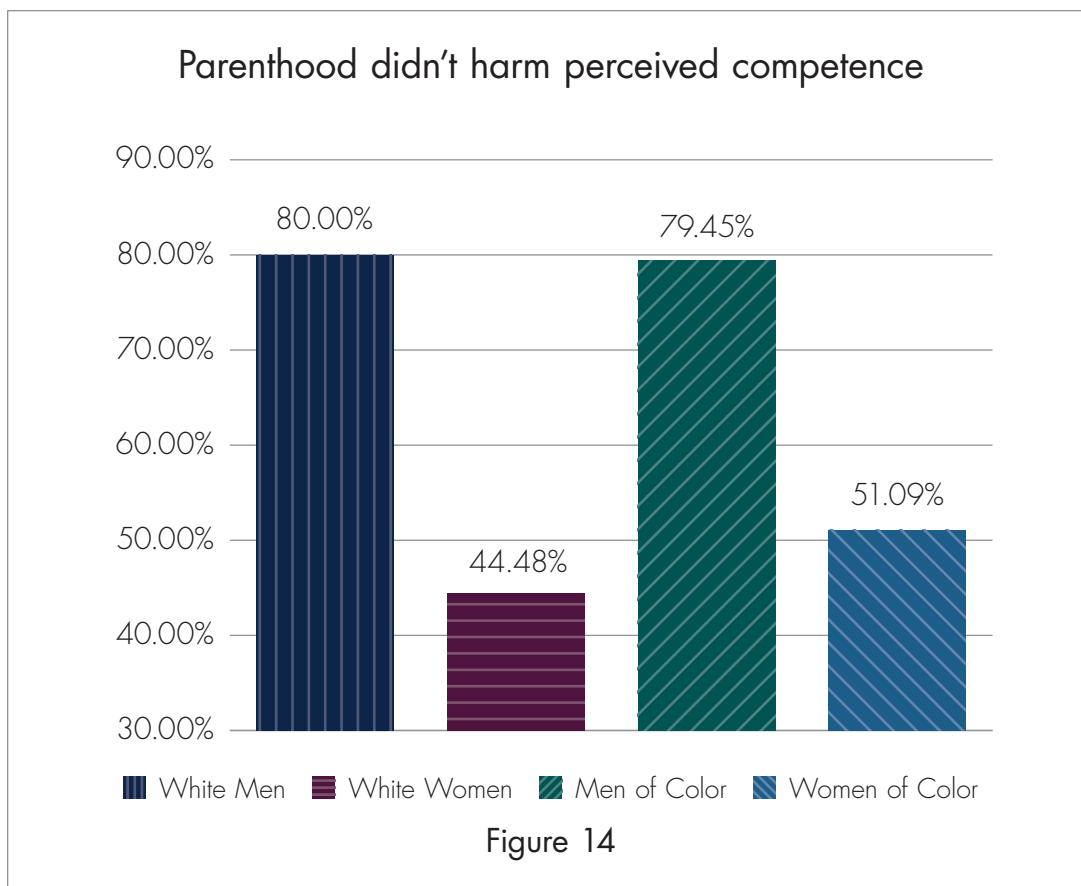
The "ideal worker" vs. the "ideal mother"

Much has been written about the difficulties of being a mother and maintaining a professional legal career.[58] Although parents face this problem across all industries, the "all-or-nothing" legal workplace typical in high-powered law firms and many legal departments makes balancing work and family especially acute for parents in the legal profession.[59]

Women commonly face pressures to achieve two incompatible ideals: the ideal worker always available to her employer, and the ideal mother always available to her children.[60] Clearly, some organizations have made progress at reconciling these ideals. Said one woman:

Women commonly face pressures to achieve two incompatible ideals: the ideal worker always available to her employer and the ideal mother always available to her children.

"Had both children while spouse and I were both working at AmLaw firms (and both billing in excess of 2400). Had 2 months' leave with first (firm policy because I had not completed a full year of employment), took maximum leave with second child and requested additional unpaid leave to deal with nanny issues. No pushback from firm, and when firm implemented "merit based" compensation rather than lockstep after 2008 recession, I was promoted and paid more than my peers (and more than under the old lockstep system)."
—Asian American woman, firm lawyer

You Can't Change What You Can't See

And another emphasized the fact that there has been progress in the profession over the years:

> "In the 1970s, if an attorney wanted to continue a late-in-the-day depo due to a child's soccer game, it was denied peremptorily. Now, thanks to accommodations, we all get to have a life. What great progress! My thanks to women lawyers for showing us that such family obligation boundaries can and need to be honored. With over 50% of practicing family lawyers being women, we can easily forget that other areas of the law are not so progressive."
> —*White male, firm lawyer*

But overall, it appears that being a lawyer and being a parent—especially a mother— still feels difficult for many and totally incompatible for some:

> "It is impossible to find 'work/life balance' as a mother when our jobs simply do not allow you to leave at 5 pm—even if you are told that it is ok. In reality, there is a stigma attached with leaving earlier than 7ish or coming in after 8:45 am—people look at you and you are talked about. I don't see my son awake Monday through Friday. It makes you hate the fact that you became a litigator, but you just don't know what other field you can get into."
> —*Asian American woman, firm lawyer*

> "Because my billing rates are so high, clients are justified in expecting me to be available at all hours—but I can't do that and be the parent I'd like to be at the same time. My job and my parenting ideals are incompatible. So despite the fact that many of my skills are well-suited to the practice of law, and I work in a firm that is fairly supportive of a flexible schedule, I've recently accepted a position in which a JD is preferred but not required. I'm a little disappointed but also relieved. I'll be getting paid less and have less 'prestige,' but I think overall it will be best for my family and therefore for me."
> —*White woman, firm lawyer*

> "I was passed over for partner because I had a child. The two male attorneys who were hired at the exact same time as me, who had comparable prior experience, and same job responsibilities were made partner but I was not. When I asked why, I was told it was because I had given birth to a child."
> —*White woman, firm lawyer*

Parental leave/flexibility stigma

Another aspect of Maternal Wall bias is the "flexibility stigma," or bias triggered by mothers taking parental leave or working part-time or flexible schedules after they return.[61] This is especially challenging in the legal profession due to the pressures for high billable hours and to remain available to clients 24/7.

The Project for Attorney Retention (PAR), among other organizations, developed best practices for how to incorporate parental leave and part-time schedules into the legal profession without harm to the work product or clients.[62] PAR's research argued that working part-time or with a flexible schedule would actually *improve* lawyers' work outputs, wouldn't harm client relations, and would benefit everyone—both men and women who had families or other caregiving responsibilities.[63] PAR sketched a road map for how lawyers who work part-time can stay on the tenure track and not risk their entire career due to their change in schedule.

However, although many legal workplaces do have a parental leave and part-time policy on paper, repeated studies have found a dramatic difference between what is written on paper and what happens in reality.[64] Most lawyers, they found, either did not feel they were able to actually use those part-time policies, or believed that if they did avail themselves of part-time policies, it would significantly affect their career in a negative way.[65]

White women agreed at the highest level of any group that taking family leave would hurt their careers (see Figure 15).

Family leave harmful to career

- White Men: 42.42%
- White Women: 57.07%
- Men of Color: 47.20%
- Women of Color: 50.00%

Figure 15
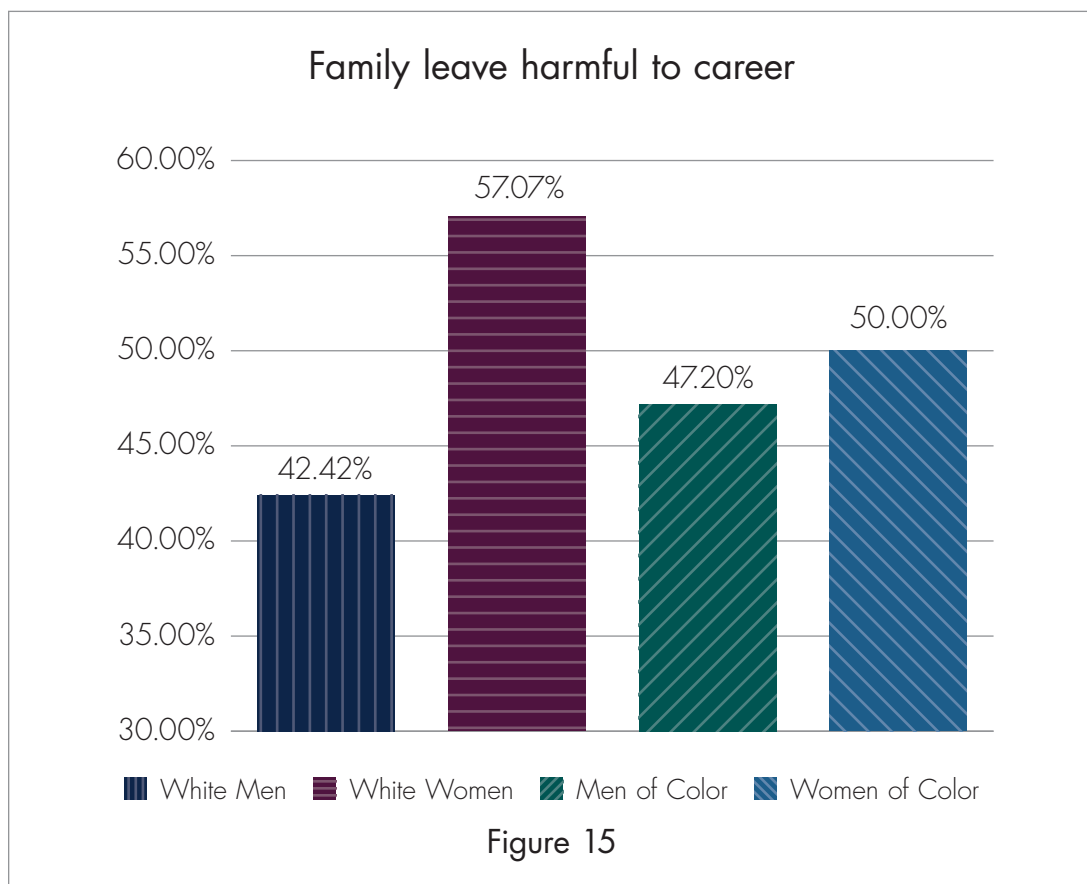
An important fact is that 42% of white men also reported that taking leave would hurt their careers, indicating that flexibility stigma affects all groups, including white men.

When asked about working flexible schedules, the majority of lawyers answered that they believed even asking for flexible work arrangements could hurt their career (see Figure 16). Only 32% of women of color and 36% of white women believed that they could ask for flexible work arrangements without hurting their career. As compared with other groups, white men reported the highest level of agreement that they could work part-time without damaging their career, but still only 50% of white men thought so. Men of color also reported the flexibility stigma.

"Asking for flexible work arrangements would NOT hurt my career."

Figure 16
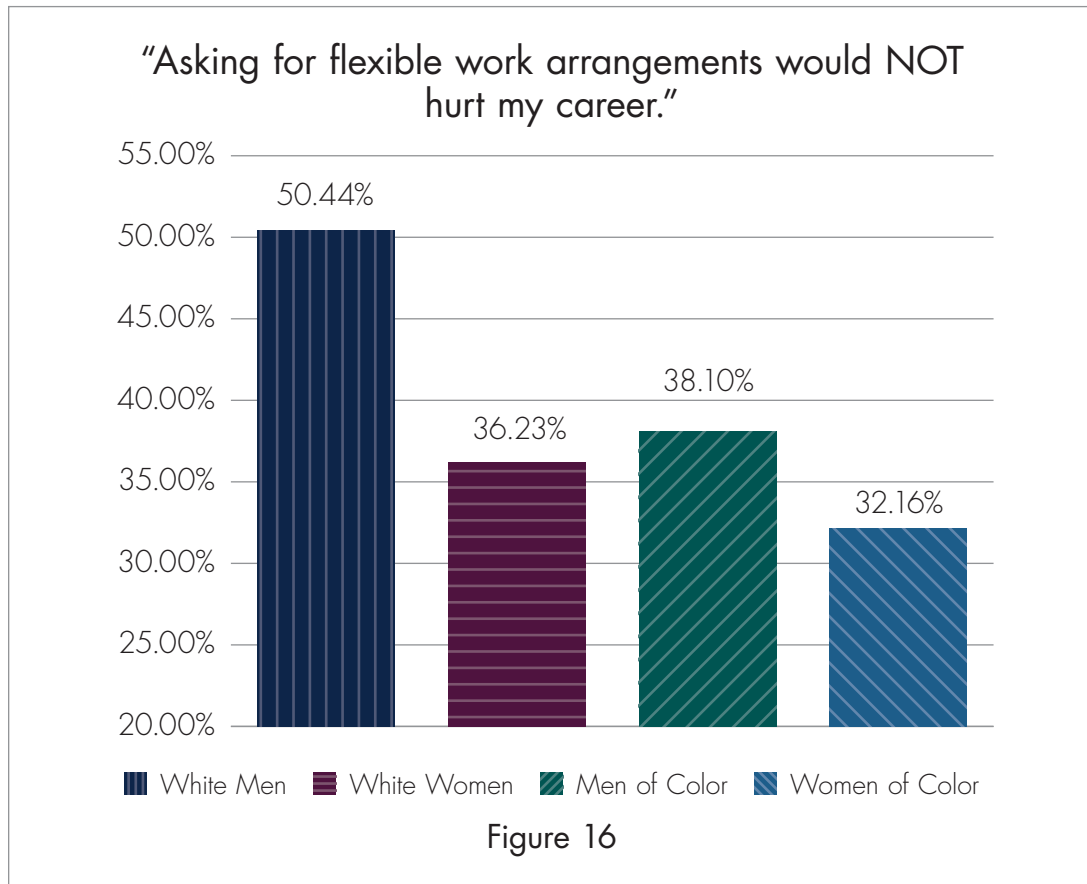
The Workplace Experiences Survey data indicated that more women—but also many men—believe that taking time off to have children or working a flexible schedule is still incompatible with the career of a high-powered lawyer.

Lawyers are not unreasonable for thinking that parental leave or flexible schedules would hurt their careers. Indeed, we received many comments from survey respondents who experienced negative career ramifications after they took parental leave or went to part-time work:

"Having a child was detrimental to career. Was laid off shortly after having a child despite positive performance reviews and performance based bonus. Partnership opportunity was delayed due to flexible work schedule requirement and being out frequently to care for sick child, even though I have exceeded billable requirements and originated close to $1 million in business."
—Asian American woman, firm lawyer

"Went on reduced work schedule due to having kids—and suddenly could not get staffed on matters. Basically I have been forced to leave."
—White woman, firm lawyer

"The treatment I received from my male colleagues after returning from maternity leave was horrible. Some of them wouldn't talk to me and I no longer received assignments from them when I had been the 'go to' before leave. When I asked for a lock on my door so that I could pump without fear of interruption, the managing attorney said he'd buy me a 75¢ wooden wedge for the door. This is at an AmLaw top 100 firm."
—White woman, workplace unknown

Step back after kids

Many more survey comments reported another form of Maternal Wall bias: when women returned from parental leave, they found they could not get access to the level of work they were doing before their leave. For some, it took years to return to the level they were at before their leave, and for others, they found leaving their workplace was the only option. This qualitative data supports a study that found that 75% of women return to work after a break only to find the job they returned to was worse, demanded less skill, paid less, and had less room for promotion.[66]

The Workplace Experiences Survey found that only 5% of white men but 20% of white women and 19% of women of color reported that colleagues told them they should stay home or put their career on hold after having children (see Figure 17). Men of color fell in the middle.

Expected to stay home or put career on hold after having children

White Men	White Women	Men of Color	Women of Color
5.35%	20.09%	12.12%	18.91%
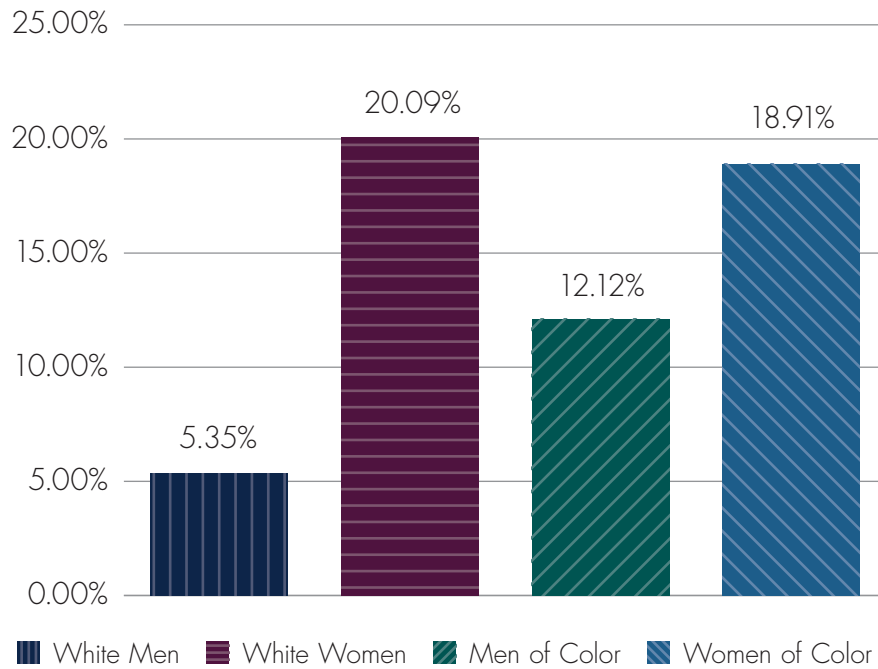
Figure 17

"I made partner in the shortest time of any female. Things were great. I had my son. I worked part time during leave and came back in 9 weeks. My work was gone. It has taken 2 years and a change in focus to get back to the level I was."

—*White woman, firm lawyer*

Maternal Wall bias affects nonparents too

The Maternal Wall affects women without children as well as mothers. Among lawyers with no dependent children (see Figure 18), 48% of white women and 46% of women of color reported that they had to work harder to compensate for people with children, compared to only 27% of white men.

"I have to spend more time working to compensate for the schedules of my colleagues who have children."

48.40%

46.00%

35.00%

26.50%

| | White Men | White Women | Men of Color | Women of Color |

Figure 18
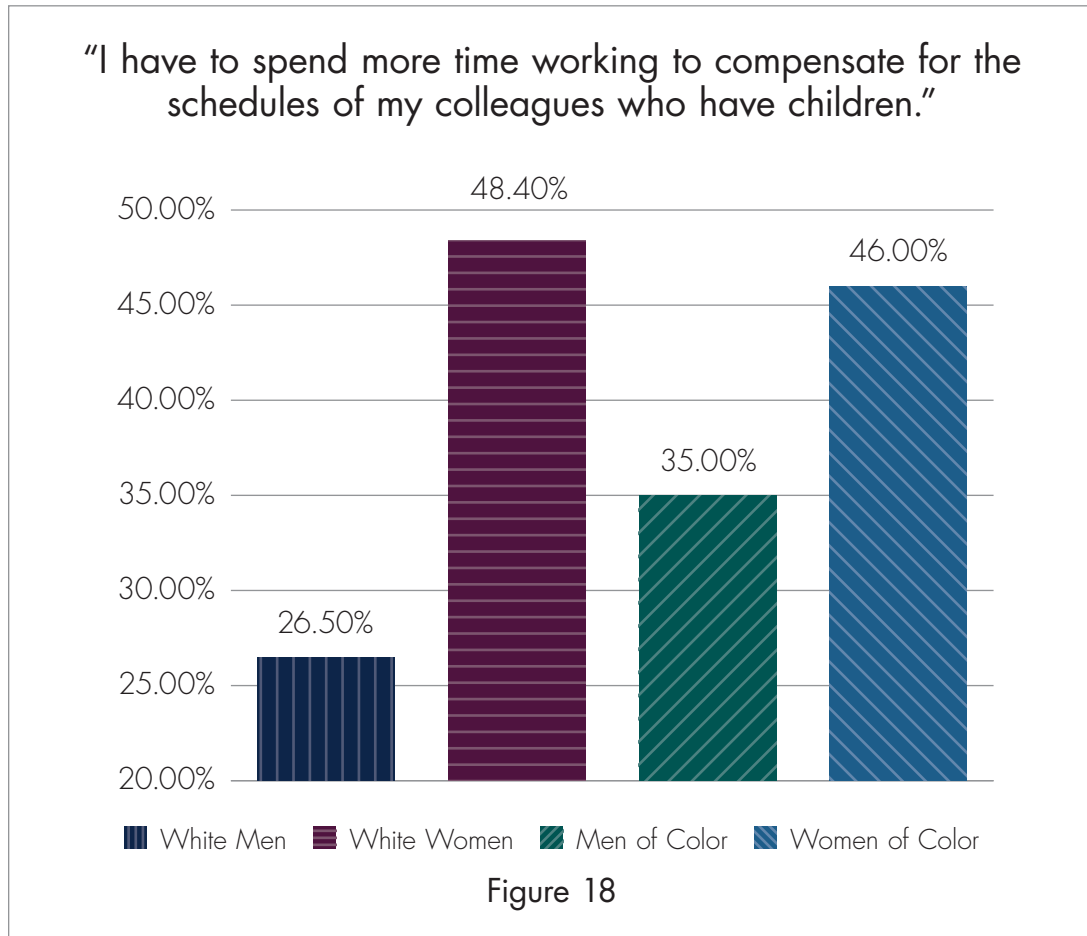
A different study found that single women in their thirties work more unpaid overtime than any other group.67 Women without children often meet the assumption that they can work anytime because they have "no life." In the Workplace Experiences Survey, among lawyers with no dependent children, 36% of women of color and 37% of white women reported that their colleagues think they have no life, as compared with 15% of white men.

Everyone, of course, has a life: this is a modern version of the "pathetic spinster" stereotype, communicating that a woman who is not a mother has nothing important going on in her life outside of work.

Maternal Wall conclusions

There's been a lot of discussion in the legal realm about women who "opt out" of the workforce to have and raise children.[68] Some use this theory to explain why there are so few women in leadership positions: women choose not to pursue leadership roles.[69]

The Workplace Experiences Survey data suggest that women who leave the labor force after having children often did not opt out—they were pushed out by Maternal Wall bias. Even women who wish to continue working in precisely the same way as before they had children often face assumptions that they are no longer as competent or committed. In addition, the lack of realistic parental leave and nonstigmatized part-time options make it difficult for many mothers to succeed.

The problem is not just for women who have children. Men who request time off for child care or who request flexible schedules to assist in child rearing also face stigma and can have their career commitment questioned, as having child care responsibilities does not fit into the "ideal worker" role and breadwinner status that men are assumed to play.[70] One study found that when men revealed caregiving responsibilities, it negatively affected their career.[71] A white male lawyer commented that in his firm, "male employees [were] routinely questioned/viewed skeptically by firms when taking parental leave."

Increasingly, men are demanding workplace flexibility so they can spend more time with their families and assist in child care. When deciding which employer to work for, more men, especially millennial men, are using workplace parental leave and flexible schedule policies to help decide where to work.[72]

Regression analysis confirmed that women reported more Maternal Wall bias than men regardless of race, age, workplace type, firm/department size, caregiving responsibilities, and geographic location.

Regression analysis specifically focused on flexibility stigma showed that women reported more bias than men. While no differences emerged in regression analyses between white and Asian lawyers, other people of color reported more bias after controlling for other variables.

_____

A white male lawyer commented that in his firm, "male employees [were] routinely questioned/viewed skeptically by firms when taking parental leave."

_____

Tug of War

Sometimes bias in the environment can fuel conflict between members of disadvantaged groups. This "tug of war" has been documented among women.[73] Our survey results suggest that bias also can trigger conflict among people of color.

Tokenism

If women and people of color perceive that there is room for just one or just a few of their group to reach a cherished position, naturally they end up competing for that one slot. The Workplace Experiences Survey data documented that 27% of women of color and 28% of white women felt that there is a "woman's slot" at work and that they are regularly competing for it. Similarly, 29% of men of color and 31% of women of color felt that there is a "minority slot" and that they are regularly competing for it with their minority colleagues. In other words, almost a third of women lawyers and almost a third of lawyers of color felt that there is only one "slot" for someone like them and that they have to compete with their women and/or minority colleagues.

> "Sometimes women of color are literally referred to as 'twofers'—i.e., they count in diversity statistics as both women and as lawyers of color. This demeans them, and reduces opportunity for white women, because the white men are using the double-counting to make the workplaces they still control look more diverse on paper than they actually are."
>
> —White woman, in-house lawyer

Assimilation

Women use different strategies to navigate and succeed in male-dominated workplaces. Sometimes this leads to conflicts when women fault each other for assimilating too much, or too little. For example, some women join the "boys' club" and assimilate to the way things are done,[74] and others align with other women. Some women start women's initiatives, and others distance themselves from other women to gain favor among the men.[75]

Sometimes the Tug of War has a generational element: more senior women, who had to work long hours and take only brief maternity leaves, may judge more junior women who want to take longer leaves and pursue more work/life balance. The older women may fault the younger women for lack of work commitment, and the younger women may fault the older women for not spending enough time with their families.

More junior women sometimes look at the more senior women and think they have just "turned into men" or think that the more senior women aren't doing enough to help other women behind them. An example:

"My relationships with women lawyers in the generations ahead of me have often been competitive or have not involved the degree of support that I would expect. Among my peers and with a trusted male mentor, I have commented that older women in leadership roles climbed the ladder and pulled it up behind themselves."
—Woman lawyer, race unknown, in-house

When the Workplace Experiences Survey asked women lawyers if they feel supported by their female colleagues (see Figure 19), 72% of white women and 66% of women of color said they did. In other words, women of color agreed at slightly lower levels than white women that they feel that their women colleagues support them. This racial difference also was found in a prior study of women scientists.[76]

"My female colleagues support each other."

Figure 19
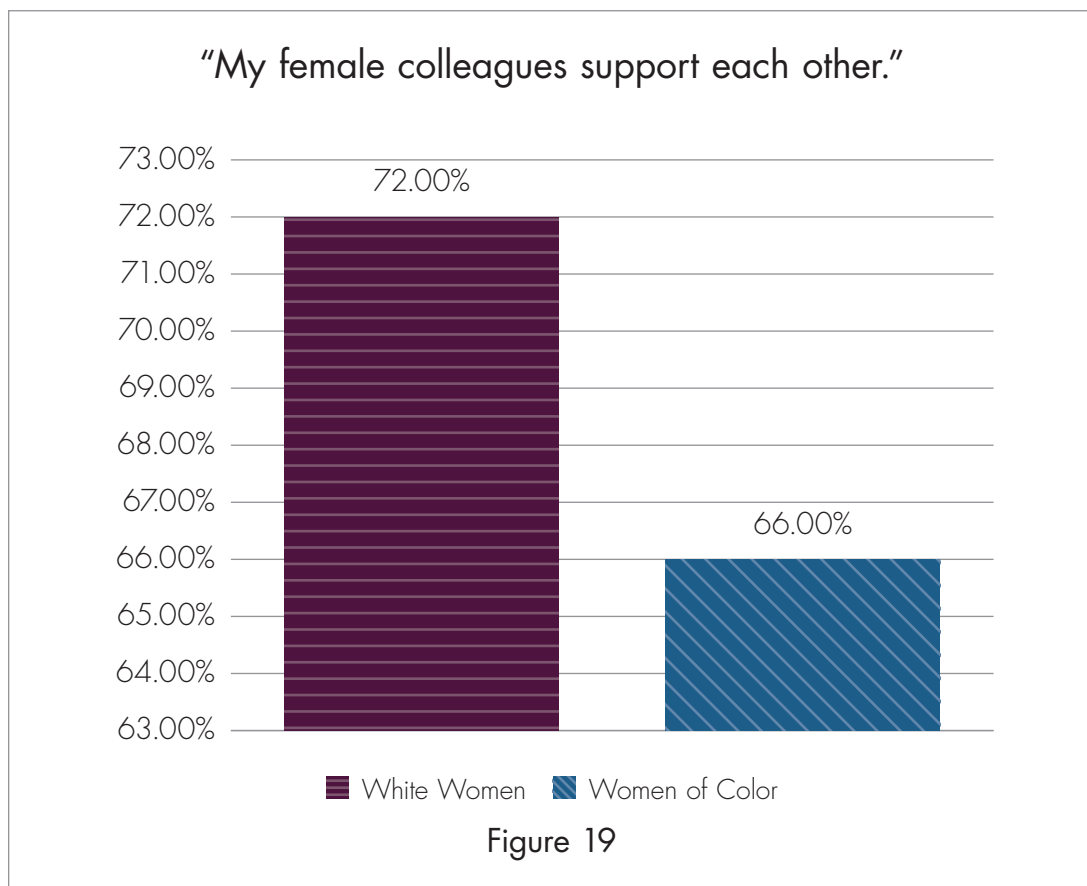
White women also agreed at slightly higher levels than women of color that some women lawyers just don't understand what it takes to make it as a lawyer (34% vs. 28%).

About half of all women lawyers, regardless of race, feel that some women lawyers have just "turned into men" and assimilated to the way men's lives and careers are run.

These findings indicate that the Tug of War is felt more acutely by women of color than by white women, although both groups appear to encounter it in the workplace. The bottom line? If women aren't supporting each other, it may be because gender

bias in the environment promotes competition through limited opportunities and judgment of other women's strategies for navigating environments shaped by gender bias.

Administrative help

A final—and acute—Tug of War pattern often plays out between women lawyers and their admins. One study found that not a single legal secretary who expressed a preference preferred to work with a woman boss. (The good news is that half of admins had no preference as to whether they worked with men or women.)[77] Quotes from the legal secretaries in that study reveal a classic Tug of War dynamic: "Females are harder on their female assistants, more detail oriented, and they have to try harder to prove themselves, so they put that on you."[78] This describes how the Prove-It-Again bias faced by women lawyers created conflict with their assistants—a classic situation in which gender bias against women fuels conflict among women.

The Workplace Experiences Survey revealed that both white women and women of color find it harder than white men and men of color to get support from administrative personnel (see Figure 20). Women reported struggling to get the same level of administrative support as their colleagues at a level 18 percentage points higher than white men.

Women reported struggling to get the same level of administrative support enjoyed by their colleagues at a level 18 percentage points higher than white men.

Pushback from administrative personnel

	White Men	White Women	Men of Color	Women of Color
	16.81%	34.31%	20.54%	34.47%

Figure 20

You Can't Change What You Can't See
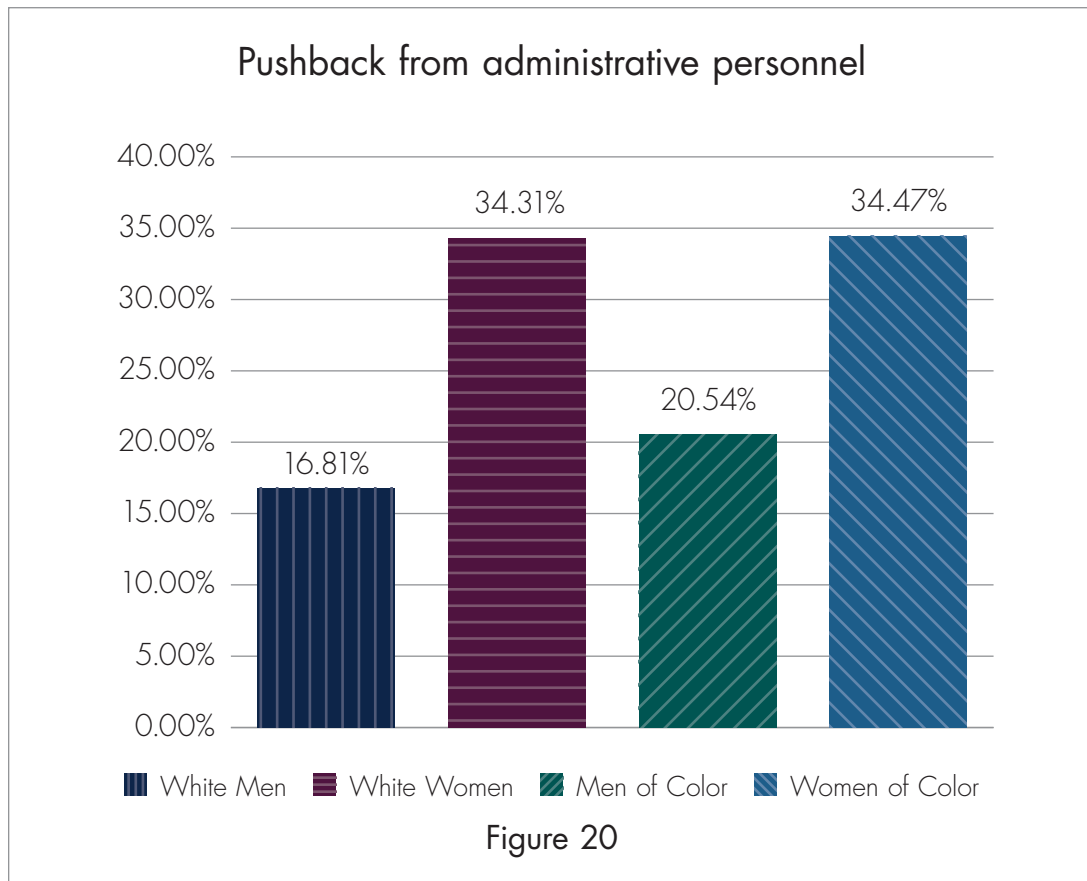
Tug of War conclusions

Overall, women, more than white men, reported that other women have just "turned into men" and that they find it difficult to get administrative help. Women also reported that they feel there is a "woman's slot" at work and they are regularly competing for it.

People of color also reported feeling that there is one position available to people like them at a higher level than white men, and that they have to compete with other people of color to get it. Finally, women of color reported that they don't feel supported by other women at a higher level than white women.

Regression analysis confirmed that women reported more Tug of War bias regardless of their race, age, workplace type, firm/department size, caregiving responsibilities, and geographic location.

Workplace Processes

"I have been stunned by the level of hypocrisy I have seen (both through my own experiences and through discussions with colleagues) in many law departments which proclaim outwardly to be serious about diversity. Many still tolerate and even foster a caste system which places minorities at the bottom rung in terms of mentoring, promotions, and quality work assignments. Often this occurs as those same companies castigate their outside firms for similar transgressions."

—Black male, firm lawyer

The Workplace Experiences Survey also asked lawyers whether they felt various basic workplace processes were fair: hiring, the allocation of assignments, opportunities to develop business, performance evaluations, promotions, compensation, and access to mentorship and support.

Much attention has been paid to promotions and compensation, which is not surprising: women and attorneys of color are severely underrepresented at the equity partner level, and members of both groups typically get paid much less than their white male counterparts.[79] Some recent studies have assumed that the compensation differentials differ by gender because women partners' originations are lower than men's, although one study found that women partners make less even after holding originations constant.[80] The Workplace Experiences Survey advances the debate because it did not look at originations in isolation. Instead, it looked at many of the processes that lead to lower compensation, from whether they have equal access to desirable assignments, mentoring, and networking to whether they feel their performance evaluations are fair.

Even small amounts of bias add up over time and have large effects on the career prospects of women and people of color.[81] As legal scholar Eli Wald explains: "Caucasian males are able to work longer billable hours, receive superior training, and form stronger mentorship relationships with powerful partners. In turn, these associates receive higher quality assignments and end up better positioned to develop a book of business. As a result, having proven themselves to be the 'ideal workers,' white male associates are privileged to have a better chance of making partner."[82]

Even small amounts of bias add up over time and have large effects on the career prospects of women and people of color.

Hiring

White men were the group that reported the highest level of agreement that someone like them had an equal shot of getting hired at their workplace (see Figure 21). Women of color were the group with the lowest level of agreement; they agreed at a level 21 percentage points lower than white men. Men of color and white women fell in between, but both groups reported statistically significantly lower levels of agreement than white men. This result indicates that women and people of color perceive more bias in their hiring systems than do white men.

"Someone like me has an equal shot at getting hired here."

Group	Agreement
White Men	82.54%
White Women	76.42%
Men of Color	66.07%
Women of Color	61.80%

Figure 21
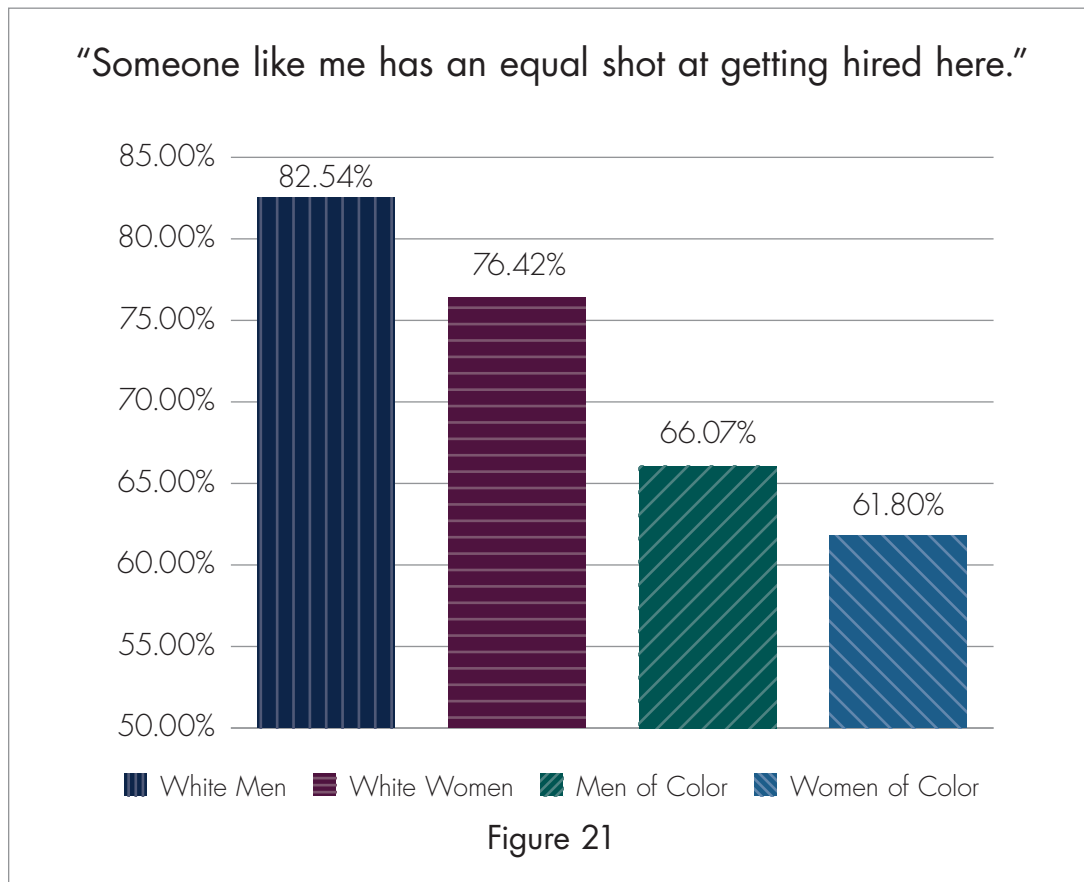
Looking in sharper focus, women of color fell into two distinct groups. Asian women reported similar levels of agreement as white women that they felt that someone like them had an equal shot at getting hired. Other women of color (Black, Latina, and women of other races) agreed at substantially lower levels than Asian or white women. This group of women of color reported the most bias in hiring.

We heard from several people who were the only woman/woman of color/person of color at their firm, and several others who found it difficult to get hired as a woman. One felt she was experiencing a combination of age and gender bias:[*]

---

* Though we hear anecdotally from lawyers that they experience age-based bias, when we ran regression analyses on the Workplace Experiences Survey data, we did not find age-based bias in hiring. This issue merits further research.

"Being a woman attorney with 25 years' experience is just awful. I cannot find anyone to hire me for a job or salary commensurate with my considerable experience."

—White woman, firm lawyer

Getting hired, of course, is only the first step. Once lawyers are hired, their success depends on getting access to good assignments.

Assignments

The ABA's *Visible Invisibility* report found that 44% of women of color but only 2% of white men reported being denied desirable assignments. Because women of color were less likely to get good work, by the time they were third and fourth year associates, they had less experience than the white men who had joined the firm at the same time they did. This dramatically lowered their prospects for career advancement and affected their entire career trajectories.[83] Other studies have found that black associates often receive lower-quality work assignments than white associates.[84]

A growing number of studies document that women are less likely than men to get access to career-enhancing "glamour work" than men and more likely to receive large loads of "office housework," which includes literal housework (planning parties) to administrative work (finding a time everyone can meet) to undervalued, behind-the-scenes work (as when a partner does a PowerPoint so another partner can give the presentation at a pitch).[85] Our survey results were consistent with the findings of these other studies.

The Workplace Experiences Survey found that only about half of women of color but 81% of white men reported that they have had equal access to high-quality assignments as their colleagues (see Figure 22). The 28 percentage point gap between white men and women of color is very large and one of the most dramatic findings of this study. There also were large gaps between white men's responses and those of men of color and white women, indicating that women and people of color feel they have a much harder time getting access to high-quality assignments than white men.

"I am a senior Af-Amer practitioner who has outstanding credentials but has routinely been overlooked for the 'plum' opportunities available to my peers."

—Black male, firm lawyer

Equal opportunities for high-quality assignments

Figure 22
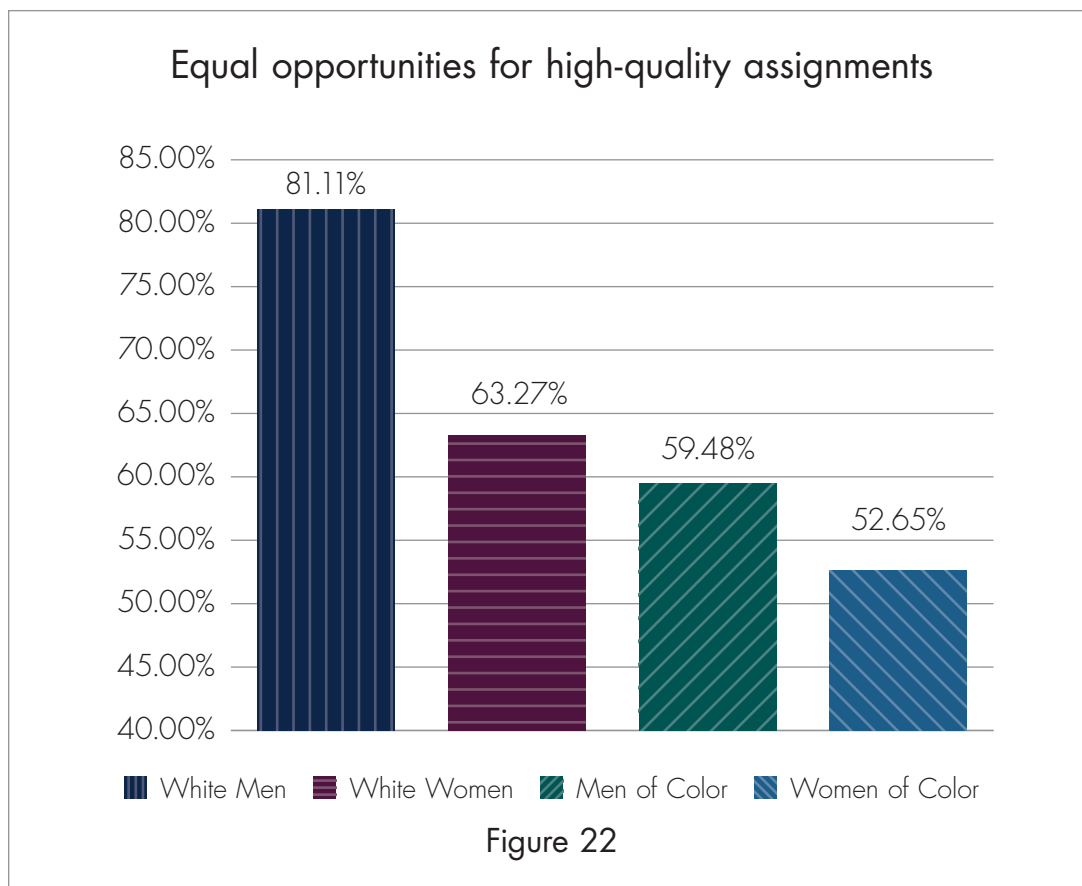
Recall that both women and people of color felt pressure to be worker bees who presumably do what they are told without expecting or demanding career-enhancing work. Asian women reported similar experiences to white women, but Black, Latina, and women of other races reported more bias than either group.

The problem with assignments is not that women don't want the high-profile assignments. The survey asked if respondents were satisfied with their access to high-profile assignments. White men again reported that they were satisfied with their access to high-profile assignments at the highest level of any group. Women of color, white women, and men of color agreed at considerably lower levels (15–20 percentage points lower) and all reported similar levels of bias. White and Asian women reported similar experiences, but other women of color reported being satisfied with their access to assignments at a lower level than either group.

The bias that gives majority men privileged access to desirable assignments typically is unconscious.

> "Their[s] is a very subtle sexism. Men seem to want to work with men and don't always think about bringing in women. They probably don't even realize they're doing it; they just want to be around their buddies (male)."
>
> —*White woman, firm lawyer*

These findings that women report less access to desirable assignments, combined with our findings (reported earlier) that women of all races reported higher loads of office housework than men, should be considered together. For women, these two factors can add up, making assignments an important, and often overlooked, factor that impedes women's careers.

Support

The Workplace Experiences Survey asked three questions to try to understand whether lawyers from different groups feel they receive the same levels of support at work: equal access to mentoring, sponsorship, and networks. In addition, our survey asked about social isolation. Prior studies have shown that black professionals experience more social isolation at work than their colleagues[86] and that black associates have less social contact with colleagues than do their white peers.[87] The Workplace Experiences Survey found that white men reported the lowest levels of agreement when asked if they felt socially isolated at work (see Figure 23). Levels of agreement by women of color, white women, and men of color were higher, though the difference between men of color and the other groups (including white men) was not statistically significant.

"I am socially isolated at work."

Group	Value
White Men	27.61%
White Women	36.35%
Men of Color	33.93%
Women of Color	39.10%

Figure 23
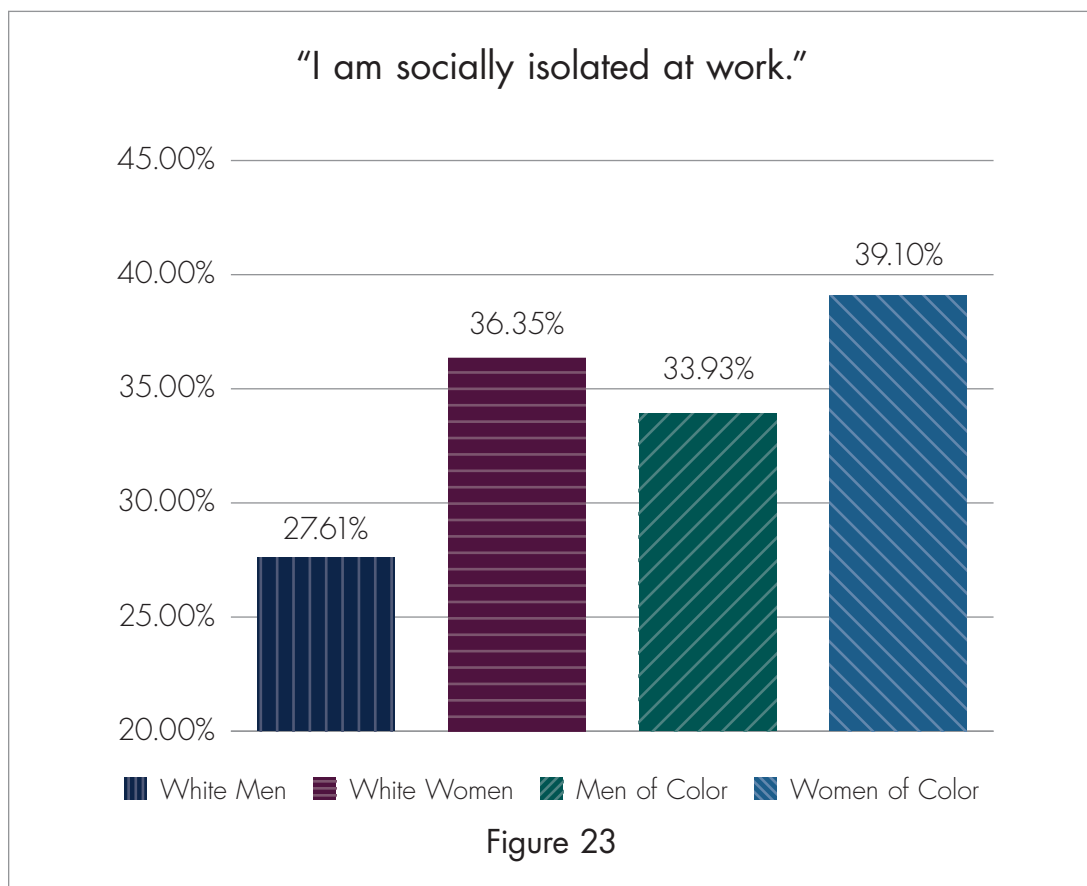
A sponsor is someone who is willing to spend his or her political capital to help your career. Having one can be crucial. Mentors are different: mentoring describes a very broad range of relationships. Sometimes a mentor is someone who truly invests in a protégé's career, but mentoring also can describe the occasional lunch, pep talk, or advice. Both sponsors and mentors are particularly important to women and people of color because people's default networks tend to consist of people like them[88]—so in an environment with predominantly (or only) majority men at the top, the people in leaders' networks tend to lack diversity.

The Workplace Experiences Survey found that women of color had the lowest levels of agreement when asked whether they had access to good mentorship, while white men had the highest level of agreement (see Figure 24). White men agreed that they have had good mentors at a level 11 percentage points higher than women of color. This lack of mentoring can greatly hinder a young lawyer's ability to navigate and advance in his or her career.

Figure 24
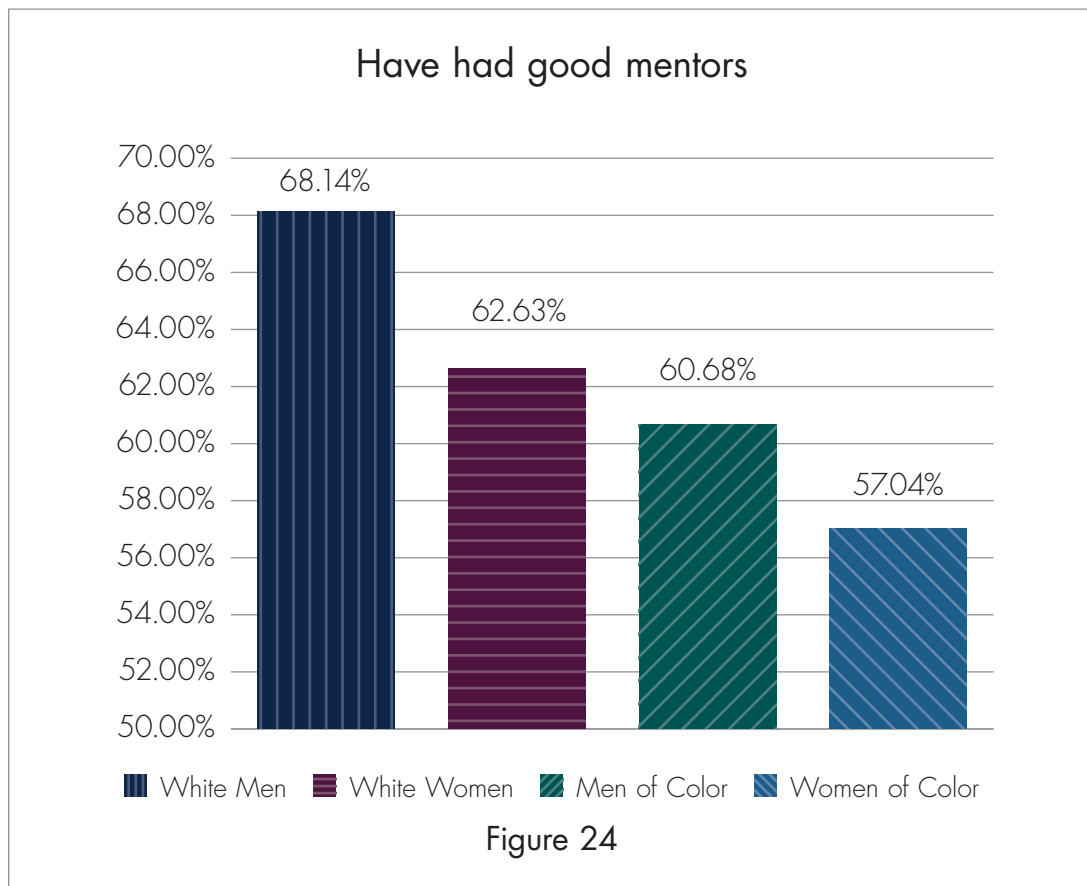
Having access to networks, be it formal networks (e.g., alumni associations) or informal networks (e.g., the people who play poker on Tuesdays), can be crucial for a lawyer's ability to access opportunities, navigate workplace problems or politics, and advance in his or her career. Alarmingly, the *Visible Invisibility* report found that 46% of women of color and 60% of white women reported that they were denied formal or informal networking opportunities.[89]

The Workplace Experiences Survey revealed that majority men agreed at considerably higher levels than any other group that they were given equal access to networking opportunities (see Figure 25). Women of all races reported that they had equal access to networking opportunities at a level about 25 percentage points lower than white men. Men of color reported equal access to networking opportunities at a level 20 percentage points lower than their white counterparts.

The reported gaps between white men and other groups are very large and speak to a substantial difference in experience between white men's ability to network and everyone else's.

Equal access to networking opportunities

White Men	82.03%
White Women	57.18%
Men of Color	62.39%
Women of Color	55.63%

Figure 25

You Can't Change What You Can't See
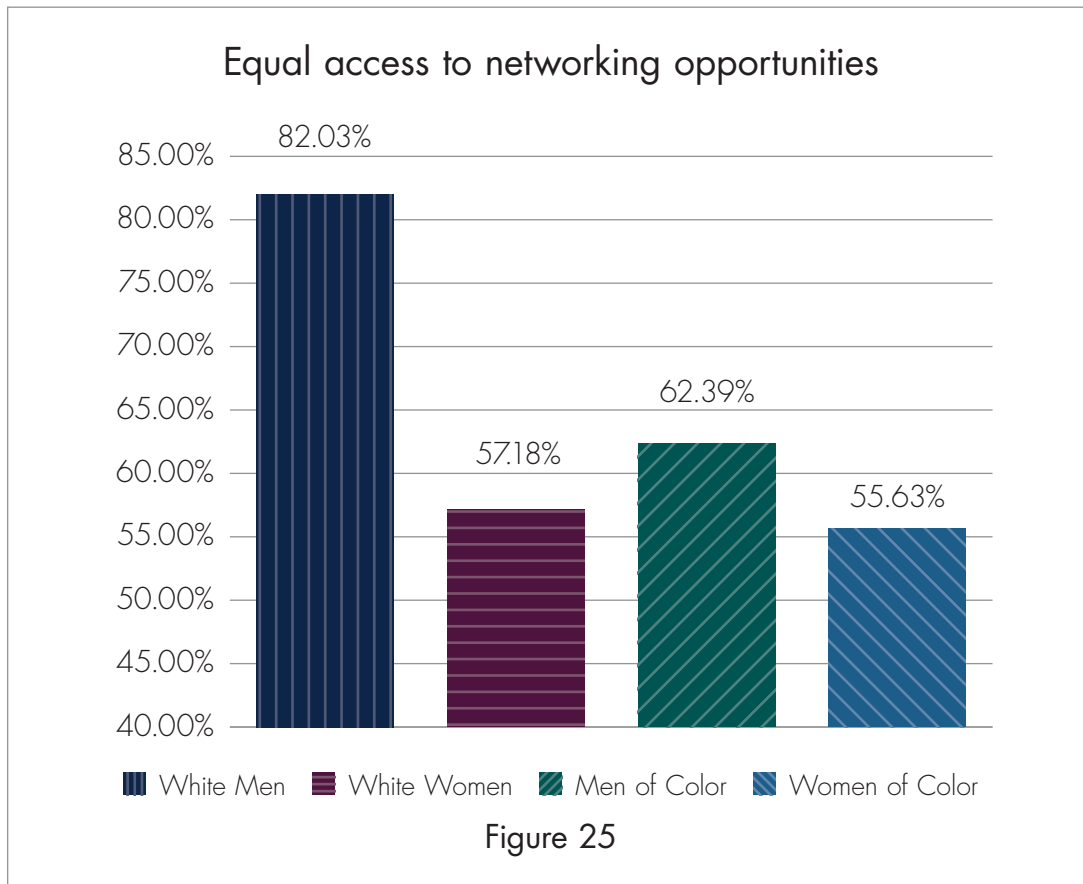
One survey respondent characterized the problem as a manifestation of sexism:

> "I think the sexism in my office consists of lack of access to
> networking opportunities such as speaking at union halls, going to
> union conferences, golf outings, etc."
>
> —*White woman, firm lawyer*

Another commented on what she viewed as the "good old boys" network operating in her workplace:

> "I feel it is very difficult to have a successful career as a female
> attorney working in a law firm that has been part of the 'good old
> boys network' for many years, particularly in a Southern state. I am
> expected to work harder than my male colleagues and I do not get
> paid as much as they do compared to the volume of hours I bill
> and the volume of clients (and business generally) that I generate
> for the firm."
>
> —*White woman, firm lawyer*

Not reflected in the comments but apparent from the data is that men of color also reported that they lack the same opportunities as white men. The "good old boys'" network the commenter referred to often has not just a gender aspect but also a racial one. Men of color feel excluded too.

In a surprising finding, when the Workplace Experiences Survey asked if respondents had had a sponsor who was willing to give up their political capital to help their careers, white men were the group with the *lowest* agreement: 40% of white men and 41% of men of color, compared to 47% of women of color and 50% of white women, reported that they had a sponsor who went to bat for them in their career. This finding merits further study. It is difficult to interpret in light of our other findings.

Business development

In law firms, business development is typically crucial to advancing a lawyer's career. For in-house lawyers too, getting opportunities to develop your skills and work with different people can be crucial to future career success.

The Workplace Experiences Survey revealed that, again, white men reported that they have equal access to business development opportunities at the highest level of any group (see Figure 26). The gap between white men and other groups is large: between 18 and 22 percentage points. White women, men of color, and women of color all reported that they don't get the same opportunities to develop business as do white men.

Equal access to business development opportunities

Figure 26
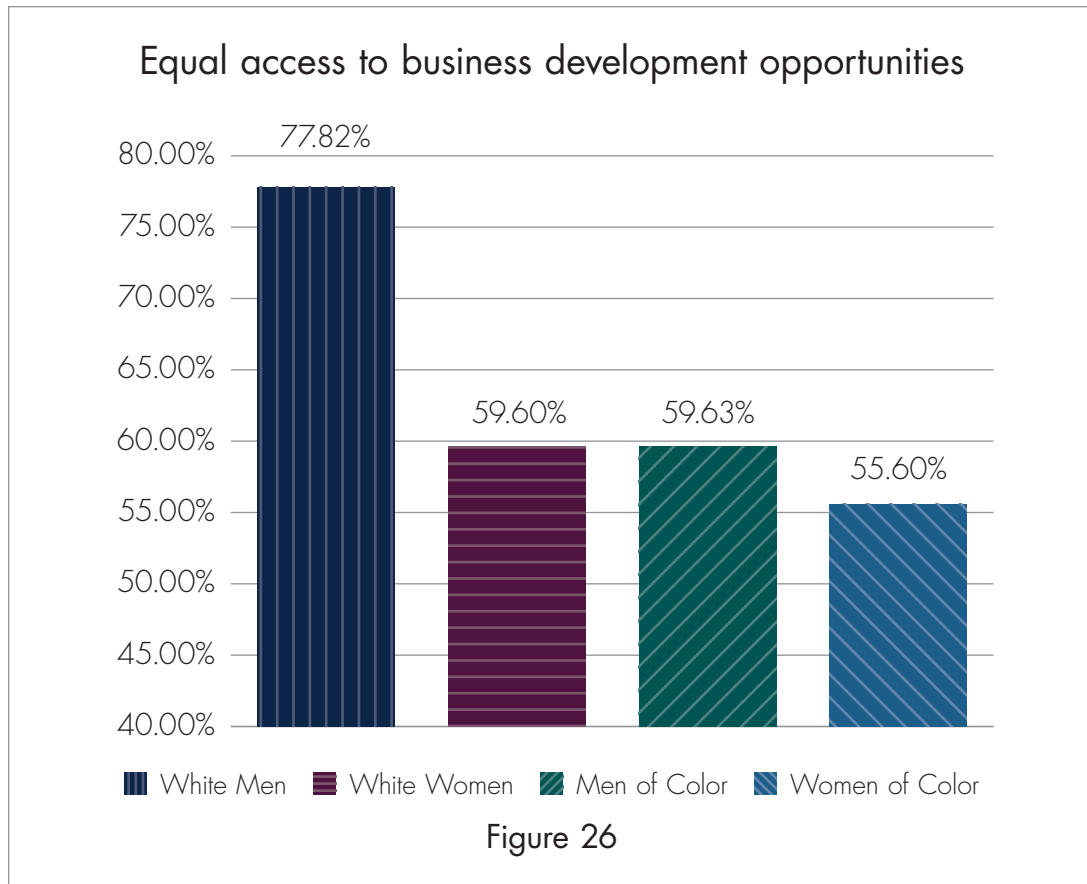
"I have been practicing 17 years and am very discouraged at this point in my career. It is still very much a good old boys' network. New male associates are included in golf and hunting trips with clients and thus building relationships. It is very difficult as a female to 'bond' with male clients."

—White woman, firm lawyer

Although this comment stresses the role of gender, our data clearly reveal that men of color also reported unequal access to business development opportunities.

Further analysis revealed that Black, Latina, and other women of color reported this bias at the highest level, followed by white women and Asian women (who reported similar levels of bias).

You Can't Change What You Can't See

Performance evaluations

The good news is that more than two-thirds of all survey respondents reported their performance evaluations have been fair. Less good news is that once again differences emerged among different groups. Again, white men reported the highest levels of agreement that they receive fair performance evaluations, while women of color reported the lowest level of agreement. White women fell in the middle. We found no statistically significant difference between white men and men of color on this issue.

One survey comment reflected the kinds of problems some women experience:

> "Major sexist reviews that my male colleagues do not get, where my only feedback is 'you need to find your more feminine or softer side. You need to act more like a woman.' Meaning I need to be a 1950s secretary. Comments like women should only wear dresses with pantyhose to court and work. Pants are for men (insert my eye roll)."
> —*White woman, in-house lawyer*

The Workplace Experiences Survey also found that lawyers of color—especially men—believe that they receive less honest feedback than their colleagues. Indeed, male lawyers of color reported that they don't receive constructive feedback at a level 19 percentage points higher than with white men (see Figure 27). Lawyers of color often report receiving glowing performance evaluations that pinpoint nothing constructive they should address. Then they are passed over for promotion, with no idea why and no opportunity to address drawbacks before they become fatal.

Don't receive constructive feedback

White Men: 21.38%
White Women: 25.87%
Men of Color: 40.17%
Women of Color: 35.02%

Figure 27
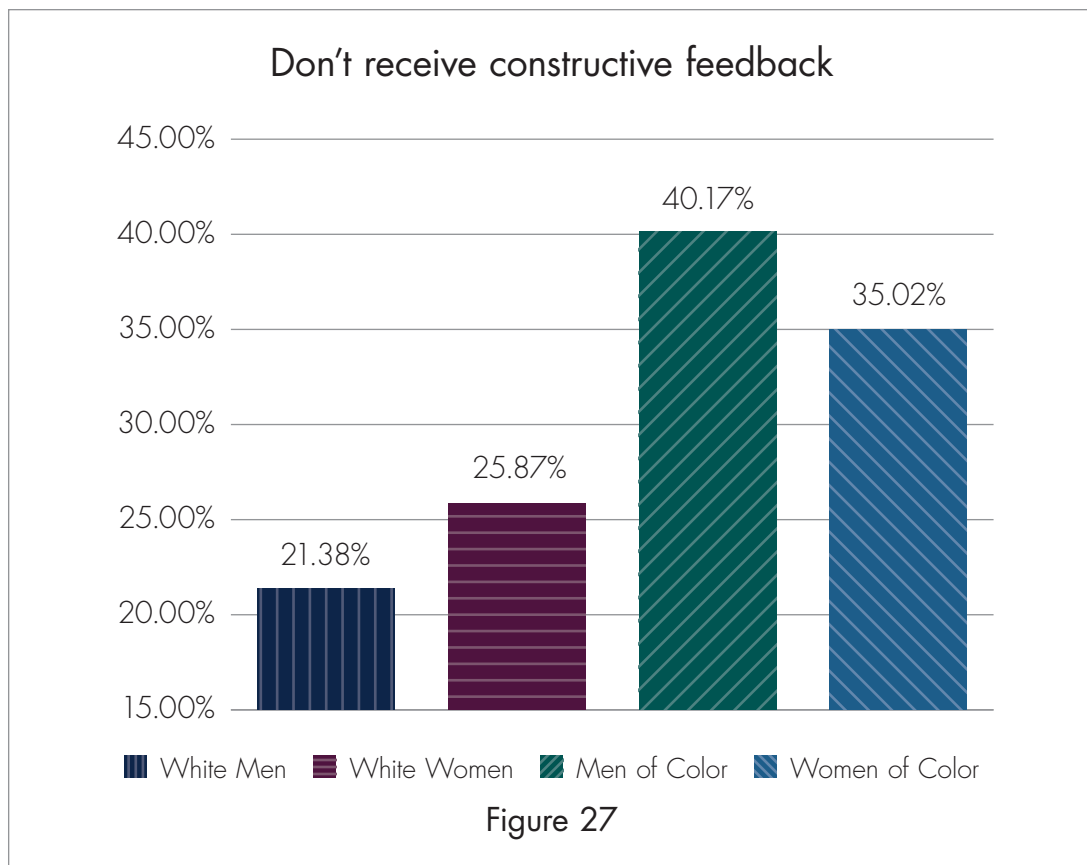
White women's responses were not statistically significantly different from white men's experiences, though women of color's responses were, indicating that not receiving honest feedback is mostly a racial issue.

Promotions

The percentage of women equity partners has risen at a snail's pace in recent decades.[90] People of color also are disproportionately stuck in lower levels of the legal profession.[91]

Several studies have found that women's chances of being promoted to partner are significantly lower than men's, even when controlling for relevant factors such as experience, law school ranking, and law school performance.[92] One study found that the promotion rate for women was only a little more than *half* the promotion rate for men;[93] another found that men are 2 to 5 times more likely than women to make partner.[94]

Lawyers of color also do not get promoted at the same rates as white men, although this issue has been studied less.[95]

The Workplace Experience Survey reflected the discrepancy in lawyers' upward mobility (see Figure 28). Again, the biggest differential was between white men and women of color: 75% of white men but only 52% of women of color believed they have been given the promotions they deserve, revealing a large 23 percentage

> 75% of white men but only 52% of women of color believed they have been given the promotions they deserve, revealing a 23-percentage point gap.

Fair opportunities for advancement

Group	Percentage
White Men	74.88%
White Women	58.02%
Men of Color	61.54%
Women of Color	52.11%

Figure 28
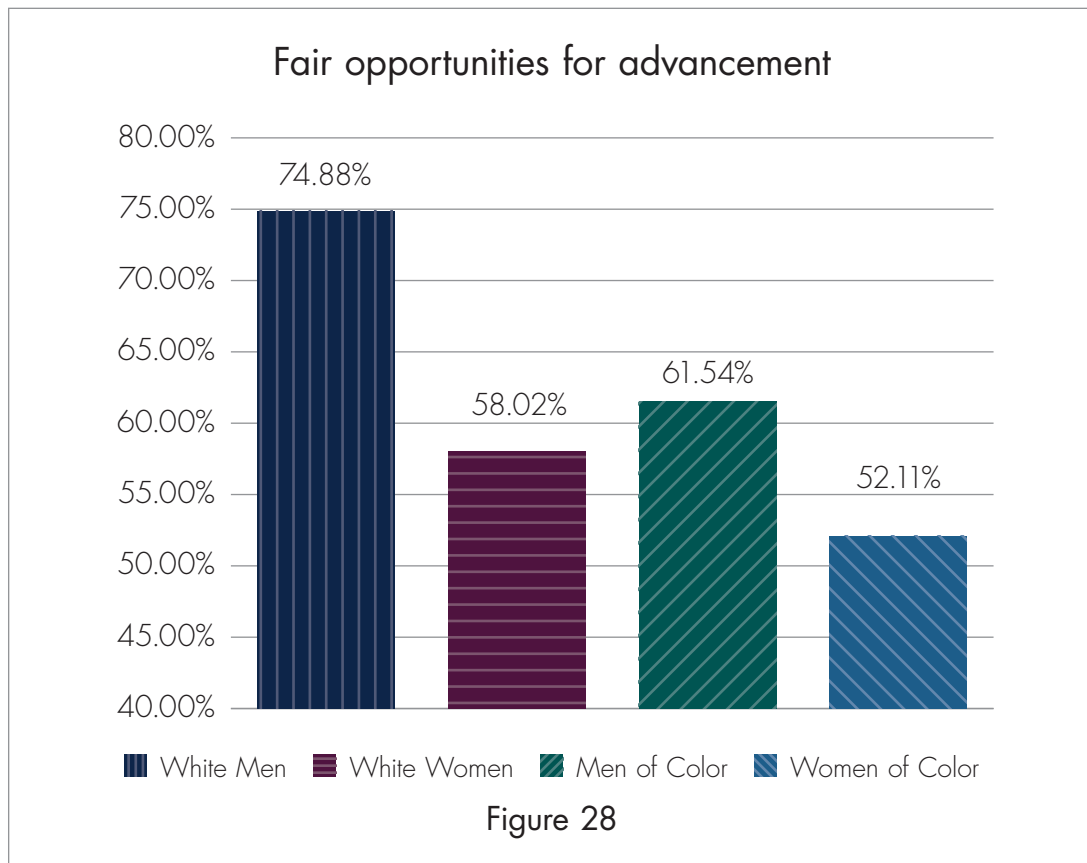
point gap. White women and men of color also reported considerably lower levels of agreement than white men that they got the advancement they deserved.

Asian and white women reported similar levels of bias. Black women, Latina women, and women of other races reported getting the opportunities for advancement they deserve at a lower level.

Many comments concerned promotions. Some women felt that the requirements for promotion kept changing:

> "Although my collections routinely exceed the collections of over half of the equity shareholders in my Firm, I have twice been passed over for an equity position. The first time, I was told that the Board wanted to see one more multimillion dollar year. The second time, I was told that I had inherited the matters currently on my docket due to the death of a colleague. I was given no credit for a high-profile client I brought to the Firm or for years past when all of my docket was due to my own origination. Moreover, male income partners who inherit client relationships are routinely made equity partners. I find it amazing that my Firm expects me to act as lateral hiring partner for my office, serve as ombudsman to the associates in my office and on the Associate Compensation Committee, but still does not believe that my commitment of time to the Firm, combined with my financial contribution to the Firm warrant promoting me to an equity position. The Firm has less than 12% equity partners and appears to be moving backward from that number rather than forward."
>
> *—White woman, firm lawyer*

Others reported what they saw as blatant discrimination:

> "I was actually denied a promotion because the 'men in charge' didn't want a woman in that role in a previous job."
>
> *—White woman, in-house*

> "I was in house. Senior men in the organization were up front when the position above me was open that they wanted a man in the position. It was not clear to me whether they were telling me this gender preference because they wanted to discourage me from throwing my hat in the ring or because they felt comfortable with me and just wanted to express an opinion."
>
> *—Woman lawyer, race and workplace unknown*

Others commented on more subtle bias:

> "The barriers to promotion for very senior women (like next board member position or divisional CEO) are huge but insidious. Because you are not a 'guy' you cannot hang with the guys or laugh at the same stuff. This immutable cultural barrier does prevent promotions. In many industries, HR and Marketing remain the place for the token promotable woman. Challenging men for space in their chosen field remains a huge problem at the most senior levels of the companies. Getting to SVP is easier; EVP tough; CEO— nearly impossible."
>
> *—White woman, in-house lawyer*

> "Primarily women in my firm are never placed in leadership roles and are generally not considered to be achievers."
>
> *—White woman, firm lawyer*

Many others reported Maternal Wall bias:

> "The reality is that after you have children, you are treated differently and given less access to good cases, and therefore have less access to promotion."
>
> *—White woman, firm lawyer*

> "Male colleagues with fewer skill sets than I were promoted while I was not; when I went on maternity leave (and announced I would be returning), another attorney was hired to fill my job and a new position had to be found for me when I returned—which meant I had to transition after 15 years of litigation to transactional work."
>
> *—White woman, firm lawyer*

Compensation

The gender pay gap in the legal profession has been documented for decades.[96] A 2016 national survey of law firm partners found a 44% pay gap between female and male partners, down from a 47% pay gap found in their 2014 survey.[97] *Visible Invisibility* found that compensation for women of color attorneys was considerably less than other groups throughout their legal careers.[98]

The 2016 national survey points to origination credit as the basis for the pay gap: male partners reported 50% higher origination credit than women partners. However, to simply state that male partners earn more money because they bring in more business obscures the role of bias in the awarding of origination credit.
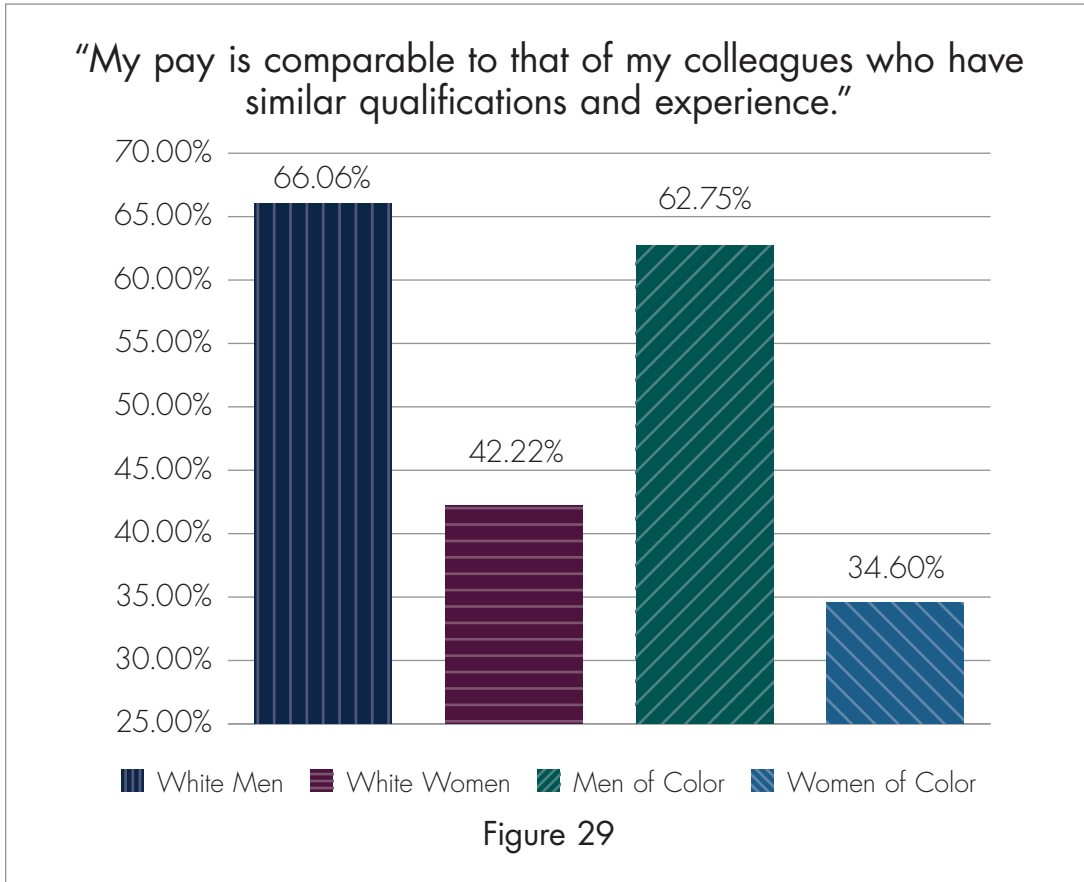
First, women may not get the credit for business they bring in: a 2010 survey of women attorneys found that 32% of white women income partners and 36% of women partners of color reported that they had been intimidated, threatened, or bullied out of origination credit in their careers.[99] The same survey found that more than 80% of women partners reported being denied their fair share of origination credit in the previous three years. Second, men may be given origination credit even when they didn't do the majority of the work.[100] Third, taking maternity leave and/or working part-time sometimes artificially lowers mothers' compensation for the year, if the months when they were out on leave are counted as "zero."[101] (If originations are averaged, say over three years, a woman who has two children three years apart may find her compensation negatively affected for six years.) Fourth, the lack of succession planning, coupled with "old boys' club" networks, sometimes means clients are passed down from male attorney to male attorney.[102] (For a fuller discussion on these issues, see "New Millennium, Same Glass Ceiling."[103])

In addition, being excluded from networking and rainmaking opportunities, participating in the client pitch to add "diverse eye candy" but then not getting a fair share of the credit, not getting promoted to partner and especially equity partner at the same rates as male attorneys, and not being able to negotiate without backlash, all can impede women's ability to get their fair share of origination credit.[104] Some women report the abiding stereotype that they do not "need" origination credit because they have husbands who are the breadwinner, whereas most male attorneys are the breadwinners themselves. This anachronistic assumption came through in the comments.

> "My female colleagues and I are all considered the bread winners of our families, but because we are women there is this misperception that our husbands are the bread winners and therefore that we don't need to be paid as much."
>
> —*White woman, firm lawyer*

The Workplace Experiences Survey had two compensation questions. One asked whether attorneys felt that their pay is comparable to the pay of their colleagues who are in similar positions in terms of seniority and skill (see Figure 29). White men had the highest level of agreement with this question, and men of color reported similar levels of agreement.

"My pay is comparable to that of my colleagues who have similar qualifications and experience."

Group	Percentage
White Men	66.06%
White Women	42.22%
Men of Color	62.75%
Women of Color	34.60%

Figure 29

In one of the biggest findings of the study, women of color reported that their pay is comparable to their similarly qualified colleagues at a level 31 percentage points lower than white men; they were the group with the lowest overall agreement. This racial difference has rarely been noted or discussed.

White women also reported bias in compensation: their level of agreement that their pay is comparable to that of their colleagues was 24 percentage points lower than white men.

As a group, Black women, Latina women, and women of other races reported lower levels of agreement than any other group of women in regard to feeling their pay was on a par with that of comparable colleagues.

The second compensation question asked whether attorneys felt they were paid less than their colleagues with similar qualifications and experience (see Figure 30).
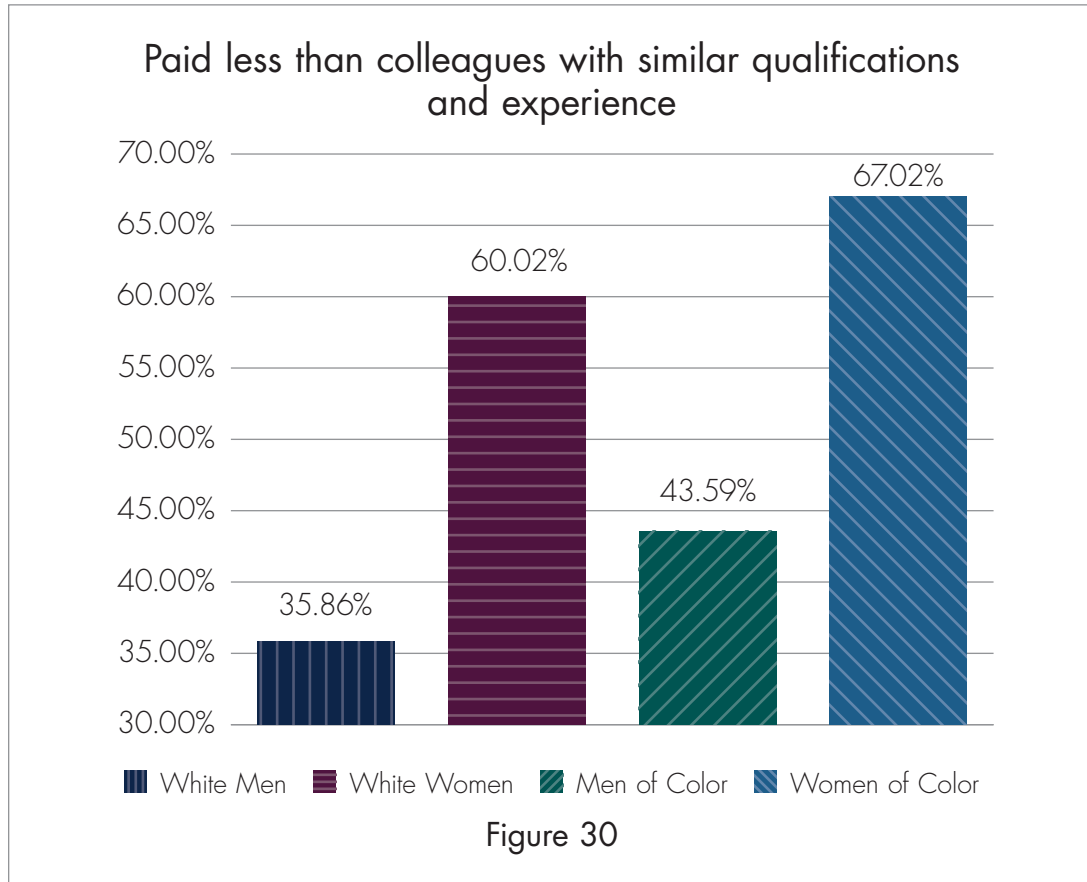
Paid less than colleagues with similar qualifications and experience

Figure 30

The Workplace Experiences Survey found that almost 70% of women of color reported that they were paid less than comparable colleagues. Only 36% of white men reported the same. This finding reveals another 31 percentage point gap between white men and women of color regarding compensation, a very large discrepancy between these two groups' experiences.

The 24 percentage point gap between white men and white women was also very large. Together, these findings clearly reveal that women of all races report that they are paid less than comparable colleagues at higher levels than men do.

The difference between men of color and white men was not statistically significant. White and Asian women reported similar levels of compensation bias, while other women of color reported the highest level of compensation bias.

The Workplace Experiences Survey found that almost 70% of women of color reported that they were paid less than comparable colleagues. Only 36% of white men reported the same.

One woman described the problem this way:

> "The whole law firm structure was developed by men. The structure remains most functional for men's networking style, and for men who have wives who stay at home with their kids. It has not adapted well, yet, to women AND men who wish to participate in their children's lives. Nor has it, yet, adapted to seeing the value in people who do not market and behave like stereotypical rainmakers. Until the compensation systems adjust to these things, people will continue to leave law firms."
>
> *—White woman, workplace unknown*

When we compared white women working in house to white women working in firms, we did not find any significant difference between their reported levels of bias in compensation.* This was surprising, as so much attention has been placed on the partner gender pay gap and the in-house environment is thought to be a more equitable workplace without the same gender pay gap issues. Our findings indicate that women working in house face a similar rate of bias when it comes to their compensation. Comments provided on our survey illustrate the sense of outrage that is felt by both in-house and firm women about their pay:

> "One man was recently given a promotion because HR discovered he was being paid a lot more than me, with the same job title. So instead of increasing my pay, they promoted him to a higher title! Women can't win in this environment."
>
> *—White woman, in house*

> "I received a demotion, which is typically what happens to women of color in my organization. That demotion was because my position was eliminated. My white male colleague, who was my counterpart, received a promotion the same week I was demoted. He received a $30k pay increase . . . while I received a $20k decrease, lowered bonus percentage, and less stock options."
>
> *—Woman lawyer, race and workplace unknown*

> "I have been told that my salary cannot be raised unless my male counterpart's is also raised. However, I have more experience and his salary is higher than mine."
>
> *—White woman, in-house lawyer*

---

* We did not have a large enough sample size of women of color to compare in-house vs. firm women of color.

> "Women are much less valued in this geographic area than men and are paid less than their counterparts and even those with less experience/competence."
>
> —*White woman, firm lawyer*

Other women felt they were unfairly penalized due to part-time status:

> "I can compare how I am treated with how my husband is treated and he gets a lot more flexibility than I do. I am also paid 80% (though my hours are supposed to reflect the reduced time—it DOES NOT) of what my colleagues are paid. I am at the office every day, working normal hours but am not compensated as such. Reduced hours for a woman just means reduced compensation and reduced billable expectation—it does not translate to the real world."
>
> —*White woman, firm lawyer*

Another agreed, reporting both "schedule creep" (when a part-time schedule creeps back toward full-time) and the "flexibility stigma" (the assumption that part-time attorneys lack career commitment):[105]

> "I believe I hit a wall with my advancement because of my reduced caseload status. The firm only respects reduced caseload attorneys if they work more hours than the reduced caseload requires. Because of my reduced caseload status (and now, I believe, my age) I am being paid less than junior people because I am not as 'hungry' as they are."
>
> —*White woman, firm lawyer*

Workplace processes conclusion

Regression analysis confirmed that women reported higher levels of bias than men on the workplace process questions, after controlling for several other variables (race, age, workplace type, firm/department size, caregiving responsibilities, and geographic location).

As discussed in detail above, Asian women sometimes reported more bias than white women on workplace process questions. In regression analyses, however, after controlling for other factors, being Asian did not emerge as a significant factor in determining people's answers to the workplace process questions.

Other women of color reported higher levels of bias for most workplace process questions. Regression analysis confirmed the racial disparity in workplace processes after controlling for other variables.

At the beginning of the report, we noted that women and people of color are having trouble advancing through the ranks in the legal profession. These findings on workplace processes provide clarity on why this is the case: women and people of color are facing more bias in each of the basic workplace processes we studied.

In-House vs. Law Firm Experiences

Does the bias climate in house differ from that found in law firms?

It does. Lawyers from different demographic groups reported different experiences depending on whether they worked in house or in law firms.

The big picture: white men were the only group to report more positive experiences in law firms than in house. Everyone else reported less bias in house than in law firms.

White men

White male lawyers working in house reported slightly more bias than their law firm counterparts.

White male in-house lawyers and law firm lawyers reported comparable experiences on most of the four patterns of bias questions—but not on a few: white male lawyers who worked in law firms reported lower levels of bias than their in-house counterparts on the following:

- Being held to higher standards
- Having ideas stolen by other people
- Ability to show anger when justified
- Access to the glamour work
- Pressure to be a worker bee

On the workplace process questions, white men reported similar experiences regardless of whether they worked in house or in law firms, with three exceptions. White men in law firms reported lower levels of bias than their in-house counterparts in:

- Business development
- Promotions
- Mentorship

White women

Overall, white women working in house reported less bias than their law firm counterparts.

The most important finding: white women working in house reported a lower level of bias on almost every Maternal Wall question, suggesting that Maternal Wall bias is much more prevalent in law firms than it is in house.

In contrast, white women working in law firms reported a lower level of Tightrope bias than women working in house. White women in law firms reported that they could behave assertively and be vocal about their accomplishments without pushback

at higher levels than white women in house. There is one exception: white women firm lawyers reported higher levels of bias on the two questions related to office housework.

White women working in house and in firms reported similar experiences in most workplace process questions, with three exceptions. In-house white women lawyers reported higher levels of bias than their firm counterparts in:

- Promotions
- Mentorship
- Sponsorship

Surprisingly, white women in house and in law firms reported similar levels of compensation bias. This finding indicates that more attention needs to be paid to the gender pay gap of in-house lawyers, who have been thought to be doing better than firm lawyers.

Men of color

Men of color working in house reported lower levels of bias than those working in law firms.

In-house male lawyers of color reported that parenthood did not harm perceptions of their competence and commitment at higher levels than their law firm counterparts.

Men of color working in house also reported having difficulty getting support from administrative staff at a lower level than their law firm counterparts.

Women of color

Women of color also reported different bias experiences working in house and in law firms.

In-house women of color overall reported lower levels of bias than their law firm counterparts. Women of color working in house reported that their ideas are respected at a higher level than their law firm counterparts. In-house women of color reported Tightrope bias at a lower level as compared with their law firm counterparts: they reported higher levels of agreement that they are seen as leaders and lower levels of agreement that they are stuck doing the office housework than their law firm women of color counterparts.

Maternal Wall bias also was reported at a lower level by in-house women of color than by women of color working in law firms. Women of color working in house reported lower levels of feeling that taking parental leave would hurt their careers or feeling pressure to work longer hours than necessary just to prove their commitment.

Sexual Harassment

A final set of questions on the Workplace Experiences Survey asked respondents about their experiences with sexual harassment in the workplace. The sexual harassment questions varied in form from the other questions on the survey and were analyzed using a different metric.

About one-quarter of women reported that they had experienced workplace sexual harassment in the form of unwanted romantic or sexual attention and/or touching (see Figure 31). Twenty-seven percent of white women and 25% of women of color reported this compared with only 7% of white men. Men of color fell in the middle with 11% reporting encountering unwanted romantic or sexual attention/touching.

About one-quarter of women reported that they had experienced workplace sexual harassment.

Experienced workplace sexual harassment

Category	Percentage
White Men	6.90%
White Women	26.50%
Men of Color	10.80%
Women of Color	24.80%
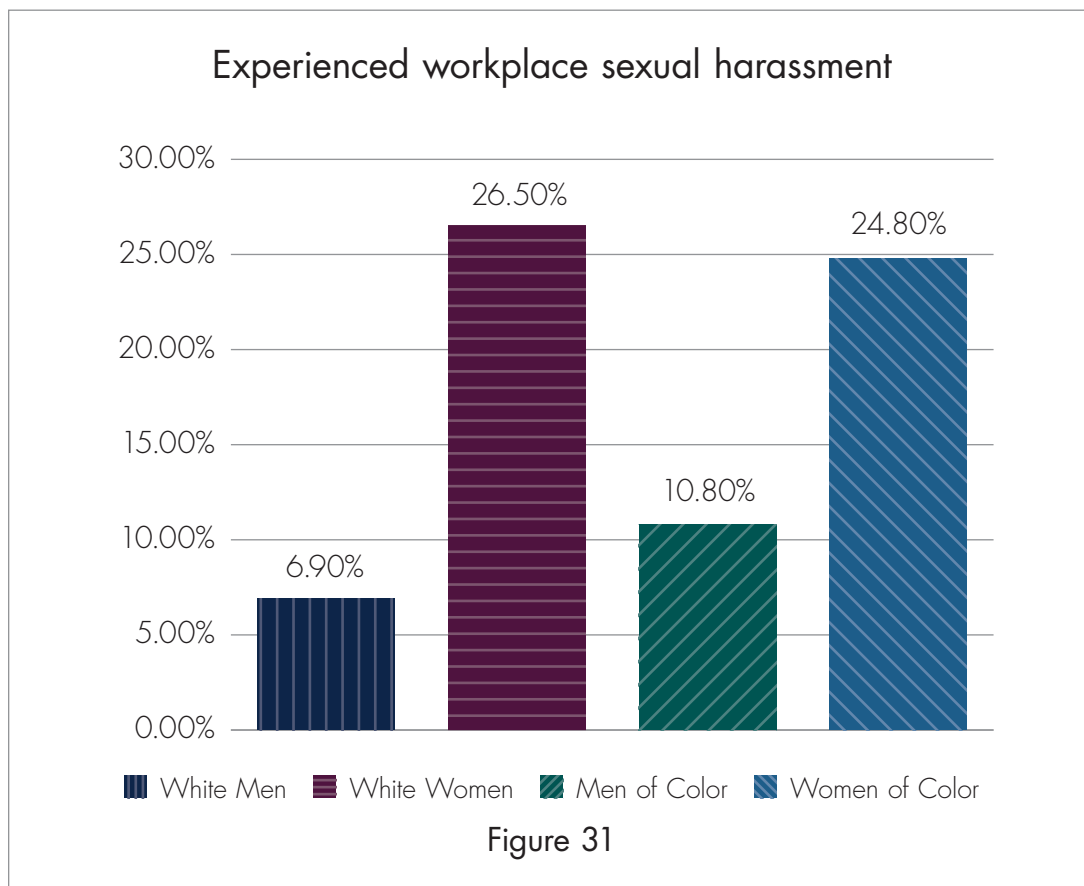
Figure 31

Sexist remarks appear to be widespread in the legal profession (see Figure 32). Over 70% of all lawyers reported encountering sexist remarks at the workplace. White men were the group that reported encountering this the least, at 73%, and white women were the group that reported encountering sexist remarks the most, at 84%. Men and women of color fell in the middle.

Encountered sexist remarks at work

73.3% 83.8% 77.5% 75.9%

White Men White Women Men of Color Women of Color

Figure 32

You Can't Change What You Can't See
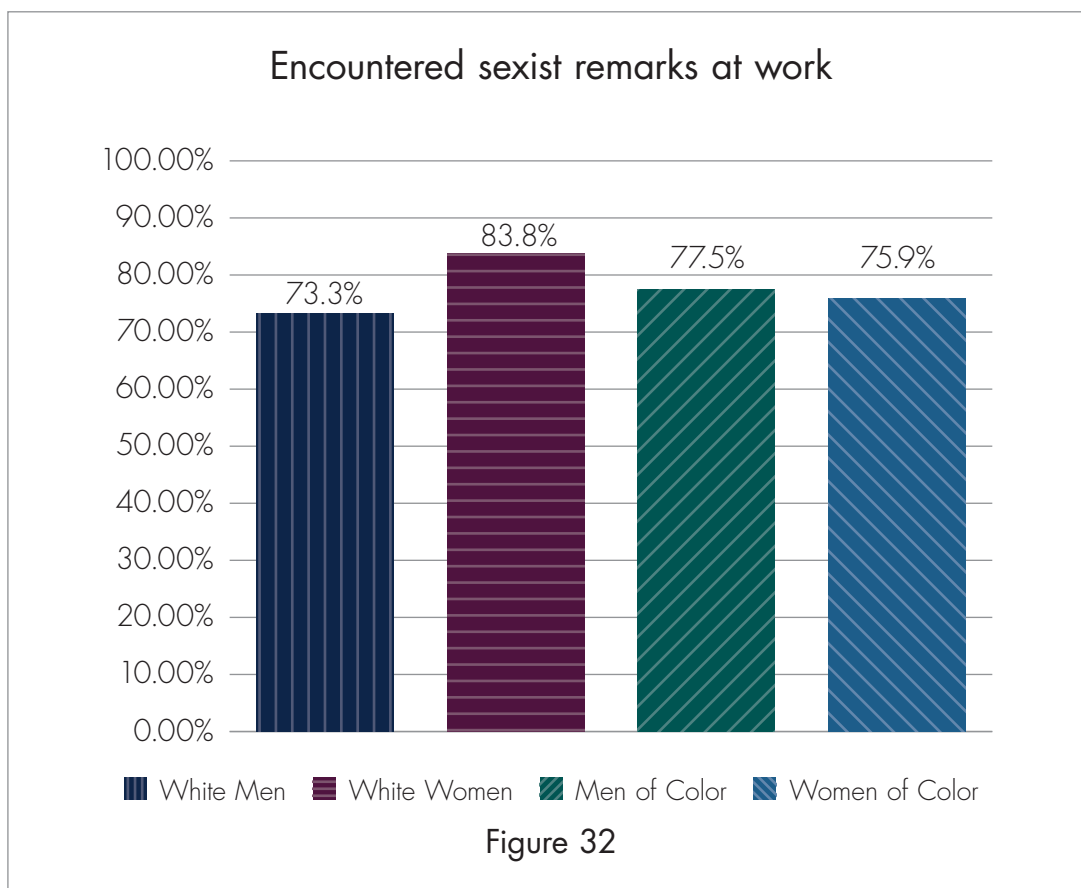
The Workplace Experiences Survey also asked respondents if they had lost work opportunities because they rebuffed sexual advances at work (see Figure 33). Although the overall number of people who reported this is low, about one in eight white women and one in ten women of color reported this, compared with only 3% to 5% of men.

Lost work opportunities as a result of refusing sexual advances

Figure 33
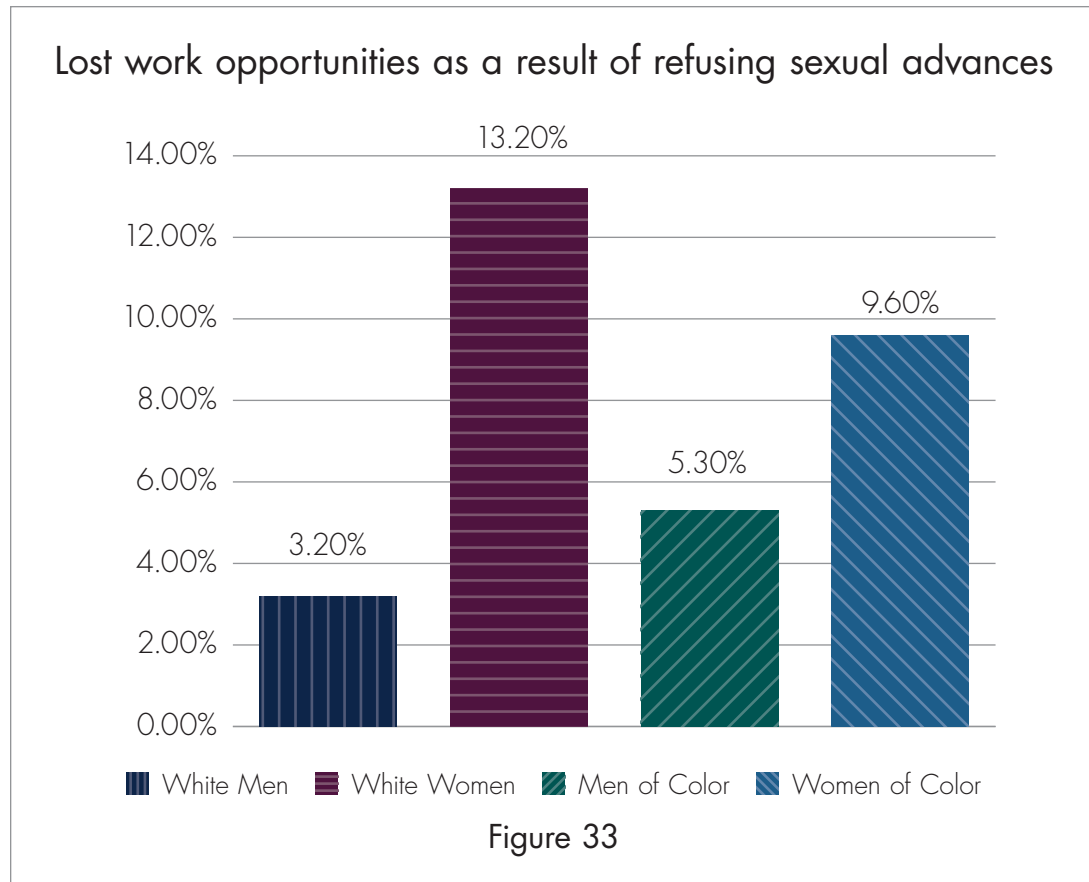
Finally, the survey asked if respondents had ever felt "bribed or threatened with workplace consequences for not engaging in sexual behavior." Among white women, 4.5% reported encountering this, and, interestingly, 4.5% of men of color did too. In comparison, only 1.4% of white men and 1.9% of women of color reported encountering feeling bribed or threatened for not engaging in sexual behavior. This finding is somewhat counterintuitive and merits further research.

Conclusion

Despite decades of progress, women and people of color remain severely underrepresented in the top levels of the legal profession, are paid less than their colleagues, and leave the profession at higher rates.[106] For the legal profession to continue attracting top talent—and, more important, to *retain* top talent—employers need first to see what the problems are and, second, to adopt effective measures to address challenges.

The Workplace Experiences Survey is the first survey to use experimental social psychology as a springboard to attempt to comprehensively document the everyday mechanisms that lead to inequities in the legal profession. The survey found significant racial and gender bias for the Prove-It-Again and Tightrope patterns of bias. Substantial levels of Maternal Wall bias were accompanied by the sentiment from every group of lawyers that taking parental leave and/or working part-time would be detrimental to their careers. In addition, about a third of women lawyers and lawyers of color felt that there is only one slot for people like them, which can lead to conflict and competition between white women and women of color.

The Workplace Experiences Survey also found bias in every single workplace process. Women and people of color reported having a harder time getting hired, a harder time getting career-enhancing assignments, a harder time getting a mentor, a harder time getting access to networks that will help them develop their business, a harder time getting honest feedback on their performance evaluations, and a harder time getting the promotions that they deserve. Women report being paid less than their colleagues with comparable seniority and experience.

Women of color often reported the highest levels of bias of any group, especially for Prove-It-Again and for most workplace processes. Asian women and other women of color overall reported similar levels of bias on the questions regarding the four patterns of bias. On the workplace process questions, Black, Latina, and women of other races often reported more bias than Asian women. The differences between Asian women and other women of color are important as they present a fuller and more nuanced picture of the experience of women of color, but further research is needed to draw firm conclusions about these differences.

This report brings the problems regarding workplace diversity into focus, which brings us to the most important question, "What can we do about it?"

The usual tools for increasing diversity—such as bias trainings—typically don't work.[107] If legal employers truly want to attract talent from the full labor pool and provide a level playing field that gives every lawyer an equal opportunity to succeed, they need to try something different.

This report suggests why bias trainings and women's initiatives typically don't work. If an employer lacks diversity, it is probably because subtle (and not-so-subtle) forms of bias are constantly playing out in everyday workplace interactions—in meetings, in assignments, in mentoring, in compensation, and so on. The solution is not to "fix the women" but to fix the business systems.

You Can't Change What You Can't See

That's what bias interrupters do. In the following pages, you'll find Toolkits that law firms and in-house departments can use to interrupt bias. Bias interrupters are tweaks to your existing systems that interrupt bias in a data-driven way.

The bias interrupters model requires that organizations begin with metrics because "if you're not keeping score, you're only practicing." This new model of organizational change sets a metric, puts in place bias interrupters, and then returns to the metric to see whether it has improved. If it hasn't, your organization will need to ratchet up to a stronger bias interrupter—and to keep trying until you meet your goal. This is the way businesses proceed toward any business goal.

If you are in a position in your organization to enact changes, we urge you to use the bias interrupters set forth below. If you are not in a position to effect change directly and think your organization could benefit from bias interrupters, you can find tips for how to persuade your organization to institute bias interrupters at www. BiasInterrupters.org, which also has additional open-source toolkits that are free.

Our report revealed that the legal profession has a lot of work to do to create an environment in which the top legal minds—regardless of their gender, race, or caregiver status—can thrive and contribute to the best of their ability. Bias interrupters can help.

Scales and Regression Analysis

As discussed throughout the report, we conducted regression analyses to examine the association between demographic variables and the self-reported experiences of bias while controlling for multiple variables. We found that women reported more Prove-It-Again, Tightrope, Maternal Wall, and Tug of War bias regardless of their race, age, workplace type, firm/department size, and geographic location of their offices. We also found that underrepresented groups (e.g., African Americans and Latinos) reported higher levels of Prove-It-Again and Tightrope bias regardless of their gender, age, and other variables. Regression analyses showed that women reported higher levels of bias in all workplace processes regardless of their racial background and other variables. Similarly, underrepresented groups reported higher levels of bias in all workplaces processes regardless of other variables.

We included multiple questions measuring each type of bias, so we created scales that combine several Likert scale questions. The scales allowed us to conduct regression analysis using one scale for each type of bias. The scales are the arithmetic means of questions that measure the same concept and fit together well statistically.

You Can't Change What You Can't See

Scales for the four types of bias and the workplace processes bias variables.[108]

Variable	N (with no missing values)	Prop./ Mean	Std. Dev.	Min	Max
Prove-it-Again! scale	2,360	3.354	1.232	1	6
Tightrope scale	2,360	3.523	1.004	1	6
Tug of War	2,134	2.717	1.480	1	6
Tug of War compete woman slot	1,315	2.640	1.463	1	6
Tug of War compete minority slot	429	2.727	1.548	1	6
Maternal Wall scale	2,362	3.578	1.207	1	6
Maternal Wall—colleagues don't question my commitment	1,107	3.835	1.686	1	6
Hiring	2,137	2.761	1.363	1	6
Assignment scale	2,263	2.976	1.336	1	6
Performance Evaluation	2,229	2.773	1.310	1	6
Sponsorship scale	2,264	3.311	1.232	1	6
Promotion	2,253	3.803	1.496	1	6
Compensation	2,242	3.590	1.602	1	6
Business Development	2,116	3.102	1.452	1	6

Scales are constructed on the basis of social psychology theories, previous research, factor analysis, and Cronbach's alpha using the survey data.

Endnotes

1. Hull, K. E., & Nelson, R. L. (Sept. 2000). Assimilation, choice, or constraint? Testing theories of gender differences in the career of lawyers. *Social Forces,* 79(1):229–64.

2. http://www.americanbar.org/content/dam/aba/administrative/market_research/lawyer-demographics-tables-2016.authcheckdam.pdf; Commission on Women in the Profession, American Bar Association. (Jan. 2017). *A Current Glance at Women in the Law 2017,* http://www.americanbar.org/content/dam/aba/marketing/women/current_glance_statistics_january2017.authcheckdam.pdf.

3. http://www.americanbar.org/content/dam/aba/administrative/market_research/lawyer-demographics-tables-2016.authcheckdam.pdf.

4. Ibid.

5. http://www.nalp.org/nalpdiversityinfographic_minorities.

6. Commission on Women in the Profession, American Bar Association. (May 2016). *A Current Glance at Women in the Law 2016,* http://www.americanbar.org/groups/women/resources/statistics.html; National Association of Women Lawyers. (2015). *Women Lawyers Continue to Lag Behind Male Colleagues: Report of the Ninth Annual NAWL National Survey on Retention and Promotion of Women in Law Firms,* http://www.nawl.org/p/cm/ld/fid=506.

7. http://www.nalp.org/nalpdiversityinfographic_minorities; http://www.americanbar.org/publications/gp_solo/2012/september_october/diversity_practice_law_how_far_have_we_come.html.

8. Woodson, K. (2015). Race and rapport: homophily and racial disadvantage in large law firms, *Fordham L. Rev.,* 83:2557–76.

9. Rhode, D. (2012). Women and the path to leadership, *Michigan State Law Review* 1439, 1469, supra n.90 at 1469; Wilkins, D. B., & Gulati, G. M. (1996). Why are there so few black lawyers in corporate law firms—an institutional analysis, *Cal. L. Rev* 493: supra note 10, at 592–94; Woodson. (2015). Race and rapport; Wald, E. (2010). Glass ceiling and dead ends: professional ideologies, gender stereotypes, and the future of women lawyers at large law firms. *U. Denver, Sturm College of Law, Legal Research Paper Series,* Working Paper No. 10-08, Vol. 78, 101–44, n.17.

10. Jackson, L. (2016). Minority women are disappearing from BigLaw—and here's why. *A.B.A. J.,* http://www.abajournal.com/magazine/article/minority_women_are_disappearing_from_biglaw_and_heres_why; Chung, R. (2015). Implicit bias: the silent killer of diversity in the legal profession, *Above the Law,* http://abovethelaw.com/2015/02/implicit-bias-the-silent-killer-of-diversity-in-the-legal-profession/; New York City Bar, Committee on Women in the Profession. (2006). *Best Practices for the Hiring, Training, Retention, and Advancement of Women Attorneys*; Fontaine, V. (1995). Progress report: women and people of color in legal education and the legal profession. *UC Hastings Women's L.J.,* 6:27–39.

11. *See:* Foster, S. E. (1994–1995). The glass ceiling in the legal profession: why do law firms still have so few female partners?" *UCLA L. Rev.*, 42:1631; Wald, E. (2010). Glass ceiling and dead ends: professional ideologies, gender stereotypes, and the future of women lawyers at large law firms. *U. Denver, Sturm College of Law, Legal Research Paper Series*, Working Paper No. 10-08, Vol. 78, 101–44; Hymowitz, C., & Schellhardt, T. D. (March 24, 1986). The glass ceiling: why women can't seem to break the invisible barrier that blocks them from the top job, *Wall Street Journal*; Weyer, B. (2007). Twenty years later: explaining the persistence of the glass ceiling for women leaders. *Women in Management Rev.*, 22(6):482–96; Stroh. L. et al. (1996). Family structure, glass ceiling and traditional explanations for the differential rate of turnover of female and male managers. *J. Vocational Behavior*, 49:99–118; Smith, R. (2012). Money, benefits, and power: a test of the glass ceiling and glass escalator hypotheses. *The Annals of the Am. Acad. Political and Social Science*, 639:149–72; Kende, M. (1994). Shattering the glass ceiling: a legal theory for attacking discrimination against women partners. *Hastings L.J., 46:*17; Angel, M. (2000). The glass ceiling for women in legal education: contract positions and the death of tenure. *J. Legal Education*, 50(1):1–15; Cotter, D. et al. (2001). The glass ceiling effect. *Social Forces*, 80(2):655–82; Arfken, D. E., Bellar, S. L., & Helms, M. M. (2004). The ultimate glass ceiling revisited: the presence of women on corporate boards. *J. Business Ethics, 50:*177–86.

12. *See* Woodson. (2015). Race and rapport; Cuyler, A. (2012). Diversity in the practice of law: how far have we come? *GP SOLO,* 29(5); Jackson, L. (2016). Minority women are disappearing from BigLaw—and here's why. *American Bar Association Journal Online*; Chung. (2015). Implicit bias; Fontaine, V. (1995). Progress report: women and people of color in legal education and the legal profession. *UC Hastings Women's L.J.*, 6:27–39; Gordon, J. C. (2002–2003). Painting by numbers: "and, um, let's have a black lawyer sit at our table." *Fordham L. Rev.*, 71:1257–97; Rhode, D. L. (2011). From platitudes to priorities: diversity and gender equity in law firms. *Georgetown J. of Legal Ethics*, 24(4):1045; Maleske, M. (2016). The 5 ways BigLaw is failing minorities. *Law360*; Crockett, M. P. (2013). Alone on an island: the realities of practicing law for women of color. *Michigan Bar J.*, 42–46; Conley, J. M. (2006). Tales of diversity: lawyers' narratives of racial equity in private firms. *J. Am. B. Found., Law and Social Inquiry*, 31(4):831–53; Holder, E. H., Jr. (Nov. 12, 2001). *The Importance of Diversity in the Legal Profession*. Speech given at the 53rd Cardozo Memorial Lecture.

13. Rhode, D. L., & Ricca, L. B. (2015). Diversity in the legal profession: perspectives from managing partners and general counsel. *Fordham L. Rev.*, 83:2483–2507.

14. ABA Commission on Women in the Profession. (2006). *Visible Invisibility: Women of Color in Law Firms.*

15. Reeves, A. N. (Apr. 2014). Written in black and white: exploring confirmation bias in racialized perceptions of writing skills. *Nextions Yellow Paper Series,* https://nextions.com/portfolio-posts/written-in-black-and-white-yellow-paper-series/.

16. Williams, J. C., Phillips, K. W., & Hall, E. V. (2014). Double jeopardy? gender bias against women in science. *Center for WorkLife Law, UC Hastings College*

of the Law; American Bar Association's Commission on Women. (2012). *Visible Invisibility, Women of Color in Fortune 500 Legal Departments.*

17. *See* http://biasinterrupters.org/wp-content/uploads/Bias-Interrupters-Master-Bibliography.pdf for social science studies going back to 1974 documenting Prove-It-Again bias. *See* Deaux, K., & Emswiller, T. (1974). Explanations of successful performance on sex-linked tasks: what is skill for the male is luck for the female. *J. Personality and Social Psychology*, 29(1):80–85. doi: 10.1037/h0035733.

18. Knobloch-Westerwick, S., Glynn, C. J., & Huge, M. (2013). The Matilda effect in science communication: an experiment on gender bias in publication quality perceptions and collaboration interest. *Science Communication*, 20(10):1–23; Moss-Racusin, C. A., Dovidio, J. F., Brescoll, V. L., Graham, M. J., & Handelsman, J. (2012). Science faculty's subtle gender biases favor male students. *Proceedings of the National Academy of Sciences*, 109(41):16474–79; Heilman, M. E. (2012). Gender stereotypes and workplace bias. *Research in Organizational Behavior*, 32:113–35; Heilman, M. E., & Chen, J. J. (2005). Same behavior, different consequences: reactions to men's and women's altruistic citizenship behavior. *J. Applied Psychology*, 90(3):431–41; Roth, P. L., Purvis, K. L., & Bobko, P. (2012). A meta-analysis of gender group differences for measures of job performance in field studies. *J. Management*, 38(2):719–39; Biernat, M., Fuegen, K., & Kobrynowicz, D. (2010). Shifting standards and the inference of incompetence: effects of formal and informal evaluation tools. *Personality and Social Psychology Bulletin*, 36(7):855–68; Bowles, H. R., & Gelfand, M. (2010). Status and the evaluation of workplace deviance. *Psychological Science*, 21(1):49–54; Fiske, S. T., Cuddy, A. J., Glick, P., & Xu, J. (2002). A model of (often mixed) stereotype content: competence and warmth respectively follow from perceived status and competition. *J. Personality and Social Psychology*, 82(6):878; Bauer, C. C., & Baltes, B. B. (2002). Reducing the effects of gender stereotypes on performance evaluations. *Sex Roles*, 47(9–10):465–76; Davison, H. K., & Burke, M. J. (2000). Sex discrimination in simulated employment contexts: a meta-analytic investigation. *J. Vocational Behavior*, 56(2):225–48; Foschi M. (2000). Double standards for competence: theory and research. *Annual Review of Sociology*, 26(1):21–42; Biernat, M., & Kobrynowicz, D. (1997). Gender- and race-based standards of competence: lower minimum standards but higher ability standards for devalued groups. *J. Personality and Social Psychology*, 72(3):544–57; Foschi M. (1996) Double standards in the evaluation of men and women. *Social Psychology Quarterly*, 59:237–54; Steele, C. M., & Aronson, J. (1995). Stereotype threat and the intellectual test performance of African-Americans. *J. Personality and Social Psychology*, 69(5):797–811; Landau, J. (1995). The relationship of race and gender to managers' ratings of promotion potential. *J. Organizational Behavior*, 16(4):391–400; Scherer, R. F., Owen, C. L., & Brodzinski, J. D. (1991). Rater and ratee sex effects on performance evaluations in a field setting a multivariate analysis. *Management Communication Quarterly*, 5(2):174–91; Heilman, M. E. (1983). Sex bias in work settings: the lack of fit model. *Research in Organizational Behavior*, 5:269–86.

19. Haselhuhn, M. P., & Kray, L. J. (2012). Gender and negotiation. In B. Goldman & D. Shapiro (eds.), *The Psychology of Negotiations in the 21st Century Workplace.* Society of Industrial/Organizational Psychology Organizational Frontiers Series

(United Kingdom: Routledge); Rudman, L. A., Moss-Racusin, C. A., Phelan, J. E., & Nauts, S. (2012). Status incongruity and backlash effects: defending the gender hierarchy motivates prejudice against female leaders. *J. Experimental Social Psychology,* 48:165–79; Bowles, H. R., Babcock, L., & McGinn, K. L. (2005). Constraints and triggers: situational mechanics of gender in negotiation. *J. Personality and Social Psychology*, 89(6):951–65; Heilman, M. E., & Chen, J. J. (2005). Same behavior, different consequences: reactions to men's and women's altruistic citizenship behavior. *J. Applied Psychology*, 90(3):431–41; Brescoll, V. L., & Uhlmann, E. L. (2008). Can angry women get ahead? gender, status conferral, and workplace emotion expression. *Psychological Science*, 19:268–75; Rudman, L. A., & Glick, P. (2001). Prescriptive gender stereotypes and backlash toward agentic women. *J. Social Issues*, 57:743–62; Heilman, M. E., Wallen, A. S., Fuchs, D., & Tamkins, M. M. (June 2004). Penalties for success: reactions to women who succeed at male gender-typed tasks. *J. Applied Psychology*, 89(3):416–27; Taylor, S. E. (1981). A categorization approach to stereotyping, in D. L. Hamilton (ed.), *Cognitive Processes in Stereotyping and Intergroup Behavior* (United Kingdom: Psychology Press); Livingston, R., & Pearce N. A. (2009). The teddy-bear effect: does having a baby face benefit black chief executive officers. *Psychological Science*, 20(10):1229–36; Cuddy, A. J., Fiske, S. T., & Glick, P. (2008). Warmth and competence as universal dimensions of social perception: the stereotype content model and the BIAS map. *Advances in Experimental Social Psychology*, 40:61–149; Fiske, S. T., Xu, J., Cuddy, A. C., & Glick, P. 1999. (Dis)respecting versus (dis)liking: status and interdependence predict ambivalent stereotypes of competence and warmth. *J. Social Issues*, 55(3):473–89.

20. *See* http://biasinterrupters.org/wp-content/uploads/Bias-Interrupters-Master-Bibliography.pdf for social science studies going back to 1974 documenting Tightrope bias. See Costrich, N., Feinstein, J., Kidder, L., Marecek, J., & Pascale, L. (1975). When stereotypes hurt: three studies of penalties for sex-role reversals. *J. Experimental Social Psychology*, 11(6):520–30. doi: 10.1016/0022-1031(75)90003-7.

21. Prentice, D. A., & Carranza, E. (2002). What women and men should be, shouldn't be, are allowed to be, and don't have to be: the contents of prescriptive gender stereotypes *Psychology of Women Quarterly*, 26(4):269–81; Rudman L. A., & Phelan, J. E. (2008). Backlash effects for disconfirming gender stereotypes in organizations. *Research in Organizational Behavior*, 28:61–79.

22. Heilman, M. E., & Okimoto, T. G. (2008). Motherhood: a potential source of bias in employment decisions. *J. Applied Psychology*, 93(1):189–98; Crosby, F. J., Williams, J. C., & Biernat, M. (2004) The Maternal Wall. *J. Social Issues*, 60(4):675–82; Correll, S. J., Benard, S., & Paik, I. (2007). Getting a job: is there a motherhood penalty? *Am. J. Sociology*, 112 (5):1297–1338; Hebl, M. R., King, E. B., Glick, P., Singletary, S. L., & Kazama, S. (2007). Hostile and benevolent reactions toward pregnant women: complementary interpersonal punishments and rewards that maintain traditional roles. *J. Applied Psychology*, 92(6):1499; Cuddy, A. J., Fiske, S. T., & Glick, P. (2004). When professionals become mothers, warmth doesn't cut the ice. *J. Social Issues*, 60:701–18; Fuegen, K., Biernat, M., Haines, E., & Deaux, K. (2004). Mothers and fathers in the workplace: how gender and parental status influence judgments of job-related competence. *J. Social Issues*, 60(4):737–54;

Halpert, J. A., Wilson, M. L., & Hickman, J. L. (1993). Pregnancy as a source of bias in performance appraisals. *J. Organizational Behavior*, 14(7):649–63.

23. Williams, J., & Dempsey, R. (2014). *What Works for Women at Work* (New York: New York University Press).

24. On gender see Bogoch, B. (1999). Courtroom discourse and the gendered construction of professional identity. *Law & Social Inquiry*, 24(329):333–34; Ashby, J. S., Ryan, M. K., & Haslam, S. A., (2007). Legal work and the glass cliff: evidence that women are preferentially selected to lead problematic cases, *Williams and Mary J. Women and the Law*, 13:775–93; On race see Rhode, D. L. (May 27, 2015). Law is the least diverse profession in the nation. and lawyers aren't doing enough to change that. *Washington Post*; Weiss, D. C. (Apr. 21, 2014). Partners in study gave legal memo a lower rating when told author wasn't white," *A.B.A. J.* (online), http://www.abajournal.com/news/article/ hypothetical_legal_memo_demonstrates_unconscious_biases.

25. Fiske, S. T., & Taylor S. E. (2013). *Social Cognition: From Brains to Culture* (Thousand Oaks, CA: Sage Publications); Heilman, M. E. (1983). Sex bias in work settings: the lack of fit model. *Research in Organizational Behavior*, 5:269–86; Heilman, M. E. (1984). Information as a deterrent against sex discrimination: the effects of applicant sex and information type on preliminary employment decisions. *Organizational Behavior and Human Performance*, 33:174–86; Heilman, M. E. (2012). Gender stereotypes and workplace bias. *Research in Organizational Behavior,* 32:113–35; Steele, C. M., & Aronson, J. (1995). Stereotype threat and the intellectual test performance of African-Americans. *Journal of Personality and Social Psychology*, 69(5):797–811.

26. *See* Knobloch-Westerwick, Glynn, & Huge. (2013). The Matilda effect in science communication; Moss-Racusin, C. A., Dovidio, J. F., Brescoll, V. L., Graham, M. J., & Handelsman, J. (2012). Science faculty's subtle gender biases favor male students. *Proceedings of the National Academy of Sciences*, 109(41):16474–79; Heilman. (2012). Gender stereotypes and workplace bias. Heilman, M. E., & Chen, J. J. (2005). Same behavior, different consequences: reactions to men's and women's altruistic citizenship behavior. *J. Applied Psychology*, 90(3):431–41; Roth, P. L., Purvis, K. L., & Bobko, P. (2012). A meta-analysis of gender group differences for measures of job performance in field studies. *J. Management*, 38(2):719–39; Biernat, M., Fuegen, K., & Kobrynowicz, D. (2010). Shifting standards and the inference of incompetence: effects of formal and informal evaluation tools. *Personality and Social Psychology Bulletin*, 36(7):855–68; Bowles, H. R., & Gelfand, M. (2010). Status and the evaluation of workplace deviance. *Psychological Science*, 21(1):49–54; Fiske, S. T., Cuddy, A. J., Glick, P., & Xu, J. (2002). A model of (often mixed) stereotype content: competence and warmth respectively follow from perceived status and competition. *J. Personality and Social Psychology*, 82(6):878; Bauer, C. C., & Baltes, B. B. (2002). Reducing the effects of gender stereotypes on performance evaluations. *Sex Roles*, 47(9–10):465–76; Davison, H. K., & Burke, M. J. (2000). Sex discrimination in simulated employment contexts: a meta-analytic investigation. *J. Vocational Behavior*, 56(2):225–48; Foschi M. (2000) Double standards for competence: theory and research. *Annual Review of Sociology*, 26(1):21–42; Biernat & Kobrynowicz. (1997). Gender- and race-based standards of competence; Foschi M. (1996). Double standards in the evaluation of men and women. *Social*

Psychology Quarterly, 59:237–24; Steele & Aronson. (1995). Stereotype threat and the intellectual test performance of African-Americans; Heilman, M. E., Block, C. J., & Martell, R. F. (1995). Sex stereotypes: do they influence perceptions of managers? *J. Social Behavior and Personality*, 10:237–52; Landau, J. (1995). The relationship of race and gender to managers' ratings of promotion potential. *J. Organizational Behavior*, 16(4):391–400; Scherer, Owen, & Brodzinski. (1991). Rater and ratee sex effects on performance evaluations; Heilman. (1983). Sex bias in work settings; Heilman. (1984). Information as a deterrent against sex discrimination; Berger, J., Fisek, H., Norman, R., & Zelditch, M. (1977). *Status Characteristics and Social Interaction: An Expectation-States Approach* (Amsterdam, Netherlands: Elsevier).

27. Broverman, I. K., Vogel, S. R., Broverman, D. M., Clarkson, F. E., & Rosenkrantz, P. S. (1972) Sex-role stereotypes: a current appraisal. *J. Social Issues*, 28:59–78; Heilman, M. E., Block, C. J., Martell, R. F., & Simon, M. C. (1989). Has anything changed? current characterizations of men, women, and managers. *J. Applied Psychology*, 74(6):935–42.

28. Gorman, E. H., & Kmec, J. A. (2009). Hierarchical rank and women's organizational mobility: glass ceilings in corporate law firms. *Am. J. Sociology*, 114(5):1428–74.

29. Wald, E. (2015) BigLaw identity capital: pink and blue, black and white. Fordham Law Rev., 83(5):2509–55, n.12.

30. Knobloch-Westerwick, S., Glynn, C. J., & Huge, M. (2013). The Matilda effect in science communication: an experiment on gender bias in publication quality perceptions and collaboration interest. *Science Communication*, XX(X):1–23; Moss-Racusin, C. A., Dovidio, J. F., Brescoll, V. L., Graham, M. J., & Handelsman, J. (2012). Science faculty's subtle gender biases favor male students. *Proceedings of the National Academy of Sciences*, 109(41):16474–79; Roth, P. L., Purvis, K. L., & Bobko, P. (2012). A meta-analysis of gender group differences for measures of job performance in field studies. *J. Management*, 38(2):719–39; Davison, H. K., & Burke, M. J. (2000). Sex discrimination in simulated employment contexts: a meta-analytic investigation. *J. Vocational Behavior*, 56(2):225–48; Biernat, M., & Kobrynowicz, D. (1997). Gender-and race-based standards of competence: lower minimum standards but higher ability standards for devalued groups. *J. Personality and Social Psychology*, 72(3):544–57; Foschi M. (1996). Double standards in the evaluation of men and women. *Social Psychology Quarterly*, 59:237–54; Foschi M. (2000) Double standards for competence: theory and research. *Annual Review of Sociology*, 26(1):21–42; DesRoches, C. M., Zinner, D. E., Rao, S. R., Lezzoni, L. I., Campbell, E. G. (2010). Activities, productivity, and compensation of men and women in the life sciences. *Academic Medicine*, 85(4):631–39; Wenneras, C., & Wold, A. (1997). Nepotism and sexism in peer-review. *Nature*, 341–3, 387 (22 May 1997).

31. Knobloch-Westerwick, Glynn, & Huge. (2013). The Matilda effect in science communication; Moss-Racusin, Dovidio, Brescoll, Graham, & Handelsman, J. (2012). Science faculty's subtle gender biases favor male students; Roth, Purvis, & Bobko. (2012). A meta-analysis of gender group differences for measures of job performance in field studies; Davison & Burke. (2000). Sex discrimination in

simulated employment contexts; Biernat & Kobrynowicz. (1997). Gender- and race-based standards of competence; Foschi. (1996). Double standards in the evaluation of men and women; Foschi. (2000). Double standards for competence; DesRoches, Zinner, Rao, Lezzoni, & Campbell. (2010) Activities, productivity, and compensation of men and women in the life sciences; Wenneras & Wold. (1997). Nepotism and sexism in peer-review.

32. Bertrand, M., & Mullainathan, S. (2004). Are Emily and Greg more employable than Lakisha and Jamal? a field experiment on labor market discrimination. *Am. Economic Review*, 94:991–1013

33. Williams & Dempsey. (2014). *What Works for Women at Work;* Sandberg. S., & Grant, A. (Jan. 11, 2015). Speaking while female. *New York Times.*

34. Williams, J. C., Phillips, K. W., & Hall, E. V. (2014). Double jeopardy? gender bias against women in science. *Center for WorkLife Law, UC Hastings College of the Law,* http://www.toolsforchangeinstem.org/tools /double-jeopardy-report.

35. Heilman. (2012). Gender stereotypes and workplace bias; Heilman, M. E. (2001). Description and prescription: how gender stereotypes prevent women's ascent up the organizational ladder. *J. Social Issues*, 57(4):657–74; Fiske, S. T., Cuddy, A. J., Glick, P., & Xu, J. (2002). A model of (often mixed) stereotype content: competence and warmth respectively follow from perceived status and competition. *J. Personality and Social Psychology*, 82(6):878; Prentice, D. A., & Carranza, E. (2002). What women and men should be, shouldn't be, are allowed to be, and don't have to be: the content of prescriptive gender stereotypes. *Psychology of Women Quarterly*, 26:269–81; Burgess, D., & Borgida, E. (1999). Who women are, who women should be: descriptive and prescriptive gender stereotyping in sex discrimination. *Psychology, Public Policy, and Law*, 5(3):665–92; Eagly, A. H., & Johnson, B. T. (1990). Gender and leadership style: a meta-analysis. *Psychological Bulletin*, 108:233–56; Rudman, L. A., & Glick, P. (1999). Feminized management and backlash toward agentic women: the hidden costs to women of a kinder, gentler image of middle managers. *J. Personality and Social Psychology*, 77(5):1004–10; Rudman, L. A., & Glick, P. (2001). Prescriptive gender stereotypes and backlash toward agentic women. *J. Social Issues*, 57:743–62.

36. Rhode, supra n.33, at 1682 in Foster, S. E. (1995). The glass ceiling in the legal profession: why do law firms still have so few female partners? *UCLA L. Rev.* 42(6):1631–89.

37. Carli, L. L. (1990). Gender, language and influence. *J. Personality Social Psychology*, 59:941, 946–47.

38. Heilman, M. E., & Okimoto, T. G. (2008). Motherhood: a potential source of bias in employment decisions. *J. Applied Psychology*, 93(1):189–98; Rudman, L. A., & Phelan, J. E. (2008). Backlash effects for disconfirming gender stereotypes in organizations. *Research in Organizational Behavior*, 28:61–79; Cuddy, A. J., Fiske, S. T., & Glick, P. (2008). Warmth and competence as universal dimensions of social perception: the stereotype content model and the BIAS map. *Advances in Experimental Social Psychology*, 40:61–149; Fiske, Cuddy, Glick, & Xu. (2002). A model of (often mixed) stereotype content; Glick, P., & Fiske, S. T. (2001). An

ambivalent alliance: hostile and benevolent sexism as complementary justifications for gender inequality. *American Psychologist*, 56(2):109; Rudman & Glick. (1999). Feminized management and backlash toward agentic women; Rudman & Glick. (2001). Prescriptive gender stereotypes and backlash toward agentic women; Fiske, Xu, Cuddy, & Glick. (1999). (Dis)respecting versus (dis)liking; Heilman, M. E. (1995). Sex stereotypes and their effects in the workplace: what we know and what we don't know. *J. Social Behavior and Personality* 10:3–26; Heilman. (2001). Description and prescription; Haddock, G., & Zanna, M. P. (Mar. 1994). Preferring "housewives" to "feminists": categorization and the favorability of attitudes toward women. *Psychology of Women Quarterly,* 18(1): 25–52; Fiske, S. T. (1991). Social science research on trial: use of sex stereotyping research in Price Waterhouse v. Hopkins. *American Psychologist*, 46:1049–60.

39. Ridgeway, C. L., & Smith-Lovin, L. (1999). The gender system and interaction. *Ann. Rev. Sociology,* 25:191–216; Chafetz, J., Smith-Lovin, L., & Brody, C. (1989). Interruptions in group discussions: the effects of gender and group composition. *Am. Sociological Rev.*, 54:424–35; Mulac, A., Wiemann, J. M., Widenmann, S. J., & Gibson, T. W. (1988). Male and female language differences and effects in same-sex and mixed-sex dyads: the gender-linked language effect. *Communication Monographs*, 55(4):315–35; Wagner, D. G., Ford, R. S., & Ford, T. W. (Feb. 1986). Can gender inequalities be reduced? *Am. Sociological Rev.,* 51(1): 47–61; Pugh, M. D., & Wahrman, R. (1983). Neutralizing sexism in mixed-sex groups: do women have to be better than men? *Am. J. Sociology* 88:746–62; Zimmerman, D., & West, C. (1975). Sex roles interruptions and silences in conversations. In B. Thorne & N. Henley (eds.), *Language and Sex: Difference and Dominance* (Rowley, MA: Newbury House).

40. Smith-Lovin & Brody. (1989). Interruptions in group discussions; Zimmerman, D., & West, C. (1975). Sex roles interruptions and silences in conversations. In B. Thorne & N. Henley (eds.), *Language and Sex: Difference and Dominance* (Rowley, MA: Newbury House).

41. Cuddy, Fiske, & Glick. (2008). Warmth and competence as universal dimensions of social perception; Fiske, S. T., Cuddy, A. J., & Glick, P. (2007). Universal dimensions of social cognition: warmth and competence. *Trends in Cognitive Sciences*, 11(2):77–83; Glick, P., & Fiske, S. T. (2001). An ambivalent alliance: hostile and benevolent sexism as complementary justifications for gender inequality. *American Psychologist*, 56(2):109; Rudman & Glick. (2001). Prescriptive gender stereotypes and backlash toward agentic women; Rudman & Glick. (1999). Feminized management and backlash toward agentic women.

42. Carli. (1990). Gender, language and influence.

43. Phelan, J. E., Moss-Racusin, C. A., & Rudman, L. A. (2008). Competent yet out in the cold: shifting criteria for hiring reflect backlash toward agentic women. *Psychology of Women Quarterly*, 32(4):406–13; Rudman, L. A. (1998). Self-promotion as a risk factor for women: the costs and benefits of counterstereotypical impression management. *J. Personality and Social Psychology*, 74:629–45; Rudman & Glick. (1999). Feminized management and backlash toward agentic women; Heatherington, L., Daubman, K. A., Bates, C., Ahn, A., Brown, H., & Preston,

C. (1993). Two investigations of "female modesty" in achievement situations. *Sex Roles*, 29:739–54; Daubman, K. A., Heatherington, L., & Ahn, A. (1992). Gender and the self-presentation of academic achievement. *Sex Roles*, 27:187–204; Gould, R. J., & Slone, C. G. (1982). The "feminine modesty" effect: a self-presentational interpretation of sex differences in causal attribution. *Personality and Social Psychology Bulletin*, 8:477–85.

44. Williams, Phillips, & Hall. (2014). Double jeopardy? gender bias against women in science.

45. Judge, T. A., Livingston, B. A., & Hurst, C. (2012). Do nice guys—and gals—really finish last? the joint effects of sex and agreeableness on income. *J. Personality and Social Psychology*, 102(2):390–407; Brescoll, V. L., & Uhlmann, E. L. (2008). Can angry women get ahead? gender, status conferral, and workplace emotion expression. *Psychological Science*, 19:268–75; Rudman, L. A., & Fairchild, K. (2004). Reactions to counterstereotypic behavior: the role of backlash in cultural stereotype maintenance. *J. Personality and Social Psychology*, 87(2):157–76.

46. Allen, T. (2006). Rewarding good citizens: the relationship between citizenship behavior, gender, and organizational rewards. *J. Applied Psychology,* 36:120–43.

47. Misra, J., Lundquist, J. H., & Templer, A. (2012). Gender, work time, and care responsibilities among faculty. *Sociological Forum,* 27(2):300–323; Mitchell, S. M., & Hesli, V. L. (2013) Women don't ask? women don't say no? bargaining and service in the political science profession. *PS: Political Science & Politics* 46(2):355–69; Porter, S. R. (2007). A closer look at faculty service: what affects participation on committees? *J. Higher Education* 78(5):523–41; Chan, C. K., & Anteby, M. (2016). Task segregation as a mechanism for within-job inequality: women and men of the transportation security administration. *Administrative Science Quarterly* 61(2):184–216.

48. Benschop, Y., & Dooreward, H. (1998). Covered by equality: the gender subtext of organizations. *Organization Studies* 19(5):787–805; Ohlott, P. J., Ruderman, M. N., & McCauley, C. D. (1994). Gender differences in managers' developmental job experiences. *Academy of Management Journal* 37(1):46–47.

49. Heilman. (2012). Gender stereotypes and workplace bias; Fiske, Cuddy, Glick, & Xu. (2002). A model of (often mixed) stereotype content; Prentice & Carranza. (2002). What women and men should be, shouldn't be, are allowed to be, and don't have to be; Burgess, D., & Borgida, E. (1999). Who women are, who women should be: descriptive and prescriptive gender stereotyping in sex discrimination. *Psychology, Public Policy, and Law*, 5(3):665–92; Eagly, A. H., & Johnson, B. T. (1990). Gender and leadership style: a meta-analysis. *Psychological Bulletin*, 108:233–56; Rudman & Glick. (1999). Feminized management and backlash toward agentic women; Rudman & Glick. (2001). Prescriptive gender stereotypes and backlash toward agentic women.

50. Allen, T. (2006). Rewarding good citizens: the relationship between citizenship behavior, gender, and organizational rewards. *J. Applied Psychology,* 36:120–43.

51. Babcock, L., Recalde, M., Vesterlund, L., & Weingart, L. (2017). Gender differences in accepting and receiving requests for tasks with low promotability. *Am. Economic Rev.*, 107(3):714–47.

52. Williams & Dempsey. (2014). *What Works for Women at Work*; Allen. (2006). Rewarding good citizens; Heilman, M. E., & Chen, J. J. (2005). Same behavior, different consequences: reactions to men's and women's altruistic citizenship behavior. *J. Applied Psychology*, 90(3):431–41; Kanter, R. M. (1977). Some effects of proportions of group life: skewed sex ratios and responses to token women. *Am. J. Sociology* 85(5):965–90.

53. Gorman & Kmec. (2009). Hierarchical rank and women's organizational mobility.

54. Rikleen, L. S. (2015). *Women Lawyers Continue to Lag Behind Male Colleagues.* Report of the Ninth Annual NAWL National Survey on Retention and Promotion of Women in Law Firms.

55. Correll, S. J., Benard, S., & Paik, I. (2007). Getting a job: is there a motherhood penalty? *Am. J. Sociology*, 112(5):1297–1338.

56. Heilman, M. E., & Okimoto, T. G. (2008). Motherhood: a potential source of bias in employment decisions. *J. Applied Psychology*, 93(1):189–98; Crosby, F. J., Williams, J. C., & Biernat, M. (2004). The Maternal Wall. *J. Social Issues*, 60(4):675–82; Hebl, M. R., King, E. B., Glick, P., Singletary, S. L., & Kazama, S. (2007). Hostile and benevolent reactions toward pregnant women: complementary interpersonal punishments and rewards that maintain traditional roles. *J. Applied Psychology*, 92(6):1499; Cuddy, A. J., Fiske, S. T., & Glick, P. (2004). When professionals become mothers, warmth doesn't cut the ice. *J. Social Issues*, 60:701–18; Fuegen, K., Biernat, M., Haines, E., & Deaux, K. (2004). Mothers and fathers in the workplace: how gender and parental status influence judgments of job-related competence. *J. Social Issues*, 60(4):737–54; Halpert, J. A., Wilson, M. L., & Hickman, J. L. (1993). Pregnancy as a source of bias in performance appraisals. *J. Organizational Behavior*, 14(7):649–63.

57. ABA Commission on Women in the Profession. (2006). *Visible Invisibility: Women of Color in Law Firms.*

58. *See* Belkin, L. (Nov. 2012). Quitting because it's too hard to be a lawyer and a mom. Huffington Post blog; Abramson, L. (Sept. 2015). Parents in law: is it possible to be both an attorney and a committed mom or dad? *The Atlantic* (online); Berenguer, E. E. (Nov. 2016). A woman lawyer's hard lesson: you can't have it all. *Above the Law.*

59. Williams, J. C. (2007). The politics of time in the legal profession. *U. St. Thomas L.J.*, 4(3):379–404.

60. Kobrynowicz, D., & Biernat, M. (1997). Decoding subjective evaluations: how stereotypes provide shifting standards, *J. Experimental Social Psychology*, 33(579):586–87; Williams. (2007). The politics of time in the legal profession.

61. Crosby, Williams, & Biernat. (2004). The Maternal Wall; Epstein, C. F. (1983). *Women in Law* (New York: Basic Books); Stone, P., & Hernandez, L. A. (2013). The

all-or-nothing workplace: flexibility stigma and "opting out" among professional-managerial women. *J. Social Issues*, 69:235–56. doi: 10.1111/josi.12013.

62. *See* Drago, R., & Williams, J. C. (2000). A half-time tenure track proposal. *Change*:47–51; Williams, J. C., & Calvert, C. T. (2001). Balanced hours: effective part-time programs for Washington law firms: the project for attorney retention, final report, third edition. *William & Mary J. Women and the Law,* 3(3):357–441; Williams, J. C., & Calvert, C. T. (2011). *Flex Success: The Lawyer's Guide to Balanced Hours*. The Project for Attorney Retention (San Francisco, CA: Center for WorkLife Law); Williams, J. C., & Calvert, C. T. (2004). *Solving the Part-Time Puzzle: The Law Firm's Guide to Balanced Hours* (Washington, DC: National Association for Law Placement).

63. Williams & Calvert. (2004). *Solving the Part-Time Puzzle*; Williams & Calvert, (2011). *Flex Success.*

64. "Research by a broad array of organizations including Catalyst, the National Association for Law Placement, and the Program on Gender, Work, and Family at American University's Washington College of Law consistently finds a 'huge gap between what [part-time] policies say on paper and what people feel free to use.'" Rhode, D. L. (2001). *Balanced Lives: Changing the Culture of Legal Practice.* ABA Commission on Women, http://womenlaw.stanford.edu/pdf/balanced.lives .pdf; also Williams, J. C., Glass, J., Correll, S., & Berdahl, J. L. , eds. (2013). The flexibility stigma, *J. Social Issues* (Special Issue), 69(2):209–405; ABA Commission on Women. (2006). *Charting Our Progress, The Status of Women in the Legal Profession Today*, http://www.americanbar.org/content/dam/aba/migrated/women/ ChartingOurProgress.authcheckdam.pdf; http://www.nytimes.com/2013/06/15/your-money/the-unspoken-stigma-of-workplace-flexibility.html.

65. Rohde. (2001) *Balanced Lives*; *see also* Williams, Glass, Correll, & Berdahl. (2013). The flexibility stigma.

66. Catalyst. (Jan. 30, 2001). *Women in Law: Making the Case*, http://www .catalyst.org/knowledge/women-law-making-case.

67. Trades Union Congress. (2008). Single women in their thirties do more unpaid overtime than anyone else (Press release), http://www.tuc.org.uk/equality-issues/ childcare/equal-pay/single-women-their-30s-do-more-unpaid-overtime-anyone-else.

68. *See* Belkin, L. (Oct. 26, 2003). The opt-out revolution. *New York Times Magazine*; Livingston, G. (2014). "Opting out? about 10% of highly educated moms are staying home. Pew Research Center.

69. *See* Gino, F., Wilmuth, C. A., & Brooks, A. W. (2015). Compared to men, women view professional advancement as equally attainable, but less desirable, *PNAS*, 112(40); Schank, H., & Wallace, E. (2016). When women choose children over a career. *The Atlantic*, https://www.theatlantic.com/business/archive/2016/12/ opting-out/500018/.

70. Rudman, L. A., & Mescher, K. (2013). Penalizing men who request a family leave: is flexibility stigma a femininity stigma? *J. Social Issues*, 69(2):322–40 Vandello, J. A., Hettinger, V. E., Bosson, J. K., & Siddiqi, J. (2013). When equal

isn't really equal: the masculine dilemma of seeking work flexibility. *J. Social Issues*, 69:303–21.

71. Berdahl, J. L., & Moon, S. H. (2013). Workplace mistreatment of middle class workers based on sex, parenthood, and caregiving. *J. Social Issues*, 68(2):341–66.

72. *See* Not surprisingly, paid parental leave is one of the most heavily weighted factors that Fatherly, the news site for millennial dads, considered when compiling its list of the Best Places to Work for New Dads in 2016, http://money.cnn.com/2016/06/16/pf/parental-leave-fathers.

73. Derks, B., Ellemers, N., van Laar, C., & de Groot, K. (2011). Do sexist organizational cultures create the queen bee? *British J. Social Psychology,* 50(3):519–35; Derks, B., Van Laar, C., Ellemers, N., & de Groot, K. (2011). Gender-bias primes elicit queen bee responses. *Psychological Science*, 22(10):1243–49; Kanter, R. M. (1977). Some effects of proportions of group life: skewed sex ratios and responses to token women. *Am. J. Sociology* 85(5):965–90; Parks-Stamm, E. J., Heilman, M. E., & Hearns, K. A. (2008). Motivated to penalize: women's strategic rejection of successful women. *Personality and Social Psychology Bulletin,* 34:237–47; Cooper, V. W. (1997). Homophily or the queen bee syndrome: female evaluations of female leadership. *Small Group Research* 28:483–99; Carli, L. (2006). Gender issues in workplace groups: effect of gender and communication style on social influence. In M. Barrett & M. J. Davidson (eds.), *Gender and Communication at Work* (Burlington, VT: Ashgate); Ellemers, N., van den Heuvel, H., de Gilder, D., Maas, A., & Bonvini, A. (2004). The underrepresentation of women in science: differential commitment or the queen bees syndrome? *British J. Soc. Psychol.,* 43:1–24.

74. Duguid, M. (2011). Female tokens in high-prestige work groups: catalysts or inhibitors of group diversification? *Organizational Behavior and Human Decision Processes*:104–15; Duguid, M., Loyd, D., & Tolbert, P. (2012). The impact of categorical status, numeric representation and work group prestige on preference for demographically similar others: a value threat approach, *Organization Science*:385–401.

75. Williams & Dempsey. (2014). *What Works for Women at Work*; Derks, B., Van Laar, C., Ellemers, N., & de Groot, K. (2011). Gender-bias primes elicit queen-bee responses among senior policewomen. *Psychological Science*, 22(10):1243–49.

76. Williams, J. C., Phillips, K. W., & Hall, E. V. (2014). *Double Jeopardy? Gender Bias Against Women in Science*. Center for WorkLife Law, UC Hastings College of the Law, http://www.uchastings.edu/news/articles/2015/01/double-jeopardy-report.pdf.

77. Batlan, F. (2010). "If you become his second wife, you are a fool": shifting paradigms of the roles, perceptions, and working conditions of legal secretaries in large law firms. In A. Sarat (ed.), *Special Issue Law Firms, Legal Culture, and Legal Practice (Studies in Law, Politics and Society),* 52:169–210.

78. Ibid., 200.

79. Wilder, G. Z. (2008). *Race and Ethnicity in the Legal Profession: Findings from the First Wave of the After the JD Study. A*ssociation for Legal Career Professionals

& The NALP Foundation for Law Career Research and Education, https://www.nalp.org/assets/1064_ajdraceethnicitymonograph.pdf.

80. Triedman, J. (June 2015). A few good women. *The American Lawyer*, https://www.law.com/americanlawyer/almID/1202726917646/?slreturn=20171101161123.

81. For the negative impact on women, *see* Repeated biased selection processes have a cumulative negative impact on women's prospects of mobility into higher ranks. In Gorman, E. H., & Kmec, J. A. (2009). Hierarchical rank and women's organizational mobility: glass ceilings in corporate law firms. *American Journal of Sociology,* 114(5):1428–74. For the cumulative effect of small amounts of bias, *see* Martell, R. F., Lane, D. M., & Emrich, C. (1996). Male-female differences: a computer simulation. *Am. Psychologist*, 51(2):157–58.

82. Wald, E. (2015). BigLaw identity capital: pink and blue, black and white. *Fordham Law Rev.*, 83(5):2509–55, n.12.

83. ABA Commission on Women in the Profession. (2006). *Visible Invisibility: Women of Color in Law Firms.*

84. Richard H. Sander, *The Racial Paradox of the Corporate Law Firm*, 84 N.C. L. REV. 1755, 1805–07 (2006), supra note 8, at 1801 tbl. 19, as quoted in Woodson, K. (2015). Race and rapport: homophily and racial disadvantage in large law firms. *Fordham Law Rev.*, 83(5):2557–76, n.74: "Compared to the white attorneys in the AJD sample, a lower percentage of black attorneys reported handling an entire manner on their own, being involved in formulating strategy on half or more of their matters, or being responsible for keeping their clients updated on matters. They were more likely to report spending '100+ Hours Reviewing Discovered Documents/Performing Due Diligence on Prepared Materials.'"

85. Dishman, L. (Aug. 2015). *How to End the Office Housework Gender Bias.* Fast Company, https://www.fastcompany.com/3050043/strong-female-lead/how-to-end-the-office-housework-gender-bias; Williams & Dempsey. (2014). *What Works for Women at Work,* 110–16.

86. Williams, Phillips, & Hall. (2014). *Double Jeopardy?*

87. Woodson. (2015). Race and rapport.

88. For an overview of the large literature documenting that similarity is the strongest predictor of social networks, *see* McPherson, M., Smith-Lovin, L., & Cook, J. M. (2001). Birds of a feather: homophily in social networks. *Annual Rev. Sociology*, 27:415–44.

89. ABA Commission on Women in the Profession. (2006). *Visible Invisibility: Women of Color in Law Firms.*

90. The American Lawyer. (May 2015). *Firm Rankings: Percentage of Women Equity Partners*, https://www.law.com/americanlawyer/almID/1202727624665/; Lidgett, A. (Nov. 5, 2015). The gender gap: for female lawyers, progress slow in equity partnerships at private practice law firms, report finds. *International Business Times,* https://ms-jd.org/library/abstract/the-gender-gap-for-female-lawyers-progress-slow-in-equity-partnerships-at-p.

91. Fontaine, V. (1995). Progress report: women and people of color in legal education and the legal profession. *UC Hastings Women's Law J.*, 6:34–35.

92. *See* Spurr, S. J. (1990). Sex discrimination in the legal profession: a study of promotion. *Industrial and Labor Relations Rev.*, 43:406–17; Spurr, S. J., & Sueyoshi G. T. (1994). Turnover and promotion of lawyers: an inquiry into gender differences. *J. Human Resources* 29:813–42; Kay F. M., & Hagan J. (1998). Raising the bar: the gender stratification of law-firm capitalization, *Am. Sociological Rev.,* 63:728–43; Gorman & Kmec. (2009). Hierarchical rank and women's organizational mobility.

93. Gorman & Kmec. (2009). Hierarchical rank and women's organizational mobility.

94. Rhode, D. L., & Ricca, L. B. (2015). Diversity in the legal profession: perspectives from managing partners and general counsel. *Fordham Law Rev.*, 83:2483–2507.

95. Woodson, (2015). Race and rapport.

96. Sterling, J. S., & Reichman, N. (2013). Navigating the gap: reflections on 20 years researching gender disparities in the legal profession, *U. Denver Legal Studies,* Research Paper No. 13-32.

97. Lowe, J. A., (2016). *2016 Partner Compensation Survey*. Major, Lindsey, & Africa, https://www.mlaglobal.com/publications/research/compensation-survey-2016.

98. ABA Commission on Women in the Profession. (2006). *Visible Invisibility: Women of Color in Law Firms.*

99. Williams, J. C., & Richardson, V. T. (2010). New millennium, same glass ceiling? the impact of law firm compensation systems on women. *ABA Commission on Women, Project for Attorney Retention, Minority Corporate Counsel Association.*

100. Ibid.

101. Ibid.

102. Ibid.

103. Ibid.

104. Ibid.

105. Williams, Glass, Correll, & Berdahl , eds. (2013). The flexibility stigma; Williams & Calvert. (2004). *Solving the Part-Time Puzzle*; Williams & Calvert. (2011). *Flex Success.*

106. http://www.nalp.org/nalpdiversityinfographic_minorities; Commission on Women in the Profession, American Bar Association. (May 2016). *A Current Glance at Women in the Law 2016,* http://www.americanbar.org/groups/women/resources/statistics.html; National Association of Women Lawyers. (2015). *Women Lawyers Continue to Lag Behind Male Colleagues: Report of the Ninth Annual NAWL National Survey on Retention and Promotion of Women in Law Firms,* http://www.

nawl.org/p/cm/ld/fid=506; ABA Commission on Women in the Profession. (2006). *Visible Invisibility: Women of Color in Law Firms*.

107. Kalev, A., Dobbin, F., & Kelly, E. (2006). Best practices or best guesses? Assessing the efficacy of corporate affirmation action and diversity policies. *Am. Sociological Rev.*, 71(4):589–617. doi: 10.1177/000312240607100404.

108. Scales are constructed on the basis of social psychology theories, previous research, factor analysis, and Cronbach's alpha using the survey data.

Small Steps, Big Change

Bias Interrupters
Tools for Success

Incremental steps can improve law firm and in-house diversity in ways that yield well-documented business benefits. Research shows that diverse workgroups perform better and are more committed, innovative, and loyal.[1] Gender-diverse workgroups have higher collective intelligence, which improves the performance of both the group and of the individuals in the group, and leads to better financial performance results.[2] Racially diverse workgroups consider a broader range of alternatives, make better decisions, and are better at solving problems.[3] Bias, if unchecked, affects many different groups: modest or introverted men, LGBTQ people, individuals with disabilities, professionals from nonprofessional backgrounds (class migrants), women, and people of color. We've distilled the huge literature on bias into simple steps that help you and your firm perform better.

We know now that workplaces that view themselves as being highly meritocratic often are *more* biased than other organizations.[4] Research also shows that the usual responses—one-shot diversity trainings, mentoring, and networking programs—typically don't work.[5]

> **What holds more promise is a paradigm-changing approach to diversity: bias interrupters are tweaks to basic business systems that are data-driven and can produce measurable change. Bias interrupters change systems, not people.**

Printed here are two toolkits, one for law firms and one for in-house departments, with information for how to interrupt bias in the following business systems:

1. Hiring
2. Assignments
3. Performance Evaluations
4. Compensation
5. Sponsorship Best Practice Recommendation

For additional worksheets and information visit BiasInterrupters.org.

Our toolkits take a three-step approach:

1. **Use Metrics:** Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you've taken. (Whether metrics are made public will vary from firm to firm and from metric to metric.)

2. **Implement Bias Interrupters:** Bias interrupters are small adjustments to your existing business systems. They should not require you to abandon your current systems.

3. **Repeat as Needed:** After implementing bias interrupters, return to your metrics. If they have not improved, you will need to ratchet up to stronger bias interrupters.

Small Steps, Big Change

Bias Interrupters
Tools for Law Firms

Interrupting Bias in Hiring

Tools for Law Firms

The Challenge

When comparing identical resumes, "Jamal" needed eight additional years of experience to be considered as qualified as "Greg," mothers were 79% less likely to be hired than an otherwise-identical candidate without children, and "Jennifer" was offered $4,000 less in starting salary than "John."[6] Unstructured job interviews do not predict job success,[7] and judging candidates on "culture fit" can screen out qualified diverse candidates.[8]

The Solution: A Three-Step Approach

1. Use Metrics

Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you've taken. (Whether metrics are made public will vary from firm to firm and from metric to metric.)

For each metric, examine:
- Do patterned differences exist between majority men, majority women, men of color, and women of color? (Include any other underrepresented group that your firm tracks, such as military veterans or LGBTQ people.)

Important metrics to analyze:
- Track the candidate pool through the entire hiring process: from initial contact, to resume review, to interviews, to hiring. Analyze where underrepresented groups are falling out of the hiring process.
- Track whether hiring qualifications are waived more often for some groups.
- Track interviewers' reviews and/or recommendations to ensure they are not consistently rating majority candidates higher than others.

Keep metrics by (1) individual supervising attorney; (2) department; (3) country, if relevant; and (4) the firm as a whole.

2. Implement Bias Interrupters

All bias interrupters should apply both to written materials and in meetings, where relevant. Because every firm is different, not all interrupters will be relevant. Consider this a menu.

To understand the research and rationale behind the suggested bias interrupters, read the "Identifying Bias in Hiring Worksheet," available online at biasinterrupters.org, which summarizes hundreds of studies.

A. Empower and Appoint

- **Empower people involved in the hiring process to spot and interrupt bias.** Use the "Identifying Bias in Hiring Worksheet" (available at BiasInterrupters.org). Read and distribute it to anyone involved in hiring.
- **Appoint bias interrupters.** Provide HR professionals or team members with special training to spot bias and involve them at every step of the hiring process. Training is available at BiasInterrupters.org.

B. Assemble a Diverse Pool

- **Limit referral hiring ("friends of friends").** If your existing firm is not diverse, hiring from your current employees' social networks will replicate the lack of diversity. If you use referrals, keep track of the flow of candidates from referrals. If referrals consistently provide majority candidates, consider limiting referrals or balance referral hiring with more targeted outreach to ensure a diverse candidate pool.
- **Tap diverse networks.** Reach out to diverse candidates where they are. Identify law job fairs, affinity networks, conferences, and training programs aimed at women and people of color and send recruiters.
- **Consider candidates from multitier schools.** Don't limit your search to candidates from Ivy League and top-tier schools. This favors majority candidates from elite backgrounds and hurts people of color and professionals from non-professional backgrounds (class migrants)[9]. Studies show that top students from lower-ranked schools are often similarly successful.[10]
- **Get the word out.** If diverse candidates are not applying for your jobs, get the word out that your firm is a great place to work for women and people of color. One company offers public talks by women at their company and writes blog posts, white papers, and social media articles highlighting the women who work there.
- **Change the wording of your job postings.** Using masculine-coded words such as "leader" and "competitive" tends to reduce the number of women who apply.[11] Tech alternatives (see Textio[12] and Unitive[13]) can help you craft job postings that ensure you attract top talent without discouraging women.
- **Insist on a diverse pool.** If you use a search firm, tell them you expect a diverse pool, not just one or two diverse candidates. One study found the odds of hiring a woman were 79 times greater if there were at least two women in the finalist pool; the odds of hiring a person of color were 194 times greater.[14]

C. Resume Review

- **Distribute the "Identifying Bias in Hiring Worksheet" (available at Bias Interrupters.org).** Before resumes are reviewed, have reviewers read the worksheet so they are aware of the common forms of bias that can affect the hiring process.
- **Commit to what's important—and require accountability.** Commit in writing to what qualifications are important, both in entry-level and lateral hiring. When qualifications are waived for a specific candidate, require an explanation of why they are no longer important—and keep track to see for whom requirements are waived.[15]

- **Ensure resumes are graded on the same scale.** Establish clear grading rubrics and ensure that everyone grades on the same scale. Consider having each resume reviewed by two different people and average the score.
- **Remove extracurricular activities from resumes.** Including extracurricular activities on resumes can artificially disadvantage class migrants. A recent study showed that law firms were less likely to hire a candidate whose interests included "country music" and "pick-up soccer" rather than "classical music" and "sailing"—even though the work and educational experience was exactly the same. Because most people aren't as aware of class-based bias, communicate why you are removing extracurricular activities from resumes.
- **Avoid inferring family obligations.** Mothers are 79% less likely to be hired than identical candidates without children.[16] Train people not to make inferences about whether someone is committed to the job due to parental status and don't count "gaps in a resume" as an automatic negative.
- **Try using "blind auditions."** If women and candidates of color are dropping out of the pool at the resume review stage, consider removing demographic information from resumes before review. This allows candidates to be evaluated based solely on their qualifications.

D. Interviews

- **Use structured interviews.** Ask the same list of questions to every person who is interviewed. Ask questions that are directly relevant to the job for which the candidate is applying.[17]
- **Ask performance-based questions.** Performance-based questions, or behavioral interview questions ("Tell me about a time you had too many things to do and had to prioritize."), are a strong predictor of how successful a candidate will be at the job.[18]
- **Try behavioral interviewing.**[19] Ask questions that reveal how candidates have dealt with prior work experiences. Research shows that structured behavioral interviews more accurately predict the future performance of a candidate than unstructured interviews.[20] Instead of asking "How do you deal with problems with your manager?" say "Describe for me a conflict you had at work with your manager." When evaluating answers, a good model to follow is STAR[21]: the candidate should describe the Situation faced, the Task handled, the Action taken to deal with the situation, and the Result.
- **Do work-sample screening.** If applicable, ask candidates to provide a sample of the types of tasks they will perform on the job (e.g., ask candidates to write a legal memo for a fictitious client).
- **Develop a consistent rating scale and discount outliers.** Candidates' answers (or work samples) should be rated on a consistent scale, with ratings for each factor backed up by evidence. Average the scores granted on each relevant criterion and discount outliers.[22]
- **If "culture fit" is a criterion for hiring, provide a specific work-relevant definition.** Culture fit can be important, but when it's misused, it can disadvantage people of color, class migrants, and women.[23] Heuristics such as the "airport test" (Who would I like to get stuck with in an airport?) can be highly exclusionary and not work-relevant. Questions about sports and hobbies may feel

exclusionary to women and to class migrants who did not grow up, for example, playing golf or listening to classical music. Google's work-relevant definition of "culture fit" is a helpful starting point.[24]

- **"Gaps in a resume" should not mean automatic disqualification.** Give candidates an opportunity to explain gaps by asking about them directly during the interview stage. Women fare better in interviews when they are able to provide information up front rather than having to avoid the issue.[25]
- **Provide candidates and interviewers with a handout detailing expectations.** Develop an "Interview Protocol Sheet" that explains to everyone what's expected from candidates in an interview or use ours, available at Bias Interrupters.org. Distribute it to candidates and interviewers for review.
- **When hiring, don't ask candidates about prior salary.** Asking about prior salary when setting compensation for a new hire can perpetuate the gender pay gap.[26] (A growing legislative movement prohibits employers from asking prospective employees about their prior salaries.[27])

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don't see change, you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the hiring process.**
- **Use an iterative process until your metrics improve.**

Interrupting Bias in Assignments

Tools for Law Firms

The Challenge

Every workplace has high-profile assignments that are career enhancing ("glamour work") and low-profile assignments that are beneficial to the organization but not the individual's career. Research shows that women do more "office housework"[28] than men.[29] This includes literal housework (ordering lunch), administrative work (scheduling a time to meet), and emotion work ("she's upset; comfort her"). Misallocation of the glamour work and the office housework is a key reason leadership across the legal profession is still male dominated. Professionals of color (both men and women) also report less access to desirable assignments than do white men.[30]

- **Glamour work.** More than 80% of white male lawyers but only 53% of women lawyers of color, 59% of white women lawyers, and 63% of male lawyers of color reported the same access to desirable assignments as their colleagues.[31]
- **Office housework.** Almost 50% of white women lawyers and 43% of women lawyers of color reported that at work they more often play administrative roles such as taking notes for a meeting compared to their colleagues. Only 26% of white male lawyers and 20% of male lawyers of color reported this.[32]

In law firms, when lawyers become "overburdened" with office housework, it reduces the amount of billable time that they can report, which can hurt their compensation and their career.[33]

Diversity at the top can only occur when diverse employees at all levels of the organization have access to assignments that let them take risks and develop new skills. If the glamour work and the office housework aren't distributed evenly, you won't be tapping into the full potential of your workforce. Most law firms that use an informal "hey, you!" assignment system end up distributing assignments based on factors other than experience and talent.

If women and people of color keep getting stuck with the same low-profile assignments, they will be more likely to be dissatisfied and to search for opportunities elsewhere.[34] The attrition rates for women and especially women of color in law firms are already extremely high, and research suggests that the cost to the firm of attrition per associate is up to $400,000.[35] Law firms cannot afford to fail to address the inequality in assignments.

The Solution: A Three-Step Approach

Fair allocation of the glamour work and the office housework are two separate problems. Some law firms will want to solve the office housework problem before tackling the glamour work; others will want to address both problems simultaneously. (A "Road Map for Implementation" is available at BiasInterrupters .org.)

1. Use Metrics

A. Identify and Track

The first step is to find out if and where you have a problem.

- What is the office housework and glamour work in your organization?
- Who is doing what and for how long?
- Are there demographic patterns that indicate gender and/or racial bias is at play?

To do this:

1. Distribute the "Office Housework Survey" (available at BiasInterrupters.org) to your employees to find out who is doing the office housework and how much of their time it takes up.

2. Convene relevant managers (and anyone else who distributes assignments) to identify the glamour work and the lower-profile work in the law firm. Use the "Assignment Typology Worksheet" to create a typology for assignments and the "Protocol" for more details (both available at BiasInterrupters.org).

3. Input the information from the typology meeting into the "Manager Assign-ment Worksheet" and distribute this to managers (available online at Bias Interrupters.org). Have managers fill out the worksheets and submit them, identifying to whom they assign the glamour work and the lower-profile work.

B. Analyze Metrics

Analyze survey results and worksheets for demographic patterns, dividing employees into (1) majority men, majority women, men of color, and women of color, (2) parents who have just returned from parental leave, (3) professionals working part-time or flexible schedules, and (4) any other underrepresented group that your organization tracks (veterans, LGBTQ people, individuals with disabilities, etc.).

- Who is doing the office housework?
- Who is doing the glamour work?
- Who is doing the low-profile work?
- Create and analyze metrics by individual supervising attorney.

2. Implement Bias Interrupters

A. Office Housework Interrupters

- **Don't ask for volunteers.** Women are more likely to volunteer because they are under subtle but powerful pressures to do so.[36]

- **Hold everyone equally accountable.** "I give it to women because they do it well and the men don't" is a common sentiment. This dynamic reflects an environment in which men suffer few consequences for doing a poor job on office housework, but women who do a poor job are seen as "prima donnas" or "not team players." Hold men and women equally accountable for carrying out all assignments properly.
- **Use admins.** If possible, assign office housework tasks to admins (e.g., planning birthday parties, scheduling meetings, ordering lunch).
- **Establish a rotation.** A rotation is helpful for many administrative tasks (e.g., taking notes, scheduling meetings). Rotating housework tasks such as ordering lunch and planning parties is an option if admins are unavailable.
- **Shadowing.** Another option for administrative tasks is to assign a more junior person to shadow someone more senior—and take notes.

B. Glamour Work Interrupters

- **Avoid mixed messages.** If your law firm values mentoring and committee work (such as serving on the Diversity Initiative), make sure these things are valued when the time comes for promotions and raises. Sometimes law firms say they highly value this kind of work—but they don't. Mixed messages of this kind will negatively affect women and people of color.
- **Conduct a roll-out meeting.** Gather relevant managing and supervising attorneys to introduce the bias interrupters initiative and set expectations. "Key Talking Points for the Roll-Out Meeting" are available at BiasInterrupters.org.
- **Provide a bounceback.** Identify individual supervising attorneys whose glamour work allocation is lopsided. Hold a meeting with that supervisor and bring the problem to his or her attention. Help the supervisor think through why he or she only assigns glamour work to certain people or certain types of people. Work with the supervisor to figure out (1) if the available pool for glamour work assignments is diverse but is not being tapped fully or (2) if only a few people have the requisite skills for glamour work assignments. Read the "Responses to Common Pushback" and "Identifying Bias in Assignments" worksheets (available at BiasInterrupters.org) before the bounceback meetings to prepare. You may have to address low-profile work explicitly at the same time as you address high-profile assignments; this will vary by law firm.

If a diverse pool has the requisite skills . . .
- **Implement a rotation.** Have the supervisor set up a rotation to ensure fair access to plum assignments.
- **Formalize the pool.** Write down the list of people with the requisite skills and make it visible to the supervisor. Sometimes just being reminded of the pool can help.
- **Institute accountability.** Have the supervisor track his or her allocation of glamour work going forward to measure progress. Research shows that accountability matters.[37]

If the pool is not diverse . . .

- **Revisit the assumption that only one (or very few) employees can handle this assignment.** Is that true, or is the supervisor just more comfortable working with those few people?
- **Analyze how the pool was assembled.** Does the supervisor allocate the glamour work by relying on self-promotion or volunteers? If so, that will often disadvantage women and people of color. Shift to more objective measures to create the pool based on skills and qualifications.

If the above suggestions aren't relevant or don't solve your problem, then it's time to **expand the pool:**

- **Development plan.** Identify what skills or competencies an employee needs to be eligible for the high-profile assignments work and develop a plan to help the employee develop the requisite skills.
- **Succession planning.** Remember that having "bench strength" is important so your department won't be left scrambling if someone unexpectedly leaves the company.
- **Leverage existing HR policies.** If your organization uses a competency-based system or has a Talent Development Committee or equivalent, use that resource to help develop competencies so career-enhancing assignments can be allocated more fairly.
- **Shadowing.** Have a more junior person shadow a more experienced person during the high-profile assignment.
- **Mentoring.** Establish a mentoring program to help a broader range of junior people gain access to valued skills.

If you can't expand your pool, reframe the assignment so that more people could participate in it. Could you break up the assignment into discrete pieces so more people get the experiences they need?

If nothing else works, consider a formal assignment system. Appoint an assignments czar to oversee the distribution of assignments in your organization. See examples of what other law firms have done at BiasInterrupters.org.

3. Repeat as Needed

- **Return to your metrics.** Did the bias interrupters produce change?
- **If you still don't have a fair allocation of high- and low-profile work, you may need to implement stronger bias interrupters or consider moving to a formal assignment system.**
- **Use an iterative process until your metrics improve.**

Interrupting Bias in Performance Evaluations

Tools for Law Firms

The Challenge

In one study, law firm partners were asked to evaluate a memo by a third-year associate. Half the partners were told the associate was black; the other half were told the identical memo was written by a white associate. The partners found 41% more errors in the memo they believed was written by a black associate as compared with a white associate.[38] Overall rankings also differed by race. Partners graded the white author as having "potential" and being "generally good," whereas they graded the black author as "average at best."

The Solution: A Three-Step Approach

1. Use Metrics

Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you've taken. (Whether metrics are made public will vary from firm to firm and from metric to metric.)

For each metric, examine:
- Do patterned differences exist between majority men, majority women, men of color, and women of color? Include any other underrepresented group that your firm tracks, such as military veterans, LGBTQ people, or individuals with disabilities.
- Do patterned differences exist for parents after they return from leave or for lawyers who reduce their hours?
- Do patterned differences exist between full-time and part-time employees?

Important metrics to analyze:
- Do your performance evaluations show consistent disparities by demographic group?
- Do women's ratings fall after they have children? Do employees' ratings fall after they take parental leave or adopt flexible work arrangements?
- Do the same performance ratings result in different promotion or compensation rates for different groups?

Keep metrics by (1) supervising attorney; (2) department; (3) country, if relevant; and (4) the law firm as a whole.

2. Implement Bias Interrupters

All bias interrupters should apply both to written evaluations and in meetings, where relevant. Because every firm is different, not all interrupters will be relevant. Consider this a menu.

To understand the research and rationale behind the suggested bias interrupters, read the "Identifying Bias in Performance Evaluations Worksheet," available online at BiasInterrupters.org.

A. *Empower and Appoint*

- **Empower people involved in the evaluation process to spot and interrupt bias.** Use the "Identifying Bias in Performance Evaluations Worksheet," available online at BiasInterrupters.org. Read and distribute.
- **Appoint bias interrupters.** Provide HR professionals or team members with special training to spot bias and involve them at every step of the performance evaluation process. Training is available at BiasInterrupters.org.

B. *Tweak the Evaluation Form*

- **Begin with clear and specific performance criteria directly related to job requirements.** Try "He is able to write an effective summary judgment motion under strict deadlines" instead of "He writes well."
- **Require evidence from the evaluation period that justifies the rating.** Try "In March, she argued X motion in front of Y judge on Z case, answered his questions effectively, and was successful in getting the optimal judgment" instead of "She's quick on her feet."
- **Consider performance and potential separately for each candidate.** Performance and potential should be appraised separately. Majority men tend to be judged on potential; others are judged on performance.

Separate personality issues from skill sets for each candidate. Personal style should be appraised separately from skills because a narrower range of behavior often is accepted from women and people of color. For example, women may be labeled "difficult" for doing things that are accepted in majority men.

C. *Tweak the Evaluation Process*

- **Level the playing field.** Ensure that all candidates know how to promote themselves effectively and send the message that they are expected to do so. Distribute the "Writing an Effective Self-Evaluation Worksheet," available online at BiasInterrupters.org.
- **Offer alternatives to self-promotion.** Encourage or require supervisors to set up more formal systems for sharing successes, such as a monthly e-mail that lists employees' accomplishments.
- **Provide a bounceback.** Supervisors whose performance evaluations show persistent bias should receive a bounceback (i.e., someone should talk through the evidence with them).
- **Have bias interrupters play an active role in calibration meetings.** In many law firms and legal departments, the Executive Committee or another body meets

to produce a target distribution of ratings or to cross-calibrate rankings. Have participants read the "Identifying Bias in Performance Evaluations Worksheet" on bias before they meet (available at BiasInterrupters.org). Have a trained bias interrupter in the room.

• **Don't eliminate your performance appraisal system.** Eliminating formal performance evaluation systems and replacing them with feedback on the fly creates conditions for bias to flourish.

3. Repeat as Needed

• **Return to your key metrics.** Did the bias interrupters produce change?

• **If you don't see change,** you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the performance evaluation process.

• **Use an iterative process** until your metrics improve.

Interrupting Bias in Partner Compensation

Tools for Law Firms

The Challenge

The gender pay gap in law firms has been extensively documented for decades. A 2016 report by Major, Lindsey, and Africa found a 44% pay gap between male and female law firm partners.[39] The report also found a 50% difference in origination credit, which many use to explain the pay gap: men earn more money because they bring in more business. Studies show the picture is much more complicated.

- One study found that even when women partners originated similar levels of business as men, they still earned less.[40]
- Another study found that 32% of white women income partners and 36% of women partners of color reported that they had been intimidated, threatened, or bullied out of origination credit.[41]
- The same study found that more than 80% of women partners reported being denied their fair share of origination credit in the previous three years.[42]
- Doesn't everyone think their compensation is unfair? Not to the same degree: a recent survey of lawyers found that male lawyers were about 20% more likely than white women lawyers and 30% more likely than women lawyers of color to say that their pay was comparable to their colleagues of similar experience.[43]

The Solution: A Three-Step Approach

1. Use Metrics

Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you've taken. (Whether metrics are made public will vary from firm to firm and from metric to metric.)

For each metric, examine:
- Do patterned differences exist between majority men, majority women, men of color, and women partners of color? (Include any other underrepresented group that your firm tracks, such as military veterans or LGBTQ people.)
- Are partners disadvantaged for taking parental leave? Are parents or others with caregiving responsibilities excluded from future opportunities?
- Do part-time lawyers receive less than proportionate pay for proportionate work? Are they excluded from future opportunities?

Important metrics to analyze:

- **Compare compensation with a variety of lenses and look for patterns.** Lenses include relationship enhancement, hours and working time revenues, and so forth. Do separate analyses for equity and income partners.
- **Succession.** Analyze who inherits compensation credit and client relationships and how and when the credit moves.
- **Origination and other important forms of credit.** Analyze who gets origination and other important forms of credit, how often it is split, and who does (and does not) split it. If your firm does not provide credit for relationship enhancement, analyze how that rule affects different demographic groups—and consider changing it.
- **Comp adjustments.** Analyze how quickly compensation falls, and by what percentage during a lean period and how quickly compensation rises during times of growth. (When partners lose key clients, majority men often are given more of a runway to recover than other groups.)
- **De-equitization.** Analyze who gets de-equitized.
- **Pitch credit.** Analyze who has opportunities to go on pitches, who plays a speaking role, and who receives origination and other forms of credit from pitches.
- **Lateral partners.** Analyze whether laterals are paid more in relation to their metrics. This is a major factor in defeating diversity efforts at some firms.

Keep metrics by (1) individual supervising lawyer; (2) department; (3) country, if relevant; and (4) the firm as a whole.

2. Implement Bias Interrupters

To understand the research and rationale behind the suggested bias interrupters, read the "Identifying Bias in Partner Compensation Worksheet," available online at BiasInterrupters.org.

A. Find Out What Drives Compensation—and Be Transparent about What You Find

- **Commission an analysis.** Although firms may say they value a broad range of factors, many experts agree that origination and billable hours account for almost all variance in compensation.[44] Hire a law firm compensation consultant or statistician to find out what factors determine compensation at your firm.
- **Be transparent about what drives compensation.** This is a vital first step to empowering women and people of color to refuse work that does not enhance their compensation and focus on work that positions them to receive higher compensation. Studies show that reducing ambiguity reduces gender bias in negotiations—and law firm compensation often involves negotiation among partners.[45] If only those "in the know" understand what's really valued, that will benefit a small in group that typically reflects the demography of your existing equity partnership.
- **Value everything that's valuable.** Give credit for nonbillable work that is vital to sustaining the long-term health of the firm—including relationship enhancement credit, credit for lawyers who actually do the client's work, and talent manage-

ment. If the firm says it values mentoring and greater diversity but does not in fact do so, this will disadvantage women and lawyers of color.

B. Establish Clear, Public Rules

- **Establish clear rules governing granting and splitting origination and other valuable forms of credit.** Research suggests that men are more likely to split origination credit with men than with women and that women may get less origination credit than men even when they do a similar amount of work to bring in the client.[46] Set clear, public rules addressing how origination credit should be split by publishing and publicizing a memo that details how partners should split credit under common scenarios.

- **Establish a formal system of succession planning.** If your firm allows origination credit to be inherited, institute a formal succession planning process. Otherwise, in-group favoritism means that your current pattern of origination credit will be replicated over and over again, with negative consequences for diversity.

- **Pitch credit.** Women attorneys and attorneys of color often report being used as "eye candy"—brought to pitches but then not given a fair share of credit or work that results. Establish rules to ensure this does not occur. The best practice is that if someone does the work for the pitch, he or she should be recognized with credit that accurately reflects his or her role in doing and winning the work.

- **Parental leave.** Counting billables and other metrics as "zero" for the months women (or men) are on parental leave is a violation of the Family and Medical Leave Act, where applicable, and is unfair even where it is not illegal. Instead, annualize based on the average of the months the attorney was at work, allowing for a ramp-up and ramp-down period.

- **Part-time partners.** Compensation for part-time partners should be proportional. Specifics on how to enact proportional compensation depends on which compensation system a law firm uses. See the "Best Practices for Part-Time Partner Compensation" paper for details, available at BiasInterrupters.org.

C. Establish Procedures to Ensure the Perception and Reality of Fairness

- **Institute a low-risk way partners can receive help in disputes over credit.** Set up a way to settle disputes over origination and other forms of credit that lawyers can use without raising eyebrows.

- **Provide templates for partner comp memos—and prohibit pushback.** Some firms provide opportunities for partners and associates to make their case to the compensation committee by writing a compensation memo. If your firm does this, distribute the worksheet (online at BiasInterrupters.org) on how to write an effective compensation memo and set rules and norms to ensure that women and minorities are not penalized for self-promotion. If not, give partners the opportunity to provide evidence about their work: research shows that women's successes tend to be discounted and their mistakes remembered longer than men's.

- **Institute quality control over how compensation is communicated to partners.** Design a structured system for communicating with partners to explain what factors went into determining their compensation.

- **When hiring, don't ask candidates about prior salary.** Asking about prior salary when setting compensation for a new hire can perpetuate the gender pay gap.[47] (A growing legislative movement prohibits employers from asking prospective employees about their prior salaries.[48])
- **Have a bias interrupter at meetings where compensation is set.** This is a person who has been trained to spot the kinds of bias that commonly arise.
- **Training.** Make sure that your compensation committee, and anyone else involved in setting compensation, knows how implicit bias commonly plays out in law firm partner compensation and how to interrupt that bias. Read and distribute the "Identifying Bias in Partner Compensation Worksheet" (available at BiasInterrupters.org).

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don't see change**, you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the compensation process.
- **Use an iterative process** until your metrics improve.

Small Steps, Big Change

Bias Interrupters Tools for In-House Departments

Interrupting Bias in Hiring

Tools for In-House Departments

The Challenge:

When comparing identical resumes, "Jamal" needed eight additional years of experience to be considered as qualified as "Greg," mothers were 79% less likely to be hired than an otherwise-identical candidate without children, and "Jennifer" was offered $4,000 less in starting salary than "John."[49] Unstructured job interviews do not predict job success,[50] and judging candidates on "culture fit" can screen out qualified diverse candidates.[51]

The Solution: A Three-Step Approach

1. Use Metrics

Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you've taken.

For in-house departments, some metrics may be possible to track; others may require HR or can only be tracked company-wide. Depending on the structure and size of your in-house department, identify what's feasible.

Whether metrics are made public will vary from company to company and from metric to metric.

For each metric, examine:

- Do patterned differences exist between majority men, majority women, men of color, and women of color? (Include any other underrepresented group that your department/company tracks, such as veterans, LGBTQ people, etc.)

Important metrics to analyze:

- The goal is to track the candidate pool through the entire hiring process—from initial contact, to resume review, to interviews, to hiring—and then to analyze where underrepresented groups are falling out of the hiring process. How much you can track will depend on how your company's systems are set up, as will the extent to which you will need help from HR.
- Track whether hiring qualifications are waived more often for some groups. You may be able to do this only for those parts of the hiring process that are done at a departmental level, such as final-round interviews.
- Track interviewers' reviews and recommendations to look for demographic patterns. Again, your department's ability to do this will depend on what is handled at a departmental level, or your HR department may be willing to do this tracking.

Keep in-house metrics by (1) individual supervisor; (2) department, if your in-house department is large enough to have its own departments; and (3) country, if relevant.

2. Implement Bias Interrupters

All bias interrupters should apply both to written materials and in meetings, where relevant.

Because in-house departments are all different and vary in size and structure, not all interrupters will be relevant. Depending on how much of the hiring process is done by the in-house department versus HR, some of the interrupters may be more feasible than others. Consider this a menu.

To understand the research and rationale behind the suggested bias interrupters, read the "Identifying Bias in Hiring Worksheet," available online at BiasInterrupters.org, which summarizes hundreds of studies.

A. Empower and Appoint

- **Empower people involved in the hiring process to spot and interrupt bias.** Use the "Identifying Bias in Hiring Worksheet," available online at BiasInterrupters .org, and distribute this to anyone involved in hiring.
- **Appoint bias interrupters.** Provide HR professionals or team members with special training to spot bias and involve them at every step of the hiring process. Training is available at BiasInterrupters.org.

B. Tips to Help You Assemble a Diverse Pool

- **If your department hires by referral, keep track of the candidate flow from referrals.** Hiring from current employees' social networks may well replicate lack of diversity if your department is not diverse. If your analysis finds that referrals consistently provide majority candidates, consider limiting referrals or balance referral hiring with more targeted outreach to ensure a diverse candidate pool.
- **Recruit where diverse candidates are.** If your department handles recruiting, make sure to reach out to diverse candidates where they are. Identify law job fairs, affinity networks, conferences, and training programs aimed at women and people of color and send recruiters. If your department does not do recruiting, consider asking the people in charge to do more targeted recruitment.
- **If recruitment happens mostly at law schools, consider candidates from multi-tier schools.** Don't limit your search to candidates from Ivy League and top-tier schools. This practice favors majority candidates from elite backgrounds and hurts people of color and professionals from nonprofessional backgrounds (class migrants).[52] If another department handles recruiting, let them know that your department would like to consider candidates from a broader range of law schools.
- **If your department writes its own job postings, make sure you are not using language that has been shown to decrease the number of women applicants** (words such as *competitive* or *ambitious*). If HR is in charge of the job postings, suggest that they review job posts in the same way. Tech companies such as Textio and Unitive can help.

- **Insist on a diverse pool.** If HR creates a pool for your department, tell them that you expect the pool to be diverse. One study found the odds of hiring a woman were 79 times greater if there were at least two women in the finalist pool; the odds of hiring a person of color were 194 times greater.[53] If HR does not present a diverse pool, try to figure out where the lack of diversity is coming from. Is HR weeding out the diverse candidates, or are the jobs not attracting diverse candidates?

C. Interrupting Bias While Reviewing Resumes

If your in-house department conducts the initial resume screening, use the following bias interrupters. If HR does the initial screening, encourage them to implement the following tips to ensure that your department receives the most qualified candidates.

- **Distribute the "Identifying Bias in Hiring Worksheet" before resumes are reviewed** (available at BiasInterrupters.org) so reviewers are aware of the common forms of bias that can affect the hiring process.
- **If candidates' resumes are reviewed by your department, commit to what qualifications are important—and require accountability.** When qualifications are waived for a specific candidate, require an explanation of why the qualification at issue is no longer important—and keep track to see for whom requirements are waived.[54] If HR reviews the resumes, give HR a clear list of the qualifications your department is seeking.
- **Establish clear grading rubrics and ensure that all resumes are graded on the same scale.** If possible, have each resume reviewed by two different people and average the scores. If HR reviews resumes, encourage them to review resumes based on the rubric that you provide to them.
- **Remove extracurricular activities from resumes.** Including extracurricular activities on resumes can favor elite majority candidates.[55] Remove extracurriculars from resumes before you review them or ask HR to do this.
- **Watch out for Maternal Wall bias.** Mothers are 79% less likely to be hired than an identical candidate without children.[56] Train people who review resumes not to make inferences about whether someone is committed to the job due to parental status. Instruct them not to count "gaps in a resume" as an automatic negative. If HR reviews resumes, ask them to do the same.
- **Try using "blind auditions."** If women and candidates of color are dropping out of the pool at the resume review stage, consider removing demographic information from resumes before review—or ask HR to do it.

D. Controlling Bias in the Interview Process

- **Ask the same questions to every person you interview.** Come up with a set list of questions you will ask each candidate and ask them in the same order to each person. Ask questions that are directly relevant to the job for which the candidate is applying.[57]
- **Ask performance-based, work-relevant questions.** Performance-based questions, or behavioral interview questions ("Tell me about a time you had too many things to do and had to prioritize."), are a strong predictor of how successful a

candidate will be on the job.[58] Ask questions that are directly relevant to situations that arise in your department.

- **Require a work sample.** If applicable, ask candidates to demonstrate the skills they will need on the job (e.g., ask candidates to write an advisory letter to the sales team about a new product.)
- **Standardize the interview evaluation process.** Develop a consistent rating scale for candidates' answers and work samples. Each rating should be backed up with evidence. Average the scores granted on each relevant criterion and discount outliers.[59]
- **Try behavioral interviewing.**[60] Ask questions that reveal how candidates have dealt with prior work experiences. Research shows that structured behavioral interviews can more accurately predict the future performance of a candidate than unstructured interviews.[61] Instead of asking "How do you deal with problems with your manager?" say "Describe for me a conflict you had at work with your manager." When evaluating answers, a good model to follow is STAR[62]: the candidate should describe the Situation faced, the Task handled, the Action taken to deal with the situation, and the Result.
- **If you use culture fit, do so carefully.** Using culture fit as a hiring criterion can thwart diversity efforts.[63] Culture fit ("Would I like to get stuck in an airport with this candidate?") can be a powerful force for reproducing the current makeup of the organization when it's misused.[64] Questions about sports and hobbies may feel exclusionary to women and to class migrants who did not grow up playing golf or listening to classical music. If culture fit is a criterion for hiring, provide a specific work-relevant definition. Google's work-relevant definition of culture fit is a helpful starting point.[65]
- **Ask directly about "gaps in a resume."** Women fare better in interviews when they are able to provide information up front rather than having to avoid the issue.[66] Instruct your interviewing team to give, in a neutral and nonjudgmental fashion, candidates the opportunity to explain gaps in their resumes.
- **Be transparent to applicants about what you're seeking.** Provide candidates and interviewers with a handout that explains to everyone what's expected from candidates in an interview. Distribute it to candidates and interviewers for review so everyone is on the same page about what your in-house department is seeking. An example "Interview Protocol Sheet" is available at BiasInterrupters .org.
- **Don't ask candidates about prior salary.** Asking about prior salary when setting compensation for a new hire can perpetuate the gender pay gap.[67] (A growing legislative movement prohibits employers from asking prospective employees about their prior salaries.[68])

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don't see change,** you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the hiring process.
- **Use an iterative process** until your metrics improve.

Interrupting Bias in Assignments

Tools for In-House Departments

The Challenge

Diversity at the top can only occur when diverse employees at all levels of the organization have access to assignments that let them take risks and develop new skills. A level playing field requires that both the glamour work (career-enhancing assignments) and the office housework (the less high-profile and back-office work) are distributed fairly. If your department uses an informal "hey, you!" assignment system to distribute assignments, you may end up inadvertently distributing assignments in an inequitable fashion.

If women and people of color keep getting stuck with the same low-profile assignments, they will be more likely to be dissatisfied and to search for opportunities elsewhere.[69]

The Solution: A Three-Step Approach

Fair allocation of the glamour work and the office housework are two separate problems. Some in-house departments will want to solve the office housework problem before tackling the glamour work; others will want to address both problems simultaneously. This will depend on the size of your in-house department and how work is currently assigned.

1. Use Metrics

A. Identify and Track
For each metric, examine:
- What is the office housework and glamour work in your department?
- Who is doing what and for how long?
- Are there demographic patterns that indicate gender and/or racial bias at play?

Important metrics to analyze:
1. Distribute an office housework survey to members of your department to find out who is doing the office housework and how much of their time it requires. Create your own survey or use ours, available at BiasInterrupters .org.
2. Convene relevant managers (and anyone else who distributes assignments) to identify what is the glamour work and what is the lower-profile work in the department. Worksheets and protocols to help you are available online at BiasInterrupters.org.

3. Once you have identified what the glamour work is in your department, ask managers to report which employees have been doing the glamour work. Worksheets are also available at BiasInterrupters.org.

B. Analyze Metrics

Analyze office housework survey results and glamour worksheets for demographic patterns, dividing employees into (1) majority men, majority women, men of color, and women of color, (2) parents who have just returned from parental leave, (3) professionals working part-time or flexible schedules, and (4) any other underrepresented group that your organization tracks (e.g., veterans, LGBTQ people, individuals with disabilities). (This will also depend on the size of your in-house department. If there are only one or two people in a category, the metric won't be scientifically viable.)

- Who is doing the office housework?
- Who is doing the glamour work?
- Who is doing the low-profile work?
- Create and analyze metrics by individual supervisor.

2. Implement Bias Interrupters

Because every in-house department is different and varies so much in size and structure, not all interrupters will be relevant. Depending on how much of the hiring process is done by the in-house department versus HR, some of the interrupters may be more feasible than others. Consider this a menu.

A. Office Housework Interrupters

- **Don't ask for volunteers.** Women are more likely to volunteer because they are under subtle but powerful pressures to do so.[70]
- **Hold everyone equally accountable.** "I give it to women because they do it well—men don't." This dynamic reflects an environment in which men suffer few consequences for doing a poor job on less glamorous assignments and women who do the same are faulted as "not being team players."
- **Use admins.** Assign office housework tasks (e.g., planning birthday parties, scheduling meetings, ordering lunch) to admins if your department has enough admin support to do so.
- **Establish a rotation.** A rotation is helpful for many administrative tasks (e.g., taking notes, scheduling meetings). Rotating housework tasks (e.g., ordering lunch and planning parties) is also an option if admins are unavailable, making it a good option for in-house departments.
- **Shadowing.** Another option in larger departments is to assign a more junior person to shadow someone more senior—and to do administrative tasks such as taking notes.

B. Glamour Work Interrupters

- **Value what's valuable.** If your department values such things as mentoring and committee work (such as serving on the Diversity Initiative), make sure these things are valued when the time comes for promotions and raises. Sometimes

companies say they highly value this kind of work—but they don't. Mixed messages of this kind will negatively affect women and people of color. If your department doesn't have complete control over promotions and raises, work with relevant departments to ensure that communicated values are being rewarded appropriately. When members of your in-house department take on diversity work, make sure they have suitable staff support.

- **Announce your goals of equitable assignments.** Gather your team (or the members of your team who distribute assignments) to introduce the bias interrupters initiative and set expectations. Key talking points for the roll-out meeting are available online at BiasInterrupters.org.

- **Provide a bounceback.** If your metrics reveal that some members of your department distribute assignments inequitably, hold a bounceback meeting. Help the person in question think through why he or she assigns glamour work to certain people or certain types of people. Work with the person to figure out whether (1) the available pool for glamour work assignments is diverse but is not being tapped fully or whether (2) only a few people have the requisite skills for glamour work assignments. Use the "Responses to Common Pushback" and "Identifying Bias in Assignments" worksheets (available at www.BiasInterrupters .org) to prepare for bounceback meetings.

If a diverse pool has the requisite skills . . .
- **Implement a rotation.** Set up a system where plum assignments are rotated between qualified employees.
- **Formalize the pool.** Write down the list of people with the requisite skills and make it visible to whomever distributes assignments. Suggest or require anyone handing out plum assignments to review the list of qualified legal professionals before making a decision. Sometimes just being reminded of the pool can help.
- **Institute accountability.** Require people handing out assignments to keep track of who gets plum assignments. Research shows that accountability matters.[71]

If the pool is not diverse . . .
- **Revisit your assumptions.** Can only one (or very few) employees handle this type of assignment, or is it just that you feel more comfortable working with those few people?
- **Revisit how the pool was assembled.** When access to career-enhancing assignments depends on "go-getters" who ask for them, women, people of color, and class migrants may be disadvantaged because self-promotion is less acceptable to them or less accepted when they do it.

If these suggestions aren't relevant or don't solve your problem, then it's time to **expand the pool.** Small in-house departments may have to find creative ways to do this.

- **Development plan.** For the attorneys or other legal professionals who aren't yet able to handle the plum assignments, what skills would they need to be eligible? Identify those skills and institute a development plan.

- **Succession planning.** Remember that having "bench strength" is important so that your department won't be left scrambling if someone unexpectedly leaves the company.
- **Leverage existing HR policies.** If your company has a Talent Development Committee or professional development resources, use this resource to help your legal professionals develop the skills they need to handle plum assignments.
- **Shadowing.** Have a more junior person shadow a more experienced person during a high-profile assignment.
- **Mentoring.** Establish a mentoring program to help a broader range of junior people gain access to valued skills.

If you can't expand your pool, reframe the assignment. Can you break up the assignment into discrete pieces so more people can participate and get the experiences they need?

If nothing else works, consider a formal assignment system.

3. Repeat as Needed

- **Return to your metrics.** Did the bias interrupters produce change?
- **If you still don't have a fair allocation of high- and low-profile work,** you may need to implement stronger bias interrupters or consider moving to a formal assignment system.
- **Use an iterative process** until your metrics improve.

Interrupting Bias in Performance Evaluations

Tools for In-House Departments

The Challenge

Bias in performance evaluations has been well documented for decades.[72]

In one study, law firm partners were asked to evaluate a memo by a third-year associate. Half the partners were told the associate was black; the other half were told the identical memo was written by a white associate. The partners found 41% more errors in the memo they believed was written by a black associate as compared with a white associate.[73] Overall rankings also differed by race. Partners graded the white author as having "potential" and being "generally good," whereas they graded the black author as "average at best."

The problem isn't limited to law firms. One informal study in tech revealed that 66% of women's performance reviews but only 1% of men's reviews contained negative personality criticism.[74] Bias in the evaluation process stretches across industries.

The Solution: A Three-Step Approach

1. Use Metrics

For in-house departments, some metrics may be possible to track; others may require HR or can only be tracked company-wide. Depending on the structure and size of your department, identify which metrics you are able to track.

For each metric, examine:
- Do patterned differences exist between majority men, majority women, men of color, and women of color? Include any other underrepresented group that your company tracks, such as veterans, LGBTQ people, or individuals with disabilities.
- Do patterned differences exist for parents after they return from leave or for employees who reduce their hours?
- Do patterned differences exist between full-time and part-time lawyers and other legal professionals?

Important metrics to analyze:
- Do your performance evaluations show consistent disparities by demographic group?
- Do women's ratings fall after they have children? Do ratings fall after professionals take parental leave or adopt flexible work arrangements?

- Do the same performance ratings result in different promotion or compensation rates for different groups?

Keep in-house metrics by (1) individual supervisor; (2) department, if your in-house department is large enough to have its own departments; and (3) country, if relevant.

2. Implement Bias Interrupters

All bias interrupters should apply both to written materials and in meetings, where relevant.

Because in-house departments vary so much in size and structure, not all interrupters will be relevant to every company. Also, some interrupters will not be feasible, depending on how much of the hiring process is done by the in-house department versus HR. Consider this as a menu.

To understand the research and rationale behind the suggested bias interrupters, read the "Identifying Bias in Performance Evaluations Worksheet," available online at BiasInterrupters.org, which summarizes hundreds of studies.

A. Empower and Appoint

- **Empower people involved in the evaluation process to spot and interrupt bias.** Use the "Identifying Bias in Performance Evaluations Worksheet," available at BiasInterrupters.org, and distribute it to those involved in the evaluation process.
- **Appoint bias interrupters.** Provide HR professionals or team members with special training to spot bias and involve them at every step of the performance evaluation process. Training is available at BiasInterrupters.org.

B. Tips for Tweaking the Evaluation Form

Many in-house departments do not have control over their performance evaluation forms, so some of these suggestions will not be feasible.

- **Begin with clear and specific performance criteria directly related to job requirements.** Try "He is able to write clear memos to leadership that accurately portray the legal situations at hand" instead of "He writes well."
- **Instruct reviewers to provide evidence to justify their rating and hold them accountable.** Global ratings, with no specifics to back them up, are a recipe for bias and do not provide constructive advice to the employee being reviewed.
- **Ensure that the evidence is from the evaluation period.** The evaluation form should make it clear that a mistake an employee made two years ago isn't acceptable evidence for a poor rating today.
- **Separate discussions of potential and performance.** There is a tendency for majority men to be judged on potential and others to be judged on performance.
- **Separate personality issues from skill sets.** A narrower range of behavior often is accepted from women and people of color than from majority men.

C. *Tips for Tweaking the Evaluation Process*

- **Help everyone effectively advocate for themselves.** Distribute the "Writing an Effective Self-Evaluation," available online at BiasInterrupters.org.
- **If the evaluation process requires self-promotion, offer alternatives.** Set up more formal systems for sharing successes within your in-house department, such as a monthly e-mail that lists employees' accomplishments.
- **Provide a bounceback.** If possible, ask HR for an analysis (or do your own) to ensure that individual supervisors' reviews do not show bias toward or against any particular group. If they do, hold a meeting with that supervisor to help the person in question think through why certain types of people are getting lower performance evaluations. Work with the supervisor to figure out whether (1) the individuals in question are having performance problems and should be put on Performance Improvement Plans or whether (2) the supervisor should reexamine how employees are being evaluated.
- **Have bias interrupters play an active role.** If your in-house department holds calibration meetings, make sure there is a bias interrupter in the room to spot and correct any instances of bias. If a bias interrupter can't be in the room, have participants read the "Identifying Bias in Performance Evaluations Worksheet" before they meet, available online at BiasInterrupters.org.
- **Don't eliminate your performance appraisal system.** To the extent that you have a say in the HR operations in your company, encourage your company not to eliminate formal performance appraisal systems. Informal, on the fly performance evaluation systems are becoming more popular, but they have a tendency to reproduce patterns of bias.

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don't see change**, you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the performance evaluation process.
- **Use an iterative process** until your metrics improve.

Interrupting Bias in Compensation

Tools for In-House Departments

The Challenge

The in-house gender pay gap has not been well studied, but a 2017 report from the Association of Corporate Counsel described a "dramatic" gender pay disparity based on a survey taken by 1,800 in-house counsel. The report found that there is a higher proportion of men in six of seven salary bands above $199,000—yet only 8% of male respondents believed that a pay gap existed. [75]

Interrupting bias in compensation for in-house departments can be tricky because decisions and policies around compensation typically are made at the company level, but there are steps your department can take to begin to address the problem.

The Solution

The following recommendations can be implemented at the departmental level to reduce bias in compensation.

- **Communicate your organization's compensation strategy.** If only those "in the know" understand what's really valued, that will only benefit a small in group.
- **When hiring, don't ask candidates about prior salary.** Asking about prior salary when setting compensation for a new hire can perpetuate the gender pay gap.[76] (A growing legislative movement prohibits employers from asking prospective employees about their prior salaries.[77])
- **Read and distribute the "Identifying Bias in Compensation Worksheet" to anyone involved in compensation decisions in your department (available online at BiasInterrupters.**org).
- **Obtain surveys and benchmarking data at regular intervals.** Assess whether compensation in your in-house department is competitive with the relevant market. SHRM and similar organizations provide guidance to help you choose reputable compensation surveys and benchmarking data. Typically these data are behind a pay wall.
- **Encourage HR to implement pay equity audits under the direction of the legal department or outside lawyers to maximize the chance that the data collected is not discoverable under attorney–client privilege.**
- **When pay disparity is discovered, work with HR or the equivalent department to address the disparity within a reasonable period of time.**
- **Institute a low-risk way people can get help in disputes over compensation.** Set up a way to settle disputes over compensation that lawyers and legal professionals can use without raising eyebrows.

Best Practice: Sponsorship

Based on Ricardo Anzaldua's MetLife Sponsorship Program

These Best Practice recommendations are based on conversations with Ricardo Anzaldua, GC of MetLife, who implemented a similar program in his department.

Identify top talent. Create a system that controls for unconscious bias to identify top talent (including nondiverse talent) to defeat arguments that the program is designed to unfairly advantage or disadvantage particular groups. To identify top talent early, MetLife used existing talent-identifying tools and introduced survey techniques to control for unconscious bias. Make sure that your system:

- Draws input from many different sources (not just managers; also include clients, peers, subordinates, etc.)
- Seeks assessments of both performance and potential from varying perspectives

Pair each top-talent candidate with a trained senior-level sponsor who is held accountable.

- Tie effective sponsorship with manager performance evaluations, compensation, and ability to be promoted.
- To ensure that sponsorship does not come to be regarded as a risk of being considered a poor performer with little reward, either (1) enlist *all* officer-level managers to be sponsors or (2) create upside rewards available only to effective sponsors. (Note: enlisting all managers to be sponsors is simpler and helps get buy-in to the program.)
- Create and inculcate leadership competencies for managers that they can also use to advance.
- All top talent should be paired with sponsors, but pair diverse top-talent candidates with senior management.
- Make sure each protégé has a *mentor* (preferably not the sponsor).

Develop goals and milestones for protégés.

- Each sponsor-protégé pair creates a mutually agreed-upon career goal that can be accomplished in three to five years.
- Each sponsor creates a development plan that includes milestones along the way (opportunities and experiences needed to accomplish the career goal). Milestones may include presentations, managing/leading a team, communication training, leading a significant project (e.g., transaction, litigation, regulatory examination), and executive presence coaching.

Create action learning teams (ALTs).

- Create small teams of protégés and sponsors (pair sponsors with different groups of protégés).
- Give ALTs senior-management-level problems and task them with formulating, in three to six months, written proposals to solve the issues, including how to involve non-legal resources.
- Bring in SMEs to facilitate the more technical aspects of specific problems.
- At various points in the process, ALTs should brief senior management on the status of their work.

Bake sponsorship and ALTs into existing talent development systems, performance evaluations systems, and HR processes.

Endnotes

For complete citations, see the bibliography at BiasInterrupters.org/toolkits/orgtools/

1. For example, Dahlin et al., 2005; Ely & Thomas, 2001; Jehn et al., 1999.

2. Richard et al., 2004; Wooley et al., 2011; Lewis, 2016.

3. Phillips et al., 2006; Antonio et al., 2004; Richard et al., 2003.

4. Castilla, 2015.

5. Kalev, Dobbin, & Kelly, 2006.

6. Bertrand & Mullainathan, 2004; Benard & Correll, 2010; Correll et al., 2007; Moss-Racusin, Dovidio, Brescoll, Graham, & Handelsman, 2012.

7. Dana, Dawes, & Petersen, 2013.

8. Rivera, 2015.

9. Ibid.

10. Dale & Krueger, 2002, 2011.

11. Gaucher, Friesen, & Kay, 2011.

12. http://www.unitive.works.

13. https://textio.com.

14. Johnson, Hekman, & Chan, 2016.

15. Norton, Vandello, & Darley, 2004; Brewer, 1996; Tetlock, & Mellers, 2011.

16. Correl & Paik, 2007.

17. Thorngate, 2009.

18. Bock, 2015.

19. https://www.eremedia.com/ere/
how-to-create-behavioral-interview-questions-that-dont-give-away-the-answer.

20. Derek Torrington, *The Fundamentals of Human Resource Management: Managing People at Work*, 2009.

21. https://www.thebalance.com/what-is-the-star-interview-response-technique
-2061629.

22. Bock, 2015; Thorngate, 2009.

23. Rivera, 2015.

24. Bock, 2015: This is how Google defines it: "Googleyness: . . . enjoying fun, a certain dose of intellectual humility . . . a strong measure of conscientiousness . . . comfort with ambiguity . . . and evidence that you'd take come courageous or interesting paths in your life."

25. Hersch & Shinall, 2016.

26. https://nwlc.org/wp-content/uploads/2017/06/Asking-for-Salary-History-Perpetuates-Discrimination.pdf.

27. https://www.natlawreview.com/article/will-new-jersey-be-next-to-jump-wage-history-ban-wagon.

28. Williams & Dempsey, 2014.

29. Misra, Lundquist, & Templer, 2012; Mitchell & Hesli, 2013; Porter, 2007; Benschop & Dooreward, 1998; Ohlott, Ruderman, & McCauley, 1994; De Pater, Van Vianen, & Bechtoldt, 2010.

30. ABA Commission on Women, 2017.

31. Ibid.

32. Ibid.

33. Jaffe, Chediak, Douglas, & Tudor, 2016.

34. Babcock, Recalde, Vesterlund, & Weingart, 2017.

35. Epstein, Sauté, Oglensky, & Gever, 1995.

36. Heilman & Chen, 2005; Allen, 2006; Babcock, Recalde, Vesterlund, & Weingart, 2017; Williams & Dempsey, 2014.

37. Tetlock, 1983; Tetlock & Mitchell, 2009.

38. Reeves, 2014.

39. Major, Lindsey, & Africa, "2016 Partner Compensation Survey," https://www.mlaglobal.com/publications/research/compensation-survey-2016.

40. Triedman, 2015.

41. Williams & Richardson, 2010.

42. Ibid.

43. ABA Commission on Women, 2017.

44. Williams & Richardson, 2010.

45. Bowles, Babcock, & McGinn, 2005.

46. Williams & Richardson, 2010.

47. https://nwlc.org/wp-content/uploads/2017/06/Asking-for-Salary-History-Perpetuates-Discrimination.pdf.

48. https://www.natlawreview.com/article/will-new-jersey-be-next-to-jump-wage-history-ban-wagon.

49. Bertrand & Mullainathan, 2004; Benard & Correll, 2010; Correll et al., 2007; Moss-Racusin, Dovidio, Brescoll, Graham, & Handelsman, 2012.

50. Dana, Dawes, & Petersen, 2013.

51. Rivera, 2015.

52. Rivera, 2015.

53. Johnson, Hekman, & Chan, 2016.

54. Norton, Vandello, & Darley, 2004; Brewer, 1996; Tetlock, & Mellers, 2011.

55. Rivera, 2015.

56. Correl & Paik, 2007.

57. Thorngate, 2009.

58. Bock, 2015.

59. Bock, 2015; Thorngate, 2009.

60. https://www.eremedia.com/ere/
how-to-create-behavioral-interview-questions-that-dont-give-away-the-answer/.

61. Derek Torrington, *The Fundamentals of Human Resource Management: Managing People at Work*, 2009.

62. https://www.thebalance.com/
what-is-the-star-interview-response-technique-2061629.

63. Rivera, 2012, 2015.

64. Rivera, 2015.

65. Bock, 2015: This is how Google defines it: "Googleyness: . . . enjoying fun, a certain dose of intellectual humility . . . a strong measure of conscientiousness . . . comfort with ambiguity . . . and evidence that you'd take some courageous or interesting paths in your life."

66. Hersch & Shinall, 2016.

67. https://nwlc.org/wp-content/uploads/2017/06/Asking-for-Salary-History-Perpetuates-Discrimination.pdf.

68. https://www.natlawreview.com/article/
will-new-jersey-be-next-to-jump-wage-history-ban-wagon.

69. Babcock, Recalde, Vesterlund, & Weingart, 2017.

70. Heilman & Chen, 2005; Allen, 2006; Babcock, Recalde, Vesterlund, & Weingart, 2017; Williams & Dempsey, 2014.

71. Tetlock, 1983; Tetlock & Mitchell, 2009.

72. For an overview of the literature on bias in performance evaluations, see the "Identifying & Interrupting Bias in Performance Evaluations Worksheet" available on BiasInterrupters.org.

73. Reeves, 2014.

74. Snyder, 2014. http://fortune.com/2014/08/26/performance-review-gender-bias/.

75. Association of Corporate Counsel, "Global Perspectives: ACC In-House Trend Report," 2017. Executive Summary.

76. https://nwlc.org/wp-content/uploads/2017/06/Asking-for-Salary-History -Perpetuates-Discrimination.pdf.

77. https://www.natlawreview.com/article/will-new-jersey-be-next-to-jump-wage -history-ban-wagon.

About the ABA Commission on Women in the Profession

As a national voice for women lawyers, the ABA Commission on Women in the Profession forges a new and better profession that ensures that women have equal opportunities for professional growth and advancement commensurate with their male counterparts. It was created in 1987 to assess the status of women in the legal profession and to identify barriers to their advancement. Hillary Rodham Clinton, the first chair of the commission, issued a groundbreaking report in 1988 showing that women lawyers were not advancing at a satisfactory rate.

Now entering its fourth decade, the commission not only reports the challenges that women lawyers face, it also brings about positive change in the legal workplace through such efforts as its Grit Project, Women of Color Research Initiative, Bias Interrupters Project, and the Margaret Brent Women Lawyers of Achievement Awards. Drawing upon the expertise and diverse backgrounds of its 12 members, who are appointed by the ABA president, the commission develops programs, policies, and publications to advance and assist women lawyers in public and private practice, the judiciary, and academia.

For more information, visit www.americanbar.org/women.

About the Minority Corporate Counsel Association (MCCA)

The preeminent voice on diversity and inclusion issues in the legal profession, MCCA is committed to advancing the hiring, retention and promotion of diverse lawyers in law departments and law firms by providing research, best practices, professional development and training, and pipeline initiatives.

MCCA's groundbreaking research and innovative training and professional development programs highlight best practices and identify the most significant diversity and inclusion challenges facing the legal community. MCCA takes an inclusive approach to the definition of "diversity" including race and ethnicity, gender, sexual orientation, disability status and generational differences.

Since MCCA's founding 20 years ago, it has been recognized and honored by the Association of Corporate Counsel, the National LGBT Bar Association, the National Minority Business Council, Inc. and the U.S. Equal Employment Opportunity Commission, among others. MCCA's vision, "To make the next generation of legal leaders as diverse as the world we live in," is what drives the organization and our passionate and committed partners.

For more information, visit www.mcca.com.