
From Idealists to Hired Guns? An Empirical Analysis of “Public Interest Drift” in Law School

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Recent commentaries on American legal education have questioned whether law students are prepared to seek out satisfying, public-regarding, and financially viable careers in a changing profession. To these debates, this Article offers an empirical perspective on how students approach job-path decisions during law school. I address this issue through a five-year multi-method study of a subset of the law student population — elite-school students who state preferences for jobs in the public-interest sector at the beginning of law school but by their second year decide to pursue positions in large private law firms. A widely circulated hypothesis in popular and academic discourses suggests that implicit lessons of the first-year curriculum steer these students away from public-interest career goals, inducing a widespread “public interest drift.” However, skeptical commentators have speculated that the survey findings showing this drift phenomenon may be inaccurate and exaggerated. This Article responds to the skeptical position by empirically exploring the descriptive limits of the drift effect through a qualitative study of students’

* Copyright © 2018 John Bliss. Postdoctoral Fellow at Harvard Law School, Center on the Legal Profession. I would like to thank Catherine Albiston, Marianne Constable, Kristin Luker, Calvin Morrill, Victoria Plaut, and Jonathan Simon for their advice throughout the research and writing process; Richard Abel, Kathryn Abrams, Scott Cummings, Stephen Galoob, Susan Saab Fortney, Jon Hanson, Angela Harris, Lucy Jewell, Sung Hui Kim, Rachel Moran, Carroll Seron, and David Wilkins for their feedback on earlier drafts; and Sarah Pauly for her contributions to the pilot study. This paper was also improved through helpful comments from participants at the 2015 American Anthropological Association meeting, the 2017 “Legal Education: The State of the Art” conference at the Center for Empirical Research on the Legal Profession at UC Irvine School of Law, and 2017 presentations at UCLA School of Law, Harvard Law School, the Center for Law, Society, and Culture at the Indiana University Maurer School of Law, and the Southeastern Association of Law Schools. Funding was provided by the UC Berkeley Jurisprudence and Social Policy Program. This research has IRB approval from the University of California, Berkeley.

experiences. My analysis suggests a revised socialization timeline, wherein many students entered law school with genuine but vague commitments to public-interest careers. While the first-year experience has profound documented effects on law students, this study suggests that one of those effects does not appear to be to dramatically alter these job preferences. At the end of the first-year summer, these students generally characterized the decision to apply to large firms as risk-averse, uninformed, and tentative. Respondents' emerging conceptions of professional identity were substantially shaped by the law-firm interview process as they re-narrated their paths into the profession. I explore these dynamics through the lens of sociological theory on identity work and social psychological theory on cognitive dissonance. Although this analysis emphasizes forces that are exogenous to the law school classroom, one promising policy recommendation that follows from these findings is to give first-year students more information about legal careers and more opportunities to reflect on professional identity. I argue that developing such curriculum may lead to better sorting of law graduates into practice settings where they are more likely to be satisfied and effective. Furthermore, this recommendation aims to encourage students who begin their careers in private law firms to expand their definitions of public interest to include the civic and ethical contributions of law-firm practice.

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INTRODUCTION

A long line of survey findings at a range of law schools have suggested that roughly half or more of the incoming law students who state a preference for working in the public-interest sector will take positions in private law firms upon graduation.¹ This “public interest drift” has been characterized as an obstacle both for social-justice causes and for the self-realization of aspiring public-interest lawyers. However, our understanding of this issue has largely relied on

¹ See ROBERT GRANFIELD, MAKING ELITE LAWYERS: VISIONS OF LAW AT HARVARD AND BEYOND 48 (1992) (reporting on a survey finding that 70% of incoming Harvard Law School students expressed a preference for public-interest careers, but by their third year only two percent planned to take what the authors defined as public interest jobs); ROBERT V. STOVER, MAKING IT AND BREAKING IT: THE FATE OF PUBLIC INTEREST COMMITMENT DURING LAW SCHOOL 3 (1989) (finding that the number of students at the University of Denver Sturm College of Law who planned to pursue public interest careers declined from 33% to approximately 17% between the first and third years of law school); Howard S. Erlanger et al., *Law Student Idealism and Job Choice: Some New Data on an Old Question*, 30 LAW & SOC’Y REV. 851, 853-54 (1996) (finding that over half of the incoming University of Wisconsin law students surveyed were interested in jobs with an “explicit social reform component,” but upon graduation only 13% began their careers in legal aid, as a public defender, or in a non-profit organization); Craig Kubey, *Three Years of Adjustment: Where Your Ideals Go*, 6 JURIS DR. 34, 34 (1976) (finding that the number of UC Davis students who reported that a public interest job would be their first choice declined by 15% between the first and second years of law school).

multiple-choice survey responses, anecdotal evidence, and polemical perspectives.² This Article provides a systematic qualitative study of students' decision-making and identity processes that generally fall below the empirical radar of multiple-choice surveys.³ Drawing on a five-year longitudinal research design, my analysis suggests a revised decision-making timeline and a re-conceptualization of the associated normative issues. While recent criticism of legal education has emphasized the need for financial reform and "pivot pedagogy,"⁴ I argue that more attention should be paid to helping prepare students to broker the job market and to sustain public-interest values in their pursuit of jobs in any legal practice sector.

The existing literature has largely sought to explain why public interest drift occurs. Contrary to conventional wisdom, quantitative research suggests that educational debt and salary differential in public- and private-sector jobs do not substantially predict the drift effect.⁵ Instead, commentators have tended to characterize drift as a

² Qualitative research on law school socialization has not generally taken public interest drift as a central subject of investigation, with two major exceptions. See GRANFIELD, *supra* note 1, for a multi-method study conducted in the 1980s at Harvard Law School. See STOVER, *supra* note 1, for a survey conducted at the University of Denver, which included a small qualitative component. This Article draws on insights from these previous qualitative studies while also acknowledging that the past thirty years have seen dramatic changes in law school curriculum, educational debt, and the job opportunities and salaries available to new lawyers.

³ In this Article, I primarily focus on those respondents who expressed public-interest job preferences in 1L, but accepted large-firm positions in 2L. For a breakdown of the sample by job path, see Table I, *infra* Section II.A. This Article is part of a larger project examining the dynamics of law school socialization, including a recent publication on professional identity formation. See generally John Bliss, *Divided Selves: Professional Role Distancing Among Law Students and New Lawyers in a Period of Market Crisis*, 42 LAW & SOC. INQUIRY 855 (2017) [hereinafter *Divided Selves*]; John Bliss, *The Dynamics of the Professional Self: Findings from Law School and Early Law Careers* (2016) (unpublished Ph.D. dissertation, University of California, Berkeley) (on file with author) [hereinafter *Dynamics*].

⁴ Laura M. Padilla, *Whoosh — Declining Law School Applications and Entering Credentials: Responding with Pivot Pedagogy*, 3 INT'L J. ARTS & HUMAN. 43, 44 (2017) (describing "pivot pedagogy" as an adjustment to law teaching in response to declining applications and incoming credentials).

⁵ See David L. Chambers, *The Burdens of Educational Loans: The Impacts of Debt on Job Choice and Standards of Living for Students at Nine American Law Schools*, 42 J. LEGAL EDUC. 187, 188 (1992); Lewis A. Kornhauser & Richard L. Revesz, *Legal Education and Entry into the Legal Profession: The Role of Race, Gender, and Educational Debt*, 70 N.Y.U. L. REV. 829, 891-942 (1995); discussion *infra* Section I.A (finding that the salary differential between public-interest and private-firm jobs may play a more significant role in students' job-path decisions than educational debt); see also Christa McGill, *Educational Debt and Law Student Failure to Enter Public Service Careers:*

function of the first-year law school experience where students are said to receive a cognitive training in the norms of neutral partisanship, zealous hired-gun advocacy, and a U.S. legal epistemology that de-emphasizes political and social context.⁶ The profession has long celebrated American legal pedagogy's distinct ability to transmit legal-reasoning skills and client-service values. In contrast, some sociological depictions have rendered the 1L experience in a more negative light, functioning "much like prisons, boarding schools, and army training camps," involving an "identity transformation process" that leads students away from public-interest career aspirations.⁷ This boot-camp imagery resonates with popular

Bringing Empirical Data to Bear, 31 LAW & SOC. INQUIRY 677, 698-704 (2006).

⁶ See, e.g., CARRIE YANG COSTELLO, PROFESSIONAL IDENTITY CRISIS: RACE, CLASS, GENDER, AND SUCCESS AT PROFESSIONAL SCHOOLS 79-116 (2005) (detailing the implied hierarchy and identity-shaping discourses of legal pedagogy); LANI GUINIER ET AL., BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE 4 (1997) (arguing that legal education relies too heavily on standardized tests and a uniform and competitive pedagogy, rather than instilling lessons in collaborative and socially contextualized legal practice); ELIZABETH MERTZ, THE LANGUAGE OF LAW SCHOOL: LEARNING TO "THINK LIKE A LAWYER" 226 n.16 (2007) (suggesting that law students' drift away from public interest careers may partially result from their law school training in an amoral, apolitical legal epistemology); STUART A. SCHEINGOLD & AUSTIN SARAT, SOMETHING TO BELIEVE IN: POLITICS, PROFESSIONALISM, AND CAUSE LAWYERING 51-71 (2004) (arguing that law students are indoctrinated in conventional client-centered lawyering, although cause lawyering features prominently in law school orientations and graduations); John O. Calmore, "Chasing the Wind": Pursuing Social Justice, Overcoming Legal Mis-Education, and Engaging in Professional Re-Socialization, 37 LOY. L.A. L. REV. 1167, 1168 (2004) ("[F]ar too many students are learning the wrong lessons to become competent social justice lawyers."); James C. Foster, *The "Cooling Out" of Law Students: Facilitating Marker Cooptation of Future Lawyers*, 3 LAW & POL'Y Q. 243, 243-56 (1981) (claiming that legal pedagogy encourages students to divorce their conceptions of legal practice from their public-interest goals and notions of "doing good"); Robert Granfield, *Do Law Students Abandon Their Ideals — the Crisis of Idealism in the Age of Affluence*, 18 LEGAL STUD. F. 53, 59 (1994) (discussing the ideologies that public-interest-oriented students adopt regarding large-firm practice); Kubey, *supra* note 1 (generally criticizing legal education for its push towards private practice); see also Marina N. Bolotnikova, *The Purpose of Harvard Law School*, HARV. MAG. (Aug. 17, 2016), <http://harvardmagazine.com/2016/08/the-purpose-of-harvard-law-school> (illustrating a recent example of the *Reclaim Harvard Law School Movement*, where Harvard Law students posted signs in a common space criticizing the school's focus on training corporate lawyers); Pete Davis, *A Mission in Winter*, HARV. L. REC. (Jan. 7, 2016), <http://hlrecord.org/2016/01/a-mission-in-winter> (imploping students to eschew the large firms that are presented as the prestigious option in favor of jobs with a higher civic calling). See generally Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591 (1982) (discussing the passivizing effects of legal pedagogy on progressive law students); *infra* Section I.B (discussing further references).

⁷ GRANFIELD, *supra* note 1, at 83-84. I use the common terms "1L," "2L," and

images of an austere legal pedagogy where the professor re-wires students through a form of “brain surgery,” advising the incoming class: “You come in here with a skull full of mush and you leave thinking like a lawyer.”⁸

On the margins of the existing literature, some commentators have speculated that public interest drift may be commonly exaggerated or almost entirely illusory.⁹ Among other grounds for this skepticism, these scholars point to a possible social desirability bias in the survey responses of incoming law students in favor of expressing altruistic career motivations while concealing their true income-driven motivations.¹⁰ This Article responds to these skeptical commentaries. On the causal debate, my findings push back against a strong 1L-socialization account for drift by emphasizing forces acting outside of the classroom; however, my primary purpose here is not to assess different causal mechanisms, but rather to examine a prior question. Do students drift in 1L? I address this question by taking a close qualitative look at the timeline of how students’ job-path orientations and identities are altered during the 1L year and the 2L hiring process.

“3L” throughout this Article to refer to the three years of law school.

⁸ THE PAPER CHASE (Twentieth Century Fox Film Corporation 1973). Both quotations are from the fictional Harvard Law professor Charles Kingsfield, in the classic monologue introducing 1Ls to the case method of instruction. This image of intimidation in the Socratic exchange is highlighted in the opening scene where James Hart, a student caught unprepared during his first day in Kingsfield’s class, is instructed to stand and to speak louder: “Now that you’re on your feet, Mr. Hart, maybe the class will be able to understand you. You are on your feet?” When Hart confesses that he was unaware of the reading assignment, the professor reprimands him. After class, Hart returns to the dormitory and vomits. For more recent examples of near identical scenes, see LEGALLY BLONDE (Marc Platt Productions 2001) and *How to Get Away with Murder: Pilot* (ABC television broadcast Sept. 25, 2014).

⁹ For commentaries suggesting that 1L socialization has a limited impact because students are already socialized adults and law school is not an authoritarian or “total” institution, see RICHARD L. ABEL, *AMERICAN LAWYERS* 213 (1989). See generally Todd A. Berger, *Jimmy Carter’s Malaise Speech, Social Desirability Bias, and the Yuppie Nuremberg Defense: The Real Reason Why Law Students Say They Want to Practice Public Interest Law, yet So Few Actually Do*, 22 *KAN. J.L. & PUB. POL’Y* 139 (2012) (noting that “public interest drift” may simply be the result of dishonest survey responses by law students who value commercialism and materialism but feel that they must conceal those values); Howard S. Erlanger & Douglas A. Klegon, *Socialization Effects of Professional School: The Law School Experience and Students’ Orientation to Public Interest Concerns*, 13 *J.L. & SOC’Y* 11 (1978) (discussing how law school socialization contributes to the pursuit of high paying private firm jobs rather than public interest jobs); Monroe H. Freedman, *The Loss of Idealism — By Whom? And When?*, 53 *N.Y.U. L. REV.* 658 (1978) (noting that law schools admit students for their technical skills not their social concerns).

¹⁰ See, e.g., Berger, *supra* note 9, at 139-40.

I find that students' accounts of initial public-interest career commitment tended to be substantially uncertain and ambiguous. I then trace how those commitments developed and changed over the first two years of law school.

I approach these issues through a multi-method longitudinal case study of student experiences. The existing literature on public interest drift has focused on high-ranking law schools, although surveys have shown a significant movement away from public-interest job preferences among students at non-elite schools as well.¹¹ In order to interrogate the dominant accounts of public interest drift from a different methodological perspective, this study focuses on an elite law school. While this site is not representative of all law schools, it is a site where we may expect the drift effect to be particularly stark, as students have ready access to prestigious and lucrative positions in large law firms.¹²

My data consist of 153 student interviews, ethnographic observations in law firm hiring programs and other law school settings, and what I call an "identity mapping" method, which provides visual snapshots of the emerging professional self over time. By triangulating findings from these methods within an integrated research design, I generate a processual picture of decision-making and professional identity formation. This analysis draws on sociological theory on identity work and social-psychological theory on cognitive dissonance and self-perception.

Part I motivates the study in response to empirical gaps in the existing literature on public interest drift. Part II introduces the methodological and theoretical approach. Part III presents findings in chronological order through four points on the law school timeline, which I will briefly preview here.

First (in Section III.A), I examine students' initial public-interest career preferences. I find that many students described these preferences in vague and malleable terms, in contrast to the accounts of unwavering commitment these students presented to their peers within the first-year public-interest subculture of the law school. I argue that students' exaggerated accounts of certainty often served to solidify membership in public-interest peer cliques and to differentiate

¹¹ See *supra* note 1 (discussing "public interest drift" at a range of law schools).

¹² Most respondents in the present study took post-graduation jobs in large, elite firms ranked in the AmLaw 100 or AmLaw 200. Throughout this paper I will primarily refer to these firms as "large firms," but will also describe this sector as "corporate law" when discussing some students' views.

public-interest-oriented students from peers whom they deemed “corporate students” and “gunners.”

The second point of the timeline (Section III.B) was the end of the 1L summer, when students made the decision to upload their resumes to the law-firm hiring program. At this point, I find that respondents’ career orientations and views of professional identity were generally similar to what they presented at the beginning of law school. They remained uncertain, uninformed, and vague about job preferences. Their perceptions of “corporate law” were often highly disapproving. Rather than being transformed into committed applicants to private firms, many of these students emphasized that their decision to participate in the hiring program was a tentative and risk-averse step.

Section III.C examines the near-campus interview program that takes place at the beginning of 2L. In these job interviews, respondents repeatedly presented new self-narratives regarding their paths to law school and their aspirations beyond, while moderating some (but not all) of their judgments toward large firms. In this process, students typically described re-conceptualizing not only their “interview answers” to questions about their professional motivations and plans, but also what they perceived to be their “real answers” to these questions.

Section III.D considers the final point on this timeline, the spring of 2L after students had accepted summer internship offers with large firms. At this point, many of these students turned their judgments against corporate law back on themselves as they struggled to relieve cognitive dissonance and produce cohesive self-narratives.

Because my methods emphasize experiences outside the 1L classroom, I do not directly address how the first-year curriculum may prime students for these 2L interactions with the hiring process. But my analysis does shed substantial doubt on the notion of a widespread conversion of committed aspiring public-interest lawyers to committed aspiring large-firm lawyers over the course of the first year. Instead, I find that the 1L experience appears to nudge many of these students from an initial unspecific public-interest preference at the beginning of law school to an uncertain and tentative decision to interview with large firms at the end of the 1L summer. I show that commitment to working in large firms and early conceptions of professional identity are substantially shaped during the 2L hiring process. As these students reflected on their paths to large firms, they often castigated themselves for abandoning public-interest job aspirations. Consistent with research on cognitive dissonance and self-perception, these students generally inferred retrospective narratives

to rationalize their decision to work in large firms. But this resolution of dissonance was often remarkably incomplete. Many respondents continued to express narratives of shame, selling out, and detached professional identity in the 2L-spring and post-JD research interviews.

Part IV explores policy prescriptions. I propose shifting some normative attention away from public interest drift to what I call, “*professional identity drift*.” This term refers to the personal and civic disinvestment from the anticipated lawyer role often reported by respondents who took positions in large firms. Under the current hiring timeline in elite law school settings, I argue that many first-year students would benefit from learning more about legal career paths and having opportunities to reflect on who they want to be as lawyers. Providing such curriculum may lead to an improved sorting of students into satisfying jobs and a reduction in professional identity drift among students who start their careers in large firms.

I. EXISTING PERSPECTIVES ON PUBLIC INTEREST DRIFT

This Part begins by reviewing existing causal accounts of public interest drift emphasizing financial considerations (Section I.A) and legal pedagogy (Section I.B). I then (in Section I.C) discuss the skeptical commentaries, which raise the need for an empirical inquiry into the qualitative nature of the drift phenomenon.

A. Debt and Salary

Educational debt is frequently cited by students when explaining their transition from public-interest to private-law job preferences.¹³ It is certainly intuitive that as students undergo their legal education and begin to plan for the financial realities of their post-graduation lives, they may become more cognizant of their debt burdens, which could influence their job-path decisions. However, quantitative studies have repeatedly failed to show a strong relationship between debt and job

¹³ See GRANFIELD, *supra* note 1, at 151 (reporting on a survey at Harvard Law School finding that 58% of students claimed that educational loans influenced their decisions to work for private law firms); DEBRA J. SCHLEEF, MANAGING ELITES: SOCIALIZATION IN LAW AND BUSINESS SCHOOLS 179 (2005) (finding that over one third of the sampled students felt that loans were a major “restriction” on their pursuit of jobs in the public interest sector); EQUAL JUSTICE WORKS, NALP & P’SHP FOR PUB. SERV., FROM PAPER CHASE TO MONEY CHASE: LAW SCHOOL DEBT DIVERTS ROAD TO PUBLIC SERVICE (Nov. 2002), <http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/lrapurvey.authcheckdam.pdf> (finding that 66% of respondents asserted that law school debt prevented them from considering public interest or government jobs).

choice among law students.¹⁴ Instead, the literature suggests that debt is more often used by students as a post-hoc rationalization.¹⁵ These studies draw on a variety of data sources, but may be limited in their capacity to isolate the debt variable from other effects. Furthermore, this literature suggests that psychological responses to debt may play a role independently from the financial consequences of debt.¹⁶

The salary discrepancy between public interest and private sector employment may have a more significant impact on students' decisions to apply to private law firms, although this effect has not been found to account for the apparent scale of the public interest drift phenomenon.¹⁷ Salary differential is often thought to play a particularly significant role at elite law schools where students have access to lucrative law-firm positions.¹⁸

B. Law School Socialization

Given that the financial account of public interest drift appears at best incomplete, the prevailing narrative has instead emphasized first-year classroom socialization. Duncan Kennedy's self-published polemic accusing legal education of demobilizing progressive law students has been widely read since it was first circulated among legal scholars and law students in 1983.¹⁹ In Kennedy's view, law schools produce private-practice lawyers through a deliberate and sustained program of socialization. While left-leaning students enter law school with an image of lawyers on "the front lines of class struggle,"

¹⁴ See Chambers, *supra* note 5; Kornhauser & Revesz, *supra* note 5; McGill *supra* note 5.

¹⁵ See GRANFIELD, *supra* note 1, at 152-53.

¹⁶ See generally Erica Field, *Educational Debt Burden and Career Choice: Evidence from a Financial Aid Experiment at NYU Law School*, 1 AM. ECON. J.: APPLIED ECON. 1 (2009) (finding that students are more likely to pursue public-interest jobs when they are offered scholarships that waive tuition up front in comparison to students participating in a loan forgiveness program that requires ten years of qualifying public-interest practice).

¹⁷ See McGill, *supra* note 5, at 692 (concluding that students who faced a larger "salary gap" between the law-firm jobs they could acquire and public-interest-sector options were more likely to pursue positions in law firms. Although this effect was significant, McGill does not suggest that salary differential completely explains drift. She points to several other factors, with particular emphasis on the supply of public-interest jobs); see also Chambers, *supra* note 5, at 200 (showing that students with greater access to large firms tend to take positions in those firms).

¹⁸ See Chambers, *supra* note 5, at 202; McGill, *supra* note 5, at 690.

¹⁹ DUNCAN KENNEDY, *LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY: A POLEMIC AGAINST THE SYSTEM* (1983). An earlier version of that essay was published in the *Journal of Legal Education* in 1982. See Kennedy, *supra* note 6.

Kennedy describes how legal education reorients them in short order to the notion that “the profession is mainly engaged in greasing the wheels of the economy.”²⁰ For Kennedy this transformation results from both the “ideological content of the law-school curriculum” and the “noncurricular practices of law schools that train students to accept and participate in the hierarchical structure of life in the law.”²¹ These lessons in hierarchy are particularly salient in the Socratic classroom, which is “hierarchical with a vengeance,”²² leading students to “surrender to a passivizing classroom experience and to a passive attitude toward the content of the legal system.”²³ For Kennedy this experience of disempowerment leads directly to public interest drift.²⁴

While Kennedy’s analysis was largely based on his own observations as a professor at Harvard Law School, some of his claims are echoed in the social scientific scholarship on law school socialization over the past three decades. This literature has put legal education under an increasingly critical lens as scholars of professional education have shifted attention from the training of medical doctors to the training of lawyers. Whereas early sociological studies of medical school generally concluded that professional socialization was vital to doctors’ understanding of their professional roles,²⁵ legal education has been criticized for disadvantaging female and minority students,²⁶ reproducing class hierarchies,²⁷ lacking attention to ethics,²⁸

²⁰ KENNEDY, *supra* note 19, at 34.

²¹ Kennedy, *supra* note 6, at 591.

²² *Id.* at 593.

²³ *Id.* at 594.

²⁴ See KENNEDY, *supra* note 19, at 28 (“Students confronted with the choice of what to do after they graduate experience themselves as largely helpless: they have no ‘real’ alternative to taking a job in one of the conventional firms that hires from their school.”).

²⁵ See, e.g., ROBERT K. MERTON ET AL., THE STUDENT PHYSICIAN: INTRODUCTORY STUDIES IN THE SOCIOLOGY OF MEDICAL EDUCATION 177 (1957).

²⁶ See, e.g., COSTELLO, *supra* note 6, at 117-21, 164-208 (finding that white male students from privileged class backgrounds tend to transition into professional identities in a more consonant manner); GUINIER ET AL., *supra* note 6, at 1-84 (arguing that the standardized, hierarchical nature of legal pedagogy disadvantages and silences female law students, while also providing non-optimal results for male students); MERTZ, *supra* note 6, at 174-203 (finding that white male students tend to participate more than other students, particularly in classes taught by white male professors and female professors in higher-ranked schools).

²⁷ See, e.g., RONIT DINOVTZER ET AL., AFTER THE JD I: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS 20 (2004) (showing that new lawyers tend to come from relatively privileged class backgrounds); Robert Granfield & Thomas Koenig, *Learning*

subjecting students to extreme competition and anxiety,²⁹ and teaching new generations of lawyers to approach the social world in a narrowly legalistic fashion.³⁰ In this negative portrayal, legal education “cools out” law students so as to facilitate their market cooptation and steer them away from altruistic and public-interest career goals.³¹

More specifically, these scholars suggest that legal pedagogy induces a cognitive transition from a “justice-oriented consciousness” to a “game-oriented consciousness”³² and a transition in vocabularies of motive from “public interest” to “zealous advocacy” for one’s client irrespective of the client’s cause.³³ These transformations are said to be accomplished through legal pedagogy’s powerful ability to train students to think in a particular way — to think like a lawyer.³⁴ The

Collective Eminence: Harvard Law School and the Social Production of Elite Lawyers, 33 SOC. Q. 503, 515 (1992) (showing that students from working-class backgrounds who pursue jobs in elite law firms find that their peers help them to assimilate elite norms); Kennedy, *supra* note 6, at 599, 605 (arguing that legal pedagogy fails to acknowledge the importance of class struggle underlying the law; further arguing that law students are forced to adapt to the white-male middle-class culture of most of their professors).

²⁸ See, e.g., Deborah L. Rhode, *Ethics by the Pervasive Method*, 42 J. LEGAL EDUC. 31, 31 (1992) (arguing that law schools should teach ethics pervasively, in both specific courses on legal ethics and traditional doctrinal courses).

²⁹ See, e.g., Susan Sturm & Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515, 519-21 (2007) (arguing that fundamental features of U.S. legal pedagogy foster an unhealthy tendency among students to compare themselves to their peers along a uniform axis).

³⁰ See, e.g., GRANFIELD, *supra* note 1, at 78 (suggesting that students who do not follow “legalistic norms of objectivity and neutrality” are often characterized by their peers as irrelevant or crazy); MERTZ, *supra* note 6, at 83 (finding that law professors generally allow broader policy discussions only after issues have been stripped of much of their emotional, moral, and political context and packaged in “narrow legal boxes”); Calmore, *supra* note 6, at 1181-82 (discussing how the professional socialization process inculcates a legalistic approach to lawyers’ work, as students receive messages about what society is asking them to “be, do, and believe”).

³¹ See Foster, *supra* note 6, at 245 (drawing on Goffman’s use of “cooling out” in his analysis of how a con artist convinces a mark to accept the loss and injury resulting from being conned); see also Erving Goffman, *On Cooling the Mark Out: Some Aspects of Adaptation to Failure*, 15 PSYCHIATRY: J. INTERPERSONAL REL. 1, 1-2 (1952).

³² Granfield & Koenig, *supra* note 27, at 515-17.

³³ See SCHLEEF, *supra* note 13, at 121.

³⁴ Socializing students as zealous advocates reflects the standard account of the lawyer’s professional responsibility under the traditional client-centered principles of neutrality and partisanship. This view of professional identity is intended to shield clients from the lawyer’s individual moral screening, but this view has been criticized for requiring lawyers to serve as hired guns for all client causes. Critics worry that lawyers following the traditional model of zealous advocacy may fail to fulfill their roles as “officers of the court,” who provide a moral and ethical check on client behavior. See generally Gerald J. Postema, *Moral Responsibility in Professional Ethics*,

analytic honing that students acquire carries a “rhetoric of impersonality and of neutrality” that conceals a specific juridical consciousness.³⁵ As it is often stated, law schools “sharpen the mind [of the student] by narrowing it.”³⁶ In the law school classroom, students’ concerns with fairness are said to be replaced with positivistic concerns over “what the law says you can or can’t do.”³⁷ The case method of instruction has accordingly been charged with a “perspectivelessness” that privileges legal context over social context and trains students to eschew moral, political, and emotional reactions to cases in favor of doctrinal analysis.³⁸ As legal practice has become increasingly contextual, legal pedagogy’s inattention to identities, power dynamics, practice settings, and other complex dimensions of legal problems is poorly matched with the realities of students’ future practice lives.³⁹ This focus on textual authority is said to de-emphasize the social dimensions of law that attract many public-interest-oriented students to the legal profession.⁴⁰

Scholarship on the race, class, and gender dynamics of public interest drift has tended to place an even stronger emphasis on law school socialization. In Kennedy’s description, legal education is “only nominally pluralist” as most students and professors are white, male, and present a middle class tone.⁴¹ The same charge may be made today, although to a somewhat moderated extent.⁴² Research on gender and drift has suggested that the competitive and game-oriented

55 N.Y.U. L. REV. 63 (1980).

³⁵ See MERTZ, *supra* note 6, at 131-35 (finding that these lessons in the neutrality of legal reasoning may accurately reflect the tendency within U.S. legal epistemology more broadly to “obscure very real social differences that are pertinent to making just decisions” and to “create an appearance of neutrality that hides the fact that U.S. law continues to enact social inequities and injustices”).

³⁶ Calmore, *supra* note 6, at 1181-82 (attributing this quotation to Erwin Griswold during his tenure as dean of Harvard Law School, 1947–1967). This quotation is also often attributed to Edmund Burke.

³⁷ MERTZ, *supra* note 6, at 10.

³⁸ Kimberlé Williams Crenshaw, *Foreword: Toward a Race-Conscious Pedagogy in Legal Education*, 11 NAT’L BLACK L.J. 1, 2 (1988); see also MERTZ, *supra* note 6, at 5.

³⁹ See generally Eli Wald, *The Contextual Problem of Law Schools*, 32 NOTRE DAME J.L. ETHICS & PUB. POL’Y (forthcoming 2018) (criticizing legal pedagogy’s universal and homogenous representation of legal practice and the profession).

⁴⁰ See MERTZ, *supra* note 6, at 11.

⁴¹ KENNEDY, *supra* note 19, at 62.

⁴² See James Lindgren, *Measuring Diversity: Law Faculties in 1997 and 2013*, 39 HARV. J.L. & PUB. POL’Y 89, 149 (2016) (finding that law faculties have become more diverse than the legal profession at large and are approaching parity with the general U.S. full-time working population).

nature of legal pedagogy, particularly where instructors are male,⁴³ generally advantages male students who are more likely to “see this version of the Socratic method as a game, and as in all games, they play to win.”⁴⁴ Lani Guinier, Michelle Fine, and Jane Balin cite these disadvantages to explain their finding that women are more likely than men to experience public interest drift.⁴⁵ There is some evidence to suggest that minority students may be more likely to begin law school with an initial commitment to public interest careers, but experience elevated levels of “identity dissonance” and alienation during their legal education.⁴⁶ Students from working-class family backgrounds can face strong financial pressures to pursue large-firm jobs.⁴⁷ These students also encounter “differentness and marginality” in law school as they adopt “management strategies” around class stigma.⁴⁸

C. *Alternative Accounts*

While the existing literature generally suggests that legal education is the principal causal agent that steers students toward private-sector career paths, some scholars have pushed back against the notion of a pedagogy-induced drift. These scholars emphasize the positive effects of professional socialization and suggest that adopting an apolitical stance toward one’s professional life does not create an identity crisis for most law students.⁴⁹

In addition to the impact of debt, salary, and legal education, students’ career decisions may be influenced by the job market, prior work experience, having lawyers in the family, and the self-selecting attributes of people who choose to attend law school. Among these

⁴³ See MERTZ, *supra* note 6, at 185-201.

⁴⁴ GUINIER ET AL., *supra* note 6, at 13.

⁴⁵ See *id.* at 7.

⁴⁶ COSTELLO, *supra* note 6, at 219-20.

⁴⁷ See Erlanger et al., *supra* note 1, at 858.

⁴⁸ See Robert Granfield, *Making It by Faking It: Working-Class Students in an Elite Academic Environment*, 20 J. CONTEMP. ETHNOGRAPHY 331, 343 (1991).

⁴⁹ See Debra Schlee, *Empty Ethics and Reasonable Responsibility: Vocabularies of Motive Among Law and Business Students*, 22 LAW & SOC. INQUIRY 619, 645 (1997) (finding that most law students “have little trouble separating their true beliefs from their actions as lawyers” as evidenced, for example, by their gratification in moot course exercises); see also GRANFIELD, *supra* note 1, at 41-42 (arguing that benign accounts of professional socialization, wherein students emphasize the “positive and enriching” elements of legal education, may be more common among students who pursue private law-firm positions from the beginning of law school. Public-interest-oriented students may find legal education fraught with “traumatic and unsettling experiences”).

factors, the job market has received the most attention in the literature.⁵⁰ In the strongest market-driven accounts, legal education is reduced to the role of an intermediary for private law firms to allocate students to positions within the constraints of the “opportunity structure defined by the job market.”⁵¹ There is some evidence that elite law students who pursue large-firm positions indeed view legal education in these terms, as “little more than a credentialing and sorting mechanism where the goal is to amass certain visible, rankable signals of success.”⁵²

Given that existing research does not yet offer a consensus sufficient causal explanation for why students change job preferences, some scholars have suggested that public interest drift is simply not a real phenomenon.⁵³ In this view, drift is framed as an illusion stemming from students’ deceptive responses to survey questions about their public-interest career commitment at the start of law school. Skeptical commentators suggest that in response to survey questions about their professional motivations, students aim to “cast themselves in the best possible light,” strategically fabricating public-interest career plans.⁵⁴ This inclination may be salient in students’ applications to law school where a “stunningly large proportion” of applicants use their personal statements to describe “an encounter with a person or persons less privileged than themselves (often during their junior year abroad), through which they realized the existence of structural injustice, recognized that this injustice has a legal dimension, and became convinced that legal training would give them the power to right the wrong.”⁵⁵ Applicants to law school may feel that writing personal statements about their altruistic career motivations provides a

⁵⁰ The traditional debate, as found between Robert Stover and Howard Erlanger in the 1970s and 1980s, examines “the question of the relative importance of the job market as compared to what happens in law school.” Erlanger & Klegon, *supra* note 9, at 32-33; see SCHEINGOLD & SARAT, *supra* note 6, at 67 (depicting a transformative legal education but placing greater emphasis on the effects of the job market: “[t]he most significant socializing force at work in law school turns out to be the social stratification, and prestige hierarchy, of the bar”); McGill, *supra* note 5, at 692; STOVER, *supra* note 1, at 5.

⁵¹ ABEL, *supra* note 9, at 217.

⁵² David B. Wilkins & G. Mitu Gulati, *What Law Students Think They Know About Elite Law Firms: Preliminary Results of a Survey of Third Year Law Students*, 69 U. CIN. L. REV. 1213, 1252 (2000).

⁵³ See Berger, *supra* note 9, at 140; Freedman, *supra* note 9, at 658.

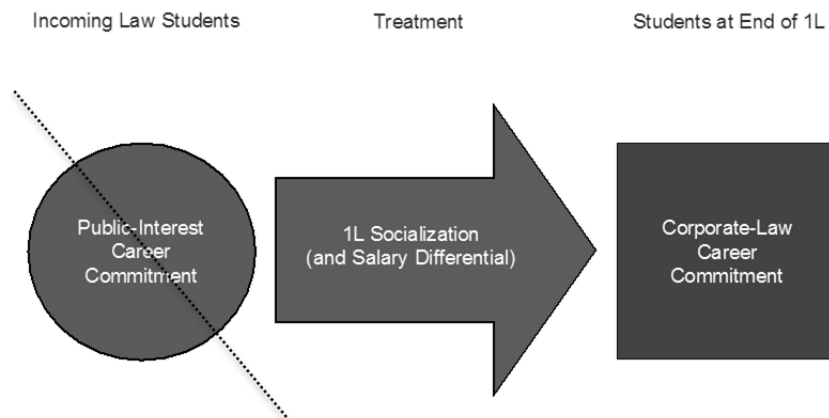
⁵⁴ Berger, *supra* note 9, at 142.

⁵⁵ Angela Harris & Donna Maeda, *Power and Resistance in Contemporary Legal Education*, in LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY: A POLEMIC AGAINST THE SYSTEM 168, 171 (2004).

competitive edge in admissions. These expectations are said to be reinforced upon law students' initial arrival to campus by idealistic orientation speeches focusing on rights defense, egalitarianism, and public service.⁵⁶ As a result, students who are "pre-occupied with material ambitions" may claim such a public-interest career commitment in the application process and in the beginning of law school because they believe that it is socially desirable.⁵⁷

This skeptical position can be illustrated by reference to Figure 1. The literature has largely focused on the varying degrees to which different first-year treatment effects contribute to drift, emphasizing the roles of 1L socialization and the salary differential between private-firm and public-interest practice. The skeptical position maintains that we should simply cross out the left circle in Figure 1 — students' initial commitment to public-interest careers.

Figure 1. The Skeptical Position



⁵⁶ Stover begins his book on law school socialization by describing a 1977 orientation session at the University of Denver, College of Law, in which a "fiery young public defender" received an enthusiastic ovation after admonishing incoming students to "just once consider and understand the needs of those without the resources needed for adequate legal counsel in the United States today." See STOVER, *supra* note 1, at 1.

⁵⁷ See Berger, *supra* note 9, at 142 (suggesting that the pervasive influence of materialism provides "an accurate explanation for why many law students choose to forgo a career in public interest law and enter far more financially lucrative private practice" and thus undermines the notion of a public interest drift).

The skeptical position exposes a critical gap in the existing literature. Our empirical lens has focused on surveys and the front-stage performances of legal pedagogy, but has lacked attention to the degree of uncertainty in students' accounts and the complexity of identity processes that take place behind the multiple-choice survey response and outside the classroom.

II. DESIGNING A QUALITATIVE STUDY OF DECISION-MAKING

This Part summarizes the site and sample (in Section II.A), the interview and ethnographic procedures (in Section II.B), and the theoretical basis for my identity-work analysis (in Section II.C).

A. Site and Sample

This study draws on a longitudinal multi-method analysis of three cohorts of students at a single site between 2008 and 2014. The site is a top-tier law school with a strong public-interest reputation. While observations at this site cannot be generalized to all law schools, the possible over-representation of initial public-interest career ambitions and opportunities in large law firms presents a setting where the public interest drift effect may be thrown into sharp relief. Using this case study, I aim to generate insights about lawyer socialization more broadly and to complement research conducted in other settings.

Most respondents in this study fell into three job-path categories: (1) students who in 1L and 2L stated an intention to work in the public-interest sector after graduation,⁵⁸ (2) students who in 1L and 2L stated an intention to work in the large-firm sector after graduation, and (3) "drifting-path students," who in 1L stated an intention to work in the public-interest sector and in 2L had accepted internships in large law firms.⁵⁹ Most students in the drifting path reported that they expected to begin their post-graduation career in large firms. A more detailed accounting of the sampling strategies and

⁵⁸ The public-interest path includes government, non-profit, and private public-interest firms. This categorization is rooted in the definitions provided by respondents. By their second year in law school, many students in my sample came to view government careers as public-interest work. This stands in contrast to several of the same students' perceptions at the beginning of law school that government presents an obstacle to social change. See Granfield, *supra* note 6, at 62-63.

⁵⁹ No students in my sample drifted in the opposite direction — stating a preference for large-firm jobs in their first-year but later deciding to not participate in the law-firm hiring process in order to pursue public interest positions. However, three drifting respondents from the 2008 cohort changed to public-interest practice settings after their large-firm offers were deferred or rescinded. See *infra* Section III.D.

composition can be found in a prior publication from this study.⁶⁰ Table 1 gives a breakdown of the sample characteristics. The sample is approximately reflective of the law school's demographics and those of new lawyers across the profession.⁶¹

Table 1. Sample Characteristics

Cohort		2008 n=22	2011 n=19	2012 n=25
Gender	Male	11	9	11
	Female	11	10	14
Race/Ethnicity	African American	2	1	2
	Asian	4	4	4
	Latino	2	3	3
	Native American	0	0	0
	White	13	10	14
	Did Not Specify	1	1	2
Initial Career Path	Public Interest	7	5	7
	Corporate	8	6	7
	Drifting	7	4	7
	Other	0	1	1
	Unknown	0	3	3

B. Interview and Ethnographic Methods

The interviews were conducted using a semi-structured protocol beginning with the question, "What brought you to law school?" Respondents were encouraged to narrate their own paths to law school and plans for the future. This narrative sociological approach is well-suited to an investigation of how students' identities and biographies change during law school as they attempt to reconcile their career choices with previous ambitions, values, and expectations.

Interview codes were developed through an iterative process of analytic induction using the qualitative data package, TAMS (Text-Analysis Markup System).⁶² While the methods employed here are highly interpretive and culturally inflected, analytic coding makes

⁶⁰ See Bliss, *Divided Selves*, *supra* note 3, at 863-66.

⁶¹ See RONIT DINOVIETZ ET AL., *AFTER THE JD III: THIRD RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS 20-22* (2014).

⁶² See BARNEY G. GLASER & ANSELM L. STRAUSS, *THE DISCOVERY OF GROUNDED THEORY: STRATEGIES FOR QUALITATIVE RESEARCH* 103-05 (1967).

possible an expansion from fine-grained thick description to broader social processes.⁶³

The ethnographic component of this study focused on career-development events and the 2L law-firm interview program held at a hotel near campus. While in the field, I conducted supplemental informal interviews, where I often discussed emerging interpretations with students. These member checks are a means to reveal competing versions of local meanings and enhance the facticity and representativeness of the data.⁶⁴

C. Mapping Identity Transformations

Identity mapping is a method developed in this study to provide visual representations of the relationship between students' emerging professional identities and their broader processes of self-construction.⁶⁵ Throughout this Article, I will reference identity mapping findings that are elaborated in my recent publication focusing on professional identity formation among the students in this sample.⁶⁶ To summarize those findings, the mapping analysis revealed that drifting-path students often experienced substantial identity transformations. These students tended to report a "cause lawyering" identity profile in 1L, where the lawyer role was *central* to their self-concepts and overlapped with racial, gender, political, and other personal roles in a central cluster. In 2L, these students often located the lawyer role on the *periphery* of their identity maps as they depicted a more instrumental view of lawyer identity fraught with temporariness and concerns about fraudulent role performance. In this Article, I take a close look at the development of students' job-path orientations as they form these conceptions of professional identity.

III. FINDINGS FROM AN EMPIRICAL CASE STUDY

This Part presents an empirical analysis of the experiences of drifting-path students at four points on the law school timeline: (1) students' public-interest career commitment at the beginning of law school, (2) students' views of large firms when they made the decision to upload their resumes to the law firm hiring program at the end of

⁶³ See JOHN LOFLAND ET AL., *ANALYZING SOCIAL SETTINGS: A GUIDE TO QUALITATIVE OBSERVATION AND ANALYSIS* 193-219 (3d ed. 2006).

⁶⁴ See Robert M. Emerson, *Observational Field Work*, 7 ANN. REV. SOC. 351, 362 (1981).

⁶⁵ See Bliss, *Divided Selves*, *supra* note 3, at 856.

⁶⁶ See *id.*

1L, (3) students' changing accounts of career aspirations as they underwent the hiring process early in 2L, and (4) students' reflections on the hiring process and their anticipated jobs in the spring of 2L.

A. *Initial Commitment to the Public-Interest Sector*

I posit a spectrum of commitment among students who stated an initial preference for public-interest-sector jobs. At one far end of the spectrum were students who reported complete dedication to the public-interest sector and never seriously considered working at large firms. At the other far end were students who reported an openly weak preference for public-interest jobs. Here I focus on the majority of public-interest-oriented respondents — those who fall between the two far ends of the spectrum. These students held genuinely favorable views of public-interest careers and passionate commitments to social-justice causes (I cite several sources of evidence in this section to support this claim) but also admitted a substantial degree of doubt about whether they would ultimately pursue jobs in the public-interest sector. In the 1L interviews, these students often reported that they hoped to use their legal education to explore career options including the opportunity to apply to large firms at the end of the 1L summer. In spite of their doubts about public-interest jobs, many of these respondents reported that when speaking with law school peers, professors, and lawyer acquaintances they claimed certainty about their public-interest career commitment. In this section, I offer an identity-work analysis of how students manage this uncertainty for different audiences.

Before presenting these findings, I will briefly summarize the key theoretical reference points for my “identity work” analysis. Sociologists David Snow and Leon Anderson defined identity work as “the range of activities individuals engage in to create, present, and sustain personal identities that are congruent with and supportive of the self-concept.”⁶⁷ The self-concept here is described as “one’s overarching view or image of her- or himself” and as a “working compromise between idealized images and imputed social identities.”⁶⁸ In their study of the homeless, Snow and Anderson emphasized two identity-work mechanisms: “identity talk” and “selective association with other individuals and groups.”⁶⁹ Snow and

⁶⁷ David A. Snow & Leon Anderson, *Identity Work Among the Homeless: The Verbal Construction and Avowal of Personal Identities*, 92 AM. J. SOC. 1336, 1348 (1987).

⁶⁸ *Id.*

⁶⁹ DAVID A. SNOW & LEON ANDERSON, DOWN ON THEIR LUCK: A STUDY OF HOMELESS

Anderson contend that identity talk is most likely to be used where members of a group have limited biographical knowledge of each other while maintaining a norm against “probing and questioning of identity claims.”⁷⁰ I find that the culture of first-year public-interest-oriented law students in the present study generally met these conditions. These students “[came] from diverse regional and experiential backgrounds” and thus had flexibility in how they could describe themselves.⁷¹ Within their identity talk analysis, Snow and Anderson emphasize the role of fictive storytelling, which homeless individuals use to distance themselves from the deviant role of “the homeless as a general social category” or from “specific groups of homeless individuals.”⁷² Below I offer examples of how first-year respondents similarly employed fictive portrayals of themselves as unwavering public-interest lawyers-in-training, while selectively associating with public-interest-oriented peers. These students often distanced themselves from mainstream law school culture and from particular groups of students — namely the students who aspired to work in large firms.

A perhaps even closer analogy to law student dynamics is found in Howard Becker’s analysis of outsider identity work among jazz musicians who carefully differentiate themselves from “conventional society,” in particular those non-musicians (often audience members) whom they describe as “squares.”⁷³ These musicians use linguistic cues to signal subcultural membership.⁷⁴ They emphasize a set of radical personal interests, which Becker concludes are designed to “make this differentiation [between musicians and squares] unmistakably clear” and to “intensify the musician’s status as an outsider.”⁷⁵ In spite of their professional ideal of absolute creative freedom, most of these musicians will eventually transition from the purist “jazzmen cliques” to “commercial cliques” which offer “security, mobility, income, and general social prestige.”⁷⁶ This decision results in a change in self-conception, whereby many musicians, in order to maintain integrity, adopt an identity as a

STREET PEOPLE 214 (1993) [hereinafter DOWN ON THEIR LUCK].

⁷⁰ Snow & Anderson, *supra* note 67, at 1368.

⁷¹ *Id.*

⁷² See SNOW & ANDERSON, DOWN ON THEIR LUCK, *supra* note 69, at 215.

⁷³ See HOWARD S. BECKER, OUTSIDERS: STUDIES IN THE SOCIOLOGY OF DEVIANCE 98-99 (1963).

⁷⁴ See *id.* at 100.

⁷⁵ *Id.* at 96, 98.

⁷⁶ *Id.* at 110.

“craftsman” rather than a free jazz player. As a craftsman, the jazz musician “no longer concerns himself with the *kind* of music he plays. Instead he is only interested in whether it is played *correctly*.”⁷⁷ Becker specifically invites analogies between his analysis of jazz musicians’ identity work and the study of other fields where initial outsider idealism may be limited by “the occupation’s basic work problems vis-à-vis clients or customers.”⁷⁸ Below I use Becker’s analysis of these musicians’ outsider identities to investigate how public-interest-oriented first-year law students differentiate themselves from their “corporate” classmates through identity work in their first year of law school and later struggle with ambivalence about the transition to more commercial practice and a more craft-based notion of professionalism.

1. Building a Subcultural Community

The existing literature describes a robust public-interest subculture among first-year students at different law schools.⁷⁹ At the site for this study, this subculture is visible in student organizations and volunteer clinics, but for many respondents it is far more salient in tightly knit informal cliques of first-year public-interest-oriented (hereinafter “1L PIO” students).⁸⁰ These cliques often form quickly at the beginning of the first year as one 1L PIO respondent explained:

You find people . . . who are similar to you, and you *build a community* . . . It’s the only way you get to talk about social justice, because most [students] won’t really bring it up in class . . . and the professors will cut you off if you start talking about the implications of the case for the real world . . .⁸¹

⁷⁷ *Id.* at 112-13.

⁷⁸ *Id.* at 114.

⁷⁹ See, e.g., STOVER, *supra* note 1, at 105 (referencing a robust public interest subculture at the University of Denver Sturm College of Law).

⁸⁰ In the examples cited by respondents, these groups generally consisted of three to seven members. It is important to note that while these ideological cliques were prevalent among 1L PIO respondents, it was not a universal pattern. Several students reported belonging to 1L cliques and maintaining friendships that crossed intended-career-path boundaries. Furthermore, some respondents (including two 1L PIO respondents) described their first-year legal education as a primarily solitary experience.

⁸¹ Data on file with author. All identifying references have been eliminated in order to maintain participant confidentiality in accordance with IRB regulations and guidance. 45 C.F.R. § 46.111(a)(7) (2018).

These comments suggest that 1L PIO cliques draw on shared worldviews in an effort to build a like-minded community. These cliques provide opportunities for students to construct common narratives about public-interest-lawyering ideals, but they also serve a more general purpose to counteract stress and insecurity resulting from the competitive and rigorous nature of the first-year law school experience. For example, a 1L PIO respondent explained: “I feel like you bond really fast . . . you’re in the trenches together and if you want to get through this without going insane . . . you make this group of friends who could be life-long friends.”

2. Outsider Identity Work

1L PIO respondents described the public-interest subculture as an ostracized population within the law school. As one respondent explained, “We commiserate together . . . based on feeling like *outsiders*.” These students often attributed this marginalization to the law school administration, who they felt provided little support for public-interest career paths. For example, a 1L PIO respondent complained of disparities in law school events relating to private law practice and those relating to the public-interest sector:

You can compare the lunch provided at those [public-interest speaker] events, which is half a shitty sandwich. When you compare that to the lunches put on by the [business and technology law journals], it is just sort of striking where the priorities lie.

This sense of marginalization may reflect the nascent view among 1L PIO respondents that pursuing careers as public-interest “cause lawyers” brings them outside the mainstream of the bar. Scholars have described cause lawyers as a “deviant strain within the profession,” which poses a threat to conventional professionalism by prioritizing cause over client and “destabilizing the dominant understanding of lawyering as properly wedded to moral neutrality and technical competence.”⁸²

But these students attributed their marginalization most strongly to their interactions with the majority of their classmates. Similar to the “outsider” jazz musicians described by Becker who make disparaging remarks about “squares,” “commercial cliques,” and “conventional society” in order to define themselves in opposition to these categories

⁸² AUSTIN SARAT & STUART SCHEINGOLD, CAUSE LAWYERING: POLITICAL COMMITMENT AND PROFESSIONAL RESPONSIBILITIES 3 (1998).

and to “make this differentiation . . . unmistakably clear,” 1L PIO students used identity work to differentiate themselves from classmates whom they labeled “gunners” and “sellouts.”⁸³ For these 1L PIO students and jazz musicians, the analogy here is roughly that jazz is to popular music as public-interest is to large-firm practice. The us-versus-them mentality prevalent among the “extreme jazzmen” who differentiate themselves from commercial cliques within music school and within the music industry is similar to 1L PIO accounts, such as the following example:

Respondent: [We public-interest students] can be pretty judgmental . . . we do kind of feel like it’s us versus them.

Interviewer: Can you clarify who are the “us” and who are the “them”?

Respondent: The “them” is . . . ,we call them “gunners,” people who are just competitive. And there are a lot of them And then there’s the mainstream of law students who are really corporate and don’t seem to have their hearts in the right place.

Defining themselves in opposition to “corporate” students was often explained by respondents as a reflection of power struggles in the classroom. These students complained that “corporate” peers dominate classroom discussions, reflecting their privileged position in the law school. A 1L PIO student explained: “It just reveals a lot of the entitlements. People don’t seem to have an awareness that they’re colonizing a space, that their participation necessarily sort of implies . . . that their opinion is more valued than another’s.”⁸⁴

⁸³ See BECKER, *supra* note 73, at 98. Granfield found that 1L PIO students at Harvard Law School similarly disparaged classmates who pursued large firms as “corporate tools” and “drones” who are “conservative, narrow, insular, disaffected, and boring.” See GRANFIELD, *supra* note 1, at 150.

⁸⁴ This judgment is not necessarily only reserved for students who pursue jobs in large firms. Granfield reported that Harvard Law students would play a “Turkey Bingo” wherein they “try to guess which of their classmates will speak most often.” See GRANFIELD, *supra* note 1, at 81. The labeling of this game as “Asshole Bingo” as described by Guinier et al. at Penn Law School makes the intended scorn even more explicit. See GUINIER ET AL., *supra* note 6, at 53 n.120. Thus, while 1L PIO respondents often defined “gunners” as students pursuing large firms, the term can also apply with equal pejorative valence to students who frequently participate in class and seem to prioritize their grades.

This differentiation was often further established for these students by expressing skeptical opinions of “mainstream” classmates’ commitments to public service, as a 1L PIO student explained:

A lot of [students] here don’t really care about working with disadvantaged populations. You’ll see them at a [clinic for low-wage workers], but they are just there for a line on their resume. They probably volunteered a little in college because they were told it looks good on your law school application . . . but you can tell *they’re here to get rich*.

The respondent’s moral assessment here is unforgiving. Implied in the claim that such students are “here to get rich” is a contrasting claim that 1L PIO students have entered law school for altruistic motivations focusing on disadvantaged populations. This contrast is reinforced when 1L PIO respondents rejected “corporate” classmates’ claims that pro bono service in large firms can fulfill their public service commitments:

When I think about the pro bono justification [for pursuing work in large law firms] I think that it is a big load of bullshit . . . [I]t’s great for firms to do pro bono work, but the sense that I have is that the way that the firms focus on pro bono is a way for them to wash their hands of the work that they are really doing, which is really disingenuous.

3. Selective Association

Typically, in these accounts, public interest identities were further reinforced by substantially limiting social interaction to fellow 1L PIO students. This practice resonates with Becker’s “self-segregation” and Snow and Anderson’s “selective association.”⁸⁵ For example, Becker’s account of early-career jazz musicians suggests that they belong to “jazzmen cliques” who reinforce their identities as outsiders by isolating themselves from “commercial cliques” and audience members.⁸⁶ One 1L PIO student emphasized this clique-based differentiation when explaining why she does not attend “bar review” (a tradition at many law schools where first-year students meet weekly at a bar to socialize and drink) as follows: “You couldn’t pay me

⁸⁵ See BECKER, *supra* note 73, at 100; SNOW & ANDERSON, *DOWN ON THEIR LUCK*, *supra* note 69, at 214.

⁸⁶ See BECKER, *supra* note 73, at 104-10.

enough to spend *more* time with those people. I'd rather go out with the social justice crowd . . . people I actually like."

This segregation from the mainstream peer culture was further illustrated by 1L PIO respondents who highlighted the opposition between their future clients' interests and those of their peers who intend to work in large firms. For example, one 1L PIO student who planned to work in labor law explained:

[My classmates who intend to work in large firms] are the people I am going to actually be *fighting against*. They could literally be on the other side of the courtroom They're going to have a team of lawyers and all of the money and paralegals

By emphasizing the adversarial nature of potential future legal battles and inequalities in legal representation, this respondent goes beyond clarifying one's identity in contrast to a mainstream other; this differentiation is drawing battle lines.

4. Fictive Accounts of Unwavering Commitment

For Becker's jazz musicians, the typical audience member is viewed as an "ignorant, intolerant person" who lacks appreciation for the musician's "mysterious artistic gift."⁸⁷ In 1L PIO students' accounts, it is not their special capacities but rather their special *unwavering commitment* to non-profit sector careers in the face of commercial and cultural pressures to apply to large law firms that sets them apart. Stating this commitment is often a de facto requirement for membership in the 1L PIO subculture. For example, a 1L PIO student described an interaction with a fellow clique member in which he admitted that he was "tempted" by the possibility of working for a large law firm, but worried about losing track of his ideals. He reported his peer's response as: "You wouldn't do that Don't worry about it. *You're not that kind of person.*"

In this respondent's peer's stated perspective, it is so detestable to be the "kind of person" who applies to large law firms that it is inconceivable that a fellow 1L PIO student would take such a route. This degree of judgment was also evident in the accounts of 1L PIO students' first two weeks in law school when they described seeing 2Ls wearing suits, indicating that those students were taking part in the law-firm interview program. One such 1L PIO respondent reported an encounter in the first week of law school with a second-year student

⁸⁷ See *id.* at 85.

who explained: “It’ll be amazing next year when you see *your* public-interest friends walking around school in suits.”

In this context of peer judgment and strong collective public-interest identity within student cliques, 1L PIO respondents often felt it necessary to express to their peers a definite commitment to public-interest careers even when they admitted in research interviews that those commitments were not certain. Given their accounts of stark differentiation between the virtuous public-interest outsiders and the morally suspect “corporate” majority, it is not surprising that 1L PIO students may be reluctant to admit their doubts about this commitment within their peer cliques. This self-censorship is evident in the following two excerpts from 1L PIO respondents:

(1) [I]t’s still kind of *taboo* to talk about corporate law jobs It’s hard to really talk with [my 1L PIO peers] about [my interest in] firms, because that group views me as this *social-justice person*.

(2) I tell [my 1L PIO peers] I’m looking at non-profits, which is true. I am. But I’m also looking at the law firm option. It would be crazy not to. It’s not as black and white as [my 1L PIO peers] seem to think. I don’t think it’s evil to work at a firm for a couple years.

In these two excerpts, we see these respondents’ strong identity investment in being a “social-justice person” and what they conceive as a contrasting desire to give the large-firm option serious consideration.

5. The Influence of Public-Interest Attorneys

In addition to peer influences, students’ claims of unwavering public-interest commitment may be influenced by attorneys who speak at career-development events relating to public-interest sector employment. I attended twelve such events over the course of the study. Often these attorneys implored students to view one’s public-interest career orientation as a life mission and a defining characteristic. These presentations frequently made direct reference to the stark contrast between public-interest lawyer identity and large-firm lawyer identity:

Your commitment to social justice has to be *central to who you are* We’re a rare stream in the legal profession. It’s not so rare that people come into law school with high ideals and want to be able to look themselves in the mirror after a day at

their job . . . and not do work that drives us all into the ground. But *committed people are rare*. And it's very rare that someone goes into firms and comes back to public interest work Keep to a path that will produce the change that this country needs.

This attorney's entreaty goes beyond a description of public service commitment. There is a moral appraisal here of the aspiring lawyer on the grounds that he or she internalize social-justice commitment as a central identification. The influence of these attorneys on 1L PIO students draws not only on their ability to provide inspiration and to model future lawyer identities, but also their positions as potential employers in a competitive public-interest job market. Some speakers warned students that taking internships in large firms can damage their resumes in the eyes of public-interest organizations who, according to one speaker, "view law school as a weeding out process. And if you go to the firms, that . . . suggests that you're not very committed to the cause." When these speakers stress that students must be "true believers" and that membership in the public-interest-lawyer community is an either-or proposition, they may reinforce the norm of expressing certain commitment within the 1L PIO peer culture.

6. Accounts of Uncertainty

Presenting clean accounts of public-interest career ambitions within this subculture extended not only to future plans but also covered students' paths to law school rooted in a longstanding dedication to social justice causes. Accordingly, the common refrain among 1L PIO students, "remember what brought you to law school," was generally equated with sustaining commitments to public-interest careers in the face of the amnesiac effects of 1L socialization that push students toward large-firm practice. While for many students these social-justice motivations were deeply held, these accounts also tended to downplay other factors that were relevant to their decisions to attend law school, such as seeking a generalist degree in order to explore unknown career options. A 1L PIO student explained:

I usually tell people [I came to law school] because I want to help immigrants, and I tell them about the work I was doing with that community before law school . . . but there are a lot of reasons law school seemed like a smart move It seems like you can do things with social justice, but *it would be*

presumptuous of me to say that I know exactly what I'm going to do with my career.

For many 1L PIO students, these origin stories for the decision to apply to law school served as identity work to clarify their public-interest credentials for relevant audiences while covering up ambiguity in their emerging job preferences. Prevalent in these accounts was an underlying uncertainty and vagueness about preferences for specific practice areas. Often 1L PIO respondents characterized applying to law school as a tentative, exploratory step. To quote a representative respondent: “I took the LSAT just to see how I would do. And then I applied just to see if I could get into a good school or get a scholarship”

Some 1L PIO respondents explained their commitment to public-interest careers with reference to their class background, race, and gender. My analysis suggests that these social identities can cut both ways with respect to job-path preferences — as sources of commitment to working with underserved communities and as motivation for working in elite firms where minorities, women, and people from working class backgrounds are underrepresented. Furthermore, several 1L PIO working-class respondents explained that they considered working for large firms as a means to handle exigent family financial needs. The Great Recession context of this study may have amplified these concerns. For example, in the following excerpt a 1L PIO student described tension between his desire to represent low-wage workers and his desire to financially support his parents:

I need the job security . . . now that the economy dumped, [my family] lives day to day. My parents used a lot of my money last summer I feel irresponsible. My parents gave up so much for me to be in law school. They used credit.

1L PIO respondents commonly reported that they were only able to openly discuss their doubts about public-interest career commitments in limited settings — such as with peers outside of the law school environment, some family members, and in our research interviews. These students commonly likened the research interviews to “therapy” sessions, where they could candidly reflect on career orientations and identity. A 1L PIO respondent explained:

Generally in law school, there's a taboo about talking about your career plans . . . *we don't know what we're doing, as much as we like to say we do* This [interview] is like therapy This is good practice for the job interviews,

because I can actually think through my real answers to these questions.

The takeaway for this section is largely summarized by the above respondent's statement: "[W]e don't know what we're doing, as much as we like to say we do." By drawing a comparison to Snow and Anderson's analysis of "fictive" storytelling as identity work, I do not mean to imply that 1L PIO students' accounts of public-interest career aspirations are untrue, but rather that these accounts are often fluid and context-dependent and need to be understood against the backdrop of a highly performative law school environment in which students continually reinvent themselves for multiple audiences.⁸⁸ In contrast to the dominant view of drift, wherein students begin law school on a set public-interest-path, I find that initial public-interest commitment is often in flux and awaiting further information. But my evidence does not support the skeptical commentators' claims that students tend to wholly invent public-interest commitments in order to conceal their true "materialistic" motivations. I find no evidence that the desire to pursue a career with altruistic and social-justice motivations is generally inauthentic. Some 1L PIO respondents who later "drifted" to large-firm positions reported identity crises when they faced the decision to upload their resumes for law-firm interviews.⁸⁹ For students who described the decision to apply to large firms in distressing terms, we can infer that their stated initial public-interest commitments were more than an admissions ploy or merely a performance for peers in the public-interest subculture. Furthermore, my identity mapping analysis suggests that 1L drifting-path respondents tended to depict the classic cause-lawyering identity profile, locating the anticipated lawyer role in a central position,

⁸⁸ Given this context of peer judgment, it became clear during the pilot study that it was important to present myself in the interviews in a neutral manner with respect to job-path choices. While I made every effort to realize this methodological goal, it is important to note that the interviews alone cannot provide objective insights into students' intentions. The interviews are designed to co-generate knowledge with respondents and to triangulate other sources of data. Thus, my analysis does not yield conclusive claims about students' sectoral preferences; rather I suggest that students make multiple claims and appear largely uncertain and uninformed about legal career paths.

⁸⁹ These crises are described in greater detail *infra* Section III.B. See also GRANFIELD, *supra* note 1, at 142 (describing the ideological conflicts students associated with the decision to work in large firms).

overlapping with race, gender, politics, and other personal roles.⁹⁰ Rather than concealing strong materialistic motivations, I find that these students concealed *uncertainty* as they struggled to translate their public-service goals into specific legal careers. This struggle can be exacerbated by 1L PIO subcultural peer dynamics that require exaggeratedly unwavering commitment to the public-interest sector.⁹¹

I conclude this section with a 1L PIO respondent's account of concealing uncertainty regarding their public-interest career commitment in conversations with faculty:

I try to be clear [with my professors] that I know where I'm going . . . [rather than] admitting that I'm wrestling with these demons I mean, *it really depends on who I'm talking to*, or what mood I'm in, and what I've been thinking about lately.

“Wrestling demons” here reflects the common 1L PIO judgment toward large-firm practice. But my purpose for raising this quotation is to highlight this student's final point — that “it really depends” on the audience. This point captures my central finding with respect to first-year public-interest career commitment. 1L PIO students' multiplicity of accounts of their career intentions suggests that these initial commitments are malleable, inchoate, and often expressed in ways that belie their uncertainty.

B. *Identity and Career Orientations at the End of 1L*

Moving forward to the end of the 1L summer, this section examines students' decisions to upload their resumes to the law-firm hiring process. The 1L public-interest-oriented students discussed in the previous section are divided here into “drifting respondents” and “public-interest respondents” according to whether they took positions with large firms. Through an examination of drifting respondents' accounts of this point on the timeline, I conclude that the 1L experience appears to generally produce only a slight alteration from an initial unspecific preference for public-interest careers in the first year to an exploratory and risk-averse decision to apply to large firms at the end of the 1L summer.

⁹⁰ See Bliss, *Divided Selves*, *supra* note 3, at 857-60.

⁹¹ *But see infra* Part IV (discussing the beneficial effects of 1L PIO true-believer narratives for sustaining commitment to public-interest careers).

1. Timing Discrepancy in the Hiring Process

For students at the law school examined, the window of opportunity to apply to large firms generally opens and closes with the near-campus interview program (“NCIP”) held at the end of the 1L summer.⁹² Securing these internships most often leads to offers to return to law firms after graduation. The application process for post-graduation public-interest jobs, in contrast, occurs much later, generally in the third year of law school and beyond. Many non-profit employers require new lawyers to fund themselves through highly competitive external fellowship programs, which generally last one or two years. After these fellowships end, public-interest organizations often cannot afford to keep these young lawyers, leaving them to return to the job market yet again. Drifting-path interviews suggest that this timing discrepancy powerfully contributes to the rushed and risk-averse nature of their decisions to participate in NCIP.

Drifting-path students often lamented their lack of information about legal career options at the time they uploaded their resumes for NCIP. Regarding the large-firm sector, these respondents reported struggling to differentiate among different practice areas and different firms. Their understanding of the public-interest sector was often similarly vague. For example, a drifting respondent explained his decision to apply to large firms as follows: “*I don’t even know what the options are* in public-interest. It takes a lot of research and networking . . . and there’s no guarantee that you get anything.”

2. Managing Risk

These accounts of feeling uninformed were often accompanied by an emphasis on risk. To not participate in NCIP would be to pass on the jobs that most of their peers pursue and to forgo clear financial, job-security, and prestige benefits. Pursuing the public-interest option comes with no similar assurance of securing a desirable position.

This emphasis on risk was also reflected in students’ concerns that applying to public-interest jobs may be more competitive than applying to large firms. For example, a drifting respondent contrasted the “streamlined” and “surprisingly easy” process of applying to private firms with his perception that, particularly in the recession context, pursuing a position with a desirable NGO or public-interest firm was tantamount to “saying you want to be a major-league baseball player.” This respondent concluded that waiting until his third year of

⁹² These circumstances are similar at other highly ranked law schools.

law school to attempt to secure a public-interest position would be too risky: “I’m nervous to *take it on faith* that one of the nonprofit places is actually going to give me a job.”

These employment risks are intensified by students’ concerns about debt. A drifting-path 2L explained: “I’m not sure I really want to work in a firm but *I didn’t want to close any doors*, considering the crushing debt.” These risk assessments need to be understood within the context of the ten-year public-interest loan forgiveness program offered by the federal government and supplemented by many law schools, including the site for this study.⁹³ Drifting students often reported that they were not ready to commit to the required ten years of public-interest employment, particularly when they did not yet have substantial work experience in the public-interest law sector.

Also at risk for students who did not participate in NCIP was their perception of their own career success. Taking a position in a large firm provides students validation early in law school that they have secured a prestigious future. A drifting-path 2L explained: “When I think about success . . . I mean working at a firm is not perfect, but it is not the worst outcome.” In these accounts, success is often tied to finances:

There is also a money aspect to it. The money aspect says something about external validation. If I make money, my parents would be like, “Wow! My child is successful.”

In neither of the preceding two excerpts do these respondents seem particularly enthusiastic about the conflation of finances and success, but they assert that pursuing a job because of income is “not the worst outcome.” As some drifting respondents reported, the relatively easy application to large firms provides a “short cut” to financial success, whereby students can obtain well-paying positions without much work experience or training. While most respondents were aware of the salary range for new lawyers before they began law school, some drifting respondents explained that they were astonished during 1L to learn how much large-firm attorneys earn. One such respondent quipped: “The sticker value of a private sector job is awesome. I can’t believe that anyone would actually pay me 160,000 a year, other than [as] a high-class prostitute.”

⁹³ The federal government, as part of the Public Service Loan Forgiveness Program associated with the College Cost Reduction and Access Act of 2007, offers complete loan forgiveness after ten years of income-based payments while employed in government or non-profit settings.

While quantitative studies have suggested that variation in debt and salary does *not* strongly predict students' job-path decisions, it nevertheless may be the case that these financial factors contribute to students' accounts of risk assessment. In a context of risk-averse decision-making, my interviews raise the possibility that fear of debt may function independently from actual debt load for these students. This observation may help to explain why debt remains salient in students' accounts of job-path decisions even though quantitative research suggests that incremental changes in debt load do not tend to substantially affect job outcomes.

Drifting-path students from working-class family backgrounds often reported elevated concerns about the financial risks of forgoing the law-firm hiring process. These concerns were framed not only with respect to their own future finances, but also current spouses, children, parents, and other family members. One such respondent explained:

If it was just me that I felt responsible for, maybe I could *just take a chance* [by waiting for the public-interest job application process]. But when you're thinking about your parents and their mortgage and everything else, those options get shut off.

3. Tentative Applications to Large Firms

For many drifting-path respondents, the sum of these risk factors made the decision to upload their resumes for NCIP feel necessary and even overdetermined. Nevertheless, respondents generally framed applying to large firms as only a tentative step, without a clear expectation that they would accept any job offers through the hiring program. Participating in NCIP was simply a means to "be smart" and learn about the large firm option rather than closing the door on a potentially valuable opportunity. One such respondent explained:

I thought to myself, "There's a chance the firms are not as bad as I thought" . . . and when I talked to my parents about it, I realized *I just didn't know enough about the firms* to close off that option before I even go and talk with them It's so easy to apply.

The presumption among these students was often that large firms were probably just as awful as they were generally depicted in the 1L public-interest subculture, but that one would be wise to participate in NCIP in order to investigate these firms first hand.

The tentativeness of the decision to upload resumes to NCIP was also visible in the accounts of several drifting respondents who reported that they entered NCIP hoping to arrange a split-summer internship between a law firm and a public-interest organization. One such 2L respondent explained:

I know that [seeking a split summer] shows that I don't really want to be at a firm I worry that [the law firm interviewers] are going to pick up on that It would be more strategic for me to say that I wanted to be [at the firm] for the full summer, but *I just don't think I'm ready to commit to that.*

Furthermore, many drifting respondents reported that at the end of their 1L summers they continued to view large firms in a negative light, even as they decided to interview with these firms. These often harsh views are discussed in detail in the following section, where I examine how the hiring process alters students' perceptions of large-firm attorneys. Here I mention these negative views of "corporate law" at the end of 1L as evidence that the first-year law school experience does not generally transform drifting students' attitudes toward the large-firm sector.

Most respondents who started law school with public-interest-sector preferences spent their 1L summers interning in a public-interest organization or governmental office, often with funding from the law school or a student organization. Two of these respondents had judicial externships. None of these students applied to large firms for the first-year summer internship. Students who spent the 1L summer in public-interest practice settings generally described these experiences in highly favorable terms as an opportunity to learn about direct services and other forms of public-interest advocacy. However, these internships did not often appear to substantially help these students decide whether to pursue positions in large firms. Some respondents described these internships as a continuation of the public-interest subculture, where judgments toward corporate law were commonly circulated and students had few opportunities to express doubt about their commitments to public-interest practice. One student suggested that working in what he described as an underfunded non-profit organization with poor supervision made law-firm training seem like a more appealing first step in his post-graduation career; however, most of these respondents explained that they left their internships feeling that public-interest law was a highly appealing path.

In sum, I find that first-year socialization did not generally convert these students into aspiring large-firm attorneys. Instead, drifting-path respondents typically continued to report uncertainty as they decided to participate in NCIP. For these students, the 1L experience appeared to produce a more subtle effect, whereby students who were initially ambivalent about large law firms made the decision to apply to these firms in a tentative, rushed, uninformed, and risk-averse manner. These themes are perhaps best summarized by a 2L drifting-path respondent who explained her choice to apply to large firms as follows: “The concern for me is, if I want to get where I’m going, I feel like if I don’t jump on one of these trains that are coming by I’m going to be left behind.”⁹⁴

C. *Identity Shifts Among 2Ls During the Law-Firm Interview Process*

While drifting-path respondents may have been generally tentative when they decided to participate in NCIP, nearly all later accepted the internship offers they received from large law firms. In this section, I examine the identity shifts that took place during NCIP as students presented new career-narratives and revised their perceptions of large-firm practice. During NCIP, these respondents generally became more amenable to a stint in these firms under an instrumental account of professional identity.

1. *Moderating Some Judgments Toward Large-Firm Lawyers*

After their near-campus interviews, the majority of drifting respondents described their law firm interviewers as “nice,” “chill,” “laid back,” “more normal than I thought,” “down to earth,” “cool, *amazingly enough*,” “funny,” and “surprisingly easy to talk to.” These students often reported feeling astonished by these likable characteristics, as they expected firm attorneys to be “conservative,” “sexist,” “evil,” and “soulless.”

One key refrain in these drifting-path accounts is that these students realized that firm attorneys are similar to themselves. Some of these respondents reported that they came to view their law-firm interviewers as role models. A drifting respondent explained:

⁹⁴ These accounts of risk-based decisions resonate with the observations made by other scholars that law firm opportunities often appear to elite students as “jobs of least resistance” in a context where “alternatives are risky.” See KENNEDY, *supra* note 19, at 31; SCHLEEF, *supra* note 13, at 150.

It was kinda like, “Ok. There are people at the firm that are *like me*. They have my interests and they are doing the work I want to do. They are engaged intellectually and they just want a better quality of life [than what a public-interest job offers].”⁹⁵

In describing their decision to accept these internship offers, drifting respondents often cited their law firm interviewers’ emphasis on pro bono practice, which led one such respondent to the conclusion: “some firms do have a soul.” Another drifting respondent reported that after meeting a “smart” young law firm interviewer who sits on the board of a well-known non-profit organization, she began to see how a virtuous person who initially aspired to public-interest practice might transition during law school to realizing that large law firms are the “realistic” option. As she summarized, “You can see how the change happens.”

2. Re-Narrating One’s Path for Law Firm Audiences

While pro bono was cited by many drifting students as a factor in their decisions to work for large firms, these same students were often wary of sharing their strong interest in pro bono practice with large-firm recruiters. A 2L drifting-path respondent explained: “I don’t bring up pro bono in the interviews if they don’t bring it up, because it may be a trap.” These respondents often reported feeling that they had to meticulously re-narrate their public-interest backgrounds for law firm audiences, as reflected in the following interview excerpt:

They ask me about my public interest background, because my resume is entirely public interest. I really liked firms that paired me with associates who are either really committed to public interest or at least socially conscious. So I didn’t really have to bring up pro bono. They bring it up. One place has all the public interest people interview with this associate who worked for legal aid. So I’m going to have a coffee with her . . . They say things like, “I see that your resume has a lot of public interest work.” Then they’ll either say, “Are you interested in our pro bono program?”, which is code for, if you

⁹⁵ See GRANFIELD, *supra* note 1, at 157 (making a similar observation regarding Harvard Law School students’ changed perceptions of firm attorneys after their 2L summer internships at large firms: “The realization that corporate lawyers are ‘just like them’ is often startling to students who had negative impressions of law firms and corporate attorneys”).

say yes, I'm actually looking exclusively at firms' pro bono programs. Or they'll ask, "Have you considered working for a non-profit or legal aid after graduation?" I do a Sarah Palin. "I'm not going to answer your question." I say, which is true, that I've worked for a spectrum of non-profits and some of them . . . are incredibly functional, but I've also worked for a lot of dysfunctional non-profits. Not productive. No one's happy. It's really important to work for a place where I feel productive Then we talk about how corporations are so great. Look at how efficient they are.

At the same time that this student was exaggerating her admiration for corporations, she was also re-examining whether she would want to work for an imagined "dysfunctional" non-profit organization. We can see here that the re-narration for the law-firm audience may have a deeper effect on students' aspirations. But this shift is incomplete. Not all drifting-path respondents came to view their interviewers' in flattering terms.

3. Continued Differentiation Between Public-Interest and Corporate Lawyers

In some cases, drifting respondents felt that inquiries into their public-interest backgrounds were direct and even hostile, as evident in the following interview exchange:

Respondent: I hated when [interviewers] confronted me about my resume.

Interviewer: Confronted?

Respondent: Yeah! Confronted I hated when I had to defend my resume I worked at [a progressive political organization]. It's not a quiet thing. Everything I've done has been kind of outspoken I guess. Not very firmy.

When asked what she meant by "firmy," the above-quoted student responded: "I thought they'd be conservative." Even as some drifting respondents moderated negative views of corporate lawyers and gained an understanding of how progressive and morally upright people (like themselves) can work in large firms, they continued to differentiate between themselves and corporate lawyers. The political dimension of this differentiation was evident when respondents described attempting to pass in what they assumed would be a conservative environment, as one drifting-path 2L explained: "I felt

obligated to launch into this big explanation to reassure [the interviewer] that I am not inexperienced in a conservative environment and that I in fact don't hate conservatives."

Rather than attempting to pass, other respondents reported that they were coached by career-development staff to highlight political and public-interest activities in their resumes, but to spin those experiences as general preparation for legal practice. A drifting-path respondent explained:

I worked at a pro-choice women's campaign, and some high profile Democratic candidates' campaigns I had preconceptions that firms were going to be really conservative I'm pretty far left and I was nervous that going to a firm I'd have to hide it. I asked the [career development advisor], "Should I tone this down?" The [advisor] said those are the good things I've done, and if I take them out I don't really have anything.

Although these evasive descriptions of one's political views appear to reveal a lack of affinity between recruiters and applicants in NCIP interviews, these respondents often clarified that they judged the law firms not the interviewers themselves. A 2L drifting-path respondent explained:

[P]eople who are at firms might not be the worst people, but they're enabling things to happen by like . . . stepping on the little guy They're allowing themselves to be the facilitators. This thing couldn't happen without lawyers I'm interested in tax now. And I don't see how you can really be a Big Law tax attorney without compromising your ethics or doing things that are detrimental to society as a whole, because you're just helping people free ride . . . helping corporations free ride.

Here we see a negative moral assessment of large-firm tax practice. To foreshadow the normative implications discussed below, even if this student did not judge individual tax lawyers, his view of the social impact of large-firm tax practice makes it hard to imagine him sustaining a personally and civically invested conception of his own professional identity as a large-firm associate.

Furthermore, several respondents who distinguished between their positive views of large-firm attorneys and their negative views of the work done by the large-firm sector worried that they had been "charmed" during the interview process by the "really nice,

attractive . . . liberal, open-minded” interviewers, while failing to gain genuine insights into what their jobs at these firms might involve. Other drifting respondents seemed less charmed, expressing negative views of their interviewers throughout the NCIP process even as they accepted job offers with these firms. The following two respondents represent perhaps the least sympathetic portraits of law-firm interviewers offered by 2L drifting students in my sample:

(1) [A] lot of the [interviewers] are grade-A assholes. And you can just tell . . . the only reason they’re doing this is so they can make money, *which is really hypocritical* since that’s one of the reasons I’d be doing it. But like this lady attorney, who did toxic torts practice. It was amazing just sitting there to talk to her, like *seeing the evil*. Like, you could see it. It’s like this lady, like if you watch Erin Brockovich, she would be the corporate attorney.

(2) [NCIP] is an awful, awful process. Everything [the interviewers] describe is so boring. Come talk to more boring people about defending toxic dumpers. *I don’t even want to be a lawyer anymore*. Everything these lawyers do sounds unappealing. They are boring people.

These accounts are disapproving not only of law-firm recruiters; these judgments are also turned back on the respondents themselves who are “hypocritical” and “don’t even want to be a lawyer anymore.” For students who think of their upcoming large-firm roles as “boring,” “unappealing,” and “evil,” it is not surprising that their 2L accounts of professional identity are relatively detached and divorced from their personal identities and public-service values.

4. Reconstituting Internal Identity Narratives

These accounts of being on stage and in character during NCIP were even more intense when these students visited firms for call-back interviews, which generally involve a lunch and several meetings with firm attorneys. While NCIP interviews are limited to twenty minutes, the callback interviews require students to offer more than a few scripted lines about their career intentions. A drifting-path respondent described her discomfort in her role performance during the lunch portion of a callback interview as follows:

You also can’t really eat, because you don’t want to be showing food in your face. There was a seafood place where I had to pretend I wasn’t vegetarian because I didn’t want to cause

trouble. If I'm traveling *in a foreign country*, or if someone makes food for you, you can't reject it because that's rude. I personally just don't like making any fuss.

This analogy to traveling in a foreign country seems to reaffirm this respondent's profound sense of differentiation between her public-interest identity and the imputed corporate-lawyer identities of her interviewers. Drifting students' unease during the callbacks was often exacerbated by their lack of knowledge about law firm careers. These respondents commonly described feeling unprepared to state an interest in a particular practice area within the firm. For example, the following drifting respondent reported that he "defaulted" to claiming an interest in litigation:

I thought that I could sell myself as better for litigation because I was an English major, I'm good at writing, and I externed for a judge. I thought I would just say that because it's what they'd want to hear. But because I was saying it so much *I started to believe it*.

As drifting respondents crafted their "interview answers" to questions about their career motivations, they often simultaneously worried that they "started to believe" these answers. The law-firm interview process offered drifting students few opportunities to openly reflect on their uncertainty. During the NCIP and callback process, these students engaged in fictive storytelling regarding their certainty about pursuing work in the large firm sector. These stories required re-narrating their accounts of what brought them to law school and what they hoped to achieve after they graduate. The refrain, "Remember what brought you to law school," had implied pure public-interest commitment and functioned as a signal of membership among 1L PIO "true believer" cliques. Many drifting respondents struggled to reconcile their previous origin narratives for attending law school with the new versions they had created for the law-firm interviews. One such respondent explained:

[T]he weird thing about this whole interview process is that there isn't really room in the conversations that you have with the employers *for any kind of doubt* I feel like I have to *rewrite* why I came [to law school], and how confident I feel about whether it was the right choice. I find myself saying things in these interviews that make me sound unambiguous, like, "It's the greatest thing that I'm in law school. And I love it

so much.” And some things I really do like about law school, and there are reservations, but I’ve *had to obscure those*.

Rewriting their paths to law school and obscuring doubts about their career plans are forms of identity work that may alter drifting students’ conceptions of themselves as lawyers.⁹⁶ Several drifting respondents compared the experience of reciting their interview answers to a repeated acting performance of the same script. This analogy can be explicitly found in the account of a drifting-path respondent who had substantial background as an actor: “The interviews] are like twenty opening nights It’s a different audience but it feels like you’re performing the same play over and over. By the third or fourth interview, I felt like I knew my lines pretty well.”

Drawing on his theater background, this respondent reflected: “The only auditions where you get the part are the times when you find something true in the monologue you’re reading.” Finding genuineness in one’s interview performance, even while holding moral reservations about playing the role of corporate-law applicant, was typically viewed by these respondents as both beneficial to one’s chances of securing a large-firm position but also hazardous identity territory. These respondents often expressed concerns that the repeated utterance of new self-narratives might lead them to become the corporate-lawyer characters they portrayed. One such respondent explained:

When [I am] interviewing, I find myself kind of lying. They ask, “You had the opportunity to work on [a high-profile political campaign]. Why would you want to work here?” And I say, “Those would always be outside interests of mine. I don’t think I’ll lose those passions. But I’m really interested in commercial litigation.” *I don’t know if I grew to believe it. I mean, who knows? I could end up being a partner in ten years. You create a new person when you tell someone this is what I am.*

⁹⁶ More broadly, the notion that self-narratives influence or even centrally constitute one’s identity is a predominant view in recent philosophy and social theory, where the self is presented as the “center of narrative gravity.” See Daniel C. Dennett, *The Self as a Center of Narrative Gravity*, in *SELF AND CONSCIOUSNESS: MULTIPLE PERSPECTIVES* 103, 115 (Frank S. Kessel et al. eds., 1992). In this view, a person is a “self-narrating organism” that continually constructs itself through an iterative process of “concocting and controlling the story we tell others — and ourselves — about who we are.” Daniel C. Dennett, *The Origins of Selves*, 3 *COGITO* 168, 175 (1989); see also David R. Maines, *Narrative’s Moment and Sociology’s Phenomena: Toward a Narrative Sociology*, 34 *Soc. Q.* 17, 23 (1993).

This experience of “kind of lying,” but questioning whether you “grew to believe it” and “create[d] a new person” suggests that these students actively re-conceptualized and interrogated identity during the NCIP process. The same respondent continued to describe how this identity shift coincided with a moderation of judgment toward corporate law practice.

[During the law-firm application process] I think you *become open to other things too*. When [the lawyers at a callback interview] were talking about one of the big cases they did, it sounded awesome to work on a team and win even though it’s not a subject matter I would be excited about. But maybe. It’s all very intellectually stimulating even if it’s not about how to protect civil rights; it’s about how to beat these people’s claim about a patent. I just don’t know how long I’ll be able to keep it up. It might be fun or interesting for a few years.

This section has revealed variation in how drifting respondents came to view large firms during the hiring process. However, the overriding theme among these respondents is that negative views of corporate law were only partially moderated. Nearly all of these respondents reported moral reservations about their upcoming positions and claimed that their work in the large-firm sector would be temporary — that is, they hoped to return to the public interest sector after paying down their debt for a few years. Thus, while the NCIP experience may alter identities through the re-narration of career paths and the moderation of some negative views of large-firm practice, these students still did not appear to be converted into committed large-firm lawyers. They generally expressed at best ambivalent attitudes toward working in large firms.⁹⁷ Given these continued reservations, it is not surprising that drifting respondents’ 2L accounts of professional identity were often relatively detached and

⁹⁷ It should be noted here that some respondents described the law-firm interviews in more casual and non-transformative terms. As firms are not permitted to inquire about students’ grades before NCIP, some respondents suggested that the primary purpose of the NCIP interviews was to submit their transcripts and pass a basic screening for social graces. As one respondent summarized: “[The interviewers] just want to see if you’re awkward . . . if you trip over everything . . . They want to make sure you can put on a suit and you aren’t a maniac.” Another respondent added: “I was a little surprised . . . what a large portion of [the interviews] were just small talk and non-law related . . . I had on my resume that I was a [college football team] fan, and I think I answered a question about that in every single interview.”

instrumentalized in contrast to their 1L aspirations for a personally and politically expressive lawyer role.⁹⁸

D. 2L Orientations After Deciding to Work in Private Law Firms

I have shown above that first-year students who stated a preference for public-interest jobs tended to draw on negative imagery when describing the large-firm sector (and their “corporate” peers) and that these views were only partially moderated among drifting-path students who later participated in NCIP. Here I examine how students within this evolving public-interest subculture described large-firm lawyers in the spring semester of their second year of law school (several months after NCIP) and how these perceptions influenced their accounts of their own anticipated professional identities.

To contextualize the experiences of drifting-path students, I begin with accounts of their 2L peers who continued on the public interest path (those who did not participate in NCIP). Many public-interest-path students described the process of deciding whether to participate in NCIP in similar terms to what we saw in the drifting path. They characterized these decisions as rushed, uninformed, and a close call. Some openly regretted the decision to forgo NCIP, as the following respondent expressed:

[S]econd year comes around and everyone starts going to [NCIP] and everyone else is doing it. And I wonder if I’m giving up an opportunity. Giving up money, prestige, frankly. It’s stupid thinking about that, but my friends [who applied to large firms] were. It makes me feel not so good about myself. I feel jealous of the fact that my friends are being pursued by these firms, taken out to dinners, told how wonderful they are.

It may be the case that such regrets are a temporary effect. For students who passed on NCIP, the second year of law school was often

⁹⁸ These findings can be contrasted with the job application experiences of public-interest-path respondents. While the public-interest job process is more decentralized and occurs much later in law school, my limited data on students’ experiences of these job applications suggests that the process influenced their conceptions of professional identity, although likely to a smaller degree than found among students who participate in NCIP. Like drifting respondents, public interest respondents reported that presenting certainty in their commitment to their intended practice sector was a strategic signal in job interviews. In the public-interest sphere, presenting certainty may be even more important, as these students perceived that commitment to an organization’s goals is valued more than grades or other qualifications. Thus, these students described preparing their “interview answers” for a multitude of issues including their long-term commitment to the sector.

described as a particularly anxious period as they continued to wait for the results of their extended public-interest job application processes while the majority of their classmates had already secured prestigious and high-salary positions in large firms. Nevertheless, these accounts of jealousy suggest a reduction in judgment toward the large-firm sector relative to the views offered in 1L PIO (first-year public-interest-oriented) accounts.

Further evidence of a reduction in judgment can be found in students' accounts of the fracturing of 1L PIO cliques around the time of NCIP. Several of these respondents reported that roughly half of the members of their 1L PIO cliques took part in NCIP and accepted large-firm jobs. Public-interest-path students often struggled to reconcile their feelings of intense judgment toward "corporate" students with their desire to maintain friendships with peers who applied to large firms. In the examples discussed in my interviews, respondents claimed that these friendships and cliques were largely preserved as public-interest-path students moderated their negative assessments of large firms. In other words, the commitment to the public interest sector that had been a key criteria for membership in these peer circles was relaxed, in stark contrast to the "selective association" and "self-segregation" practiced in the first year.⁹⁹ In some cases, the change in these students' views was striking. For example, one public-interest respondent who during 1L characterized students who pursue large firms as "sellouts," offered a far more neutral stance in her 2L interview:

I was worried [that the choice of three of my friends to work in large firms] would cause a major division in our group. That hasn't happened because they all have very good legitimate reasons for going to firms. I don't have less respect for them. They still have good values and want to do good things in a couple of years. *I can't judge their situation.* There might be a problem that doesn't seem real and important to you but does seem real and important to that person.

While this account offers a relativistic reduction in judgment toward peers, there is still an implied condemnation of large-firm practice. Her peers escape judgment only because they might "do good things in a couple years" when they leave the large-firm sector.

⁹⁹ See BECKER, *supra* note 73, at 100; SNOW & ANDERSON, DOWN ON THEIR LUCK, *supra* note 69, at 214.

The following excerpt from a pilot focus-group interview with two public-interest-path 2L respondents explores the evolving differentiation between public-interest lawyer identity and corporate lawyer identity. To contextualize this dialogue within the interview, “Respondent 1” had mentioned a tense situation in which she made a controversial comment regarding two members of their public-interest-oriented peer group who had taken large-firm jobs. I asked her to elaborate on the nature of the comment.

Respondent 1: [I told a] joke about how much money they’d be making compared to how much money we’d be making.

Interviewer: Was the tension immediate?

Respondent 1: It was immediate. They were pretty hurt, which is understandable.

Respondent 2: It hasn’t been a constant issue and there’s no tension now. But I don’t agree completely with [Respondent 1]. I think the choices are within their control. I don’t think it’s impossible for anyone to not work at a firm. I wouldn’t agree that it’s the only option for some people.

Respondent 1: *How is that not judgmental?* My problem with the way that you and [another member of our peer group] talk about it is that you guys make it sound like everyone’s situation is the same. The way you feel about their situation is something different from the way they feel about their situation.

Respondent 2: *But I think they have agency.* It’s not out of their choice.

Respondent 1: I agree, but I think they’re making conscious, reasonable choices. If I was going to have kids in a few years, I would probably be applying to firms.

Respondent 2: Even if I was going to have kids, I wouldn’t go work at a firm. *It’s ok to make different choices*, but my personal choice would still be the same. It might be tough, and there might be times when I wish I had more money

In this excerpt, Respondent 1 no longer expressed a stark differentiation between herself and her peers who chose to work in large firms (at least regarding those peers discussed in this excerpt). Instead, she framed these job-path choices as matters of timing with respect to having children. Rather than judging her peers, she

identified with them. In contrast, Respondent 2 reaffirmed her differentiation from corporate-bound students, although she offered a relativistic caveat (“It’s ok to make different choices”). After Respondent 1 left the interview, Respondent 2 stayed an extra minute to explain that her opinion was even less relativistic than it appeared in the above-excerpted dialogue: “I didn’t want to say it in front of [Respondent 1], but I feel like I am still more judgmental. I think people make choices and they need to be accountable for those choices.” While this respondent clearly indicated that she continued to disapprove of students who pursue large firms, her post-interview comment revealed that she may suppress these judgments in front of her peers in order to preserve valuable friendships. These dynamics reflect a general trend in my sample. While deriding corporate lawyers was a foundation of 1L PIO peer clique membership, these students’ second-year discourse tended to be less disparaging. Nevertheless, although judgment of corporate law may have been reduced in the 2L discourse, this judgment clearly was still at least tacitly present.

In some cases, the judgment was less tacit. A drifting-path 2L described an experience when he was approached while wearing a suit by two public-interest-path classmates who exclaimed, “Oh no! Not you!” They then explained that they had placed bets on which classmates would apply to firms and they had lost their bets in his case.

In this context, drifting-path respondents expressed substantial concerns that they might be judged as “sellouts” by peers who had continued on the public-interest job path. In their interactions with public-interest peers, drifting-path respondents reported that they were eager to clarify that working for a large firm was not an act of “soul selling” but rather was a temporary staging ground to pay off debt and gain training before returning to the public interest sector.¹⁰⁰

Although drifting respondents offered a variety of rationales for working in large firms, they often reported that they were unconvinced by their own rationales.¹⁰¹ One drifting respondent who

¹⁰⁰ See GRANFIELD, *supra* note 1, at 147-49 (discussing students’ efforts to not appear as though they had “sold out” by taking jobs in private law firms).

¹⁰¹ Granfield posits a typology of students’ post-hoc “accommodation strategies” to account for their drift. *See id.* at 149. In particular, he emphasizes that students who drifted had not “simply been depoliticized, they had additionally become *professionalized*.” This professionalization account is also supported by Schleef’s claim that law students replace “social justice” with “zealous advocacy” as their primary vocabulary of motive. *See SCHLEEF, supra* note 13, at 127. These accounts further recall Becker’s analysis of jazz musicians who adopt a craftsman rationale as they transition to more commercial music pursuits following an initial period of idealism. *See BECKER, supra* note 73, at 112.

cited the professionalism rationale for taking a large-firm job (explaining that “everyone deserves a defense, even corporate clients”) gave the following qualification: “That’s probably just a justification for myself so I don’t have to feel like a sellout.” Even as they offer such gallows humor, characterizing themselves as sellouts was a pervasive theme among 2L drifting-path respondents. The negative appraisals of corporate law from the 1L public-interest subculture continued to echo in their 2L accounts; as 2Ls, these judgments were often turned back on themselves.

I conclude this section by returning to the identity mapping findings referenced earlier. In that analysis, I found that drifting-path students shifted from 1L accounts of professional identity that were central and politically expressive to 2L accounts of professional identity that were financially instrumentalized with reduced personal and civic investment. My analysis here suggests that this identity shift may largely reflect students’ negative perceptions of corporate lawyers and of themselves for “selling out” to pursue positions in large firms. Furthermore, the timeline I have presented here suggests that this shift may largely take effect during and after the 2L hiring process as students reflect on their paths to large firms and begin to fashion a new anticipated professional self-image within a persistently moralistic context.

E. Summary of Empirical Claims

As described in the below schematic, my findings tend to contradict the notion that the 1L experience transforms committed public-interest law aspirants into committed large-firm aspirants. In its place, I posit a revised socialization timeline.

The received timeline:

Strong initial commitment to public interest jobs →
1L classroom socialization (and salary differential) →
Instrumentalized craft-oriented professional identity →
Decision to work in a large firm

A revised timeline:

Initial genuine but vague public-interest-job preference →
1L identity work that sustains uncertainty →
Risk-averse and tentative decision to apply to a large firm →

Re-narrating one's path for law firm audiences during job interviews →
Decision to accept large-firm job offer →
Moderated but still negative perception of corporate law →
Instrumental and civically disinvested lawyer identity

While this analysis corroborates some aspects of the skeptical commentaries on public interest drift, it does not tend to support the claim that incoming law students' public-interest career preferences are entirely false and deceptive. Instead, I find that many respondents expressed strong initial desires to pursue social-justice ends in their careers, but were uncertain about how to translate these values into plans for specific post-graduation jobs.

Furthermore, many drifting-path students' decisions to attend law school may be as uninformed and risk averse as their decisions to work for large firms. Rather than conceiving of drift as straying from a clear path — from a commitment to a public-interest career to a commitment to a private-law career — it might be more accurate to say that students often drift before, during, and after law school.¹⁰²

Drifting-path students in my sample appeared to emerge from 1L as career entrepreneurs, hungry for information about the practice world while adjusting their self-presentations to suit their expectations for work in different sectors. The rigid views of professional identity expressed by many first-year students, relying on a bright-line distinction between corporate-law and public-interest practice, generally gave way to somewhat more mobile views of their careers in 2L.¹⁰³ Accordingly, these respondents often claimed that they would later return to the public-interest sector in order to realign their work roles with their “true” identities. The *After the JD Study* reveals that lawyers indeed change jobs and even sectors frequently in their first

¹⁰² Cf. SCHLEEF, *supra* note 13, at 44 (arguing that students do not “carefully, or even consciously” choose their careers; rather these decisions tend to be “full of uncertainty and a large dash of default,” as students come to law school seeking to invest in “human, cultural, and social capital, not long-term occupational decisions”).

¹⁰³ It may be the case that this more flexible approach to professional identity is itself a lesson drawn from first-year pedagogy. See MERTZ, *supra* note 6, at 135, observing that in the classroom law students adopt a “new chameleon professional ‘I.’” The role-playing requirements of legal instruction require students to develop a theatrical ability to represent multiple views of issues through a versatile professional voice. As students learn to enact “an ongoing multiplicity of perspectives and voices” and to “speak in an ‘I’ that is not their own self, to adapt their position to exigencies of legal language,” they may begin to develop a flexible conception of the professional self and a more mobile view of career paths that cross sectoral boundaries.

years of practice. A significant number who begin in large firms return to public-interest practice.¹⁰⁴

Drifting-path students often described cognitive dissonance in their attempts to make sense of both identifying as a “public interest student” and accepting a position in a large firm. The existing literature has suggested that these students largely resolve this dissonance through post-hoc rationalizations, a reduction in altruistic values, and a loss of faith in the effectiveness of public-interest law organizations.¹⁰⁵ In contrast, my analysis suggests that this dissonance is often remarkably unresolved as students expressed skepticism regarding their own rationales for working in large firms.

The social psychological literature on cognitive dissonance can help to explain these findings. The core principles in this literature have been refined and substantially confirmed by a large body of research.¹⁰⁶ One remedy to drifting-path respondents’ potential dissonance is for them to transform their attitudes about large firms. This literature suggests that when our attitudes are not particularly certain or self-apparent, we often infer our attitudes from observing our own behavior in almost the same manner an external observer would.¹⁰⁷ The uncertain and ambivalent attitudes toward the law-firm hiring process expressed by 1L drifting-path respondents generally met these conditions. When these respondents later participated in law-firm interviews, they observed themselves rehearsing and dressing for interviews, enthusiastically repeating their interview scripts about their desire to work in large firms, and re-narrating their paths to law school and their future plans. These respondents often remarked on how this behavior may shape the development of their more amenable attitudes toward corporate law. As quoted earlier, respondents

¹⁰⁴ In the After the JD Wave III data, 7.2% of lawyers who worked in the largest firms (of 251 or more lawyers) during Wave 1 (two to three years after graduating from law school) were working in “public-interest” practice settings in their twelfth year of practice; 0.2% were working in legal services or as a public defender. See DINOVIETZ ET AL., *supra* note 61, at 61.

¹⁰⁵ See GRANFIELD, *supra* note 1, at 149-67 (discussing several rationales employed by drifting students including loan debt, professional development, affinity, and effectiveness); STOVER, *supra* note 1, at xx (“Students who found themselves drifting away from public interest practice allayed their guilt by quickly and uncritically accepting unfavorable images of public interest practice and favorable images of conventional practice.”).

¹⁰⁶ See, e.g., JOEL COOPER, COGNITIVE DISSONANCE: FIFTY YEARS OF A CLASSIC THEORY xx-xi (2007) (discussing the “thousands of publications” on cognitive dissonance emerging in the last fifty years).

¹⁰⁷ See Daryl J. Bem, *Self-Perception Theory*, in 6 ADVANCES EXPERIMENTAL SOC. PSYCHOL. 1, 2-4 (1972).

explained that “you create a new person when you tell someone this is what I am,” and “because I was saying [that I wanted to pursue litigation practice in a large law firm] so much I started to believe it.”¹⁰⁸ In this desire for consistency, we often draw on motivated reasoning in biased autobiographical searches for past behavior that will affirm the attitudes we have about ourselves.¹⁰⁹

These mechanisms tended to push drifting-path students toward resolving their cognitive dissonance. But I find that this resolution was often far from complete. Respondents experienced enough reduction in judgment toward large firms to accept their job offers, but many continued to hold negative views of their anticipated practice sector and to frame themselves as “sellouts.” It is important to note here that the social psychological literature does not suggest that cognitive dissonance tends to be entirely resolved, although we generally experience a strong drive to reduce it.¹¹⁰

I find that these respondents attempted to alleviate the dissonance between their public-interest ideals and their perceptions of large firms’ lack of public contributions through two mechanisms identified in the cognitive dissonance literature: (1) Respondents sought to support the global integrity of the self-system in other areas.¹¹¹ Thus,

¹⁰⁸ This attitudinal transformation may be further intensified following the decision to accept large-firm positions. These students generally stated that these decisions were made on a narrow and ambivalent basis. Yet, according to social psychological insights, having accepted a large-firm position may encourage students to infer that they had adopted more favorable attitudes toward large firms. This retrospective process is consistent with the predictions of research suggesting that after making a difficult decision, we tend to spread the attractiveness of alternatives — that is, we frame the chosen option in more positive terms and the unchosen option in more negative terms. See Jack W. Brehm, *Postdecision Changes in the Desirability of Alternatives*, 52 J. ABNORMAL & SOC. PSYCHOL. 384, 389 (1956).

¹⁰⁹ See Ziva Kunda, *The Case for Motivated Reasoning*, 108 PSYCHOL. BULL. 480, 480 (1990).

¹¹⁰ Self-inconsistency can interfere with self-esteem, self-affirmation, integrity of the self-system, action tendencies, and the creation of coherent self-narratives, particularly when such dissonance raises foreseeable aversive consequences. See Eddie Harmon-Jones, *Toward an Understanding of the Motivation Underlying Dissonance Effects: Is the Production of Aversive Consequences Necessary?*, in COGNITIVE DISSONANCE: PROGRESS ON A PIVOTAL THEORY IN SOCIAL PSYCHOLOGY 71, 95 (Eddie Harmon-Jones & Judson Mills eds., 1999); Claude M. Steele, *The Psychology of Self-Affirmation: Sustaining the Integrity of the Self*, 21 ADVANCES EXPERIMENTAL SOC. PSYCHOL. 261, 261 (1988); cf. TIMOTHY D. WILSON, STRANGERS TO OURSELVES: DISCOVERING THE ADAPTIVE UNCONSCIOUS 68 (2002) (discussing the individual’s need to construct theories about one’s own personality in order to create a coherent self narrative).

¹¹¹ See Steele, *supra* note 110.

some respondents claimed that they would find outlets to express their public-interest values outside of their daily large-firm practice, in family, religious, and community service. (2) They found a measure of self-consistency by claiming that their true public-interest identities were preserved and held in abeyance, to be reactivated when they return to public-interest practice after a short stint in a large firm.¹¹² Accordingly, these respondents often characterized their corporate law positions as temporary role performances.¹¹³

Further research is needed to test these exploratory findings with other methods and in other settings. For example, risk-aversion emerged as a central mechanism in my analysis to explain students' decisions to apply to large firms. The JD is often framed as a risk-averse path (often in contrast to the MBA), whereby students pursue a prestigious generalist degree that brings unspecified but auspicious future prospects. It would be helpful to more directly investigate whether law students are indeed particularly risk-averse and whether this trait helps to predict job choice.

As discussed earlier, the generalizability of these findings to other law school settings is limited. However, this site may serve to magnify dynamics that are present in other law schools and to render more visible the subtle workings of public interest drift and student peer culture. My finding that there does not appear to be a pervasive 1L conversion effect from public-interest to private-practice commitment among respondents at this site suggests that we should reconceptualize the notion of public interest drift and the associated policy implications. It also suggests that we should expand the drift inquiry to include longitudinal and identity-based analyses of students in different law school contexts.

In this analysis, I have made few observations about race, class, gender, and age. These variables can interact with students' experiences of civic commitments, knowledge of legal career paths, law school peer dynamics, financial considerations, consonance with lawyer identity, and attitudes toward narratives of "selling out."¹¹⁴

¹¹² See Bliss, *Divided Selves*, *supra* note 3, at 879.

¹¹³ See *id.*

¹¹⁴ See generally COSTELLO, *supra* note 6, at 117-208 (examining the effects of social stratification on law students); GUINIER ET AL., *supra* note 6, at 1-84 (finding that legal pedagogy and other law school practices disadvantage women and minority law students); MERTZ, *supra* note 6, at 174-203 (highlighting several demographic factors including race, gender, status, and context); Jenée Desmond-Harris, "Public Interest Drift" Revisited: Tracing the Sources of Social Change Commitment Among Black Harvard Law Students, 4 HASTINGS RACE & POVERTY L.J. 335 (2007) (examining public interest drift among African American students at Harvard Law School); Granfield, *supra* note

Further research is needed to disaggregate the study of students' career orientations and decision-making processes along these identity coordinates with larger or more targeted samples.

IV. POLICY PRESCRIPTIONS

Below I discuss implications of these findings for debates about public interest drift (in Section IV.A) and U.S. law school curriculum (in Section IV.B).

A. *Counteracting Public Interest Drift*

Regarding efforts to reduce public interest drift, these findings have mixed implications. If, as I find in my sample, law students generally make the decision to pursue private-firm jobs on narrow and uncertain grounds, intervening in drift processes may require less than is often assumed. However, these findings also underscore the difficulty of explaining why students make their job-path decisions. My analysis of first-year public-interest-oriented students does not clearly differentiate the experiences of students who later take large-firm positions from those who later pursue public-interest positions. Quantitative studies have suggested that loan forgiveness may be ineffective at encouraging students to pursue the public-interest sector.¹¹⁵ My findings further challenge the debt narrative for drift by showing the relative importance of other factors, namely peer dynamics and the law-firm hiring process. I do, however, show that debt and fear of debt can play a substantial role in students' accounts of risk-based decision-making as they enter the law-firm hiring program.¹¹⁶ This finding is consistent with experimental data from NYU School of Law suggesting that law students are more likely to pursue public-interest jobs when scholarship funds are distributed up-front rather than through retrospective debt relief after years of public-interest practice.¹¹⁷ In that study, researchers concluded that students in loan-forgiveness programs suffer "significant psycho-social costs" associated with their debt loads.¹¹⁸

Given the absence of evidence in my sample for a unilateral 1L classroom socialization account of drift, we might turn to salary as a

48, at 343 (tracing the challenges faced by working class law students).

¹¹⁵ See *supra* Section I.A.

¹¹⁶ See *supra* Section III.B.2.

¹¹⁷ See Field, *supra* note 16, at 2.

¹¹⁸ See *id.* at 19.

dispositive factor in job choice. Previous studies have suggested that law students are somewhat more likely to pursue public-interest positions when they face a relatively small salary differential between public-interest and private-sector job options.¹¹⁹ Encouraging better funding and higher salaries in public-interest law practice settings might help to reduce the drift effect. More broadly, students' salary considerations point to their interactions with the job market. As students become aware of the hierarchies of the profession, the realities of their future financial planning, and the limited supply of public interest jobs, they may come to view large firms as their most practical option.¹²⁰

Fostering IL public-interest subculture is perhaps the most effective means to promote public-interest career commitment. The true-believer and outsider identity narratives found in public-interest subculture can provide a counterbalance to the salary, prestige, and job security associated with large-firm positions.¹²¹ In the following section, I recommend providing a more robust IL education on legal career paths and professional identity. In addition to the grounds for this proposal discussed below, teaching about public-interest career paths could help students gain more detailed and accurate insights into jobs in the public-interest sector, in contrast to their often vague but genuine initial preferences. In order for these students to forgo large-firm opportunities in favor of a protracted and competitive public-interest application process, it is perhaps a generally necessary but not sufficient condition that these students gain a more specific picture of the public-interest jobs to which they may aspire.

These causal questions are drawing increasing empirical attention.¹²² In this inquiry, we must countenance the limits of

¹¹⁹ See McGill, *supra* note 5, at 690.

¹²⁰ See Bryant G. Garth & Joyce Sterling, *Exploring Inequality in the Corporate Law Firm Apprenticeship: Doing the Time, Finding the Love*, 22 GEO. J. LEGAL ETHICS 1361, 1370 (2009).

¹²¹ See GRANFIELD, *supra* note 1, at 69 (finding that most of the examined students who sustained pursuits of public-interest jobs were active in public-interest student organizations); STOVER, *supra* note 1, at 116 (concluding that “law schools committed to fostering support for public interest practice should attempt to increase the number of students exposed to public interest subculture”); Erlanger et al., *supra* note 1, at 862 (concluding that a “supportive subculture” may be a key factor in the “staying power” of public-interest commitment by providing a “bulwark against drift”).

¹²² See, e.g., Rebecca Sandefur & Jeffrey Selbin, *The Clinic Effect*, 16 CLINICAL. L. REV. 57 (2009) (finding that students who participated in law school clinics were twice as likely to later work in public interest practice settings). An ongoing survey study of public-interest career commitment among graduates of multiple California law schools is forthcoming from Rick Abel, Catherine Albiston, and Scott Cummings.

encouraging students to pursue public interest careers, given scarcity of jobs in the sector. One could argue that increasing the supply of public-interest-sector applicants would benefit legal aid and other civic causes by expanding the pool of well-suited candidates for these positions. Furthermore, encouraging more students to pursue public-interest law could increase the number of applicants to what are often considered less prestigious public-interest jobs. The elite-school respondents examined in the present study were generally less inclined to work in direct services or in underprivileged regions and communities. Instead, these students tended to seek out high-profile organizations or prestigious governmental positions. It should also be noted here that some law graduates start their own public-interest-oriented practices, including providing personal legal services in areas of high need, thereby expanding the field and potentially improving access to justice. But encouraging public-interest career pursuits also carries risks. When applicants exceed the demand for public-interest lawyers in the established job market, this imbalance can exacerbate unemployment and generate greater frustration of students' aspirations.

The size and scope of the public-interest practice sector are largely shaped by market conditions and political and private-sector support. With this in mind, efforts to promote public interest law practice through legal education should be conceived with dual purposes — both to encourage students to pursue public-interest-sector jobs and to encourage students who take positions in private practice, business, and government to sustain long-term commitments to supporting public-interest law organizations.

B. Teaching First-Year Students About Legal Careers

Elite-school students in my sample often reported making uninformed and risk-averse decisions to apply to large firms at the end of 1L followed by experiences of cognitive dissonance and civic disinvestment in their anticipated roles as large-firm attorneys. My findings have suggested that the 1L experience provides only a nudge toward students' ambivalent decisions to apply to large firms. By characterizing the 1L alteration of students' career orientations as a "nudge," I reference the widely influential behavioral economics perspective put forward by Richard Thaler and Cass Sunstein who

A study of debt and job choice in the first three cohorts of the UC Irvine School of Law when students were offered free and discounted tuition is forthcoming from Steven Boutcher, Anna Raup-Kounovsky, and Carroll Seron.

argue that the presentation of choices (“choice architecture”) can “nudge” decision-making even when that presentation does not overtly determine individuals’ choices.¹²³ When respondents described corporate law as the safe option, they emphasized that large firms hired earlier in law school (than public-interest employers). In other words, large-firm jobs were the cafeteria items placed at eye level.¹²⁴ But for many students who start law school with a public-interest preference, jobs in large firms might not be the healthy foods the choice architect of the cafeteria aims to encourage. In better optimized choice architecture, students would be able to engage in a more informed “mapping” between their options and their welfare.¹²⁵

One proposal that could help students map their decisions to their values and interests would be to push back the law-firm recruiting process at top-tier schools one semester to the spring of 2L. This would better align the timing of private-firm and public-interest hiring for 2L summer internships. In this way, students who apply to both sectors could compare the narratives that they spin for law-firm audiences to those they spin for public-interest-sector employers. Students would also have more time before making job-path decisions to participate in clinics and take elective courses in areas of specialization including public-interest law seminars. Without the pressures of the first-year course load, students in the 2L autumn would have more opportunities to discuss job options with career services staff.¹²⁶ Although this proposal has recently been discussed among some elite law schools and leading law firms, it has yet to gain substantial momentum. Given first-year students’ intense and often anxious focus on the classroom, my policy discussion below primarily emphasizes the 1L curriculum.

More than a century of commentary on U.S. legal education has focused on the need to pay greater attention to practice skills.¹²⁷ The

¹²³ See Richard H. Thaler et al., *Choice Architecture*, in THE BEHAVIORAL FOUNDATIONS OF PUBLIC POLICY 428, 428-30 (Eldar Shafir ed., 2012).

¹²⁴ See *id.* at 428.

¹²⁵ See *id.* at 434-35.

¹²⁶ Amid the recent decline in the legal job market, career development offices have faced heightened pressure to guide students successfully through the job-search process. However, even at the height of the Great Recession, respondents in this study often reported that they did not take full advantage of career planning events and services during 1L.

¹²⁷ These recommendations have appeared in reports on legal education from the Carnegie Foundation (since 1914) and the ABA, notably in the 1979 *Cramton Report* and the 1992 *MacCrate Report*. Legal realists have long taken up a similar call for what Jerome Frank termed a “clinical lawyer school.” See generally Jerome Frank, *Why Not*

recent Carnegie Report (2007) praised American law schools for progress in the skills apprenticeship and for the longstanding success of the cognitive apprenticeship.¹²⁸ The rise of clinical programs and the recently promulgated ABA requirement for experiential learning show a substantial commitment to teaching practice skills. But the Carnegie Report suggested that law schools generally overlook the third apprenticeship that professional degree programs should provide in “professional identity and purpose.” This lack of first-year curricular attention to helping students reflect on who they want to be as lawyers may help to explain why respondents in the present study reported feeling unprepared for the 2L job process.

In the wake of the 2007 Carnegie Report, some law schools have responded with curricular reforms aimed at fostering professional identity.¹²⁹ The findings from the present study suggest that these reform efforts should include giving first-year students empirical and first-hand information about legal career paths. This suggestion has recently emerged alongside the broader claim that law schools owe an “ethical obligation to study and to teach about the profession.”¹³⁰ In the absence of curriculum on legal careers, students often learn about their future job options from law firm recruiters, the press, and their peers.¹³¹

If the first-year curriculum were to pay greater attention to legal careers, students might form a less rigid distinction between public-interest and large-firm practice. First-year public-interest-oriented students’ accounts of their classmates’ “soul-selling” bolsters their membership in subcultural peer cliques and may even support public-

a Clinical Lawyer School?, 81 U. PA. L. REV. 907 (1933).

¹²⁸ See WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 128 (2007).

¹²⁹ See David I.C. Thomson, “Teaching” Formation of Professional Identity, 27 REGENT L. REV. 303, 318-37 (2014) (discussing law curriculum ranging from one-day sessions on professionalism to first-year and upper-level courses that seek to implement recommendations from the Carnegie Report on the neglected apprenticeship in professional identity and purpose). Other approaches have sought to integrate lessons in professional identity and purpose into the core curriculum through simulation learning, practicums, bridging clinical and doctrinal instruction, problem-solving courses, and attention to legal ethics within the case method. At the University of St. Thomas School of Law, there has been an effort to infuse the entire law school culture with a commitment to fostering professional identity and purpose, including career services, structured mentorship, and integration of faith and professional role. *See id.* at 318.

¹³⁰ David B. Wilkins, *The Professional Responsibility of Professional Schools to Study and Teach About the Profession*, 49 J. LEGAL EDUC. 76, 77 (1999).

¹³¹ *Id.* at 80.

interest career commitment, but this orientation also limits their opportunities to openly deliberate on how different practice sectors might suit them. Teaching first-year students about legal careers would help prepare them to better evaluate the claims of law firm recruiters and ultimately make more informed decisions. This might lead to improved sorting of law graduates into satisfying practice settings. Given data on lawyers' job dissatisfaction (which may not be as distressing as popularly portrayed but is nevertheless troublesome)¹³² and mental health concerns,¹³³ helping students find well-suited legal work should be a pressing concern for the profession. Furthermore, legal employers may find it beneficial to receive applications from students who have chosen their desired practice sector based on a better-informed assessment of their own interests, aptitudes, and future plans.¹³⁴

An education in legal career paths might lend understanding and unity across the corporate/public-interest student divide, mitigating the competing accounts of deviance among first-year students. More broadly, counteracting these peer dynamics may promote a more unified bar. A division between "corporate" and "public interest" practice can lead to compartmentalization of the functions of the profession whereby "public-interest" lawyers are tasked with fulfilling the civic commitments of the profession, while private-firm lawyers are thought to merely facilitate economic relations.¹³⁵ In addition to the public-interest significance of large-firm attorneys' work for their

¹³² See David L. Chambers, *Overstating the Satisfaction of Lawyers*, 39 LAW & SOC. INQUIRY 313, 313 (2013); Kathleen E. Hull, *Cross-Examining the Myth of Lawyers' Misery*, 52 VAND. L. REV. 971 (1999) (arguing that the empirical findings of lawyer dissatisfaction are not persuasive).

¹³³ See generally Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871 (1999) (summarizing empirical research on lawyers' mental health and offering recommendations to help lawyers avoid unhealthy and unethical careers).

¹³⁴ I do not mean to imply here that employers expect new lawyers to spend their full careers in their first jobs. One of the key findings from the *After the JD Study* is that new lawyers quickly change jobs and even sectors. See DINOVTZER ET AL., *supra* note 61, at 25-30. Furthermore, large firms structurally anticipate that most associates leave before they are eligible for partnership. Nevertheless, these firms need a substantial class of committed associates to compete in a tournament for partnership. See MARC GALANTER & THOMAS PALAY, *TOURNAMENT OF LAWYERS: THE TRANSFORMATION OF THE BIG LAW FIRM* 9-11 (1991) (describing the development of the "Cravath System" where large numbers of highly qualified associates are hired to compete for promotion).

¹³⁵ See Catherine Albiston, *Book Review*, 63 J. LEGAL EDUC. 554, 557 (2014) (reviewing ALAN K. CHEN & SCOTT CUMMINGS, *PUBLIC INTEREST LAWYERING: A CONTEMPORARY PERSPECTIVE* (2012)).

primary clients, large firms play an increasingly important role in pro bono representation and funding non-profit law organizations.¹³⁶

Following from these considerations, I argue that we should reconceptualize the normative issue with the “drift” away from public interest career preferences to private-sector jobs. In addition to focusing on students’ decisions to work for law firms, my findings suggest that we should also pay attention to how these students drift away from investing the professional self with personal and civic significance in their roles as law-firm attorneys. I have termed this reconceived phenomenon, “professional identity drift.”¹³⁷ Within the discourses of students and the profession at large, this would require broadening the definition of public-interest commitment to include work done by large law firms. This argument resonates with recent calls to resurrect the image of large-firm attorneys as lawyer-statesmen, leaders, and wise counselors with vital ethical and civic responsibilities.¹³⁸

The timeline analysis presented in this Article strongly recommends that, at least in the elite-school context, an education in legal career paths should be provided in the first year of law school. This approach has recently gained traction at several schools, perhaps most notably at UC Irvine School of Law and Indiana University Maurer School of Law through the introduction of four-unit 1L courses on the legal profession. A recent commentary by the creators of the UC Irvine course described their intention to supplement standard professional responsibility curriculum by making “coverage of ethics rules secondary to a related but broader purpose — educating our students about the legal profession to help them to chart successful, responsible, and rewarding careers.”¹³⁹ This team of legal educators further emphasizes the importance of providing this course in the first year so that students can “immediately begin their search for a good fit between their aptitudes and values and opportunities in the

¹³⁶ Large-firm contributions to public-interest organizations have grown with the ongoing wave of institutionalization of large-firm pro bono practice and the recent decades of declining federal support for civil legal aid. See Scott L. Cummings, *The Politics of Pro Bono*, 52 UCLA L. REV. 1, 6-40 (2004).

¹³⁷ See Bliss, *Dynamics*, *supra* note 3, at 107.

¹³⁸ See Robert W. Gordon, *The Return of the Lawyer Statesman?*, 69 STAN. L. REV. 1731, 1731 (2017); Ben W. Heineman, Jr. et al., *Lawyers as Professionals and as Citizens: Key Roles and Responsibilities in the 21st Century* 5 (2014), https://clp.law.harvard.edu/assets/Professionalism-Project-Essay_11.20.14.pdf.

¹³⁹ Ann Southworth et al., *Some Realism about Realism in Teaching About the Legal Profession*, in 1 THE NEW LEGAL REALISM: TRANSLATING LAW-AND-SOCIETY FOR TODAY’S LEGAL PRACTICE 74, 74 (Elizabeth Mertz et al. eds., 2016).

profession.”¹⁴⁰ This course may already have demonstrated value as measured in the Law School Survey of Student Engagement, which indicated that UC Irvine students reported a stronger than average preparation for their employment searches.¹⁴¹ My findings suggest that such curricular innovations should pay particular attention to fostering students’ professional engagement, civic commitments, and deliberative assessments of doubts and risks around job-path options.

CONCLUSION

At the site examined, my analysis suggests that the 1L experience can provide a socialization nudge from an initial vague but genuine public-interest-career orientation to a tentative and risk-averse application to law firms. Rather than the intimidating classroom scene between Professor Kingsfield and Mr. Hart in *The Paper Chase*, my analysis has underscored the importance of first-year peer culture, the law-firm interview program, and students’ perceptions of lawyers in their anticipated practice sectors.

Students who “drift” to private firms are often accused of individual moral failings — under the view that if they had stronger morals they would sustain their initial public-interest career preferences. Or they are presented as having been forcefully re-socialized by an authoritarian boot-camp of Socratic pedagogy, such that they are compelled to abandon previous normative commitments. However, my data push back against both of these narratives. Instead, I find that these students often struggle most with navigating doubt, cognitive dissonance, and a lack of information about job options. Many law schools have expanded upper-level course offerings on the legal profession amid a wave of empirical research on lawyers’ careers. While this trend is certainly promising, my findings suggest that these courses may be most effective when they are included in the core first-year curriculum.

¹⁴⁰ *Id.* at 74-75.

¹⁴¹ *See id.* at 77 n.4.