CAREER PATHS

Leaving the law: occupational and career mobility of law school graduates

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50 J Legal Educ 1, 2000, pp 16-34

While law school can be expensive, most practising lawyers earn a respectable living, and many are very handsomely compensated. Still, despite the time and cost of law school and the potential rewards of practising law, not to mention the continuing demand for legal services, some law school graduates spend all or part of their careers outside of the practice of law.

In 1993 some 243,000 law school graduates (approximately one quarter) were not working as lawyers or judges. Of this number, 62,000 were not in the labour force, 20,000 were unemployed, 13,000 were in academic law, and the remaining 148,000 were working in non-law occupations (top- and mid-level management being the most popular, employing 48,000 law graduates). These rates vary by sex and race: in general females and minorities are less likely to be working as lawyers and judges, are more likely to be unemployed or out of the labour force, and have higher rates of occupational mobility.

In the past, both women and minorities have been more likely than white males to work for the government rather than in private practice, although this difference, particularly for females, appears to be diminishing. One recent study found, in fact, that sex no longer has a significant impact on career choice, although African-American and Latino graduates are still more likely to take jobs in the non-profit sector. Interestingly, women entrants to law school were more likely than men to want those jobs, although many of these women changed their plans during the course of their study.

Changing jobs is not unique to lawyers. Occupational mobility is a common characteristic of American workers, with most workers having several occupations during their lifetimes. Occupational mobility can result from changes in external factors, such as the condition of the labour market or the acquisition of information, or from worker characteristics, such as additional education or training that enlarges the potential job set.

These models take human capital theory as their foundation, with workers viewing the job search as an investment in human capital that could lead to higher future earnings. The rational worker will continue to engage in this investment as long as the expected marginal benefits of the job search exceed the marginal costs.

Mobility models assume that labour market decisions are made to maximise earnings. But there are 'compensating differentials' that take the place of earnings, such as pleasant working environment, interesting work, or flexible hours. And some law school graduates may have preferences for certain types of work or practice settings.

This paper uses the 1993 National Survey of College Graduates, a national sample of all people who held college degrees as of April 15, 1993, regardless of their occupation or labour market status. The NSCG sampled approximately 215,000 individuals, of whom about 78 percent responded. In this sample were 3,207 individual records that indicated a law degree. When weighted, this sample represents an estimated national population of 946,000 law school graduates.

As one would expect from human capital theory, most law school graduates (74.3%) identify themselves as working as a lawyer or judge. This rate varies considerably across demographic groups, from 76 percent of males to a little over half of the Asian/Pacific Islander groups. So slightly more than 25 percent of graduates were not working as lawyers or judges.

As theory would predict for an educated workforce with high earnings potential, the overall participation rate for law school graduates is high (93.4%). Participation rates are strongly associated with household structure, and single females exhibit labour force behaviour similar to that of married males. For females, the presence of children increases participation only for single women, who must assume the role of breadwinner. The presence of children reduces participation for married females.

Under-utilised workers are those who are not meeting their employment potential. One category of under-utilisation, involuntary out-of-field employment, includes those working in a job unrelated to their training, although they would prefer a job consistent with their training. 1.6 percent of all law school graduates placed themselves in this category, and the rate varies by race and sex.

The largest portion of those leaving the law is people who are employed but not working as lawyers or judges. In 1993 this group was almost 16 percent of all law school graduates in the United States. The next largest occupational group for law school graduates is top or mid-level management (i.e., business executives), which accounts for 5.6 percent of all employed law graduates. Females are employed as lawyers and judges at about the same rate (81.2%) as males (81.4%).

Overall, occupational patterns of female law school graduates are similar to those of females in the labour market. The employment of new graduates indicates a higher percentage working as lawyers and judges and a lower percentage working as executives. Why do law graduates leave the law? Occupational mobility theory argues that the primary reason is higher pay. Career mobility theory indicates that workers may change jobs to enhance longer-term earnings and be willing to accept lower current earnings. The model of household production predicts that exit from the legal profession may be for family-related reasons.

Overall, at 36 percent, career interests are the most likely reason for one's job to be unrelated to one's law degree. This finding is consistent with both the career and the occupational mobility models. But while career interests are the most likely reason for males and females to be in an unrelated job, career interests are not the most likely reason for minorities to be in an unrelated job. Since median earnings for this group of minorities are not partic-

ularly high, perhaps the career interest cited are based on non-salary-related factors, such as compensating differentials or career mobility.

How does movement into and out of law vary over a law graduate's lifetime? The labour participation rates for males and single females follow almost identical patterns, increasing from the early career to more than 98 percent by career age 10, then falling slightly in later career. The number of male in-field law school graduates peaks at career age 6 to 10, when 831 of every 1,000 are employed as lawyer or judge. The lower in-field number for new graduates (career age less than 6) reflects the unstable labour market status that most new graduates experience. This is a period of job shopping. Female law graduates are much more likely to be employed in academic law early in their careers. Overall, female law school graduates have lower in-field rates than males even after controlling for marital status.

The legal profession retains a high percentage of law school graduates, with approximately three quarters working as lawyers or judges. Compared to other professions, this is a very high rate. Although there is some career instability in the first five career years, in general the probability that a law graduate will leave the law, particularly to pursue a career in management, increases with career age. Males tend to move into academic law later in their career; females tend to move out of academic law later in their career.

Most law graduates leave the law voluntarily. Of all law school graduates who perceived their degree to be unrelated to their job, almost half said that the reason was either pay and promotion or career interests. Family-related reasons rank high as a reason for females, while difficulty in finding a job in law was a major reason that minorities worked outside the legal field. Overall, underemployment and unemployment among law school graduates are low, although females and minorities have higher rates than males and whites.

CLINICAL LEGAL EDUCATION

Establishing a securities arbitration clinic

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50 *J Legal Educ* 1, 2000, pp 35-49

In the fall of 1997 Pace University School of Law established one of the first law school clinics to provide student assistance to small investors who have disputes with their broker-dealers. As a speedy, economic and fair forum for resolution of disputes, securities arbitration can meet the needs of both investors and broker-dealers. Yet many investors have deep suspicions of industry bias, and, as a result, securities arbitration is frequently described as a deck stacked in favour of the brokerage firms. Investors with small claims feel particularly disadvantaged. Many of them are unable to obtain legal representation because their claims are quite small, and they must present their cases themselves against brokerage firms represented by experienced legal staff. The aggrieved investor may not be able to distinguish between losses caused by broker-dealer misconduct and losses resulting from his own assumption of market risk.

Like many law schools, Pace wants to develop additional clinical offerings. The 1992 MacCrate Report emphasised the importance of developing the fundamental lawyering skills and the fundamental values of the profession within the law school curriculum. A securities arbitration clinic would be not only another clinical offering, but also an offering that might interest a different community of students. The clinic seems to be an attractive intersection between the business curriculum and the skills training urged by the MacCrate Report.

An attractive feature of the securities arbitration clinic was that it could be offered as a relatively low-credit but nevertheless live-client clinical offering. It would appeal to students who wanted a clinical experience, yet did not want the intense immersion of the other clinics. In addition, the clinic would appeal to students with an interest in business and securities law, who might not have an interest in either the subject matter of the other clinics or their emphasis on litigation. Providing assistance to investors permitted students to develop lawyering skills in relatively low-risk, low-stakes cases. The informal nature of the arbitration hearing, with its minimal emphasis on rules of procedure and evidence, was a good introduction to litigation for inexperienced students.

In the fall semester the class met once a week as a seminar to study the substantive law of broker-dealer regulation, arbitration theory and practice and lawyering skills. Private practitioners, Securities and Exchange Commission attorneys and broker-dealers participated in the teaching of the seminar. In addition to the weekly seminar meetings, students were expected to handle, under faculty supervision, the clinic's caseload. Students were responsible for responding to preliminary inquiries from prospective clients and investigating their complaints. If, after investigation, it appeared that the investor may have a viable claim against the broker that could not be amicably resolved, and if the investor chose to file an arbitration claim, the student drafted and filed the statement of claim.

After an investor telephoned or wrote to the clinic, a student would call her back and briefly describe the clinic and its purpose. The student then asked about the investor's situation. If the investor indicated an interest in pursuing the possibility of clinic representation, the student promised to send out the description of the clinic and its eligibility questionnaire. About half of the investors to whom we mailed a questionnaire chose not to return it. If the investor did return the questionnaire, the student would review it with the faculty supervisor and make a decision about whether to invite the investor to the clinic to get more information about the investor's possible claim. If it appeared that the claim was an appropriate one for the clinic to handle and the investor met the eligibility standards, the student team would invite the investor to the clinic for an interview, asking her to bring documen-