

**LAWYERS' ROLES IN VOLUNTARY ASSOCIATIONS:  
DEPRECIATING SOCIAL CAPITAL? \***

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with

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Chief Justice Rehnquist has observed that lawyers are less likely than they were a few decades ago to participate actively in the affairs of their communities and to accept leadership roles in them:

[A]t the time I practiced law, there was a public aspect to the profession, and most lawyers did not regard themselves as totally discharging their obligation by simply putting in a given number of hours that could be billed to clients. Whether it was “pro bono” work of some sort, or a more generalized discharge of community obligation by serving on zoning boards, charity boards, and the like, lawyers felt that they could contribute something to the community in which they lived, and that they as well as the community would benefit from that contribution. As law firms focus on the proverbial bottom line, with predictable pressure on associates to increase billable hours, little time remains for public service.<sup>1</sup>

If there has been a decline in the community activities of lawyers, this would be expected to produce two consequences -- the communities would be deprived of the benefit of skills and expertise that lawyers could provide, and the legal profession would be deprived of the influence acquired through community leadership roles.

It is certainly plausible that the extent to which lawyers voluntarily devote time and energy to extramural activities may have been diminished by changes in the nature and structure of law practice. The Chief Justice referred to the pressures of the “bottom line” and, in another speech, he noted a related increase in lawyers’ billable hours from an average of 1450 per year in the

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<sup>1</sup> Remarks of Chief Justice William H. Rehnquist, Dedication of the North Carolina Bar Association Center, October 21, 1994 (unpublished).

1960s to 2000 or more in the late 1990s.<sup>2</sup> The demise of the “tenure” system in most large law firms, the creation of multiple classes of partners (equity partners, non-equity partners, “counsel,” etc.), the increase in lateral movement among firms, the use of “contract” lawyers employed only for a term or a particular case, the adoption of “eat what you kill” compensation rules (replacing seniority or less quantifiable evaluations), and the increased accessibility of lawyers to their clients through electronic communication technology, with the consequent escalation of expectations regarding the speed with which answers must be provided, have all made lawyers’ professional lives less secure, less comfortable, and less contemplative, and may have meant that lawyers now have less surplus to devote to their own pursuits.

Nonetheless, there are at least four reasons why lawyers might want to continue to participate in their communities. First, they may believe that participation in the broader social contexts that surround them will bring them into contact with potential clients or with officeholders who are in a position to advance their interests. Some roles in community organizations may serve to enhance the lawyers’ visibility or their professional reputations, or to advance their aspirations for elective or appointive office, including judgeships. Thus, some motivations for participation may be consciously economic or careerist. Second, lawyers (like many other people) will join organizations in order to pursue ideological or public policy goals. These goals may reflect their own, personal positions and values, regarding religion or civil liberties, for example, or they may be objectives of the lawyers’ clients, often pursued through participation in business organizations or trade associations. Thus, lawyers sometimes work in political candidates’ electoral campaigns in order to support their own policy preferences and, sometimes, to advance client legislative goals. It has been suggested that lawyers even become active in the American Law Institute to further the interests of their clients in the drafting of particular sections of the Restatements.<sup>3</sup> Third, one motivation for voluntary association is

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<sup>2</sup> Keynote Address of Chief Justice William H. Rehnquist at the Dedication of the David A. Harrison III Law Grounds, University of Virginia, November 8, 1997, at pp. 3-4 (unpublished).

<sup>3</sup> Monroe H. Freedman, “Caveat Lector: Conflicts of Interest of ALI Members in Drafting the Restatements,” 26 Hofstra Law Review 641 (1998); Charles W. Wolfram, “Bismarck’s Sausages and the ALI’s Restatements,” 26 Hofstra Law Review 817 (1998); Alex Elson, “The Case for an In-Depth Study of the American Law Institute,” 23 Law & Social Inquiry 625 (1998); Marshall Shapo, “Private Organization, Public Responsibilities,” 23 Law & Social Inquiry 651 (1998).

surely the simple desire for social interaction, and especially for interaction with those having similar interests, beliefs, or tastes. Such activity may be diverting, pleasurable, or satisfying for its own sake.<sup>4</sup> Fourth, lawyers may believe that they have an obligation to participate in certain community or charitable activities simply because it is the responsible, correct, or moral thing to do.<sup>5</sup> This sort of activity may be distinct from their pursuit of personal ideological preferences.

Whatever changes have occurred in the organizational arrangements of law practice or in the degree of pressure imposed by the bottom line, many of these motivations for participation in community activities will not have changed. Indeed, the pressures noted by the Chief Justice and others might conceivably have increased the value to lawyers of such activity -- both for the recruitment of potential clients and for the acquisition of contacts that might permit them to achieve their goals more effectively or efficiently. Thus, it remains an open question whether lawyers have in fact reduced the extent or degree of their involvement in voluntary associations or in "public service."

Even if the overall level of their associational activity has not changed, however, the distribution of it might have. If lawyers are now more focused on the financial bottom line, then the locus of their activity could have shifted toward greater involvement in business-related organizations, with perhaps a corresponding decrease in the amount of time devoted to religious organizations or more purely social activity. Moreover, there are of course changes in the public taste more generally, which lawyers will probably share to one degree or another. For example, if physical fitness takes on greater importance in the public consciousness while the salience of ethnic group identification diminishes, lawyers may increase their involvement in athletic clubs and decrease their participation in the Sons of Italy or the German-American National Congress. Therefore, broader changes in societal norms and values are likely to be reflected in lawyers' activities. Changes in the composition of the bar may also alter the activity mix. Three decades ago only a small percentage of lawyers were women, but women have entered the profession in substantial numbers since the early 1970s. Thus, if female lawyers have different interests or

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<sup>4</sup> The first three of these motivations correspond to Clark and Wilson's topology of reasons for participation in organizations. Peter B. Clark and James Q. Wilson, "Incentive Systems: A Theory of Organizations," 6 Administrative Science Quarterly 129-166 (1961). See also Robert H. Salisbury, "An Exchange Theory of Interest Groups," 13 Midwest Journal of Political Science 1, 15 (1969).

preferences for associational activity than do males, the change in the gender composition of the bar will result in a shift in the community participation patterns of the profession.

An absolute decline in the public service activities of lawyers, however, would constitute a major change in what has been thought to be one of the fundamental, identifying characteristics of American politics. Tocqueville famously observed that:

The government of democracy is favorable to the political power of lawyers; for when the wealthy, the noble, and the prince are excluded from the government, the lawyers take possession of it. . .

. . . As the lawyers form the only enlightened class whom the people do not mistrust, they are naturally called upon to occupy most of the public stations.<sup>6</sup>

The extent of lawyers' participation in American civic life and the nature and loci of their involvement probably have important effects on the character of the community's activity and its outcomes. In their daily work, lawyers maneuver within bureaucracies and formal systems of regulation. By training, they are better equipped to deal with governmental processes than are most of their neighbors, and they should thus be better able to act as mediators between government and private interests. The social networks maintained by lawyers are also likely to differ from those of persons in other occupations -- they may be more diversely connected than some and perhaps more narrowly connected than others, but their networks will probably have a distinct character.<sup>7</sup> Therefore, where and how lawyers participate in voluntary associations may have a significant influence on the ability of those organizations to function within the larger structure of American institutions.

In a widely-cited article (cited enough to qualify as famous in academic circles), Robert Putnam argued that there has been a serious erosion of civic institutions in the United States --

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<sup>5</sup> See Jane J. Mansbridge, ed., Beyond Self-Interest (U. Chicago Press 1990); Beyond Adversary Democracy (U. Chicago Press 1983).

<sup>6</sup> A. de Tocqueville, Democracy in America 275, 279 (H. Reeve trans., F. Bowen & P. Bradley rev. ed. 1945).

<sup>7</sup> J. Heinz & E. Laumann, with R. Nelson & P. Schnorr, "The Constituencies of Elite Urban Lawyers," 31 Law & Society Rev. 441 (1997).

that PTAs, bowling leagues, and Elks clubs are all languishing due to disengagement.<sup>8</sup> But the Putnam thesis is controversial -- other scholars have offered contrary data and interpretations<sup>9</sup> -- and his argument does not focus on lawyers. Lawyers might or might not conform to American patterns of participation more generally.

### The Chicago Surveys

This paper compares findings from two surveys of Chicago lawyers, the first conducted in 1975 and the second in 1994-95.<sup>10</sup> In both, random samples<sup>11</sup> of lawyers were drawn from all types of practice (and, indeed, the samples included non-practicing, retired, and unemployed lawyers as well), interviews were conducted face- to-face, averaging more than an hour in length, and the population was defined as lawyers with offices in the city of Chicago.<sup>12</sup> In 1975,

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<sup>8</sup> Robert Putnam, "Bowling Alone: America's Declining Social Capital," 6 Journal of Democracy 65-78 (1995).

<sup>9</sup> See, e.g., Nicholas Lemann, "Kicking in Groups," Atlantic Monthly (April 1996); Everett C. Ladd, "The Data Just Don't Show Erosion of America's 'Social Capital'," 7 The Public Perspective 1 (Roper Center, June/July 1996); Andrew Greeley, "The Other Civic America: Religion and Social Capital," 32 The American Prospect (May/June 1997), at 68-73; Jean L. Cohen, "Does Voluntary Association Make Democracy Work?" in Neil J. Smelser and Jeffrey C. Alexander, eds., Diversity and Its Discontents: Cultural Conflict and Common Ground in Contemporary American Society, at 263 (Princeton Univ. Press, 1999).

<sup>10</sup> Both surveys were sponsored by the American Bar Foundation.

<sup>11</sup> In the 1994-95 survey, the names were drawn from the State's official list of licensed lawyers. All lawyers admitted to practice in Illinois are required to be registered with and to pay an annual fee to the Attorney Registration and Disciplinary commission, an agency under the supervision of the Illinois Supreme Court. A lawyer who is not registered with the ARDC is not in good standing. Though the official list maintained by the ARDC is not made public, even for research purposes, the agency agreed to draw a random sample of names and addresses from the list, following our procedures and specifications. We are grateful to the Illinois ARDC and its staff for their cooperation in this project.

In 1975, the names were drawn from two directories, the Martindale-Hubbell Law Directory, 1974, and Sullivan's Law Directory for the State of Illinois, 1974-75.

<sup>12</sup> These lawyers could, of course, reside elsewhere or have an additional office elsewhere. We have done some analyses of the comparability of the 1975 and 1995 samples. Specifically, we have compared the characteristics of the respondents in the 1975 sample with those of 1995 respondents who were in practice in 1975. Thus, we are able to assess whether the 1975 sample and the pre-1975 cohort in the 1995 sample appear to have been drawn from the same population. In these analyses, we found no significant differences between the two groups in place of birth, size of place of residence during their high school years, or religious preference. As to the latter, for example, we found that the religious affiliations of the two groups were:

interviews were conducted with 777 respondents, 82% of the target sample. Findings from that research were published in a series of articles and in a book, Chicago Lawyers: The Social Structure of the Bar.<sup>13</sup> During the latter half of 1994 and the first half of 1995, the second survey interviewed 788 respondents, again with a response rate of 82%.<sup>14</sup>

In the 1975 survey, the respondents were asked to name specific organizations in several categories (religious, political, business, veterans, fraternal, ethnic, civic, and charitable organizations, dining, athletic, and country clubs) in which they were either (a) an inactive member, (b) active, or (c) in a leadership position. In response, the lawyers named more than 1100 different organizations. Although other data from the 1975 survey were analyzed in detail, these organizational affiliation data were not. The analysis would have been a daunting task because the data were voluminous, complex, and messy. For example, the ACLU was sometimes listed by respondents in the “political” category and sometimes as a “civic” organization. Therefore, the nominal categories could not be taken at face value.

In planning the 1994-95 survey, we reviewed the 1975 experience and considered whether to repeat the questions. We observed that some of the responses at the inactive member level appeared to be frivolous (e.g., the American Airlines Admirals Club) and many others appeared to be organizations where the only participation was sending in a check for membership dues -- that is, a contribution -- once a year. Moreover, asking respondents to the new survey to compile

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Catholic, 30% v. 25%; Jewish, 33% v. 34%; Protestant, 25% v. 25%. In the variable concerning the type of law school attended, in the later survey we found substantially fewer graduates of the four “local” law schools located in Chicago among the pre-1975 cohort (46% v. 34%). (These four schools are Loyola, De Paul, Chicago Kent, and John Marshall.) It is plausible that a greater proportion of the local school graduates in the pre-1975 cohort may have left the practice of law by 1995 because of frustration or lack of success, since the graduates of these schools do not enjoy, on the average, the same degree of opportunity within the profession as do respondents from the other school categories; see John P. Heinz & Edward O. Laumann, Chicago Lawyers: The Social Structure of the Bar (Russell Sage Foundation and American Bar Foundation; New York and Chicago, 1982) at Table 3.2, p. 70. That is, the rate of attrition from the profession may plausibly be thought to be higher for local school graduates. The ethnicity variables are not comparable for the two groups because the coding categories used in 1975 differ from those used in 1995.

<sup>13</sup> Heinz and Laumann 1982, *supra* note 12.

<sup>14</sup> Of the original target sample, 8% had died, were over age 80 (the eligibility limit), had moved out of the Chicago area, or could not be located after an exhaustive search of directories (and were thus assumed to have moved to another region). These persons were therefore excluded from the target sample.

a complete list of the organizations to which they made contributions (and in which, thus, they were nominal members) would consume a large amount of interview time and, probably, produce inaccurate data (because of failures of recollection).

Active participation in the organizations or the occupancy of leadership positions, however, was thought to be of considerable interest. Therefore, the investigators decided that the 1994-95 survey would inquire about organizations in which the respondents were active or leaders, but not about those in which they were inactive, thus reducing the volume of data and conserving scarce interview time. But this change may make it problematic to compare responses from the two surveys. For example, suppose a respondent who is a member of a synagogue but seldom attends services. If we do not provide the inactive member category and the respondent feels that the religious affiliation is important, he or she might then be more likely to report being “active” in the synagogue. Since the 1975 respondents were specifically asked to distinguish between active and inactive membership, however, this may not occur often.

As indicated above, respondents to the surveys sometimes placed the same organization in varying categories. We have re-coded the data, therefore, in order to achieve greater consistency of classification. In this coding scheme, the categories have the following content:

- “Religious associations” include churches, synagogues, other religious congregations, and fellowships, societies, or youth organizations affiliated with religious institutions.
- “Business organizations” include trade associations, professional associations (in fields other than law), chambers of commerce, investment groups, business advisory groups, and geographical/community development organizations.<sup>15</sup>
- “Dining and athletic clubs” include country clubs, tennis or yacht clubs, and traditional “men’s clubs” with dining and athletic facilities, such as the Union League Club and the University Club.
- “Social clubs” include book clubs, bridge clubs, dance groups, discussion forums, and similar groups.
- “Educational associations” include PTAs, school boards, local school councils, university or school alumni organizations, scholarship funds, and academic honor societies.

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<sup>15</sup> The question asked the respondents to list “business or professional organizations, or trade associations (not including businesses themselves, or bar associations).”

- “Civic associations” include charitable organizations, such as not-for-profit hospital boards and the Crusade of Mercy, museums, historical societies, and youth groups such as Boy Scouts and Little League.
- “Veterans associations” include the American Legion, the Jewish War Veterans, and the Retired Officers Association.
- “Ethnic associations” were defined as those made up of people with a shared racial, nationality, or ethnic identification, such as the Japanese-American Citizens’ League and B’nai B’rith.
- “Fraternal organizations” include the Elks, Lions, Knights of Columbus, Masons, Greek-letter fraternities, and similar organizations.
- “Fitness clubs” include health clubs and other organizations providing athletic facilities, and sometimes dining rooms as well. (These are generally less exclusive in membership than the country clubs and dining clubs dealt with above. It has been suggested that the real difference between these two categories lies in the degree to which Spandex is visible on the premises. But it is also the case that some of the “fitness clubs” are profit-making businesses rather than not-for-profit associations.)

Although respondents in both 1975 and 1995 were asked to name specific organizations, there were some differences in the “prompts” used to elicit those responses. That is, categories of organizations were mentioned in the interviews and respondents were asked to report participation in such organizations. A category labeled “school or educational organizations” was included in the 1995 interview, but was not used in 1975. The 1975 respondents were asked to name “other organizations,” however, and some did name educational organizations (some of which were also reported in the “charitable” category in 1975). Another difference in the prompts used in the two interviews is that the 1995 interview included a category labeled “social clubs (including fraternal organizations, women’s clubs, and other social or service organizations),” while the most comparable 1975 category was “fraternal organizations or lodges.” (Of the 777 respondents in the 1975 survey, only 30 were women, and women lawyers do not appear to have been foremost in the consciousness of the drafters of the 1975 instrument.) These differences in the prompts used in the two interviews should be kept in mind as we compare the findings. Most of the categories, however, are clearly comparable, and the specific organizations named have been categorized consistently by the authors (so that the same

organization is always placed in the same category.)<sup>16</sup> Categories that were used in both of the surveys (sometimes with small differences in wording) were religious, business, political, veterans, civic, charitable, and ethnic organizations, and dining and athletic clubs.

### Overall Participation

In 1995, 72% of all respondents indicated that they were either “active” or a “leader” in at least one voluntary association. The remaining 28% of respondents, apparently, had no active role in any of these sorts of organizations. In 1975, 78% of the respondents indicated participation in at least one voluntary association, but those responses included membership that was characterized as inactive. The percentage of 1975 respondents indicating that they were active or leaders in the organizations was 60% (12 points lower than the percentage in those two categories in 1995). Perhaps some participation of the kind reported as “inactive” in 1975 might plausibly have been characterized as “active” in 1995, as we speculated above. Note, however, that even though the inactive category was dropped in 1995, the total participation reported in 1995 declines only modestly as compared to that in 1975 (i.e., from 78% to 72%).

The comparison between the two data sets that is most straightforward is the percentage of respondents indicating that they had leadership roles. In 1975, 33% of the lawyers claimed at least one such role; in 1995, only 20% did -- a very substantial decline. Moreover, in 1975 Chicago lawyers were more likely to hold leadership positions in more than one organization. The mean number of organizations in which the 1975 respondents held leadership positions was .68 per lawyer. In 1995, it was .31 -- less than half as large. Thus, it appears that although the overall participation rate may have declined little, if at all, from 1975 to 1995, the rate of participation at the more intensive (and, perhaps, more influential) leadership level decreased greatly. This may be, in whole or in part, an ecological phenomenon. That is, during the 1970s, 1980s and 1990s the size of the bar increased very substantially --the number of lawyers with

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<sup>16</sup> Separate questions were asked in both 1975 and 1995 concerning participation in bar associations and other professional legal organizations. Those data will not be reported or analyzed here since our present concern is the extra-professional or “community” roles of lawyers.

offices in Chicago grew from approximately 15,000 in 1975 to about 30,000 in 1995.<sup>17</sup> If the total number of leadership positions available in voluntary associations did not increase at a rate equal to or greater than the expansion of the bar, then the number of positions per lawyer will decrease unless lawyers come to occupy a larger share of the available positions. As a measure of change in the number of such positions in the Chicago area, we have counted the number of associations listed in the Encyclopedia of Associations in 1975 and 1995.<sup>18</sup> We found that, while the total number of associations with Illinois addresses increased by 37% from 1975 to 1995, the number of associations with Chicago addresses actually decreased by 7% during that period.<sup>19</sup> Thus, the number of Chicago area associations in which lawyers might have held leadership positions certainly appears, by this measure, to have lagged far behind the growth of the bar. Nonetheless, our best estimate is that more Chicago lawyers held leadership positions in 1995 than in 1975, since the percentage of leaders in our samples decreased by less than half from 1975 to 1995 while the number of lawyers approximately doubled. On the other hand, the number of leadership positions per lawyer declined by somewhat more than half, so we would estimate that the total number of leadership positions held by Chicago lawyers may have decreased, but not much, during that period. We should also note that the rapid growth of the bar between 1975 and 1995 created a younger age profile in the profession. In 1975, 40.4% of the

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<sup>17</sup> The first year that “official” counts of lawyers became available from the Illinois Attorney Registration and Disciplinary Commission (ARDC) was 1976. According to those reports, the number of lawyers in Cook County increased from 19,072 in 1976 to 36,158 in 1995. Cook County includes some suburbs as well as the city of Chicago. Unfortunately, the ARDC data are not disaggregated below the county level—i.e., they do not give a separate count for the city. To examine the division between Chicago and suburban Cook county, therefore, we must use the *Martindale-Hubbell Lawyers Directory* compilation, which is less inclusive than the ARDC register. Clara Carson of the American Bar Foundation, who now compiles the Lawyer Statistical Report using Martindale-Hubbell data, informs us that those data listed 27,649 lawyers with Chicago addresses in 1995. The best estimate is that there were about 6,000 lawyers with offices in the Cook County suburbs in 1995, leaving a total of approximately 30,000 in the city.

<sup>18</sup> Margaret Fisk, ed., Encyclopedia of Associations, 9<sup>th</sup> Edition (Gale Research Co., Detroit, 1975); Carol A. Schwartz and Rebecca L. Turner, eds., Encyclopedia of Associations, 29<sup>th</sup> Edition (Gale Research Inc., Detroit and Washington, D.C., 1995).

<sup>19</sup> The number of associations with Illinois addresses increased from 1102 to 1512, but the number with Chicago addresses declined from 722 to 672. 1975 edition, Vol. 2, “Geographic Index” at 94-123; 1995 edition, Vol. 2, “Geographic Index” at 164-201.

respondents were over age 45; in 1995, only 32.6% were.<sup>20</sup> Since younger lawyers are less likely to hold leadership positions than are older ones, this change in the age distribution within the profession also contributes to the decrease in leadership rates in the 1995 sample data.<sup>21</sup> Moreover, other characteristics that are associated with higher leadership rates were in shorter supply in the 1995 bar. These include education at elite law schools and privileged social origins. These may also account for some of the decline in the rate. We will revisit this point below.

### Correlates of Overall Participation

Several variables appear to be associated with the likelihood that a respondent will have a high or low activity rate. In 1995, for example, in the two lowest annual income categories (those below \$50,000) only 63% and 68% of the respondents were either active or leaders in voluntary associations, while the comparable percentage in the highest income category (\$175,000 or more) was 83%.<sup>22</sup> With these cross-sectional data, we cannot be certain which way the causal arrow points. It is possible that winning big verdicts or earning big fees attracts notice, which in turn brings invitations to accept a role in associations, but it is also possible, of

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<sup>20</sup> Among respondents to the 1975 survey, the mean age was 44.5; in 1995, it was 41.9, a significant difference. T-test for equality of means = 4.13,  $p < .001$  with a two-tailed test. For the numbers of respondents in each of four age categories, see note 41.

<sup>21</sup>  $\chi^2$  for the cross-tabulation of the age categories and the number of respondents holding at least one leadership position is 27.6 in 1975 and 25.9 in 1995, both significant at .001. Similarly, analysis of variance in the total number of leadership positions held across the age categories produces F statistics of 8.2 in 1975 and 11.1 in 1995, both significant at .001.

In the oldest age category, the percentage of respondents holding at least one leadership position is slightly higher in 1995 than in 1975 (38.9% vs. 37.1%). In all of the other age categories, however, it is lower in 1995 than in 1975.

To assess the effect of the change in the age distribution on the activity and leadership rates, we computed OLS multiple regression equations with and without controlling for age. We found that the beta for the decrease from 1975 to 1995 in leadership positions becomes less strong when age is controlled (from -.41 without age control to -.37 with age control), but it remains significant at .001. The increase in the activity rate from 1975 to 1995, however, becomes even stronger when the equation controls for age (the beta increases from .37 to .46). Again, the 1975 to 1995 change is significant at .001 both with and without the control. Thus, if one does not take into account the difference in the age distribution at the two times, the decrease in leadership is exaggerated and the increase in activity is underemphasized, but age does not fully account for the observed rate changes.

<sup>22</sup> Across 6 income categories,  $\chi^2 = 11.6$ ,  $p < .05$ .

course, that contacts acquired through active participation in these organizations enhance one's opportunities to be retained by lucrative clients.

As we might expect, there is also an age effect, but it is primarily a difference between the youngest age category (under 35), where 60% of respondents are active, and the other three categories, where the comparable percentages fall in the narrow range of 77% to 78%.<sup>23</sup> Thus, once one gets beyond 35, aging no longer appears to have an effect on the 1995 activity rate.

If we examine religious affiliation, we see that Type I Protestants (Episcopalians, Presbyterians, and Congregationalists - - a category intended to identify more socially-elite denominations) have the highest activity rate (84%), while the rate of Type II Protestants (all other Protestant denominations) is the same as that of Catholics (75%) and similar to that of Jews (72%), but the biggest difference is the very low activity rate of nonreligious lawyers (59%).<sup>24</sup> Since the nonreligious are unlikely to participate in any religious organizations, this might depress their overall activity rate (although they could, of course, substitute other sorts of activities). If we exclude religious organizations from the analysis, however, we find that the participation rate of nonreligious respondents is still significantly lower than that of the other categories.<sup>25</sup>

When we analyze differences in activity rates across the various practice settings, we find corporate house counsel at the high end (82%), and retired or unemployed lawyers (58%), municipal government lawyers (59%), and public defenders/legal services lawyers (44%) at the bottom. Respondents in firms of 300 or more lawyers have a somewhat below average activity rate (66%), while solo practitioners have a rate that is a little above average (75%).<sup>26</sup> There was no statistically significant difference between men (71%) and women (75%) in their rates of activation.<sup>27</sup>

In 1975, although the overall activity rate is somewhat lower, the pattern of differences associated with these variables is quite similar. The activity rates of lawyers in the two lowest

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<sup>23</sup> Across 4 age categories,  $x^2 = 25.7$ ,  $p < .001$ .

<sup>24</sup> Across 5 religion categories,  $x^2 = 19.4$ ,  $p < .001$ .

<sup>25</sup> Religious respondents = 70% activity rate in secular organizations, nonreligious respondents = 57%;  $x^2 = 7.9$ ,  $p < .005$ .

<sup>26</sup> Across 14 practice setting categories,  $x^2 = 22.8$ ,  $p < .05$ .

<sup>27</sup>  $x^2 = 1.4$ ,  $p > .2$ .

income categories (46% and 40%)<sup>28</sup> were markedly lower than those of lawyers in the two highest income categories (72% and 71%),<sup>29</sup> while the intermediate income categories<sup>30</sup> had intermediate rates (60% and 68%).<sup>31</sup> As in 1995, the big age difference in the activity rates was between lawyers in the youngest category (under 35, rate = 47%) and those in the three older categories (35 to 45 = 68%, 46 to 65 = 65%, and over 65 = 63%).<sup>32</sup> Unlike 1995, however, in 1975 Catholics and Jews had much lower activity rates (59% each) than did the two types of Protestants (73% and 74%). Thus, with the passage of time, the extent of participation in voluntary associations by Catholics and Jews became more similar to that of Protestants. Nonreligious respondents had by far the lowest activity rate (40%) in 1975, as in the second survey, and the difference between religious and nonreligious lawyers was significant even when religious organizations were omitted, as in the 1995 data.<sup>33</sup> At the earlier time, practice setting was not associated with statistically significant differences in activity rates, but corporate house counsel had one of the higher rates (64%), while government lawyers had one of the lowest (50%). Unlike 1995, however, there was a statistically significant association in 1975 between the category of law school attended and the activity rate.<sup>34</sup> Of lawyers who had gone to “elite” law schools, 70% were active or leaders in voluntary associations, while the other law school categories had rates of 60% to 55%.<sup>35</sup> As in 1995, the difference in the activity rates of men (60%) and women (50%) was not statistically significant.<sup>36</sup>

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28 Under \$15,000 (N=61) and \$15,000 to \$19,999 (N=120).

29 \$40,000 to \$59,999 (N=130) and \$60,000 and over (N=122).

30 \$20,000 to \$29,999 (N=171) and \$30,000 to \$39,999 (N=120).

31 Across 6 income categories,  $\chi^2=40.8$ ,  $p < .01$ .

32 Across 4 age categories,  $\chi^2=24.5$ ,  $p < .001$ .

33  $\chi^2=24.1$ ,  $p < .001$ .

34 Across 4 law school categories,  $\chi^2=8.2$ ,  $p < .05$ .

35 <sup>35</sup> The elite category includes the University of Chicago, Columbia, Harvard, Michigan, Stanford, and Yale. The “prestige” category includes Berkeley, Cornell, Georgetown, Northwestern, NYU, Pennsylvania, and Virginia. The “regional” category includes all of the remaining law schools of the Big Ten Conference universities, Notre Dame, and several other schools. The “local” category includes Chicago Kent, DePaul, Loyola, and John Marshall, all located in Chicago.

36 Note that there were only 30 women among the 777 respondents to the 1975 survey.

### Participation Rates by Type of Organization

The category of organizations in which the largest percentage of respondents were active in 1995 is religious organizations (34% of respondents), followed by dining and athletic clubs (26%), civic organizations (25%), and educational organizations (23%). By contrast, only one percent of the respondents were active in veterans organizations, 3% in fraternal organizations, 7% in social clubs, 8% in ethnic organizations, and 10% in fitness clubs. Activity in business and political organizations fell between these extremes, the former attracting 18% and the latter 15% of the respondents. (See Table 1.) The categories that show the largest increases in rates of activity from 1975 to 1995 are religious organizations and educational organizations. The finding regarding educational organizations may be problematic, however, because that category was used as a specific stimulus in 1995 and not in 1975. Activity rates appear to be relatively stable in business, political, and ethnic organizations, and in dining and athletic clubs, while fraternal and veterans organizations show a decline in activity.<sup>37</sup> Thus, the increased pressure on lawyers to maximize profits does not appear to have had the effect of increasing their rates of participation in business organizations at the expense of religious, civic, and educational activities. Indeed, the latter (along with dining and athletic clubs) have the highest 1995 participation rates. Of the 788 respondents to the 1995 survey, only 54 (7%) were active in dining and athletic clubs or in fitness clubs and in no other type of organization. Thus, most Chicago lawyers were active in organizations that have a broader community role.<sup>38</sup>

If we examine the specific associations that attract the participation of the largest number of respondents in 1975 and in 1995, we find that several organizations appear on both lists. These include the Democratic Party and three downtown, traditional, historically-men's clubs (the University Club, the Union League Club, and the Chicago Athletic Association). In 1995, two additional dining clubs appear among the organizations in which ten or more respondents report that they are active or leaders -- the Standard Club (historically, and still predominately, a Jewish

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<sup>37</sup> The large number of World War II veterans, some of whom were educated on the GI Bill, was largely depleted by age and mortality by 1995.

<sup>38</sup> Note that some of the traditional men's clubs do engage in public service or civic reform activities. The Union League Club of Chicago, for example, has been active in the movement to replace elected with appointed judges and it lobbied (successfully) for the construction of a new Chicago public library building. It is also engaged in "school reform" and a number of other civic and legislative issues; see "State of the Union," the Annual Report of the Union League Club, June 1999, at 27-28, and June 1998 at 27-28).

men's club) and the Monroe Club (a luncheon club located on an upper floor of the Harris Bank building). Moreover, the 1995 list of popular activities also includes three "fitness" or exercise clubs -- the Chicago Health Clubs, the Lake Shore Athletic Club, and the East Bank Club (the last of which is more expensive than the other two, but membership in these three "clubs" is less exclusive than is the case in the traditional men's clubs). Thus, in 1995 dining and exercise clubs predominate among the organizations that engage the activity of ten or more respondents. The only organizations that command a comparable level of participation are the Democratic Party and the Catholic church. In 1975, by contrast, the list of most popular organizations (at the active or leader level of participation) includes B'nai B'rith, the Masons, the Knights of Columbus, the YMCA, and the American Legion.

Thus, the organizations that were most popular among Chicago lawyers in 1995 have a somewhat different character than did the popular choices in 1975. Organizations promoting ethno-religious values and solidarity have been replaced by open-membership exercise facilities. The decline in activity in B'nai B'rith, the Masons, and the Knights of Columbus reflects the declining membership of fraternal and ethnic organizations, generally.<sup>39</sup> Dining clubs, however, have remained popular -- the constant in these data, obviously, is that lawyers like to eat.<sup>40</sup> Given this, one might interpret the participation in fitness clubs as a rational countervailing effort at self-preservation, but it appears from our data that the eating and the exercise are pursued by different sets of lawyers.<sup>41</sup> Both are popular, but in different circles.

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<sup>39</sup> In contrast, religious organizations have burgeoned. Most religious organizations do not appear among the most popular choices, however, because any individual congregation or affiliated organization is not large enough to involve a substantial percentage of the overall bar. Some respondents reported "Catholic Church" as an organization, but most reported individual congregations.

<sup>40</sup> Thus confirming Calvin Trillin's observation: "The one generalization that it may be safe to make about lawyers -- except, of course, for the statistically incontrovertible one that this country has quite a few more of them than it has any need for--is that the profession includes a large number of serious eaters ." The New Yorker, 1977.

<sup>41</sup> Of the 788 respondents, 207 of whom were active in dining clubs (including country clubs) and 79 of whom were active in fitness clubs, only 13 were active in both. Given the probabilities of activity in these categories, this amount of overlap is less than two-thirds of that we would expect if the distribution were random. Thus, it appears that active members of one tend to avoid the other.

### Correlates of Participation by Organization Type

In analyzing the relationships between characteristics of the respondents and their rates of activity in the various types of organizations, we found few differences between men and women. The only categories of organizations in which there were statistically significant gender differences in 1995 are dining and athletic clubs and social clubs -- males have a higher rate of activity (30%) than females (18%) in the dining and athletic club category, while the opposite is true of social clubs (females = 11%; males = 6%). Age is associated with significant differences in the activity rates in several of the categories, however, and those differences are extraordinarily orderly. In each of the categories in which there are significant age differences -- dining clubs, and business, political, educational, civic, and fraternal organizations -- there is a steady increase in the activity rates across the four age categories used in the analysis.<sup>42</sup> Rates of activity also increase generally with the income level of the respondents. (There is, of course, a significant correlation between income and age.<sup>43</sup>) Of the organizational categories where income differences are statistically significant, the highest activity rate always occurs in either the highest or the next-to-highest income category<sup>44</sup> and the lowest activity rate always occurs in either the lowest or next-to-lowest income group. In several types of organizations, however, the activity rate is higher in the lowest income group than in the next income level, perhaps because some retired lawyers fall in the lowest income category.

The religious affiliations of the respondents are associated with significant differences in their rates of activity in four categories of organizations -- dining and athletic clubs, and religious, educational, and ethnic organizations. For this analysis, the respondents were again separated into five religion categories -- Protestant I (Episcopalian, Presbyterian, and Congregationalist), Protestant II (all other denominations), Catholic, Jewish, and nonreligious.<sup>45</sup>

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<sup>42</sup> The age groups are under 35 (N=239), 35 to 45 (N=292), 46 to 65 (N=221), and over 65 (N=36). The veterans organization category was dropped from these analyses because only 9 respondents to the 1995 survey reported activity in such organizations.

<sup>43</sup> The bivariate Pearson correlation between income and age in 1995 is .298 ( $p < .001$ ). In the 1975 data, it is .271 ( $p < .001$ ).

<sup>44</sup> The income categories are less than \$20,000 (N=54), \$20,000 to \$49,999 (N=131), \$50,000 to \$79,999 (N=185), \$80,000 to \$99,999 (N=96), \$100,000 to \$174,999 (N=144), and \$175,000 or more (N=115).

<sup>45</sup> The numbers of respondents in the five categories are, respectively, 92, 109, 255, 195, and 128.

In educational organizations, Type I Protestants have the highest activity rate (33%). Type II Protestants (28%) and Jews (27%) are next in the rank order. The nonreligious have the lowest activity rate (16%) -- indeed, nonreligious respondents have relatively low rates of activity in most of the categories of organizations. In dining and athletic clubs, Type I Protestants again report the highest rates of activity (42%) -- but Type II Protestants have a much more moderate rate (25%), while Jews have the second highest activity rate (35%), Catholics have the lowest rate (17%), and nonreligious respondents have the next lowest (22%). In religious organizations, Type II Protestants have the highest activity rate (47%), followed closely by Type I Protestants (46%). The lowest rate of activity in such organizations occurs (not surprisingly) among nonreligious lawyers (2%). In organizations of persons of a particular ethnicity, the pattern is quite different from that observed thus far -- Type I Protestants have the lowest activity rate (2%), while Jews have the highest rate (14%) and Catholics have the next highest (9%).

For these analyses (as well as others), the law schools attended by the respondents were divided into four categories -- elite, prestige, regional, and local schools.<sup>46</sup> This measure of educational background is associated with significant differences in the activity rates in four of the organization types -- dining and athletic clubs, fitness clubs, and educational and civic organizations. In three of those kinds of organizations -- dining clubs, and civic and educational organizations -- graduates of elite law schools have the highest activity rates. In two of those three, dining clubs and educational organizations, graduates of local law schools have the lowest activity rates. In the third, civic organizations, regional school graduates are the least likely to be active (perhaps because they have fewer connections to the locality). In fitness clubs, the pattern is the opposite. Graduates of elite schools have the lowest rate (3%), while regional school graduates have the highest (14%) and local school graduates have the next highest (11%).

The contexts within which the respondents practice were divided into seven categories -- solo practice, small firms (less than 40 lawyers), medium-sized firms (40 to 199 lawyers), large firms (200 or more lawyers), government, internal (house) counsel, and a category consisting of persons in nonlegal jobs, retired and unemployed lawyers, and a few law professors.<sup>47</sup> These practice settings were associated with differences in the activity rates in only two types of

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<sup>46</sup> See note 35.

organizations -- dining and athletic clubs and business organizations. Lawyers who work in large law firms had the highest activity rates in dining clubs (36%), while government lawyers were least likely to be active in them (7%). In business organizations, lawyers in government again had the lowest activity rate (9%), while house counsel had the highest rate (32%), and respondents who were in nonlegal jobs had the next highest (28%).

The reader will notice that these variables are more often associated with differential activity rates in some types of organizations than in others. Statistically significant differences are especially likely, we find, in the dining clubs category. This reflects the general tendency in these data for the rates of activity to be associated with social hierarchy. Lawyers who possess socially-advantaged characteristics -- lawyers who are older, have higher incomes, are Protestants, and who attended elite law schools--are more likely to be active in most (but not all) types of organizations. In ethnic organizations and fitness clubs, however, such lawyers have low participation rates, suggesting that those organizations do not rank high in the social hierarchy. Whether privileged lawyers have higher rates of activity in civic and educational organizations because of their sense of noblesse oblige, because their economic surplus permits them to devote uncompensated effort to these causes, or because more opportunities for such activity are open to them<sup>48</sup> cannot be resolved with these data.

In many respects, the patterns of activation in 1975 were similar to those in 1995. That is, lawyers who were older, had higher incomes, were Protestants, or had attended elite law schools had higher rates of activity in most kinds of organizations. The most striking divergence between 1975 and 1995, however, is that in 1975 the contexts within which the lawyers practiced were associated with activity rates in a broader range of organizations than was the case in 1995. In 1975, the different practice settings had significantly differing rates of activity in dining clubs and in business, civic, ethnic, and fraternal organizations. The pattern then, as more recently, was that the respective extremes of the social hierarchy within the bar were associated with the highest and lowest rates. That is, lawyers in large firms had the highest activity rates in dining

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<sup>47</sup> The number of respondents in each of those categories, respectively, is 105, 198, 83, 132, 75, 79, and 89. Judges and judicial clerks (n = 22) were excluded from these analyses. Public defenders and legal services lawyers were included in the government category.

<sup>48</sup> Organizations may perceive that such persons possess special competence, or they may wish to draw on the social power held by privileged persons.

clubs, while lawyers working in government had the lowest.<sup>49</sup> In business organizations, house counsel and lawyers working in nonlegal jobs had the highest activity rates, as in 1995, and government lawyers again had the lowest rate. Fraternal organizations and organizations of persons with a shared ethnic or nationality identification reverse this hierarchy -- respondents in large firms had the lowest rates of activity in such organizations in 1975, while solo practitioners had the highest rates. It may be that solo practitioners found these organizations useful for making contact with potential clients or with lawyers who were sources of client referrals. It is important to note, however, that we did not find significant differences in these categories in 1995. In general, it appears that the contexts within which law is practiced were less salient in structuring organizational activity rates in the 1990s than they were at the time of the earlier survey, perhaps reflecting some diminution in the strength or clarity of the social hierarchy within the bar over the two decades.

To make these findings more concrete, let us examine a few specific examples drawn from the 1995 interviews. The two respondents reporting the most extensive participation in voluntary associations were both white, male, senior partners in major downtown firms, and both had high incomes. One was 59 years old, the other was 65. Both were Episcopalians. One did undergraduate work at the University of Chicago and then law school at Yale, while the other went to Yale first and then the University of Michigan Law School. One specialized in corporate litigation and the other did some tax and antitrust defense work as well as more general corporate litigation. One reported activity in the Episcopal Church, the Republican National Committee, three country clubs, two traditional, downtown “men’s clubs,” the boards of two private secondary schools, and the board of a major museum (of which he had formerly been the chairman). The other reported activity in the Democratic Party of Cook County, five downtown social clubs, his law school’s alumni association, two civic organizations, and four major cultural and arts institutions. These are, of course, quite exceptional cases. Another respondent with a high level of activity presents a different profile: a solo practitioner with a relatively low income, age 46, he attended De Paul Law School, represented individuals and a few small businesses, and did primarily criminal defense, consumer bankruptcy, landlord/tenant, probate, and “general family practice.” He reported activity as an officer of an independent political organization, an

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<sup>49</sup> In 1975, “large firms” were defined as those with 30 or more lawyers, while “small firms” were defined as those with fewer than 10 lawyers.

adviser to a Hispanic community group, past-president of the local Kiwanis club, a member of the local public school council, a member of a school reform organization, and a member of a Methodist congregation. Another example is a practitioner in a small firm, age 43, who attended Chicago Kent Law School, had a moderate income, and reported doing a mixture of personal and business litigation, including criminal defense, probate, some personal injury plaintiffs' work, and residential real estate transactions. He said that 25% of his clients were businesses and that 90% of those businesses were small. His activities were in his parish of the Catholic church, the Holy Name Society (of which he had been an officer), the Democratic Party ward organization, the nominating committee of his children's school, an organization assisting the disabled, and the Irish Fellowship Club. While the character of the patterns of participation of these respondents differ, all of them had unusually high levels of activity. The following cases are more typical: A woman in solo practice, age 32, a University of Florida Law School graduate with a moderately high income, did litigation on behalf of individuals, including some criminal defense and civil rights work. She reported that about half of the persons she represented were unemployed. Her activities were the East Bank Club, the Jewish United Fund, and service as a coach for the trial advocacy team at a local law school. A lawyer practicing in a small firm, male, age 41, a DePaul Law School graduate, had a low-to-moderate income and did both personal client and business litigation. He reported that 60% of his clients were businesses, mostly small businesses. He was active in two trade associations and in the Chicago Health Clubs and the Monroe Club. A house counsel working in the trust department of a bank, male, age 52, a graduate of Duke Law School, had a moderately high income. He did estate planning. He reported that he was active in the United Church of Christ (Congregational), a business organization, the local public school caucus in his suburb, and as a member of the board of a community soccer club. A house counsel of a professional association, female, age 39, had graduated from DePaul and had a low-to-moderate income. She did general corporate and securities work for her employer. She reported activity in two business organizations, in a "citizens council" in her suburb, and on the board of her son's swimming team.

### Leaders and Joiners

There were some interesting changes from 1975 to 1995 in the kinds of organizations in which lawyers were most likely to hold leadership positions. While keeping in mind that there

was an overall decrease in the percentage of respondents reporting that they held leadership positions, let us examine the distribution of the leadership roles across the several types of organizations in 1975 and 1995.

In both 1975 and 1995, the largest percentage of leadership was devoted to civic organizations, and those organizations also had the largest increase in lawyer leadership over the two decades. Of the leadership positions held by lawyers in any sort of organization, 27% were positions in civic organizations in 1975, and by 1995 this had increased very substantially to 39%. The other categories with substantial increases were educational organizations (which increased from 9% to 15% of leadership positions), and religious organizations (12% *vs.* 16%). The biggest decrease occurs in the dining and athletic club category, where the percentage of the total number of leadership positions reported declines from 9% in 1975 to only 1% in 1995. Other decreases occur in political organizations (from 11% to 6%), fraternal organizations (6% *vs.* 1%), and ethnic organizations (5% *vs.* 4%). The percentage of leadership positions devoted to business organizations is constant across the two periods -- 13% at each time. Thus, although the percentage of Chicago lawyers reporting leadership roles decreased from 1975 to 1995 (perhaps due to the ecological constraints discussed above), lawyers who had such roles in 1995 were more likely than were those in 1975 to be leaders of civic, educational, or religious organizations -- arguably, organizations with a broader, more community-oriented character -- and less likely to be leading social, political, or fraternal activities.

It may be instructive to give particular attention to those lawyers who take the most active roles in the types of organizations that are more likely to take positions on public policy issues or to be concerned with social reform. For this purpose, we will define such organizations as those in the religious, business, civic, political, and educational categories. We have already analyzed characteristics of the lawyers that were associated with high or low rates of activity in voluntary associations in general and in associations of particular kinds, but do the lawyers who are especially likely to be leaders in the more community-oriented organizations share any set of characteristics? To address this question, we first constructed a participation index that gave weight both to the intensity of the activity in these sorts of organizations and to the number of such organizations in which the lawyer was active. We found that, if we gave the respondent two points for each organization in which he or she was a leader and one point for each in which

he or she was active, then only a fifth of respondents had a score of three or more on this index. That is, by being a leader in one such organization and an active participant in one other, or by being an active participant in three such organizations, the respondent would rank in the top 20% of the sample. This was true in both 1975 and 1995. If we then analyze the characteristics of the lawyers who rank in this top fifth, we find that those who have higher incomes, who work in non-legal jobs or as corporate house counsel, who are older (but not too old),<sup>50</sup> and who are Protestants are more likely to participate in community-oriented organizations to this degree in one or both of the years. Lawyers who work for government, are young, have low incomes, and are not religious are least likely to be in this most active group.

If we examine the scores on this participation index when it is computed across the full range of voluntary associations, we find that there is a larger number of respondents with scores at the high end of the distribution in 1975 than in 1995 -- e.g., 21 respondents with index scores of 12 or more in 1975 vs. 10 respondents in 1995 (see Table 2).<sup>51</sup> This finding may help to explain why critics of the legal profession perceive lower rates of activity in recent years. It is possible that these critics focus primarily on the most active lawyers, on those who are leaders in several organizations. But note that such lawyers amount to a very small percentage of the total bar at both points in time -- only 2.7% of the lawyers in 1975 and 1.3% in 1995 have scores of 12 or more. Thus, it may be that the perception of a decrease in the public service activities of lawyers is based on a real change, but a change affecting only a small number of lawyers.

Moreover, this change may be not so much a change in lawyers' behavior as a change in their characteristics. Given the doubling of the size of the Chicago bar from 1975 to 1995, some attributes became more rare within the profession. Long experience is one of those. As noted above, the abundant number of new lawyers meant that there was a decrease in the percentage of lawyers over age 45, from 40.4% of the bar in 1975 to 32.6% in 1995. We gather acquaintances and connections over the course of our lives, and such contacts open a greater number of options for activity and tend to lead to invitations to accept leadership roles. Thus, the potential for

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<sup>50</sup> In both 1975 and 1995, we find that lawyers who are under 35 years old have the lowest percentage ranking in the top fifth (12% in each year), and that the percentages then increase in an orderly fashion through the 46 to 65 age bracket (26% in 1975; 29% in 1995), and decline in the oldest category, but only very slightly in 1995 (19% in 1975; 28% in 1995).

leadership is substantially greater among older lawyers, which are now a smaller percentage of the bar. Moreover, because the number of lawyers produced by the “elite” law schools increased relatively little while the bar was doubling in size, the percentage of Chicago lawyers with elite school credentials decreased from 20.2% in 1975 to 13.2% in 1995. Thus, again, an attribute that tends to enhance the likelihood of selection for positions of leadership became more scarce.

Similarly, analysis of other findings from the 1975 and 1995 surveys has shown that acquaintance with selected sets of “notable” Chicago lawyers were also in shorter supply in 1995 than they had been in 1975, and that such connections are a form of social capital.<sup>52</sup> The findings were that, while 38% of Chicago lawyers lacked instrumental connections to the notables in 1975, fully 53% lacked any such connection in 1995 even though the list of notables used in the latter survey included 50% more names and was more diverse.<sup>53</sup> Thus, as the bar doubled in size, a smaller percentage of the rank-and-file members of the bar had ties to the elites of the profession.<sup>54</sup> This, too, suggests that in 1995 only a smaller segment of the profession possessed an asset likely to increase the probability that one will be tapped for a position of leadership. Like the changes in the age distribution and in the scarcity of elite school credentials, this was an almost inevitable consequence of the growth in the size of the bar rather than of a change in lawyers’ attitudes or motivations. Taken together with the likelihood that the supply of available leadership positions did not expand as rapidly as the number of lawyers (and may, in fact, have decreased), these changes suggest that Chicago lawyers may well have been as much (or as little) willing to serve in 1995 as they had been in 1975, but that fewer opportunities were open to them.

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<sup>51</sup> The larger number of respondents with scores of zero in the earlier survey may be attributable to the fact that “inactive member” was an available alternative response in 1975 but not in 1995.

<sup>52</sup> R. Sandefur, E. Laumann, and J. Heinz, “The Changing Value of Social Capital in an Expanding Social System,” in R. Leenders and S. Gabbay, eds., Corporate Social Capital and Liability, at 217 (Kluwer, Boston: 1999)

<sup>53</sup> Sandefur, Laumann and Heinz 1999, supra note 52, at 226; Heinz and Laumann 1997, supra note 7, at 448, note 7.

<sup>54</sup> Sandefur, Laumann and Heinz 1999, supra note 52, at 227.

## Conclusion

Comparison of the findings from the 1975 and 1995 surveys suggests that, with a few exceptions, the community roles of Chicago lawyers were little changed during the two decades. The percentage of respondents claiming to be either active or a leader in at least one voluntary association increased from 60% in 1975 to 72% in 1995, but some of that increase may be attributable to the fact that 1995 respondents were not given the option of indicating inactive membership. Certainly, the available evidence does not suggest that the community activities of lawyers have decreased in recent years. Moreover, lawyers' energies in 1995 appear to have been devoted to socially-concerned organizations, those with a reformist agenda, more often than had been the case in 1975. The types of organizations with the greatest increases in activity were religious, educational, and civic associations, while participation in fraternal and veterans organizations declined markedly. Rates of activity in business, political, and ethnic organizations, and in dining and athletic clubs, were relatively flat. Thus, it appears that lawyers' activities in 1995 were less likely to have been motivated by sociability or business considerations and more likely to have been undertaken for altruistic reasons or in pursuit of conceptions of duty.

A smaller percentage of the respondents held leadership positions in 1995 than in 1975 (20% vs. 33%), but the total number of lawyers in Chicago doubled during that period, while the number of leadership positions in the community appears to have remained relatively constant. The best estimates are that the absolute number of Chicago lawyers in leadership positions increased somewhat from 1975 to 1995 (because of the doubling of the size of the bar) while the number of such positions held by lawyers decreased modestly (because fewer lawyers occupied more than one leadership position), but that the overall contribution of the legal profession to community leadership did not change greatly during that period. As in the lower intensity activity, the areas where lawyer leadership increased were those where participation is more likely to be motivated by conceptions of societal obligation or moral duty--i.e., civic organizations, and religious and educational associations--while lawyers' rates of leadership in dining and athletic clubs and in political and fraternal organizations declined. Almost two-fifths of all the leadership positions held by lawyers in 1995 were in civic organizations, as compared to little more than a quarter in 1975 (but recall that the 1995 percentage is computed on a smaller base--i.e., a smaller total number of positions).

In both 1975 and 1995, a hierarchy of social prestige appears to have influenced the pattern of Chicago lawyers' community activities. Lawyers who have higher incomes, are older, are Protestant in religion, and who attended elite law schools were more likely to be active or leaders in most kinds of organizations, but not in ethnic or fraternal organizations or in fitness clubs. In the latter categories, the elites of the profession had relatively low rates, while government lawyers, solo practitioners, and graduates of local law schools predominated. Status hierarchies within the broader community--as well as social differences in taste, preference, or "culture"--clearly penetrate the bar.<sup>55</sup> Networks of relationships among lawyers and laymen lead some to serve on the ACLU board, while others serve on the finance committee of the Art Institute, and yet others serve as scoutmasters.<sup>56</sup> The structure of opportunity for selection to these different positions appears to be determined, in part, by characteristics of the lawyers that are associated with criteria of status or prestige prevalent in the society. In 1995, however, the effects of this social hierarchy on the allocation of lawyers' activities appear to be somewhat diminished. It may be that the criteria that are thought to determine social status have become less clearly defined in recent years.

One of the most striking differences between 1975 and 1995 is the very considerable increase in activity in religious organizations. This is probably a part of a more general resurgence of religion in American society. Several scholars have noted that the U.S. has extraordinarily high rates of church attendance and of religious affiliation, as compared to other industrialized nations, and that these rates are growing.<sup>57</sup> Of the respondents to the two surveys of Chicago lawyers, only 12.4% in 1975 and 14.5% in 1995 indicated that they had no religious affiliation. In the general U.S. population, about 92% of adults state a religious preference and 69% are estimated to be members of some religious congregation.<sup>58</sup> The extent of religious

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<sup>55</sup> Heinz and Laumann 1982, supra note 12, at 112, 354-55, 380.

<sup>56</sup> Ibid. at 280-89; Heinz and Laumann 1997, supra note 7, at 451-63.

<sup>57</sup> Roger Finke and Rodney Stark, The Churching of America, 1776-1990: Winners and Losers in our Religious Economy (Rutgers Univ. Press, 1992); Andrew M. Greeley, Religious Change in America (Harvard Univ. Press, 1989); George H. Gallup, Jr., Religion in America, 1996 (Princeton Religion Research Center, 1996); Daniel Olson, unpublished lecture, "The Changing Shape of American Religion," Indiana University (South Bend), Feb. 5, 1992.

<sup>58</sup> Gallup, supra note 57, at 40. Rodney Stark, using data from several sources, estimated that the church membership rate was about 62%; "Correcting Church Membership Rates: 1971 and 1980," 29 Review of Religious Research 69-77 (1987).

adherence among Chicago lawyers is, then, similar to that of other citizens.<sup>59</sup> But the activity in religious organizations reported by Chicago lawyers extends well beyond attendance at services. The several functions of religious organizations in contemporary American society have been aptly summarized by Stephen Warner:<sup>60</sup>

Although religion's public face is less visible and less unifying at the national level today than a generation ago, local religious communities. . . still make themselves felt to their neighbors. They promote charitable causes, from providing meals to elderly shut-ins to housing the homeless. They provide services, including resale shops, family counseling, after-school tutoring and courses in English as a second language. They host concerts and community meetings. They lobby city hall to collect the garbage, close down crack houses, and award development contracts to socially responsive builders.

Perhaps the most important way local religious communities--"congregations"--contribute to the social order is through the development of "social capital," the "network of skill and trust that makes civic life possible" [quoting Ammerman].

Thus, the increase in Chicago lawyers' activity in religious organizations probably has broad community significance.

But if our findings strongly suggest that the extent of the community activities of lawyers has changed relatively little in recent decades and that such change as there is tends to be in socially-approved directions, then why is it that the bar is so often accused of desertion from the ranks of public servants, of abandoning the ideal of the "lawyer-statesman"?<sup>61</sup> One of the first things to note about this criticism is that it almost always comes from within the profession. The most frequent, compelling, and sometimes strident critics of lawyers tend to be lawyers.<sup>62</sup> Such

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<sup>59</sup> Given that Chicago lawyers are urban, predominately male, and predominately white (all of which reduce the rate of adherence) the similarity is even greater; Gallup, *supra* note 57, at 41.

<sup>60</sup> R. Stephen Warner, "Changes in the Civic Role of Religion," in Neil J. Smelser and Jeffrey C. Alexander, eds., Diversity and Its Discontents: Cultural Conflict and Common Ground in Contemporary American Society, at 229, 237 (Princeton Univ. Press, 1999).

<sup>61</sup> See Anthony T. Kronman, The Lost Lawyer: Failing Ideals of the Legal Profession (Harvard Univ. Press, 1993).

<sup>62</sup> See, e.g., Mary Ann Glendon, A Nation Under Lawyers: How the Crisis in the Legal Profession is Transforming American Society (1994); Sol M. Linowitz, The Betrayed Profession: Lawyering at the End of the Twentieth Century (1994); Patrick J. Schiltz, "On Being

criticism carries special weight, of course, when it comes from the Chief Justice,<sup>63</sup> the Dean of the Yale Law School,<sup>64</sup> or bar leaders.<sup>65</sup>

When doctors call for other doctors to devote more time and energy to public service, what they are talking about is providing medical services to the poor. They are not calling upon their colleagues to serve on the board of the YMCA or the University of Chicago. This probably reflects a fundamental difference in the way that the two professions conceive of (or would like to conceive of) their societal roles. Doctors claim to be able to treat diseases and injuries; they do not claim to be omniscient problem-solvers. The elites of the legal profession, however, appear to believe that they and their fellows have a broader societal role, a duty to provide leadership and wise counsel in a very broad range of public and private activities. They call upon their colleagues to become “statesmen.” This is, of course, a self-serving claim. It asserts that lawyers have a special office--a special ability and, therefore, a special duty to lead society toward desirable social and political outcomes. In the view of the more enthusiastic advocates of the lawyer-statesman ideal, this competence is not attributable solely to lawyers’ expertise in matters of legal doctrine or to skill in negotiation or dispute resolution, but to attributes of character and, indeed, personality that are engendered through pursuit of the ideal:

The lawyer-statesman ideal is an ideal of character. It calls upon the lawyer who adopts it not just to acquire a set of intellectual skills, but to develop certain character traits as well. It engages his affects along with his intellect and forces him to feel as well as think in certain ways. The lawyer-statesman ideal poses a challenge to the whole person, and this helps to explain why it is capable of offering such deep personal meaning to those who view professional responsibilities in its light. . . .

[A]n understanding of even the most complex intellectual discipline cannot by itself convey the deeper satisfaction that comes with the attainment of a valued trait of character like practical wisdom. For this does more than increase a person’s

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a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession,” 52 Vanderbilt Law Review 871 (1999).

<sup>63</sup> Rehnquist 1994, supra note 1; Warren E. Burger, “The Decline of Professionalism,” 63 Fordham Law Review 949, 953, 958 (1995).

<sup>64</sup> Kronman, supra note 61.

<sup>65</sup> See e.g., John J. Yanas, “President’s Message,” New York State Bar Journal, May 1990, at 3.

knowledge of the world. It alters one's dispositional attitude toward it and thereby modifies one's personality in an essential way.<sup>66</sup>

These attributes will equip lawyers not only to serve in political office but to hold positions of leadership in schools, churches, charitable foundations, businesses, and civic organizations. In short, lawyers will be especially valuable folks to have in positions of social power. The "practical wisdom" of lawyers will produce better decisions than we could expect from persons who lack lawyers' advantages of training and character. (At least, this will be so if lawyers will choose to pursue the statesman role). This ideology, obviously, tends to enhance the prestige of the profession and to support lawyers' claims to positions of leadership. It is easy to see why the ideology would be popular with the elites of the profession. Even mere advocacy of the statesman ideal will, of course, tend to make the advocate appear statesmanlike.

We do not mean to suggest, however, that those who endorse the lawyer-statesman ideal are insincere. On the contrary, their altruistic motivation is (in many cases, at least) beyond doubt. But it is also true that a commitment to public service is likely to be all the more enthusiastic when it is consonant with self-interest.

So far as we can determine, the public service of Chicago lawyers has not waned in recent years. About three-quarters of the lawyers take an active role in a voluntary association or community organization of some kind. For some, this role is only in a dining club or a country club, but many more are active in religious, civic, and educational organizations. Leadership roles, to be sure, tend to be concentrated among the relatively few lawyers who have attributes that the profession and the broader community endow with prestige. A smaller percentage of Chicago lawyers now have such attributes and, thus, hold positions of leadership, but there is little evidence of unwillingness to assume these positions of honor.

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<sup>66</sup> Kronman, supra note 61, at 363-64.

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Table 2: Distribution of Community Participation Index \* 1975 and 1995.

<u>Points</u>	<u>Percent (N)</u>	
	<u>1975</u>	<u>1995</u>
0	40 (311)	27 (212)
1	15 (116)	17 (136)
2	12 (94)	16 (126)
3	6 (49)	13 (104)
4	8 (63)	10 (76)
5	4 (28)	6 (43)
6	5 (37)	4 (35)
7	4 (27)	2 (19)
8	2 (13)	2 (12)
9	1 (5)	1 (5)
10	1 (7)	1 (5)
11	1 (6)	1 (10)
12 or more	<u>3 (21)</u>	<u>1 (10)</u>
Totals **	102 (777)	101 (788)

\* Index scores reflect participation in only religious, business, civic, political, and educational organizations. Each active participation = 1 point; each leadership position = 2 points.

\*\* Totals not exactly 100% due to rounding error.

Table 1: Participation by Type of Organization, 1975 and 1995; Percent of Respondents

<u>Organization Type</u>	<u>1975, all membership *</u>	<u>1975, active &amp; leader</u>	<u>1995, active &amp; leader</u>
Religious	18	14	34
Dining and Athletic Clubs	40	27	26
Civic	28	21	25
Educational	12	9	23
Business	23	15	18
Political	22	13	15
Fitness Clubs	N/A	N/A	10
Ethnic	15	8	8
Social Club	N/A	N/A	7
Fraternal	23	9	3
Veterans	11	4	1

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\* includes "inactive"