

# Sociolegal Research, the Law School Survey of Student Engagement, and Studying Diversity in Judicial Clerkships

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## I. Introduction

In recent years, legal scholars have increasingly embraced the use of empirical research methods to study a variety of topics including,<sup>1</sup> of course, legal education and the profession.<sup>2</sup> Through the use of both quantitative and qualitative data, researchers have examined the changing demographics of law

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1. For more on the origins and development of the turn to empirically based legal scholarship, see generally Theodore Eisenberg, *The Origins, Nature, and Promise of Empirical Legal Studies and a Response to Concerns*, 2011 U. ILL. L. REV. 1713 (2011); Shari Seidman Diamond & Pam Mueller, *Empirical Legal Scholarship in Law Reviews*, 6 ANN. REV. L. & SOC. SO. 581 (2010).
2. For examples of empirical studies about legal education and the profession, see generally Neil W. Hamilton et al., *Empirical Evidence That Legal Education Can Foster Student Professionalism/Professional Formation to Become an Effective Lawyer*, 10 U. ST. THOMAS L.J. 11 (2012); James RP Ogloff et al., *More than Learning to think Like a Lawyer: The Empirical Research on Legal Education*, 34 CREIGHTON L. REV. 73 (2000); Bryant G. Garth & Joyce S. Sterling, *Diversity, Hierarchy, and Fit in Legal Careers: Insights from Fifteen Years of Qualitative Interviews*, 31 J. LEGAL ETHICS 123 (2018) (interrogating the evolving role of race, gender, and ethnicity in lawyers' careers). One of the classic empirical studies of the legal profession remains JOHN P. HEINZ & EDWARD O. LAUMANN, *CHICAGO LAWYERS: THE SOCIAL STRUCTURE OF THE BAR* (1982) (providing a

students and law faculty,<sup>3</sup> the financing of legal education,<sup>4</sup> and professional and social mobility within the broader legal profession,<sup>5</sup> just to name a few of the most robust current research streams.<sup>6</sup> Like all empirical projects, these studies rely on access to trustworthy raw data. For those who study law students as key subjects of sociolegal research, there may be no better source of reliable, empirical data on the breadth of the law school experience than

groundbreaking work on the character of the legal profession and the “two hemispheres” of the profession).

3. See, e.g., Swethaa S. Ballakrishnen & Carole Silver, *A New Minority? International JD Students in US Law Schools*, 44 LAW & SOC. INQUIRY 647 (2019) (demonstrating the importance of understanding the growing population of international JD students); Aaron N. Taylor, *Diversity as a Law School Survival Strategy*, Saint Louis U. Legal Studies (2015), <https://ssrn.com/abstract=2569847> (discussing how lower-tiered law schools have dealt with the declining enrollment by admitting more African American and Hispanic students); MEERA E. DEO, UNEQUAL PROFESSION: RACE AND GENDER IN LEGAL ACADEMIA (2019) (interrogating the notion of diversity and inclusivity among law faculty). For a recent analysis of law school enrollment trends, see Miranda Li, Phillip Yao & Goodwin Liu, *Who's Going to Law School? Trends in Law School Enrollment Since the Great Recession*, 54 U.C. DAVIS L. REV. 613 (2020).
4. Lewis Kornhauser & Richard Revesz, *Legal Education and Entry into the Legal Profession: the Role of Race, Gender, and Educational Debt*, 70 N.Y.U. L. REV. 829 (1995) (examining the structure of the legal profession and of the economics of legal education); Michael Simkovic & Frank McIntyre, *The Economic Value of a Law Degree*, 43 J. L. STUDIES 249 (2014); Stephen Daniels, *The Perennial (and Stubborn) Challenges of Affordability, Cost, and Access in Legal Education*, in POWER, LEGAL EDUCATION AND LAW SCHOOL CULTURES 126 (Meera E. Deo et al., eds., 2020) (providing a historical timeline of financing legal education and discussing how access has been eroded by challenges associated with tuition and debt); Christopher J. Ryan, Jr., *Paying for Law School: Law Student Loan Indebtedness and Career Choices*, 2021 U. ILL. L. REV. 97 (2021) (examining the negative externalities of student debt and surveying students to uncover their expected debt, career choices, and intentions to participate in a Public Service Loan Forgiveness program).
5. For studies discussing lawyers' professional mobility, see, e.g., Ronit Dinovitzer & Bryant G. Garth, *Lawyer Satisfaction in the Process of Structuring Legal Careers*, 41 LAW & SOC'Y REV. 1 (2007) (documenting lawyer satisfaction and the reproduction of social and professional hierarchies); Ronit Dinovitzer et al., *After the JD III: Third Results from a National Study of Legal Careers*, American Bar Foundation and NALP Foundation for Law Career Research and Education (2014). For recent studies using the *After the JD* data to interrogate this topic, see Robert L. Nelson et al., *Perceiving Discrimination: Race, Gender, and Sexual Orientation in the Legal Workplace*, 44 LAW & SOC. INQUIRY 1051 (2019) (investigating the perceived discrimination by race, gender, and sexual orientation in the legal profession); Ronit Dinovitzer & Bryant Garth, *The New Place of Corporate Law Firms in the Structuring of Elite Legal Careers*, 45 LAW & SOC. INQUIRY 339 (2020) (discussing the process of elite sorting by analyzing the career paths of lawyers and demonstrating that the lawyers able to earn an equity partnership are overwhelmingly white men and those with elite credentials).
6. For other empirical studies on legal education using qualitative and quantitative data, see, e.g., Ronit Dinovitzer et al., *Buyers' Remorse? An Empirical Assessment of the Desirability of a Lawyer Career*, 63 J. LEGAL EDUC. 211, 211–34 (2013) (discussing the value of law school by examining law school debt and starting salaries for law school graduates); ROBERT GRANFIELD, MAKING ELITE LAWYERS: VISIONS OF LAW AT HARVARD AND BEYOND (1992) (using qualitative method to explore the development of Harvard law students' legal consciousness and their employment decisions); ELIZABETH MERTZ, THE LANGUAGE OF LAW SCHOOL: LEARNING TO “THINK LIKE A LAWYER” (2007) (discussing the transformative impact of legal education and law school socialization on students' understanding of what it means to be a lawyer).

the Law School Survey of Student Engagement (LSSSE). Indeed, LSSSE provides a unique and in many ways unparalleled dataset on law student perceptions and experiences across both time and place. Simply put, LSSSE is a treasure trove of valuable information for scholars studying legal education and the profession, as well as for law school administrators seeking to learn more about the law student perspective.<sup>7</sup>

Many prominent research organizations, including the American Bar Foundation (ABF), have been using LSSSE data for many years to study numerous aspects of legal education. Throughout its long history, the ABF—a Chicago-based, independent, nonprofit research institute—has focused its work almost exclusively on long-term, in-depth, rigorous, empirical, and interdisciplinary projects about law, legal institutions, and legal processes. LSSSE data have been particularly useful for ABF projects about legal education and the profession. ABF scholars have been using LSSSE results and survey responses to explore issues ranging from the professional and academic development of law students;<sup>8</sup> to students' exposure to and use of quantitative, business, and financial information;<sup>9</sup> students' self-assessed professional identity and purpose;<sup>10</sup> and the patterns and changes in law student assessments of their schools.<sup>11</sup> As these examples indicate, LSSSE data is particularly salient for the type of long-term, deeply empirical research conducted at the ABF.

ABF researchers are not alone in using LSSSE data. Scholars in law schools, social science departments, and other research organizations around the world

7. In a recent LSSSE blog post, Dean Camille A. Nelson accurately referred to such use of LSSSE as “data-driven deaning,” *Guest Post Towards Data-Driving ‘Deaning,’ Law School Survey for Student Engagement*, <https://lssse.indiana.edu/blog/guest-post-towards-data-driven-deaning/>.
8. Carole Silver et al., *Gaining from the System: Lessons from the Law School Survey of Student Engagement about Student Development in Law School*, 10 U. ST. THOMAS L.J. 286, 286–316 (2012) (considering the factors that influence law students' assessment of their development professionally and academically during law school).
9. Carole Silver & Louis Rocconi, *Learning From and About the Numbers*, 5 J. LAW 53, 53–84 (2015) (showing that a substantial proportion of responding students recognize the importance of business concepts in law school, but also suggesting that law schools did not do enough to help students understand the language and structure of financial statements, and many students do not learn this elsewhere).
10. Carole Silver et al., *Unpacking the Apprenticeship of Professional Identity and Purpose: Insights from the Law School Survey of Student Engagement*, 17 J. LEG. WRITING INSTITUTE 373 (2011) (suggesting that law schools should acknowledge and embrace opportunities to teach to the larger lessons of professional identity).
11. David I.C. Thomson & Stephen Daniels, *If You Build It, They Will Come: What Students Say About Experiential Learning*, 13 FLA. A&M U.L. REV. 203 (2018); Stephen Daniels, *Be True to Your School: But True to Your Law School?*, *Law School Survey of Student Engagement* (Apr. 22, 2019), <https://lssse.indiana.edu/blog/guest-post-be-true-to-your-school-but-true-to-your-law-school/> (using LSSSE to explore patterns and changes in students' assessments of their respective schools).

have used the results of LSSSE survey and reports in their research.<sup>12</sup> In the process of celebrating LSSSE's fifteenth anniversary, this article examines how LSSSE remains a vital yet still underused resource. Like some of the other contributions to this special issue, this article's central aim is to showcase how long-term empirical and interdisciplinary research projects can benefit by engaging with LSSSE data and publications.

We proceed in three parts. In Part I, we identify and underscore what makes LSSSE unique and valuable for scholars studying legal education and the profession. In Part II, we describe in greater detail how empirical and interdisciplinary sociolegal research at the ABF and elsewhere has used LSSSE data. In Part III, we build on the first two parts to describe a nascent ABF research project on diversity, equity, and inclusion in the legal profession and education. This new study leverages LSSSE evidence to explore law student career preferences and expectations about judicial clerkships. Finally, we conclude by summarizing how this ABF project has benefited from access to LSSSE survey results and by offering an outlook for the next phases of our project on diversity and judicial clerkships.

## II. The Uniqueness of LSSSE Data

There are, to be sure, many organizations that collect data about legal education and law students. The American Bar Association, the National Association of Law Placement (NALP), the American Association of Law Schools, the Law School Admission Council (LSAC) and individual law schools all gather a tremendous amount of student information, from admissions statistics to law school performance to employment placement numbers.<sup>13</sup> Recently, organizations like LSAC have partnered with LSSSE to expand the use and dissemination of this important data, as Kellye Y. Testy's essay in this special issue explains.<sup>14</sup> In addition, several law schools have also

12. For other studies using LSSSE data, see, e.g., Aaron N. Taylor, *Robin Hood, in Reverse: How Law School Scholarships Compound Inequality*, 47 J.L. & EDUC. 41 (2018) [hereinafter Taylor, *Robin Hood*] (using LSSSE data to illustrate scholarship and debt trends); Aaron N. Taylor, *How the Law School Admission Process Marginalizes Black Aspiring Lawyers*, in POWER, LEGAL EDUCATION, AND LAW SCHOOL CULTURES 224 (Meera E. Deo et al., eds., 2020) (discussing marginalization and underrepresentation of Black law students and lawyers with scholarship-awarding trends and student loan debt data from LSSSE); Louis M. Rocconi et al., *Beyond the Numbers: An Examination of Diverse Interactions in Law School*, 12 J. DIVERSITY IN HIGHER EDUC. 27, 27-37 (2019) (using LSSSE data to explore the types of activities and student experiences that foster more frequent diverse interactions in legal education).
13. See, e.g., *Statistics*, ABA Section of Legal Education and Admissions to the Bar, [https://www.americanbar.org/groups/legal\\_education/resources/statistics/](https://www.americanbar.org/groups/legal_education/resources/statistics/); *Jobs & JDs: Employment and Salaries of New Graduates, Class of 2018*, NALP <https://www.nalp.org/productdetail/?productID=268>; AMERICAN ASS'N OF LAW SCHOOLS, BEFORE THE JD: UNDERGRADUATE VIEWS ON LAW SCHOOL (2018).
14. Kellye Y. Testy, *Writing Like a Lawyer: How Law Student Involvement Affects Self-Reported Gains in Writing Skills in Law School*, 69 J. LEGAL EDUC. 568 (2020).

followed LSSSE's lead by surveying their own students and analyzing their results against LSSSE information.<sup>15</sup>

LSSSE evidence and results both complement and surpass these other datasets in several ways. First, the scale and scope of LSSSE data about the student experience is unmatched. In 2019 alone, LSSSE gathered survey responses from roughly 18,000 law students from seventy law schools in the United States and Canada.<sup>16</sup> Second, LSSSE provides information not just about students, but information directly *from* students.<sup>17</sup> In LSSSE surveys, law students are not simply the objects of study; they are the human agents that provide unmediated information about the law student experience. Third, and perhaps most importantly, LSSSE researchers regularly distill the essence of their annual surveys into highly accessible and informative reports and publications that can assist both scholars and higher education administrators.<sup>18</sup>

In the fifteen years of its existence, LSSSE has collected responses from a broad cross section of students from a variety of law schools and countries. In the aggregate, LSSSE has collected over 350,000 responses from roughly 200 schools across the United States, Canada, and Australia.<sup>19</sup> What began in 2004 as a research project at the Indiana University Center for Postsecondary Research, as Patrick O'Day and George Kuh describe in their essay, has successfully evolved into the largest dataset of law student survey responses in existence.<sup>20</sup> LSSSE began as an extension of the National Survey of Student

15. See, e.g., Nelson, *supra* note 7 (indicating that LSSSE provides valuable insight into the student experience that help law schools better serve their students and access "areas that must be of importance to law schools"); Thompson & Daniels, *supra* note 11 (comparing the Denver law school survey with LSSSE data); *2014 Annual Results Looking Ahead: Assessment in Legal Education*, Law School Survey of Student Engagement, [https://lssse.indiana.edu/wp-content/uploads/2016/01/LSSSE\\_2014\\_AnnualReport.pdf](https://lssse.indiana.edu/wp-content/uploads/2016/01/LSSSE_2014_AnnualReport.pdf) (see especially the foreword and pages 16–17 about using LSSSE data to create context: "[s]ome law schools have combined their LSSSE data with information on bar passage, employment, and grades to learn more about the relationship between law school engagement and other outcomes"); Judith Welch Wegner, *Law School Assessment in the Context of Accreditation: Critical Questions, What We Know and Don't Know, and What We Should Do Next*, 67 J. LEGAL EDUC. 412 (2018) (see especially page 454 about using LSSSE data for institutional assessment and the benefit of adopting a multi-faceted approach).
16. See *2019 Annual Survey Results: The Cost of Women's Success*, Law School Survey of Student Engagement, <https://lssse.indiana.edu/wp-content/uploads/2015/12/LSSSE-AnnualSurvey-Gender-Final.pdf>.
17. Daniels, *supra* note 11.
18. *2019 Annual Survey Results*, *supra* note 16.
19. For general information about LSSSE, see *Who We Are*, Law School Survey of Student Engagement, <https://lssse.indiana.edu/who-we-are/>.
20. Patrick T. O'Day & George D. Kuh, *Assessing What Matters in Law School: The Law School Survey of Student Engagement*, 81 IND. L.J. 401 (2006); George D. Kuh & Patrick T. O'Day, *Whence Did They Come, LSSSE?*, 69 J. LEGAL EDUC. 402 (2020).

Engagement (NSSE), which has been surveying hundreds of students in four-year colleges and universities since 1999.<sup>21</sup> In essence, LSSSE does for law schools what NSSE has been doing for undergraduate institutions, namely, collecting and analyzing valuable information about the student experience.

LSSSE's annual survey results provide law schools and researchers with a unique comparative perspective on student views and perceptions. For law school administrators, LSSSE provides valuable information on how student attitudes at particular schools might correspond with or differ from peer schools and national and international averages. Likewise, because LSSSE provides longitudinal data, using nearly identical survey questions over time, consumers of LSSSE data can generally measure continuity and change in overall student perceptions and beliefs. Such evidence often constitutes the foundation of reliable, meaningful, and credible empirical inquiry. In short, the scale and scope of LSSSE data on the overall law student experience is unparalleled.

LSSSE data, moreover, goes straight to students as the source of information. As ABF Research Professor Stephen Daniels has aptly noted, LSSSE surveys "give students a voice."<sup>22</sup> Because students are the respondents, LSSSE surveys measure law student perceptions, experiences, and expectations. With a relatively high average response rate, the surveys reflect a representative sample of a broad cross section of the law student population.<sup>23</sup> The methodology LSSSE has used to construct its survey instrument is rigorously designed to capture several aspects of the educational experience. With the main focus on student engagement, the survey has four core topics: (1) learning to think like a lawyer; (2) student-faculty interaction; (3) student advising; and (4) law school environment.<sup>24</sup> By focusing on these four fundamental areas, LSSSE surveys examine the relationship between law schools and students' perceptions regarding their learning and development. And by identifying a wide range of activities associated with law school learning, the survey produces comprehensive information for researchers as well as law school administrators seeking to evaluate how students perceive their experiences.

In addition to administering and systematically collecting survey data, LSSSE also analyzes that information and provides an invaluable service by publishing highly accessible annual reports. These reports translate social science findings into lay terms. In the process, LSSSE researchers highlight particular themes and patterns about the law student experience based on

21. *Id.* at 406.

22. Daniels, *supra* note 11.

23. According to LSSSE, its response rates hover in the 50% range. E-mail from Chad Christensen to Shih-Chun Chien (Mar. 29, 2020).

24. See *Law School Survey of Student Engagement Executive Snapshot 2016*, Law School Survey of Student Engagement, <https://lssse.indiana.edu/wp-content/uploads/2015/12/LSSSE-2016-Executive-Snapshot-LSSSEville-Law.pdf>.

systematic reviews of survey results. Each year LSSSE provides valuable information about these trends and patterns as well as distinct aspects of student engagement by summarizing selected results in its annual reports. In recent years, annual reports have examined, among other significant topics, the challenges and opportunities faced by women law students;<sup>25</sup> the importance of relationships among faculty, staff, and fellow students;<sup>26</sup> and student career preferences and expectations.<sup>27</sup>

### III. Empirical, Sociolegal ABF Research

LSSSE data and reports are particularly useful for the type of empirical and interdisciplinary sociolegal research conducted at the ABF. Established in 1952 as an independent, nonpartisan, nonprofit corporation, the ABF is one of the world's leading research institutes for the study of law, legal institutions, and legal processes. As noted empirical legal scholar Ted Eisenberg once observed, the ABF is among a small group of "prominent organizations, not part of large, formal educational institutions, [that] have been doing law-related empirical work for decades."<sup>28</sup> The ABF's mission, in sum, is "to expand knowledge and advance justice through innovative, interdisciplinary, and rigorous *empirical* research on law."<sup>29</sup>

LSSSE data complements the ABF's core research mission. To tackle serious *empirical* questions about the quality, value, and impact of legal education one must have access to reliable data—data about how students have perceived and responded to their law school experiences. In this sense, the breadth and depth of LSSSE surveys provide the type of dependable evidence that allows ABF researchers and other scholars to conduct in-depth analyses of law student engagement. Similarly, because LSSSE surveys have been replicated over time, the data allows for sophisticated longitudinal studies of law student experiences. Such studies can help researchers identify how law student engagement has changed or remained the same over time. Because the study of legal education has been a core research topic at the ABF for decades, LSSSE's historical evidence is particularly valuable for studying long-term trends and patterns in legal education.

25. 2019 Annual Survey Results, *supra* note 16.

26. 2018 Annual Survey Results, *Relationships Matter*, Law School Survey of Student Engagement, <https://lssse.indiana.edu/wp-content/uploads/2015/12/Relationships-Matter.pdf>.

27. 2017 Annual Survey Results, *Preferences & Expectations for Future Employment*, Law School Survey of Student Engagement, <https://lssse.indiana.edu/wp-content/uploads/2015/12/2017-Annual-Survey-Results.pdf>

28. Eisenberg, *supra* note 1, at 1715.

29. For more information about the ABF and its mission, see *Our Mission*, American Bar Foundation, <http://www.americanbarfoundation.org/about/mission.html> (emphasis added).

Among the ABF's three main areas of research, the one most closely connected to LSSSE is scholarship on learning and practicing law.<sup>30</sup> This category investigates conventional aspects of legal education and the profession, as well as innovations both in the way that law is taught and learned, and in the ways that legal professionals operate. The importance of diversity, equity, and inclusion cuts across nearly all ABF research projects, including this category. Projects encapsulate not only the demographic changes in law schools and the profession, but also the continuing challenges and opportunities of creating a more diverse, equitable, and inclusive legal academy and profession.

Within this research portfolio, several ABF researchers and other scholars are investigating a significant number of legal education topics. Stephen Daniels's recent study with David I.C. Thomson explores how curriculum reforms focusing on experiential learning have been received by students.<sup>31</sup> Elizabeth Mertz's ongoing in-depth research with Katherine Barnes on the work experience of diverse U.S. law professors studies the career satisfaction of post-tenure U.S. law professors of color and women professors.<sup>32</sup> Swetha S. Ballakrishnen and Carole Silver have been analyzing the experience of international students studying in the United States.<sup>33</sup> Christopher J. Ryan and Daniels have also been examining the many factors that influence the financing of legal education.<sup>34</sup> Each of these rigorous and sophisticated ABF empirical research projects is probing critical aspects of legal education—aspects that can be identified and analyzed with the type of data collected and administered by LSSSE. One new ABF research project that harnesses LSSSE data in this way is a study of diversity (or lack thereof) in judicial clerkships.

#### IV. ABF's Diversity and Judicial Clerkships Project

In 2019, the ABF launched a new research project (*Portrait Project 2.0*) that explores the experiences of Asian Americans in the legal profession. This project follows up on an earlier study (*A Portrait of Asian Americans in the Law*) led by the Honorable Goodwin Liu of the California Supreme Court in collaboration with Yale Law School and the National Asian Pacific American Bar Association.<sup>35</sup> The ABF-led *Portrait Project 2.0* delves more deeply into

30. The ABF's three core areas of research are: (1) learning and practicing law; (2) protecting rights and accessing justice; and (3) making and implementing law. For more on the ABF's research mission and examples of its research see the ABF website, American Bar Foundation, <http://www.americanbarfoundation.org/index.html>.
31. Thomson & Daniels, *supra* note 11.
32. Katherine Y. Barnes & Elizabeth Mertz, *Law School Climates: Job Satisfaction Among Tenured US Law Professors*, 43 *LAW & SOC. INQUIRY* 441 (2018).
33. Ballakrishnen & Silver, *supra* note 3.
34. Christopher J. Ryan, Jr., *Analyzing Law School Choice*, 2020 *ILL. L. REV.* 583 (2020); Daniels, *supra* note 4.
35. Eric Chung et al., *A Portrait of Asian Americans in the Law*, Yale Law School (July 18, 2017), <https://law.yale.edu/yls-today/news/portrait-asian-americans-law>. Justice Goodwin Liu is also a principal investigator in the new ABF project, *Portrait Project 2.0*.



the many challenges and opportunities facing the Asian American legal community. The project aims to understand the factors that shape the careers of Asian American and other diverse lawyers. One of the central goals of *Portrait Project 2.0* is to understand why Asian Americans, despite entering the legal profession in relatively large numbers, are not reaching the traditionally perceived upper echelons of the profession—from judicial clerks to law firm partners, top prosecutors and judges, law school deans, and nonprofit executives. While this study focuses primarily on Asian Americans, it more broadly seeks to shed further light on the promises and challenges of building a more diverse, equitable, and inclusive legal profession.

### *The Puzzle of Diversity in Judicial Clerkships*

*Portrait Project 2.0* is designed to proceed in several parts. The first phase examined the changing demographics of law school enrollment since the Great Recession, with a particular focus on the steep decline in Asian American law students and what that might mean for the future of a diverse legal profession.<sup>36</sup> The second phase investigates racial and gender diversity within judicial clerkships. More specifically, this nascent ABF clerkship study examines how and why certain underrepresented minority groups—Asian Americans, African Americans, and Latinxs<sup>37</sup>—and women law graduates have not obtained federal appeals court clerkships in proportion to their numbers at top law schools.<sup>38</sup> In this article, we begin our clerkship study by examining recent LSSSE information about student career preferences and expectations. Our goal is to develop an initial, foundational impression of how students at a variety of law schools across the country perceive clerkships.

As we know from the existing literature, judicial clerkships provide many benefits and are frequently seen as a gateway or preferred path to success in certain aspects of the broader profession.<sup>39</sup> Clerking offers a unique experience

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36. See generally Li et al., *supra* note 3.

37. We have limited our study to these underrepresented racial groups, but we acknowledge the urgent need for additional research on other groups not mentioned, particularly Native and Indigenous communities. There is an unfortunate dearth of data on these groups, which is why they are not included in our study. However, this is an incredibly rich area for future work and study, and one that we hope to explore in the near future.

38. It's important to note that federal appeals court clerkships are just a very small slice of all judicial clerkships. The decision to focus on federal appeals court clerkships is primarily due to a consideration of scale for this initial stage of the project and not a representation of the relative import of these kinds of clerkships to future legal careers. However, our hope is that by studying federal appeals court clerkships we can draw foundational insights that may aid future work on judicial clerkships more broadly.

39. See, e.g., *How Law School Applicants Can Boost Odds of a Clerkship*, U.S. NEWS (May 2018), <https://www.usnews.com/education/blogs/law-admissions-lowdown/articles/2018-05-28/how-law-school-applicants-can-boost-odds-of-a-clerkship> (discussing the various benefits of judicial clerkships); Pat K. Chew, *Asian Americans in the Legal Academy: An Empirical and Narrative Profile*, 3 *ASIAN L.J.* 7, 28-29 (1996) (finding that the percentage of Asian American law faculty who have had judicial clerkship experience is significantly higher than among faculty in general).

to learn about the judicial decision-making process, gain practical experience, and develop a mentoring relationship with a judge. Law firms frequently pay new associates lucrative bonuses for clerking. And some of the most prestigious clerkships may lead eventually to leadership roles within the profession, such as law firm partnership, academic positions, and judicial appointments. Yet these promising and prestigious launching pads for future professional success may often remain closed to law graduates of color and in some instances to women applicants. Learning more about the factors that can facilitate or frustrate the road to a clerkship may help us understand better the relationship among legal education, inequality, and the development of a diverse, equitable, and inclusive profession.<sup>40</sup>

Clerkship positions, especially at the federal level, are highly competitive.<sup>41</sup> The application and selection process is, to be sure, complex and nuanced.<sup>42</sup> For our ABF study, we have identified three critical inflection points in the pipeline for clerkships that may contribute to potential racial and gender disparities in judicial clerkships: (1) law student/applicant decisions based on perceptions, preferences, and ambient signals; (2) institutional support from law schools through faculty and staff engagement with the clerkship process; (3) and selection decisions made by judges. The first inflection point focuses on law student and applicant perceptions of clerkships, which are shaped by numerous factors—from family background and experiences to financial considerations to competing employment opportunities and other

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or other minority groups); George L. Priest, *Reexamining the Market for Judicial Clerks and Other Assortative Matching Markets*, 22 YALE J. ON REG. 123, 154-155 (2005) (describing the value of clerkships from a labor market perspective); Stephen L. Wasby, *Why Clerk? What Did I Get out of It?*, 56 J. LEGAL EDUC. 411 (2006) (surveying clerks to explore why they wanted to clerk for an appellate judge and suggesting that a clerkship is a prestigious form of public service).

40. *Increasing Diversity of Law School Graduates Not Reflected Among Judicial Clerks*, NALP (September 2014), <https://www.nalp.org/0914research>. For a more recent report about the persistent underrepresentation of graduates of color in clerkships, see *Racial/Ethnic Representation of Class of 2019 Judicial Clerk*, NALP (February 2021), <https://www.nalp.org/0221research>.
41. For a recent report on the placement of federal judicial clerkship, see DEREK T. MULLER, FEDERAL JUDICIAL CLERKSHIP REPORT OF RECENT LAW SCHOOL GRADUATES (2020), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3203644](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3203644).
42. For more on the clerkship application process, see Christopher Avery et al., *The Market for Federal Judicial Law Clerks*, 68 U. CHI. L. REV. 793 (2001) [hereinafter *The Market*]; Christopher Avery et al., *The New Market for Federal Judicial Law Clerks*, 74 U. CHI. L. REV. 447 (2007) [hereinafter *The New Market*]; Ruggero J. Aldisert et al., *Rat Race: Insider Advice on Landing Judicial Clerkships*, 122 DIC. L. REV. 117 (2017); Laurie A. Lewis, *Clerkship-Ready: First-Year Law Faculty Are Uniquely Poised to Mentor Stellar Students for Elbow Employment with Judges*, 12 APPALACHIAN J.L. 1 (2012); Todd C. Peppers et al., *Inside Judicial Chambers: How Federal District Court Judges Select and Use Their Law Clerks*, 71 ALB. L. REV. 623 (2008). For more on earlier discussions about the reform of the clerkship application process, see generally Trenton H. Norris, *The Judicial Clerkship Selection Process: An Applicant's Perspective on Bad Apples, Sour Grapes, and Fruitful Reform*, 81 CALIF. L. REV. 765, 802 (1993); Annette E. Clark, *On Comparing Apples and Oranges: The Judicial Clerkship Selection Process and the Medical Matching Model*, 83 GEO L.J. 1749 (1995); see also Aaron L. Nielson, *The Future of Federal Law Clerk Hiring*, 98 MARQ. L. REV. 181 (2014).

surrounding signals. Some of these factors can be analyzed with the aid of LSSSE data.

Our study seeks to build upon other research into the important question of diversity and clerkships. Indeed, the stubborn persistence of racial disparities in judicial clerkships has been documented by existing studies. Although the percentage of individuals who begin their post-law school careers with a judicial clerkship has increased slightly since 2012,<sup>43</sup> the demographic profile of judicial clerks continues to remain highly homogenous and unreflective of the changing demographics of law schools. White men, in other words, continue to dominate the number of clerks. Recent NALP data on all judicial clerkships (federal, state, and local) show that between 2006 and 2016, the number of African American judicial clerks has remained relatively constant at roughly 5% of total clerkships.<sup>44</sup> Although the percentage of Hispanic<sup>45</sup> and Asian American clerks has climbed slightly over that period, all three racial groups (African American, Hispanic, and Asian American) remain underrepresented compared with their share of law school graduates.<sup>46</sup> In the class of 2019, for example, underrepresented racial minority graduates obtained only 23% of all clerkships, but they accounted for nearly 33% of law school graduates.<sup>47</sup>

Women, as a whole, have appeared to be more successful in increasing their representation in clerkships, according to the 2017 NALP report. Women have generally secured total clerkships in a share equivalent to men, which reflects their representation among law graduates. But there is a gendered stratification within types of clerkships, with men securing more federal clerkships than women.<sup>48</sup> At the intersection of race and gender, the data indicate some variation among women of color over time. For instance, the share of African

43. See *IILP Review 2019-2020: The State of Diversity and Inclusion in the Legal Profession*, Institute for Inclusion in the Legal Profession (2019-2020), [http://www.theiilp.com/resources/Documents/IILP\\_2019\\_FINAL\\_web.pdf](http://www.theiilp.com/resources/Documents/IILP_2019_FINAL_web.pdf). For the class of 2012, the percentage of graduates with judicial clerkships was 7.3%. The number continued to increase to 9.3% for the class of 2017, 9.8% for the class of 2018, and 10.2% for the class of 2019, see *Statistics*, ABA Section of Legal Educ. & Admissions to the Bar, [https://www.americanbar.org/groups/legal\\_education/resources/statistics/](https://www.americanbar.org/groups/legal_education/resources/statistics/). Note that the gradual increase of the percentage of clerkships needs to be interpreted with caution. The decline of law school enrollment since 2010, together with the rather stable number of clerkship positions available each year, was likely to be the cause of such a percentage increase.

44. *A Demographic Profile of Judicial Clerks—2006 to 2016*, NALP (Oct. 2017), <https://www.nalp.org/1017research>.

45. Although we use the terms “Hispanic” and “Latinx” interchangeably in this article, we generally rely on the term used in the original study or dataset that we are reporting. For example, the 2017 NALP study uses the term “Hispanic” and thus we have used that term when referring to the data from that report. *Id.*

46. *Id.* A snapshot of the class of 2019 shows that these disparities continue to persist, see *Racial/Ethnic Representation of Class of 2019 Judicial Clerk*, *supra* note 40.

47. *Racial/Ethnic Representation of Class of 2019 Judicial Clerk*, *supra* note 40.

48. *Id.*

American women clerks from 2006–2016 remained roughly the same at 3% of all clerkships. Within the same period, the number of Latina and Asian American women clerks has climbed slightly,<sup>49</sup> at a time when their numbers have increased in law school enrollment since 2010.<sup>50</sup> Within the NALP 2006–2016 dataset, Asian American women are the most well-represented minority group of clerks in the 2016 class, especially for federal clerkships. In fact, Asian American women made up 4.4% of federal clerks, compared with 4.8% in the total class of graduates.<sup>51</sup>

While the NALP study focused on all clerkships, within the category of federal judicial clerkships (both district and appeals court), we see even more pronounced racial disparities. As the initial Portrait Project report documented, Asian Americans in 2015 comprised roughly 10% of law students at top-thirty schools (as ranked by *U.S. News & World Report*), but they accounted for only 6.5% of all federal judicial clerks (district and appeals court).<sup>52</sup> The figures for African American and Hispanic individuals were similar. African Americans comprised about 6% of students at top-thirty law schools, but they accounted for roughly 4% of federal clerks. The Hispanic disparity was even more staggering: They comprised roughly 8% of students at top-thirty law schools in 2015 but secured only about 4% of the federal clerkships. By contrast, whites accounted for 58% of students from top-thirty schools, but they obtained over 82% of all federal clerkships.<sup>53</sup>

The existing academic and journalistic accounts of diversity in judicial clerkships are still rather limited, and often focus almost exclusively on the U.S. Supreme Court.<sup>54</sup> As a result, there are many hypotheses, but few large-

49. The percentage of Latina clerks increased from 1.7% for the class of 2011 to 2.6% for the class of 2016, while the percentage of Asian American women clerks increased from 3.1% to 4.4% during the same period. See *A Demographic Profile of Judicial Clerks*, *supra* note 44.
50. Li et al., *supra* note 3.
51. *A Demographic Profile of Judicial Clerks*, *supra* note 44.
52. Chung et al., *supra* note 35.
53. *Id.*; see also Brandon Lowrey, *Why Are Law Clerks So White?*, LAW360 (May 3, 2019), <https://www.law360.com/articles/1156019>. Early data indicates another disparity of minority representation in federal appellate clerkships, particularly among African American clerks and Hispanic clerks. Between 2006 and 2010, African American clerks declined from 3.5% to 2.4%, while the number of Hispanic clerks dropped from 3.1% to 2%; see Todd Ruger, *Statistics Show No Progress in Federal Court Law Clerk Diversity*, LAW.COM (May 2, 2012), [https://www.law.com/nationallawjournal/almID/1202551008298&Statistics\\_show\\_no\\_progress\\_in\\_federal\\_court\\_law\\_clerk\\_diversity/?slreturn=20191020120040](https://www.law.com/nationallawjournal/almID/1202551008298&Statistics_show_no_progress_in_federal_court_law_clerk_diversity/?slreturn=20191020120040).
54. See generally John J. Szmer et al., *Taking a Dip in the Supreme Court Clerk Pool: Gender-Based Discrepancies in Clerk Selection*, 98 MARQ. L. REV. 261 (2014); Tony Mauro, *Corps of Clerks Lacking in Diversity*, USA TODAY (Mar. 13, 1998)m, at 12A; Tony Mauro, *Diversity and Supreme Court Law Clerks*, 98 MARQ. L. REV. 361 (2014); Tony Mauro, *Supreme Court clerks are overwhelmingly white and male. Just like 20 years ago*, USA TODAY (Jan. 8, 2018), <https://www.usatoday.com/story/opinion/2018/01/08/supreme-court-clerks-overwhelmingly>

scale, in-depth empirical studies documenting the disparity, and even fewer studies explaining why federal judicial clerks remain relatively homogenous.<sup>55</sup> Among the possible theories, some might point to a complex and dysfunctional hiring system that frequently places less-well-informed applicants, such as minorities and first-generation law students, at a disadvantage.<sup>56</sup> Others might indicate that an “ideological sorting” by judges and students limits the pool of potential candidates who enter the application process or who view a clerkship as valuable.<sup>57</sup> And still others may contend that, despite the continuously growing interest in and support for diversity and inclusion in the profession, judges might lack the awareness or the sources to build a more diverse and inclusive chamber of clerks.<sup>58</sup>

Despite the increasing interest in diversity, equity, and inclusion in the legal profession, there is still little systematic and rigorous empirical research on diversity and judicial clerkships. We still lack a thorough understanding of who is applying for clerkships, the perceptions and motives of these applicants, what law schools do to manage and assist with the application process, and the selection process used by judges. The dearth of comprehensive data demonstrates that there is still not enough knowledge and understanding to effectively address the challenges of creating a more diverse cohort of judicial clerks.

Through the larger ABF study on diversity and judicial clerkships, we hope to contribute to this important but understudied area. Our research will begin by creating a descriptive dataset of the clerkship application and selection process. We plan to limit our analysis to federal appeals court clerkships. Although we understand that federal appellate clerkships represent a highly

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white-male-just-like-20-years-ago-tony-mauro-column/965945001/; Joan Biskupic, *Too Justices Defend Lack of Minority Court Clerks*, WASH. POST (Mar. 16, 2000), at A23; Michael A. Fletcher, *As Term Opens, Lack Of Diversity is Decried*, WASH. POST (Oct. 6, 1998), <https://www.washingtonpost.com/archive/politics/1998/10/06/as-term-opens-lack-of-diversity-is-decried/od7d7f89-darf-448c-b3fb-243460c55a3e/>.

55. See generally Tony Mauro, *Law Clerk Diversity: It's Complicated*, NATIONAL L.J. (Sept. 26, 2019) <https://www.law.com/nationallawjournal/2019/09/26/law-clerk-diversity-its-complicated/>; Tony Mauro, *Shut Out: SCOTUS Law Clerks Still Mostly White and Male*, NATIONAL L.J. (Dec. 11, 2017), <https://www.law.com/nationallawjournal/sites/nationallawjournal/2017/12/11/shut-out-scotus-law-clerks-still-mostly-white-and-male/>.
56. Nielson, *supra* note 42; see also Peppers et al., *supra* note 42.
57. See, e.g., Tony Mauro, *Shut Out*, *supra* note 55; Wasby, *supra* note 39, at 413; for a related study on the effects of ideology in the selection of clerks, see also John J. Szmer et al., *supra* note 54.
58. Scholars have proposed various ways to reform the selection process for judicial clerks. Earlier reform proposals focused on a modified matching system based on the program that matches medical residents with hospitals; see Patricia M. Wald, *Selecting Law Clerks*, 89 MICH. L. REV. 152, 152–63 (1990); Edward S. Adams, *A Market-Based Solution to the Judicial Clerkship Selection Process*, 59 MD. L. REV. 129 (2000); George L. Priest, *Reexamining the Market for Judicial Clerks and Other Assortative Matching Markets*, 22 YALE J. ON REG. 123 (2005) (raising the fairness of the clerkship selection process); Avery et al., *The New Market*, *supra* note 42. For recent reform proposal, see Vince Chhabria, *Why We Should Adopt a Rooney Rule for Law Clerk*, NATIONAL L.J. (Jan. 4, 2019), <https://www.law.com/nationallawjournal/2019/01/04/why-we-should-adopt-a-rooney-rule-for-law-clerks/>

stratified sector of judicial clerkships, this limitation is necessary to make data collection more manageable and to provide greater depth, at the cost admittedly of less breadth. In the future, we plan to survey and interview law school administrators and faculty involved with the clerkship process. And, at some point, we hope to work with judges to better understand how they select their clerks. One fruitful place to begin our study is to examine LSSSE data on student perceptions regarding clerkships. Although LSSSE does not generally survey many of the law schools that are the conventional “feeders” for federal appellate clerkships, LSSSE information is a useful starting point to understand how law students at a vast array of schools view clerkships.

*Looking Into Students’ Perceptions: What LSSSE Tells Us About Clerkships*

As we have seen, other organizations and researchers have explored diversity in judicial clerkships. Yet none has used LSSSE data and findings to inform their analysis. This is surprising because LSSSE provides an invaluable and necessary element to an understanding of the clerkship process: student perceptions.

A 2017 LSSSE annual report about law student career “preferences” and “expectations” provides some useful insights into overall student views regarding all levels of clerkships.<sup>59</sup> In contrast to other studies that have focused primarily on law school graduate employment and salary outcomes, the LSSSE report measures and contrasts the differences between student preferences and expectations for various career paths.<sup>60</sup> According to the LSSSE report, “preferences” refer to the respondent’s perceived desirability of a particular career, and “expectations” refer to the respondents perceived possibility of obtaining that career. This student perception data provides a useful point of departure for the ABF study by assisting us in interrogating general student assumptions and views about clerkships, though the survey does not cover many of the schools that are supplying clerks for federal appeals courts, nor does it provide information about clerkship applications or placements. Beyond its usefulness as a research tool, moreover, the LSSSE report also highlights the imminent need for further original data collection and analysis about the institutional support mechanisms for law students, including how law schools track, advise, encourage, and mentor students, especially racial minority students, interested in pursuing judicial clerkships.<sup>61</sup>

59. 2017 Annual Survey Results, *supra* note 27.

60. In the LSSSE survey, respondents were asked to identify the setting in which they would most prefer to work after graduation and the setting in which they most expect to work. The fifteen answer options were divided into two categories: public service settings (e.g., government agency, judicial clerkship, prosecutor’s office) and private service settings (e.g., business and industry, private firm, solo practice). *Id.*

61. According to James Leipold, the executive director of NALP, “[T]here is much work to be done in helping to shape student preferences and expectations early in law school. These data suggest, for instance, that early work with Black and Latinx students about the rewards of judicial clerkships is one place to start.” 2017 Annual Survey Results, *supra* note 27.

For purposes of the broader ABF clerkship study, the LSSSE data provides an introductory baseline with which to evaluate how students view clerkships in general. LSSSE data reveals four main trends about overall student perceptions, some of which match generally accepted intuitions and others that have not received as much attention in the extant literature. First, the LSSSE study demonstrates that judicial clerkships are frequently more of an aspirational career goal for nearly all respondents, including even those with strong academic records. Second, LSSSE data shows that student preferences for and expectations of clerkships vary considerably by race. At the start of their legal education and over the course of law school, white students overwhelmingly prefer clerkships at a higher rate than their Asian American, Latinx, and African American classmates. With a few notable exceptions, underrepresented minority groups generally become increasingly interested in clerkships during law school. Third, women across each of the racial groups identified generally prefer clerkships more than men do. This complicates the conventional picture of gender equity that is shown when only comparing law school enrollment with clerkship attainment. The intersectionality of race and gender, likewise, illuminates how women within particular underrepresented racial groups, most notably Latinas, differ from other groups. And, fourth, students from higher socioeconomic backgrounds, as measured by parents' educational backgrounds and educational debt levels, appear to prefer clerkships at a higher rate than their counterparts. We explore each of these trends in the sections below.

#### *Clerkships as an Aspirational Goal*

One of the particularly salient observations from the 2017 LSSSE report is that judicial clerkships are overwhelmingly considered an aspirational career goal rather than a goal that students believe is attainable, especially at the start of law school.<sup>62</sup> Specifically, the report revealed a substantial gap between respondents' "preferences" for a clerkship and their "expectations" that they would be able to secure such employment.<sup>63</sup> In short, preferences far outpaced expectations. The LSSSE report shows that clerkships are an appealing career path for those law students interested in working in "public service settings." Among the 36% of law student respondents who most preferred to work in a "public service setting," obtaining a judicial clerkship was the second most sought-after public setting, behind "government agency" and ahead of "public interest group," according to the LSSSE analysis (see Figure 1).<sup>64</sup>

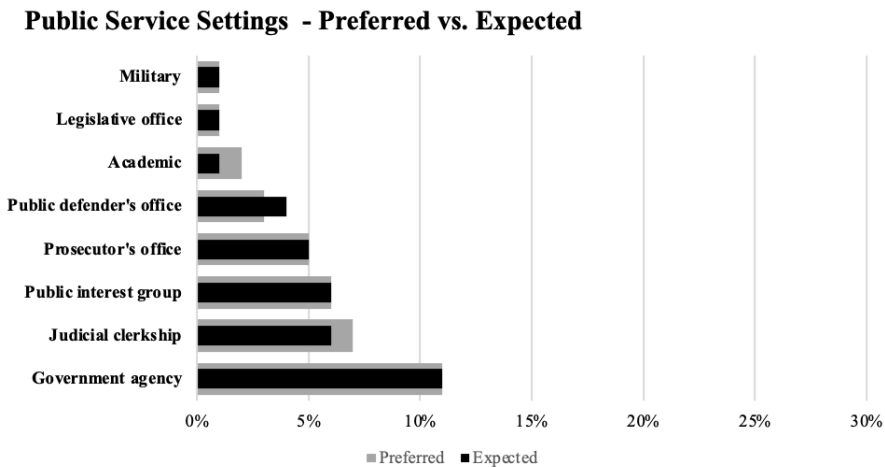
62. We have interpreted a career path to be "aspirational" when respondent preferences exceed expectations. Conversely, we interpret a career to be "attainable" when expectations match preferences.

63. 2017 *Annual Survey Results*, *supra* note 27, at 8.

64. *Id.* It is important to keep in mind that the LSSSE data does not measure career outcomes, only student perceptions. Thus, the difference between preferences and expectations may reflect how underrepresented racial minorities and women internalize the belief that they are less likely to obtain their ideal preferred outcome. For more on the influence of gender, socioeconomic status, and race/ethnicity on law students' career aspirations and

Despite this notable preference for clerkships, there are much lower expectations that respondents would be able to attain such a position. Indeed, the spread between “preference” and “expectation” for clerkships was larger than any other public service setting except academic positions, which are known to have a particularly low rate of attainment.<sup>65</sup> Although students find clerkships quite appealing, they do not necessarily believe that they will be able to follow this career path. Simply put, this pattern suggests that law students generally believe that obtaining a clerkship is an aspirational goal (see Figures 1 and 2).<sup>66</sup>

**Figure 1: Student Preferences and Expectations Within Public Service Settings**



Source: LSSSE 2017

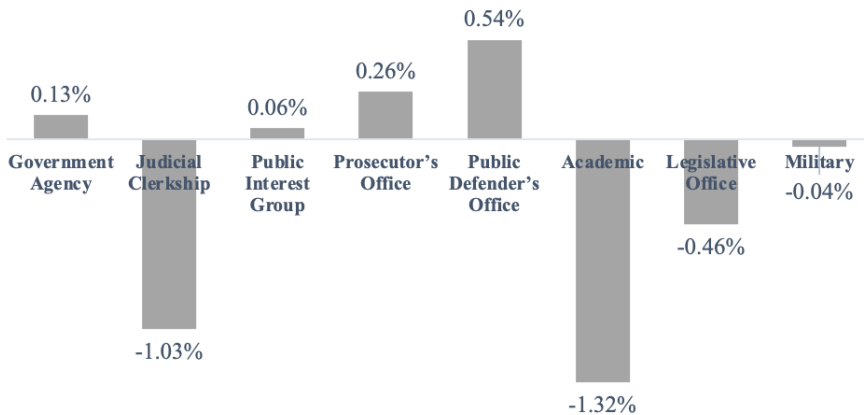
socialization experience, see Lani Guinier et al., *Becoming Gentlemen: Women's Experiences at one Ivy League Law School*, 143 U. PA. L. REV. 1, 1-110 (1994); CARRIE YANG COSTELLO, *PROFESSIONAL IDENTITY CRISIS: RACE, CLASS, GENDER, AND SUCCESS AT PROFESSIONAL SCHOOLS* (2005); Desmond-Harris, *Public Interest Drift Revised: Tracing the Sources of Social Change Commitment among Black Harvard Law Students*, 4 HASTINGS RACE & POVERTY L.J. 335, 335-94 (2007); YUNG-YI DIANA PAN, *INCIDENTAL RACIALIZATION: PERFORMATIVE ASSIMILATION IN LAW SCHOOL* (2017).

65. 2017 Annual Survey Results, *supra* note 27.

66. *Id.*



**Figure 2: Difference Between Students' Expectations and Preferences Within Public Service Settings**



Source: LSSSE 2017

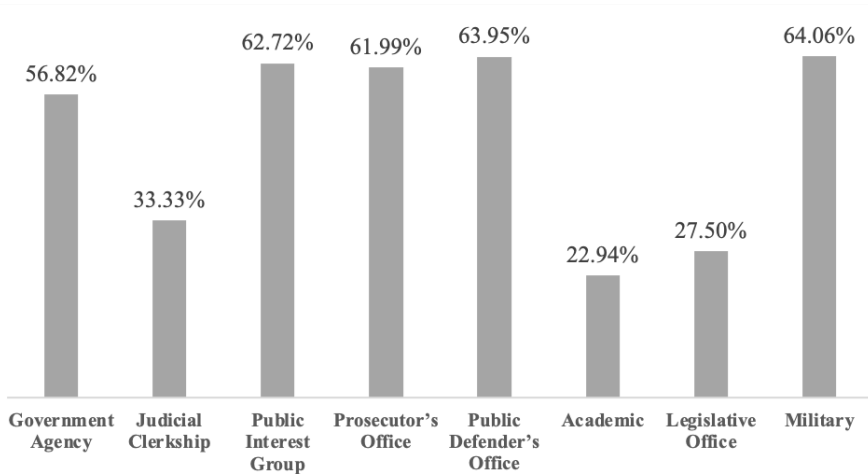
The gap between students' expectations and preferences for clerkship is especially pronounced for first-year law students.<sup>67</sup> Among those 1L students who most preferred clerkships, only 33% expected to secure one. The low expectations among those who selected clerkships as their most preferred career choice is particularly telling when compared with other public service settings. Indeed, only academic and legislative office positions gave rise to similarly low expectations among 1Ls. By contrast, 1Ls generally believed that securing a position in a public defender's office was a more attainable career goal.<sup>68</sup> This 1L data confirms that judicial clerkships are often viewed

67. We notice that a portion of students who expected clerkships did not choose clerkship as their preferred work setting. This is because respondents of LSSSE survey can select only a single answer for their career preference and expectation. Because of this survey design, we believe that the actual number of students who prefer clerkships may be higher than the survey documented. To better portray the gap between preference and expectation, we look at the percentage of expectations among only those students who selected clerkships as their "most preferred" career goal for our analyses about the disparity between students' preference and expectation.

68. Entry-level legal positions in a public defender's office are extremely competitive despite student perceptions. See generally *Class of 2019 National Summary Report*, The National Association for Law Placement (NALP), [https://www.nalp.org/uploads/Classof2019NationalSummaryReport\\_.pdf](https://www.nalp.org/uploads/Classof2019NationalSummaryReport_.pdf); Lisa D. Williams, *Careers in Indigent Defense: A Guide to Public Defender Programs*, Harvard Law School (2012), <https://hls.harvard.edu/content/uploads/2008/07/2012pdguide.pdf>. Moreover, public defenders' offices are notoriously underfunded, making it difficult for public defenders' offices to hire additional attorneys, see generally Eli Hager, *When There's Only One Public Defender in Town*, THE MARSHALL PROJECT (Sept. 9, 2016), <https://www.themarshallproject.org/2016/09/09/what-happens-when-there-s-only-one-public-defender>.

as a highly ambitious goal among students early in their legal education (see Figure 3).

**Figure 3: Percentage of Expectation Among 1Ls Preferring Particular Job Settings**



Source: LSSSE 2017

Moving beyond the published 2017 LSSSE report, the underlying raw data from recent and past surveys provides additional information about law student preferences and expectations regarding judicial clerkships. In the 2017 survey, students with higher LSAT scores and students with higher grades had stronger preferences for, as well as expectations of obtaining, a judicial clerkship.<sup>69</sup> Yet even students with higher LSAT scores who most preferred clerkships had relatively low expectations of securing such a position.<sup>70</sup> This suggests that even well-credentialed students view clerkships as exceedingly ambitious rather than readily attainable goals. Similarly, LSSSE results show a strong positive correlation between law school grades and greater preference for clerkships. Students who received higher grades immediately prior to the survey had both higher preferences and expectations of clerking.<sup>71</sup> Yet, again, even among students in the quartile with the highest grades who most

69. To categorize responses by LSAT scores, survey respondents were divided into four groups according to their law schools' reported LSAT scores in the 2017 survey: Group 1 (148 or lower); Group 2 (between 149 and 153); Group 3 (between 154 and 158); and Group 4 (159 or higher).

70. More specifically, roughly 9% of students with LSAT scores of 159 or higher preferred a clerkship, yet only about 46% of students who preferred a clerkship expected to secure one.

71. As we did with LSAT scores, we divided respondents' law school grades into four groups: Group 1 (C- or lower); Group 2 (C+ or C); Group 3 (B+ or B or B-); and Group 4 (A or A-). Roughly 1% of students in Group 1 showed interest in judicial clerkship, but none expected to get one. In contrast, about 12% of students in Group 4 preferred clerkships, and about 10% of students in Group 4 expected to secure one.

preferred clerkships, only about half expected to obtain them.<sup>72</sup> Comparing the figures using the 2017 and 2019 survey data shows that this gap between preferences and expectations has been relatively stable over time.<sup>73</sup>

These findings match the general intuition that clerkships are viewed as metaphorical “gold stars” or high-level accomplishments for law students that only a certain subset of students are likely to achieve. The reality is that clerkships are competitive and are likely to always remain aspirational to some degree. However, the LSSSE data reveals a noticeably pronounced gap between preferences and expectations that is greater than almost every other legal career option. Thus, it appears that students perceive clerkships to be both highly sought-after positions and uniquely impenetrable and difficult to obtain. This suggests that future research into clerkships might focus not only on the clerkship application process itself, but also on the ambient signals and perceived barriers to entry that might discourage some students, particularly underrepresented racial minorities or women or first-generation applicants, from even considering applying in the first place. In subsequent parts of our new ABF research project, we intend to study how law schools might be contributing to these student perceptions.

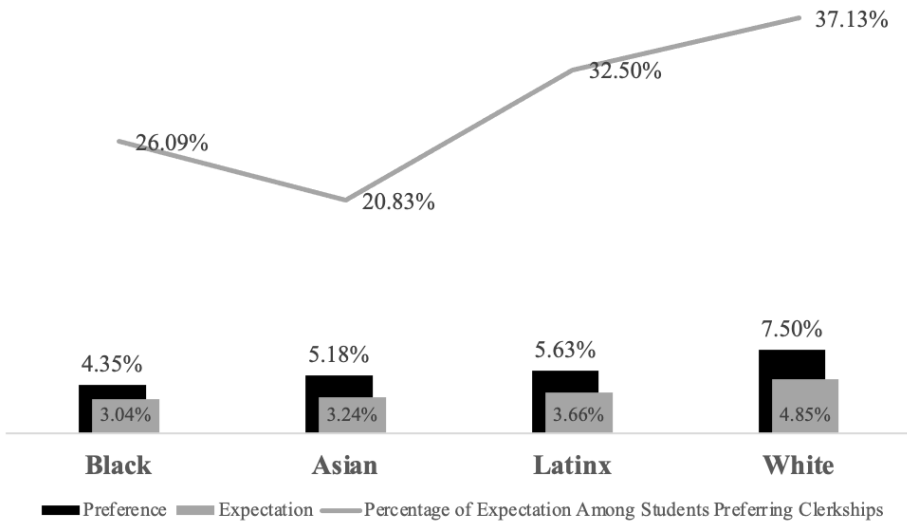
#### *Race and Clerkships*

In addition to displaying overall patterns, LSSSE data can also reveal several important observations about how students of various racial groups perceive clerkships. First, the 2017 LSSSE survey provides information about baseline interest in clerkships during students’ first year, before they have been exposed to the majority of their legal education. In their first year, white students expressed the highest preference for judicial clerkships of any racial group. In fact, 7.5% of white 1Ls responded that they most preferred a clerkship, while a lower percentage of Latinx (5.63%), Asian American (5.18%), and African American (4.35%) 1Ls expressed a similar preference. Although these differences may be relatively small, they provide some insight into the initial perceptions that different students bring with them as they start law school. From the beginning of their legal education, then, white students appear to have a greater preference for clerkships than their peers from racial minorities.<sup>74</sup>

72. Among those students who preferred clerkships in Group 4 (A or A-), 51% expected one.
73. This descriptive data does not help us untangle the causal question whether students who prefer clerkships earn higher grades, or whether students with higher grades come to prefer clerkships given the socialization of preferences and career options that takes place within law schools. Perhaps both are occurring to some degree and are mutually reinforcing. Additional research would be needed to answer these causal questions. Still, it is highly unlikely that these preferences are completely endogenous or stable for individual respondents. Rather, the law school experience is likely to shape these preferences and expectations over time, as we discuss below.
74. See generally 2017 Annual Survey Results, *supra* note 27; *Courting Clerkships: The NALP Judicial Clerkship Study*, NALP (2000), <https://www.nalp.org/courtingclerkships?s=judicial%20clerkship%20study>.

Second, each racial group viewed clerkships as aspirational, though the gap between preferences and expectations varied among the groups. White 1L students who preferred clerkships had a higher expectation of attaining clerkships. More precisely, over 37% of white 1Ls who most desired clerkships also expected to secure one. Latinx 1Ls were not too far behind with 33% of students who expressed a preference for clerkships also responding that they expected them. By contrast, only about one in four African American 1Ls and only one in five Asian American 1Ls who most preferred clerkships had similar expectations (see Figure 4).

**Figure 4: 1L Students' Perceptions Regarding Pursuit of a Clerkship, by Race/Ethnicity**



Source: LSSSE 2017

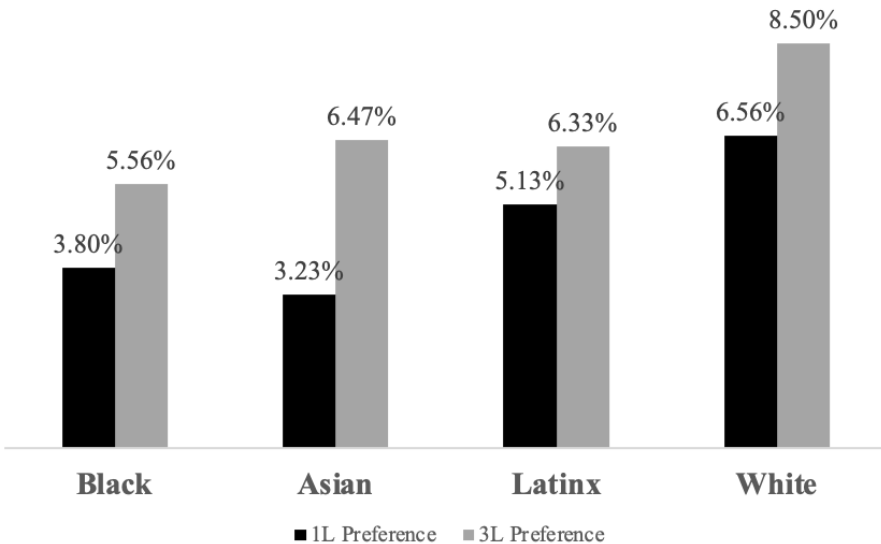
Another important question to explore about race using LSSSE data is how initial preferences for clerkships may have changed during law school. To better study this, we combined data from LSSSE's 2017 and 2019 surveys. By comparing the student cohort that participated in the 2017 survey as 1Ls with the cohort that participated in the 2019 survey as 3Ls, we constructed a quasi-longitudinal analysis designed to reflect the responses of the graduating class of 2019.<sup>75</sup> Although we were unable to precisely identify and match students in

75. With the assistance of ABF Research Professor Stephen Daniels and the LSSSE staff, we generated unique IDs for individual law schools. With these unique IDs, it was possible to identify forty-one law schools that participated in both the 2017 and the 2019 LSSSE surveys. To compare the same group of law schools, twenty-six schools in the 2017 dataset (resulting in a total of 10,581 students) and twenty-seven schools in the 2019 dataset (resulting in a total of 9238 students) were dropped. To provide some sense of the representativeness of the law schools included in our sample, we compare them on certain characteristics to all participating schools in the 2017 LSSSE survey, including race/ethnicity, gender, age, LSAT score, and full-time enrollment status. We found no substantive difference between the two groups.

the two rounds of the survey, we partitioned the data to include only responses from the law schools that participated in both years of the study to maximize the probability of overlap. As a result, this quasi-longitudinal approach should provide a picture, albeit an imperfect one, of how law school shapes the preferences that students in the class of 2019 had about judicial clerkships.

While our quasi-longitudinal analysis has substantial limitations, it provides some insight into how preferences by race may have changed over time. Generally, preferences for clerkships increased among all racial groups between 1L and 3L years. A more detailed breakdown shows that Latinx students reported the lowest overall increase in their preferences for clerkships between their 1L and 3L years, rising only 1.2 percentage points. By contrast, Asian American students reported the greatest overall increase in their preferences for clerkships, with a growth of 3.24 percentage points. This suggests that on average Latinx students were only slightly more likely to prefer clerkships at the end of their law school careers than when they began them, while Asian students were almost twice as likely to prefer clerkships in their 3L years than in their 1L years (see Figure 5).

**Figure 5: Students' Preferences for Clerkship (Class of 2019), By Race**



Source: LSSSE 2017, 2019

As other commentators have noted, the timing of clerkship applications and the abstruse process of obtaining a clerkship may have the effect of driving some students away from applying.<sup>76</sup> Indeed, the LSSSE data above raises

76. See, e.g., Avery et al., *The Market*, *supra* note 42 (detailing the “market” for federal judicial clerkships from the perspective of both judges and students and how applicants made strategic decisions to manage the process); *Courting Clerkships*, *supra* note 74 (showing that the lack of guidelines and uniform standard negatively affected the clerkship applicant pool); Karen Sloan, *Law Deans Implore Federal Judges to Follow Clerk Hiring Plan*, NATIONAL L.J.

concerns about a clerkship hiring process that begins early in a student's legal education. Although preferences for clerkships increase for all racial groups over time, white students appear to begin law school with greater preferences and expectations for clerkships. Underrepresented minority students, particularly those without existing knowledge or networks, may enter law school with very limited information about clerkships and how to attain them. It is thus worth emphasizing the drawback of starting the hiring process early, as it puts minority students at a disadvantage, since they may not understand the value of clerkships or have relationships with faculty members who may recommend them to judges early in their law school education.

### *Women's Preference for Clerkships*

Another important observation from the 2017 LSSSE report is that women in law school, across class years, appear to have higher preferences and expectations for judicial clerkships than do men. This is particularly true at the start of law school. For instance, the LSSSE survey shows that 7.23% of 1L women preferred judicial clerkships compared with 6.23% of 1L men. And a greater percentage of 1L women (4.71%) expected to secure clerkships compared with 1L men (3.97%) (see Figure 6).

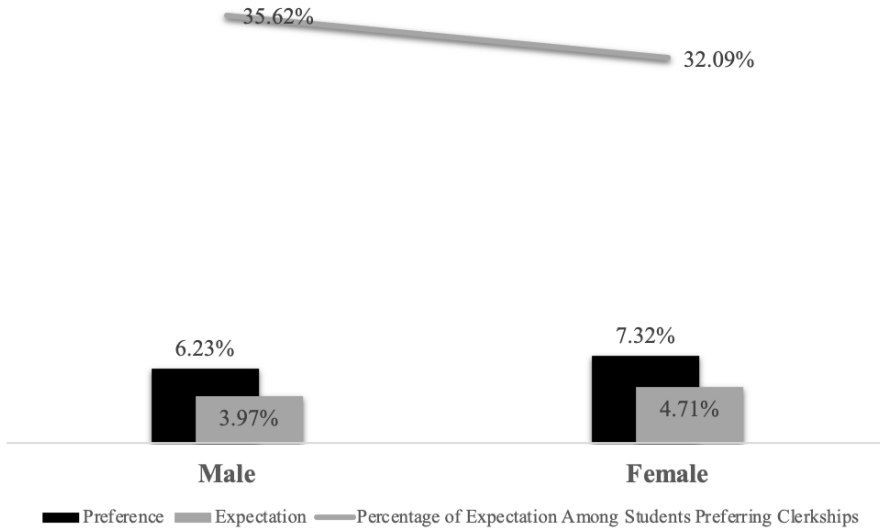
However, if we take a closer look at the subgroup of students who most preferred clerkships, men appear to have slightly higher expectations. Roughly 36% of 1L men who preferred clerkships expected to attain one, while only 32% of 1L women had a similar expectation for clerkships (see Figure 4). Although this difference may be comparatively small, it seems to suggest that clerkships are perceived as an aspirational goal for women and an attainable goal for men. Despite having a seemingly greater overall interest in clerkships than do men, it appears that women may perceive greater barriers to attaining a clerkship than men do. This observation matches with prior research showing that women may perceive that "glass ceilings and sticky floors" in the legal profession will limit their career aspirations even as early as the first year of law school.<sup>77</sup> This observation demonstrates the subtle ways that gender may play a role in legal education and the broader profession.

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(Jan. 29, 2020), <https://www.law.com/2020/01/29/law-deans-implore-federal-judges-to-follow-law-clerk-hiring-plan/>; Jennifer E. Fischell, *Clerkships Never Get Old: Why the Federal Clerk Hiring Plan Benefits Recent Grads*, NATIONAL L.J. (Feb. 20, 2020), <https://www.law.com/nationallawjournal/2020/02/20/clerkships-never-get-old-why-the-federal-clerk-hiring-plan-benefits-recent-grads/>; see also Chief Judge Merrick Garland et al., *Ad Hoc Committee Announcement of Federal Law Clerk Hiring Plan*, OSCAR (Feb. 28, 2018), [https://oscar.uscourts.gov/assets/Ad\\_Hoc\\_Committee\\_on\\_Law\\_Clerk\\_Hiring\\_Announcement.pdf](https://oscar.uscourts.gov/assets/Ad_Hoc_Committee_on_Law_Clerk_Hiring_Announcement.pdf) (suggesting anecdotal information that "the accelerated hiring schedule has reduced . . . students of color in the pool).

77. Nancy J. Reichman & Joyce S. Sterling, *Sticky Floors, Broken Steps, and Concrete Ceilings in Legal Careers*, 14 TEX. J. WOMEN & L. 27 (2004). Social scientists have, of course, documented the gendered referents and expectations in other careers. See, e.g., Maureen Baker, *Career Confidence and Gendered Expectations of Academic Promotion*, 46 J. SOC. 317 (2010).

**Figure 6: 1L Students' Perceptions Regarding Pursuit of a Clerkship by Gender**



Source: LSSSE 2017

Women's relatively higher preference for clerkships than men's, as well as the relatively greater gap between preferences and expectations, suggests a more complicated picture for gender representation in clerkships than simply comparing law school enrollment numbers with the percentage of women clerks. The existing NALP data shows that women make up roughly half of all judicial clerks.<sup>78</sup> Still, they may remain underrepresented in clerkships if women have a greater preference for clerkships than men do. This assumes, of course, that because more women than men prefer clerkships, women are actually applying for clerkships in greater numbers. Unfortunately, neither the existing NALP nor LSSSE data documents *application* figures by gender. If women, indeed, apply to clerkships at a lower rate than men, this would raise a number of interesting and pertinent questions for law schools and researchers. Perhaps women who selected clerkships as their most preferred career may not be getting the support they need to pursue their goals; or perhaps women are tracked by their law school experiences toward different careers. Such topics would be fruitful ones for future research.

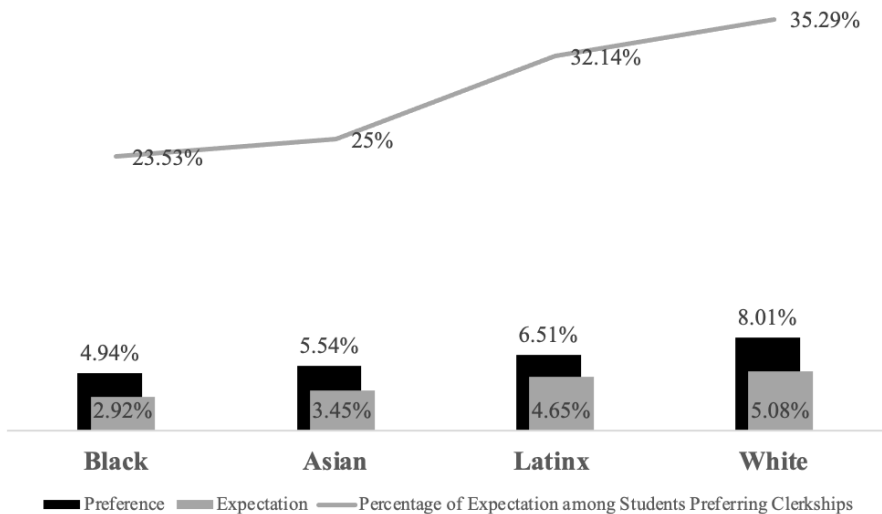
#### *The Intersection of Race and Gender*

Further analysis of the intersection of race and gender provides other insights. Unsurprisingly, responses to the LSSSE survey among 1L women differed by race. While 1L women, in the aggregate, preferred and expected clerkships at a higher rate than 1L men, the higher preference and expectation for clerkships was predominantly driven by white women. In fact, 8% of

78. *A Demographic Profile of Judicial Clerks*, *supra* note 44.

1L white women reported a preference for clerkships, compared with 5% of African American women, 7% of Latinas, and 6% of Asian women. Moreover, among 1L female students who preferred clerkships, white women showed a higher percentage of expectations for clerkships (35%) compared with Latinas (32%), Asian American women (25%), and African American women (24%) (see Figure 7). These figures suggest that the intersectionality of race and gender may have a profound impact on student preferences and expectations. Much of the existing literature on gender disparities in high-status work may inform these numbers,<sup>79</sup> but further empirical studies of the gendered and racial aspects of judicial clerkships are also needed.

**Figure 7. 1L Women's Perceptions Regarding Clerkships, by Race/Ethnicity**



Source: LSSSE 2017

Returning to our earlier quasi-longitudinal analysis,<sup>80</sup> we see that the intersection of race and gender displays some unique trends over time, especially for Latina law students. While every other category of law student showed an increase in its preferences for clerkships over time, Latinas were the *only* group in the class of 2019 data that showed a decline in preferences

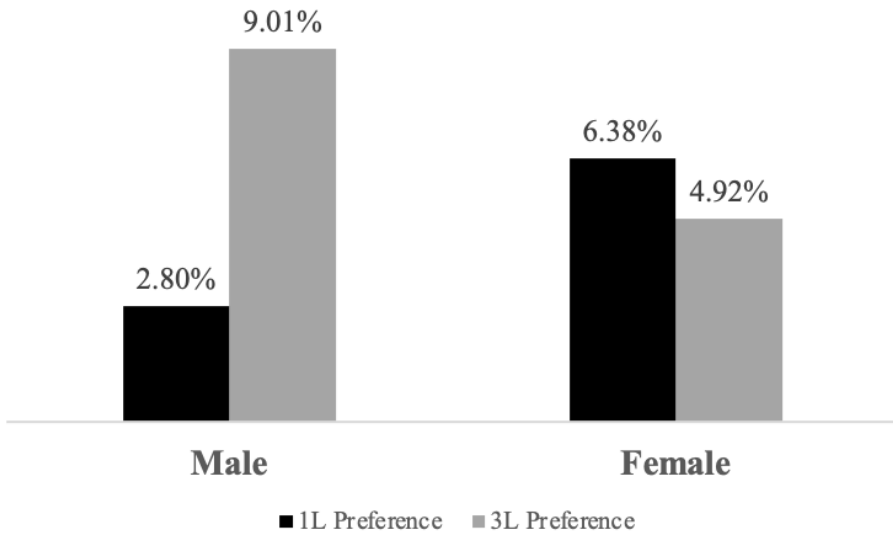
79. See, e.g., Baker, *supra* note 77; Lauren A. Rivera & András Tilcsik, *Class Advantage, Commitment Penalty: The Gendered Effect of Social Class Signals in an Elite Labor Market*, 81 AM. SOC. REV. 1097 (2016). For general discussions about gender and career aspirations, see Rebecca S. Powers & Roger A. Wojtkiewicz, *Occupational Aspirations, Gender, and Educational Attainment*, 24 SOC. SPEC. 601 (2004); Justin C. Perry et al., *Reconsidering the "Aspiration-Expectation Gap" and Assumed Gender Differences Among Urban Youth*, 74 J. VOCATIONAL BEHAVIOR 349 (2009).

80. See discussion *supra* Part III. *Race and Clerkships*.



for clerkships between 1L and 3L years. This stands in stark contrast to the increase in preferences for judicial clerkships that Latinx men had between their 1L and 3L years. While only 3% of 1L Latinos in the class of 2019 data most preferred a clerkship in their 1L year, this number rose to 9% by 3L year. Perhaps surprisingly, Latinos in the data sample were more than three times as likely to prefer a clerkship in their 3L year as in their 1L year. Compare this with the steep decline in Latina preferences for clerkships over the course of their law school years: from 6.38% of Latinas who preferred a clerkship in their 1L year to 4.92% by the time they became 3Ls. Thus, the fact that Latinx students on average remained relatively stable, with only a slight increase in their preferences for clerkships, obscures both the incredible surge in interest among Latinx men and the noteworthy decline in interest among Latinx women (see Figure 8).

**Figure 8: Latinx Students' Preferences Regarding Clerkships (Class of 2019)**



*Source: LSSSE 2017, 2019*

This observation raises critical questions about how the law school experience may shape Latinx students' perceptions of clerkships. In particular, what accounts for the unique decline in preferences for clerkships among Latinas? Does it reflect a natural loss of interest in one of many potential career paths, or is it possible that Latinas in particular become especially discouraged over the course of law school from seeking judicial clerkships? Alternatively, are there other career paths that become more appealing to Latina students? Likewise, if we combine this trend about change over time with the earlier observation about Latina 1Ls having relatively high expectations of securing clerkships, even more questions arise. All this suggests that this is a topic

ripe for additional research that could have a substantial impact on how we understand law schools' role in advancing diversity in judicial clerkships, and challenging or reproducing hierarchies of prestige and status in the profession.<sup>81</sup> Moreover, this brief but significant analysis underscores why looking at intersectional identity is critical to work on diversity, equity, and inclusion in the legal profession. Analyzing race without other features may lead to the omission of influential factors and ultimately obfuscate the issues that lurk beneath the surface of the data.

### *Student Socioeconomic Background and Clerkships*

LSSSE data also provides important information about how financial motivations and socioeconomic background may factor into decisions around clerkships. Prior empirical work has shown that socioeconomic background can have a profound impact on law students' educational experience and their legal careers.<sup>82</sup> Using LSSSE data, we are able to evaluate how factors such as financial motives, parental education, and educational debt levels may influence preferences and expectations for judicial clerkships.

A 2010 LSSSE experimental survey collected information about student motivations for attending law school and their career aspirations.<sup>83</sup> Across most aspects of motive, students who expressed interest in clerkships were, in general, not distinctively different from those who did not. However, there was one noticeable exception: Students not interested in clerkships reported that working toward financial security was a significantly more influential factor than did students who expressed an interest in clerkships.<sup>84</sup> Commentators have frequently suggested that one reason diverse and first-generation law students might not be applying for clerkships is the financial opportunity cost.<sup>85</sup> Although clerkships can be launching pads for prestigious and lucrative

81. For critical discussions about how law school culture reproduces existing hierarchical structure and norms, see Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591 (1982); Duncan Kennedy, *Legal Education as Training for Hierarchy*, in THE POLITICS OF LAW: A PROGRESSIVE CRITIQUE 54 (David Kairys eds., 1998); Robert Granfield, *Making It by Faking It: Working-Class Students in an Elite Academic Environment*, 20 J. OF CONTEMPORARY ETHNOGRAPHY 331 (1991); see generally Joan Acker, *Hierarchies, Jobs, Bodies: A Theory of Gendered Organizations*, 4 GENDER & SOC. 139 (1990).

82. See generally Taylor, *Robin Hood*, *supra* note 12, at 69 (suggesting that few studies have focused on the experience of first-generation college students in law school).

83. For further information about the experimental survey, see 2010 *Annual Survey Results, Student Engagement in Law Schools In Class and Beyond*, Law School Survey of Student Engagement, [https://lssse.indiana.edu/wp-content/uploads/2016/01/2010\\_LSSSE\\_Annual\\_Survey\\_Results.pdf](https://lssse.indiana.edu/wp-content/uploads/2016/01/2010_LSSSE_Annual_Survey_Results.pdf).

84. About 40% among those who were not interested in clerkships perceived financial security as very influential, compared with less than 30% among those who preferred clerkships.

85. See, e.g., Lowrey, *supra* note 53. Prior survey suggests that the financial differential of a clerkship salary is a reason for students not to apply for a clerkship; see *Courting Clerkships*, *supra* note 74; see also Nicholas Alexiou, *To Clerk Or Not To Clerk . . . It's Actually Not Much of a Question*, ABOVE THE LAW (June 7, 2018), <https://abovethelaw.com/2018/06/>

future careers, they pay significantly less than other entry-level jobs in the profession, most notably associate positions at large law firms. Moreover, most clerkships are often one- or two-year positions and do not afford the same level of job security as a permanent position. Thus, this finding supports the intuition that students with more immediate financial needs may forgo applying for clerkships to build financial security.

Similarly, LSSSE data allows us to study the relationship between the socioeconomic background of law students and their perceived interest in clerkships. In each year of LSSSE surveys, respondents were asked to describe the educational levels of their parents. Since lower parental education levels are often associated with lower socioeconomic status among students, such information can be used as a proxy for students' socioeconomic status.<sup>86</sup> We thus used LSSSE data to examine how students of different socioeconomic backgrounds perceived clerkships at the start of law school and how their views may have changed over time.

Using the class of 2019 subdivisions mentioned earlier, respondents were divided into two groups, based on whether they had at least one parent possessing a four-year college degree or higher. In accordance with earlier findings, the data suggests that non-first-generation, or continuing-generation, 1L students generally reported a higher preference for clerkship positions than their first-generation classmates. Interestingly, first-generation 1L students and continuing-generation 1L students had similarly low expectations of attaining a clerkship position despite the discrepancy in preferences. This observation reaffirms that clerkships are a highly ambitious career goal.

However, looking at the change in preferences and expectations among these students as they matured from 1Ls to 3Ls reveals a seemingly interesting pattern. While first-generation and continuing-generation students both experienced a proportional increase in preferences for clerkships, continuing-generation students had a greater increase in their expectations for clerking compared with their first-generation counterparts. For instance, between their 1L and 3L years, continuing-generation students saw their expectations for attaining a clerkship double from 4.10% to 8.42%. By contrast, first-generation students saw their expectations for clerkships increase only slightly, from 4.30% to 5.99%. Given the timing of clerkship offers, of course, one should interpret the increase in expectations by 3L respondents with some caution, since some students may, in fact, have secured a clerkship by their third year of law school. Thus, part of the stark difference in expectations over time may result from continuing-generation students having obtained clerkships by their third year, biasing their expectation responses. Alternatively, this may indicate that while first-generation students enter law school with roughly the same

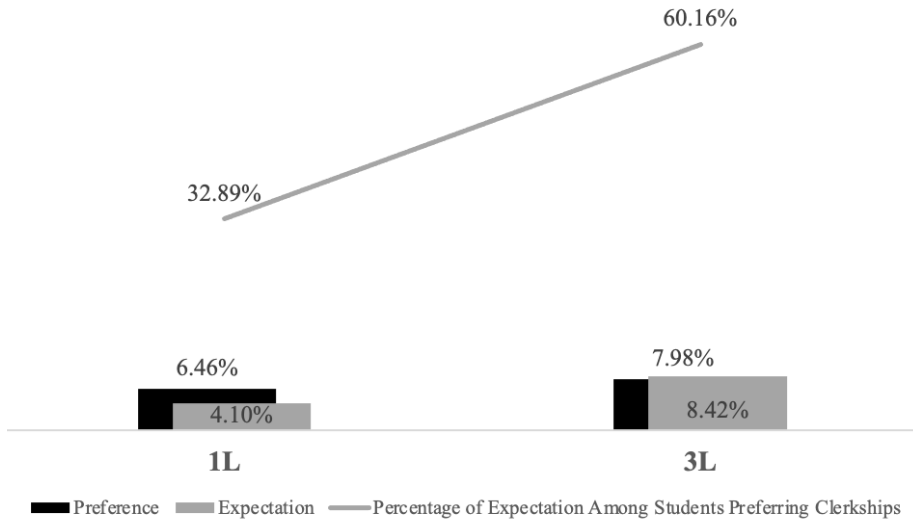
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to-clerk-or-not-to-clerk-its-actually-not-much-of-a-question/.

86. Ryan, *supra* note 4; Nicole M. Stephens et al., *Closing the Social-Class Achievement Gap: A Difference-Education Intervention Improves First-Generation Students' Academic Performance and All Students' College Transition*, 25 *PSYCHOLOGICAL SCI.* 943, 943-53 (2014).

level of expectation in obtaining a judicial clerkship as non-first-generation students, their expectations effectively stall as they continue through their law school tenures (see Figures 9 and 10). More research is obviously needed to understand how and why expectations change over time.<sup>87</sup>

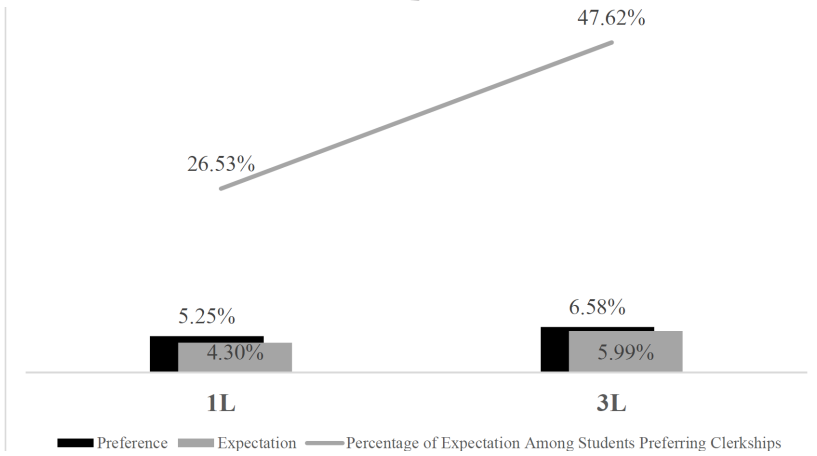
**Figure 9: Continuing-Generation Students' Perceptions Regarding Pursuit of a Clerkship (Class of 2019)**



Source: LSSSE 2017, 2019

87. Noticeably, in both their 1L and 3L years, first-generation students are more likely to see clerkships as an aspirational goal (see Figures 8 and 9, percentage of expectations for clerkships among students who preferred clerkships). Over time, we see the difference between the two groups increased from 6.36 percentage points in their first year to 12.54 percentage points in their third year, indicating that law school experience may have magnified the existing disparity between first-generation students and non-first-generation students.

**Figure 10: First-Generation Students' Perceptions Regarding Pursuit of a Clerkship (Class of 2019)**



Source: LSSSE 2017, 2019

LSSSE data also shows a fundamental connection between the educational levels of students' parents and students' expected educational debt. Students from lower socioeconomic backgrounds anticipate high levels of educational debt, often creating significant financial barriers to pursuing judicial clerkships.<sup>88</sup> According to the 2017 LSSSE data, about 21% of non-first-generation students leave law school without any educational debt. By contrast, only about 9% of first-generation students do so. At the other end of the spectrum, about 23% first-generation students surveyed reported leaving law school with more than \$160,000 in educational debt, compared with only about 14% of non-first-generation students.

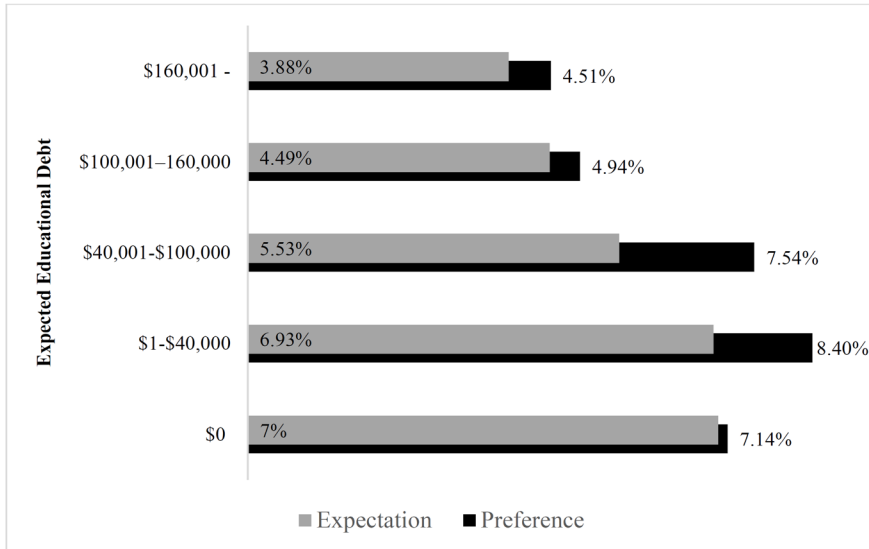
Using the 2017 LSSSE data, we examined whether students' educational debt is associated with their preferences and expectations regarding clerkships. According to our analysis, as students' educational debts mount, preferences for judicial clerkships decline. In particular, there is a precipitous drop in preferences for clerkships among students who have more than \$100,000 in educational debt compared with classmates with less than \$100,000 in debt. For instance, 7.54% of students with between \$40,000 and \$100,000 in educational debt report a preference for clerkships. This figure drops to 4.94% when students report between \$100,000 and \$160,000 in debt. And only 4.51% of students with more than \$160,000 in debt express a preference for clerkships drop (see Figure 11). This information suggests that those with higher economic burdens are likely to pursue a different career path than judicial clerkships.<sup>89</sup> Ultimately, these findings from the LSSSE data generate

88. See generally Taylor, *Robin Hood*, *supra* note 12, at 85 (interrogating students' expected law school debt among disadvantaged groups and its impact on students' law school experience); Ryan, *supra* note 4.

89. The NALP survey reports that more than one-third of student respondents who did not apply for clerkships cited the lack of finances to sustain a clerkship term as the main

more questions about the role of socioeconomic status and parental education in career decisions than they answer.

**Figure 11: Students' Perception Regarding Pursuit of a Clerkship, by Expected Educational Debt Levels**



Source: LSSSE 2017

#### *LSSSE Data and Future Research on Diversity and Judicial Clerkships*

Like any dataset, the LSSSE evidence has both great promise and limitations. Because of their vast breadth, the LSSSE results can provide a panoramic snapshot of student engagement across the nation. This is, in fact, one of LSSSE's primary objectives.<sup>90</sup> Yet for the purposes of our nascent ABF study or similar research projects, there are natural limits to the data. It is challenging, for example, to trace individual student responses throughout the law student experience, mainly because the same law schools do not annually participate in the survey. As a result, it is difficult to measure precisely how the law school experience may be shaping student career preferences and expectations. Similarly, although LSSSE casts a wide net, many of the schools that are considered "feeders" for federal appeals court clerkships are not surveyed regularly. As we've previously noted, this is an important limit for our own ABF study. Thus, research that focuses on specific and seemingly narrow segments of legal education or that seeks to determine exactly how law schools shape student engagement over time will need to use LSSSE data carefully and cautiously.

deterrent. See *Courting Clerkships*, *supra* note 74.

90. For general information about LSSSE, see *Who We Are*, Law School Survey of Student Engagement, <https://lssse.indiana.edu/who-we-are/>.

Yet despite these shortcomings, LSSSE is a valuable first step in almost any research project focusing on student attitudes and perceptions. For a study on diversity in judicial clerkships, LSSSE helps provide an introductory baseline about how law students in general view clerkship opportunities. Indeed, LSSSE information demonstrates that clerkships are a highly aspirational goal for nearly all students, including those with strong grades and credentials. Likewise, LSSSE's focus on race and gender provides invaluable information about how underrepresented racial minority groups and women law students come to envision their future career paths. This data also underscores the importance of examining the intersectionality of race and gender, as the findings on the declining preference for clerkships among Latina law students indicates. Used appropriately, LSSSE data remains a vital research tool.

Still, more needs to be done. To better understand the many factors that affect law students' lived experiences during and after law school, including their decisions to apply for clerkships, it is necessary to collect further information from students and law schools before we can provide answers. At the very least, however, the present analysis uncovers important issues of equity that are all the more apparent in a time of virtual classrooms and unequal access to digital resources. It is a reminder that law schools must do more to ensure that students from different backgrounds have an equal chance to succeed. While LSSSE data does not answer these inquiries, it sets up critical points of study for future empirical research on judicial clerkships

### **V. Conclusion**

LSSSE is an extraordinary asset for examining a vast array of topics related to the educational experiences of law students. By focusing on student-oriented surveys, LSSSE provides law schools and researchers an invaluable opportunity to delve into a wide range of issues dealing with the law student experience, including the career preferences and expectations of students throughout their law school years. In particular, there remains a wealth of opportunity for scholars interested in using LSSSE data to explore issues of diversity, equity, and inclusion in legal education and the profession.

The ABF's nascent project on diversity and judicial clerkships is just one modest example of how researchers can take advantage of LSSSE data to tackle the pressing concerns facing legal education and the profession. The lack of diversity among judicial clerks is the focus of increasing attention and an animating force behind proposals to reform the clerkship application and selection process. Understanding how race, gender, and socioeconomic status intersect with students' career perceptions is a vital first step in informing this ongoing inquiry. Such insights play an instrumental role in how we approach any future study of diversity and judicial clerkships. We hope other scholars will join us in engaging with LSSSE data to address the enduring issues that will shape the future of legal education and the profession.