

TWO WOMEN ATTORNEYS AND COUNTRY PRACTICE

*Nina W. Tarr**

I. INTRODUCTION

A. The Project

Legal theorists who believe there is an "ethic of care" which imbues a female problem-solving methodology have asked whether the entry of women into the legal profession will change the nature of law practice.¹ Feminist scholars have contrasted "female methodology" to traditional legal problem solving and defined the former as taking into account the context of the problem rather than relying on formal procedure and rules; being conscious of the ongoing relationships of the parties rather than simply relying on a rights-based analysis; and being holistic in developing creative solutions rather than assuming polar results. There is debate over the cause of the ethic of care,² whether it is universally applicable to women other than

* Nina W. Tarr, Associate Professor of Law and Clinical Director, Washburn University School of Law. The author would like to thank the women who are the subject of this article, whose willingness to participate made this possible.

She would also like to thank Stuart Tarr who continually challenged her to see the value of this project, Kathy Kirk who kept the project going by doing research and being enthusiastic, and Elizabeth Fischer who tirelessly read, typed, contributed, and typed some more. Finally, she thanks the many colleagues and friends who read drafts and provided encouragement and insight.

¹ See, e.g., James C. Foster, *Antigones in the Bar: Women Lawyers as Reluctant Adversaries*, 10 *Legal Stud. F.* 287 (1986); Carrie J. Menkel-Meadow, *Excluded Voices: New Voices in the Legal Profession Making New Voices in Law*, 42 *U. Miami L. Rev.* 29 (1987); Carrie J. Menkel-Meadow, *Portia in a Different Voice: Speculations on a Woman's Lawyering Process*, 1 *Berkeley Women's L.J.* 39 (1985); Joan C. Williams, *Deconstructing Gender*, 87 *Mich. L. Rev.* 797, 802 (1989) [hereinafter Williams, *Gender*], where she interprets Carol Gilligan to have said, "Women are portrayed as nurturers, defined by their relationships and focused on contextual thinking; men are depicted as abstract thinkers, defined by individual achievement. We should listen to women's 'voice,' argue Gilligan and her followers, because women's culture offers the basis for a transformation of our society, a transformation based on the womanly values of responsibility, connection, selflessness, and caring, rather than on separation, autonomy, and hierarchy."

² See, e.g., Catharine MacKinnon, *Feminism, Marxism, Method and the State: Toward Feminist Jurisprudence*, 8 *Signs* 635 (1985); Robin L. West, *Jurisprudence and Gender*, 55 *U. Chi. L. Rev.* 1 (1988); Williams, *Gender*, *supra* note 1.

white, middle-class, heterosexual women,³ and whether it is in women's best interest to advocate that an ethic of care exists.⁴ This last question arises because the ethic of care assumes that female is different from male, and some theorists fear "different" connotes "inferior."

In July 1990, at the first annual meeting for Women Attorneys in the State of Kansas, I met Jennie and Mary, then the only two women practicing law in Flinthills, a community of about seven thousand people in rural Kansas.⁵ Their experiences in this setting, detailed below, provide empirical information for the theoretical debate around difference and the female ethic of care in the practice of law. The women's experiences support an "outsider" theory of difference,⁶ particularly in the "choices" they perceive themselves to have made and their visions of their roles in the community.

As I visited⁷ with Jennie and Mary, I realized that legal feminist scholars have not examined the lives of women practicing in small towns.⁸

³ See, e.g., Patricia A. Cain, *Feminist Jurisprudence: Grounding the Theories*, 4 *Berkeley Women's L.J.* 191-214 (1989/1990); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 *Stan. L. Rev.* 581 (1990).

⁴ See, e.g., Leslie Bender, *From Gender Difference to Feminist Solidarity: Using Carol Gilligan and an Ethic of Care in Law*, 15 *Vt. L. Rev.* 1 (1990); Cynthia Fuchs Epstein, *Faulty Framework: Consequence of the Difference Model for Women in the Law*, 35 *N.Y.L. Sch. L. Rev.* 309 (1990); Williams, *Gender*, *supra* note 1, at 802-03.

⁵ The names of people and places have been changed at the request of the two lawyers about whom this article is written. The substituted names have historical significance. Jennie Kellogg was the name of the first woman to be admitted to the bar to practice law in Kansas. She was admitted in 1881. Ms. Kellogg acted as Assistant Attorney General from 1891-93. Karen Berger Morello, *The Invisible Bar: The Woman Lawyer in America, 1638 to the Present* 37 (1986); Robert W. Richmond, *Requisite Learning and Good Moral Character: A History of the Kansas Bench and Bar* 96-98 (1982). Her name was substituted for the woman in the article who began practicing first.

Mary Clynen Lease, who practiced law in Kansas in the late 1800s was a well-known, extremely talented orator who spoke in support of causes such as women's suffrage, the populist movement, labor reform, and temperance. She was called the "Wichita Cyclone," the "Ironjawed Woman of Kansas," and the "Red Dragon." *Id.* at 119. It is said that Mary Lease never took a fee for her services because "she believed lawyers had a special duty to help the poor and work for social justice." *Id.* at 120. Mary Lease's name was substituted for the other woman about whom this article is written.

⁶ See, e.g., Joan C. Williams, *Dissolving the Sameness/Difference Debate: A Post-Modern Path Beyond Essentialism in Feminist and Critical Race Theory*, 1991 *Duke L.J.* 296, 306-08 [hereinafter Williams, *Dissolving*]. See discussion *infra* part I.B.

⁷ Rather than talking, meeting, discussing, negotiating, or even arguing about a topic, people in Kansas "visit" about it.

⁸ See, e.g., Bender, *supra* note 4, at 1-3 nn. 2-3.

Studies on women lawyers have focused mainly on women from prestigious law schools and large law firms.⁹ Researchers have implicitly assumed that conclusions from research on urban law firm practice can be applied to all lawyers. In her article calling for research on the way women practice law, Carrie Menkel-Meadow notes that the current research frequently reflects a rigid concept of gender.¹⁰ For example, there is a preoccupation with how effectively women balance large law firm practice and family life as if these are the only competing dynamics.¹¹ This focus on the large law firm career assumes that it equals success and that assimilation into this exclusive framework is the goal of all "real" lawyers.¹² Thus these studies remain products of a limited world view based on a "conventional male-constructed," capitalist, heterosexual sociology.¹³

B. Outsider Theory

Joan C. Williams has critiqued the "feminism of difference" as being a regression to a nineteenth-century theory of domesticity which works to the disadvantage of women. She argues that although theorists try to be

⁹ See, e.g., Jill Abramson & Barbara Franklin, *Where They Are Now: The Story of the Women of Harvard Law 1974* (1986) (describing the experiences of women who graduated from Harvard in 1974, and discussing the structure of the firms, parenting, burning out, climbing to the top, and alternative careers); *Women Lawyers: Perspectives on Success* (Emily Couric ed., 1985) (a series of articles about women lawyers written by the lawyers themselves, and covering firms, legal aid, public interest, etc., but nothing on small town practice). See also David Chambers, *Accommodation and Satisfaction: Women and Men Lawyers and the Balance of Work and Family*, 14 *Law & Soc. Inquiry* 251 (1989) (studying graduates from Michigan Law School). See generally Cynthia Fuchs Epstein, *Women in Law* (1981); Gender and Law Project, *Gender, Legal Education, and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates*, 40 *Stan. L. Rev.* 1209 (1988); Linda Liefeland, *Career Patterns of Male and Female Lawyers*, 35 *Buff. L. Rev.* 601 (1986); Leona M. Vogt, *From Law School to Career: Where Do Graduates Go and What Do They Do?* (1986) (prepared for Harvard Law School Program on the Legal Profession).

In the last few years, a number of state commissions have generated studies on the status of women lawyers in the profession. See *Gender Fairness Report*, 61 *J. Kan. B. Ass'n* 35 (1992). As part of their studies, the commissions took testimony from individuals and their stories were absorbed into the whole. This article provides a different perspective because it focuses on the individuals, not the general trends.

¹⁰ Carrie J. Menkel-Meadow, *Exploring a Research Agenda of the Feminization of the Legal Profession: Theories of Gender and Social Change*, 14 *Law & Soc. Inquiry* 289, 295-96, 298 (1989) [hereinafter Menkel-Meadow, *Exploring*].

¹¹ See, e.g., Chambers, *supra* note 9.

¹² Menkel-Meadow, *Exploring*, *supra* note 10, at 307.

¹³ *Id.*

selective in what aspects of the traditional stereotypes of women they adopt, gender stereotypes marginalize women. She suggests that, "'relational feminism' is better understood as a critique of possessive individualism than as a description of what men and women are actually like."¹⁴ She concludes that the "kernel of truth in Gilligan's voices, then, is that Gilligan provides a description of gender differences related to men's and women's different roles with respect to wage labor and child care under the current gender regime."¹⁵

Citing *EEOC v. Sears, Roebuck & Co.*,¹⁶ and using the concept of the "mommy track," Williams explains how women who appear to have made choices are actually limited by cultural hegemony.¹⁷ She says, "To put it bluntly, women's rich emotional relationships in their disempowered sphere and the seductive compliments of domesticity—particularly, the notion that women were more moral than men—encouraged women to 'choose' their own repression."¹⁸ She calls for the debate to be refocused away from the question of equality or difference theory and toward the goal of deinstitutionalizing gender.¹⁹

¹⁴ Williams, *Gender*, supra note 1, at 806–13.

¹⁵ *Id.* at 841.

¹⁶ 628 F. Supp. 1264 (N.D. Ill. 1986), *aff'd*, 839 F.2d 302 (7th Cir. 1988).

¹⁷ Williams, *Gender*, supra note 1, at 828–31. The complexity of the forces forming the person from without and controlling their questions and understanding of their context is the result of the process of cultural hegemony. Part of the reason Jennie and Mary are not fully cognizant of their outsider status is because of the effectiveness of dominant cultural hegemony. This concept is clearly described by Steven Watts in the introduction of his book, *The Republic Reborn*, when he explains,

First offered by Antonio Gramsci and later developed by a number of English and American historical theorists, this concept refers to the way in which dominant class values, organizations, and definitions of reality seem to attract "spontaneous" loyalty rather than simply being imposed on society through brute force. Its proponents contend that ruling groups achieve and maintain social power not so much through economic intimidation or police strength—although this is indeed part of the picture—but rather through successfully prescribing the conventional wisdom of a society, defining its criteria of success, and establishing the acceptable boundaries of discourse. The great danger of this scheme lies in a tendency to oversimplify . . .

Steven Watts, *The Republic Reborn: War and the Making of Liberal America, 1790–1820 XIX–XX* (1987).

See also Barbara Yngvesson, *Inventing Law in Local Settings: Rethinking Popular Legal Culture*, 98 *Yale L.J.* 1689–93 (1989).

¹⁸ Williams, *Gender*, supra note 1, at 830.

¹⁹ *Id.* at 837–45.

In her recent article, Professor Williams examines the application of what is becoming known as "outsider's jurisprudence" to the sameness/difference debate.²⁰

This reformulation of difference, which we could call post-modern difference, avoids essentialism because it refuses to concede that race, gender, or indeed, any given category—will always be determinative. It allows us to argue that, although race and gender may prove determinative in some particular context, this is a far cry from reified "minority perspective" or women's voice that determines how a given individual will react in every situation A post-modern approach to difference highlights that each person is embedded in a matrix of social and psychological factors that interact in different contexts. Essentialism dissolves before the notion of shifting, constantly reconfigured self, shaped but not determined by membership in sets of social categories that crystallize power relations in America.²¹

She concludes that,

[p]ost-modern difference also begins from the notion that a myriad of possible categories are applicable to any individual. . . . This analysis helps us to understand that sameness and difference are not arguments about the essential nature of human beings. Instead they are questions that stem from the fact that 'neutral' standards systematically disadvantage outsiders²²

Williams goes on to explain how narratives can provide a vehicle for understanding differences without the traps of stereotypes. This methodology requires careful consideration as to what is the appropriate category in a particular study; care that the descriptions of differences are not too broad in scope; and particular caution when the descriptions sound like stereotypes.²³ Jennie and Mary exemplify Professor Williams' theories because they are simultaneously the same as and different from the various groups in which they would appear to fit, such as women, lawyers, and members of a rural community. They sense that they are outsiders but are uncertain why. As Williams predicted, their stories are useful vehicles for understanding how they are outsiders who belong.

²⁰ Williams, *Dissolving*, supra note 6.

²¹ *Id.* at 307-08.

²² *Id.* at 323.

²³ *Id.* at 320-32.

C. The Rural Practice of Law

The scant research on rural practice has failed to examine the issue of whether gender affects the individual lawyer's experiences. For example, sociologist Donald Landon's studies of rural practice in Missouri ignore whether women lawyers were having the same experiences as men.²⁴ Landon interviewed 201 lawyers in 116 communities in rural Missouri between July 1982 and March 1983. None of the communities had more than 20,000 residents.

Landon concluded that the dichotomy between rural and urban practice was a continuum in which the largest communities differ from the medium-sized ones about as much as the medium differ from the smallest.²⁵ He found that in the small towns, "[r]elationships are more likely to be person-to-person and based on friendship than to be status-to-status and based on function. In his work setting the country lawyer toils in a world small in scale and infused with familiarity."²⁶ The lawyers Landon interviewed reported that their practices were different from those of urban lawyers not in content, but in the manner of their practice and the character of their professional relationships. One substantial difference was that rural lawyers had a higher proportion of individual clients.²⁷

Landon noted that one of the most defining characteristics of the rural lawyer was the complexity of multi-interest relationships in which they were engaged. The lawyers had multiple roles in the community, so they interacted with their clients in a number of arenas such as church, school, civic organizations, and family. Attorneys were also farmers, real estate developers, landlords, bank directors, or shop owners.²⁸ Within the legal

²⁴ Donald D. Landon, *Country Lawyers: The Impact of Context on Professional Practice* (1990); Donald D. Landon, *Clients, Colleagues and Community: The Shaping of a Zealous Advocacy in a Country Law Practice*, 1985 *Am. B. Found. Res. J.* 81 (1985) [hereinafter Landon, *Country*]; Donald D. Landon, *LaSalle Street and Main Street: The Role of Context in Structuring Law Practice*, 22 *Law & Soc'y Rev.* 213 (1988).

Also ignoring questions of gender are Yngvesson's quantitative analysis of the role of the clerk and informality in court proceedings in western Massachusetts and Daniels' research into the differences between rural and urban trial courts in Illinois. Barbara Yngvesson, *Making Law at the Doorway: The Clerk, the Court, and the Construction of Community in a New England Town*, 22 *Law & Soc'y Rev.* 409 (1988); Stephen Daniels, *Civil Litigation in Illinois Trial Courts: An Exploration of Rural-Urban Differences*, 4 *Law & Pol'y Q.* 190 (1982).

²⁵ Landon, *Country*, *supra* note 24, at 85.

²⁶ *Id.*

²⁷ *Id.* at 85-86.

²⁸ *Id.* at 94.

profession, lawyers had multiple jobs such as city attorney, private practitioner, judge, city council person, mayor, etc. These multi-interest relationships resulted in

considerable emotional investment. Continual encounters with others are virtually assured, and therefore the motivations that apply to each interactional situation tend to narrow down to those that will make the next encounter comfortable. This attention to amiability appears to be a necessary adjustment to the inevitability of future encounter. . . . [C]ountry practice is primarily practice for people. Thus the country lawyer deals constantly with the *sources* of public opinion: his clients are people, not abstract entities.²⁹

Landon found that most country lawyers faced the paradox that the community generally assumes that the work of lawyers is trying cases; rural lawyers have to establish their reputations through trial work. Yet, more cases in the rural communities than in urban areas were settled by negotiation,³⁰ and the general sentiment was that litigation was the last resort.³¹ In addition, rural attorneys spent more time "hand holding" with their clients, and they were generally accessible to their clients without appointments. A considerable amount of their work was "general counseling" on family problems, moral dilemmas, and business difficulties. They were, to use Landon's term, "helpers."³²

The lawyers' multi-interest relationships created strains because clients expected complete loyalty and were suspicious of the lawyers' relationships with other lawyers or with other members of the community. Keeping the professional and the private relationships separate could be difficult, and there were perceived difficulties keeping lawyer-client communications confidential.³³ The community was aware of long-standing rivalries and loyalties between lawyers and understood that the relationships of the lawyers could affect their representation of their clients.³⁴

Landon found that rural lawyers were constantly under observation, and word-of-mouth was the only advertisement needed. Any success or mistake was immediately public. Thus, the community regulated what was acceptable. Attorneys had to be conscious of the community's reaction to the cases they handled and how they resolved them. Those who digressed

²⁹ Id. at 86-89.

³⁰ Id. at 89-91.

³¹ Id. at 98.

³² Id. at 92.

³³ Id. at 95.

³⁴ Id. at 106.

by trying to be cunning or overly zealous were seen as outsiders and their actions closely scrutinized.³⁵

In sum, Landon found:

This informality and courtesy characteristic of country practice is essentially professional interaction based on the norm of reciprocity. It expects attorneys to be cooperative rather than contentious; trustworthy, not tricky; reasonable, not radical. The constant interaction between the members of a relatively small group of private practitioners who can greatly complicate one another's work appears to transform professional relationships. In place of the strong, zealous, partisan relationship of opposing counsel implied in the professional code and governed by a host of technical rules, country practice involves more the person-to-person collegial relationships that are guided by sentiment, not written rules, and that accommodate the self-interests unique to practitioners in small settings. The essential identity among colleagues is personal rather than formally professional. The country practitioner claims that efficiency results—less gets litigated, more gets solved. And the professional community remains intact.³⁶

Landon's work provided a second backdrop for examining Mary's and Jennie's experiences.

D. Methodology

I initially hesitated to begin this project because I was uncertain whether it would produce anything which would be of value over and above a narrative description of two individuals' experiences. I was curious about these women's lives because of my roles as a teacher training students to become rural lawyers, as a woman who practices law, as a scholar fascinated by the application of theory to reality, and as a person who had met two interesting individuals. Since both women were willing to participate in the project, I decided it would be valuable for me to get to know them whether or not a written product resulted. The more I visited with them and the more I read the literature, devoid of mention of rural practice, the more worthwhile the project appeared.

My years as a woman lawyer and law professor who shares some of Mary's and Jennie's multiple roles aided me in this project. I am a daughter, a mother, and a wife who feels a part of many communities. I have practiced law for over ten years in a variety of settings, so I understand the

³⁵ *Id.* at 99, 102.

³⁶ *Id.* at 109.

terminology the women used and the issues they raised. I, too, am a female in a male-dominated profession and have felt what these women articulated to me.

In August 1990, I met individually with Jennie and Mary to get their stories. I drove to Flinthills, saw each woman in her office, and had a small tour of the community. I was fairly open about what topics we would cover because I wanted to see what issues they raised. I saw them separately so they would not influence one another at our first interview. I was not surprised to discover they had spent time before my arrival wondering why I was bothering with this project and expressing concern whether it would have disastrous personal results. With hesitation, they each saw me. I obtained parallel biographical information from each woman about her extended family, how she came to practice law in Flinthills, and the setting in which she worked. I took extensive notes during the conversations and then dictated memoranda for later reference.

A month or so later, all three of us met after we read *To Kill a Mockingbird* by Harper Lee.³⁷ In *To Kill a Mockingbird*, Atticus Finch takes a professionally risky position by zealously advocating for a black man, Tom Robinson, who was accused of raping a white woman. The facts revealed during the trial make it clear that Robinson had not tried to rape the woman and was, in fact, the victim. By zealously defending Robinson, Atticus challenges the community's prejudices and values. As women, Jennie and Mary do not fully measure up to the community's shared notion of a "lawyer." The novel, therefore, seemed a useful vehicle for examining community acceptance of unaccommodating lawyers.

I hoped that after considering the ethical dilemmas in the fictionalized small town, Jennie and Mary would feel comfortable discussing whether similar dilemmas arose in their real community. I wondered whether they would identify with Atticus Finch. He was an accessible model for me to use for comparison, and the town depicted in the novel provided a contrast to the Flinthills community. Harper Lee, the daughter of a small-town lawyer, provided another voice in this dialogue.

As it turned out, we did not spend much time discussing the novel *per se*. We discussed Mary's and Jennie's sense of their community and their roles as lawyers and professionals within that community. Reading the book stimulated their thoughts about their reality and values.

³⁷ Harper Lee, *To Kill a Mockingbird* (1960). For discussions of *To Kill a Mockingbird*, see Thomas L. Shaffer, *Legal Ethics and the Good Client*, 36 *Cath. U. L. Rev.* 319, 327 (1987); Thomas L. Shaffer, *The Legal Ethics of Belonging*, 49 *Ohio St. L.J.* 703, 719 (1988).

In anticipation of our third meeting, we read Landon's article on the rural practice of law.³⁸ I had no intention of duplicating Landon's research by interviewing all of the attorneys in Flinthills. Rather, I wanted to see if the article was a valid reflection of the women's perception of rural practice so that I could compare their experiences. I initially hesitated to have them read the piece because I was concerned that the article would taint the validity of what they were saying to me. Nevertheless, by this time we had developed a good rapport, and they were making every effort to be as honest as possible. I believe the article was extremely useful for my intended purpose.

After spending many hours interviewing Mary and Jennie and getting to know them, I became self-conscious about writing this article. I felt close to them as people, and I disliked the feeling that I was studying them as if they were guinea pigs. They had trusted me with a depth of knowledge I felt inadequate to communicate. I wanted to validate their experiences and to communicate their love and deep loyalty for their community. At the same time, I saw their feelings of frustration and powerlessness, which demanded that their choices and their community be reported critically. A similar dilemma faces anyone who chooses this kind of research. Narratives are a rich source for knowing, but they carry incredible risks and costs.

As I wrote various drafts of this article, I sent them to Mary and Jennie for comments and feedback. Each suggested ways in which my depictions failed to reflect what she wanted to communicate, and I have tried to incorporate those suggestions. Neither woman has asked for a change in analysis.

II. CHOICES OR ILLUSIONS?

A. Going to Law School

Jennie

Jennie grew up on a Kansas farm with two brothers and one sister. Her mother went to college to become a schoolteacher and her father to study agricultural management. Jennie said it was unusual to have two college educated parents on a farm when she was growing up.³⁹ Her family

³⁸ Landon, *Country*, *supra* note 24.

³⁹ Jennie said that her family still lived near her original hometown. Her father was born there, but her mother moved there as a freshman in high school. Her father's history was different from that of most farmers because he did not grow up on a farm. Her paternal grandfather had been an entrepreneur and invested in the land. Jennie's father obtained a degree in agriculture and worked for the government before beginning to farm. His mother did not work outside the home.

Jennie's maternal grandfather was an oil pumper, which meant he helped maintain the oil fields. Her maternal grandmother was a schoolteacher. Her

assumed that Jennie would go to college, but expected her to major in something "practical" like home economics or elementary education. Her family frowned upon all other majors. Jennie went into education, but contrary to her parents' wishes, majored in secondary education and social studies. An old friend recently told Jennie that even in high school she hoped to be a lawyer—a hope Jennie herself did not remember.

After graduating from college in 1971, Jennie taught out-of-state for about seven years in an isolated community of two thousand. Since it was a wealthy period for the area, she had a fairly free rein to develop her curriculum. Although the students were good and she enjoyed the experience, she realized one day as she was coloring Superman for a bulletin board that she deeply wanted to do something else. Her brother-in-law was in law school at the University of Kansas, and Jennie called him to find out how she could get into law school. He explained that she needed to take the Law School Admission Test, which she did. She applied to the only two law schools in Kansas; it never occurred to her to consider out-of-state schools. She chose the University of Kansas because it was less expensive, and in 1978 entered law school.

Her most vivid memory of law school is surprise at how competitive and employment-oriented the students were. When she entered law school she never considered orienting her education toward a specific job, but from the first day her peers were concerned about study aids, getting a job, and billable hours. Jennie had never heard of such things. She felt that everybody else was prepared for the experience while she had no idea what was going to happen.⁴⁰

Jennie did not worry too much about employment, but nevertheless, after her second year, she found herself clerking at one of the larger law firms in Wichita. The firm had never had a woman attorney and probably had only one other woman law clerk. When she returned to school in the fall, the firm had not offered her a permanent associate position, but she was

mother, who was also trained as a schoolteacher, worked as a teacher before her children were born. When all of Jennie's siblings were in school, her mother began substitute teaching.

Jennie is the third of four children: the eldest, a sister; then an older brother; Jennie; and a younger brother. All of her siblings went to college and her sister has a master's degree in education.

⁴⁰ Jennie's feelings of being an "outsider" are common to many women and people of color. See, e.g., Ann Scales, *Surviving Legal De-Education: An Outsider's Guide*, 15 Vt. L. Rev. 139 (1990). Jennie also felt "different" because she perceived herself as older than the average student.

not concerned. She had been told by one of the partners that their process required the unanimous partner approval of any appointment. Since some of the partners had sons who might be interested in joining the firm, their sons would be given priority.

Early in the fall of her third year, the Dean informed Jennie that he had given her name to some Kansas City law firms because the law school was concerned that the Wichita firm where she had clerked had a history of sex discrimination. He warned her that she probably would not be given a permanent associate position there because she was a woman. This revelation came as a big surprise to Jennie, whose consciousness had not been "raised" to consider sex discrimination as a dynamic. Later that fall, she did receive and accept an offer of a permanent position from the Wichita firm, where she worked after law school.

Mary

Mary grew up in Flinthills. Her father's family emigrated from Ireland to Flinthills three or four generations ago. Her mother's family was from Denver, Miami, and then Kansas City. Her parents met while her father was in Kansas City at dental school. They were married and then her father joined the military. Her mother worked as Mary's father's dental assistant. Mary's mother had spent her life doing a great deal of volunteer work in Flinthills, especially with the historical society. Her father was one of approximately seven dentists in Flinthills.

Mary has one sister five years her senior. Her sister is married and has one daughter. She lives in a suburb of Kansas City and is extremely conservative and religious. Mary and her sister were raised in the Methodist church, but Mary no longer participates in institutionalized religion.

Mary attended the University of Kansas as an undergraduate where she majored in speech communications and human relations. She entered law school at Washburn University of Topeka directly from undergraduate school. Mary chose Washburn because Jim, an old family friend and the family's lawyer, recommended it. She perceived Washburn to be a more practical institution than the University of Kansas.

B. Getting to Flinthills

Jennie

While attending law school, Jennie became reacquainted with Joe, a Flinthills farmer whom she had met in college. They began dating and decided to marry. She was unable to get a job in Flinthills right after

school so she went to the firm in Wichita.⁴¹ While at the Wichita firm, Jennie worked with one partner who did oil and gas leases, and for another senior partner as a junior litigation associate. She did motion practice and frequently wrote briefs.

Eventually Jennie was able to get a job with a law firm in Flinthills that had represented her husband's family for a number of generations. The firm's historical connection with Joe's family made it a natural place for her to work. Jennie was offered the job and joined what became a three-person firm. There were six law firms in town, some of which were solo practitioners. The largest firm had four members.

Mary

When Mary completed law school, she moved to Boulder, Colorado, to prepare for the bar exam. She chose Colorado because she had always vacationed there and loved all of the outdoor activities that were available. She did not pass the bar the first time but stayed in Boulder to take it successfully the second time. She lived in Boulder for the next seven years.

Mary wanted to work as an assistant county attorney, but it was impossible to find a position. She liked criminal work because it seemed more creative. She thought prosecuting was more appealing because the prosecutor has control over what crimes to charge and which creative solutions to choose.

When she could not find a job as an assistant prosecutor, Mary joined two partners practicing in a Denver suburb. They added two more associates, but one of the partners left. She began on a salary, but her compensation was changed to commission because the firm was having financial difficulties. The firm did a small general practice, including criminal defense work and business collections. Mary frequently accepted court appointments and juvenile cases, which the others in the firm did not want to do.

She eventually became dissatisfied with the firm's financial situation and joined a downtown Denver branch of a national chain of law offices. She remembered the chain's system as oriented around quotas and making money. She felt constantly tested and under a tremendous amount of pressure to meet required numerical goals. She received mixed messages from various managers in the company about her performance. Because of the office schedule she often worked nights and weekends, which was

⁴¹ She remembers that during the first round of interviews in Flinthills, she met with a firm's senior partner who told her that, although he had never thought he would hire a woman, "she wasn't half bad and not as bitchy as he had thought."

particularly difficult because she was commuting between Boulder and downtown Denver. She felt that the managing attorney in the office was taking in more cases than he could ethically handle and then leaving her the clean-up job.

In the winter of 1986, Mary's grandfather died and left a substantial amount of property that he and her father had jointly managed. When Mary visited Flinthills over Christmas, she was extremely dissatisfied with her work situation at the chain. Mary's parents encouraged her to consider moving back to practice in Flinthills so that she could assist her father in managing the family property. Mary's sister was not interested or active in the family's business.

Meanwhile, Jim, one of the main litigators in Flinthills and the old family friend who had advised Mary to attend Washburn, lost a junior partner and wanted someone to join the firm. He made Mary feel that she would be a valued member of his firm and strongly encouraged her to come back to Flinthills. The combination of her distaste for her current job at the chain, family pressure, and the positive encouragement from Jim made her decide to move back to Flinthills. She moved in February 1987.

C. The Job

Jennie

On October 31, 1983, Jennie began her practice in Flinthills. She began as an associate and did not discuss with the partners how or when she might become a partner. In retrospect, she was so pleased to get a job in the place where she wanted to be that she did not inquire into either what kind of work she would be doing or what her formal relationship to the firm would be. In our talks, she said it was a mistake not to articulate her employment expectations because this oversight later caused problems.

In the beginning of her practice in Flinthills, Jennie did some small estate planning and land contracts, read many abstracts, and learned to do oil and gas leases. She referred to their practice as an "office practice," which also did a few divorces and domestic cases. One area that she particularly liked was adoptions; she had handled around five. Jennie explained that the real bread and butter for a firm in rural Kansas is estate planning. At one point, Nate, the originator of the firm, had a practice of not charging for drafting wills. The unspoken understanding was that the client would return to the firm for any legal work and, ultimately, the firm would probate the estate. The law firm made its money on the percentage allowed from the probate.

Jennie said that she did not receive formal training from her new partners, but her informal training came primarily from Nate. He would assign cases to her and explain what he would have done with them. She could drop in his office and get ideas from him and did so on a regular basis. She regrets that they failed to spend more time together sharing ideas about how to practice.

Jennie was interested in doing litigation. In March 1984, she took advantage of an opportunity to become city attorney, a job she could hold while continuing to be an associate at her firm. Jennie's predecessor at the firm, Max, had also been a city attorney. When Max left their firm to go work with a judge, he was obliged to give up his position as city attorney. Consequently, it was assumed that the city attorney position was left with Jennie's firm, and since Jennie filled Max's slot, she had an advantage getting the assignment. At the time she applied, one other person wanted the job, but according to Jennie, "No one liked him so they gave it to me."

Jennie loves being city attorney. As city attorney she begins every day in the courtroom. Usually she is out within the hour but sometimes is there for the whole morning. The daily municipal court sessions are unusual; in many places in Kansas, municipal court meets only once a week. The municipal court judge in Flinthills is also different from judges in other counties because he is a lawyer; in some areas the judges are lay people. The Flinthills municipal court judge runs the court with more formal procedure than even some of the district courts in other parts of the state. All misdemeanors, assaults, and batteries go through the municipal court. Jennie has three to five trials a month of varying complexity. She feels the job has helped her to learn to become a better trial lawyer.

In addition to prosecuting, as city attorney Jennie advises the city manager. Jennie feels this city manager relies on her much more than the previous city manager relied on Max because Jennie is involved in a lot of the city commission's decision making. For example, when Flinthills was preparing to hire a new chief of police, Jennie planned the entire process. She attends at least two city commission meetings a month.

Every year Jennie has to be reappointed, but this process has never been controversial. There have been some changes in the commissioners but they consistently want her in the job. This support pleases her; she loves working with the personnel in the city and finds the trial work enjoyable. Moreover, she said, the work is much more varied than the oil and gas leases and estate planning that she would otherwise be doing. Because she enjoys the work so much, she has never sought to increase the hourly rate she negotiated when she became city attorney more than seven years ago.

In November 1988, Jennie was also elected to the position of county attorney for Flinthills County. One of her major concerns when considering the position was that she did not want to give up her city attorney position. Jennie came to the county position in a somewhat fortuitous fashion. When she first came to Flinthills, she assisted the county attorney on a fairly regular basis by taking care of his cases when he was away or sick. When the county attorney left permanently, the local Republican Party recommended that Gerry, another local attorney, step in as county attorney. Gerry was not happy with the criminal prosecution component of the position because he felt it created too many conflicts of interest for his business. When the time came for someone to apply for the county attorney position, no one registered as a candidate. Jennie was at the municipal court building talking to the city manager and he suggested that she apply. As the only candidate, she was elected.

Jennie took office in January 1989. She has been pleased with the structure whereby she does the criminal prosecutions while Gerry acts as "county counselor." The county counselor is the attorney for the county commission and is a more political job. Jennie enjoys focusing on the criminal work without the political complications. She is responsible for such matters as the Child in Need of Care cases, mental commitments, and criminal prosecutions. The income she earns as county attorney goes to the firm.

In January 1989, Jennie also became a partner. Her initial failure to discuss her employment relationship had been making her uncomfortable. She was angry that she had not been made a partner; her male predecessor had come to the firm with less experience and had been made a partner more quickly than she. Moreover, he made a higher salary after two years than she was making after four.

Before becoming county attorney, Jennie was dissatisfied with her job; she felt it was boring and she had few clients of her own coming in. She speculated that Nate was reluctant to make her a partner because he had been very hurt when Jennie's predecessor, Max, left. The critical dynamic in the law firm is loyalty, and the firm's members were nervous about making a commitment to her. This concern for loyalty finally worked to her advantage because they gave her a partnership when they became afraid she would otherwise leave.

By the time of our interview, she was trying to work out a more complex partnership agreement but found herself hesitant. She believed her reluctance was based on her concern about committing herself to a particular system. Somehow, she feared if everyone signed a written agreement, flexibility would be lost.

Mary

Mary felt obligated to join Jim's firm when she went to practice in Flinthills because he was her family's lawyer. Like Jennie, Mary did not discuss with Jim either her formal relationship to the firm or what work she would be doing. Jim assigns her such cases as domestic disputes, collections, and juvenile and criminal appointments. Jim did not train her because, other than the collections work, he did not have much experience in these areas of the law.

In 1987, the Kansas Supreme Court held that the county courts could not force all local lawyers to do indigent public defender work.⁴² Flinthills County revamped its system of having everyone on an appointment list and decided on a public defender position to represent all indigent defendants. No one in town was interested in the work, and Mary reluctantly took the position as part of her caseload in the firm.

Mary was dissatisfied with her work situation. Jim's son, Michael, had returned from law school the previous year, and the firm consisted of Jim, Michael, Mary, and Jim's wife, who was the office administrator. The firm decisions were made within the family, and Mary felt shut out. The clients likely to have lucrative, interesting cases were steered to Michael. Mary felt helpless to change the situation. She had never discussed partnership and was unsure whether she would be given a partner position in the near future; still, she seemed confident that at some point Jim would feel compelled to give her a partnership option.

Mary did not feel that Jim had asked her to come to the firm to fill a slot only until his son was available. Although he "used her" for doing cases in which he was not interested, he could not use her simply to substitute until his son was available. Such a practice would be frowned on by the community. By encouraging her to return to Flinthills and to join his practice, Jim made a commitment to her, either personally or by community expectations. The commitment included employment, but not necessarily power in the firm or financial satisfaction.

Mary found Flinthills stifling. Her work was routine and sometimes even distasteful. She did not enjoy doing criminal defense work because she felt no control over the clients or the cases. She was compelled to take what came into the office and to do the best she could with it. She faced the dilemma of how to remedy the situation.

As months passed between our interviews another issue materialized for Mary; it became uncertain whether or not she was going to continue as public defender. She feared Jim had jeopardized his relationships with

⁴² State v. Smith, 747 P.2d 816 (Kan. 1987).

the county commissioners. Jim had had the contract for the public defender for some time, but felt the firm was not being paid enough. He asked the county commissioners for more money for the contract, and when they refused to pay that much, he refused to negotiate. Consequently, the county commissioners had asked for bids to see what other law firms were willing to take as payment for being the public defender. Some firms from out-of-county had put in bids.

Mary felt Jim was asking for too much and had not considered the consequences to Mary should they lose the contract. He consulted her in passing, but only superficially; he had already made up his mind what he thought was right and had involved himself in a power struggle with the county commissioners. Mary felt disempowered because she was the one who did the work and her practice would suffer should the firm lose the public defender work. Despite the ethical dilemmas the job raised and her dislike of some of the clients, during this conversation Mary said she liked her work as a public defender because of the opportunity to work with Jennie as the prosecutor.

In Flinthills, the dynamics of power and money seemed to play out in what "choices" the women had regarding cases and clients they got.⁴³ The

⁴³ See Menkel-Meadow, *Exploring*, supra note 10, at 304 (examining occupational segregation within the practice of law). See also Paul W. Mattesich & Cheryl W. Heilman, *Does Gender Make a Difference?* 9 *Law & Ineq. J.* 59, 112 (1990) (study on gender differences in the legal profession addressing the relationship of gender to both the procurement of jobs and work assignments).

Historically, women were considered too dainty to take on the rigors of the courtroom. Early women lawyers were often the helpmates of their husbands. They were the "office" lawyers while the men practiced in the public, legitimate forum: the courtroom. Menkel-Meadow, *Exploring*, supra note 10, at 302. See also Morello, supra note 5, at 15; Richmond, supra note 5, at 99. The growing number of women in the profession has made conditions better, although women are still not equal "playing partners." Deborah Graham, *It's Getting Better Slowly*, 72 *A.B.A. J.* 54 (1986). Another legitimate forum for early women lawyers was in social reform movements which specifically addressed such "women's issues" as protective legislation and juvenile justice. Menkel-Meadow, *Exploring*, supra note 10, at 303, calls for "a richer examination of women professionals historically," including how early woman legal professionals conceived of themselves, what questions they were interested in, and how these issues differ, if at all, from the current interests of women professionals.

Women later moved into criminal practice on both the prosecution and defense sides. *Id.* at 310. Menkel-Meadow assumes this is because early entrants in the field were particularly "talented, aggressive and motivated." *Id.* Sex discrimination in the private sector, economics, and social prejudices more than likely shaped this movement. Public sector positions, such as prosecutor jobs, opened up to women before private sector jobs, presumably because government employers were pressured to hire women. Likewise, where public defender positions were government

most lucrative, historically stable, and socially acceptable legal work was probate, oil and gas leases, and farm leases. Jennie became the city and county attorney almost by default because the male lawyers thought those positions interfered with their time or presented conflicts which made it difficult to continue with lucrative business. Even her county attorney job was bifurcated, unlike in other small counties, because a male lawyer retained the work he perceived would not conflict with his private practice.

Mary was explicitly brought in to do the "less appealing work": "petty" criminal appointments, collections, and divorces. As soon as the district judge could no longer force all of the lawyers in the county to do public defender work, no one wanted to be on the list. The county needed a public defender and since Mary needed clients, she "chose" to take the job.⁴ Although Jim apparently had a reputation for being the "collections" lawyer in town, he had shifted that distasteful job to Mary. The domestic cases or divorces were seen as an unpleasant by-product of representing otherwise lucrative clients in their business dealings. Those cases, too, were shifted to Mary. She recognized that she could not access more interesting, better paying, or more powerful clients because of the sphere in which she practiced.

D. Life Outside of Work

Jennie

At the time of the interviews, Jennie is in her early forties. Joe, Jennie's husband, is one year older than she. He attended Kansas State University and has a degree in agricultural mechanics. After college, he went into the Peace Corps because he was not getting along with his father and felt he could not yet begin working on the farm. After returning from the Peace Corps, he worked as a field representative for the Farm Bureau, a large multi-service farmer organization. Eventually, Joe's mother helped him

jobs, they were more accessible to women. Where there is no public defender, court appointments for indigents were one place that women, who might be having trouble getting clients, had a ready-made group of consumers. Court appointments paid notoriously less than the private billing rate, and for many men, representing indigent criminal defendants was socially unacceptable.

"An argument can be made that generally the "new kid" on the block becomes the public defender. Such may sometimes be the dynamic, but note that when Michael came to town, his father made sure he got the felonies (which are more complex and interesting) and the lucrative clients.

reconcile with his father and he joined the farm. Joe's father continues to farm with him. Jennie and Joe have a son who was born in 1987.⁴⁵

Their farm is actually north of Flinthills in another county. Many of Joe's large, extended family live nearby. Joe's great-grandfather was one of the founders of the local Lutheran church. Although Jennie was raised a Methodist, she was strongly encouraged to convert to the Lutheran church before she married Joe. She felt it was a significant shift in her own religious beliefs because she previously did not have such strong religious convictions. Their church is associated with the Missouri Synod. Jennie regularly attends church and said it is the center of her social life. There are about one hundred families in the church, and Jennie said it is hard to distinguish whom she knows from church and whom she knows from family relationships because the overlap is so high. She is active in planning church dinners and in working with the missionary groups, while Joe is active on the church board. Jennie is also involved with some other county and city organizations both in Flinthills and in another town near the farm, but she doesn't socialize with the people from work or from the town near the farm. The people on the land next to Joe and Jennie grew up with Joe when their fathers farmed the contiguous properties. Joe and the neighboring man have always been good friends, and they all attend the same church. This immediate and extended family and church make up Jennie's social life.

Jennie reported that she has "a really good schedule." She arrives at work around 9:00 a.m. and leaves between 5:00 and 5:30 p.m. She has about a twenty-two mile drive which takes her around thirty minutes. Every other Monday she has a city commission meeting until 10:00 or 11:00 p.m. Only rarely is she called in the middle of the night for county attorney duties. She occasionally takes work home and once or twice a month works on a weekend.

Mary

At the time of the interviews, Mary is in her mid-thirties. She lives very close to work in a house she rents from her folks. Outside of work, she is active in an organization that does fundraising for community projects and is on the board of a program for troubled children. She attends local bar association meetings, which are primarily focused on social activities,

⁴⁵ During our first meeting Jennie mentioned her son in passing but did not discuss parenthood much. I did not push the topic because I was curious whether it would naturally emerge. When I subsequently spoke with Jennie, she told me she had someone come to the house to care for him. So much of the literature on women as professionals focuses on the "juggling" of parenting and working, but this problem simply did not seem to be an issue for her.

continuing legal education programs, Law Day, and decisions about issues such as books in the county law library.

Mary also spends a large part of her time away from work assisting in maintaining her family property. She said that she is more immersed in the physical maintenance—mowing lawns and feeding horses—than she is in the business aspects. She sees her parents for dinner on Sundays, but otherwise she spends her weekends going to Wichita to shop, to eat out, and to enjoy various forms of entertainment.

III. MARY AND JENNIE IN RELATION TO THEIR COMMUNITY

While Landon's research does not focus specifically on women's experiences in country practice, several of his observations are relevant to Jennie's and Mary's law careers in Flinthills. The rural lawyer's focus on relationships and a person-to-person approach to problem solving, as well as an emphasis on complex, multi-level relationships and roles are both themes that arise in Mary's and Jennie's stories. The difficulties in keeping professional and private relationships separate and the public nature of many private matters were also evident in our talks. Landon noted in his research that informality and reasonableness are expected of lawyers in country practice. While on one hand this can make for easier problem solving, this method of practice may also serve to suppress outside or incongruous lawyers. These issues and others arise when looking at the Flinthills community and its perceptions of lawyers; at the community's relationship to Jennie and Mary as female lawyers; at Jennie's and Mary's relationships to other lawyers in Flinthills and to each other; and at their perceptions of themselves.

A. The Community's Perception of a Lawyer

The conversation about Mary and Jennie's relationship to their community began with a discussion of *To Kill a Mockingbird*.⁴⁶ I asked whether Atticus could be reelected if the events in the novel had taken place in Flinthills. Mary confidently said that Flinthills voters would never have reelected Atticus to the legislature after he had defended Tom Robinson. She said there was no respect in the community for what lawyers must do in their job. She felt there was little respect for her position as Public Defender.

Jennie felt that people in the community would accept that Atticus, or someone similar, had been appointed to defend an unappealing case.

⁴⁶ Lee, *supra* note 37.

Nevertheless, she agreed that the community would not have accepted the actual defense; they would have expected something more superficial. Jennie agreed that it probably would have been difficult for Atticus to be reelected. She noted, however, that readers get only a glimpse of Atticus in the book. For example, the incident in which he shoots the rabid dog shows that the community knew Atticus was an excellent marksman and capable of violence despite his controlled exterior. From Jennie's perspective, the community would know and look at someone like Atticus as a whole, not simply focus on the single incident to judge him. Mary, on the other hand, felt that a single incident could seriously damage the community's view of an individual.

In the course of one of our talks, Mary analogized the novel to a situation in which she found herself immediately after she arrived in Flinthills, one that reminded her of the power of a small community's opinion and anger. The community was divided about whether a prison should be located in town. One side wanted the prison because it provided revenues and jobs. This was a period of economic depression so the potential for jobs was extremely appealing. The other side did not want the prison; they were concerned about security and being labeled a "prison town." Jennie said, laughingly, that in their state of misinformation, people were also concerned about AIDS. They thought perhaps the prisoners would have AIDS which the workers could contract. She agreed that it was a very emotional issue for the community.

A large town meeting was called, and Jim was hired by some clients to give a speech opposing the prison. A very vocal majority wanted the prison, but Jim represented the small group who did not want it.

According to Mary, Jim had a Colorado vacation planned, so, giving her one day as notice, he informed her that she was to give the speech on behalf of these clients. Mary had just arrived and felt that she was jeopardizing her entire career by speaking on behalf of these clients. She was particularly concerned because she did not feel a part of the community, as she had been gone for seventeen years. She perceived that Jennie, the lawyers in the county, the judges—everyone—was on the other side. Nevertheless, she had no choice and felt she was finished in the community. She remembered that Jennie was very nice to her, which was important because she felt as if she needed good relations with the people with whom she was going to work. Mary felt she had no choice about giving the presentation because her boss had told her to do so and the firm had an obligation to the clients. Jennie agreed that Mary did not have a choice.

Jennie remembered that in attempting to avoid moral and emotional arguments, Mary argued the procedural point that the county and city should not have made a decision without eliciting public opinion. Jennie's

memory was that Mary dealt with the crisis in a "professional manner."

Mary recalled that the next day the newspaper published an editorial that said that she was a disgrace to the profession for having made the speech. Mary remembered her horrible discomfort as she speculated as to who had read the editorial and believed it. According to the editorial, she was a disgrace because she had threatened a lawsuit against the city. Using the threat of a lawsuit to the community was, according to the editorial, usurpation.

If Jim had given the speech, Mary admitted, the reporter may have criticized him as well. However, since Jim was more a part of the community, it would have been more appropriate for him to comment on its economics.

In retrospect, Mary was not sure whether there were repercussions from the position she took. She did not feel that other lawyers treated her any differently, and she could not tell whether this incident affected clients. She said it was particularly significant to her because she had returned to Flinthills to reintegrate into the community.

Jennie was puzzled that the prosecutor in *To Kill a Mockingbird* didn't simply dismiss the case. He behaved professionally at the trial, but he should have realized there was no probable cause and dismissed the case. She seemed very angry that he had followed the expectation of the community that he prosecute the allegations, even though the prosecution was wrong. She also thought the judge made an error. It appeared from the book that the judge thought the best chance for Tom was to appoint Atticus, but in fact he should have dismissed the charges.

When questioned whether community pressure ever affected their professional judgments, Jennie said, "I don't think I would have done anything any differently, but I agonize over it." In other words, she lived up to her own expectations of professional responsibility but was still very conscious of community pressures and had to think about possible repercussions before she acted. Jennie gave as an example a case in which a man from Oklahoma came into the county and purchased hay with checks that ultimately bounced. It turned out that the man owed about \$20,000 to farmers in Flinthills County. The man returned to Oklahoma leaving a number of bad checks in other Kansas counties. The various county attorneys agreed to share the expenses of extradition, but Jennie was supposed to be the lawyer who took care of the actual work. It took her a year to have this man extradited back to Kansas.

In the meantime, while the man was in jail, his wife came into the county and paid cash to the farmers who had been cheated. In exchange, the farmers put pressure on Jennie to drop the charges. In fact, the

judge called Jennie to his office and asked her to drop the charges because the money had been reimbursed to the local farmers. The judge went so far as to say to her, "You have to take care of your own in this county."

Jennie explained to the judge that other counties were involved and it had taken a year to have this man extradited. She told him that the defendant had written more than \$100,000 worth of bad checks in Kansas. Given that information, the judge agreed that Jennie should proceed and dropped his pressure. Jennie told the story as an illustration of how she had to stand up for what she thought was her professional duty even though the community felt the problem had been taken care of and that she should have let the issue go.

Mary commented that judges frequently have *ex parte* conversations with clients and lawyers; the *ex parte* discussion with Jennie about the case was not at all unusual. Jennie agreed and said parties or involved individuals frequently call the judge without even talking to the lawyer. They discuss the case with the judge directly and can create a tremendous amount of confusion. Another example of such informality was a recent Child in Need of Care case. The father in that case bypassed Mary, who was responsible for the child as the guardian *ad litem*, and simply talked to the judge. "Everybody knows everybody in the case so it seemed unnecessary to use formal channels. We shortcut it maybe more than we ought to."

Jennie noted that small towns do tend to regulate themselves in terms of ethical issues. There is no formal Bench and Bar Committee in Flinthills,⁴⁷ and when a problem arises an *ad hoc* committee of the senior lawyers forms. For example, a couple of years ago an attorney appeared to have too many cases with too much work, and he was failing to practice in a professional manner. An *ad hoc* committee formed, called him in, and told him what he needed to do to avoid losing his license. Unfortunately, the man was unable to pull himself together enough to take care of his cases. Ultimately his license was suspended.

Mary had the impression that some clients took their cases out of town to avoid what they thought was too much camaraderie among the lawyers. For instance, if a couple had a particularly difficult divorce, they

⁴⁷ In Kansas, when a complaint is filed with the Board of Professional Responsibility, a Bench and Bar Committee will investigate. Kan. Sup. C. Rules 207-210 (1991) (Discipline of Attorneys).

would take it to another lawyer outside the county. Some lawyers worked in a wider geographic area, so they were not so preoccupied with what people in town, including other lawyers and potential clients, thought.

Mary noted that in a small town there was an intimacy, a closeness among people that she never felt in the bigger city. This intimacy created an accountability factor. From her experience, ethics were likely to slide in a big city. The discussion turned to this apparent inconsistency. Both Mary and Jennie felt that ethics were likely to slide in a big city and that the self-regulating accountability of the small town resulted in a more "ethical practice." Nevertheless, they acknowledged that the *ex parte* communications between lawyers, judges, and clients would be seen as extremely "unethical" in a larger community.

Jennie was concerned that at some point things would become so competitive that these *ex parte* communications could become a problem. To illustrate, Jennie described a case she and Mary had worked on involving a fifteen-year-old who was "going off the deep end." He broke windows, almost ran over a pregnant woman, and was "into sort of satanic stuff." Jennie was really concerned about him. His parents were in a terrible divorce and neither was stable or able to parent him. "He was kicked out of school and we all felt we had to do something. I was prosecuting him and Mary was his attorney. We all agreed that he needed to be sent to the Youth Center, where he could go to school and have somebody watching out for him. We knew that all we had to do was get him convicted of both a juvenile charge and a Child in Need of Care, and then we could get him into the juvenile center and keep him there."

Since Mary, the judge, and Jennie all thought they knew what was best for this young man, they negotiated an agreement whereby Jennie dropped one of the numerous juvenile charges and Mary pled him to a juvenile offender and Child in Need of Care on a truancy charge. Despite the consensus that he needed help, Jennie felt they had "railroaded" him. Mary pointed out that there were no choices; he was truant and there were no defenses. He had committed the crimes and she saw no way of getting him off. She felt comfortable as an advocate because the plea agreement was all he could have hoped for and this way he would receive care.

We discussed a potential conflict of interest in the same case. Jennie had been approached by the child's father to represent him in a divorce. Jennie said that normally if a potential conflict arises in her position as county attorney, she refers the county case over to Gerry, who is also lawyer for the county. When the father came in, Jennie explained the potential conflict and suggested he go elsewhere. "The man," Jennie said, "went around the corner of the office and hired my partner. He wanted someone in the firm to represent him."

Jennie said family loyalties were a critical component to the relationships between law firms and families in the community. However, when she was called upon to prosecute a family member of someone in her firm, the experience did not create a serious conflict; however, she noted that she has not yet been called upon to prosecute anything "horrible."

Sometimes a family member of a defendant stops into the firm and Jennie must explain that, as the prosecutor, she cannot advise the person about defending a criminal defendant. Even if the family members use the firm for civil work, they tend to understand the different roles that Jennie must play. She said the prosecutor is seen as a "good guy," and people understand the nature of her job.

B. Community Perception of Them as Women Lawyers

In looking at themselves as women lawyers in a system that is mostly male, both Mary and Jennie noted ways they were treated differently and ways in which their outsider status becomes more apparent as a result of being female. Responding to the question of what the community expects of them as women lawyers, Jennie said she felt she is expected to be involved in a lot of community activities simply "because I am the lawyer." "There is an expectation that I am qualified to do all kinds of things, but then the person equivocates by saying, 'Well, you must be busy.' There is an assumption that I know everything about women and law issues. For example, the school calls two or three times a year to see if I will come and speak. This is partially because I used to be a teacher and when I first arrived I did Law Day."

Jennie said, "A long time ago I asked myself if [being a woman] made a difference. There were days I felt like things were happening to me because I was a woman, and I just felt sorry for myself. We all fall into this stereotype. For example, one day Gerry was so excited about winning some unimportant little motion, he came out of court and tweaked me on the nose. I felt like he treated me like a kid, and I always wondered afterwards if he took me seriously."

Mary thought about this difference in terms of her office, where she feels different because she is a woman. She said, "I don't participate in some of the guys' stuff that the other lawyers do, and that makes me left out. Moreover, Jim says some really sexist things. He says some things I can't believe. I feel like I'm treated well in my office, except that I have no voice. On the other hand, the men who preceded me in my position also had a problem with Jim." Jennie said, "Face it, Mary. Jim is one of the most sexist men or lawyers in town." Mary conceded, "Maybe so."

Jennie went on to tell me that, "One time Jim told me I couldn't understand custody cases because I didn't have any kids. And, my partner once told me that Jim doesn't think that women should practice law." Mary acknowledged that Jim and his son Michael were very sexist. For example, they have told Mary that Jennie should not prosecute domestic abuse cases, because those are private situations which should not involve the law. They believe this is true even in extremely violent cases. Mary was clearly chagrined at that view. Jennie did note that Jim seems to be changing, or at least she is changing. In the past, she had absolutely "no time for him," but in the last couple of years, she has actually enjoyed working with him on some cases.

Mary added, "We do hear stereotype kinds of things. I can't even talk about them." When pressed, she said that she hears that women who are being aggressive must be having their period.

When I asked them why they had gone to the meeting for Kansas women lawyers last summer, Jennie said she thought the conference would be interesting when she saw the flyer. Seeing the flyer caused her to rethink the nagging question of whether being a woman makes a difference. She thought it would be good to go and to get some validation. She thought there should be more discussion about what everyone is afraid to talk about: whether it makes a difference to be a woman. Mary said she went to the conference because Jennie went. She wanted to connect with some other women and she wanted the one-on-one contact. She did not perceive that, among her various problems, being a woman was her biggest concern.

Both women agreed that being a woman lawyer can be a very isolating experience. They are perceived as "different" from other women because lawyers are seen as aggressive. Lawyering is different from the usual jobs associated with women because of its adversarial nature. Jennie explained, "Some women assume that I am very career oriented. Some women look at me and realize I am an educated person, and they take that as a personal insult. Or they turn to me as a leader when they don't know the answer for something. Sometimes I feel threatened, but I want the presumption of the authority." Jennie admitted that she liked the fact that people perceive her to have both power and authority. She felt it is different to be a woman lawyer in Flinthills because people still find it an unusual phenomenon. Mary noted that Flinthills has many women CPAs; however, they both felt a little bit like oddities as women lawyers. Jennie laughingly said her husband always introduces her as the county attorney. She said that bothers her; it is not the identity she wants to have upon first meeting someone.

Mary said she does not like being introduced as an attorney either. It makes her feel used. "I don't like to even bring it up. I am so strange because I am single, I am a lawyer, and I do criminal defense. Other women can't figure out what they have in common with me." The other reason she does not like being introduced as a lawyer is that she frequently feels people want to receive free legal advice or to tell her about their problems. Yet she admitted that sometimes clients come to her because they believe she will be more caring, and some people just want a woman lawyer.

C. Their Relationships to Other Lawyers

One recurring theme in our talks was the tension between the informal problem-solving approach preferred by many Flinthills lawyers and the underlying rigidity characterizing many legal interactions. While there is an expectation in Flinthills that one be personal and affable, there is also a preexisting hierarchy within the profession that cannot be ignored. Mary said that her personal relationship with Jennie has not been strained by trials, but noted that all the lawyers in town have to work together. According to her, in a community this size, they have to make an effort to respect the job that each person is doing and there seems to be a consensus among the attorneys not to "personalize" professional behavior. She felt that trying to avoid personalizing the professional creates a different kind of stress. "Getting along" takes its own kind of emotional toll.

We then discussed whether a more formal system would help lawyers who are less powerful. Jennie seemed uncertain whether formalism is empowering: "For example, male lawyers in town really use the 'old boy' network so if I have to put something into the formal process, I feel like I will really be railroaded. And it would be my fault because I haven't worked the informal process effectively. I see it as failure to have to use the formal system." While Jennie sounded as if she felt she must avoid formalism, Mary said that she really respects Jennie for fighting when necessary, sticking to her arguments, and not conceding easily.

Jennie acknowledged that she likes the informal process when it works for her. When it fails, she is angry that she did not use a more formal system. She went on to say that sometimes the judge solves so much out of court that going to court becomes pointless; the conclusion is foregone. Jennie explained how she copes with lawyers and judges with whom she is having a problem. She said, "I don't cope. I don't confront the problem." To illustrate, Jennie said she had been having a problem with Lee, a judge who is also a lawyer in town. She said he is "a real SOB." Every morning at 9:00 a.m. she has to go to municipal court where Lee is the judge. He

always arrives fifteen to twenty minutes late and then wants to drink coffee. One morning, Jennie reported, "I had another appearance at 10:00 a.m. and two or three lawyers and cops were in the room waiting for Lee. I said, 'God damn it. Where is he?' Lee came in and everyone said, 'We were just discussing you.'" She acknowledged that she complained to others but did not confront Lee about his annoying behavior.

Jennie reported that the public categorizes all lawyers. For example, the public expects Lee always to win because he is a big, overpowering man, but he is not always ethical. She cannot discuss anything with Lee because he does not care what she thinks. Sometimes in court, others make an opposing argument or motion, and Lee does not even ask Jennie for her argument. She stopped talking to Lee, even though they have to see each other every morning. Municipal court is easy; what is hard is if she has a case against him. She went on to say:

Lee is a very jovial type, but he can be intimidating and he intimidates me. I make matters worse by not playing his game. I don't like to play his game of shooting the breeze, talking sports, etcetera, before you can get him to work. For some reason I accept that in others but not in him. I just get tired. I guess I feel it is a waste of professional time. But people in the community are in the community, and I must get along. So sometimes I feel I should just stop bucking him. He can be pleasant and he could make my life easier. Lee is just a strange person to me. He comes across as if everything in his life is so perfect, and I would like to see him be more vulnerable. Maybe that's my problem in dealing with him.

Mary commented, "Lee is more courteous to me, but I only see him once a week; I don't see him every day of my life. He is opinionated, and he has already made up his mind when you see him."

Jennie noted that Lee feels, and she said she agreed somewhat, that there should be a "good old boy" system. It is good to do something for someone, give them a break on a ticket, if it is the right person. Lee pressures Jennie to accommodate out-of-town lawyers because he wants those lawyers to be happy in Flinthills. Lee does a lot of work with and against lawyers from out-of-town, and he thinks it important that they have a good experience in Flinthills so that he gets more business. As an illustration, Jennie described prosecuting a man who was not eligible for diversion.⁴⁸

⁴⁸ In Kansas, under limited circumstances, a person charged with Driving Under the Influence (DUI) can participate in a Diversion Program, which focuses on rehabilitation and education rather than punishment. They can then keep the DUI conviction off of their record. Kan. Stat. Ann. § 22-2907-22-2910 (1988 & Supp. 1991).

Lee, in his capacity as the municipal court judge, pressured Jennie to put the man on diversion. Jennie continually sent the diversion agreement to the man to sign, but he never did.

Jennie said she is afraid to give up her civil practice to do exclusively criminal work because she is not sure if she could reestablish a civil practice once she abandoned it. She admitted that the different roles she must play affect her handling of cases. She recognized that, both consciously and unconsciously, she gives breaks to people she is prosecuting if they are people she has to deal with regularly. She was not sure if the pressures are personal or economic. She illustrated this problem with a case in which she had to make decisions about prosecuting two men whose families go to her church. She struggled with the dilemma and made every effort to come to a principled decision.

Mary reported that she has a problem with another judge, John. John seems "burned out" and frequently will not let Mary make arguments on behalf of her clients. As defense counsel, Mary feels she has to make the arguments that her clients expect, but the judge cuts her off.

Advocacy can be difficult when everyone is expected to get along. Jennie commented that sometimes clients feel cheated because they want a courtroom battle, but the attorneys all try to resolve issues outside the courtroom. The expectation within the legal community is that things should be discussed and worked out. Mary speculated that sometimes attorneys do not want to work things out because they want their fees. Without completely disagreeing with Mary, Jennie said that most attorneys are concerned about the public perception of lawyers and try to overcome the view that lawyers just want to litigate. Moreover, most clients understand the uncertainty of courtroom decision making.

The judges also pressure attorneys to settle cases. Jennie described a case in which a man went to Gerry, another lawyer in town, for a divorce. Gerry put together a settlement agreement which the husband brought to the wife and asked her to sign. The wife recognized that the settlement was not fair and went to see Jennie. Jennie said that she agreed that the terms were not fair so she tried to negotiate with Gerry. Gerry unreasonably refused to negotiate. He acted as if the case had already been settled on his terms. Jennie speculated that Gerry appeared to be unreasonable in his unwillingness to even talk because the husband would not come in to see Gerry in order to discuss negotiations.

On the day of the trial all of the parties appeared for court. The judge's clerk called the lawyers into the judge's chambers, where the judge said, "Let's talk. Can't this be settled?" The lawyers reported to the judge that whatever was at issue could not be settled, so the judge said,

"Let's just sell everything." There was no discussion about having a trial. The judge sent the lawyers and their clients home and ultimately the clients settled the case, dividing the property between themselves.

Mary said that she also had a case in which the lawyer would not negotiate. The judge pressured the lawyer into negotiating by threatening a trial. The fear of going to trial caused the other lawyer to negotiate. Jennie speculated that the judges know the lawyers in town and what pressures them into negotiating or settling cases.

According to Jennie, sometimes lawyers use the formal rules as a power play in order to establish some boundaries. If things get too adversarial to negotiate, they turn to the judge. They both agreed that Flinthills lawyers are not afraid of litigating, it is just seen as a last resort. Clients' expectations seem contradictory; they want a strong fighter but they also want a fighter who doesn't end up litigating.

D. Their Relationship to One Another

When the interviews began, Mary and Jennie did not socialize with each other outside their professional relationship. They both belonged to civic groups which did charity fundraising in the community, so they saw each other at those meetings. Otherwise, they sometimes went to lunch to discuss a case, but they had never met just for a personal activity.

At the time of the interviews, Mary and Jennie did the bulk of the criminal work in Flinthills County. At our first meeting, Mary reported that it was extremely satisfying to work with Jennie as the prosecutor. She said their relationship is based on the understanding that there will be no manipulation or lying. They openly discuss the strengths and weaknesses of their cases, and Jennie ensures that Mary has access to all information to which she is entitled as the defendant's lawyer. Mary said Jennie is creative in trying to find alternative resolutions to their cases.

Mary felt that her relationship with Jennie helps rather than hurts her as an advocate. She never volunteers things that would hurt her client, but feels that by working creatively with Jennie, she is frequently able to save the client the cost of pointless motions and unnecessary trials. When the county pays Mary to do public defender work, criminal defendants must compensate the county for her fees. So it is in the client's financial interest to minimize the attorney's expenses.

There were numerous times when Jennie and Mary were unable to negotiate and trials became necessary. From Mary's perspective, they both approached this contingency professionally and had no hard feelings. When a case had to be tried, they did it as advocates within the system.

During later discussions, Jennie reported that she felt she and Mary "personalized"; they work with each other more than with other lawyers in town and they know how to deal with each other on a "personal level." Jennie said that most of the time they can influence each other. Mary knows what Jennie wants to hear. "If Mary wants to negotiate a good deal for her client, she knows what information I am interested in," said Jennie. "The other lawyers in the community do not always tell me the right things about their clients so that I know how to make a deal." Both Mary and Jennie agreed that they are more likely to discuss the facts and consequences of cases with each other instead of just posturing.

Mary stressed her previous comment, that she feels that she reaches much better solutions working with Jennie; they trust each other and exchange information so they can negotiate better. As Mary said, "I wouldn't deal with others in the same way as I deal with Jennie; I never give her any information that will hurt my client, but I trust Jennie not to hurt my client. That trust does not exist with everybody else."

Jennie laughed and said,

Mary can do me better than I can do myself. . . . I used to be "the new kid on the block" and could play the role of not knowing what was going on. Now Mary comes in and is the newer kid on the block. The fatherly judges in town look out for the newer person.

They always work things out with each other, partially out of habit from frequently being on opposite sides, but also from working on the same side. In the Child in Need of Care cases that Jennie prosecutes, Mary is usually the guardian *ad litem* for the child. The judge does not appoint a lawyer for the parents, unless the parental rights might be terminated.

Jennie noted, "I am not intimidated by Mary. There are some who intimidate me. I am harsher than Mary. I don't like to be humiliated or embarrassed."

Each woman perceived the other to have an easier role in the criminal justice system. The following exchange about Atticus Finch made this tension apparent:

Mary [referring to the defendant Tom]: I would feel lucky to have a person with a limp arm. Somebody who could win and to whom you could be dedicated.

Jennie: Atticus had an easy role. Being a defense lawyer is easier. All the defense has to worry about is the defendant. So there is no concern about justice and truth. [Looking at Mary] Your role is easier.

Mary: Well, what about sleeping with what I have to do. Sleeping with myself with all the creeps I have to represent.

Jennie: Well, you shouldn't worry if they're guilty or innocent.

Mary: I envy Atticus because he knew what the truth was. He had the luxury of defending somebody who was innocent.

Jennie saw her job as much more difficult because she is responsible for deciding when and what to prosecute. Mary felt the defense lawyer is at a disadvantage because she has no control over what is charged. She must take whatever undesirable client comes into her office and try to do something with his or her case. Mary envied Jennie's control and responsibility. Jennie envied the simplicity of Mary's job.

E. Their Perceptions of Themselves

Mary went on to say, "My problem with being a lawyer is that I wish I did not let things affect me personally. I cannot always stay objective. For example, I get upset when I shouldn't." The conversation shifted back to Atticus Finch. Mary said, "He did not personalize the situation. Except when he was at the jail, he didn't personalize what had happened. He acted so professionally and didn't even put down the people who were attacking him." She added, "He is a role model."

They considered their strengths and weaknesses in the courtroom. Mary said, "I'm not experienced enough. I wish I were taller and more imposing, and then I would not have to use my intellect so much."

Jennie said, "I don't really know. My cross-examination is not very good. I usually don't ask very much except when a defendant takes the stand." Mary's perception of Jennie was different, and she seemed impressed that Jennie could be very confrontational. Jennie commented, "I do better on direct than cross. I plan my direct exam better than my cross, and sometimes I get lost on cross-examination. My cross can be too disjointed."

Mary said, "I just ask a few questions on cross-examination. I don't want to ask anything extra because I am afraid." She continued, "When we do a juvenile case, we work as a team. I am briefer, I can paint the picture."

Jennie admitted she likes her private practice more now that she has become the county attorney. When she was only doing private practice, she had too many concerns about where the next client was going to come from. When she was working with one client, she was worried whether she would get more. Consequently, she was not able to relax and enjoy her

clients or to work as hard on the cases as she would have liked. Mary agreed that the public defender work keeps her from worrying so much about business. The guaranteed income also helps a lot. Although she is not concerned about losing her job for economic reasons, personal pride makes her wish she had more clients.

Flinthills does not have any liberal lawyers such as an Atticus Finch who take on the cases of the downtrodden and the poor. Mary said she would like more controversial cases; she would like to be able to choose people and issues and ideals. Jennie also said she would like to do things that were more controversial. She noted, "I get worked up about things and they stay with me. I get preoccupied and I can't put them aside. What upsets me most is letting myself get pushed around by others." Mary reacted by saying, "I don't dwell on things."

Jennie said that what bothers her most—and she was embarrassed by it—is that she used to know all of this "scholarly stuff" but she no longer uses it. She learned the rules of civil procedure and evidence when she went to law school, and at that time she thought she would make use of these things. When she first began practicing she wrote briefs and had some creative thoughts on the issues. When I interviewed her, though, she felt embarrassed because she did not use this knowledge. She also perceived herself as not being as much of a lawyer because she did not feel as if she were working on those "big cases where a lot is at stake." Mary asked her if she felt she was not making the headlines, and Jennie said that was a good way of wording it. She was not sure if this feeling of inadequacy or embarrassment came from her own internal expectations or from societal expectations about what a "real" lawyer is.

Mary strongly disagreed with Jennie's perceptions. She said, "You are a real lawyer. You are in the headlines. You're dealing with people's lives and you have an incredible impact." She told Jennie that if one compares the stress and the consequences of Jennie's work as the county attorney with the work of "big lawyers," Jennie's work is much more significant. This is why she has so much respect for what Jennie does.

Mary said if she were writing the article she would tell people that there are many positives about her work: she thinks it is fun; it is good to have an impact on individuals' lives; it is satisfying to help others, even if it is only counseling them; she is proud that she has the tools to help people because of her legal training.

Mary noted that sometimes she does not feel like a lawyer, especially when she is feeling powerless. The lack of a formal system means she cannot control what is going on. She does not feel that she has the input she should. From Jennie and Mary's viewpoints, if they at least have participated in the discussion, they feel like real lawyers.

Some clients expect emotional energy from their lawyer. The women agreed the emotionalism must stay on a "professional" level and not deteriorate into personal fights among the lawyers. Mary admitted that if she thinks her emotionalism is taking time, she cuts her fee so the client does not pay for her "inefficiency."

As the interviews wound down, Jennie and Mary admitted that this project served as their therapy. It stimulated them to talk. Jennie said, "Sometimes I feel so ineffective. I am too emotionally involved in cases. My husband sometimes thinks I'm unhappy on my job, but it's not that I'm unhappy. I just wish I could detach. I feel that it is emotionally draining and it's not what it's supposed to be." Mary said, "I don't like compromising myself professionally."

The understanding of law, process, and formality which they were taught in law school are not the skills Mary and Jennie apply as lawyers. The system in which they work calls upon all of their interpersonal skills: knowing the people; negotiating; and working through problems. Jennie admitted she has internalized a view that lawyers use their intellects to apply rules, law, and formal procedure. She felt inadequate because she does not do those things. She is very good at using interpersonal skills to function in the informal environment of her local practice, but it takes an incredible emotional toll. Moreover, she does not necessarily value those skills.

IV. CONCLUSION

One thing apparent in Jennie's and Mary's stories is that who they are as outsiders raises far more complex issues than the essentialist theory that they are "women" in a predominantly male-gendered profession. They may have more in common with the male lawyers in their community than with female lawyers in a metropolitan area. Then again, they probably have a very different experience of law practice from a similarly situated man in Flinthills.

Jennie and Mary do seem to be outsiders in Flinthills, and the operation of "neutral" rules such as informality have disadvantageous results for them in some cases. Whatever conclusions we might draw about their relationships to the community and to other lawyers in Flinthills, it seems apparent that their perception of their choices and the reality of their choices is limited by their gender. They have achieved much success in their community; they are well respected and are on an equal footing with male lawyers in many regards. Yet, they still find themselves vulnerable to being disempowered by their colleagues, their community, other women, and people outside the community.⁴⁹

⁴⁹ For example, they are disempowered by the essentialists who ignore the existence of women practicing in rural areas. See *supra* note 8 and accompanying text.

Despite some of these observations, there is apparent change. The emerging female culture, in society as a whole and in their community as a microcosm, embraces Mary and Jennie so they are no longer so far "outside" as they might have been in the past. They are part of an "emerging hegemony" in that when they went to the meeting for women lawyers in Kansas, they were able to ask questions which never came to their minds before, and they agreed to be part of this project because they can see the value in sharing their personal experiences with others.

On a different level, the legal profession has a dominant and a residual cultural hegemony of its own. The dominant cultural hegemony is reflected in the formal rules of evidence and procedure, a rights-based analysis, and polar results where one party wins and the other party loses. The way the legal profession is practiced in Flinthills is "outside" the dominant model in that a contextualized, relational, principle-based decision-making system, a "female" model, so to speak, already exists. This model is "residual" in that it stems from an earlier era of American society, when legal education was not so highly stratified and structured. Yet the lawyers in Flinthills were trained in law schools which play a critical role in maintaining the dominant formal culture of law.⁵⁰ These lawyers bring their formal version of legal education and lawyering to their community. Finally, the practice of law is changing as more women become lawyers. Jennie's and Mary's mere existence as lawyers in Flinthills is evidence that Flinthills is not immune to those changes.

EPILOGUE

As I am finishing this article, Mary has left Flinthills. She has taken a job as an assistant prosecutor in a city in Colorado. It was with much ambivalence that she left Flinthills.

Jennie continues to enjoy her life and work in Flinthills. She tells me that a new woman is starting to work in another firm in town and that Jim has advertised to replace Mary.

⁵⁰ For an examination of law schools' role in maintaining the dominant cultures of law, see, e.g., Stewart Macaulay, *Popular Legal Culture: An Introduction*, 98 *Yale L.J.* 1545 (1989).