

COMMONWEALTH OF MASSACHUSETTS

Supreme Judicial Court

FOR THE COMMONWEALTH OF MASSACHUSETTS

NO. SJC-12777

FREDDIE CARRASQUILLO,
and all other similarly situated defendants in Hampden County,
Petitioners-Appellants

v.

HAMPDEN COUNTY DISTRICT COURTS,
Respondents-Appellees.

ON RESERVATION AND REPORT FROM THE
SUPREME JUDICIAL COURT OF SUFFOLK COUNTY

**BRIEF OF AMICUS CURIAE – BOSTON BAR ASSOCIATION,
IN SUPPORT OF PETITIONERS-APPELLANTS
AND REVERSAL OF THE DISTRICT COURT’S ORDER**

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STATEMENT OF INTEREST OF AMICUS CURIAE¹

The mission of amicus Boston Bar Association (“the BBA”), founded in 1761 by lawyers including John Adams, is to advance the highest standards of excellence for the legal profession, to facilitate access to justice, and to serve the community at large. The BBA’s interests in this case relate most strongly to its goal of ensuring access to justice for indigent criminal defendants. It filed an amicus brief in the progenitor of this case, Lavallee v. Justices in the Hampden Superior Court, 442 Mass. 228 (2004), the arguments of which are equally applicable to the matter at hand.

DECLARATION PURSUANT TO MASS. R. APP. P. 17(c)(5)

No party, party’s counsel, or person or entity other than amicus curiae and its counsel, authored this brief in whole or in part, or contributed money intended to fund its preparation or submission. Neither amicus curiae nor its counsel contributed money intended to fund preparing or submitting the brief. Neither amicus curiae nor its counsel has either represented any of the parties to this appeal in another proceeding involving similar issues, or been or represented a party in a proceeding or legal transaction at issue in the present appeal.

¹ This brief is submitted pursuant to Mass. R. App. P. 17 (a) (allowing the filing of amicus briefs when solicited by an appellate court) and this Court’s August 9, 2019 amicus announcement in this case.

ARGUMENT

The circumstances that led to this Court's decision in Lavallee represented a crisis but not an anomaly. Hampden County had a shortage of lawyers for its indigent criminal defendants. As a result, these defendants did not receive prompt representation for bail hearings and trials. The defendants' lack of representation, this Court recognized, infringed their right to counsel under art. 12 of the Declaration of Rights. Therefore, this Court imposed an emergency protocol (the "Lavallee protocol"), requiring the Commonwealth to release from pretrial detention all indigent defendants who did not receive a lawyer within seven days, and the courts to dismiss without prejudice the cases of those indigent defendants who did not receive a lawyer within 45 days. See Lavallee, 442 Mass. at 248-249. This Court attributed the shortage of lawyers, and the ensuing crisis, to the "low rate of attorney compensation authorized by the annual budget appropriation," which were "among the lowest in the nation." Id. at 229, 230.

Fifteen years later, history has repeated itself. Again indigent criminal defendants in Hampden County are without lawyers, and again the Lavallee protocol has been implemented. While the protocol might suffice to assuage the immediate art. 12 violations, history has taught that it does not and cannot cure the chronic problem of an underfunded criminal justice system.

I. THE CURRENT PROBLEM OF CHRONIC UNDERFUNDING OF LAWYERS FOR INDIGENT CRIMINAL DEFENDANTS MIRRORS THAT WHICH PRECEDED LAVALLEE.

Twice now, the Legislature's inaction with respect to bar advocates' pay has caused a constitutional crisis. When Lavallee was decided, the hourly rates for bar advocates were \$30 in District Court cases, \$39 in Superior Court non-homicide cases, and \$54 in homicide cases. See id. at 229-230. The Legislature had not meaningfully increased these rates since 1986, more than eighteen years earlier. See id. at 230. According to a publicly available inflation calculator, \$30 in 1986 dollars is equivalent to \$53 in 2005 dollars, and \$39 in 1986 dollars is equivalent to \$70 in 2005 dollars.² A year after Lavallee was decided, the Legislature raised the hourly rates to \$50 for District Court, \$60 for Superior Court non-homicide cases, and \$100 for homicide cases – perhaps large as a percentage, but (with the exception of the homicide rate) not at pace with inflation.³ 2005 St. c. 54, § 2. [Add.35-36].⁴ Since 2005, the Legislature has only raised the District Court rate by \$3 and the Superior Court rate by \$8. See 2015 St. c. 46, § 119 [Add.39]; 2018 St.

² See U.S. Inflation Calculator, available at <https://www.usinflationcalculator.com/> (last accessed Oct. 7, 2019).

³ In fact, the Legislature first experimented with a \$7.50 raise, which failed for reasons discussed in Part II, below.

⁴ All citations to the Addendum are marked [Add.XX].

c. 154, § 49 [Add.42]. The homicide rate has not increased at all. See G.L. c. 211D, § 11 (a). [Add.29]. Those increases that have occurred have not kept close to the rate of inflation. \$50 in 2005 dollars is equivalent to \$66 in 2019 dollars; \$60 in 2005 is equivalent to \$79 today.

Moreover, the District Court rates both then and now are paltry compared to those in other jurisdictions. According to a 2013 survey by the National Association of Criminal Defense Lawyers, of those states that pay bar advocates hourly rates, only two (Oregon and Wisconsin) paid less for misdemeanors than Massachusetts paid for work in District Court.⁵ Currently, the Massachusetts rate is dwarfed by that in South Dakota (\$95/hour),⁶ Hawaii (\$90/hour),⁷ and the federal

⁵ See generally National Association of Criminal Defense Lawyers, *Gideon at 50 Part I: Rationing Justice: The Underfunding of Assigned Counsel Systems* (2013) (available at <https://www.nacdl.org/getattachment/cf613fe0-8f46-4dc1-b747-82346328522e/gideon-at-50-rationing-justice-the-underfunding-of-assigned-counsel-systems-part-1-.pdf>) (last accessed Oct. 12, 2019). When this survey was conducted, Massachusetts had not yet raised the District Court rate to \$53. In addition, three states (South Carolina, Tennessee, and West Virginia) paid in-court rates equal to or greater than the Massachusetts District Court rates, but out-of-court rates lower than that paid for District Court work. See *id.* at 29-30, 32. Cook County Illinois also paid less than Massachusetts. See *id.* at 22.

⁶ See Letter from Greg Sattizahn, State Court Administrator to Andrew Fergel, State Bar of South Dakota (Nov. 15, 2018) (available at <https://ujs.sd.gov/uploads/docs/2019CourtAppointedAttorneyFees.pdf>) (last accessed Oct. 12, 2019).

⁷ See Hi. Rev. Stat. § 802-5 (b). [Add.44].

system (\$148/hour).⁸ This difference is even greater than might initially appear given Massachusetts's high cost of living. According to data from the World Population Review, only four states plus the District of Columbia have a higher cost of living than Massachusetts, whose cost of living is 31.6% greater than the national baseline.⁹

That many lawyers have been unwilling to accept payment at these rates should not be surprising given their alternatives. According to a 2018 study by Martindale Hubbell, solo practitioners and lawyers working at small law firms took home a median annual salary of approximately \$140,000, with a mean of \$198,000, after expenses.¹⁰ Assuming a 1,500 billable-hour year, the approximate average for a partner in a New England law firm,¹¹ this works out to approximately \$93/hour, and far exceeds the \$53/hour District Court rate, which is before

⁸ See United States Courts, *Defender Services* (available at <https://www.uscourts.gov/services-forms/defender-services>) (last accessed Oct. 6, 2019).

⁹ See World Population Review, *Cost of Living by State* (available at <http://worldpopulationreview.com/states/cost-of-living-index-by-state/>) (last accessed Oct. 7, 2019).

¹⁰ See Martindale-Hubbell, *Martindale Attorney Compensation Report 2018*, 1 (2018). [Add.59].

¹¹ See ALM Intelligence, *The 47th Annual Survey of Law Firm Economics*, Annual Client (Billable) Hours Worked (2019). The average associate works approximately 1,400 hours. See *id.* [Add.80].

expenses. According to the legal consulting firm Altman Weil, overhead expenses account for approximately 43% of gross revenue for law firms with fewer than 21 lawyers.¹² Therefore, after expenses, a typical bar advocate working in District Court could expect to take home about \$30/hour, and if this is his or her sole source of income, approximately \$45,000 per year. This is less than one third of the median salary – and less than a quarter of the mean – for solo practitioners and small-firm lawyers. It is also substantially lower than the \$60,000 annual salary of a first-year Committee for Public Counsel Services (“CPCS”) trial attorney, and the \$58,300 median national annual salary of a public defender with no experience.¹³

A similar dynamic was at play when this Court decided Lavallee. Based on then-current data, amicus calculated in a brief to this Court that, after expenses, a lawyer billing 1,500 hours per year would make \$24,300 annually working at

¹² See William F. Brennan, Altman Weil Inc., *Report to Legal Management: New Survey Focuses on Law Firm Economics*, 8 (2008) (available at http://www.altmanweil.com/dir_docs/resource/41ff6ad2-da67-406e-9999-ca2aaae63539_document.pdf) (last accessed Oct. 12, 2019).

¹³ See Committee for Public Counsel Services, *2020 PDD Trial Attorney – Statewide Positions* (available at <https://careers-publiccounsel.icims.com/jobs/1826/2020-pdd-trial-attorney---statewide-positions/job>) (last accessed Oct. 12, 2019). See also National Association for Law Placement, *Findings from the NALP/PSJD Public Service Attorney Salary Survey* (available at <https://www.nalp.org/0618research>) (last accessed Oct. 12, 2019).

District Court.¹⁴ But if that same lawyer billed 1,500 hours annually at a rate of \$125/hour – the median rate for lawyers at a small law firm with under two years of experience¹⁵ – then he or she could expect to make approximately \$101,250 after expenses. Then, as now, the average lawyer earns about four times the rate of a bar advocate.

One might sensibly argue that bar advocates are performing a public service, and should not expect to earn a competitive salary when representing indigent criminal defendants on the public's dime. After all, Mass. R. Prof. Conduct 6.1 states that lawyers "should provide at least 25 hours" of *pro bono* service per year. Indeed, the BBA views public service as a core responsibility of its members and has long encouraged members of the bar to provide legal services on a *pro bono* basis. But it is unrealistic to expect that *pro bono* or heavily subsidized services can solve the problem. Based on data in Petitioner/Appellant's brief, bar advocates spent approximately 163,200 hours representing indigent criminal defendants in

¹⁴ See Brief of Amicus Curiae Boston Bar Association at 24-28, Lavallee v. Justices of the Hampden Superior Court (SJC No. 09268) (June 29, 2004). At that time, overhead accounted for 46% of gross revenue at small law firms. See Altman Weil, Inc., *The 2002 Small Law Firm Economic Survey*, 23 (2002). [Add.100].

¹⁵ See Altman Weil, Inc., *The 2002 Small Law Firm Economic Survey* at 54 [Add.104].

Hampden County in FY18.¹⁶ This accounts for the *pro bono* commitments of more than 6,500 lawyers, *i.e.*, *15% of lawyers in the Commonwealth*.¹⁷ Moreover, in FY18, the average bar advocate spent nearly 1,100 hours on bar advocate work,¹⁸ which means that the average bar advocate in Hampden County uses bar advocacy as his or her primary source of income. Bar advocacy, therefore, is a form of employment, and the fundamental point is that years of legislative stagnation have rendered it economically unrealistic for many lawyers to work as bar advocates. The sacrifice of performing the critical public service of providing skilled counsel to indigent defendants has become too great. As with the circumstances that preceded Lavallee, lawyers are simply responding to economic incentives, and these incentives have engendered a constitutional crisis.

¹⁶ This calculation is based on data in Petitioner/Appellant's opening brief, and assumes that the average lawyer within a range bills hours at the midpoint of that range (e.g., all lawyers who bill in the 0-200 hour range bill 100 hours). It also assumes that the lawyers billing in the 1601+ hour range bill 1700 hours. See Brief of Petitioner/Appellant at 16, *Carrasquillo v. Hampden County District Courts* (SJC No. 12777) (Sept. 13, 2019) ("Petitioner/Appellant's Brief").

¹⁷ See Dennis W. Potts Law, *Lawyers & Entire Populations in Every State in America* (2016 interactive map) (available at <https://www.denniswpottslaw.com/united-states-attorneys-map/>) (last accessed Oct. 14, 2019) (in 2016, there were 43,221 registered lawyers in Massachusetts).

¹⁸ Based on the same data and assumptions noted in n.16 above.

II. THE LAVALLE PROTOCOL DID NOT SOLVE THE PROBLEM OF CHRONIC UNDERFUNDING THEN, AND CANNOT SOLVE IT NOW.

If past experience is any indication, the Lavallee protocol will not eliminate the shortage of defense counsel in Hampden County. This is because the Lavallee decision is not what immediately prompted the Legislature to raise the rates to a level sufficiently competitive to attract enough bar advocates. Lavallee was decided on July 28, 2004. Days later, the Legislature increased all bar advocate rates by \$7.50/hour. See 2004 St. c. 253, § 1. [Add.31]. The Legislature also formed a commission to study the provision of counsel to indigent persons. See id., § 2. [Add.31-32]. The commission published its report in April of 2005, and recommended the rates be raised to \$55/hour for District Court, \$70/hour for Superior Court, and \$110/hour in murder cases.¹⁹ However, the Legislature took no action in its next budget.

The Legislature did take action only after “many bar advocates across the state declined to renew their annual contracts to provide representation in indigent defense and care and protection/family law cases. A shortage of attorneys,

¹⁹ See Report of the Commission to Study the Provision of Counsel to Indigent Persons in Massachusetts, 19 (available at http://www.bostonbar.org/prs/nr_0809/cpcs_commreport.pdf) (last accessed Oct. 12, 2019). As discussed above, these rates would have kept up with inflation compared to the 1986 rates.

particularly in criminal cases, was felt by courts across the state and at one point nearly 500 defendants who were entitled to appointed counsel were without counsel.”²⁰ Faced with a shortage of lawyers more dire than in Lavallee itself – Lavallee refers to 58 defendants without counsel²¹ – within a month, the Legislature raised the rates to the amounts that have persisted almost unchanged to this day.

This Court’s implementation of the Lavallee protocol might have played a part in the eventual raising of bar advocates’ rates to sufficiently competitive levels. But the Legislature’s immediate response to Lavallee, in which it raised rates by a mere \$7.50/hour, was inadequate. Further, acceptable reform took place a year after the decision, and only after hundreds of defendants once again were without counsel – one problem Lavallee was meant to solve. To be clear, the Lavallee protocol was instrumental in solving a related problem – the art. 12 violations that resulted from this lack of representation – and the BBA supports the continuation of the Lavallee protocol until that problem has been solved. Still,

²⁰ The Spangenberg Group, *Indigent Defense in Massachusetts: A Case History of Reform*, 5 (2005) (available at <https://www.ils.ny.gov/files/Indigent%20Defense%20Reform%20In%20Massachusetts.pdf>) (last accessed Oct. 12, 2019).

²¹ See Lavallee, 442 Mass. at 232 n.10 (“According to [the chief counsel of CPCS], as of July 8, 2004, fifty-eight indigent defendants with cases pending in Hampden County were without counsel to represent them; thirty-one were held in custody.”).

given past experience, this Court should not expect what might seem like a heavy-handed approach – releasing potentially dangerous individuals on their own recognizance and dismissing cases against them – to motivate the Legislature to take adequate action.

This is particularly so given the actions CPCS has already taken. As petitioner/appellant’s brief explains, CPCS has temporarily instituted an emergency duty day payment of \$424, which, in approximately two months, reduced the number of Hampden County District Court defendants without representation from 169 to three.²² It therefore might seem that the problem has been cured. But, for the reasons petitioner/appellant explains, this temporary solution is not sustainable, and has already caused ripple effects in other parts of this Commonwealth. Indeed, the pending case of Walsh v. Commonwealth, SJC No. 12648, demonstrates that a similar funding crisis exists in Worcester County, which both underscores the extent of the crisis and explains why CPCS cannot be expected to indefinitely divert funds from elsewhere.²³ The only sustainable solution is to set bar advocates’ rates high enough to enable lawyers to work as bar advocates.

²² See Petitioner/Appellant’s Brief at 9-10.

²³ See Brief of Petitioner/Appellant at 21-31, Walsh v. Commonwealth (SJC No. 12648) (Aug. 30, 2019).

III. THE CONNECTION BETWEEN CHRONIC UNDERFUNDING AND LAWYER WELL-BEING SUBJECTS ADVOCATES TO EXTRAORDINARY STRESS THAT REDUCES THEIR EFFICIENCY.

As this Court is well aware, lawyer well-being has become an area of focus in the Commonwealth. In 2018, this Court formed a Steering Committee on Lawyer Well-Being, which submitted its final report on July 15, 2019. Members formed subcommittees focused on particular areas of practice. One such subcommittee focused on CPCS. It found that financial stress was a central issue affecting the well-being of privately assigned counsel,²⁴ and recommended increasing hourly rates to solve this problem.²⁵ The full Steering Committee also recommended that CPCS “work with the organized bar and others to spearhead efforts to raise the hourly rates for privately assigned counsel because their low rate of compensation is one of the primary stressors for these attorneys.”²⁶

It goes without saying that attorney mental health is important for its own sake, but it is equally important to both their clients and the system. According to a

²⁴ Supreme Judicial Court Steering Committee on Lawyer Well-Being, *Report to the Justices*, CPCS Subcommittee Report, 1 (July 15, 2019) (available at <https://www.mass.gov/files/documents/2019/07/18/SJC-Steering-Committee-Lawyer-Well-Being-Report-July-2019.pdf>) (last accessed Oct. 12, 2019) (PDF page 50).

²⁵ *Id.* 4 (PDF page 53).

²⁶ *Id.*, Full Committee Report at 26 (PDF page 32).

recent study by Mind Share Partners of Americans employed full-time, “one fifth of all respondents voluntarily left roles for mental health reasons.”²⁷ Furthermore, mental health-based departures decreased markedly with age; people in younger generations were far more likely to leave a position for mental health reasons. Therefore, if the mental health problems caused by low pay are not cured, they could cause more and more bar advocates to leave their positions. Whether or not these positions could ultimately be filled, this would create costly inefficiencies.

The same study also found that “61% of respondents said that their productivity at work was affected by their mental health.”²⁸ Mental health issues were found to reduce concentration; cause difficulty thinking, reasoning, and deciding; make tasks take longer; and reduce responsiveness to email and other communication. This has two implications. First, if inadequate pay causes advocates to be ineffective, then raising their pay could make them better advocates. Second, raising hourly rates might cost less than it seems. If healthy lawyers perform their tasks more quickly, they could bill fewer hours for each case.

²⁷ Mind Share Partners, *Mental Health at Work: 2019 Report*, 11 (2019) [Add.115].

²⁸ *Id.* at 10. [Add.114].

IV. CHRONICALLY UNDERFUNDING COUNSEL FOR INDIGENT CRIMINAL DEFENDANTS POSES A PUBLIC SAFETY RISK.

Systematic underfunding for indigent defense threatens public safety by impeding operation of the criminal justice system. “Neither a bail hearing nor a preventive detention hearing may proceed unless and until the defendant is represented by counsel.” Lavallee, 442 Mass. at 234. Applying the Lavallee protocol – however essential to enforce defendants’ fundamental rights under art. 12 – delays the ability of the Commonwealth to protect the public by prosecuting those it believes have committed serious crimes. The risk to public safety may be most acute with respect to those the Commonwealth asserts merit preventive detention under G.L. c. 276, § 58A, and this Court acknowledged fifteen years ago its protocol must not “unduly increase[e] the risk to public safety.” Id. at 245. Yet periodic crises that cripple the criminal justice system by delaying progress of cases for defendants who are unrepresented, or by overloading CPCS with appointments that preclude its effective assistance in existing representations, regularly threaten public safety. The only way to remedy this public safety issue consistently with defendants’ art. 12 rights is to fund enough lawyers, and the only way to do that is to increase their compensation.

V. THIS COURT SHOULD DEFER TO THE LEGISLATURE FOR NOW, BUT, IF THE LEGISLATURE DOES NOT ACT, ORDER SUPPLEMENTAL BRIEFING ON ITS AUTHORITY TO JUDICIALLY MANDATE THE EXPENDITURE OF FUNDS.

Because it controls the purse, the Legislature is in the best position to solve the underfunding crisis. Amicus thus strongly urges the Legislature to act promptly and raise bar advocates' hourly rates to a competitive level. Furthermore, slower, incremental changes in rates rather than sporadic, sharp changes would preempt the crises that occurred in Lavallee and this case.

One effective method of guaranteeing incremental change is followed by South Dakota. The relevant statute, S.D. Cod. L. 23A-40-8, provides that bar advocates be paid by the applicable county "a reasonable and just compensation for [their] services and for necessary expenses and costs incident to the proceedings in an amount to be fixed by a judge of the circuit court or a magistrate judge within guidelines established by the presiding judge of the circuit court." [Add.45]. The presiding judges of the circuit court have issued uniform rules to set reasonable and just compensation. In the year 2000, they set the rate at \$67/hour, and provided for yearly increases "in an amount equal to the cost of living increase that State employees receive each year from the legislature." Duffy v. Circuit Court for the Seventh Judicial Circuit, 2004 SD 19, ¶12 n.9 (2004). Setting an appropriate baseline rate and pegging increases to an objective measure, such as the cost of living adjustment, which the Legislature already uses to determine the

salaries of certain public employees, would ensure that rates remain competitive over time.

However, if the Legislature does not act soon to solve the crisis Amicus recommends that this Court consider taking action beyond continuing the Lavallee protocol. After all, the obligation to provide counsel for indigent criminal defendants is not merely legislative, but judicial as well. See Commonwealth v. Fico, 462 Mass. 737, 740 (2012) (“If an accused lacks the financial means to hire counsel, the right necessarily encompasses a duty on the court to appoint counsel for the accused.”). One possible approach would be to mandate the expenditure of funds at a rate sufficient to incentivize enough lawyers to become bar advocates. There is precedent in this Commonwealth that inherent in the judicial power is the authority to expend funds necessary to prevent the court’s functioning from being impaired. “To correct such an impairment, a judge may, even in the absence of a clearly applicable statute, obtain the required goods or services by appropriate means, including arranging himself for their purchase and ordering the responsible executive official to make payment. . . . It is not essential that there have been a prior appropriation to cover the expenditure. Where an obligation is thus legally incurred, it is the duty of the State, or one of its political subdivisions, to make payment.” O’Coin’s, Inc. v. Treasurer of County of Worcester, 362 Mass. 507, 510-11 (1972). And, other jurisdictions have enjoined the payment of assigned counsel

at an appropriate rate pending legislative action. See, e.g., N.Y. County Lawyers' Ass'n v. State, 196 Misc. 2d 761, 778 (N.Y. Sup. Ct. 2003) (holding that statutes governing the payment of assigned counsel were unconstitutional, and issuing a “mandatory permanent injunction” directing the payment of assigned counsel at a rate of \$90/hour “until the Legislature acts to address the issue”).

This approach is plausible and worthy of serious consideration, but should be one of last resort. Furthermore, given its legal and factual complexities, it would benefit from briefing by the entities most knowledgeable about the rates necessary to incentivize enough lawyers to be bar advocates in Hampden County without impairing CPCS’s ability to provide services in other locations. It could also benefit from hearing from entities knowledgeable about the matter in Worcester County and elsewhere in the Commonwealth.

In ordering supplemental briefing, it will be important to consider the timing in light of the Legislature’s rules that will limit its ability to institute a raise after July 31, 2020. Joint Rule of the Senate and House of Representatives 12A provides that “all formal business of the second annual session shall be concluded not later than the last day of July of that calendar year.” [Add.49]. And the rules of the House and Senate provide, in effect, that, in informal sessions, new matters may

only be considered by unanimous consent.²⁹ Therefore, unless there is unanimous consent, any raise must be determined by July 31, 2020. It will therefore be important to order supplemental briefing soon after the Court's issuance of an opinion in this case. This would give the Legislature sufficient time to pass a bill raising bar advocates' rates while understanding that the Court might order a raising of those rates on its own.

Therefore, amicus recommends that this Court: (1) Retain the Lavallee protocol until the Legislature raises the rates to a sufficient level, and remand the matter to the Single Justice to determine whether any increase the Legislature might pass is sufficient (bearing in mind that the Legislature's first post-Lavallee increase was not enough); and (2) If the Legislature does not pass any or sufficient

²⁹ House R. 44 ("At an informal session the House shall only consider reports of committees, papers from the Senate, bills for enactment or resolves for final passage, bills containing emergency preambles and the matters in the Orders of the Day. Motions to reconsider moved at such informal session shall be placed in the Orders of the Day for the succeeding day, and no new business shall be entertained, except by unanimous consent."). [Add.52]. See also Senate R. 5A ("The President may also declare a session informal in nature, with prior notice given. . . . Matters considered in an informal session shall have either received a public hearing or other disposition by a committee of relevant subject matter jurisdiction. In the case of an informal session, only reports of committees and matters not giving rise to formal motion or debate shall be considered."); [Add.55]. Senate R. 7 ("When the presentation of the calendar required under this rule is suspended under Rule 5A, a session shall be considered informal and no matter shall be considered if a member at said session objects to its consideration."). [Add.56].

legislation shortly after the issuance of an opinion, order supplemental briefing on whether the Court should order rate increases, and by how much. Amicus also strongly urges the Legislature to act swiftly to remedy this constitutional crisis.

VI. CONCLUSION

The shortage of lawyers for indigent criminal defendants is a constitutional crisis. Although the remedy lies in the first instance with the Legislature, it might later lie with this Court.

BOSTON BAR ASSOCIATION,

By their attorneys,

/s/ K. Neil Austin

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Dated: October 17, 2019

CERTIFICATION PURSUANT TO MASS. R. APP. P. 17(c)(9)

I, Stephen Stich, certify that the foregoing brief complies with the rules of court that pertain to the filing of briefs, including but not limited to Rules 17 and 20. This brief contains 4,023 non-excluded words, which I ascertained using Microsoft Word 2016's word count function. The brief uses Times New Roman 14-point font and was composed in Microsoft Word 2016.

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CERTIFICATE OF SERVICE PURSUANT TO MASS. R. APP. P. 13(e)

I, Stephen Stich, certify that on October 17, 2019, on behalf of amicus Boston Bar Association, I electronically filed the foregoing *Brief of Boston Bar Association As Amicus Curiae in Support of Petitioner-Appellants* in Carrasquillo v. Hampden County District Courts, SJC-12777, via e-fileMA, with which counsel for Petitioner-Appellants (Rebecca Jacobstein and Ben Keehn), and counsel for Respondent-Appellee (Timothy J. Casey) are registered and will receive automatic service. I further certify that, on October 17, 2019, I served counsel for Other Interested Party Hampden County District Attorney's Office, Shane T. O'Sullivan, via First Class Mail. To the best of my knowledge, the contact information of the aforementioned counsel is:

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ADDENDUM

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Part III COURTS, JUDICIAL OFFICERS AND PROCEEDINGS IN CIVIL CASES

Title I COURTS AND JUDICIAL OFFICERS

Chapter 211D COMMITTEE FOR PUBLIC COUNSEL SERVICES

Section 11 COMPENSATION RATES; LIMITATION ON ANNUAL BILLABLE HOURS PAYABLE; LIMITATION ON NEW APPOINTMENTS

Section 11. (a) The rates of compensation payable to all counsel, who are appointed or assigned to represent indigents within the private counsel division of the committee in accordance with the provisions of paragraph (b) of section 6, shall, subject to appropriation, be as follows: for homicide cases the rate of compensation shall be \$100 per hour; for superior court non-homicide cases, including sexually dangerous person cases, the rate of compensation shall be \$68 per hour; for district court cases and children in need of services cases the rate of compensation shall be \$53 per hour; for children and family law cases and care and protection cases the rate of compensation shall be \$55 per hour; for sex offender registry cases and mental health cases the rate of compensation shall be \$53 per hour. These rates of compensation shall be reviewed periodically at public hearings held by the committee at appropriate locations throughout the state, and notice shall be given to all state,

county and local bar associations and other interested groups, of such hearings by letter and publication in advance of such hearings. This periodic review shall take place not less than once every 3 years.

(b) The committee shall set an annual cap on billable hours not in excess of 1,650 hours. Counsel appointed or assigned to represent indigents within the private counsel division shall not be paid for any time billed in excess of the annual limit of billable hours. It shall be the responsibility of private counsel to manage their billable hours.

(c) Any counsel who is appointed or assigned to represent indigents within the private counsel division, except any counsel appointed or assigned to represent indigents within the private counsel division in a homicide case, shall be prohibited from accepting any new appointment or assignment to represent indigents after that counsel has billed 1,350 billable hours during any fiscal year.

(d) Notwithstanding the billable hour limitations in subsections (b) and (c), the chief counsel may waive the annual cap on billable hours for private counsel appointed or assigned to the children and family law cases and the care and protection cases if the chief counsel finds that: (i) there is limited availability of qualified counsel in that practice area; (ii) shifting the services to private counsel would result in cost efficiencies; or (iii) shifting the service to private counsel would improve the quality of service; provided, however, that counsel appointed or assigned to such cases within the private counsel division shall not be paid for any time billed in excess of 1,800 billable hours. It shall be the responsibility of private counsel to manage their billable hours.

Acts (2004)

Chapter 253

AN ACT RELATIVE TO PRIVATE ATTORNEYS PROVIDING PUBLIC COUNSEL SERVICES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide compensation to attorneys providing public counsel services, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Item 0321-1510 of section 2 of chapter 149 of the acts of 2004 is hereby amended by striking out the words "and provided further, that the rates of compensation paid for private counsel services from item shall be the same as the rates paid in fiscal year 2004" and inserting in place thereof the following:- and provided further, that the rates of compensation paid for private counsel services shall be \$7.50 per hour greater than the amount paid per hour in fiscal year 2004.

SECTION 2. There shall be a commission to study the provision of counsel to indigent persons who are entitled to the assistance of assigned counsel either by constitutional provision, or by statute, or by

rule of court. The commission shall be composed of 9 persons, including 3 members to be appointed by the speaker of the house of representatives, 3 by the president of the senate, and 3 by the governor.

The commission shall examine all aspects of the provision of counsel in such cases, including but not limited to (i) the frequency of the assignment of counsel to indigent persons, (ii) the feasibility of changes, consistent with chapter 211D of the General Laws, to control or reduce the frequency of case assignments, (iii) the cost of providing counsel in such cases; (iv) the adequacy of existing procedures for determining and verifying the eligibility of persons who request the assignment of counsel; (v) the adequacy of existing procedures for the assessment and collection of counsel fees from persons who have been determined to be eligible for assigned counsel; (vi) the existing balance, and the adequacy of that balance, in each practice area and county between the provision of legal representation by salaried staff counsel and certified private counsel; (vii) the frequency with which neither salaried staff counsel nor certified private counsel are available to represent a defendant entitled to publicly funded representation; (viii) the impact of the current hourly rate paid to certified private counsel on the availability or non-availability of such counsel to defendants entitled to publicly funded representation; and (ix) the feasibility and potential benefits of providing representation to indigent persons predominantly through the assignment of salaried staff counsel rather than certified private counsel. The commission shall report its findings and recommendations together with drafts of

legislation as may be necessary to carry such recommendations into effect by filing the same with the clerks of the house and senate on or before February 1, 2005.

SECTION 3. Section 1 shall take effect as of August 1, 2004.

Approved August 4, 2004.

Acts (2005)

Chapter 54

AN ACT PROVIDING COUNSEL TO INDIGENT PERSONS.

Whereas , The deferred operation of this act would tend to defeat its purpose, which is to improve providing counsel to indigent persons, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 211D of the General Laws is hereby amended by striking out section 2 1/2, as appearing in the 2004 Official Edition, and inserting in place thereof the following section:-

Section 2 1/2. (a) Notwithstanding any general or special law to the contrary, a person claiming indigency under the provisions of section 2 must execute a waiver authorizing the court's chief probation officer or his designee, to obtain the person's wage and tax information from the department of revenue and any other information from the registry of motor vehicles that the court may find useful in verifying the person's claim of indigency. The waiver shall authorize the chief probation officer, or his designee, to conduct any further re-assessment required by this section.

(i) The office of the commissioner of probation shall submit quarterly reports to the house and senate committees on ways and means detailing the effectiveness of any procedures implemented pursuant to this section to verify an individual's claim of indigency. The report shall include, but not limited to, the number of individuals determined to be indigent, number of individuals determined not to be indigent, number of individuals found to have concealed or otherwise misrepresented information relevant to his financial status, number of individuals found to no longer qualify for appointment of counsel upon any re-assessment of indigency required by this section, revenue generated through collection of indigent client fees, the average indigent client fee that each court division collects per case, recommendations to improve the procedures for verifying eligibility for counsel and other pertinent information to ascertain the effectiveness of verification procedures. The information within such report shall be delineated by court division.

SECTION 1A. Section 2A of said chapter 211D, as so appearing, is hereby amended by striking out the words "need not be appointed", in line 3, and inserting in place thereof the following words:- , on motion of the commonwealth, the defendant, or on the court's own motion, shall not be appointed.

SECTION 2. Said chapter 211D is hereby further amended by striking out section 11, as so appearing, and inserting in place thereof the following section:-

Section 11. The rates of compensation payable to all counsel, who are appointed or assigned to represent indigents within the private counsel division of the committee in accordance with the provisions of

paragraph (b) of section 6, shall, subject to appropriation, be as follows: for homicide cases the rate of compensation shall be \$100 per hour; for superior court non-homicide cases, including sexually dangerous person cases, the rate of compensation shall be \$60; for district court cases and children in need of services cases the rate of compensation shall be \$50 per hour; for children and family law cases, care and protection cases, sex offender registry cases and mental health cases the rate of compensation shall be \$50 per hour. These rates of compensation shall be reviewed periodically at public hearings held by the committee at appropriate locations throughout the state, and notice shall be given to all state, county and local bar associations and other interested groups, of such hearings by letter and publication in advance of such hearings. This periodic review shall take place not less than once every 3 years.

Any counsel who is appointed or assigned to represent indigents within the private counsel division is prohibited from accepting any new appointment or assignment to represent indigents after he has billed 1400 billable hours during any fiscal year.

SECTION 3. Chapter 277 of the General Laws is hereby amended by striking out section 70C, as so appearing, and inserting in place thereof the following section:-

Section 70C. Upon oral motion by the commonwealth or the defendant at arraignment or pretrial conference, or upon the court's own motion at any time, the court may, unless the commonwealth objects, in writing, stating the reasons for such objection, treat a violation of a municipal ordinance, or by-law or a misdemeanor offense as a civil infraction. The provisions of this section shall not

the additional attorneys since the effective date of this act, and (3) the office to which each additional attorney has been assigned and the reason or reasons for such assignment.

SECTION 8. There shall be a commission to study the implementation of a dedicated fee, multiple fees, surcharge or combination thereof to be used for the purpose of providing counsel to indigent persons who are entitled to the assistance of assigned counsel either by constitutional provision, or by statute, or by rule of court. The commission shall be composed of 9 persons, including 3 members to be appointed by the speaker of the house of representatives, 3 by the president of the senate, and 3 by the governor. The commission shall recommend a fee structure to provide all or a portion of funding for counsel to indigent persons which shall include, but not be limited to; an additional fee assessed to members of the Massachusetts Bar; a surcharge on fines levied as part of criminal or civil sanction by a court; and a surcharge on parking and traffic citations. The commission shall report its findings and recommendations together with drafts of legislation as may be necessary to carry such recommendations, into effect, by filing the same with the clerks of the house and senate on or before March 1, 2006.

SECTION 9. Section 2 shall take effect as of July 1, 2005.

Approved July 29, 2005.

Acts (2015)

Chapter 46

AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2016 FOR THE MAINTENANCE OF THE DEPARTMENTS, BOARDS, COMMISSIONS, INSTITUTIONS AND CERTAIN ACTIVITIES OF THE COMMONWEALTH, FOR INTEREST, SINKING FUND AND SERIAL BOND REQUIREMENTS AND FOR CERTAIN PERMANENT IMPROVEMENTS

Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to make appropriations for the fiscal year beginning July 1, 2015, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. To provide for the maintenance of the several departments, boards, commissions and institutions and other services, and for certain permanent improvements and to meet certain requirements of law, the sums set forth in sections 2, 2B, 2D, 2E and 3, for the several purposes and subject to the conditions specified in said sections 2, 2B, 2D, 2E and 3, are hereby appropriated from the General Fund unless specifically designated otherwise, subject to the

\$15,000,000.

SECTION 118. Section 14 of chapter 176O of the General Laws, as so appearing, is hereby amended by striking out subsection (f) and inserting in place thereof the following subsection:-

(f) No health care provider and no agent or employee of a health care provider shall provide information relative to unpaid charges for health care services to a consumer reporting agency, as defined in section 50 of chapter 93, while an internal or external review under this section is pending or for 30 days following the resolution of a grievance. No health care provider and no agent or employee of a health care provider, including a debt collector as defined in section 24 of said chapter 93, shall initiate debt collection activities relative to unpaid charges for health care services while an internal or external review under this section is pending or for 30 days following the resolution of a grievance.

Governor disapproved of the following section, for message see House, No. 3675

The Legislature overrode the Governor's action.

SECTION 119. Section 11 of chapter 211D of the General Laws, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words “\$50 per hour; for children and family law cases, care and protection cases,” and inserting in place thereof the following words:- \$53 per hour; for children and family law cases and care and protection cases the rate of compensation shall be \$55 per hour; for.

SECTION 120. Section 10 of chapter 218 of the General Laws, as so appearing, is hereby amended by striking out, in line 20, the words “district court of eastern Hampshire;”.

SECTION 121. Said section 10 of said chapter 218, as so

House, No. 3675

~~SECTION 213. Section 70 shall take effect as of January 1, 2015 and shall apply to tax years beginning on or after January 1, 2015.~~

SECTION 214. Section 74 shall take effect as of April 7, 2015.

SECTION 215. Sections 75 to 77, inclusive, shall take effect 180 days after the effective date of this act.

SECTION 216. Except as otherwise specified, this act shall take effect as of July 1, 2015.

Approved (in part), July 17, 2015.

Acts (2018)

Chapter 154

AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2019 FOR THE MAINTENANCE OF THE DEPARTMENTS, BOARDS, COMMISSIONS, INSTITUTIONS AND CERTAIN ACTIVITIES OF THE COMMONWEALTH, FOR INTEREST, SINKING FUND AND SERIAL BOND REQUIREMENTS AND FOR CERTAIN PERMANENT IMPROVEMENTS

The document is being worked on to include the Governor's actions and any Legislative actions.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to make appropriations for the fiscal year beginning July 1, 2018, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. To provide for the operations of the several departments, boards, commissions and institutions of the commonwealth and other services of the commonwealth and for

classifying employees on a capital budget. The secretary shall include the following information in the itemized budgets available on the authority's website: (i) the amount of capital expenditures used for employees; (ii) the total number of employee salaries included in capital expenditures, including a breakdown by division of the position titles and accompanying salaries; and (iii) the total number of employees assigned to capital projects.

SECTION 46. Section 8 of chapter 161B of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(l) The Massachusetts Department of Transportation may require each regional transit authority to provide data on ridership, customer service, asset management and financial performance and shall annually compile collected data into an annual report on the performance of regional transit authorities. The report shall be filed with the clerks of the senate and house of representatives, the senate and house committees on ways and means and the joint committee on transportation not later than December 31.

SECTION 47. Section 1 of chapter 211B of the General Laws is hereby amended by striking out the figure "383", inserted by section 81 of chapter 47 of the acts of 2017, and inserting in place thereof the following figure:- 384.

SECTION 48. Section 2 of said chapter 211B is hereby amended by striking out, in line 5, as appearing in the 2016 Official Edition, the figure "41" and inserting in place thereof the following figure:- 42.

SECTION 49. Section 11 of chapter 211D of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the figure "\$60" and inserting in place thereof the following figure:- \$68.

SECTION 106. The application fees required to be credited to the Department of Public Utilities Energy Facilities Siting Board Trust Fund under section 12Q of chapter 25 of the General Laws and the Department of Public Utilities Unified Carrier Registration Trust Fund under section 12R of said chapter 25 shall apply to the application fees collected by the department prior to fiscal year 2019 and application fees collected in fiscal year 2019 and thereafter.

SECTION 107. The department of elder affairs shall complete the training curriculum established pursuant to section 13 not later than 9 months after the effective date of this act.

SECTION 108. The first annual health disparities report required to be filed by the office of health equity pursuant to section 16AA of chapter 6A of the General Laws shall be filed not later than July 1, 2019.

SECTION 109. Sections 17 to 19, inclusive, shall take effect on August 1, 2019.

SECTION 110. Section 20 shall take effect on January 1, 2019. SECTION 111. Section 30 shall take effect on January 1, 2019 and shall apply to tax years beginning on or after January 1, 2019.

Governor returned the following section with recommendation of amendment, for message see House, No. 4833.

~~SECTION 112. Sections 39, 52, 54, 56 and 58 to 60, inclusive, shall take effect on January 1, 2019.~~

SECTION 113. Except as otherwise specified, this act shall take effect on July 1, 2018.

Approved (in part), July 26, 2018

HRS § 802-5

This document is current through the 2019 Legislative Session. Subject to changes by Revisor pursuant to HRS 23G-15.

Michie's™ Hawaii Revised Statutes Annotated > Division 5. Crimes and Criminal Proceedings (Titles 37 — 38) > Title 38 Procedural and Supplementary Provisions (Chs. 801 — 853) > Chapter 802 Counsel and Other Services for Indigent Criminal Defendants (§§ 802-1 — 802-12)

§ 802-5. Appointment of counsel; compensation.

(a) Except as provided in section 334-126(f), when it shall appear to a judge that a person requesting the appointment of counsel satisfies the requirements of this chapter, the judge shall appoint counsel to represent the person at all stages of the proceedings, including appeal, if any. If conflicting interests exist, or if the interests of justice require, the court may appoint private counsel, who shall receive reasonable compensation for necessary expenses, including travel, the amount of which shall be determined by the court, and reasonable fees pursuant to subsection (b). All expenses and fees shall be ordered by the court. Duly ordered payment shall be made upon vouchers approved by the director of finance and warrants drawn by the comptroller.

(b) The court shall determine the amount of reasonable compensation to appointed counsel, based on the rate of \$90 an hour; provided that the maximum allowable fee shall not exceed the following schedule:

- (1) Any felony case \$6,000
- (2) Misdemeanor case - jury trial 3,000
- (3) Misdemeanor case - jury waived 1,500
- (4) Appeals 5,000
- (5) Petty misdemeanor case 900
- (6) Any other type of administrative or
judicial proceeding, including cases arising under
section 571-11(1), 571-14(a)(1), or 571-14(a)(2) 3,000.

Payment in excess of any maximum provided for under paragraphs (1) to (6) may be made whenever the court in which the representation was rendered certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the administrative judge of that court.

(c) The public defender and the judiciary shall submit to the department of budget and finance for inclusion in the department's budget request for each fiscal biennium, the amount required for each fiscal year for the payment of fees and expenses pursuant to this section.

History

S.D. Codified Laws § 23A-40-8

Current through the 2019 General Session of the 94th South Dakota Legislative Assembly, Executive Order 2019-1 and Supreme Court Rule 19-15

LexisNexis® South Dakota Codified Laws Annotated > Title 23A Criminal Procedure (Chs. 23A-1 — 23A-50) > Chapter 23A-40 (Rule 44) Counsel for Indigent Defendant (§§ 23A-40-1 — 23A-40-21)

23A-40-8. Payment of assigned counsel.

Counsel assigned pursuant to § [23A-40-6](#) and subdivision 23A-40-7(2) shall, after the disposition of the cause, be paid by the county in which the action is brought, or, in case of a parole revocation, by the county from which the inmate was sentenced, a reasonable and just compensation for his services and for necessary expenses and costs incident to the proceedings in an amount to be fixed by a judge of the circuit court or a magistrate judge within guidelines established by the presiding judge of the circuit court.

History

SDC 1939, § 34.1901; SL 1957, ch 182; SDCL, §§ 23-2-2, 23-2-3; SL 1968, ch 147; 1969, ch 155; 1978, ch 178, § 493; SDCL Supp, § 23A-40-4; SL 1979, ch 159, § 34; 1983, ch 191, § 1.

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End of Document

**S.J.C. RULE 3:07
MASSACHUSETTS RULES OF PROFESSIONAL CONDUCT**

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Corresponding ABA Model Rule. Identical to Model Rule 5.7.

Corresponding Former Massachusetts Rule. None.

PUBLIC SERVICE

RULE 6.1 VOLUNTARY PRO BONO PUBLICO SERVICE

A lawyer should provide annually at least 25 hours of *pro bono publico* legal services for the benefit of persons of limited means. In providing these professional services, the lawyer should:

- (a) provide all or most of the 25 hours of *pro bono publico* legal services without compensation or expectation of compensation to persons of limited means, or to charitable, religious, civic, community, governmental, and educational organizations in matters that are designed primarily to address the needs of persons of limited means. The lawyer may provide any remaining hours by delivering legal services at substantially reduced compensation to persons of limited means or by participating in activities for improving the law, the legal system, or the legal profession that are primarily intended to benefit persons of limited means; or,
- (b) contribute from \$250 to 1% of the lawyer's annual taxable, professional income to one or more organizations that provide or support legal services to persons of limited means.

Comment

[1] Every lawyer, regardless of professional prominence or professional work load, should provide legal services to persons of limited means. This rule sets forth a standard which the court believes each member of the Bar of the Commonwealth can and should fulfill. Because the rule is aspirational, failure to provide the pro bono publico services stated in this rule will not subject a lawyer to discipline. The rule calls on all lawyers to provide a minimum of 25 hours of pro bono publico legal services annually. Twenty-five hours is one-half of the number of hours specified in the ABA Model Rule 6.1 because this Massachusetts rule focuses only on legal activity that benefits those unable to afford access to the system of justice. In some years a lawyer may render greater or fewer than 25 hours, but during the course of his or her legal career, each lawyer should render annually, on average, 25 hours. Also, it may be more feasible to act collectively, for example, by a firm's providing through one or more lawyers an amount of pro bono publico legal services sufficient to satisfy the aggregate amount of hours expected from all lawyers in the firm. Services can be performed in civil matters or in criminal or quasi-criminal matters for which there is no government obligation to provide funds for legal representation.

[2] The purpose of this rule is to make the system of justice more open to all by increasing the pro bono publico legal services available to persons of limited means. Because this rule calls for the provision of 25 hours of pro bono publico

legal services annually, instead of the 50 hours per year specified in ABA Model Rule 6.1, the provision of the ABA Model Rule regarding service to non-profit organizations was omitted. This omission should not be read as denigrating the value of the voluntary service provided to non-profit community and civil rights organizations by many lawyers. Such services are valuable to the community as a whole and should be continued. Service on the boards of non-profit arts and civic organizations, on school committees, and in local public office are but a few examples of public service by lawyers. Such activities, to the extent they are not directed at meeting the legal needs of persons of limited means, are not within the scope of this rule. While the American Bar Association Model Rule 6.1 also does not credit general civic activities, it explicitly provides that some of a lawyer's pro bono publico obligation may be met by legal services provided to vindicate "civil rights, civil liberties and public rights." Such activities, when undertaken on behalf of persons of limited means, are within the scope of this rule.

[3] Paragraph (a) describes the nature of the pro bono publico legal services to be rendered annually under the rule. Such legal services consist of a full range of activities on behalf of persons of limited means, including individual and class representation, the provision of legal advice, legislative lobbying, administrative rule making, community legal education, and the provision of free training or

The General Court is comprised of two distinct legislative bodies, the House of Representatives and the Senate. Each of these legislative bodies are governed by the Constitution, General Laws, the various court and sundry rulings, and its own set of rules (the House Rules and the Senate Rules) adopted by each chamber and a second set of rules adopted, in concurrence, known as the Joint Rules of the Senate and House of Representatives. These rules help govern the legislative process.

JOINT RULES

JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES

[As adopted by the House of Representatives and the Senate on March 7, 2019.]

[The dates under each rule indicate when the rule and its amendments were adopted.]

Committees.

1. Joint standing committees shall be appointed at the beginning of the biennial session as follows:-

A committee on Cannabis Policy;

A committee on Children, Families and Persons With Disabilities;

A committee on Community Development and Small Businesses;

A committee on Consumer Protection and Professional Licensure;

A committee on Economic Development and Emerging Technologies;

A committee on Education;

A committee on Elder Affairs;

concurrently. No such matter shall be admitted for consideration except on report of the committees on Rules of the two branches, acting concurrently, and then upon approval of two-thirds of the members of each branch voting thereon. Matters upon which suspension of Joint Rule 12 has been negatived shall be placed on file.

At any special session called under Rule 26A, however, matters relating to the facts constituting the necessity for convening such session shall, if otherwise admissible, be admitted as though filed seasonably under the first sentence of this rule. Any recommendations from the Governor shall be similarly considered. This rule shall not be rescinded, amended or suspended, except by a concurrent vote of two-thirds of the members of each branch present and voting thereon. [Amended Feb. 7, 18 90; Feb. 2, 18 91; Feb. 7, 18 93; Jan. 10, 18 98; Jan. 9, 18 99; Feb. 15, 19 01; May 4, 19 04; Jan. 31, 19 10; Feb. 2, 19 17; Dec. 22, 19 20; March 30, 19 21; Jan. 30, 19 23; Feb. 15, 19 33; Jan. 12 and Aug. 7, 19 39; Jan. 15, 19 45; Jan. 6, 19 47; May 27, 19 48; Jan. 30, 19 67; March 26, 19 69; Jan. 7, 1971 ; Jan. 15 and Oct. 2, 1973 ; Oct 3, 1983 , June 12, 1995 ; Jan. 26, 2005; July 17, 2003; Jan. 26, 2005; July 21, 2005; Sept. 20, 2005; Feb. 12, 2009.]

12A. All formal business of the first annual session of the General Court shall be concluded not later than the third Wednesday in November of that calendar year and all formal business of the second annual session shall be concluded not later than the last day of July of that calendar year.

In order to assist the Senate and House in its analysis and appraisal of laws enacted by the General Court, each joint standing committee, upon conclusion of the formal business of the annual sessions, shall, as

authorized by Joint Rule 1, initiate oversight hearings to evaluate the effectiveness, application and administration of the subject matter of laws within the jurisdiction of that committee. [Adopted June 12, 1995.]

Unfinished Business of the Session.

12B. Any matter pending before the General Court at the end of the first annual session and any special session held in the same year shall carry over into the second annual session of the same General Court in the same legislative status as it was at the conclusion of the first annual session or any special session held during that year; provided, however, that any measure making or supplementing an appropriation for a fiscal year submitted to or returned to the General Court by the Governor, under Article LXIII of the Amendments to the Constitution, in the first annual session or in a special session held during that year shall cease to exist upon the termination of the first annual session. [Adopted June 12, 1995.]

Papers to be deposited with the Clerks.

13. Information intended for presentation to the General Court by any Representative or Senator shall be deposited with the Clerk of the branch to which the member belongs; and all such information, unless they be subject to other rules or of the rules of the Senate or House, shall be referred by the Clerk, with the approval of the President or Speaker, to appropriate committees, subject to such changes as the Senate or House may make. The reading of information so referred may be dispensed with, but they shall, except as provided in these rules, be entered in the Journal of the same on the next legislative day after such reference.

HOUSE No. 2020

House order No. 2019, the Rules of the House of Representatives for the 191st General Court, governing the 2019-2020 legislative sessions [Including an Index] , as amended and adopted by the House. January 30, 2019.

The Commonwealth of Massachusetts

House of Representatives January 30, 2019.

**In the One Hundred and Ninety-First General Court
(2019-2020)**

Ordered, That the Rules of the House of Representatives for the years 2019-2020 be as follows:

SPEAKER.

1 1. The Speaker shall take the Chair at the hour to which the House stands adjourned, call the
2 members to order, and, on the appearance of a quorum, proceed to business. [1.] (Senate Rule 1.)

3 1A. The House shall not be called to order before the hour of ten o'clock A.M. nor meet
4 beyond the hour of nine o'clock P.M. At the hour of nine o'clock P.M., if the House is in session,
5 the Speaker shall interrupt the business then pending and shall, without debate, place before the
6 House the question on suspension of this rule which shall be decided by a majority of members
7 present and voting by a recorded yea and nay vote. If the vote is in the affirmative, said vote

1040 42A. The Clerk shall, prior to 3 o'clock P.M., on the day preceding a session, make available
1041 by electronic communication or other means, a list of all reports of the committee on Steering,
1042 Policy and Scheduling, asking to be discharged from further consideration of subjects, and
1043 recommending that the subjects be referred to other committees. [Adopted Jan. 26, 2005;
1044 Amended Jan. 29, 2015.]

1045 43. Bills ordered to a third reading shall be placed in the Orders of the Day for the next day
1046 for such reading. [58.] (32.)

1047 *Special Rules Affecting the Course of Proceedings.*

1048 44. The Speaker may designate when an informal session of the House shall be held provided
1049 said Speaker gives notice of such informal session at a prior session of the House. The Speaker
1050 may, in cases of emergency, cancel a session or declare any session of the House to be an
1051 informal session. At an informal session the House shall only consider reports of committees,
1052 papers from the Senate, bills for enactment or resolves for final passage, bills containing
1053 emergency preambles and the matters in the Orders of the Day. Motions to reconsider moved at
1054 such informal session shall be placed in the Orders of the Day for the succeeding day, and no
1055 new business shall be entertained, except by unanimous consent.

1056 Formal debate, or the taking of the sense of the House by yeas and nays shall not be
1057 conducted during such informal session.

1058 Upon the receipt of a petition signed by at least a majority of the members elected to the
1059 House, so requesting, the Speaker shall, when the House is meeting in informal session under the
1060 provisions of Joint Rule 12A, designate a formal session, to be held within seven days of said
1061 receipt, for the purpose of considering the question of passage of a bill, notwithstanding the

1062 objections of the Governor, returned pursuant to Article 2, Section 1, Clause 1, Part 2 of the
1063 Massachusetts Constitution. This rule shall not be suspended unless by unanimous consent of the
1064 members present. [59.] (5A.) [Amended Jan. 11, 1985; Jan. 12, 1987; Jan. 17, 1995; Jan. 14,
1065 1997; Jan. 24, 2001; Jan. 9, 2003; Feb. 11, 2009.]

1066 45. After entering upon the consideration of the Orders of the Day, the House shall proceed
1067 with them in regular course as follows: Matters not giving rise to a motion or debate shall first be
1068 disposed of in the order in which they stand in the Calendar; after which the matters that were
1069 passed over shall be considered in like order and disposed. The provisions of this paragraph shall
1070 not be suspended unless by unanimous consent of the members present.

1071 Notwithstanding the provisions of this rule, during consideration of the Orders of the Day, the
1072 committee on Ways and Means and the committee on Bills in the Third Reading may present
1073 matters for consideration of the House after approval of two-thirds of the members present and
1074 voting, without debate. [59.] (37.) [See Rule 47.] [Amended Jan. 12, 1981; Jan. 12, 1983; Feb.
1075 11, 2009.]

1076 46. When the House does not finish the consideration of the Orders of the Day, those which
1077 had not been acted upon shall be the Orders of the Day for the next and each succeeding day
1078 until disposed of, and shall be entered in the Calendar, without change in their order, to precede
1079 matters added under Rule 7A; provided, however, that all other matters shall be listed in
1080 numerical order by Calendar item.

1081 The unfinished business in which the House was engaged at the time of adjournment shall
1082 have the preference in the Orders of the Day for the next day. [60.] (35.) [Amended Jan. 12,
1083 1987; Jan. 26, 1999.]

SENATE No. 18

Senate, March 7, 2019 – Text of the Senate Rules adopted as the permanent rules of the Senate for 2019-2020.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

RULES OF THE SENATE

THE PRESIDENT.

1. The President shall take the chair at the hour to which the Senate stands adjourned, shall call the members to order, and, on the appearance of a quorum, shall proceed to business. [1831; 1888.]

1A. Every formal session of the Senate shall open with a recitation of the “Pledge of Allegiance to the Flag”. At the discretion of the President, in order to mark an occasion of particular significance, a Senate session or component thereof may include a moment of silence, prayer or other expression of personal belief. [1989; 2015.]

2. The President shall preserve order and decorum, may speak to points of order in preference to other members, and shall decide all questions of order subject to an appeal to the Senate. The President shall rise to put a question, or to address the Senate, but may read sitting. [1817; between 1821 and 1826; 1831; 1888.]

3. The President may vote on all questions. [1826.]

4. The President may appoint a member to perform the duties of the chair for a period not exceeding 3 days at any one time. [1831; 1862; 1865; 1888; 1971.]

4A. The Senate President shall be elected by roll call vote on the Senate floor. This rule shall not be suspended except by a vote of four-fifths of the members present and voting thereon. [Rule 63](#) shall not apply to this case and no other rule shall supersede the requirement of four-fifths vote to suspend this rule. [1993; 2002, 2019.]

4B. The Senate President, Majority Leader and the Minority Leader shall, upon declaration of candidacy for any other state or federal elective office, relinquish said position. [2003; 2015.]

5. In case of a vacancy in the office of President, or in case the President, or the member appointed by the President to perform the duties of the chair, is absent at the hour to which the Senate stands adjourned, the longest continuously serving, and in the event that two or more members equally qualify as longest continuously serving, then the eldest among those members shall call the Senate to order, and shall preside until a President, or Acting President, is elected by ballot or by roll call vote as the Senate shall by majority vote determine, and such election shall be the first business in order. [1831; 1885; 1888; 1971; 1985; 2003; 2013; 2017.]

5A. In case of extreme emergency, the President of the Senate may for a period not exceeding 2 days, in conformity with Article 6, Section II, Chapter 1 of the Constitution, cause a session of the Senate to be cancelled. Each member of the Senate insofar as is practicable shall be notified of such action. The President may also declare a session informal in nature, with prior notice given. Notice of such action shall be printed in the Journal of the Senate by the Clerk of the Senate and the printing of a calendar shall be suspended with reference to an informal session under this rule. Matters considered in an informal session shall have either received a public hearing or other disposition by a committee of relevant subject matter jurisdiction.

In the case of an informal session, only reports of committees and matters not giving rise to formal motion or debate shall be considered. No motion or order of business shall lose its precedence but shall be carried over until the next formal session. [1971; 1973.]

5B. [Omitted in 2011.]

5C. Upon a vacancy in the Senate, with the exception of any vacancy that occurs after April 1 in an even-numbered year, a date for a special election shall be scheduled by the President of the Senate within 20 days after the vacancy occurs and the proposed date of the special election shall then be put before the members of the Senate for a vote. [2011, 2019.]

CLERK.

6. The Clerk shall keep a journal of the proceedings of the Senate, and shall cause the same to be presented daily. The Clerk shall, in the journal, make note of all questions of order, and enter at length the decisions thereon. The Clerk shall insert in an appendix to the journal the rules of the Senate and the joint rules of the two branches. During informal sessions, each Senator shall have the opportunity to read into the journal, or cause to be printed in the journal, a ceremonial speech not to exceed 650 words, provided an electronic copy of the remarks is supplied to the Clerk. [1882; 1888; 2015.]

7. The Clerk, with the approval and direction of the President and the Committee on Rules, shall prepare and cause to be presented each day a calendar of matters in order for consideration. The calendar for a session shall be available to the members and the public at least 2 calendar days prior to the start of that session, except when formal sessions are held on consecutive days. The

calendar for any formal session on a day following a formal session shall be available to the members and to the public as soon as practicable and, in any event, no later than 2 hours prior to the start of that session. The agenda for informal sessions shall be available to the members and the public at least 1 calendar day prior to the start of that session, except when informal sessions are held on consecutive days. The presentation of a calendar may only be suspended by a 2/3 vote of all members present and voting as determined by a call of the yeas and nays. The calendar shall consist of at least 4 separate sections. One section shall contain those matters for third reading and engrossment. No matters shall be considered for third reading that do not appear on this section of the calendar without unanimous consent. One section shall contain those matters held by the Senate committee on Bills in the Third Reading. One section shall contain those matters appearing on the Senate Calendar for the first time. No matters shall be considered for second reading that do not appear on this section of the calendar without unanimous consent. One section shall contain those matters which shall be on the Senate Calendar for the first time at the following formal session. No matters shall be considered for a second reading at a formal session that were not on the Calendar for the previous formal session. It shall be mandatory, however, that a bill or resolve ordered to third reading on one calendar day shall appear on the calendar at the following formal session. The Clerk, with the approval and direction of the President and the Committee on Rules, may prepare the calendar, with such memoranda as the Clerk may deem necessary, in a form designed to provide complete information and to properly facilitate the business of the Senate. When the presentation of the calendar required under this rule is suspended under Rule 5A, a session shall be considered informal and no matter shall be considered if a member at said session objects to its consideration. After the conclusion of formal business as described in Joint Rule 12A, a member may object to a particular matter, provided they have placed their request in writing to the Senate Clerk prior to the start of the session.

Upon conclusion of all formal business pursuant to Joint Rule 12A, the Clerk shall not be required to print of a calendar pursuant to this rule. [1882; 1888; 1945; 1971; 1974; 1985; 1991; 1993; 2015; 2017.]

7A. To better facilitate the business of the Senate, whenever possible, and notwithstanding any rules to the contrary, during consideration of the new matters on the calendar each day, the chair shall first declare a recess so that members may examine the items. The chair shall then ask for passes on the second reading matters. Second reading matters with amendments pending will automatically be considered separately. The chair shall direct the Clerk to dispense with the reading of each title, but the journal for that day shall show that the bills have been read a second time. The question shall then come on ordering those second reading matters which have not been passed for debate to a third reading. Matters passed for debate shall be considered on the second call.

The same procedure shall be followed with relation to adverse reports appearing in groups on the calendar. Adverse reports passed for debate shall be considered on the second call. The question

A man and a woman in business attire are looking at a tablet together. The man is on the left, wearing a light blue shirt and a dark tie, looking down at the tablet. The woman is on the right, wearing a light blue blazer, looking at the tablet with a slight smile. A large red diagonal overlay covers the bottom half of the image.

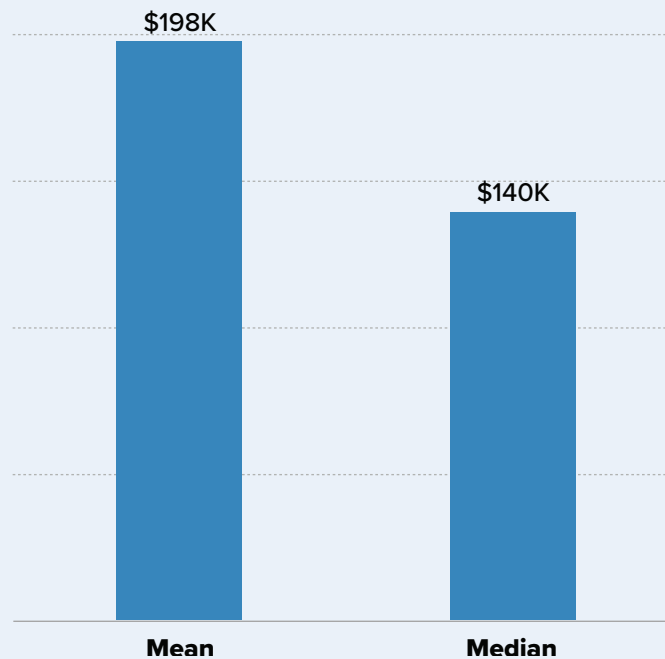
2018 Martindale Attorney Compensation Report

In 2018, the Martindale Legal Marketing Network initiated its first annual Attorney Compensation Report. The report catalogs the incomes of solo and small-firm attorneys across the United States.

In addition to gathering compensation data, the Martindale Attorney Compensation Report covers important factors that affect income, such as hours worked, time spent with clients, and firm size and location. More than 7,800 attorneys across more than two dozen practice areas responded to the survey. The results focus on the 6,902 respondents who are practicing full-time.

How much did attorneys earn overall in 2017?

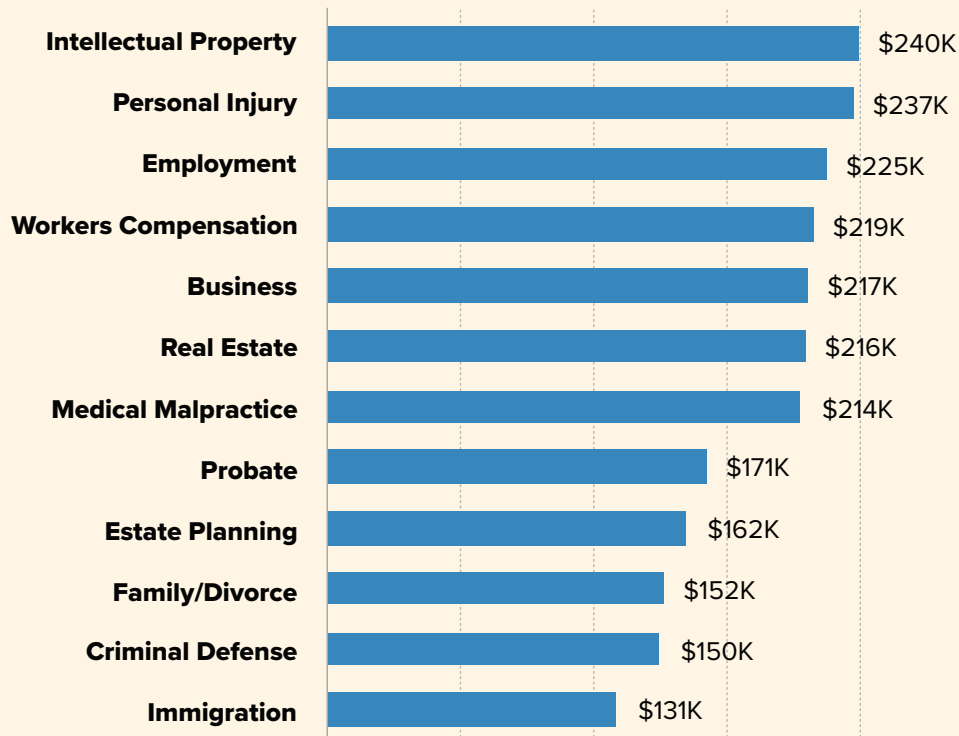
What was your 2017 compensation for providing billable legal services?



Among all U.S. solo and small-firm attorneys who responded to the survey, the average annual full-time compensation was \$198,000, excluding non-client-related activities such as serving as an expert witness or speaking engagements. For employed attorneys, reported compensation includes salary, bonus and profit-sharing contributions. For owners, compensation includes earnings after taxes and deductible expenses but before income tax.

Intellectual property attorneys top the list

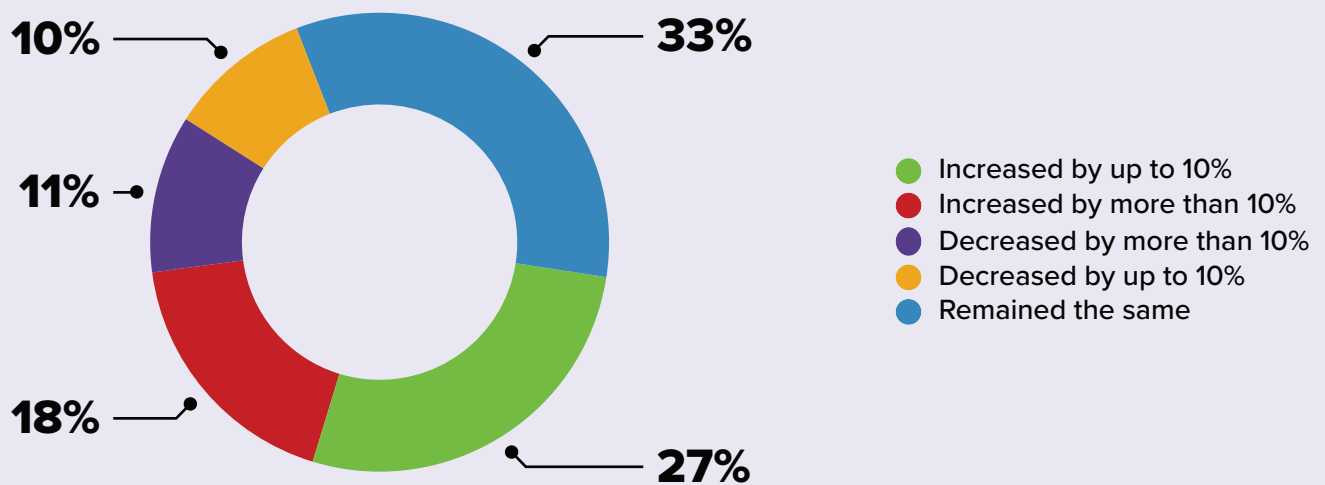
What was your 2017 compensation for providing billable legal services?



Attorneys who identified intellectual property as their primary area of practice reported earning the most with an average of \$240,000 annually. Immigration attorneys earned the least with an average of \$131,000.

Attorney compensation is up

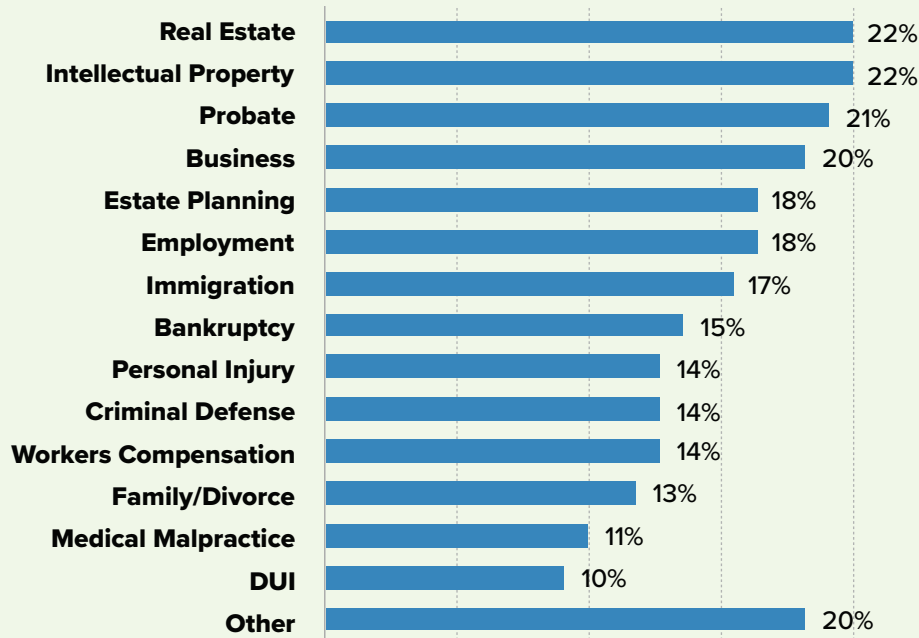
Did your 2017 earnings from legal services increase, decrease, or remain the same compared to 2016?



Compensation increased in 2017 for 45% of the responding attorneys. The largest group that saw an increase comprised attorneys under the age of 35 (66%), and 30% of practitioners 65 and older also experienced an increase.

17% of respondents reported earning supplemental income

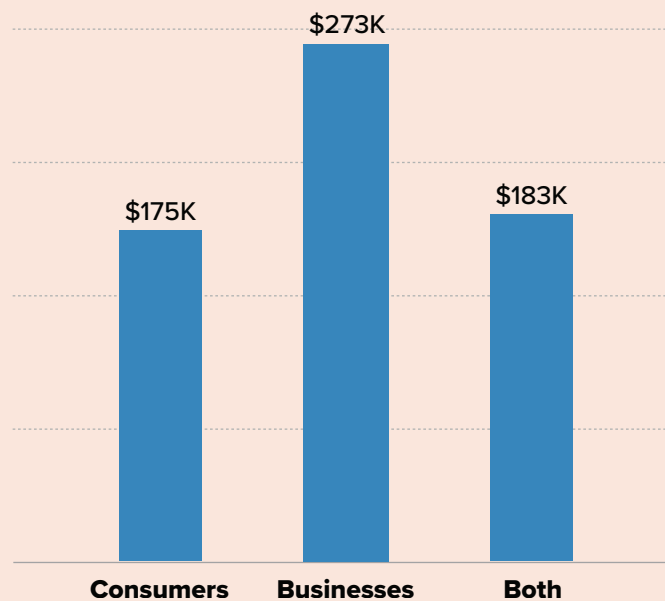
In 2017, how much money did you make in nonlegal services activities?



A majority of attorneys (83%) indicated that they did not earn any supplemental income providing nonlegal services during 2017. This would include income from speaking engagements, serving as an expert witness, etc. Among the different practice areas, intellectual property (22%) and real estate (22%) had the largest proportion of practitioners who earned additional income.

Representing businesses provides more income

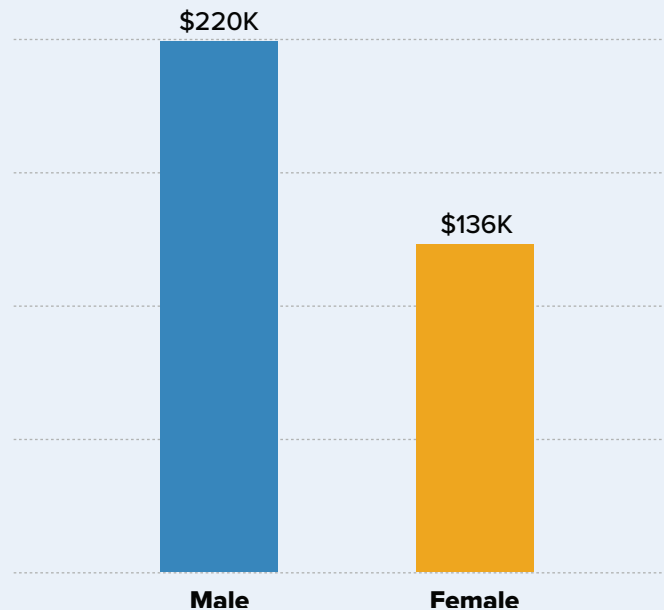
Do you primarily provide legal services to consumers, businesses or both?



Attorneys whose practices focus primarily on representing businesses reported earning 56% more income in 2017 than attorneys who primarily represent consumers.

The gender gap persists in the practice of law

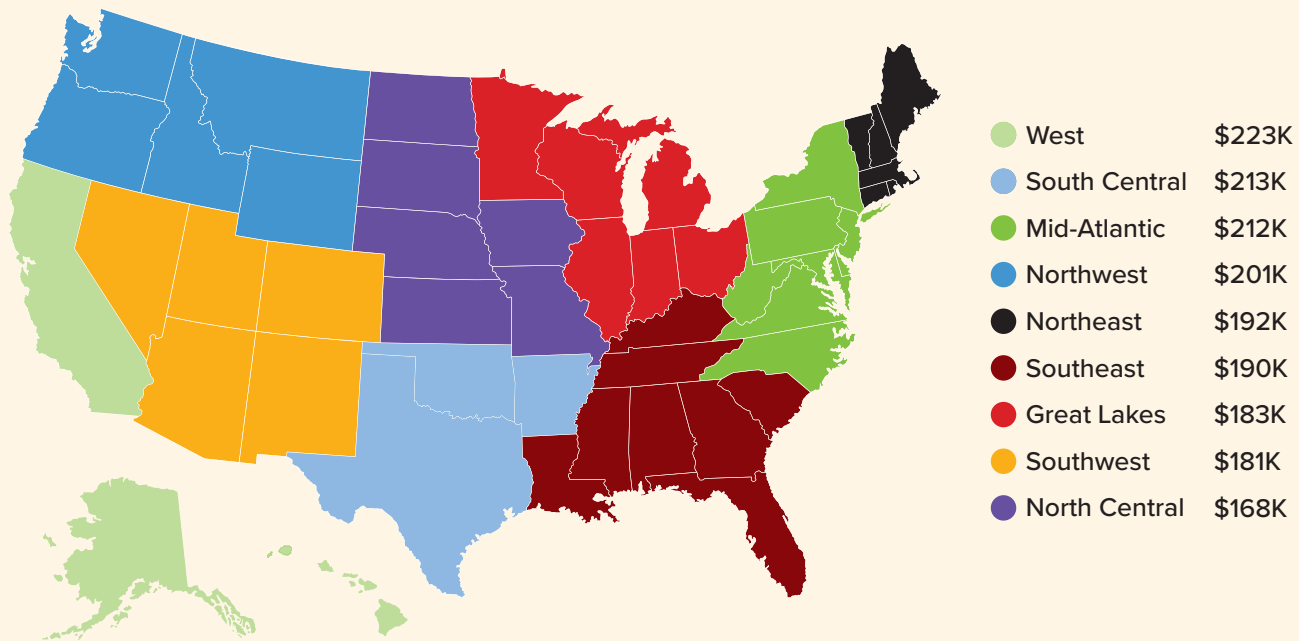
What was your 2017 compensation for providing billable legal services (by gender and client type)?



A compensation gender gap exists among solo practitioners and attorneys employed at small firms, with female attorneys reporting receiving 38% less income in 2017 than their male counterparts. Some of this disparity may be attributed to the number of years spent practicing law, with female attorneys reporting substantially fewer average years (16.4 years) in practice than their male counterparts (23.2 years).

Western region attorneys earned the most

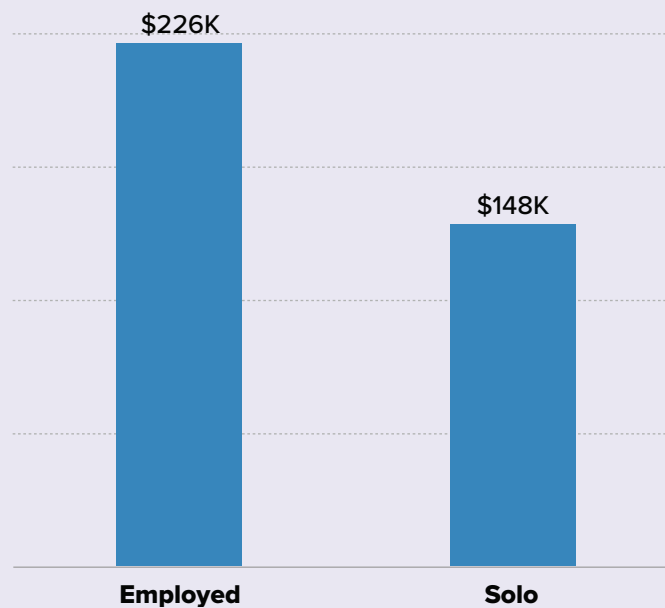
What was your 2017 compensation for providing billable legal services (by location)?



Solo practitioner and small-firm attorney compensation varied across the United States, with lawyers in the Western region (CA, HI and AK) earning the most, followed by those in the South Central region (TX, OK and AR). Attorneys in the North Central region (IA, MO, KS, NE, ND and SD) reported the lowest earnings.

Small-firm attorneys earned more than solo practitioners

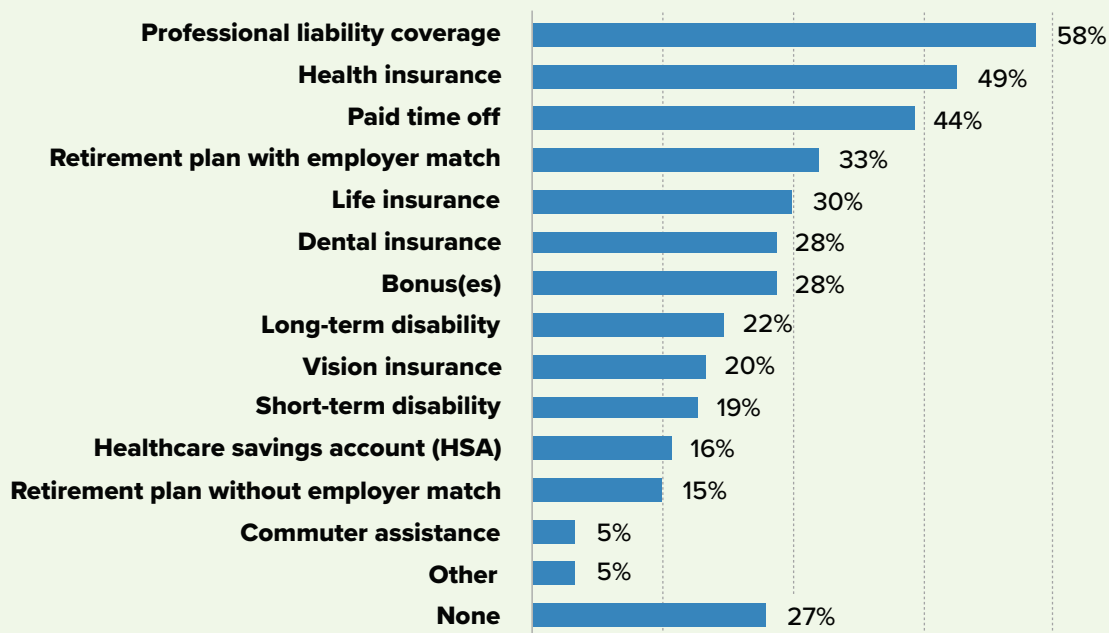
What was your 2017 compensation for providing billable legal services (by practice type?)



Solo practitioners earned an average of \$148,000 in 2017. Their counterparts in small firms earned an average of \$226,000, or 53% more.

What benefits do attorneys receive?

Which of these employment benefits do you receive? Select all that apply.



Professional liability coverage and health insurance topped the list of employment benefits for both solo practitioners and attorneys in small firms. More than half (58%) of solo attorneys reported receiving none of the benefits listed above.

Overall, attorneys feel fairly compensated for their work

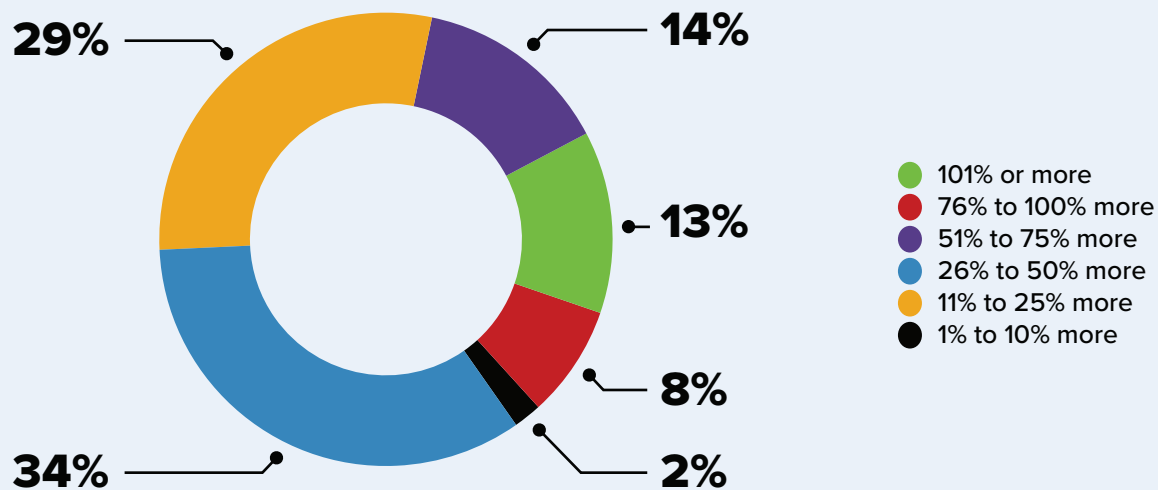
Do you feel that you are fairly compensated for your work?



More than two-thirds (68%) of the attorneys believed that they were fairly compensated for their work, with 70% of the males and 61% of the females reporting that they felt fairly compensated.

If undercompensated, how much more do attorneys expect to earn?

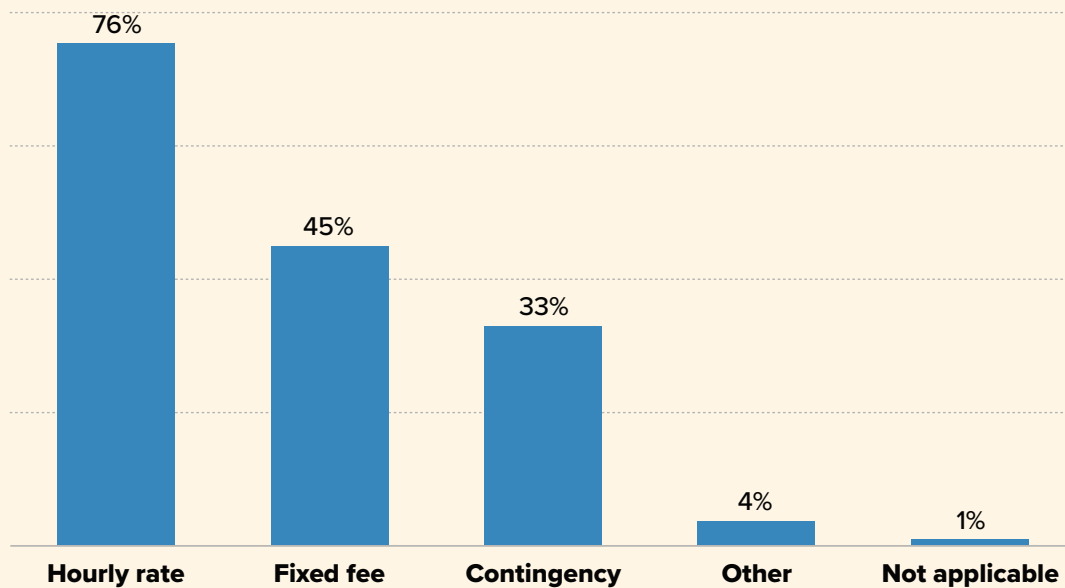
How much more do you feel you should make annually for legal services?



Of the 32% of attorneys who feel they deserve higher compensation, 13% believe they should be earning double what they're earning now. Twenty two percent of solo practitioners believe they should be earning twice their current income.

Hourly billing remains king

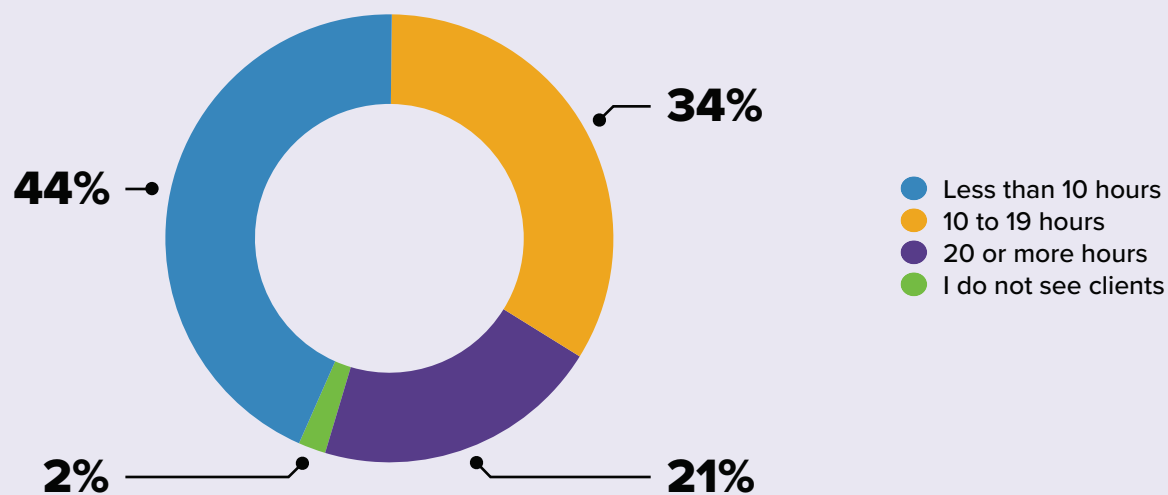
How do you currently bill for legal services? Select all that apply.



While attorneys use a variety of billing methods, the majority of respondents use an hourly rate structure to bill clients. Among attorneys using alternative methods, more than half of solo practitioners (58%) reported using fixed fee billing compared to 39% of employed attorneys.

Time spent with clients averages less than 20 hours weekly

How many hours per week do you typically spend meeting with clients or representing clients in court or before other judicial bodies?

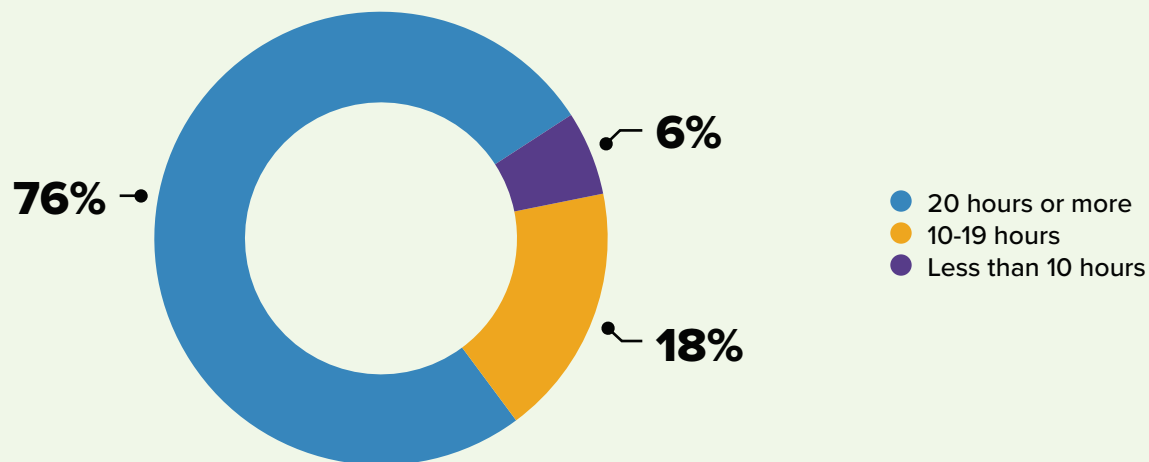


The majority of attorneys spend fewer than 20 hours weekly meeting with their clients or representing them in court or before other judicial bodies. Intellectual property lawyers spend the least amount — less than 10 hours weekly — while criminal defense/DUI attorneys often spend more than 20 hours weekly meeting with clients.

Attorneys representing businesses spent significantly less in-person time with clients, with the majority (62%) reporting that they spend less than 10 hours weekly.

Hours per week spent on other billable work

How many hours per week do you typically spend on work other than meeting with clients or representing clients in court?

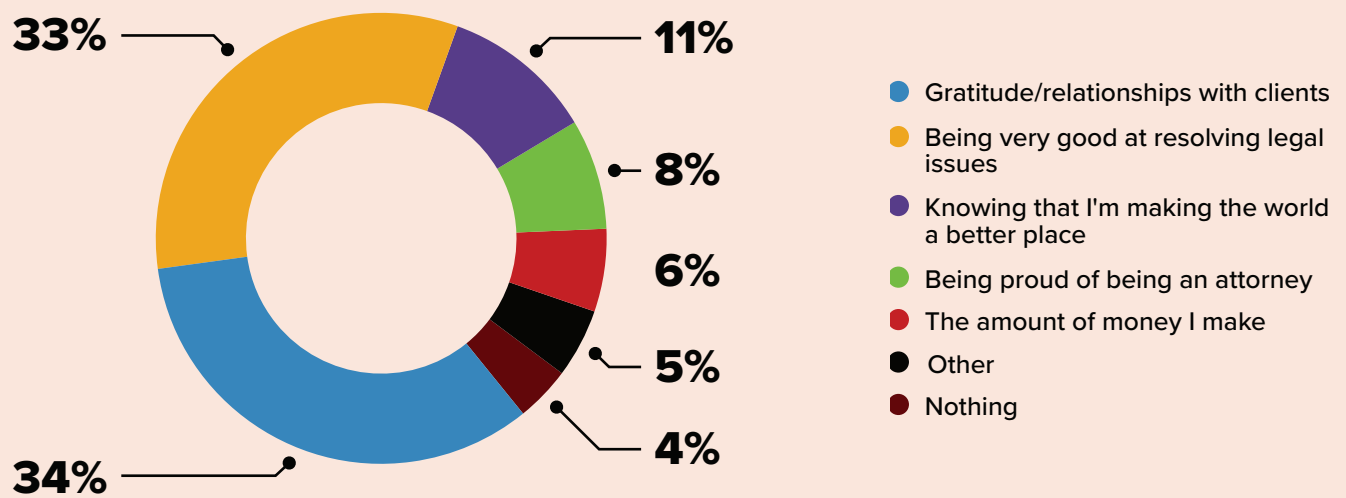


Of the respondents, 76% reported that they spend at least 20 hours on billable work weekly other than meeting with clients or representing them in court. This includes billable time spent on such activities as legal research, court filings and administrative/managerial work.

Attorneys who serve only businesses spend considerably more time on such activities as research and filing than do those serving only consumers. Solo practitioners spend considerably more time on these tasks than attorneys employed by small firms.

Attorneys value client relationships the most

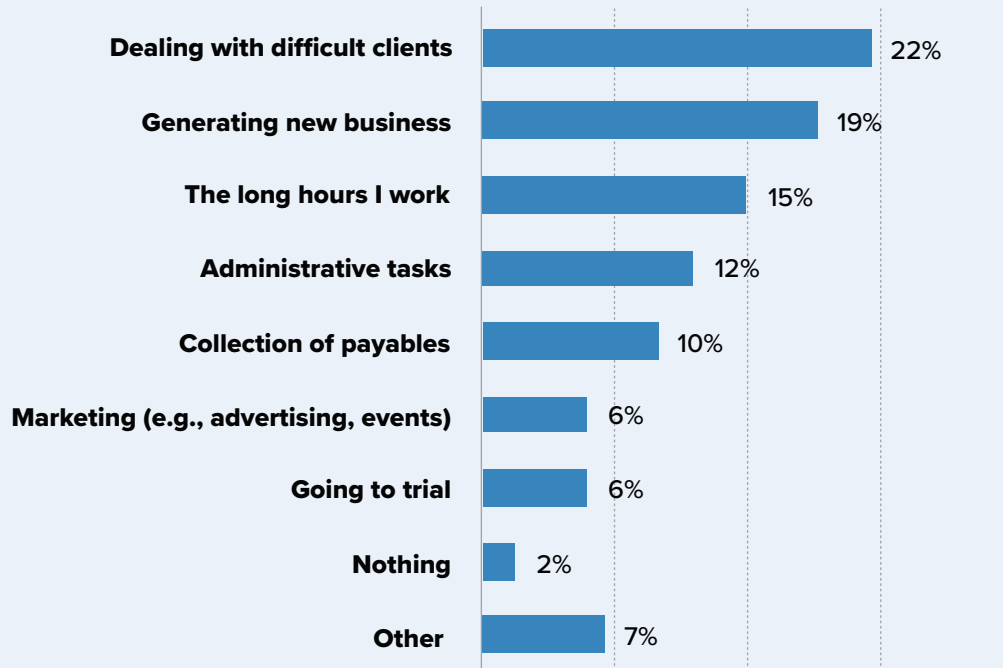
What do you consider to be the most rewarding aspect of your job?



When asked to select the most rewarding aspect of their jobs, attorneys gave far more weight to “Gratitude/relationships with clients” and “Being very good at resolving legal issues” than all other choices, particularly after practicing law for some time. Of the attorneys who represent consumers, 15% chose “Knowing that I’m making the world a better place” compared to only 3% of attorneys representing businesses.

Difficult clients top the list of challenges

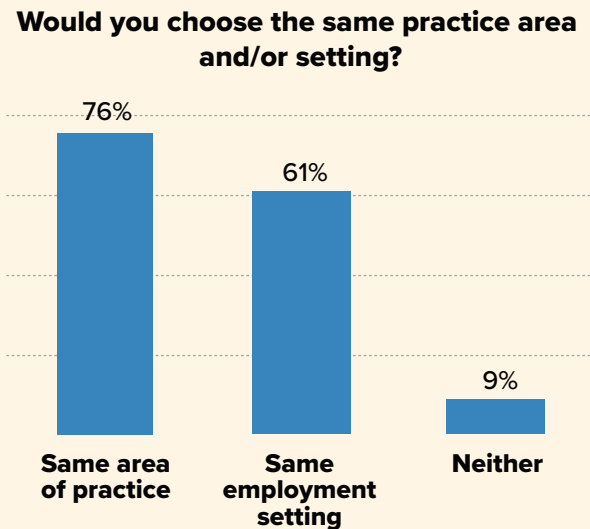
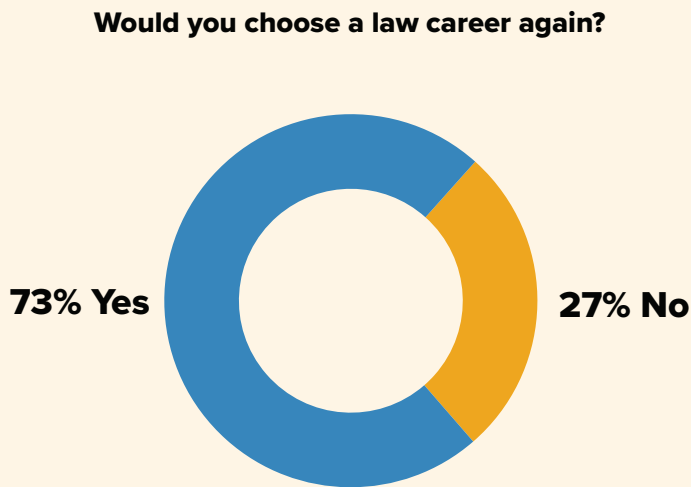
What do you consider to be the most challenging aspect of your job?



Attorneys ranked dealing with difficult clients as the most challenging aspect of their job, followed closely by the need to find new clients. Of the consumer-focused attorneys, 27% ranked difficult clients as their greatest challenge, more than double the 12% of those representing businesses. Conversely, 30% of the attorneys focused on businesses ranked generating new clients as the greatest challenge, double that of consumer-focused attorneys (15%).

The practice of law remains the top career choice

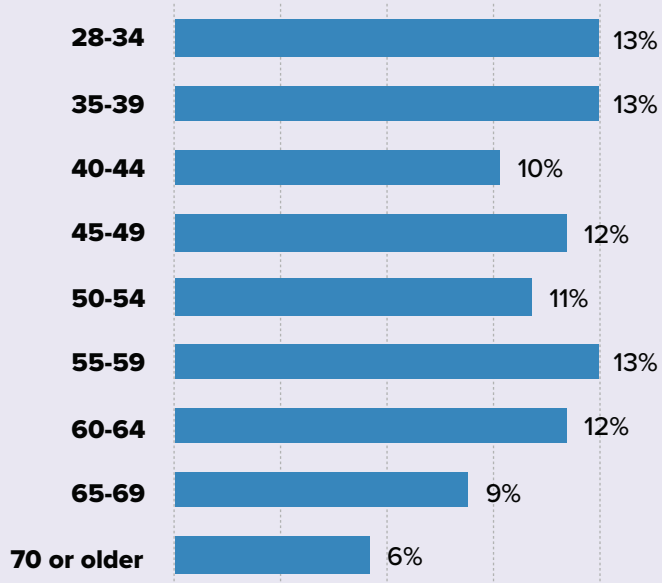
If you had it to do all over again, would you choose law as a career?



The majority of attorneys are satisfied with both their choice of law as a career as well as with their career path. Just over three-quarters (76%) would choose to practice in the same area of the law and 61% would choose the same employment setting (solo practitioner versus employed at a small law firm).

Methodology

What is your age?



Are you male or female?



- 7,800 U.S.-based solo practitioner and small law firm attorneys in more than 24 practice areas met the screening criteria.
- Recruitment period: January 9, 2018 through March 31, 2018.
- Data collection: Via online survey collection site.
- The margin of error for the full-time employed respondents was +/- 1.18% at a 95% confidence level using a point estimate of 50%.

2019 EDITION

The 47th Annual Survey of Law Firm Economics

STAFFING
RATIOS

TOTAL
COMP

BILLABLE
HOURS

LAW FIRM
FINANCIALS

HOURLY
RATES

ALM Intelligence

THE NATIONAL
LAW JOURNAL

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P
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F O R
M A N C E

ANNUAL CLIENT (BILLABLE) HOURS WORKED

This section presents annual client (billable) hours worked for equity partners and shareholders, non-equity partners and shareholders, associates, and staff lawyers employed full-time and for the full-year of 2018. Included are hours worked on contingent fee matters, but not time spent on management, practice development/marketing, pro bono, CLE, or other non-client chargeable activities.

Average billable hours, as well as quartile and ninth decile data are reported as follows:

Charts—Median Annual Client (Billable) Hours Worked

National

Gender

Regional

Firm Size

Population Area

Year Admitted to the Bar

Individual Lawyer Non-litigation Specialties

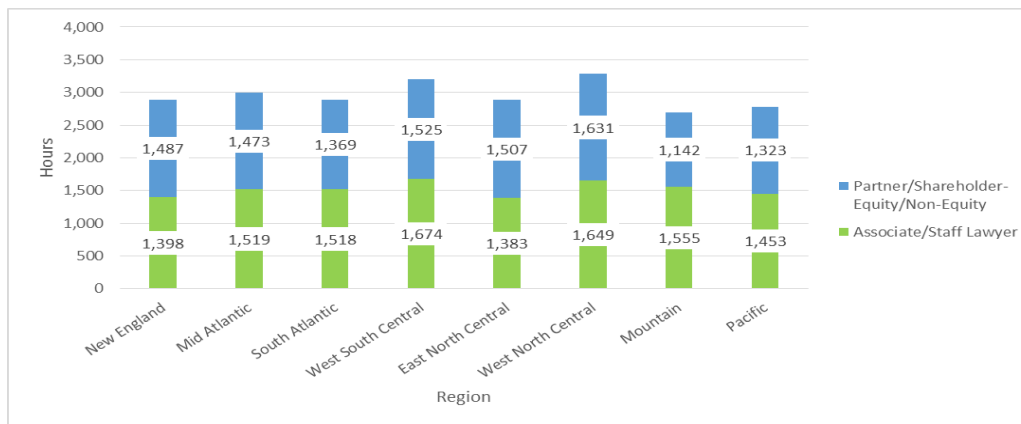
Individual Lawyer Litigation Specialties

Individual Lawyer Non-Specialists

MEDIAN FOR ANNUAL CLIENT (BILLABLE) HOURS WORKED BY REGION

for Status Codes Partner/Shareholder-Equity/Non-Equity and Associate/Staff Lawyer

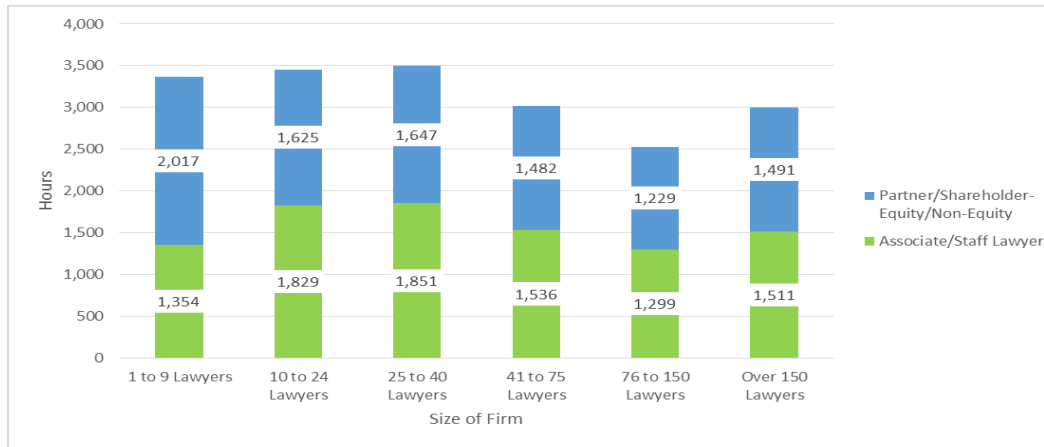
	Partner/Shareholder-Equity/Non-Equity	Associate/Staff Lawyer
Region	Hours	Hours
New England	1,487	1,398
Mid Atlantic	1,473	1,519
South Atlantic	1,369	1,518
West South Central	1,525	1,674
East North Central	1,507	1,383
West North Central	1,631	1,649
Mountain	1,142	1,555
Pacific	1,323	1,453



MEDIAN ANNUAL CLIENT (BILLABLE) HOURS WORKED BY FIRM SIZE

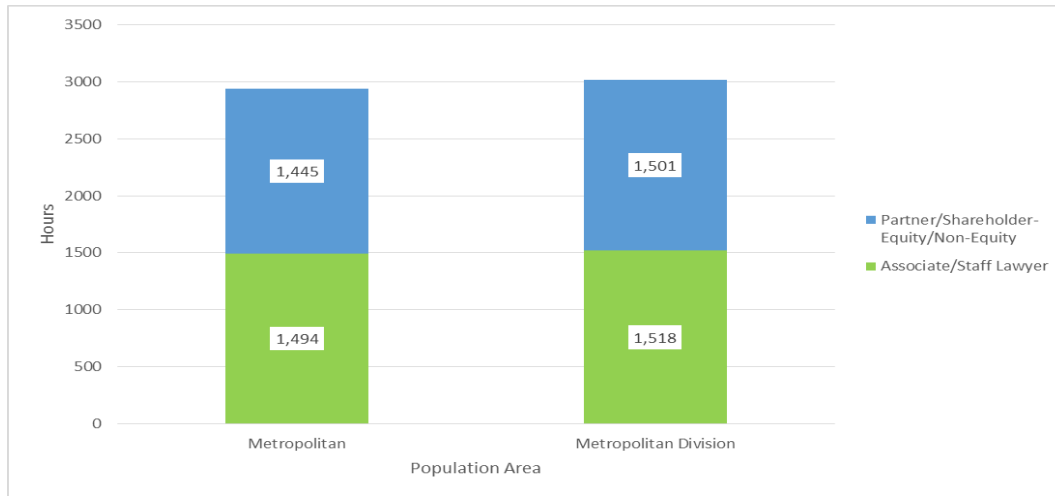
for Status Codes Partner/Shareholder-Equity/Non-Equity and Associate/Staff Lawyer

	Partner/Shareholder-Equity/Non-Equity	Associate/Staff Lawyer
Firm size	Hours	Hours
1 to 9 Lawyers	2,017	1,354
10 to 24 Lawyers	1,625	1,829
25 to 40 Lawyers	1,647	1,851
41 to 75 Lawyers	1,482	1,536
76 to 150 Lawyers	1,229	1,299
Over 150 Lawyers	1,491	1,511



**MEDIAN ANNUAL CLIENT (BILLABLE) HOURS WORKED BY POPULATION AREA
for Status Codes Partner/Shareholder-Equity/Non-Equity and Associate/Staff Lawyer**

	Partner/Shareholder- Equity/Non-Equity	Associate/Staff Lawyer
Population Area	Hours	Hours
Metropolitan	1,445	1,494
Metropolitan Division	1,501	1,518



MEDIAN FOR ANNUAL CLIENT (BILLABLE) HOURS WORKED BY YEAR

ADMITTED TO BAR

History Graph for Status Codes Partner/Shareholder-Equity/Non-Equity and Associate/Staff Lawyer

	Partner/Shareholder-Equity/Non-Equity	Associate/Staff Lawyer
Year Admitted to Bar	Hours	Hours
Before 1974	695	446
1974-1978	1,033	1,220
1979-1983	1,241	1,396
1984-1988	1,380	1,242
1989-1993	1,425	999
1994-1998	1,574	1,197
1999-2003	1,586	1,181
2004-2008	1,600	1,563
2009-2012	1,643	1,654
2013-2015	1,494	1,579
2016-2018	1,441	1,083

NATIONAL INDIVIDUAL STATUS CODES

ANNUAL CLIENT (BILLABLE) HOURS WORKED

		Hours					
	Number of Offices	Number of Lawyers	Average	Lower Quartile	Median	Upper Quartile	Ninth Decile
Equity Partner/Shareholder	32	1,434	1,466	1,183	1,519	1,801	2,062
Non-Equity Partner	27	750	1,229	832	1,306	1,669	1,969
Associate Lawyer	33	1,333	1,352	858	1,523	1,861	2,052
Staff Lawyer	10	90	1,111	641	1,107	1,648	1,935
Of Counsel	25	316	803	224	694	1,308	1,702

NATIONAL COMBINED STATUS CODES

ANNUAL CLIENT (BILLABLE) HOURS WORKED

		Hours					
	Number of Offices	Number of Lawyers	Average	Lower Quartile	Median	Upper Quartile	Ninth Decile
Equity Partner/Shareholder	32	1,434	1,466	1,183	1,519	1,801	2,062
Non-Equity Partner	27	750	1,229	832	1,306	1,669	1,969
Associate/Staff Lawyer	33	1,423	1,337	829	1,500	1,854	2,046
Of Counsel	25	316	803	224	694	1,308	1,702

NATIONAL PARTNER/SHAREHOLDER WITH SIGNIFICANT MANAGEMENT RESPONSIBILITIES
ANNUAL CLIENT (BILLABLE) HOURS WORKED

			Hours					
		Number of Offices	Number of Lawyers	Average	Lower Quartile	Median	Upper Quartile	Ninth Decile
Region	Mid Atlantic	4	21	915	345	850	1,228	1,648
	South Atlantic	3	11	1,313	1,167	1,433	1,749	1,777
	West South Central	2	6	1,400	781	1,673	2,031	2,031
	East North Central	3	9	1,308	1,062	1,254	1,526	2,380
	West North Central	2	3	1,950	1,674	2,046	2,131	2,131
	Mountain	3	7	900	311	1,031	1,167	2,000
Population Area	Metropolitan	16	55	1,139	569	1,187	1,648	2,031
	Metropolitan Division	2	3	1,473	850	1,014	2,554	2,554
Size of Firm	41 to 75 Lawyers	6	21	1,351	1,031	1,477	1,808	2,031
	76 to 150 Lawyers	4	14	1,298	1,062	1,255	1,507	2,000
	Over 150 Lawyers	6	21	864	269	654	1,228	1,648
All	Total	18	58	1,156	577	1,184	1,648	2,031

GENDER
ANNUAL CLIENT (BILLABLE) HOURS WORKED

			Hours					
		Number of Offices	Number of Lawyers	Average	Lower Quartile	Median	Upper Quartile	Ninth Decile
Male	Equity Partner/Shareholder	29	1,091	1,482	1,182	1,546	1,826	2,099
	Non-Equity Partner	25	542	1,210	772	1,301	1,677	2,000
	Associate/Staff Lawyer	30	696	1,387	877	1,553	1,898	2,106
Female	Equity Partner/Shareholder	26	240	1,422	1,170	1,471	1,713	1,996
	Non-Equity Partner	25	190	1,296	986	1,330	1,708	1,932
	Associate/Staff Lawyer	29	635	1,301	790	1,417	1,823	2,006

REGION
ANNUAL CLIENT (BILLABLE) HOURS WORKED

		Number of Offices	Number of Lawyers	Hours				
				Average	Lower Quartile	Median	Upper Quartile	Ninth Decile
New England	Equity Partner/Shareholder	1	14	1,556	1,471	1,570	1,679	1,823
	Non-Equity Partner	1	10	1,068	477	1,249	1,400	1,865
	Associate/Staff Lawyer	1	17	1,154	621	1,398	1,596	1,841
Mid-Atlantic	Equity Partner/Shareholder	7	421	1,506	1,201	1,540	1,837	2,118
	Non-Equity Partner	7	335	1,280	888	1,362	1,743	2,005
	Associate/Staff Lawyer	8	609	1,343	864	1,519	1,870	2,027
South Atlantic	Equity Partner/Shareholder	6	248	1,409	1,063	1,429	1,713	1,993
	Non-Equity Partner	4	130	1,200	756	1,258	1,612	2,077
	Associate/Staff Lawyer	6	197	1,416	858	1,518	1,922	2,227
West South Central	Equity Partner/Shareholder	2	140	1,436	1,202	1,498	1,855	2,031
	Non-Equity Partner	2	67	1,496	1,228	1,536	1,900	2,038
	Associate/Staff Lawyer	2	82	1,443	994	1,674	1,932	2,091
East North Central	Equity Partner/Shareholder	9	403	1,496	1,202	1,578	1,819	2,157
	Non-Equity Partner	7	130	1,186	832	1,209	1,611	1,858
	Associate/Staff Lawyer	9	392	1,274	714	1,383	1,806	2,057
West North Central	Equity Partner/Shareholder	3	93	1,598	1,422	1,661	1,795	2,023
	Non-Equity Partner	2	12	1,175	680	1,227	1,562	1,776
	Associate/Staff Lawyer	3	58	1,401	967	1,649	1,819	1,898
Mountain	Equity Partner/Shareholder	2	84	1,226	1,016	1,225	1,584	1,863
	Non-Equity Partner	2	61	878	360	871	1,348	1,596
	Associate/Staff Lawyer	2	50	1,280	858	1,555	1,746	1,863
Pacific	Equity Partner/Shareholder	1	31	1,358	1,165	1,377	1,654	1,801
	Non-Equity Partner	1	5	869	795	811	1,140	1,175
	Associate/Staff Lawyer	1	18	1,267	843	1,453	1,634	1,950

FIRM SIZE
ANNUAL CLIENT (BILLABLE) HOURS WORKED

		Number of Offices	Number of Lawyers	Hours				
				Average	Lower Quartile	Median	Upper Quartile	Ninth Decile
10 to 24 Lawyers	Equity Partner/Shareholder	2	12	1,487	1,071	1,575	1,864	2,186
	Non-Equity Partner	1	6	1,660	1,538	1,645	1,806	1,989
	Associate/Staff Lawyer	2	11	1,571	984	1,829	1,953	2,098
25 to 40 Lawyers	Equity Partner/Shareholder	1	12	1,455	1,167	1,557	1,691	1,724
	Non-Equity Partner	1	18	1,609	1,304	1,769	1,868	2,141
	Associate/Staff Lawyer	2	23	1,547	1,179	1,851	2,001	2,082
41 to 75 Lawyers	Equity Partner/Shareholder	13	330	1,477	1,251	1,529	1,762	1,958
	Non-Equity Partner	12	164	1,248	829	1,306	1,700	1,975
	Associate/Staff Lawyer	13	276	1,358	915	1,536	1,818	1,967
76 to 150 Lawyers	Equity Partner/Shareholder	5	248	1,340	1,051	1,322	1,672	1,973
	Non-Equity Partner	4	100	937	608	957	1,306	1,547
	Associate/Staff Lawyer	5	158	1,210	589	1,299	1,737	1,921
Over 150 Lawyers	Equity Partner/Shareholder	8	831	1,499	1,211	1,553	1,847	2,132
	Non-Equity Partner	8	462	1,265	853	1,355	1,703	2,005
	Associate/Staff Lawyer	8	954	1,344	806	1,511	1,873	2,098

POPULATION AREA
ANNUAL CLIENT (BILLABLE) HOURS WORKED

		Number of Offices	Number of Lawyers	Average	Hours			
					Lower Quartile	Median	Upper Quartile	Ninth Decile
Metropolitan	Equity Partner/Shareholder	24	1,335	1,462	1,188	1,514	1,798	2,050
	Non-Equity Partner	21	621	1,203	803	1,279	1,621	1,921
	Associate/Staff Lawyer	25	1,295	1,332	806	1,494	1,854	2,052
Metropolitan Division	Equity Partner/Shareholder	7	99	1,524	1,108	1,609	1,869	2,127
	Non-Equity Partner	5	129	1,357	953	1,431	1,815	2,038
	Associate/Staff Lawyer	7	128	1,385	1,096	1,518	1,857	2,005

YEAR ADMITTED TO BAR - Partner/Shareholder-Equity/Non-Equity
ANNUAL CLIENT (BILLABLE) HOURS WORKED

Year Admitted to Bar	Number of Offices	Number of Lawyers	Hours				
			Average	Lower Quartile	Median	Upper Quartile	Ninth Decile
Before 1974	14	81	763	337	695	1,074	1,528
1974-1978	26	148	1,032	614	1,033	1,437	1,789
1979-1983	25	282	1,224	885	1,241	1,575	1,879
1984-1988	30	307	1,372	1,083	1,380	1,713	2,041
1989-1993	29	309	1,398	1,115	1,425	1,759	2,010
1994-1998	29	328	1,536	1,323	1,574	1,822	2,050
1999-2003	30	311	1,512	1,291	1,586	1,811	2,041
2004-2008	30	326	1,531	1,260	1,600	1,896	2,123
2009-2012	22	83	1,520	1,247	1,643	1,864	2,053
2013-2015	3	3	1,523	1,252	1,494	1,824	1,824
2016-2018	3	3	1,111	43	1,441	1,848	1,848

YEAR ADMITTED TO BAR - Associate/Staff Lawyer
ANNUAL CLIENT (BILLABLE) HOURS WORKED

Year Admitted to Bar	Number of Offices	Number of Lawyers	Hours				
			Average	Lower Quartile	Median	Upper Quartile	Ninth Decile
1974-1978	2	2	1,220	1,057	1,220	1,383	1,383
1979-1983	5	6	1,337	1,137	1,396	1,551	1,779
1984-1988	8	19	1,307	1,103	1,242	1,841	2,008
1989-1993	7	18	1,006	602	999	1,348	2,001
1994-1998	15	50	1,129	757	1,197	1,510	1,620
1999-2003	22	60	1,159	809	1,181	1,657	1,803
2004-2008	28	143	1,428	1,056	1,563	1,876	2,057
2009-2012	22	370	1,482	1,081	1,654	1,926	2,114
2013-2015	33	415	1,422	944	1,579	1,873	2,030
2016-2018	32	331	1,126	431	1,083	1,815	2,062

**INDIVIDUAL NON-LITIGATION SPECIALTIES
ANNUAL CLIENT (BILLABLE) HOURS WORKED**

Specialty/Status		Number of Offices	Number of Lawyers	Hours				
				Average	Lower Quartile	Median	Upper Quartile	Ninth Decile
Administrative/Legislative/Regulatory	Partner/Shareholder- Equity/Non-Equity	7	18	1,402	1,130	1,507	1,780	2,011
	Associate/Staff Lawyer	3	6	1,159	744	1,455	1,583	1,654
Banking	Partner/Shareholder- Equity/Non-Equity	8	116	1,354	939	1,506	1,797	2,008
	Associate/Staff Lawyer	4	112	1,327	561	1,390	2,026	2,355
Bankruptcy	Partner/Shareholder- Equity/Non-Equity	8	47	1,395	1,024	1,421	1,846	2,072
	Associate/Staff Lawyer	6	22	1,475	1,185	1,698	1,876	1,933
Commercial/Contracts	Partner/Shareholder- Equity/Non-Equity	5	12	1,261	904	1,418	1,666	1,741
	Associate/Staff Lawyer	4	6	1,368	1,215	1,559	1,829	2,008
Education	Partner/Shareholder- Equity/Non-Equity	2	4	1,402	1,258	1,267	1,547	1,823
	Associate/Staff Lawyer	3	8	1,637	1,443	1,685	1,852	1,899
Employee Benefits (ERISA)	Partner/Shareholder- Equity/Non-Equity	11	35	1,263	1,067	1,319	1,611	1,760
	Associate/Staff Lawyer	6	22	1,279	932	1,253	1,718	1,870
Employment (FLSA, ADA, ADEA)	Partner/Shareholder- Equity/Non-Equity	6	45	1,476	1,231	1,470	1,698	1,967
	Associate/Staff Lawyer	6	31	1,096	389	1,099	1,768	2,028
Environmental	Partner/Shareholder- Equity/Non-Equity	6	20	1,425	1,203	1,333	1,744	2,092
	Associate/Staff Lawyer	3	9	1,404	1,057	1,648	1,819	1,997
Family Law/Domestic Relations	Partner/Shareholder- Equity/Non-Equity	3	32	1,553	1,287	1,630	1,827	1,898
	Associate/Staff Lawyer	3	15	1,589	1,107	1,915	2,019	2,093
General Business	Partner/Shareholder- Equity/Non-Equity	15	117	1,399	1,132	1,505	1,730	1,956
	Associate/Staff Lawyer	13	82	1,456	960	1,624	1,860	2,049
Health Care	Partner/Shareholder- Equity/Non-Equity	11	45	1,279	951	1,259	1,571	1,800
	Associate/Staff Lawyer	9	28	1,297	639	1,506	1,739	2,017
Insurance	Partner/Shareholder- Equity/Non-Equity	3	12	1,456	1,194	1,440	1,790	1,906
	Associate/Staff Lawyer	1	7	1,314	923	1,557	1,708	1,953
Intellectual Property	Partner/Shareholder- Equity/Non-Equity	11	98	1,432	1,141	1,457	1,844	2,144
	Associate/Staff Lawyer	9	70	1,449	1,089	1,599	1,917	2,114

International	Partner/Shareholder- Equity/Non-Equity	3	6	1,557	1,507	1,591	1,673	1,739
	Associate/Staff Lawyer	2	6	1,151	479	1,305	1,837	1,914
Labor/Collective Bargaining (Mgmt.)	Partner/Shareholder- Equity/Non-Equity	6	45	1,386	922	1,630	1,835	2,157
	Associate/Staff Lawyer	3	29	1,123	603	1,066	1,767	1,936
Labor/Collective Bargaining (Union)	Partner/Shareholder- Equity/Non-Equity	1	3	1,290	932	1,322	1,617	1,617
	Associate/Staff Lawyer	1	5	1,513	1,136	1,678	1,739	1,984
Mergers/Acquisitions	Partner/Shareholder- Equity/Non-Equity	4	5	1,908	1,690	1,719	2,352	2,380
	Associate/Staff Lawyer	3	3	394	338	338	505	505
Municipal Finance	Partner/Shareholder- Equity/Non-Equity	5	22	1,126	900	1,132	1,386	1,777
	Associate/Staff Lawyer	4	9	1,249	1,156	1,209	1,677	1,778
Real Estate	Partner/Shareholder- Equity/Non-Equity	22	146	1,496	1,277	1,557	1,866	2,017
	Associate/Staff Lawyer	19	77	1,371	920	1,563	1,815	1,974
Securities	Partner/Shareholder- Equity/Non-Equity	7	53	1,355	1,018	1,479	1,726	2,021
	Associate/Staff Lawyer	2	59	1,304	776	1,400	1,976	2,156
Taxation	Partner/Shareholder- Equity/Non-Equity	13	34	1,507	1,067	1,447	1,844	2,288
	Associate/Staff Lawyer	9	14	1,274	860	1,199	1,579	1,987
Trusts/Estates/Probate	Partner/Shareholder- Equity/Non-Equity	16	54	1,321	1,139	1,344	1,631	1,736
	Associate/Staff Lawyer	12	32	1,004	440	1,080	1,569	1,698
Other Non-litigation Specialty	Partner/Shareholder- Equity/Non-Equity	10	35	1,551	1,331	1,688	1,852	2,100
	Associate/Staff Lawyer	9	34	1,360	987	1,528	1,897	1,986
Multiple Non-litigation Specialties	Partner/Shareholder- Equity/Non-Equity	12	93	1,136	855	1,188	1,497	1,707
	Associate/Staff Lawyer	9	62	1,305	608	1,568	1,821	2,019

**INDIVIDUAL LITIGATION SPECIALTIES
ANNUAL CLIENT (BILLABLE) HOURS WORKED**

Specialty/Status		Number of Offices	Number of Lawyers	Hours				
				Average	Lower Quartile	Median	Upper Quartile	Ninth Decile
Antitrust	Partner/Shareholder- Equity/Non-Equity	1	3	1,769	1,534	1,611	2,162	2,162
	Associate/Staff Lawyer	2	2	1,046	41	1,046	2,052	2,052
Bankruptcy	Partner/Shareholder- Equity/Non-Equity	8	19	1,316	1,040	1,363	1,779	1,813
	Associate/Staff Lawyer	4	7	1,495	1,121	1,309	1,943	2,009
Collections	Partner/Shareholder- Equity/Non-Equity	4	16	1,766	1,405	1,954	2,086	2,381
	Associate/Staff Lawyer	2	10	1,683	1,532	1,765	1,891	2,000
Commercial/Contracts	Partner/Shareholder- Equity/Non-Equity	11	77	1,397	1,041	1,472	1,801	2,058
	Associate/Staff Lawyer	8	41	1,423	858	1,677	1,983	2,137
Criminal	Partner/Shareholder- Equity/Non-Equity	2	14	1,155	658	1,374	1,609	1,651
	Associate/Staff Lawyer	2	6	1,090	573	845	1,825	2,340
Education	Partner/Shareholder- Equity/Non-Equity	1	2	1,331	932	1,331	1,729	1,729
Insured Defense	Partner/Shareholder- Equity/Non-Equity	7	64	1,524	1,208	1,625	1,934	2,120
	Associate/Staff Lawyer	6	55	1,363	648	1,568	1,980	2,122
Employee Benefits (ERISA)	Partner/Shareholder- Equity/Non-Equity	1	10	1,475	1,536	1,557	1,703	1,970
	Associate/Staff Lawyer	2	5	1,628	1,483	1,615	1,750	1,866
Employment (FLSA, ADA, ADEA)	Partner/Shareholder- Equity/Non-Equity	9	26	1,507	1,276	1,624	1,719	2,039
	Associate/Staff Lawyer	7	11	1,174	614	1,072	1,784	1,863
Environmental	Partner/Shareholder- Equity/Non-Equity	5	26	1,682	1,372	1,761	2,014	2,127
	Associate/Staff Lawyer	2	9	1,293	994	1,500	1,717	2,000
Family Law/Domestic Relations	Partner/Shareholder- Equity/Non-Equity	4	8	1,614	1,155	1,591	1,924	2,705
	Associate/Staff Lawyer	3	5	929	664	849	1,382	1,630
Health Care	Partner/Shareholder- Equity/Non-Equity	2	6	1,433	1,066	1,478	1,819	1,903
	Associate/Staff Lawyer	1	2	1,617	1,324	1,617	1,909	1,909

Intellectual Property	Partner/Shareholder- Equity/Non-Equity	4	13	988	753	1,103	1,198	1,740
	Associate/Staff Lawyer	3	8	1,176	417	1,293	1,772	2,091
Labor/Collective Bargaining (Mgmt.)	Partner/Shareholder- Equity/Non-Equity	1	22	1,652	1,407	1,719	1,908	2,075
	Associate/Staff Lawyer	1	8	1,237	428	1,248	1,998	2,304
Maritime	Partner/Shareholder- Equity/Non-Equity	2	4	1,534	1,391	1,551	1,677	1,782
Natural Resources (oil/gas/coal/timber)	Partner/Shareholder- Equity/Non-Equity	1	2	823	483	823	1,163	1,163
	Partner/Shareholder- Equity/Non-Equity	5	8	1,526	1,461	1,758	1,853	1,989
Personal Injury	Associate/Staff Lawyer	3	7	1,852	1,670	1,911	2,095	2,401
	Partner/Shareholder- Equity/Non-Equity	3	58	1,402	970	1,527	1,863	2,174
Products Liability	Associate/Staff Lawyer	3	62	1,414	1,114	1,517	1,822	2,013
	Partner/Shareholder- Equity/Non-Equity	3	22	1,777	1,626	2,000	2,097	2,200
Real Estate	Associate/Staff Lawyer	2	29	1,449	1,021	1,644	2,003	2,212
	Partner/Shareholder- Equity/Non-Equity	3	6	1,252	1,201	1,296	1,674	1,805
Trusts/Estates/Probate	Partner/Shareholder- Equity/Non-Equity	2	4	1,934	1,613	1,917	2,255	2,541
Workers' Compensation	Partner/Shareholder- Equity/Non-Equity	10	135	1,317	1,057	1,351	1,705	2,032
	Associate/Staff Lawyer	7	59	1,293	776	1,413	1,754	1,961
Other Litigation Specialty	Partner/Shareholder- Equity/Non-Equity	20	337	1,445	1,182	1,509	1,799	2,095
	Associate/Staff Lawyer	19	207	1,413	919	1,633	1,876	2,026
Multiple Litigation Specialties	Partner/Shareholder- Equity/Non-Equity	6	15	1,485	772	1,551	2,131	2,329
	Associate/Staff Lawyer	4	66	1,285	791	1,425	1,845	2,010
Multidisciplinary	Partner/Shareholder- Equity/Non-Equity							
	Associate/Staff Lawyer							

\$395.00

THE 2002 SMALL LAW FIRM ECONOMIC SURVEY

Conducted by
ALTMAN WEIL, INC.
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INTRODUCTION

This is a special report based on the 2002 edition of the *Altman Weil Survey of Law Firm Economics*. It is specifically directed toward sole practitioners and smaller law firms of 2-5 and 6-12 lawyers with the intent of aiding them in improving the management of their economic position in the marketplace.

Material in this publication is based on information provided by 116 law firms. These 116 law firms reported individual earnings information on 791 lawyers. The survey includes analysis on hourly rates, billable hours and compensation. Information was also collected for each law firm with respect to gross receipts, overhead expenses and other financial measures.

To be a useful tool, the survey must provide the relevant information required by law firm managers. This year, Altman Weil partnered with the Legal Assistant Management Association to develop and publish a more comprehensive tool for managing paralegal positions. If you are interested in paralegal data and participated in this survey, please contact Altman Weil Publications to obtain discount information.

To understand the information contained in this survey, it is important to read these introductory remarks. The *Survey* uses two distinct definitions of lawyer income. The first definition is based on financial statement analysis in which law firms report their gross receipts and operating expenses in various categories. From this analysis is derived **average per lawyer** net firm income. This figure does not take into consideration ownership status.

Moreover, compensation of lawyers is not considered an expense for this purpose. It is only in this way that two firms of the same size can be compared where the mix of owners and employee lawyers differs.

The second definition of income is based on information reported by firms for individual lawyers. In this presentation, lawyers are separated into two groups: partners/shareholders/sole proprietors and associate lawyers.

Because a number of the respondents are professional corporations/associations, the owner-employees of these firms may receive substantial benefits, which are not reported as taxable earnings. In partnerships and proprietorships, these benefits are attributable to each individual's income and are deducted by the partner or proprietor personally, subject to internal revenue code restrictions. Such benefits include pension fund contributions and insured medical benefits. Other benefits, such as life and disability insurance, are included in partner income and proprietor income but are not deductible in personal tax returns.

The *Survey*, therefore, reports "total compensation" as the aggregate of cash income and the following benefits: qualified retirement plan contributions (vested or unvested), medical reimbursement, group insurance benefits, employer's share of social security, workers' compensation and unemployment compensation. Not included are auto expenses, continuing education expenses and professional dues.

TERMS AND DEFINITIONS

In order to obtain maximum value from this survey, it is important to understand what the information means and how to best use it. Following are explanations of some of the data and definitions used in the report. We have also provided brief comments on the statistical terms used.

Billable Hours

For those persons who regularly report billable hours, hours recorded during the reporting years that were chargeable to clients (i.e., billable work). Data only includes those individuals who worked full-time for all of 2001.

Billing Rates

Most commonly assigned (standard) hourly rate as of January 1, 2002.

Compensation

Salary/Draw

For Professional Corporations/Associations:

Salary--Federal taxable income amount shown on W-2 plus voluntary before-tax employee reductions for:

- 401(k) plans
- Flexible spending accounts (FSAs)
- Other qualified flexible benefit programs

For Partnerships/Proprietorships:

Draw--Periodic cash distributions including quarterly tax draws and guaranteed payments.

Bonus/Distribution

For Professional Corporations/Associations:

Bonus--Year-end cash bonuses paid during 2001.

For Partnerships/Proprietorships:

Distribution--Cash distribution to partners.

Cash Compensation

Salary plus Bonus.

Benefits

For Professional Corporations/Associations:

Nontaxable benefit costs, which include: qualified profit sharing plans, life, health and disability insurance, medical reimbursement plans, employer payroll taxes (including FICA) and pension contributions. Excludes auto, parking, memberships and CLE expenses.

For Partnerships and Proprietorships:

Report distribution in kind (firm payments for benefits on behalf of the partners).

Total Compensation

Salary/Draw, Bonus/Distribution in Cash, plus Benefits/Distribution in Kind.

The term TOTAL COMPENSATION is the sum of cash compensation plus fringe benefits for employed lawyers, K-1 compensation for partners and Schedule C income for sole proprietors.

FINANCIALS

This section focuses on law firm cash-basis financial information (gross fees, income, expenses, assets, liabilities and capital) as well as information regarding work-in-progress, billings, receivables and realization. Each line item is shown on a **per lawyer** basis. In order to compare law firms with different mixes of owner and non-owner lawyers, information on gross revenue and expenses is provided as an average per lawyer, making no distinction based on ownership or title. Every lawyer is thus counted as a "production unit" which produces revenue and consumes overhead support. Altman Weil does not report partner margin data in this survey due to its general inapplicability to comparison of profit from year to year. Here's why:

Assume that a three-lawyer firm consists of two partners and one associate. The financial statements of the firms appear below.

Revenue	\$600,000	100%
Expenses	270,000	45
Associate	<u>85,000</u>	<u>14</u>
Profit	\$245,000	41%

Now assume that in the following year, the associate makes partner and the financial results remain the same.

Revenue	\$600,000	100%
Expenses	<u>270,000</u>	<u>45</u>
Profit	\$330,000	55%

In each case, the firm has produced identical financial results, but the statistics portray a markedly different picture. In law firms, there are widely diverse definitions of lawyer, many of which are in gray areas that exhibit certain, but not all, characteristics of ownership. Therefore, "partner" margin is generally not a statistically reliable performance measure. It must be adjusted to consider the make-up of the lawyer complement in the firm.

Counsel are included in the calculations when they work actively in the practice. Retired counsel who may draw pay, but perform no or fewer duties are not counted.

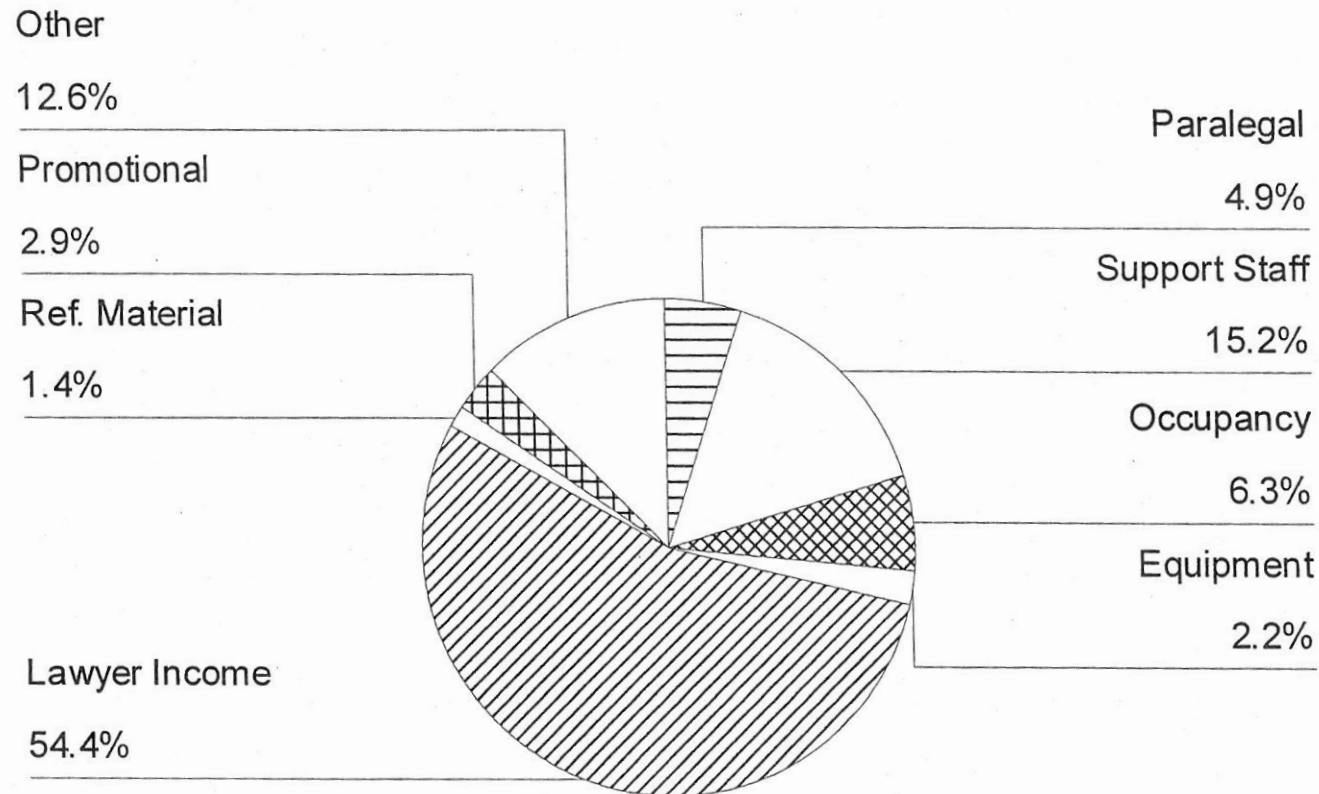
This type of comparison is an effective way of comparing firms with similar characteristics such as size, location, population base and practice area.

This section includes the following analysis:

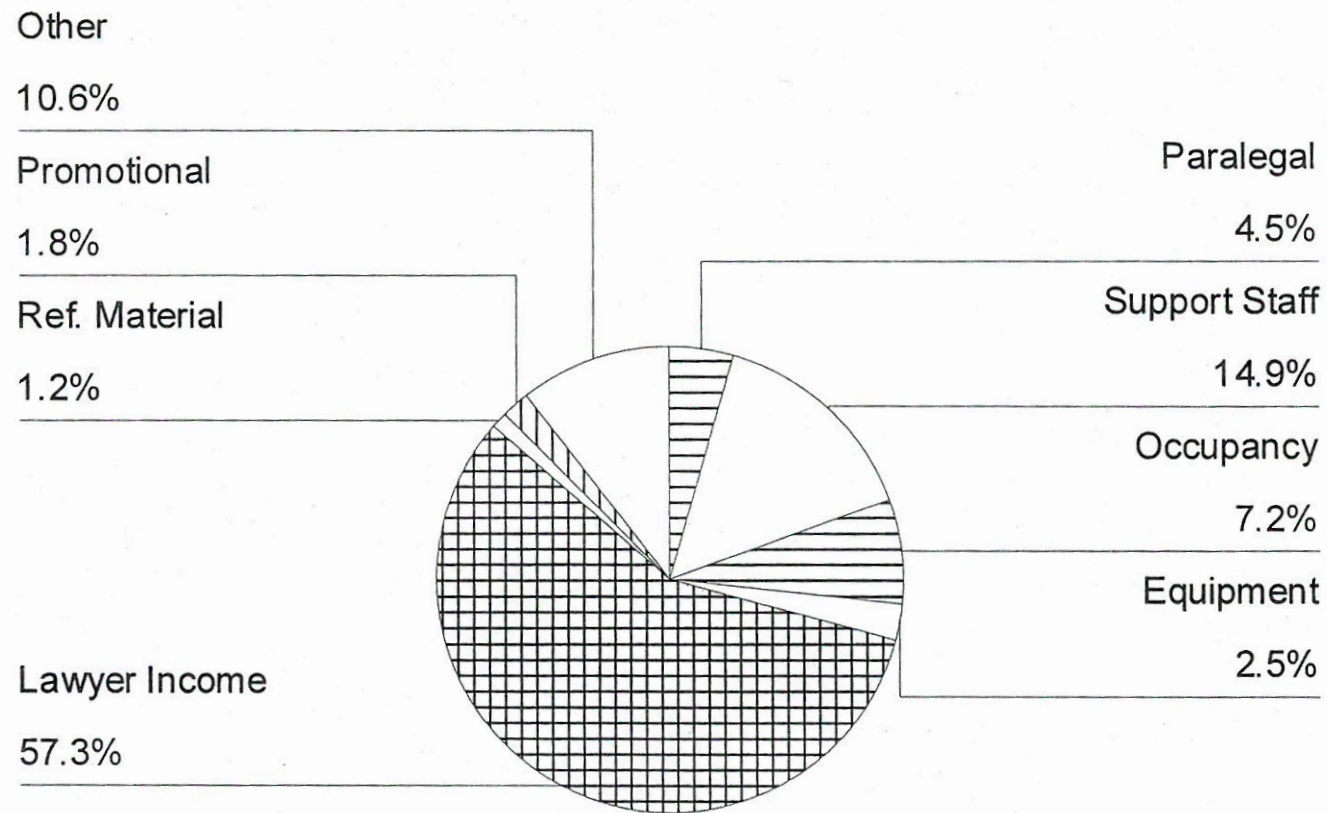
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AVERAGE INCOME AND EXPENSES

as a Percentage of Receipts for Firms with 1 to 12 Lawyers



AVERAGE INCOME AND EXPENSES PER LAWYER as a Percentage of Receipts



Source: Altman Weil's 2002 Survey of Law Firm Economics

STANDARD HOURLY BILLING RATES

This section presents standard billing rates for partners, shareholders, proprietors and associates. Equity and non-equity partner, shareholder and proprietor positions are combined in this analysis, as are the positions of associate and staff lawyer. Information is collected for each lawyer on the "individual's most commonly used hourly rate as of January 1, 2002". Law firms frequently employ this rate, usually called the Standard Rate, in their budgeting practices. Years of experience is calculated in this section from the year admitted to bar. Average billing rates, as well as quartiles and ninth decile data, are reported as follows:

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FIRM SIZE
STANDARD HOURLY BILLING RATES
As of January 1, 2002

Firm Size/Status		Number of Offices	RATE					
			Number of Lawyers	Average \$	Lower Quartile \$	Median \$	Upper Quartile \$	Ninth Decile \$
Sole Practitioners	Partner/Shareholder/Proprietor	10	10	171	--	--	--	--
2 to 5 Lawyers	Partner/Shareholder/Proprietor	32	64	218	160	200	250	328
	Associates	21	39	138	110	125	165	175
6 to 12 Lawyers	Partner/Shareholder/Proprietor	77	324	185	150	180	210	250
	Associates	71	272	142	120	135	160	180

FIRM SIZE BY YEARS OF LEGAL EXPERIENCE
STANDARD HOURLY BILLING RATES
As of January 1, 2002

Firm Size/Years of Experience		Number of Offices	RATE					
			Number of Lawyers	Average \$	Lower Quartile \$	Median \$	Upper Quartile \$	Ninth Decile \$
Sole Practitioners	2 or 3 Years	1	1	--	--	--	--	--
	21 or More Years	9	9	173	--	--	--	--
2 to 5 Lawyers	Under 2 Years	7	8	131	--	--	--	--
	2 or 3 Years	8	9	139	--	--	--	--
	4 or 5 Years	8	9	148	--	--	--	--
	6 or 7 Years	6	6	--	--	--	--	--
	8 to 10 Years	6	7	186	--	--	--	--
	11 to 15 Years	8	12	154	--	155	--	--
	16 to 20 Years	11	15	208	--	200	--	--
	21 or More Years	23	35	235	150	210	275	431
6 to 12 Lawyers	Under 2 Years	38	49	124	110	125	135	150
	2 or 3 Years	40	57	137	125	135	150	166
	4 or 5 Years	39	53	141	120	145	168	175
	6 or 7 Years	35	45	145	115	150	173	190
	8 to 10 Years	39	56	152	130	150	175	185
	11 to 15 Years	50	77	170	143	165	190	237
	16 to 20 Years	46	64	186	156	185	208	250
	21 or More Years	71	191	191	160	190	215	250



Mind Share Partners'

Mental Health at Work

— **2019 Report** —



MIND SHARE
P A R T N E R S

in partnership with



qualtrics^{XM}



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The purpose of *Mind Share Partners' 2019 Mental Health at Work Report* is to surface the lived experience of mental health and stigma in U.S. workplaces.

While countries like the United Kingdom, Canada, and Australia have made substantial progress in awareness of and support for mental health in the workplace, the U.S. is only just beginning. Research on the prevalence of mental health challenges and stigma, specifically in the workplace setting, is limited. Prevalence is often measured either through diagnosable conditions or general stress levels, which does not fully capture the breadth of mental health.

Our report aims to broaden the current understanding of the mental health experience and its impact on workplaces and employees beyond diagnostic prevalence. We hope that the findings in this report provide valuable context, insights, and motivation for companies in the U.S. to create workplace environments that support employee mental health.

Commitment to Diversity

Our report includes statistically significant response sizes for demographic groups including women, racial and ethnic minorities, age, and the LGBTQ+ community. Many of these populations have been historically underrepresented in the workplace and underresearched in mental health, and their voices are an important part to making lasting and inclusive change in the workplace mental health movement.

Special Thanks

This report was made possible by the following contributors:

Bernie Wong, Senior Associate | Mind Share Partners
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Natasha Krol, Principal | Mind Share Partners

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Introduction

Mental health at work is a crucial factor for employee wellness, engagement, as well as diversity and inclusion in the U.S.

The prevalence and impact of mental health conditions and stigma in American workplaces are clear. According to the Substance Abuse and Mental Health Services Administration (SAMHSA), [1 in 5 Americans](#) manages a diagnosable mental health condition in any given year, with new research suggesting that [up to 80% of people](#) will manage a diagnosable mental health condition in their lifetime. Almost everyone will either be faced with a mental health condition themselves or know someone personally who has managed one. Unsurprisingly, [demand for mental health care](#) from companies has only grown over the years and has outpaced the supply of mental health providers.

Still, mental health stigma continues to persist, especially in workplaces. Oftentimes, individuals managing mental health conditions are associated with [negative perceptions and stereotypes](#) such as being irresponsible, incompetent, lazy, or dangerous. Due to the negative perceptions and fear of repercussions, [two-thirds of workers](#) hide their mental health condition from their colleagues. In fact, [95% of employees](#) who have taken off time due to stress named another reason, such as an upset stomach or headache. As a result, [80%](#) of workers with a mental health condition report that shame and stigma prevent them from seeking treatment despite its [effectiveness](#) in reducing symptoms.

The business costs of unsupported and untreated mental health conditions and stigma are profound. Every year, [217 million days](#) are lost due to absenteeism and presenteeism costs from mental health conditions. This translates to \$16.8 billion in lost productivity every year. While the growing popularity of stress and wellness

programs at companies shows promise, they don't address core issues around stigma and company culture. In fact, utilization rates of common resources like employee assistance programs (EAPs) are as low as [4.5%](#).

Conversations about workplace mental health in the U.S. are slowly emerging. However, they are often limited to topics like mindfulness, stress, and burnout. Furthermore, these conversations typically treat the workforce as a monolithic entity, with only recent attention dedicated to millennial and Gen Z workers. Historically underrepresented groups such as women, racial and ethnic minorities, and the LGBTQ+ community have yet to garner the same level of nuanced attention in workplace mental health research and press. This is despite [substantial evidence](#) documenting significant differences in experiences and outcomes of mental health within these communities. As a result, mental health is an integral part of the diversity, equity, and inclusion (DEI) movement. In fact, it is a diversity issue in and of itself as individuals managing mental health conditions at work continue to face stigma, marginalization, and erasure in their workplaces much like traditional DEI communities.

In order for true change to occur, we must continue to expand our understanding of the workplace mental health experience and stigma within companies and demographic communities. We must create broad culture change to create environments in which mental health challenges are normalized and supported in workplaces across the U.S.

Executive Summary

Experiencing symptoms of negative mental health at work is the norm, not the exception, regardless of seniority.

Nearly 60% of our respondents reported experiencing symptoms of a mental health condition in the past year. Half of those experiences lasted from a month to the entire year. **Mental health symptoms were equally prevalent across seniority levels within companies, from individual contributors to the C-level.** The often cited [1 in 5 statistic](#) underestimates the prevalence of mental health challenges within companies by only counting diagnosable conditions.

These findings highlight a significant need for companies to prioritize mental health in their workplaces.

Employees are afraid to talk about mental health at work—especially to senior leaders and HR—which prevents people from seeking support or treatment.

Fewer than half of our respondents felt that mental health was prioritized at their company, and even fewer viewed their company leaders as advocates for mental health. Almost 60% of people never talked to anyone at work about their mental health in the last year.

Most mental health experiences went unvoiced and unheard, especially to the most influential change agents within the company.

Respondents were the least comfortable talking with their company's HR and senior leaders about mental health at work, regardless of their level of seniority.

When conversations about mental health did occur, less than half were described as a positive experience. This might explain why less than a third of respondents felt comfortable asking for support themselves despite over 60% feeling

comfortable giving support to their colleagues around mental health. Another concerning finding was that only half of employees knew the right procedure to get support for their mental health at their company.

These findings illustrate the isolating experience of managing mental health challenges at work. Employees feel unequipped and unsupported at work and thus, don't get help.

Our findings highlight the need for greater leadership support for mental health, company-wide awareness and training, and workplace policies and practices that are consistent with this message.

Companies need to support mental health to retain talent.

Over 60% of respondents said their productivity at work was affected by their mental health, and over a third thought their work or workplace environment contributed to their symptoms. What's more, many left their companies as a result. **20% of respondents had voluntarily left roles in the past for mental health reasons; this number jumps to 50% for millennials and 75% for Gen Z-ers.*** This trend is similarly reflected in prospective job seekers. 86% of respondents thought that a company's culture should support mental health (and was even higher for millennials and Gen Z-ers).

The most commonly desired workplace resources for mental health were trainings, clearer or more available information about where to go or who to ask for mental health support, and a more open culture about mental health at work.

* Gen Z (4-22 years old)

Millennials (23-38 years old)

Gen X (39-54 years old)

Baby Boomers (55-73 years old)

Mental health is pivotal in the recruitment, engagement, and retention of employees at work. Unsupported mental health has an impact on employees' ability to perform, and a growing proportion of the workforce is prioritizing mental health support at work.

Mental health is a diversity and inclusion issue. Companies need to address the distinct mental health needs of minority communities.

Our findings are clear—demographic groups experience and are impacted by mental health differently. We found significant differences across racial and ethnic groups, gender, age, sexual orientation, and parents vs. non-parents.

For example, younger generations (Gen Z & millennials) as well as the LGBTQ+ community were more likely to experience mental health symptoms for longer durations, but were also more open to diagnosis and treatment as well as talking about mental health at work. These groups were also more likely to have left roles for mental health reasons, and more likely to value workplace environments that support mental health in prospective companies when job seeking. Additionally, almost half of Black or African American and Hispanic or Latinx respondents had left a job, at least in part, for mental health reasons compared to Caucasian respondents.

The experience of mental health at work is not uniform. To more effectively understand and address this space, we must recognize the differential experiences, causes, and impacts.

For information about our survey methods, see [Appendix A](#) (p. 23).

For more comprehensive descriptions about differences across specific demographic groups, read our [Demographic Profiles](#) (p. 17).



Findings

- I. The Prevalence and Impact of Mental Health Symptoms and Conditions in the Workplace
- II. Mental Health Stigma at Work
- III. Resources & the Ecosystem of Support

I. The Prevalence and Impact of Mental Health Symptoms and Conditions in the Workplace

Many existing reports cite the prevalence of diagnosable mental health conditions (e.g., [1 in 5 Americans](#) each year). However, diagnosed conditions don't fully account for the entirety of the mental health experience—such as the [8 in 10 workers](#) with a mental health condition who report that shame and stigma prevent them from seeking treatment or those whose severity or duration of experiences doesn't meet a diagnostic threshold.

In our report, we treat mental health as a broad and inclusive spectrum of wellbeing, ranging from 100% health to chronic and severe life impairment. In between is a lot of grey area. Everyone moves across this spectrum throughout the course of their lives.

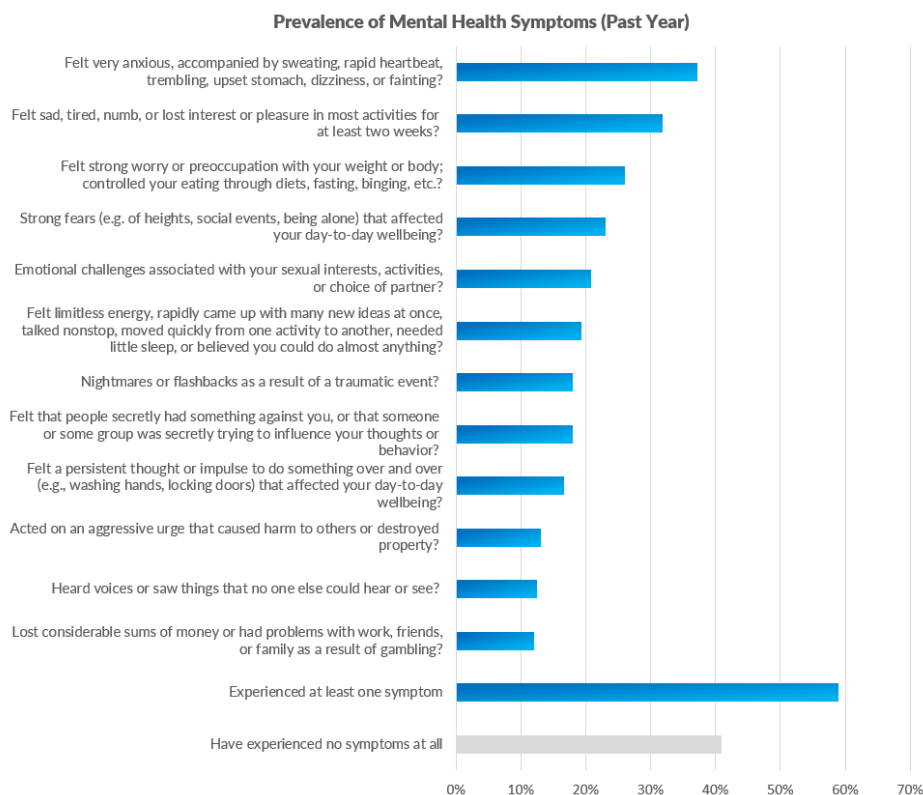
Nearly 60% of respondents reported experiencing symptoms of a mental health condition in the past year.

We presented a list of symptom descriptions from common mental health conditions based on a validated screening tool (see [Appendix B](#)). This enables us to better approximate presence of mental health symptoms rather than only diagnosed conditions, which require a specific threshold of severity, duration, and combination of symptoms.

In our survey, 59% of respondents reported experiencing at least one symptom of a mental health condition in the past year. The most common symptoms were related to anxiety (37%), depression (32%), and eating disorders (26%).

By contrast, existing research by NIMH reports that [19% of Americans](#) had a diagnosable anxiety-related condition and [7%](#) had major depression. Even more starkly, [NIMH reports](#) that the prevalence of the most common eating disorders ranges from 0.3-1.5%.

Our findings suggest that beyond diagnoses, an even larger proportion of people in the workforce is facing mental health symptoms.



Demographic differences.

Gender. Women were 27% more likely to report symptoms related to eating disorders and 26% more likely to report symptoms consistent with anxiety-related conditions. Men, on the other hand, were 44% more likely to report symptoms of aggression. These findings are consistent with existing research that shows women are [twice as likely](#) to have Generalized Anxiety Disorder and also represent [a majority](#) of cases of anorexia and bulimia.

Age. Gen Z-ers and millennials were more likely to experience almost every symptom listed compared to baby boomers. In fact, Gen Z-ers and millennials were 3 and 4 times more likely, respectively, to experience anxiety-related symptoms compared to baby boomers. This is consistent with [existing research](#) on the growing prevalence of mental health challenges in successive generations, with millennials and Gen Z-ers reporting the poorest mental health outcomes. This may also be a result of greater awareness of mental health in younger generations.

LGBTQ+. LGBTQ+ individuals were more likely to experience every symptom we listed compared to non-LGBTQ+ individuals. Transgender respondents were twice as likely to experience every symptom listed. Our findings are consistent with existing research that shows that the LGBTQ+ population is [three times more likely](#) to experience a mental health condition.

Race & ethnicity. Black or African American and Hispanic or Latinx respondents were more likely to have experienced every symptom by a significant margin compared to all respondents. At first, this finding seems inconsistent with [existing research](#) that reports racial and ethnic minorities experiencing lower rates of mental health diagnoses compared to Caucasian Americans. However, the economic barriers, language barriers, and added cultural stigma within these communities reduce access and utilization of mental health care (including diagnosis and treatment) are [well-documented](#). Our findings offer additional context to

understanding the prevalence of mental health symptoms beyond diagnostic prevalence.

Parents: Parents are more likely to have experienced symptoms aligned with anxiety and mania compared to non-parents.

Seniority. We did not observe any significant differences in the experience of mental health symptoms between C-level professionals, senior executives, managers, and individual contributors.

Half of respondents said that their mental health symptoms lasted more than a month.

Within this group, 28% of respondents reported that their symptoms lasted 1-4 months. 21% reported them lasting five months to the entire year. With nearly 60% of respondents experiencing symptoms of a mental health condition in the past year and 50% of symptoms lasting longer than a month, this means that almost 30% of all respondents experienced symptoms that lasted longer than a month.

Demographic differences.

Generation. Millennials were 50% and 110% more likely to experience symptoms for one month or longer compared to Gen X-ers and baby boomers, respectively.

Transgender population. Transgender respondents were three times less likely to have symptoms for only less than a week, which suggests a longer duration in transgender individuals' experience of mental health symptoms.

A fourth of all respondents had received a formal diagnosis. A fourth of all respondents also reported having received treatment for a mental health condition in the past.

Demographic differences.

Gender. Women were 40% more likely than men to have been diagnosed and treated for a

mental health condition in the past.

Age. Gen Z, millennials, and Gen X-ers were 4, 3.5, and 2 times more likely to have been diagnosed, and were 2, 2.9, and 3 times more likely to have received treatment compared to baby boomers.

LGBTQ+. Half of LGBTQ+ respondents reported being diagnosed with and treated for a mental health condition compared to 25% of all respondents.

Transgender population. 84% of transgender individuals had received a diagnosis, which is four times more likely than cisgender respondents. 76% had received treatment.

A significant proportion of individuals were not open to treatment.

38% of respondents said that they would not be open to receiving treatment (including therapy or medication) if they experienced symptoms of a mental health condition. However, there appears to be a large disconnect in openness to

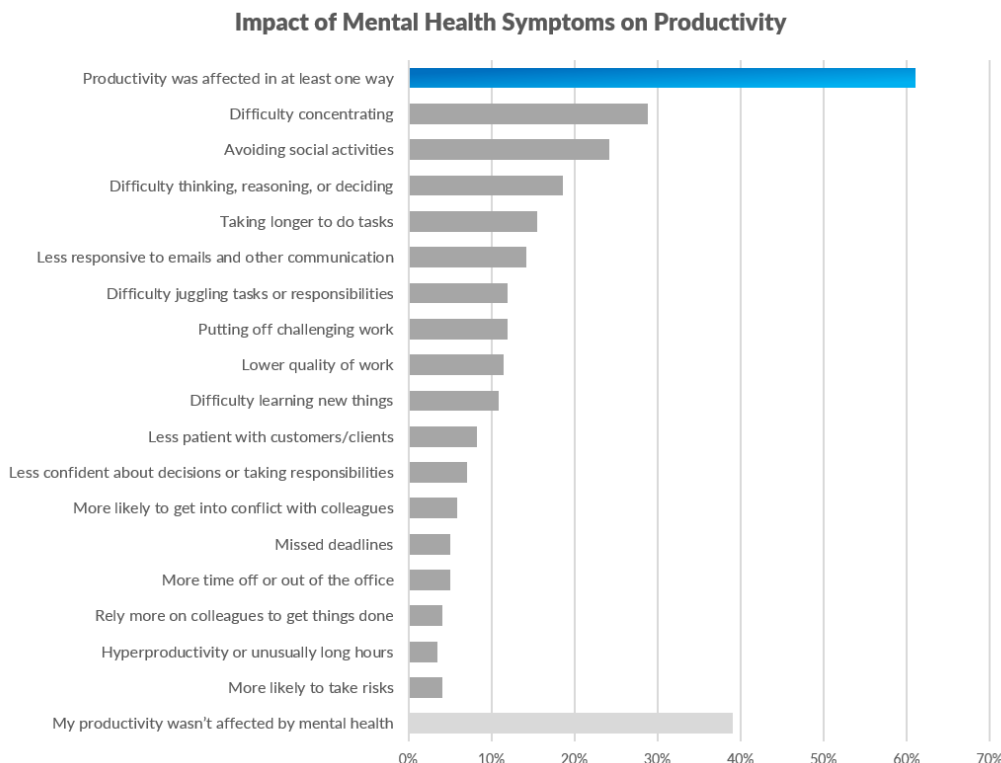
treatment between individuals with and without diagnosed conditions. Among those who had received a diagnosis in the past, only 17% were not open to mental health treatment. However, among those who had not received a diagnosis in the past, 44% were not open to treatment.

61% of respondents said that their productivity at work was affected by their mental health.

The most common ways in which mental health affected productivity included difficulty concentrating (29% of respondents), avoiding social activities (24%), difficulty thinking, reasoning, or deciding (19%), taking longer to do tasks (16%), and being less responsive to email and other communications (14%).

Over a third of respondents thought that work contributed to their experience of symptoms of mental health conditions.

This is consistent with scientific research that has shown that the workplace can actually



[independently cause or exacerbate](#) existing mental health conditions.

Demographic differences.

Age. Millennials were 3.5 times more likely than baby boomers to believe that their work or workplace environment contributed to their experiencing symptoms of mental health conditions.

Industry. Over half of tech employees (55%) believed that their work or workplace environment contributed to their experiencing symptoms of mental health conditions compared to 37% of all respondents.

Transgender population. 80% of transgender employees believed that their work or workplace environment contributed to their experiencing symptoms of mental health conditions compared to 37% of all respondents.

Over a third of all respondents had left previous roles due, at least in part, to mental health.

Of these respondents, 59% said that mental health was the primary reason. Of this group where mental health was a primary reason for leaving, 63% had left voluntarily. In other words, one fifth of all respondents voluntarily left roles for mental health reasons—a significant finding for companies seeking to recruit and retain talent.

Demographic differences.

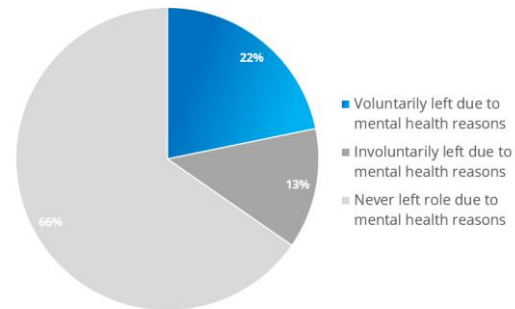
Age. More than half of millennials and 75% of Gen Z respondents had left a job due, at least in part, to mental health reasons. Meanwhile, less than 10% of baby boomers had.

Race & ethnicity. Almost half of Black or African American (47%) and Hispanic or Latinx respondents (47%) had left a job, at least in part, for mental health reasons. This is compared to Caucasian (32%) and Pacific Islander (26%) respondents.

Industry: Over half of tech respondents (55%) had left a job due, at least in part, to mental health reasons.

Transgender population. Over 90% of transgender respondents had left a job due, at least in part, to mental health reasons.

Have you ever left a role from a previous job due to mental health reasons?



86% of job seekers think it is important for a company's culture to support mental health.

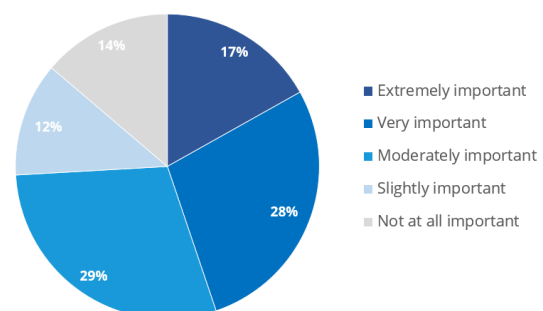
We asked respondents to rate the importance of a supportive culture when job seeking. Only 14% of respondents said that mental health was not important to them when job hunting. 45% considered mental health very or extremely important.

Demographic differences.

Age. While 58% of millennials believed it is very or extremely important that a company they might work at has a culture of supporting mental health, only half as many (29%) baby boomers felt the same way.

Transgender population. 82% of transgender respondents believed that it is very or extremely important that a company they might work at has a culture of supporting mental health compared to 45% of all respondents.

Importance of a Company Culture that Supports Mental Health When Job-Seeking



II. Mental Health Stigma at Work

Stigma is the real and anticipated negative attitudes held and behaviors enacted by other individuals toward a minority or marginalized group. For mental health at work, many of these **attitudes** paint employees with mental health conditions as irresponsible, incompetent, lazy, or dangerous. In our survey, we measured the different ways in which mental health stigma presents itself at work and how respondents experience this stigma.

Nearly half of all respondents knew someone with a mental health condition, but only a third knew someone with a mental health condition at work.

The 20% gap between personal and professional life indicates the role that workplace and company culture has in reinforcing stigma.

Demographic differences. Compared to baby boomers, millennials were 1.4 times more likely to say that they know someone with a mental health condition, and two times more likely to know someone with a mental health condition at work.

Perceptions about those with mental health conditions were mixed.

When asked about their willingness to hire or work with colleagues that have a mental health condition, almost half (46%) of respondents were open, but the other half were mixed or were not willing. Similarly, half (52%) of

respondents believed that an employee with a mental health condition could be just as productive as an employee without, but the other half were mixed or disagreed.

These findings indicate that there is significant room for improvement around how individuals managing mental health conditions are perceived and treated in the workplace.

Demographic differences.

Age. 58% of millennials believed that an employee with a mental health condition can be just as competent as a professional without one. Only 45% of baby boomers did.

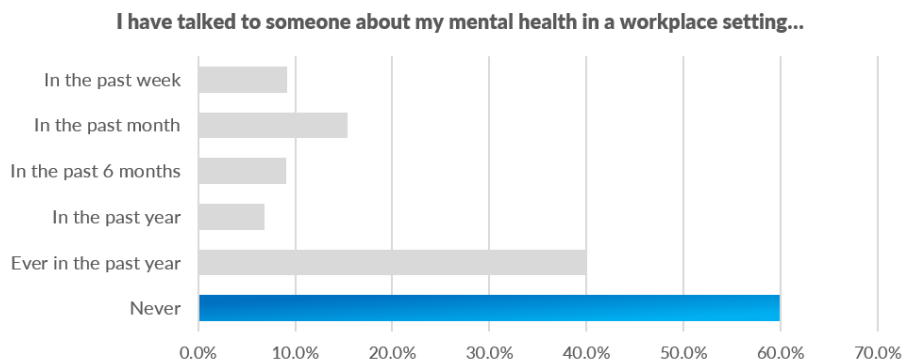
Industry. Tech fared the best, with 54% of employees being open to hiring or working with colleagues with a mental health condition compared to 46% of all respondents. For professional services (e.g., law, consulting, accounting, engineering, etc.), the percentage was less than 40%.

60% of all respondents had never talked to someone at work about their own mental health.

Among those who experienced any symptom of a mental health condition in the past year, only 40% had not talked to someone at work about it. This is promising, showing that conversations about mental health are happening slightly more often for those who are facing mental health challenges.

Demographic differences.

Age. Baby boomers and Gen X-ers were more than two times more likely to have never talked to someone about their mental health at work



than a Gen Z-er. They were 80% more likely to have never talked to someone about their mental health at work than millennials.

Industry. Tech industry employees were twice as likely as those in other industries to have talked to someone about their own mental health in the workplace.

Company size. Employees at companies between 11-50 people (the smallest company size in our survey profile) were almost 50% more likely than employees at 10,000+ person companies to have discussed their mental health with someone at work.

Fewer than half of respondents' experiences with talking about their mental health at work were positive.

48% said the experience was positive, 30% received a neutral response, and 15% received an outright negative response (3% received no response). These findings surface a substantial amount of room for improvement.

Demographic differences.

Company size. People at 11-50 person companies were the least likely to report receiving a positive response when talking to someone at their company about their mental health. Employees of a 1001-5000 employee company were 42% more likely to get a positive

response than those from companies of 11-50 employees. This is notable given that employees at companies with 11-50 people were more likely to talk about mental health, but the least likely to have a positive experience.

Respondents were the least comfortable talking with their company's HR and senior leaders about mental health at work.

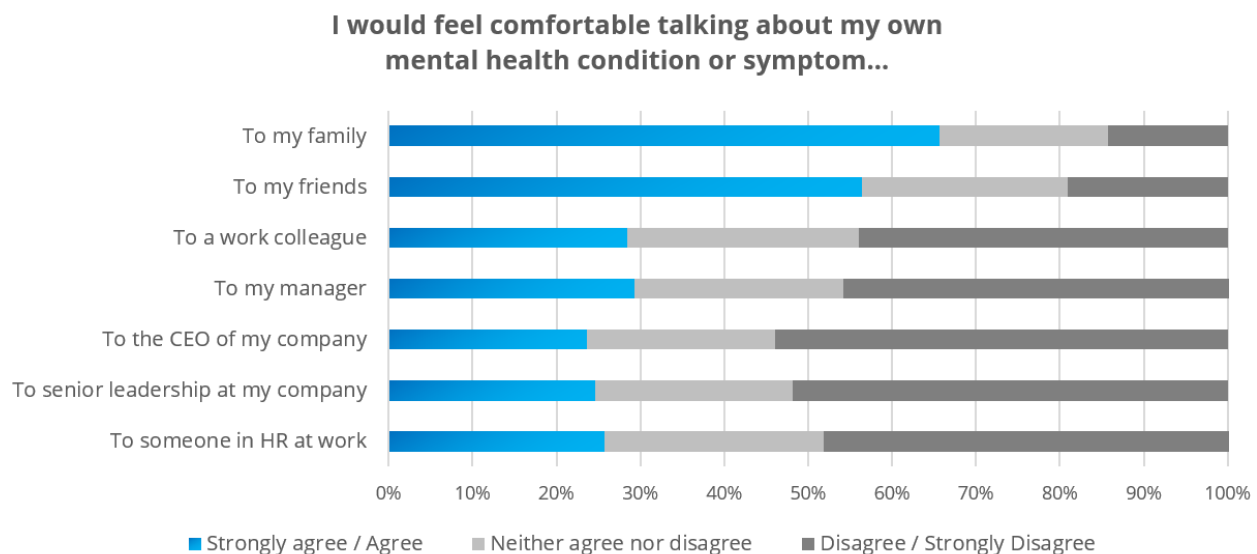
66% felt comfortable talking to their family and 56% with their friends. However, less than a third felt comfortable talking to colleagues (28%) and managers (29%). Only a quarter felt comfortable talking to HR (25%), senior leaders (25%), and the CEO (24%).

These findings suggest that the most relevant decision-makers around workplace mental health at a company—HR, senior leaders, and the CEO—are the least likely to know about the mental health challenges their employees face.

Demographic differences.

Age. In every case, baby boomers were more likely to say that they strongly disagree with being comfortable discussing their own mental health conditions than younger generations.

Transgender population. Transgender individuals were four times more likely than cisgender



respondents to say that they strongly agree with being comfortable discussing their mental health with a colleague.

Industry. Respondents in the tech industry were 83% more likely to say that they agree with being comfortable discussing their own mental health conditions than employees in other industries.

Seniority. No significant differences were observed between C-level professionals, senior executives, managers, and individual contributors. This suggests that the discomfort with talking about mental health spans across levels in the organization.

III. Resources & the Ecosystem of Support

Within the workplace ecosystem, there are a variety of support systems that can support employee mental health—from formal policies and programs to informal social and cultural behaviors, customs, and practices. We asked respondents which supports at work they had access to and knew how to use.

A. Colleagues & Peer Support

62% of respondents felt comfortable

giving support to a colleague around their mental health, but less than a third felt comfortable asking for support themselves.

Demographic differences.

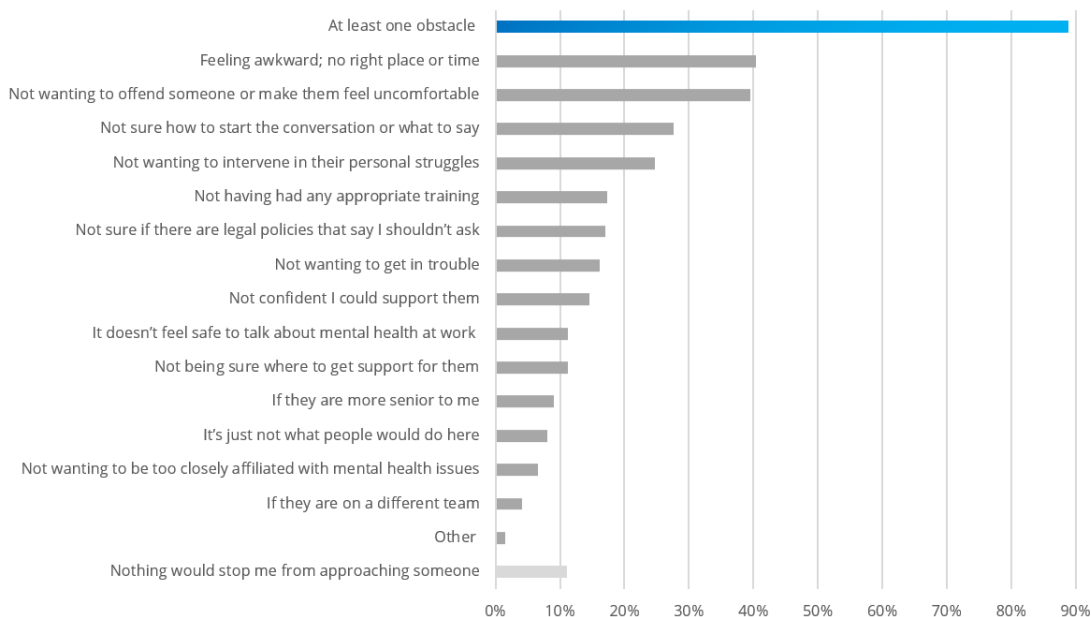
Parents. Parents were 32% more likely to say that they strongly agree that they would be comfortable with a colleague or direct report approaching them to discuss their mental health.

Seniority. There was no significant difference across levels of respondents' seniority, from individual contributor to C-level.

89% of respondents saw at least one barrier that might stop them from approaching someone at work who might need support around their mental health.

The most common barriers were feeling awkward and not having the right place or time (40%), not wanting to offend someone or make them feel uncomfortable (40%), being unsure about how to start the conversation or what to say (28%), and not wanting to intervene (25%).

Obstacles to Providing Support



in personal struggles (25%).

B. Leadership & Company Culture

Most respondents didn't think that their company and leadership supported mental health at work.

We asked respondents whether mental health was prioritized at their company compared to other priorities—only 41% agreed. Only 37% of respondents saw their company leaders as advocates for mental health at work.

Only 39% of respondents agreed that their manager was equipped to support them if they had a mental health condition.

C. Company Resources

60% of respondents had used some sort of work accommodation or flexible adjustment to support their mental health.

The most common adjustments used were taking time off, vacation, or PTO (21%), leaves of absence (13%), and part-time shift (10%).

Only half of respondents knew the proper procedure for getting support for their mental health at work.

Demographic differences.

Generation. Millennials were 63% more likely than baby boomers to know the proper procedure for seeking company support for a mental health condition.

Industry. Tech industry employees were 60% more likely to know the proper procedure for seeking company support for a mental health condition than those in other industries.

The most common resources that respondents reported wanting at their workplace included mental health training (23%), clearer or more

available information about where to go or who to ask for mental health support (22%), and a more open culture about mental health at work (22%).

Among C-level and executive director respondents, the most common perceived obstacles to providing resources at work to support mental health were lack of knowledge, expertise, and time.

When asked what obstacles their company faced in regard to supporting and providing resources for mental health at work, 27% of C-level and executive director respondents said a lack of knowledge or understanding of workplace mental health, 25% said a lack of professional expertise on the topic, and 23% said a lack of time commitment. These obstacles were followed closely by lack of financial resources (23%) and leaders not wanting to talk about mental health (21%). A quarter (26%), however, actually saw no obstacles to supporting mental health at work.

Conclusion

Experiencing mental health symptoms is the norm in the workplace across all levels of an organization. However, employees aren't comfortable talking about mental health at work, especially to senior leaders and HR. As a result, productivity is negatively affected, and some employees leave their companies for mental health reasons.

Our research surfaces the need for better support systems and workplace cultures for mental health within companies—in particular, mental health trainings, clarity around existing resources, and more open and inclusive cultures for mental health.

Join the movement

Mind Share Partners is a nonprofit changing the culture of workplace mental health so that both employees and organizations can thrive.

Movement-Building

We create digital tools and write thought pieces on workplace mental health.

- *Download a free toolkit.* Our toolkits contain basic strategies for supporting mental health at work, a communications toolkit for Mental Health Awareness Month, how to create an employee resource group for mental health, and more. www.mindsharepartners.org/toolkits
- *Write for us.* Mind Share Partners curates [Mental Health at Work](http://www.mindsharepartners.org/mentalhealthatworkblog), a special blog section on Arianna Huffington's Thrive Global platform. Do you have thoughts on how to raise awareness or provide useful tools and resources for workplace mental health? Send us an idea at www.mindsharepartners.org/mentalhealthatworkblog.
- *Share your story.* We're always looking for stories from working professionals about their experiences managing mental health at work. Have a compelling story to tell? Share it with us at www.mindsharepartners.org/shareyourstory. We welcome anonymous stories as well.

Workshops

Our research-based, interactive workshops were developed in collaboration with clinical advisors, legal counsel, leading management thinkers, and our communities of high-achieving professionals.

- *The Surprising News about Mental Health.* An introductory session for all audiences in which we debunk myths and provide an overview of actionable tools.
- *Bridging the Gap Between Caring & Compliance.* Our manager sessions crack the code to productive communication and healthy team dynamics while remaining compliant with privacy laws.
- *Mental Health for High-Stress Roles.* We discuss self-care strategies and facilitate a design-thinking exercise to surface unique solutions for building a supportive team culture for high-stress teams.


Advising

Our advising services, paired with workshops, empower companies to create true culture change.

- *Leader Ally Coaching.* When a company leader speaks out with a personal experience or as an ally for mental health, employees listen. We help craft a message that is affirming and destigmatizing.
- *Internal Initiative Design.* We help companies create effective and engaging initiatives that have lasting impact.
- *Employee Resource Group (ERG) Advising.* Mental health ERGs are targeted, effective tools for tackling stigma. We advise on creating a safe, compliant, and productive forum for continuing the mental health conversation.
- *Measurement.* We provide customizable surveys and analysis to understand the prevalence and attitudes toward mental health at your company and measure what's working over time.

Learn more or book a workshop at connect@mindsharepartners.org





Demographic Profiles

The following demographic profiles aggregate significant findings from our report pertaining to differences observed across demographic groups. Our findings strongly suggest a need for increased awareness, training, and tailored support for mental health broadly as well as for specific populations.

- I. Millennials & Gen Z**
- II. LGBTQ+ Community**
- III. Gender**
- IV. Tech Industry**
- V. Race & Ethnicity**
- VI. Company Size**

DEMOGRAPHIC PROFILE:

Millennials & Generation Z

Younger generations (Gen Z & millennials) were more likely to experience mental health symptoms for longer durations, but were also more open to diagnosis and treatment as well as talking about mental health at work. They were also more likely to have left roles for mental health reasons, and valued workplace environments that supported mental health more than other generations.

This is consistent with existing research that has found the growing prevalence of mental health challenges in successive generations, with [millennials and Gen Z-ers](#) reporting the poorest mental health outcomes. This may also be a result of greater awareness of mental health in younger generations.

Our findings illustrate the different needs of various age groups. While younger generations reported more mental health symptoms, the challenges for older age groups were in being comfortable talking about mental health and getting treatment.

FINDINGS:

Prevalence & duration

- Younger generations (millennials & Gen Z) were more likely to experience almost every symptom compared to baby boomers.
- Millennials were three times more likely to experience symptoms of anxiety than baby boomers.
- Gen Z-ers were four times more likely to experience symptoms of anxiety than baby boomers.
- Millennials were 50% more likely to experience symptoms for one month or longer compared to than Gen X-ers.
- Millennials were 100% more likely to experience symptoms for one month or longer compared to baby boomers.

Diagnosis & treatment

- Gen Z, millennials, and Gen X-ers were 4, 3.5, and 2 times, respectively, more likely to have been diagnosed compared to baby boomers.
- Gen Z, millennials, and Gen X-ers were 2, 2.9, and 3 times, respectively, more likely to have received treatment compared to baby boomers.

Productivity, retention, and recruitment

- Millennials were 3.5 times more likely than baby boomers to say that their work or workplace environment contributed to their experiencing symptoms of mental health conditions.
- More than half of millennials and 75% of Gen Z respondents had left a job due, at least in part, to mental health reasons. Less than 10% of baby boomers had done so.
- 58% of millennials believed that it is very or extremely important that a company they might work at has a culture of supporting mental health. Half as many (29%) baby boomers felt the same.
- Millennials were 63% more likely than baby boomers to know the proper procedure for seeking company support for a mental health condition.

Stigma

- Millennials were 40% more likely to say they know someone with a mental health condition compared to baby boomers.
- Millennials are two times more likely to know someone with a mental health condition at work compared to baby boomers.
- Baby boomers and Gen X-ers were more than two times more likely to have never talked to someone about their mental health at work compared to than a Gen Z-er. They were 80% more likely to have never talked about their mental health at work than millennials.
- Baby boomers were more likely to say they strongly disagree with being comfortable discussing their own mental health conditions than younger generations.
- 58% of millennials believed that an employee with a mental health condition can be just as competent as a professional without. Only 45% of baby boomers did.

DEMOGRAPHIC PROFILE:

LGBTQ+ Community

LGBTQ+ respondents were more likely to have experienced mental health symptoms.

Transgender respondents were twice as likely to have experienced mental health symptoms, and for longer durations. Despite the challenges, LGBTQ+ respondents were more open to diagnosis and treatment as well as talking about mental health at work compared to non-LGBTQ+ and cisgender respondents. They were more likely to leave roles due to mental health reasons and value mental health support in prospective companies when job seeking.

Our findings are consistent with existing research that shows that the LGBTQ+ population is [three times more likely](#) to experience a mental health condition and that [40%](#) of the transgender community have reported experiencing serious psychological distress in the past month. What's more, these communities continue to face discrimination in their workplaces, where [37% of LGBTQ+ individuals](#) have reported experiencing workplace harassment in the last five years. Studies show that applicants affiliated with an LGBTQ+ organization were [40% less likely](#) to be called for an interview.

FINDINGS:

Prevalence & duration

- LGBTQ+ respondents were more likely to experience every symptom listed compared to non-LGBTQ+ respondents.
- Transgender respondents were twice as likely to experience every symptom listed compared to cisgender respondents.
- Transgender respondents were twice as likely to experience their symptoms for 2-7 months compared to cisgender respondents for that timeframe.

Diagnosis & treatment

- Half of LGBTQ+ respondents reported being diagnosed with and treated for a mental health condition compared to the quarter of all respondents.
- Transgender respondents were four times more likely to have received a diagnosis for a mental health condition compared to cisgender respondents.
- 76% of transgender respondents had received treatment for a mental health condition compared to 25% of cisgender respondents.

Productivity, retention, and recruitment

- 80% of transgender respondents believed that their work or workplace environment contributed to their experiencing symptoms of mental health conditions compared to 37% of all respondents.
- Over 90% of transgender respondents had left a job due, at least in part, to mental health reasons.
- 82% of transgender respondents believed that it is very or extremely important that a company they might work at has a culture of supporting mental health compared to 45% of all respondents.

Stigma

- Transgender respondents were four times more likely to say that they strongly agree with being comfortable discussing their mental health with a colleague compared to cisgender respondents.

DEMOGRAPHIC PROFILE:

Gender

Women were more likely to have experienced anxiety- and eating disorder-related symptoms compared to men, who were more likely to have experienced symptoms of aggression. Women were also more likely than men to have gotten a diagnosis or treatment for a mental health condition in the past.

These findings are consistent with existing research that shows women are [twice as likely](#) to have Generalized Anxiety Disorder and also represent [a majority](#) of cases of anorexia and bulimia.

While the specific causes and impacts are beyond the scope of this survey, existing research has clearly documented the role of [unequal pay](#), [sexism](#), and [sexual harassment](#) on women's mental health at work and [social norms](#) around emotional expression on men's mental health.

For an editorial take, check out [our article](#) on women's mental health at work for Women's History Month.

FINDINGS:

- Women were 27% more likely to report symptoms related to eating disorders than men.
- Women were 26% more likely to report symptoms related to anxiety than men.
- Men were 44% more likely to report symptoms of aggression than women.
- Women were 39-40% more likely than men to have been diagnosed and treated for a mental health condition in the past.

DEMOGRAPHIC PROFILE:

Tech Industry

Respondents working at tech companies were more open to talking about mental health and willing to hire or work with colleagues with a mental health condition. However, they were also significantly more likely to say that their work or work environment contributed to their experiencing symptoms of mental health conditions.

FINDINGS:

Productivity, retention, and recruitment

- 55% of tech employees said that their work or workplace environment contributed to their experiencing symptoms of mental health conditions compared to 37% of all respondents.
- 55% of tech respondents had left a job due, at least in part, to mental health reasons compared to 34% of all respondents.

Stigma

- 54% of tech respondents were open to hiring or working with colleagues with a mental health condition compared to 46% of all respondents.
- Tech respondents were twice as likely to have talked to someone about their own mental health in the workplace compared to other industries.
- Tech respondents were 83% more likely to say that they agree with being comfortable discussing their own mental health conditions than employees compared to other industries.
- Tech respondents were 60% more likely to know the proper procedure for seeking company support for a mental health condition than those in other industries.

DEMOGRAPHIC PROFILE:

Race & Ethnicity

Statistically significant differences in the experience of mental health and stigma within the workplace were limited in this demographic and require additional research to more fully explore this area.

FINDINGS:

- Black or African American and Hispanic or Latinx respondents were more likely to have experienced every symptom by a significant margin compared to all respondents.
- 47% of Black or African American and 47% of Hispanic or Latinx respondents had left a job, at least in part, for mental health reasons compared to 32% of Caucasian respondents.

DEMOGRAPHIC PROFILE:

Company Size

Respondents working at companies with 11-50 employees were more likely to have discussed their mental health with someone at work compared to those at 10,000+ person companies. However, they were also the least likely to say that their experience talking about their mental health with someone at work was positive. Additional research is needed to explore the role of company size, culture, and resources on the experience of mental health and stigma at work.

FINDINGS:

- Respondents at companies with 11-50 employees were almost 50% more likely to have discussed their mental health with someone at work compared to respondents at 10,000+ person companies.
- Respondents at 11-50 person companies were the least likely to report having received a positive response when talking to someone at their company about their mental health.
- Respondents at 1,001-5,000 employee companies were 42% more likely to have received a positive response than those at 11-50 person companies.



Appendix

- A. Methods
- B. Measuring the Prevalence of Mental Health Symptoms
- C. Demographics

Methods

We collected responses from 1,500 individuals via an online survey from March to April 2019 through Qualtrics' panel of survey respondents. All respondents in our report were at least 16 years of age, employed in a full-time position at a company with at least 11 employees, and resided in the U.S. at the time of survey completion.

Qualtrics gathers responses through panel partners that randomly select respondents for surveys where respondents are highly likely to qualify. Each sample from the panel base is proportioned to the general population and then randomized before the survey is deployed. For hard-to-reach groups (e.g., C-level executives, transgender community, etc.), Qualtrics utilizes niche panels brought about through specialized recruitment campaigns.

For this survey, we also collected a statistically significant number of responses across a variety of demographic groups, including gender identity, racial and ethnic background, LGBTQ+ identity, primary caregiver status, residential population density, and level of seniority. The full breakdown of our demographic measures can be found in Appendix C.

All findings included in this report were statistically significant at a 95% confidence level.

Commitment to Diversity

Historically, minority and other demographic groups have been underresearched and underrepresented, both in the mental health field as well as the workplace. However, the unique social, cultural, and economic challenges that various demographic groups face is well-documented as is their impact on workplace mental health outcomes.

At Mind Share Partners, we believe that mental health is an integral part of the DEI movement—both as a new category within the field as well as how it affects underrepresented populations differently. Individuals managing mental health conditions at work continue to face stigma, marginalization, and erasure in their workplaces much like traditional DEI communities. The impact of these experiences are compounded within these groups and their intersections. Thus, we must measure and report these factors to fully understand the landscape of workplace mental health and amplify historically silenced voices.

Limitations

We recognize three limitations to our survey. First, our sample included a statistically significant number of respondents across historically underrepresented demographic groups to ensure that these experiences were included in our report. As a result, our report may overestimate the experiences of these minority groups.

Second, our findings regarding symptom prevalence should not be interpreted as the prevalence of conditions themselves, which require a diagnostic evaluation by a clinician. That said, we can compare our measure of symptom prevalence with our measure asking if participants have ever received a diagnosis in the past to get a broader understanding of the experience of mental health at work.

Finally, our survey findings were based on self-report data. However, this was appropriate given that a large scope of our research emphasized the subjective experience of workplace culture and stigma. Additional quantitative data from companies around available resources, utilization, and other business costs can provide additional context to support the findings of our survey.

Measuring the Prevalence of Mental Health Symptoms

To measure the prevalence of mental health symptoms, we used an abridged version of the [Mental Health Screening Form-III](#), a clinically validated screening tool that includes symptom descriptions aligned with common mental health conditions.

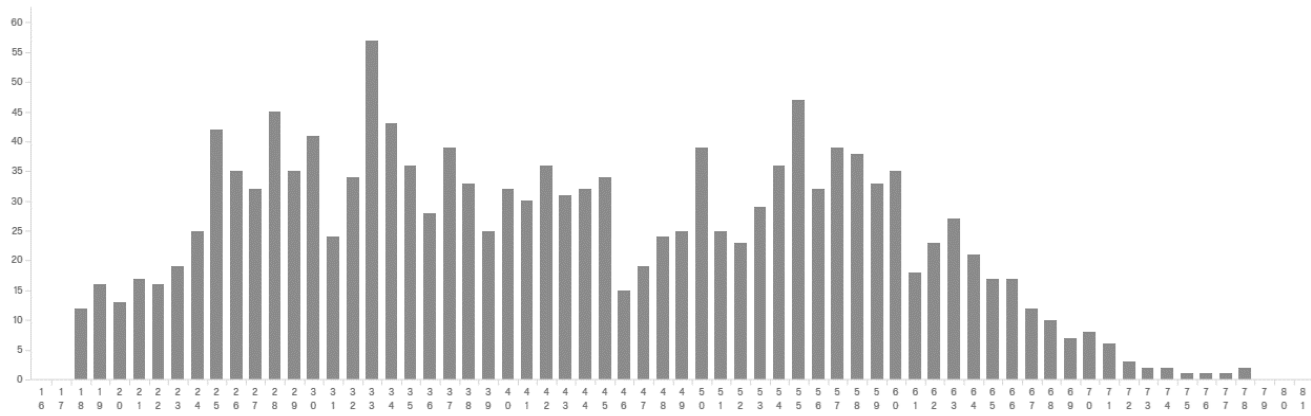
This measure appeared in the survey as shown below.

In the past year, have you ever experienced any of the following (check all that apply, even partially):

- Felt very anxious, accompanied by sweating, rapid heartbeat, trembling, upset stomach, dizziness, or fainting?
- Felt sad, tired, numb, or lost interest or pleasure in most activities for weeks at a time?
- Strong fears (e.g., of heights, social events, being alone) that affected your day-to-day wellbeing?
- Felt limitless energy, rapidly came up with many new ideas at once, talked nonstop, moved quickly from one activity to another, needed little sleep, or believed you could do almost anything?
- Felt strong worry or preoccupation with your weight or body; controlled your eating through diets, fasting, bingeing, etc.?
- Nightmares or flashbacks as a result of a traumatic event?
- Acted on an aggressive urge that caused harm to others or destroyed property?
- Felt that people secretly had something against you, or that someone or some group was secretly trying to influence your thoughts or behavior?
- Heard voices or saw things that no one else could hear or see?
- Emotional challenges associated with your sexual interests, activities, or choice of partner?
- Felt a persistent thought or impulse to do something over and over (e.g., washing hands, locking doors) that affected your day-to-day wellbeing?
- Lost considerable sums of money or had problems with work, friends, or family as a result of gambling?

Demographics

Age distribution



Race & ethnicity

Caucasian	34.7%
Black or African American	16.2%
Hispanic or Latinx	15.4%
Asian or Pacific Islander	25.1%
Native American*	3.3%
Multiple races or ethnicities	3.2%
Other (please specify)	2.1%

* (includes Americas, Hawaii, and Alaska native)

LGBTQ+

Yes	11.9%
No	85.7%
Prefer not to say	2.5%

Transgender

Yes	3.3%
No	95.3%
Prefer not to say	1.3%

Company size

1-10 employees	0.0%
11-50 employees	17.0%
51-200 employees	20.0%
201-500 employees	14.1%
501-1,000 employees	13.5%
1,001-5,000 employees	14.0%
5,001-10,000 employees	6.8%
10,001+ employees	14.6%

Gender identity

Male	49.0%
Female	49.7%
Non-binary	0.6%
Prefer to self-describe	0.2%
Prefer not to say	0.5%

Primary caregiver

Yes	46.7%
No	52.1%
Prefer not to say	1.2%

Level of Education

Some high school	1.5%
High school graduate	10.3%
Some college	14.5%
Associate degree	10.1%
Bachelor's degree	34.5%
Some postgraduate	4.1%
Master's degree	18.0%
Ph.D., law or medical degree	6.0%
Other advanced degree	0.9%

Desk job

Yes	68.1%
No	31.7%

Type of organization

For-profit, privately-held	43.7%
For-profit, public	28.4%
Nonprofit	15.3%
Government	12.5%

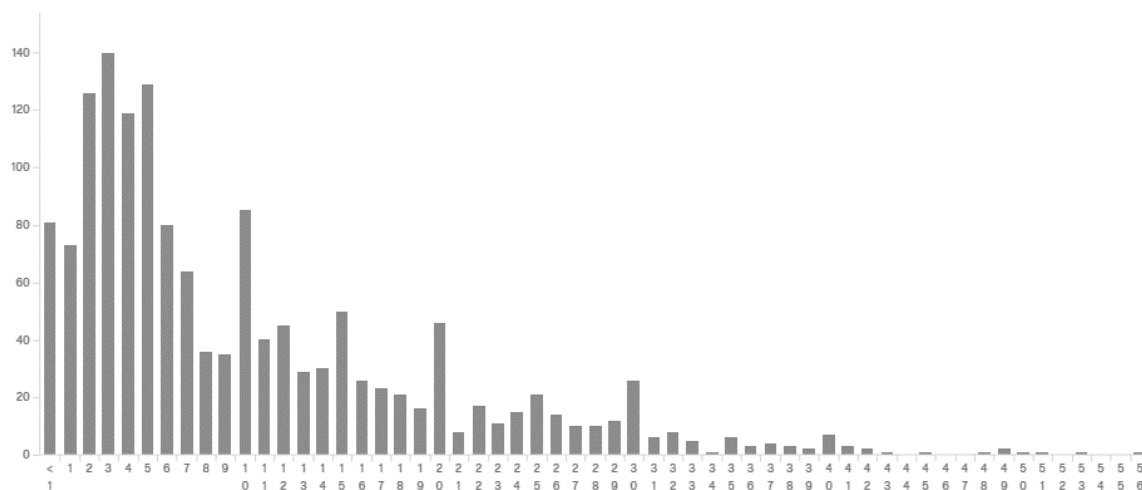
Seniority

Individual contributor	41.5%
Manager	36.0%
Executive	11.0%
C-level	11.5%

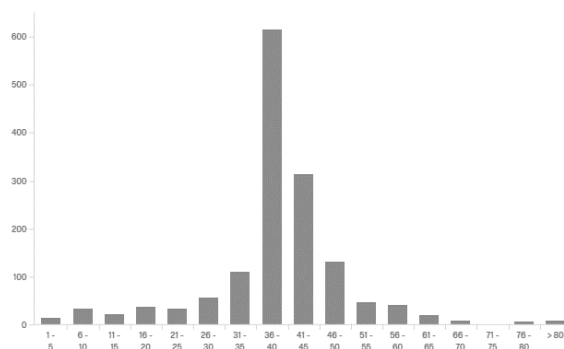
* Manage one or more people

** Oversees organizations, manages one or more teams

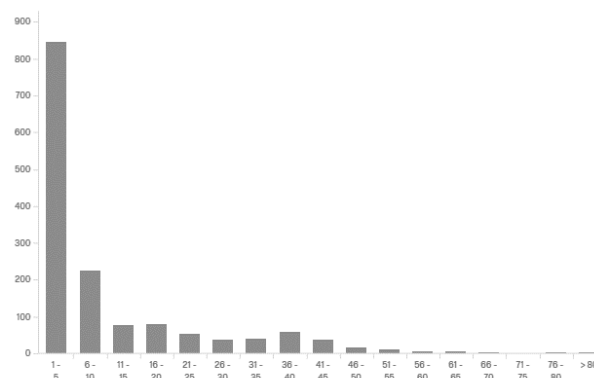
Years at current company



Average hours of work per week



Average hours of remote work per week





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