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Source: *American Sociological Review*, Dec., 1992, Vol. 57, No. 6 (Dec., 1992), pp. 771-780

Published by: American Sociological Association

Stable URL: <https://www.jstor.org/stable/2096122>

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# CAREERS OF MISCONDUCT: THE STRUCTURE OF PROSECUTED PROFESSIONAL DEVIANCE AMONG LAWYERS\*

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*We develop a career model of prosecuted misconduct among lawyers. This model combines labeling theory's emphasis on the role of sanctions in structuring deviant careers with a focus on the asynchronous interaction between life cycle changes among precariously positioned actors and system conditions. This conceptualization suggests that complaints of misconduct against inexperienced solo practitioners are more prone to prosecution because of social conceptions and lay theories about lawyer misconduct, perceived threats to the profession's public image, and the relative powerlessness of these lawyers to defend themselves, especially during economic recession. An event history analysis of misconduct complaints against lawyers in a Canadian province confirms that complaints against inexperienced solo practitioners are more likely to move to prosecution during an economic recession. Our findings encourage the application of career conceptualizations to other research on deviance.*

The concept of "career" has a powerful appeal to sociologists who study crime and deviance (Becker 1963). Part of this appeal stems from the notion that a deviant career suggests a parallel between activities in illegitimate and legitimate sectors of society (Cloward and Ohlin 1960). The provocative potential of this parallel is anticipated in the ironic suggestion that "jails are schools of crime." Yet applications of the career concept to the study of crime and deviance have sometimes proved frustrating, as when criminal and deviant acts are found to be isolated events with little organized structure (Gottfredson and Hirschi 1988).

One reason for this apparent lack of structure may be that highly structured criminal and deviant careers are more often shaped by the reactions of agents of social control. For example, Tittle (1988) argued that the existence of a group of persistent criminal offenders "might reflect stability of police attention to some individuals rather than stable rates of 'offending'" (p. 76). Hagan and Palloni (1988, 1990; see also Sampson and Laub 1992) proposed that the study of criminal careers is better conceptualized using a life-course framework (Elder 1985) that treats deviant or criminal acts as movements of individuals through positions in a system, with these movements often shaped by the reactions of control

agents. We use this perspective to study careers of prosecuted misconduct among lawyers.

## THE MODEL OF PROSECUTED MISCONDUCT

Our multidimensional career model is built around Becker's (1963, p. 24) concept of "career contingency," which refers to the factors that influence movement from one position to another.<sup>1</sup> In the study of occupations, Becker noted that while career contingencies influence the course of individuals who follow legitimate career paths, they can also influence "several varieties of career outcomes," including outcomes defined as deviant. He emphasized that a crucial step in the deviant context is "being caught and publicly labelled as a deviant" (p. 31). Our analysis therefore focuses on the prosecution of formal complaints of misconduct among lawyers.

Because legal practice is largely self-regulated, complaints against lawyers are initially monitored within the profession, e.g., by Bar Associations. Although complaints are common, prosecutions are relatively rare. Prosecution of complaints is usually undertaken within the profession, although more serious complaints may be transferred to the criminal justice system. A multidimensional dynamic (Riley 1988; Rosenberg

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<sup>1</sup> Career models of crime and deviance differ in the emphasis given to change. Some models focus instead on specialization (Sampson and Laub 1992).

1979; Lazarsfeld 1959), which structures the process that leads to the prosecution of misconduct among lawyers, underlies our model. This model considers dynamic and structural features of prosecuted complaints, including the scale of the organizational setting and the phase of the economic cycle at the time of the complaint. Agencies of social control may be especially sensitive to these influences. Therefore, these influences may structure the dynamics of deviant careers through the mediating role of agency interventions.

Although our model recognizes a distinction between the occurrence of behavioral misconduct and its prosecution, we follow labeling theory (Becker 1963; Kitsuse and Cicourel 1963) and conceive of misconduct and its control as a product of interactions between deviant actors and control agents. Like labeling theory, the research literature on lawyer misconduct implies that the prosecutorial process, through selective surveillance and sanctioning, determines much of the existing structure in careers of lawyer misconduct.

For example, Carlin's (1966) classic study of ethics in the legal profession emphasized that most lawyer misconduct is not prosecuted — he estimated that only two percent of lawyers who violate accepted ethical norms are processed, and that less than one percent of these cases is officially sanctioned (see also Handler 1967, p. 146). Carlin (1966) concluded that prosecutions have little deterrent effect, and that “a more likely function of these formal controls is the forestalling of public criticism of the legal profession” (p. 170). This highly selective process of prosecution is probably not random. Instead, prosecution is probably structured by social conceptions and lay theories (Cicourel 1968) that guide the surveillance of types of lawyers and conditions of lawyering that are expected to produce unethical behavior, and by the expectations imposed on a system that is obliged to control misconduct and to uphold the profession's public image through selective sanctioning.

Interviews with regulators and a reading of the literature suggest three factors that may influence misconduct among lawyers. The first is inexperience, or more specifically, lack of time in practice. With practice, lawyers gain stability, working knowledge, and resources that help them maintain proper conduct or avoid detection. Handler (1967) reported that “the more recently admitted lawyers had lower professional incomes, poorer individual clients, and more unstable cli-

ents,” and therefore encountered “more pressures and more opportunities to violate than did . . . lawyers who had been in practice longer” (p. 127). Carlin (1966) found in New York City that lawyers in these newer offices encountered increased pressures to engage in unethical practices. The challenge of earning a stable livelihood in unstable conditions with insufficient knowledge and inadequate resources is a career contingency conducive to compensatory misconduct. Exaggeration of the problems resulting from inexperience may increase prosecutorial attention to less experienced lawyers, who lack the resources to resist or divert this attention.

A second factor influencing misconduct among lawyers involves the stratification hierarchy of the profession. Although law presents itself formally as a unified profession with a common base of credentials, the legal profession is highly stratified (Heinz and Laumann 1982; Erlanger 1980; Hagan, Huxter, and Parker 1988). This stratification can be described in various ways, but the consensus is that solo practitioners are at the bottom of the hierarchy (Ladinsky 1963). Solo practitioners are associated with lower court settings and unstable practices in “trouble” specialties, e.g., criminal, personal injury, matrimonial cases. Carlin (1966) suggested that “lawyers at the bottom of the status ladder are maximally exposed to pressures to violate” (p. 168), and Handler (1967) concurred that these lawyers are “under great pressure to violate ethical rules” (p. 116). Thus, a second career contingency is an intraoccupational stratification system that places solo practitioners at increased risk of misconduct leading to increased regulatory attention and an increased chance of prosecution for misconduct. Like inexperienced lawyers, solo practitioners may also lack resources to fend off prosecution.

Third, lawyer misconduct is influenced by macroeconomic changes in the society at large. Despite their professional status, lawyers are vulnerable to fluctuations in the economic cycle (Galanter 1983; Simpson 1986). Concern with lawyer misconduct may increase during recessionary periods in a manner similar to the moral panics concerning law and disorder in general (Cohen 1972). Because the self-regulatory responsibilities of the profession include being responsive to surrounding social and economic trends, the prosecution of lawyer misconduct may intensify in response to macroeconomic downturns.

These three career contingencies — inexperience, solo practice, and macroeconomic reces-

sion — are not only widely believed to increase lawyer misconduct; they are the source of the relative powerlessness of the individual lawyer to deflect prosecutorial attention.

It is useful to think about the interaction of career contingencies and enforcement agencies in terms of their synchronization (Elder 1985). Riley (1988) used the principle of “asynchrony” to refer to the poorly coordinated interplay between changes in the lives of individuals and changes in the surrounding social structure. She noted that “lack of synchrony imposes strains on both individuals and society,” that “the strains of asynchrony are often overlooked — as in an exclusively individual-level focus on life-course transitions,” and that “these strains can ramify through all levels of the system” (pp. 38–39). These effects of asynchrony indirectly highlight the potential multiplicative role of regulatory activity.

Riley’s observations coordinate components of our model. Experience and economic conditions may interact in asynchronic ways because each factor changes independently and with its own metric. A classic example is Elder’s (1974) finding that effects of the Great Depression varied across birth cohorts. In our analysis, Riley’s observations suggest that interactions between macroeconomic conditions and time in practice and position in the professional stratification hierarchy may produce deviance-inducing contingencies. Thus, inexperienced solo practitioners may be at a relatively high risk of misconduct during recessionary periods.

However, Riley’s observations implicate not only the individuals at risk, but the surrounding system that monitors relevant problems. Under the stresses and strains of a recessionary period, misconduct may be more prone to prosecutorial attention because of its potential damage to the profession’s public image and because of the relative powerlessness of inexperienced solo practitioners to defend themselves. It is in this sense that surveillance and sanctioning of misconduct structure the paths of lawyer misconduct.

## DATA AND METHODS

The concept of career concerns temporal movement between positions. To analyze deviant careers requires “a model that allows for change through time” (Becker 1963, p. 22). Event history analysis (Tuma and Hannan 1984; Allison 1984) formally models this kind of change in terms of transition rates that consider the pace of

movement between events, e.g., between a complaint against a lawyer and the hazard of subsequent prosecution for misconduct.

Our data come from an eight-year sampling frame of lawyers (from January 1, 1979 to December 31, 1986) against whom complaints of misconduct were lodged with the Law Society of a Canadian province. (The Law Society in Canada is analogous to a state Bar Association in the United States.) We selected a response-based sample (Xie and Manski 1989), based on whether complaints against lawyers resulted in prosecution during this period. The sample includes all lawyers for whom a complaint resulted in prosecution between the above dates ( $N = 639$ ), and a random sample of a similar number of lawyers against whom complaints were registered during the same period, but who were not prosecuted ( $N = 635$ ). We examined each lawyer’s history for prior complaints and recorded a complete, dated complaint history for each of the 1,274 lawyers from their entry into practice up through December 31, 1986. Spells between successive complaints, from entry into practice up to and including their “current” complaint (i.e., the complaint between 1979 and 1986) are the units for the event history analysis. For lawyers with more than one complaint, the first spell is the time from entry into practice to the date of their first complaint. A first spell may also be one in which the current complaint is the only complaint since being called to the bar.

We are interested in the timing of events that lead to a decision to formally prosecute lawyers for misconduct. The effect of the timing of events on a formal prosecution for misconduct is conceptualized in event history analysis as a hazard. Although event history analysis usually involves single-spell models of rates of transition to events that occur once or only a few times (e.g., marriage), some social events, like lawyer misconduct, can occur repeatedly. The lawyers in our sample experienced an average of 14 complaints during their time in practice; 85 lawyers experienced a single complaint while several had more than 60.<sup>2</sup> Following Allison (1984, chap. 6; see

<sup>2</sup> The power and responsibility of the provincial Law Society to investigate and discipline lawyers derive from parliamentary acts. In our data, 32 different types of misconduct were mentioned in complaints against lawyers. The most serious (as indicated by staff lawyers) included: misappropriation of funds; conduct unbecoming a lawyer; failure to account/report transactions; misleading clients/others, counseling false evidence; illegal borrowing of funds; failure

Table 1. Percentage of Lawyers with Selected Characteristics: Canadian Province, 1979–1986

Characteristic	Percentage
<i>Position in professional hierarchy</i>	
Partner in large firm (> 30)	1.3
Partner in medium-size firm (10–29)	1.4
Partner in small firm (2–9)	21.1
Solo practitioner	62.1
Associate in firm	6.0
Employee (government or corporate)	8.1
Recession (1981–1986 = 1)	78.7
<i>Experience</i>	
1 to 4 years	13.5
5 to 9 years	28.7
10+ years	57.8
<i>Offense</i>	
Serious offense	48.3
Financial harm to client	11.2
Violation of real estate/trust account	51.1
<i>History</i>	
Past complaints (mean) (s.d. = 9.61)	13.7
Prior prosecution (= 1)	14.9
Sex (male = 1)	94.5
Number of lawyers	1,274

also Hamerle 1989), we use Cox's (1972) proportional hazards model to estimate rates of transition between successive complaints. This requires rearranging our data so that all intervals between complaints are treated as separate observations, with successive complaints about a particular lawyer associated in a nonindependent fashion (Allison 1984, p. 51). This transforms our sample of 1,274 lawyers into 9,092 units or spells, of which 3,892 are censored in our initial analysis. Spells were censored because they did not end in a prosecution. An advantage of the event history models we present is that they take into account information from these censored cases (Palloni and Sørensen 1988). These censored cases are also analyzed separately.

to reply to, cooperate with, follow, or adhere to Law Society requirements; mental incompetence; fraud; and forgery. The sanctions for misconduct include issuing a reprimand, a reprimand plus costs, restriction or suspension of practice, directed resignation, and disbarment.

Our response-based sample is stratified on the dependent variable — a formal prosecuted complaint — and includes successive, nonindependent events. Our event history analysis minimizes effects of nonindependence among units by including variables (experience, prior complaints, and prior prosecutions) that control for common sources of variance (Allison 1985, p. 54).<sup>3</sup>

## MEASURES

Table 1 describes the independent variables in our model. Dummy variables identify position in the professional stratification hierarchy. Although our focus is on solo practitioners, we include other positions in the professional hierarchy (Hagan et al. 1988): partners in large firms (firms with 30 or more lawyers), partners in medium-sized firms (10 to 29 lawyers); partners in small firms (2 to 9 lawyers); solo practitioners; associates in firms; and lawyers employed by the government, corporations, or other organizations. There is little movement between firm practice, solo practice, and the corporate and government sectors of the profession (Carlin 1966; Heinz and Lauman 1982). Associates and employed lawyers are lower in the professional hierarchy than partners, so their experiences are of interest.

Economic recession is represented by a dummy variable, coded 1 if a complaint of misconduct was filed with the Law Society from 1981 to 1986. Although we cannot identify the period of the recession precisely, Canadian macroeconomic indicators suggest that it began in the early 1980s and continued through 1986. Figure 1 indicates that the number of prosecuted formal complaints against lawyers in our sample began to move upward in 1981, peaked in 1982, and fell to a low

<sup>3</sup> A least-squares regression analysis of main and interaction models analogous to those examined here was undertaken to assess how reweighting the response-based sample to represent the population might have affected the substantive findings and how the inclusion of nonindependent units may have reduced standard errors. Results are substantively similar to those reported here and are available on request. These models used lawyers as the unit of analysis and number of complaints over the total time in practice as the dependent measure of rate of movement to prosecuted and nonprosecuted outcomes. These outcomes were weighted to the total population when combined, but were unweighted when analyzed separately. The three-way interaction effect that illustrates Riley's concept of asynchrony is replicated in the least-squares regression results.



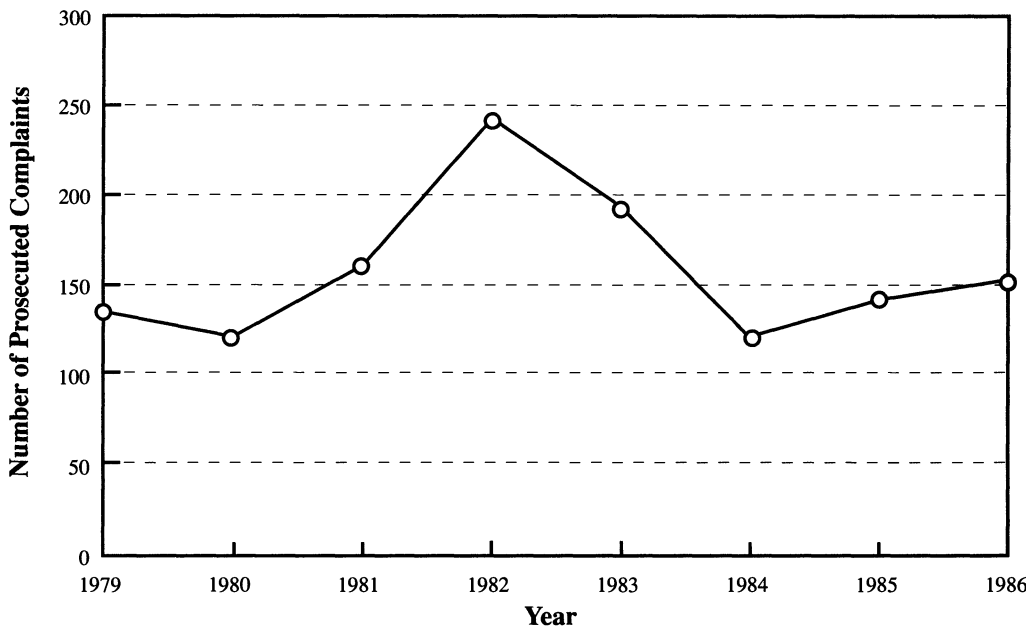


Figure 1. Number of Prosecuted Complaints of Misconduct Among Lawyers by Year: Canadian Province, 1979–1986

in 1984. By 1986, prosecuted complaints were somewhat higher than in 1979 and 1980. For this analysis, then, the effects of the Canadian recession probably extended from 1981 through 1986.<sup>4</sup>

Inexperience is measured as years in practice prior to the “current” complaint of misconduct. Figure 2 graphs the number of complaints by years in practice for each position in the professional hierarchy. Figure 2 suggests that the relationship between complaints and years in practice is nonlinear, especially for solo practitioners. Rather, among solo practitioners (and to a lesser degree among the other positions) complaints peak at about five years of legal practice, then decline slowly. The curve for solo practitioners is much like the curve observed in research on the relation between age and crime.

The apparent nonlinearity of the relationship between years in practice and complaints suggests that a discrete measure of experience is

appropriate. To capture the nonlinear effects of experience, we coded experience into three categories: 1 through 4 years experience; 5 through 9 years experience; and 10 or more years.<sup>5</sup> Allison (1984, p. 55) noted that the effects of nonindependent events in models that express the hazard rate as a function of the time since a prior event are reduced by including an experience measure.

Three control variables characterize the offenses mentioned in the complaints: their presumed seriousness, the financial harm to clients, and violations of real estate or trust accounts. These variables probably increase the transition rate between complaints and the likelihood of being prosecuted, and our concern is to control for their association with the variables of interest. All these offense variables involve a violation of trust, and trust plays a central role in professional deviance and its sanctioning (Shapiro 1990). We distinguished serious offenses (coded 1) by asking the Law Society’s discipline lawyers to rate the complaints filed against the lawyers. The following offenses were most commonly ranked as serious: misappropriation, counseling false evidence, conduct unbecoming, and failing to account to the Law Society. Law Society records

<sup>4</sup> Our coding could confound the influence of recession with the influences of other political or professional changes, such as changes in governing party or growth of the profession. However, the same political party was in power throughout the period of this study, and the recent dramatic growth of the legal profession in this province and elsewhere in North America began in the early 1970s and did not change trajectory during the recessionary period considered here.

<sup>5</sup> Results of using continuous and binary codings of the experience variable that do not reflect the nonlinear effect of experience are available on request.

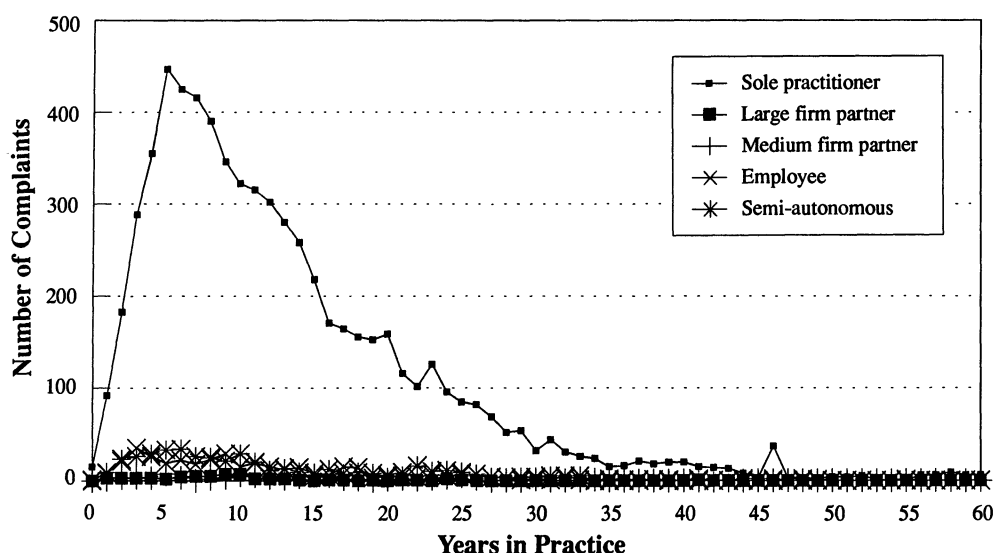


Figure 2. Number of Complaints of Misconduct Against Lawyers by Years in Practice and Position in Profession: Canadian Province, 1979-1986

were used to establish financial harm to the complainant (coded 1) and whether a real estate or trust violation was alleged (coded 1). Controls also were introduced for aspects of the lawyer's prior history that would increase the transition rate for lawyers being prosecuted. These variables include the total number of prior complaints filed against the accused and whether the accused was previously prosecuted (coded 1). Inclusion of these variables removes spurious and intervening sources of variation when estimating the direct effects of the labeling variables. The history variables also minimize the consequences of including nonindependent events in our models.

Finally, gender is included in the analysis (male = 1). Approximately 95 percent of the sample is male.

## RESULTS

Table 2 presents models of transition to the hazard of prosecution for misconduct. These models should be structured in the ways outlined above. Later, we model unprosecuted complaints to test whether, as labeling theory predicts, unprocessed complaints are less structured. Table 2 presents results for three models: Model 1 presents the main effects, Model 2 adds two-way interactions, and Model 3 includes three-way interactions.

Model 1 estimates the main direct effects of position in the profession, recession, experience in the profession, type of offense, past miscon-

duct, and gender. As predicted, solo practitioners have the highest rates of transition to prosecution for complaints of misconduct. (Partners in small firms are the omitted category.) Taking the antilog of the coefficient for solo practitioners ( $e^{.383} = 1.467$ ), we see that, net of all other variables in the model, solo practitioners move to prosecution at a rate about 47 percent faster than the rate for partners in small firms. Associates in firms and employees of government and corporations are also more likely to be prosecuted (about 18 and 24 percent more likely, respectively) than are partners in small firms.

The coefficient for recession introduces the main and direct effect of macrolevel change in the economy. The recession of the early 1980s has a significant effect on rates of prosecution for misconduct: Complaints move to prosecution at a rate about 26 percent faster during the recession compared to nonrecession complaints.

The coefficients for years of experience introduce the main effects of microlevel change, i.e., personal experience. Rates of transition to prosecution for experienced lawyers are much lower than those for lawyers with less experience: The two dummy variables representing less than 10 years experience have strong positive effects on transitions to prosecution. Complaints involving lawyers with 1 through 4 years in practice are prosecuted at a rate more than 118 percent higher than are complaints involving lawyers with 10 or more years experience, while for lawyers with 5

through 9 years of experience, the rate is increased by about 65 percent. In the context of our model, then, prosecution is most likely during the earliest years of practice.

Thus, all three hypothesized factors — low professional position, economic recession, and legal inexperience — have the expected main effects of increasing the hazard of prosecution for misconduct. These are direct causal effects, as the control variables of type of offense, prior history, and gender are included in the model. Serious offenses and offenses involving the violation of a real estate or trust account both have large and statistically significant effects. Both variables tap the significance of violations of trust emphasized by Shapiro (1990). These variables increase the rate of transition to prosecution by about 75 and 67 percent respectively. Complaints involving financial loss to the client have only a slightly higher rate of prosecution. A previous prosecution as well as a relatively large number of prior complaints also increase the rate of transition to prosecution.

Models 2 and 3 in Table 2 introduce the principle of asynchrony (Riley 1988) by incorporating interactions involving the macrolevel and microlevel measures of change: economic recession and years in practice. Two of the two-way interactions estimated in Model 2 are significant and both involve solo practitioners: Solo practitioners have higher rates of transition to prosecution for misconduct during the recession, and solo practitioners with 5 through 9 years of experience have higher rates of transition. Although the least experienced lawyers (1 through 4 years of experience) should have been even more vulnerable to prosecution, these findings are consistent with Riley's observations and our theoretical model, that macrolevel and microlevel sources of change have multiplicative as well as additive effects.

Model 3 adds two three-way interactions involving solo practitioners, the recession, and years of experience to Model 2. The one significant interaction indicates that the highest rates of transition during the recession involve the least experienced solo practitioners. Lawyers with this combination of career contingencies are prosecuted for misconduct at a rate nearly five times higher than other lawyers in our sample.

Although the findings presented to this point are consistent with multilevel labeling theory, they may simply reflect the motivation involved in deviant behaviors that are not influenced by prosecutorial intervention and labeling. The mod-

Table 2. Estimated Effects of Selected Independent Variables on Rates of Transition to Prosecuted Complaints of Misconduct Against Lawyers: Canadian Province, 1979–1986

Independent Variable	Coefficient (B)		
	Model 1	Model 2	Model 3
Partner in large firm	.129 (.189)	.222 (.195)	.228 (.195)
Partner in medium-size firm	-.278 (.271)	-.156 (.272)	-.142 (.272)
Solo practitioner	.383** (.044)	-.148 (.079)	-.126 (.085)
Associate	.169* (.081)	.284** (.083)	.292** (.083)
Employee	.216* (.087)	.187* (.089)	.206* (.090)
Recession	.231** (.038)	-.267** (.075)	-.250** (.080)
1 to 4 years experience	.782** (.090)	.541* (.230)	.944** (.235)
5 to 9 years experience	.503** (.040)	.001 (.133)	-.113 (.193)
Serious offense	.558** (.023)	.544** (.023)	.543** (.023)
Financial harm to client	.080* (.038)	.102** (.038)	.010** (.039)
Violation of real estate/trust account	.512** (.035)	.521** (.035)	.520** (.035)
Number of prior complaints	.042** (.001)	.043** (.001)	.03** (.001)
Prior prosecution	.167** (.014)	.171** (.014)	.170** (.014)
Male	-.009 (.120)	-.037 (.120)	-.037 (.120)
<i>Interactions</i>			
Solo practitioner × recession	—	.628** (.086)	.605** (.094)
Solo practitioner × 1 to 4 years experience	—	.375 (.239)	-.573 (.410)
Solo practitioner × 5 to 9 years experience	—	.341** (.109)	.532* (.241)
Recession × 1 to 4 years experience	—	-.083 (.230)	-1.230** (.476)
Recession × 5 to 9 years experience	—	.238 (.127)	.390 (.226)
Recession × 1 to 4 years experience × solo practitioner	—	—	1.758** (.592)
Recession × 5 to 9 years experience × solo practitioner	—	—	-.234 (.272)
-2 Log-likelihood	86,006.55		
$\chi^2$	3,559.96	3,629.66	3,641.24
Degrees of freedom	14	19	21
Number of spells	9,092	9,092	9,092
Number of events	5,200	5,200	5,200
Number censored	3,892	3,892	3,892

\*  $p < .05$       \*\*  $p < .01$

Note: Numbers in parentheses are standard errors



Table 3. Estimated Effects of Selected Independent Variables on Rates of Transition to Unprosecuted and Prosecuted Complaints of Misconduct Against Lawyers: Canadian Province, 1979–1986

Independent Variable	Prosecuted Complaints	Unprosecuted Complaints
Partner in large firm	.221 (.196)	–.244 (.189)
Partner in medium-size firm	–.232 (.274)	.085 (.131)
Solo practitioner	.142 (.084)	–.001 (.091)
Associate	.188* (.085)	.081 (.073)
Employee	.194* (.090)	.066 (.085)
Recession	.084 (.080)	–.025 (.081)
1 to 4 years experience	1.104** (.234)	1.639* (.342)
5 to 9 years experience	.320 (.193)	2.425* (.142)
Serious offense	.021 (.024)	–.012 (.035)
Financial harm to client	.074* (.038)	.679* (.308)
Violation of real estate/trust account	.019 (.035)	–.007 (.036)
Number of prior complaints	.037** (.001)	.044** (.002)
Prior prosecution	.031* (.014)	–.094 (.073)
Male	.004 (.120)	–.028 (.105)
<i>Interactions</i>		
Solo practitioner × recession	.001 (.094)	.134 (.098)
Solo practitioner × 1 to 4 years experience	–.501 (.410)	.402 (.406)
Solo practitioner × 5 to 9 years experience	.198 (.241)	.242 (.187)
Recession × 1 to 4 years experience	–1.030** (.476)	.161 (.378)
Recession × 5 to 9 years experience	.158 (.225)	.092 (.164)
Recession × 1 to 4 years experience × solo practitioner	1.077** (.591)	–.346 (.462)
Recession × 5 to 9 years experience × solo practitioner	–.211 (.271)	–.247 (.213)
–2 Log-likelihood	78,812.90	56,657.23
$\chi^2$	701.140	814.160
Degrees of freedom	21	21
Number of cases	5,200	3,892

\*  $p < .05$  \*\*  $p < .01$  \*\*\*  $p < .001$

Note: Numbers in parentheses are standard errors.

els have minimized this possibility by including measures of offense seriousness and complaint history as control variables and by utilizing the capacity of event history methods to incorporate information from censored observations, in this case the unprosecuted complaints. Behavioral differences among lawyers should be screened through these statistical controls. However, as a final test, Table 3 presents event history models of unprosecuted and prosecuted complaints separately.

If the variables in our models structure the hazard of a complaint apart from the influence of prosecutorial attention, then these variables should operate on unprosecuted complaints as well as prosecuted complaints. Table 3 presents estimates for the full structural model (Model 3) in Table 2 that includes the two-way and three-way interactions. The model for prosecuted complaints excludes information from the censored unprosecuted complaints, which are modeled separately. Nonetheless, the model of prosecuted complaints produces results similar to, though somewhat less robust than, those found for the total sample. However, the model for unprosecuted complaints is less coherent: Only the number of past complaints, an offense involving financial harm to the client, and inexperience increase the hazard of current unprosecuted complaints. In other words, results from unprosecuted complaints are more random and reveal less structure than results for prosecuted complaints.

## DISCUSSION AND CONCLUSION

Our research blends a sociological interest in careers with a labeling perspective on deviance. These concepts are highly relevant to understanding the prosecuted misconduct of lawyers. The focus on movement over time and between positions is consistent with the repeated involvement of lawyers in careers of misconduct — these careers are clearly structured by predictable contingencies that are associated with movement to prosecution. Riley's (1988) principle of asynchrony, which focuses on the consequences of life cycle changes for precariously positioned actors and the systems in which these actors are located, evokes connections between labeling studies and career themes.

The cross-level emphasis of research on careers and the life course encourages a consideration of the needs of regulators to respond to deviant actors who, in turn, are poorly positioned to fend off prosecutorial intervention. Riley's

observations suggest that these perceived pressures may intensify institutional responses by amplifying the threat to institutional stability. The notion of asynchrony adds a crucial multiplicative dimension to our understanding of careers of misconduct by suggesting that microlevel and macrolevel changes be brought together through interaction effects.

Our analysis of the prosecution of lawyers for complaints of misconduct supports a multiplicative, multilevel integration of a labeling perspective on professional deviance among lawyers within a career framework. The additive effects of inexperience, solo practice, and economic recession lead to increased prosecution of misconduct. Furthermore, these factors interact with one another to increase the hazard of prosecution so that, for example, inexperienced solo practitioners are prosecuted for professional misconduct at a higher rate during economic recession.

Our interpretation involves elements of *both* deviant behavior and agency response, i.e., we do not assume that prosecuted lawyers are passive innocents. Prosecuted lawyers are simply the offending lawyers whose behaviors have been singled out for prosecutorial attention, and this attention structures their careers. Such interdependence of action and reaction is the essence of Becker's (1963) notion of "pure deviance" and Lemert's (1962) conception of a "dynamic of exclusion." The focus of event history analysis on the structure of successive events is uniquely suited to capture the dynamics of a self-regulating system in which deviant behavior and its control move in an interdependent fashion.

If, as Carlin (1966, p. 170) suggested, the observed pattern of prosecution is intended to forestall public criticism of the legal profession, it is important to understand what justifies this policy and what the implications of the policy are. One justification for the policy is its deterrent effect: Because inexperienced solo practitioners are thought to have a higher risk of misconduct in a recessionary environment, it could be argued that such offenders should be singled out for deterrent sanctions. However, our empirical findings lend little support to such a policy. Although the results for unprosecuted complaints reveal somewhat greater involvement of inexperienced lawyers, it is only with prosecution that solo practitioners and the recession are involved. Furthermore, a past prosecution increases the movement to a current prosecution, which is the opposite of a deterrent effect. These effects on prosecution hold despite the inclusion of information on

unprosecuted cases and explicit controls for past and present behavioral differences among the prosecuted lawyers. The evidence supports a labeling model of deviant careers in which inexperienced solo practitioners are placed at heightened risk of surveillance and sanctioning during a recessionary period. It is regulatory attention more than pre-existing behavioral differences that structures these deviant careers.

In general, our findings reflect generic social processes that are relevant to an understanding of similarities and differences between deviant and conventional careers. Pursuit of a common explanatory framework is part of the appeal of the application of the career concept to the study of social deviance. Future research will determine whether this common agenda can be advanced by application of the career concept to other kinds of deviance.

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