

**WHERE ARE WE NOW?
A REPORT ON THE OCCUPATIONAL STATUS OF
WOMEN ATTORNEYS IN MASSACHUSETTS**

ISSUED BY THE EMPLOYMENT ISSUES COMMITTEE OF THE
WOMEN'S BAR ASSOCIATION OF MASSACHUSETTS

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The Report was drafted with substantial assistance from Roland Stark of Integrative Statistics, who provided invaluable help throughout the project, and Kimberly E. Winter, Co-chair of the Women's Bar Association Employment Issues Committee 2004-Present.

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I. INTRODUCTION

The Employment Issues Committee of the Women's Bar Association of Massachusetts seeks to understand why women attorneys make certain professional choices. Armed with this information, we can better understand and address remaining gender inequity in the profession.

However, before we can understand *why* things are a certain way, we must know how things actually are. Where do women lawyers work? Where do men lawyers work? Do women and men appear to be making different career choices?

Surprisingly, there is little statistical data in this area. Although there are various theories about where women lawyers tend to work, they are rarely supported by hard numbers.

This Report fills a portion of the gap in our understanding of women in the legal profession in Massachusetts. We now know, with a reasonable degree of confidence, the distribution of female and male attorneys in Massachusetts among various employer types—law firms of various sizes, government, non-profits, companies and educational institutions. We also know the gender distribution of attorneys who have left the profession.¹

The sections that follow explain the Committee's methodology and results. The Committee views this Report as a launching point for future studies exploring the reasons for the existing gender distribution within the profession and intends to seek feedback from the legal community to help define the contours of such future studies.

¹ The American Bar Foundation periodically publishes THE LAWYER STATISTICAL REPORT, an analysis of statistical data regarding lawyers registered with Martindale Hubbell, a private lawyer database. SEE CLARA N. CARSON, AMERICAN BAR FOUNDATION, THE LAWYER STATISTICAL REPORT: THE U.S. LEGAL PROFESSION IN 2000, 2004. The Committee is unaware of any statistical data on gender distribution by employer type capturing the full lawyer population in Massachusetts or any other state.

II. METHODOLOGY

THE DATA

This Report addresses two topics: (1) the gender distribution of working Massachusetts attorneys among various employer types; and (2) the gender distribution of active, inactive and retired attorneys in Massachusetts. The Report focuses solely on attorneys who both reside in and are admitted to practice in Massachusetts.

As source data, the Committee used two lists of attorneys provided by the Massachusetts Board of Bar Overseers (BBO), the state agency that oversees attorney registration: (1) a list of active attorneys admitted and residing in Massachusetts in 2005 (38,143 attorneys); (2) a list of inactive and retired attorneys residing in Massachusetts in 2008 (6,178 attorneys).²

The Committee and its volunteers sorted both lists by gender, based on first name and telephone calls to attorneys where necessary. The Committee and its volunteers also sorted the list of active attorneys by employer type. The active list contained employer names for nearly two-thirds of attorneys (24,324). For these attorneys, designated as Group 1, volunteers identified the employer type using publicly-available knowledge, internet searches and, where necessary, telephone calls to listed attorneys.

The remaining 13,819 attorneys on the active list, designated as Group 2, did not have an employer name listed. The Committee took a computer-generated random sample of approximately 550 of these attorneys, and volunteers either telephoned them or performed an internet search to determine the type of employer for which they worked in 2005. Employer types were ultimately determined for 278 of the approximately 550 randomly-sampled attorneys, and 265 of the 278 were found to have been working in 2005.

The 24,324 active working attorneys in Group 1 and the random sample of 265 active working attorneys from Group 2 were then used to determine a best estimate of the gender distribution of working active attorneys among various employer types, using 95% confidence intervals (margins of error). A description of the statistical methodology used to determine the confidence intervals can be found in Appendix A.

DEFINITIONS

Attorney Status

On the lists provided by the BBO, attorneys are broken down into three categories—active, inactive and retired—with the following meanings:

Active: Active attorneys are allowed to practice law in Massachusetts and are issued a bar card.

² The work for this Report began in 2005. The Committee has no reason to believe that the gender distribution of attorneys among employer types has changed significantly between 2005 and the present.

Inactive: Inactive attorneys have notified the BBO that they wish to discontinue the practice of law and assume inactive status. Inactive attorneys must continue to register annually with the BBO and pay reduced fees. Inactive attorneys may resume the practice of law by paying a reinstatement fee.

Retired: Retired attorneys have notified the BBO that they wish to retire from and discontinue the practice of law. Retired attorneys must continue to register with the BBO for three years, but need not pay any fees. Retired attorneys may resume the practice of law by paying all back fees as if they had remained active.

Employer Type

Employers were sorted using the following categories:

Company: Any for-profit entity other than a law firm.

Academics: Any private or public educational institution (primary, secondary or university-level).

Government: Any branch of federal, state or local government, excluding educational institutions. State and federal judges are not active attorneys and are thus not included in the Government category.

Law Firm: Any individual or entity engaged in the private practice of law, including independent contractors.

Non-Profit: Any non-governmental non-profit entity other than an educational institution.

Law Firm Size

Law firms were broken down by number of attorneys using the following categories: 1-5, 6-15, 16-30, 31-60, 61-100, 101-200 and 200+. Law firm size was measured by the number of attorneys employed by a firm worldwide, not just in Massachusetts. For example, a firm with 10 attorneys in Massachusetts but 500 attorneys worldwide was classified as 200+.

III. RESULTS

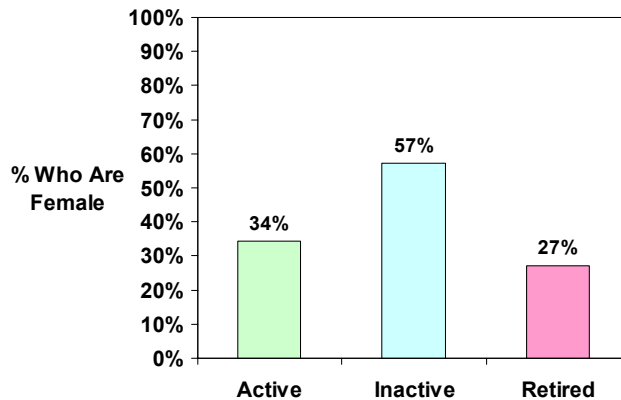
NUMBER OF ACTIVE WOMEN ATTORNEYS

In 2005, there were approximately 13,134 active female attorneys in Massachusetts. Women comprised 34.4%, or approximately one-third, of the population of 38,143 active attorneys.³

GENDER DISTRIBUTION BY ATTORNEY STATUS⁴

Inactive attorneys are disproportionately female. Women make up approximately one-third of active attorneys, but 57% of inactive attorneys.⁵ This difference is highly statistically significant; a difference this large or larger would be expected to occur at random fewer than one in one billion times.⁶

Inactive Attorneys Are Disproportionately Female



Figures are drawn from three datasets comprising 44,321 attorneys, with data from 2005 and 2008.

Prepared by Roland Stark, Integrative Statistics

³ Although women have comprised nearly half of law school classes for over a decade, in 2005, women made up only slightly more than one-third of the lawyer population in Massachusetts. SEE AMERICAN BAR ASSOCIATION, FIRST YEAR AND TOTAL J.D. ENROLLMENT BY GENDER, 1947-2008, AVAILABLE AT [HTTP://WWW.ABANET.ORG/LEGALED/STATISTICS/CHARTS/STATS%20-%206.PDF](http://www.abanet.org/legaled/statistics/charts/stats%20-%206.pdf).

⁴ Complete findings can be found in [Appendix B](#).

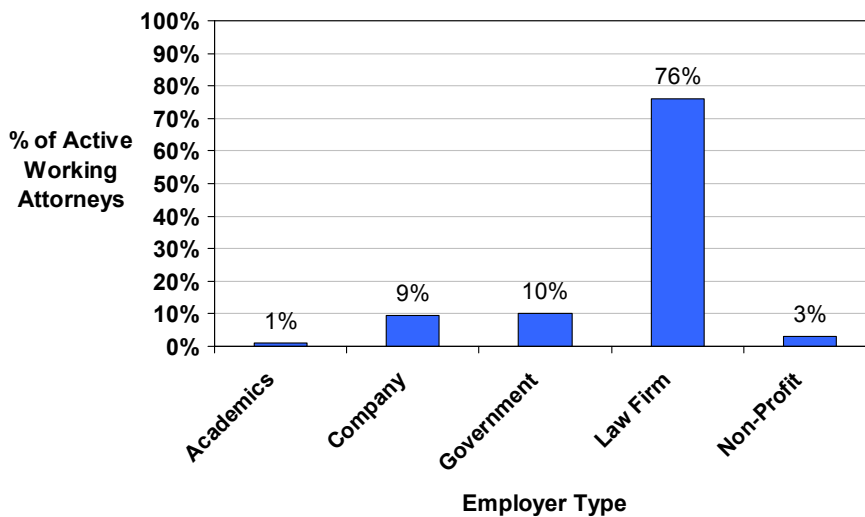
⁵ The data for active attorneys was drawn from 2005, and the data on inactive attorneys was drawn from 2008. Although the total number of attorneys in each category likely increased between 2005 and 2008, we expect that the percentage of women in each category remained similar enough to make the comparison meaningful. A brief analysis of the 2008 list of active attorneys confirmed this.

⁶ $X^2(2) = 135, p < .0000000001$.

DISTRIBUTION OF ATTORNEYS BY EMPLOYER TYPE⁷

The vast majority of working active Massachusetts attorneys in 2005 (76%) were found to be in private practice. Company and Government were the next largest employer types, with approximately 10% of attorneys falling in each category. Non-profits and Academics were much smaller sectors of the profession, with approximately 3% and 1% of attorneys in each, respectively.

Percent of Active Working Attorneys by Employer Type



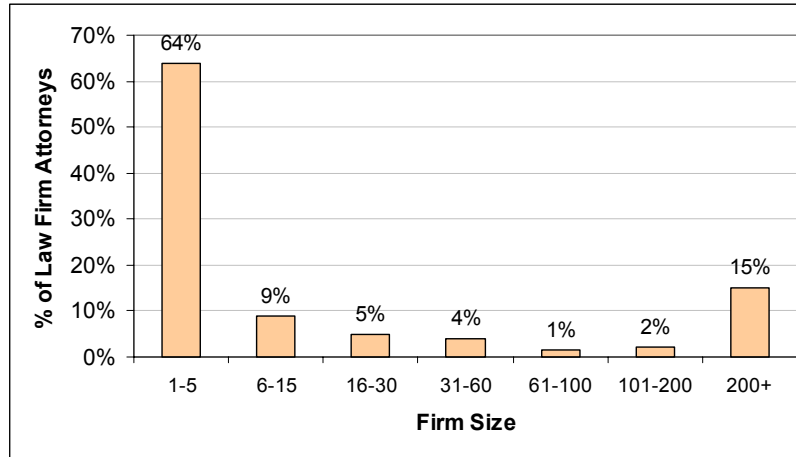
Figures are weighted estimates drawn from two datasets comprising 24,587 attorneys, with data as of 2005.

Prepared by Roland Stark, Integrative Statistics

Within private practice, the majority of attorneys are at the smallest firms. Approximately 64% of attorneys in private practice are at firms with 1-5 lawyers. (Note that independent contractors are considered solo practitioners for purposes of this Report.) Approximately 15% of attorneys in private practice are at firms with over 200 lawyers.

⁷ Note that all figures under this heading are weighted estimates. 95% confidence intervals for each weighted estimate can be found in [Appendix C](#). Strictly speaking, inferential statistics are only applicable in the context of random sampling. The Committee drew on a nearly random sample in the Group 2 portion of our data collection: attorneys were telephoned at random but it cannot be known with certainty whether those who replied constituted a truly random sample (or, likewise, whether those who could be found through internet research constituted a truly random sample). Nonetheless, this Report follows convention in reporting significance levels and confidence intervals as convenient yardsticks even for potentially nonrandom samples. SEE MICHAEL OAKES, STATISTICAL INFERENCE: A COMMENTARY FOR THE SOCIAL AND BEHAVIOURAL SCIENCES, NY: WILEY, 1986.

Percent of Attorneys in Private Practice by Firm Size



Figures are weighted estimates drawn from two datasets comprising 17,136 attorneys, with data as of 2005.

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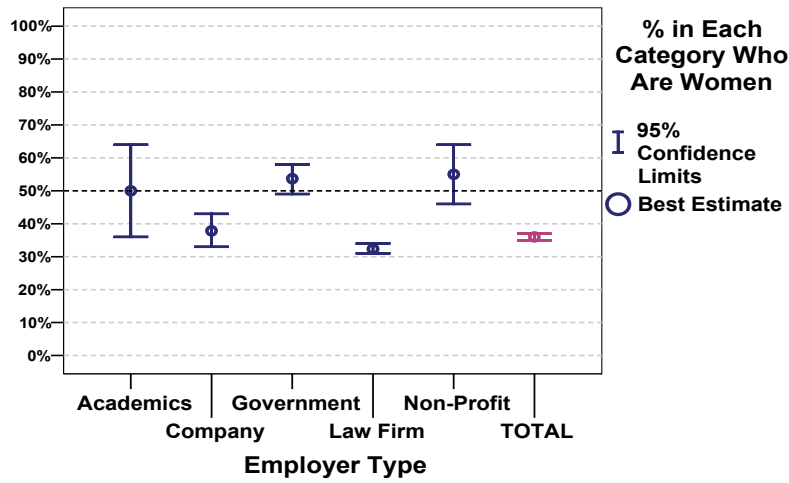
GENDER DISTRIBUTION OF ATTORNEYS AMONG EMPLOYER TYPES⁸

Women are overrepresented in Government and Non-Profits relative to their representation in the profession. Women make up approximately 36% of active working attorneys in our sample, but over 50% of the attorneys in Non-Profits and Government (excluding judges).⁹

⁸ Note that all figures under this heading are weighted estimates. 95% confidence intervals for each weighted estimate can be found in [Appendix C](#).

⁹ In our sample, women also made up approximately 50% of the attorneys working at educational institutions. However, because the margin of error for this finding is so large, no meaningful conclusions can be drawn from this finding.

Women Lawyers Are Overrepresented in Government and Non-Profit Sectors and Underrepresented in Private Practice

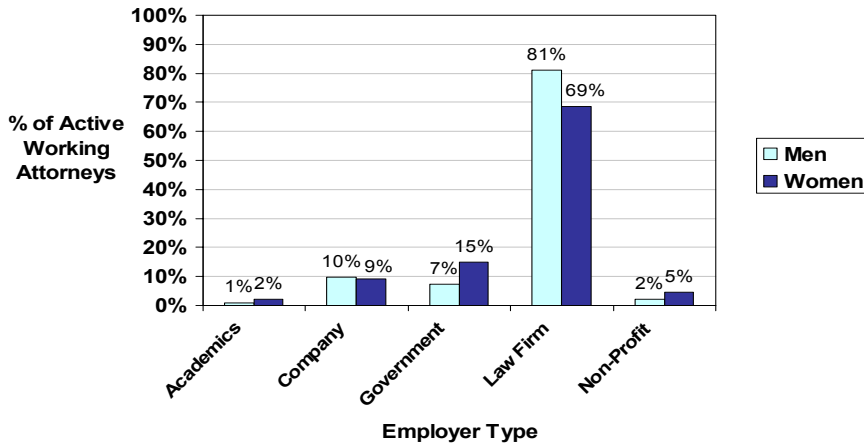


Figures are weighted estimates drawn from two datasets of active working attorneys comprising 24,587 attorneys, with data as of 2005.

Prepared by Roland Stark, Integrative Statistics

Women also appear to be underrepresented in private practice. The bar chart below shows the distribution of female and male active working attorneys among various employer types. 81% of men were found to be in private practice, with only 19% working in other employer types. In contrast, only 69% of women were found to be in private practice.

Percent of Active Working Attorneys by Employer Type Within Each Gender

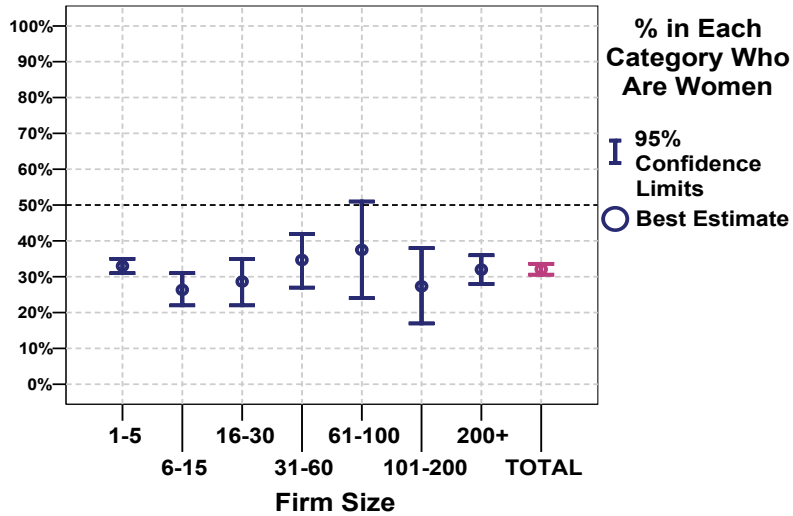


Figures are weighted estimates drawn from two datasets comprising 24,587 attorneys, with data as of 2005.

Prepared by Roland Stark, Integrative Statistics

Among law firms of various sizes, the gender distribution is not particularly striking, with nothing approaching a statistically significant difference between genders. The first graph below shows the percentage of attorneys in each law firm size found to be women. The second shows the distribution of female and male attorneys among law firms of various sizes, side by side.

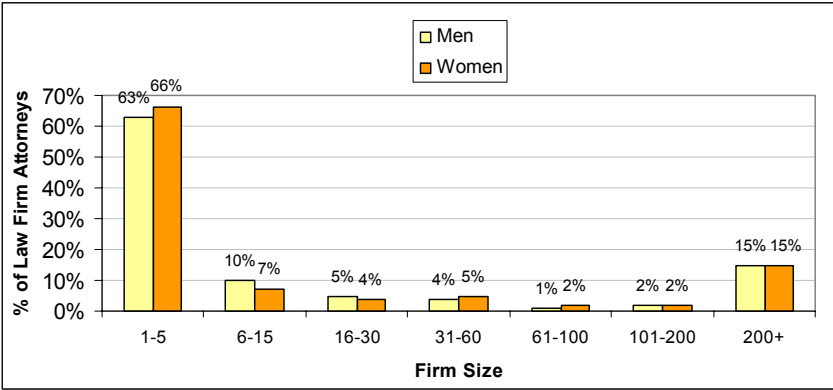
Distribution of Women Attorneys in Law Firms of Various Sizes



Figures are weighted estimates drawn from two datasets comprising 17,136 attorneys in private practice, with data as of 2005.

Prepared by Roland Stark, Integrative Statistics

Percent of Attorneys in Private Practice by Firm Size Within Each Gender



Figures are weighted estimates drawn from two datasets comprising 17,136 attorneys, with data as of 2005.
Prepared by Roland Stark, Integrative Statistics

IV. DISCUSSION

This Report is intended to be primarily descriptive. It reflects the gender distribution in various segments of the legal profession without drawing conclusions about the reasons for such distribution.

The Report's most striking finding is that women, for whatever reason, have left the legal profession in a greater proportion than men. Women make up only one-third of active attorneys, but nearly 60% of inactive attorneys. This finding could be explained by the difficulty of balancing a legal career with family obligations, by other barriers women attorneys face or by any number of other factors.

It is also significant that women are disproportionately employed in Government and Non-Profits and underrepresented in private practice. This finding raises a number of interesting questions that can be explored in the future. Do Non-Profit and Government employers have policies and practices more favorable to women than those of law firms? Do women attorneys attach greater value than male attorneys to serving the public as part of their jobs? Are some women attorneys opting-out of private practice, or are they being forced out?

Interestingly, this study has not uncovered statistically significant gender differences in the distribution of attorneys among law firms of various sizes. This in itself is significant. The conventional wisdom—that women are starkly underrepresented at large law firms and overrepresented at the smallest firms (relative to their representation in the profession, of course)—is not borne out by the results of this Report. It is possible, however, that there are more nuanced differences between men and women with respect to law firm size that were not captured by this study. For example, it is possible that women are disproportionately solo practitioners, but the firm size categories used in this Report were not narrow enough to determine that.

The Employment Issues Committee will be seeking feedback from the Massachusetts legal community regarding areas for further exploration in future studies. The Committee encourages attorneys—male or female, active or not—to share their thoughts on the reasons for the gender differences noted in this Report and areas for further study. The Committee intends to host in-person discussions regarding the Report in the near future. Feedback can also be sent to the Committee at wbaeic@gmail.com.

APPENDIX A

NOTES ON STATISTICAL METHODOLOGY

By Roland Stark, Integrative Statistics

The 24,324 attorneys in Group 1 and the 13,819 in Group 2 each presented the Committee with different data collection problems. Group 1 data were complete, but the group was clearly skewed: it contained only those individuals who chose to self-report their employer to the Board of Bar Overseers. In contrast, Group 2 data were only complete for fewer than 300 people—but these were, as described above, very nearly a random sample of the entire group. As a result, it was decided that overall estimates should be made by weighting the two groups' data in the ratio of about 1.5 to 1 in favor of Group 1.¹⁰

Group 1, with complete data, yielded exact figures, whereas the small contingent from Group 2 required an allowance for margins of error around each estimate. Margins of error, like best estimates, were narrowed to reflect this weighting.

As one example, we describe the calculation of the percent of Government attorneys who are women (15.3% ± 2.6%), from the first table in [Appendix C](#) below. Given the weights described, 15.3% represents the best estimate. Within Group 2, the fraction of Government attorneys who are women is 13/100. This proportion's standard error is, by the conventional formula,

$$s_p = \sqrt{\frac{p(1-p)}{n}} = \sqrt{\frac{.13(1-.13)}{100}} = .034.$$

Without weighting, a customary 95% confidence interval would span the range of 15.3% ± 1.96*.034 = [8.6%, 21.9%]. With weighting, this becomes narrowed to the range [12.7%, 17.9%], or 15.3% ± 2.6%.

¹⁰ The exact weights used varied by analysis, the reasons for which go beyond the scope of this Report.

APPENDIX B

ACTIVE, INACTIVE AND RETIRED STATUS BY GENDER¹¹

		Men	Women	Total
Active (2005 data)	Count	25009	13134	38143
	% within Job Status	65.6%	34.4%	100.0%
Inactive (2008 data)	Count	1313	1758	3071
	% within Job Status	42.8%	57.2%	100.0%
Retired (2008 data)	Count	2266	841	3107
	% within Job Status	72.9%	27.1%	100.0%

¹¹ The gender of attorneys was ascertained based on first name, and on internet searches and telephone calls to attorneys where necessary. There were approximately 30 inactive or retired attorneys for whom gender could not be determined, and there is some possibility that a very small number of the remaining attorneys were misclassified by gender. However, these issues almost certainly do not significantly affect the overall statistics.

APPENDIX C

BEST ESTIMATES WITH 95% CONFIDENCE INTERVALS (MARGINS OF ERROR)

Distribution of Women and Men among Employer Types

Employer Type	% of Working Active Attorneys in Employer Type by Gender		
	% of Women	% of Men	% of Total (Both Genders)
Academics	1.7% ± 0.0% ¹²	0.9% ± 0.0%	1.2% ± 0.0%
Company	9.0% ± 1.1%	9.9% ± 0.9%	9.4% ± 0.7%
Government	15.3% ± 2.6%	7.4% ± 1.4%	10.3% ± 1.3%
Law Firm	68.6% ± 3.1%	80.5% ± 1.9%	76.2% ± 1.7%
Non-Profit	4.5% ± 1.7%	2.1% ± 0.9%	3.0% ± 0.9%

¹² A zero margin of error indicates that there were no employees in the Group 2 sample who fell into this cell (Group 1 results require no margin of error). Results are based on the assumption that the 265 working attorneys represented a random sample of Group 2. See footnote 7, above.

Distribution of Women and Men among Law Firm Sizes

Law Firm Size (# of Attorneys)	Attorneys in Private Practice: % in Each Law Firm Size by Gender		
	% of Women	% of Men	% of Total
1-5	65.8% ± 2.0%	63.1% ± 1.8%	64.0% ± 1.4%
6-15	7.3% ± 0.0%	9.5% ± 1.2%	8.8% ± 0.8%
16-30	4.1% ± 0.0%	4.9% ± 0.7%	4.7% ± 0.5%
31-60	4.7% ± 1.3%	4.2% ± 0.7%	4.3% ± 0.6%
61-100	1.6% ± 0.9%	1.2% ± 0.0%	1.3% ± 0.3%
101-200	1.6% ± 0.0%	2.0% ± 0.5%	1.8% ± 0.3%
200+	15.0% ± 1.3%	15.2% ± 0.9%	15.1% ± 0.7%

Gender Breakdown within Each Employer Type

Employer Type	% Women	% Men
Academics	50.0% ± 13.7%	50.0% ± 13.7%
Company	38.1% ± 4.7%	61.9% ± 4.7%
Government	53.6% ± 4.6%	46.4% ± 4.6%
Law Firm	32.4% ± 1.6%	67.6% ± 1.6%
Non-Profit	55.0% ± 8.6%	45.0% ± 8.6%
Total Working Active Attorneys	36.0% ± 1.4%	64.0% ± 1.4%

Gender Breakdown within Each Law Firm Size

Law Firm Size (# of Attorneys)	% of Private Practice Attorneys Who Are Women	% of Private Practice Attorneys in Who Are Men
1-5	33.0% ± 1.9%	67.0% ± 1.9%
6-15	26.4% ± 4.7%	73.6% ± 4.7%
16-30	28.6% ± 6.6%	71.4% ± 6.6%
31-60	34.6% ± 7.2%	65.4% ± 7.2%
61-100	37.5% ± 13.2%	62.5% ± 13.2%
101-200	27.3% ± 10.4%	72.7% ± 10.4%
200+	31.9% ± 3.8%	68.1% ± 3.8%