

**Diversity Today:**  
**Essays on Inequality in the Modern Workplace**

By

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**Abstract**

My dissertation seeks to contribute to our understanding of how and when organizations can achieve diverse, equitable, and inclusive organizations using empirical and theoretical perspectives.

In Chapter 1, I explore the question of how organizations can hire individuals from underrepresented backgrounds. Past studies highlight a combination of demand- and supply-side constraints that create a ‘thin labor market’ for candidates from underrepresented backgrounds. Drawing on data from a 20-month ethnographic study of a fast-growth technology firm (“ShopCo,” a pseudonym), I examined ShopCo’s efforts to increase representation of racial minorities in technical positions and reveal a previously unrecognized barrier to hiring racial minorities into organizations: *repugnant market concerns*. In Chapter 2, Basima Tewfik (coauthor) and I theorize on the relationship between microaggressions and systemic prejudice. We offer a precise definition of microaggressions at work and propose how multi-level responses (i.e., target, workgroup, and organization) to microaggressions can intensify and amplify to either inhibit or facilitate organizational progress on addressing systemic prejudice. In Chapter 3, I use data from an 18-month ethnography of a public defender agency to develop grounded theory on the role of racial and economic disenfranchisement on an advocate’s ability to successfully influence a higher-power target. I found that public defenders needed to first manage the impressions of their clients – using *triadic advocacy* tactics designed to address the racial and economic barriers – before attempting to influence the more powerful district attorneys.

Thesis Supervisor: Katherine Kellogg

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**NOT PAYING FOR DIVERSITY: REPUGNANCE AND FAILURE TO CHOOSE  
LABOR MARKET PLATFORMS THAT FACILITATE HIRING RACIAL  
MINORITIES INTO TECHNICAL POSITIONS**

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**ABSTRACT**

Hiring platforms promise to aggregate qualified racial minorities and use algorithms to match available candidates with employer vacancies—thereby giving organizations racial minority “talent on demand.” As such, they are often highly sought out by organizations looking to diversify their workforce—the current market research indicates a quarter of companies use AI-based hiring tools for recruitment. In a 20-month ethnographic study, I examine how a technology firm, “ShopCo” (a pseudonym), considered 13 different hiring platforms to attract minority engineering talent. I find that when choosing to adopt hiring platforms focused on racial minority candidates, but not when choosing to adopt hiring platforms where the modal candidate on the platform is white, ShopCo decision-makers expressed distaste with the perceived (a) objectification and (b) exploitation of racial minorities; as well as (c) the specter of affirmative action that these platforms seemed to offer. These *repugnant market concerns* influenced which types of platforms ShopCo adopted to hire racial minorities. Specifically, for racial minority candidates, ShopCo eschewed hiring platforms that emphasized time, quantity, efficiency, opportunity, and compensation as benefits to candidates (market-exchange platforms—those typically used for white candidates) in favor of platforms that emphasized individuality, ethics, equity, authenticity, and commitment as benefits for candidates (developmental-exchange platforms). In doing so, ShopCo decision-makers produced the unintended consequence of concentrating racial minorities at the lower levels of the organizational hierarchy. Thus, while hiring platforms may indeed provide a path for organizational entry for racial minorities, the types of platforms most likely to benefit racial minorities are those least likely to be implemented. I consider the implications of my findings—specifically, this new demand-side constraint of *repugnant market concerns*—for organizations looking to create more diverse, equitable, and inclusive workplaces.



In the United States, some of the fastest-growing jobs in the economy are technical ones (U.S. Bureau of Labor Statistics, 2018; Funk & Parker, 2018). Growth in these technical jobs—broadly defined as computer and engineering jobs, such as computer scientists, systems analysts, software developers, information systems managers, and programmers—has consistently outpaced overall job growth. For example, the number of Americans employed in computer jobs has increased by 338% from 1990 to 2018 (Funk & Parker, 2018). Furthermore, technical jobs are recognized as “good” jobs that offer higher wages, better benefits, and more reasonable work-life balance than do other jobs (Osterman, 2017). Yet, access to these good jobs is not universal. For example, while African-Americans make up 11 percent of the overall workforce in the United States, they represent only 9 percent of all technical workers; similarly, Hispanics make up 16 percent of all U.S. workers, but only 7 percent of technical workers (Funk & Parker, 2018). The picture is even starker when you look at Silicon Valley technology companies. At Facebook, for example, African-Americans make up just 2 percent and Hispanics 4 percent of all technical workers at the company (Facebook, 2018). Understanding how and when organizations can hire racial minorities for these high-growth, high-wage technical jobs is an important step towards addressing organizational inequality.

The literature on organizational inequality related to hiring outlines a series of demand- and supply-side constraints that make it difficult to achieve proportional racial representation within organizations. Scholars summarize demand-side constraints as stemming from employers’ discriminatory or biased preferences (Becker 1957; Correll, Benard, & Paik, 2007; Leslie, Mayer, & Kravitz, 2014). These studies suggest that organizational equality is achieved when employers implement accountability, resource, and non-discrimination practices to ensure

inclusive recruitment and hiring (Kalev, Kelly, & Dobbin, 2006; Herdman & McMillan-Capehart, 2010; Kaiser, et al., 2013). Scholars summarize supply-side constraints as stemming from racial minorities' choices that lead them to sort out, leak out, and lean out of the pipeline (Reskin & Roos, 1990; Walton, et al., 2015; Brands & Fernandez-Mateo, 2017). This literature suggests that supply-side constraints may be addressed by widening the pipeline through active recruitment and outreach to create more diverse, balanced candidate pools for employment opportunities (Rubineau & Fernandez, 2015; Fernandez & Campero, 2017).

This research also suggests that labor-market intermediaries (LMIs) that 'thicken' the pool of available racial minority candidates can allow organizations to increase their hiring of racial minorities to address their underrepresentation in high-growth, high-wage technical jobs (Autor, 2009; Fernandez, 2012; Bonet, Cappelli, & Hamori, 2013). These LMI platforms can provide 'talent on-demand' by serving as matchmakers and information providers that operate between the individual worker and the employer. Traditional (non-platform) LMIs use human recruiters to conduct extensive searches and vet the quality of candidates to help employers hire candidates while reducing the time and effort spent by internal recruiters (Finlay & Coverdill, 2007; Bonet & Hamori, 2017). Yet, organizational inequality scholars document how these human-based LMIs can distort the labor market by replicating demand-side processes that lead to the under-representation of racial minorities (Bielby & Bielby, 1999; Dreher, Lee, & Clerkin, 2011; Fernandez-Mateo & King, 2011).

New advancements in technologies have facilitated the development of LMI 'platforms,' which use artificial intelligence-based (AI-based) algorithms to help organizations hire quickly. These platforms aggregate qualified, available candidates, and then work with hiring organizations to provide such talent 'on demand.' Importantly, these LMIs promise to overcome

the reintroduction of demand-side constraints by using AI—rather than human recruiters—to match candidates to open positions. The use of AI, rather than human recruiters, has the potential to help reduce employers’ discriminatory or biased preferences (Levy & Barocas, 2018; Lehdonvirta, et al., 2019; Kellogg, Valentine, & Christin, 2020). Thus, LMI platforms specifically focused on racial minorities may help to address the under-representation of racial minorities in high-growth, high-wage technical jobs in organizations by correcting labor market inefficiencies (e.g. supply-side constraints) and distortions (e.g. demand-side constraints) to allow organizations to more effectively hire racial minorities for these jobs (Ajunwa & Greene, 2019).

Yet, missing from these accounts is the fact that organizations may not adopt LMI platforms focused specifically on helping organizations hire racial minorities. In fact, previous research has documented how tensions and anxieties emerge during discussions of race in the workplace (Ely & Thomas, 2001; Bonilla-Silva, 2003; Bell & Hartmann, 2007). The literature on repugnant markets helps us understand that one potential barrier to organizations adopting LMI platforms to hire racial minorities for high-growth, high-wage technical jobs is that labor market platforms focused specifically on candidate race may be taboo products. Scholars in this literature have previously documented how some products in society (e.g., life insurance when it was first introduced) are viewed as ‘taboo’ to commercialize (e.g. Zelizer, 1978, 1981; Roth, 2007), and how consumers initially resisted products that threaten the commercialization of intimate life, such as life insurance (Zelizer, 1978, 1981), cadavers (Anteby, 2010), organs (Healy, 2006), eggs and sperm (Almeling, 2007), and motherhood products (Turco, 2012). More generally, the literature on repugnant markets documents how a “distaste for certain kinds of transactions,” (Roth, 2007) can constrain the creation of markets.

In this paper, I draw on data from my ethnographic study of ‘ShopCo’ (a pseudonym), a fast-growth technology company, to demonstrate that some employers view labor market platforms focused specifically on candidate race as a taboo product and resist its commercialization. Because of this, organizational decision-makers may fail to adopt LMI platforms that could allow them to hire more racial minorities for high-growth, high-wage technical jobs. ShopCo had low levels of racial representation in its technical roles (e.g. product and engineering) and was attempting to address this organizational inequality through the adoption of LMI platforms. However, because of decision-makers’ concerns about such minority-focused LMI platforms as a repugnant market—characterized by the objectification and exploitation of racial minority candidates, and the specter of affirmative action—they unintentionally failed to adopt LMI platforms that could have helped them thicken the labor market for hiring racial minority candidates into technical positions.

### **Sources of Organizational Inequality in the Hiring Process**

While studies of organizational inequality have long shown how organizations fail to address organizational inequality due to a lack of organizational commitment and will (e.g. Edelman, et al., 1991; Dobbin, et al., 2015), recent scholarship has started to focus on the voluntary actions of ‘well-intentioned’ organizations to address organizational inequality. These researchers argue scholars should not be surprised that diversity initiatives adopted by uncommitted actors fail to achieve organizational equality. Instead, they suggest, researchers should focus their attention on why diversity initiatives fail to achieve their desired outcomes even when actors *are well-intentioned* (Cardador, 2017; Correll, 2017; Dobbin & Kalev, 2017; Padavic, Ely, & Reid, 2019).

Two streams of literature have examined how organizational inequality can be addressed during the hiring process within well-intentioned organizations. The first looks at subtly biased

or discriminatory preferences held by employers and suggests policies and practices to help prevent these conscious or unconscious biases from entering into the decision-making process (Kalev, Kelly, & Dobbin, 2006; Herdman & McMillan-Capehart, 2010; Kaiser, et al., 2013). For example, ‘scorecards’ can be a useful organizational tool for ensuring consistent evaluation of candidates (Correll, 2017). Scorecards lay out the evaluation criteria for a position *a priori* and help evaluators apply these criteria consistently across every candidate for the position. In this way, scorecards help prevent the ‘shifting goal posts’ phenomenon whereby hiring committees scrutinize marginalized group members’ qualifications and implicitly assume that dominant group members hold the qualifications based on proxies (e.g. Rivera, 2012).

The second stream of research looks at how to widen the pipeline and ‘thicken’ the labor market of available underrepresented group members. This literature suggests practices such as social belonging interventions (e.g. Walton & Cohen, 2011; Seron, et al., 2015; Walton, et al., 2015), expanding the definition of the prototypical worker (e.g. Wynn & Correll, 2017, 2018; Danbold & Bendersky, 2020), and using labor-market intermediaries (LMIs) (e.g. Parry & Wilson, 2008; Bonet & Hamori, 2017; Fernandez & Campero, 2017). These LMIs (1) provide information about candidates to employers and information about vacancies to candidates, and (2) recruit, select, and present “qualified” candidates to employers.

But, adopting general LMIs may not allow organizations to hire racial minorities because of how these platforms can ‘distort’ candidate pools (Fernandez & Mors, 2008; Dreher, et al., 2011; Fernandez-Mateo & King, 2011). In particular, LMI platforms can replicate, reproduce, and reify the demand-side biases they are meant to counteract by (1) limiting access to the pool of underrepresented group members, or (2) underutilizing members of the pool (Rubineau & Fernandez, 2013; Fernandez-Mateo & Fernandez, 2016; Abraham, 2020). For example,

Fernandez-Mateo and Fernandez (2016) utilize a unique dataset to conduct step-wise analyses of the search, interview, and hiring process. Through these analyses, they disentangle demand- and supply-constraints on the representation of women in top management jobs at different stages of the process. Although many of their analyses show that women's own 'self-steering' behavior—or anticipatory sorting—can account for the underrepresentation, they also find that the search firm disadvantages women, relative to men, in deciding whom to interview after conducting a search. Similarly, in her study of network referrals and resource exchange, Abraham (2020) documented how the perceptions of the third party affected whether women were referred for opportunities. In particular, the study shows that for male-typed occupations, when the referrer believed that a potential new client could prefer men (even in the absence of information about explicit gender-based bias), they were less likely to refer women or to give them access to resources. In this way, the intermediary was 'distorting' the pool by underutilizing members of the pool.

As noted earlier, AI-based LMI platforms present a promising new direction for addressing demand- and supply-side constraints to hiring racial minorities into organizations. Employers and scholars are paying increased attention to addressing the under-representation of racial minorities in technical positions (e.g. The New York Times Editorial Board, 2014; Bogost, 2019; Dickey, 2019) and to the rise of these new LMI platforms that have the potential to correct labor market inefficiencies and distortions (e.g. Ingold & Valizade, 2017). What scholars have not explained well, however, is why organizations do not always adopt LMI platforms to facilitate the hiring of racial minorities for high-growth, high-wage technical jobs. In this paper, I demonstrate that the answer may lie in organizational decision-makers' views that some products in society are 'taboo' to commercialize (e.g. Zelizer, 1978, 1981; Roth, 2007).

## Repugnance as a Constraint on Markets

The literature on repugnant markets helps us understand that one potential barrier to organizations adopting LMI platforms to hire racial minorities for high-growth, high-wage technical jobs is that labor market platforms focused specifically on candidate race may be taboo products. Scholars of repugnant markets have documented how a “distaste for certain kinds of transactions” (Roth, 2007), can serve as a constraint on the creation of markets (e.g. Zelizer, 1978; Almeling, 2007; Anteby, 2010). For example, Zelizer’s study (1978) on the creation of life insurance demonstrated that, during the early nineteenth century, society found it morally repugnant to place a financial value on a human life. This repugnance limited the spread and adoption of life insurance as a product. Life insurance only gained traction starting in the mid-nineteenth century when organizations selling it reframed the product in non-financial terms. These organizations presented life insurance as not about a financial return on a human’s death, but rather, about establishing a comfort for families dealing with grief, a way to ensure a family’s future well-being, and a way to help a family avoid financial hardship.

Similarly, Almeling (2007), in her study on the commercialization of sperm and egg donation found that market-based transactions were acceptable in one instance (sperm donation), but not another (egg donation). Decision-makers at donation centers found it morally repugnant to place a financial value on eggs but not on sperm, because of gender-based stereotypes of motherhood and fatherhood. Drawing on society’s gender-based stereotype that motherhood is an intrinsic good and its own reward, decision-makers at donation centers accepted egg donors who demonstrated an altruistic approach to the transaction (e.g. described their desire to donate their eggs as linked to “gift-giving”). Even though egg donors *were* compensated financially (on average \$4,200 at the time of her study), if women displayed a financial motivation for egg

donation (e.g. described their desire to donate their eggs as linked to their need to pay bills), they were rejected as potential donors. In contrast, decision-makers at donation centers accepted sperm donors who displayed a financial motivation for sperm donation, as this did not counter any societal narrative about fatherhood or paternity.

In this paper, I demonstrate how markets for racial minorities can represent a repugnant market for organizational decision-makers. When choosing to adopt LMI platforms focused on racial minority candidates, but not when choosing to adopt LMI platforms where the modal candidate on the platform is white, managers may exhibit concerns about issues of (1) objectification; (2) exploitation; and (3) the specter of affirmative action. These concerns, in turn, can lead decision-makers to draw from two distinct relational packages as they make LMI platform adoption decisions, which may lead decision-makers to reject LMI platforms that could help them thicken the labor market for hiring racial minority candidates into technical positions.

## **METHODS**

I conducted a 20-month ethnographic study of ShopCo's efforts to increase the representation of racial minorities in their 'top-of-funnel' hiring for technical positions. This meant that for every open technical position, ShopCo sought to create a diverse slate of candidates at the beginning of the process (top-of-funnel) who would then compete for the job.

### **Context**

ShopCo is a fast-growth technology company that operates an online marketplace that connects consumers and producers. Technical roles at ShopCo are in the product and engineering divisions ('technology department'). The technology department at ShopCo was 22 percent of the company's overall workforce and was constantly hiring technical talent, with many software



engineering roles always open and accepting inbound applications. In addition to these perennially open roles, ShopCo also posted approximately fifteen new open technical positions each quarter and hired about 11 people each quarter for these open positions.

ShopCo was what scholars of organizational inequality would call a “well-intentioned company.” In 2016 (before the start of my study), ShopCo participated voluntarily in the Obama Administration Tech Inclusion Pledge, which asked signatories to collect and publicly report data on their employee demographics. One ShopCo employee who helped sign up the company explained, “Diversity helps us. Why would we turn our backs on all that talent?” More generally, ShopCo decision-makers had a learning-and-integration approach to diversity (Ely & Thomas, 2001) and described diversity and inclusion (D&I) initiatives based on a mixture of the ‘business case’ for diversity and the belief that increasing D&I was the morally right thing to do. In one succinct quote explaining the rationale, the CEO of ShopCo said to me, “a diverse workplace that comprises people with unique attributes, backgrounds, and ideas is good for business. Plus, [pause] it’s the right thing to do.” The results from the first survey of employee demographics (2016) indicated that ShopCo’s overall workforce was 82 percent white and 18 percent racial minority (2 percent African-American, 3 percent Hispanic, 5 percent Asian-American, and 8 percent multi-racial). While this survey was voluntary, and therefore only reflected the employees who opted to take the survey and disclosed their race, the results were still meaningful for guiding ShopCo’s management of D&I.

After conducting this survey, ShopCo actively tracked its progress on D&I by bi-annually collecting data on its employees’ demographics and experiences. It published each diversity survey on an internal blogpost and analyzed the results to determine the next steps to address employee questions or concerns raised in the survey. For example, multiple comments in the

spring 2018 diversity survey asked the company what it was doing to increase the number of diverse employees at ShopCo. These questions pushed ShopCo to commit on its internal blog post to answering where it was finding diverse applicants, and how it was proactively connecting with a diverse applicant pool.

Beginning in September 2018 (the start of my study), ShopCo started exploring ways to increase the representation of underrepresented minorities in its 'top-of-funnel' hiring for technical positions. In one example from my field notes, a technical recruiter explained to the hiring managers in the Technology department,

There's a lot of the same type of candidates [e.g. white males] coming in [for interviews] and we're trying to have it balanced...we need to make sure that there are diverse candidates in the hiring pool, and [then] it's about letting the process yield the best candidate for the role, *but* making sure that the top of the funnel is reflective of the rest of the world.

In another example, a director in the Technology department approached the director of D&I and shared his concerns that the slate of candidates being considered for the role "look(ed) off," referring to the fact that all the candidates at the top-of-funnel were white males. They then approached the technical recruiting team to see what additional measures could be taken to help source diverse talent for this technical role.

Recruiters recognized that they could not address top-of-funnel issues themselves and that their traditional methods of recruiting candidates were insufficient for creating large pools of racial minority candidates. The head of talent said,

From the talent side, our MO is sourcing with intention and making sure we have a reflective candidate pool from the start. But that doesn't mean that the sourcing efforts to get diversity in top-of-funnel always works out. [When you think about] people who are underrepresented in (our city), in (our city's) tech scene, in (our city's) tech scene engineering roles, [it's a thin market].

In one observation of a recruitment effort, a recruiter showed me how she tried to source racial minority candidates on a job board using keyword searches that included ShopCo's technical

languages, desired years of experience, and a filter for “diversity.” The search only yielded 30 potential candidates. Finally, in a talent team meeting to discuss ‘top-of-funnel’ strategies, a D&I manager said,

We realize that we’re having a challenge hiring a lot of engineers and tech is by far our least diverse department. Least [diverse in terms of] gender, least in race and ethnicity, least in sexual orientation. (Technology) is not the diverse department we would like them to be. This is a double challenge because (technical roles are) hard to hire [in general] and they’re the least diverse.

At the same time that ShopCo wanted more diverse candidates for its technical roles, it still needed to hire technical talent for its open positions *quickly*. As one technical recruiter at ShopCo described it, “because of the market for software engineers in particular, the longer the candidate is in each stage (of the hiring pipeline), the more likely we are to lose that candidate (to another company).”

In the past, ShopCo had used LMI platforms to recruit engineering candidates. ShopCo decision-makers viewed LMIs as useful tools for addressing dynamics in the thin labor market for technical roles because the LMIs could *quickly* identify, screen, and reach out to candidates. In one talent team meeting I observed, the head of talent explained,

The best way to (source engineering talent) is to cast a wide net and use all your resources... We work with (LMIs) on a contingency basis, so we only pay them if they find us somebody that we hire... (LMIs) help you cross that first bridge, they help you talk to the candidates. And then the (LMIs) get their fee, which is [usually] 25% of the salary.

However, ShopCo’s talent team recognized that it would not work to just ask traditional LMI platforms to help them find racial minority candidates. As the head of technical recruiting explained to me,

To be non-PC about it, [an LMI] can find ten white dudes in the time it would take to find two diverse candidates. Right? If that candidate happens to be diverse, [the LMI] can send them to us. If not [the candidate isn’t diverse], [the LMI] has ten other companies they can send (the candidate) to and get paid. So, we have those conversations [with LMI platforms about targeting racial minority talent] and all that will do is drop us down their priority list and we’ll see less candidates from them, which is the unfortunate thing.

Traditional LMI platforms had competing demands on their time and resources. If its search process yielded traditional engineering candidates (e.g. white males), the LMI had multiple client companies it could send those candidates to. Given this, ShopCo's requests for specialized searches focused on diversity (which generally took longer to perform) frequently went unaddressed. As a result, ShopCo turned to LMI platforms specifically focused on racial minority candidates to help ensure that their technical positions had a diverse slate of candidates for each role.

### **Data Collection**

I spent a total of 20 months in the field and collected data in three phases. Phase one was my preliminary four months of fieldwork. During this time, I averaged 35 hours/week at my field site. I sat with ShopCo's talent team and attended their weekly team meetings. I also attended 'ride alongs' to learn about the work of employees in other departments; 'lunch and learns,' where different employees discussed a ShopCo product or project their team was working on; employee resource group meetings focused on D&I at ShopCo; and happy hours and outings. This time in the field helped orient my understanding of ShopCo as a "well-intentioned company" that nonetheless struggled to achieve proportional racial representation within the organization. During phase two, I averaged 30 hours/week at my field site. I was still embedded with the talent team but also spent time observing members from the technology department. Phase two of my data collection lasted one year and focused on members from both the technology and talent departments. As I will describe below, during this time, I tested and rejected existing explanations for ShopCo's lack of racial representation in technical positions, and began to see that, when choosing to adopt LMI platforms (or not), ShopCo decision-makers

seemed to be concerned about issues of objectification, exploitation, and the specter of affirmative action. Finally, in phase three (four months), I was in the field an average of 20 hrs/week. I used this time to refine my emerging theory by interviewing and observing ShopCo talent team and technology department members.

Data for this paper come primarily from my observation of AI-based LMI platform ‘demos’ of their hiring products (LMI platforms), de-briefs between technical recruiters and hiring managers in the technology department on whether or not to adopt the LMI platform, and interviews with technical recruiters and hiring managers about the LMI platform and the challenges associated with using it to hire racial minorities for technical positions. I have observational and retrospective data on ShopCo’s selection processes for 13 LMI platforms. I directly observed the selection processes for 10 of these LMI platforms and collected retrospective data on three of them. For each LMI platform, I drew upon data from three data sources—observations of the demo and debriefs of it, informal interviews with technical recruiters and hiring managers, and archival material from each LMI’s website and marketing materials (see **Table 1** for a summary of data).

A typical demo began when an LMI reached out to a D&I manager at ShopCo about its product. The D&I manager then scheduled a meeting for the LMI sales associate to demonstrate its product. AI-based LMIs worked by using algorithms to match candidates on the platform with an employer’s open position. Typically, the initial demo was attended by the D&I manager and a technical recruiter and lasted one hour. During the demo, the LMI sales associate walked the participants through the platform, highlighting the platform’s functionality and data analyses. The sales associate discussed the number of candidates on the platform, the demographics of the candidates, the skills and coding languages of candidates, the typical ‘placement rate’ (e.g.

selected for an interview, offered a position, etc.), and other data analytics facilitated by the platform. Finally, the sales associate discussed the cost of the LMI platform, which included a contingency fee option.

After each demo, the sales associate departed, and the ShopCo D&I manager and technical recruiter debriefed for approximately 30 minutes about the LMI platform. During the debrief, they discussed whether the LMI platform should be reviewed by additional ShopCo employees. In 12 of the 13 cases, ShopCo invited the LMI to give another demo. In these cases, the head of Talent, the head of technical recruiting, and a hiring manager from the technology department attended the second demo. This second demo also lasted one hour. After the second-round demo, the head of Talent, head of technical recruiting, hiring manager, D&I manager, and technical recruiter debriefed on the LMI platform and decided whether or not to adopt the platform. This process usually unfolded over many days. The team held an initial 30 minute to one-hour debrief session. Oftentimes, the team came up with new questions for the LMI sales associate. The questions were usually answered over email between the ShopCo talent team member and the LMI sales associate. Team members continued to schedule meetings and meet to discuss the LMI platform until a consensus was reached on whether or not to adopt the platform.

-----INSERT TABLE 1 HERE -----

### **Inductive Data Analysis**

My inductive data analysis (Glaser & Strauss, 1967; Strauss & Corbin, 1990) consisted of reading my field and interview notes multiple times, writing analytical memos, and tracking rhetoric and action related to recruitment for technical positions over time. Analysis occurred in three phases. In phase one, I analyzed and categorized ShopCo employees' diversity and

inclusion sentiments. I used data from ShopCo's bi-annual D&I survey, as well as transcripts from 100 interviews with employees across the company, to examine *how* ShopCo employees thought about D&I, its value in the workplace, and the challenges associated with achieving a diverse and inclusive workplace.

In the second phase of analysis, I returned to my data to understand *why* ShopCo, as a well-intentioned company with genuine commitment, was struggling to achieve its organizational diversity goals. As my first phase of analysis allowed me to rule out some of the existing explanations for ShopCo's failure to achieve organizational diversity goals (e.g. lack of commitment or only ceremonial actions), I sought to find a new explanation. During this phase of analysis, I discovered a surprising puzzle in my LMI platform data. While ShopCo employees articulated how difficult it was to find and source high-quality racial minority candidates, I observed multiple instances of ShopCo rejecting LMI platforms that could have filled this need. After discovering this puzzle, I started the third phase of analysis to understand why ShopCo was adopting some LMI platforms, but not others.

In the third phase of analysis, I sought to understand when and how ShopCo decision-makers were adopting (or not) LMI platforms focused on racial minority hiring. I constructed narrative summaries for each LMI that focused on (1) *what* was talked about in the demos and de-briefs (construction); (2) *how* it was talked about (discursive strategies); and (3) with *what consequences* (action orientation; e.g., adoption of the LMI platform or not) (Willig, 2014). I iteratively compared and contrasted my codes across my cases and uncovered two key findings that formed the core of my account for the selection or rejection of an LMI platform focused on racial minority hiring.

In this third phase of analysis, I first conducted a *between* analysis of the narrative summaries of each LMI platform and its adoption outcome. I compared LMI platforms where the modal candidate on the platform was white with LMI platforms where the modal candidate on the platform was a racial minority (see **Table 1** for a breakdown of LMI platforms by modal candidate race). This analysis led me to produce a market-based typology of adopted LMI platforms where the modal candidate on the platform was white. My *between* analysis revealed that a market-based logic, rhetoric, and practices were acceptable in one instance (LMI platforms where the modal candidate on the platform was white), but not in another (LMI platforms focused on racial minorities). Then, I used analytic induction (Katz, 2001) to conduct *within* analyses. I compared and contrasted LMI platforms focused on hiring racial minority candidates in which platforms were similar in terms of price, quality, and track record, but had different outcomes (e.g., one was adopted and the other was not). Thirdly, I traced the narratives on adoption (or not) of LMI platforms for racial minority candidates and found that they centered on three themes: (1) objectification, (2) exploitation, and (3) the specter of affirmative action. These themes, which ShopCo decision-makers viewed as repugnant, were raised in all nine cases in my dataset where the LMI platform focused on racial minority candidates. However, in five of these nine cases, the LMI platform sales representative was able to overcome these concerns. Finally, in order to understand *how* some LMIs were overcoming these repugnance concerns, I focused on the logic, rhetoric, and practices emphasized in the three main phases of hiring conducted by the platforms: (1) sourcing, (2) screening, and (3) outreach.

These analyses led me to produce “relational packages” that supported different types of relationships between ShopCo and the candidate, based on candidate race. Relational packages provide the logic, rhetoric, and practices for how individuals approach social interaction. In this



way, relational packages provide an infrastructure—or “definition of the situation” (Goffman 1959)— to interactions and help individuals categorize social relations (Barley, 1990, 2015; Mear, 2015); for example as personal, commercial, familial, and others. However, as scholars have documented, the definition of the relationship and the means of interaction need to match for the interaction to be sustained (Goffman, 1959; Fiske & Tetlock, 1997; Nelson & Barley, 1997). For example, Mears (2015) documented how women working at VIP lounges viewed their labor as ‘leisure,’ and how the club promoters reinforced this definition of the interaction throughout the women's recruitment, mobilization, and work at the VIP lounges by drawing on a friendship relational package. As such, women worked at the VIP lounge because it was ‘fun’ and as a favor to a (club promoter) friend, not because it was their job. Importantly, Mears found that when club promoters approached the interaction as employment (rather than leisure) by directly paying women, the interaction broke down and the women would not work. Similarly, Barley (2015) outlined how the internet changed the role-relationship between customers and salesmen. In particular, the internet provided the customer with an independent source of information that changed how the salesmen needed to behave (e.g. practices) to sustain the relationship and sell a vehicle.

The literature on relational packages establishes that there are distinct understandings, discourses, and practices within social relations (e.g. market-based, friendship-based, etc.) that reinforce the relationship, thereby facilitating different kinds of exchanges (Barley, 1990, 2015; Mears, 2015; Zelizer 2012). I used this literature to construct a market-exchange relational package for white candidates and a developmental relational package for racial minority candidates. A market-exchange relational package is an employee-employer role-relationship; the rhetoric emphasizes time, quantity, efficiency, opportunity, and compensation; and the

practices underscore a financial relationship between ShopCo and the candidate. A developmental relational package is a beneficiary-benefactor role-relationship; the rhetoric emphasizes individuality, ethics, equity, authenticity, and commitment; and the practices reflect a triple-bottom-line logic (e.g. a business decision that is good for profits, employees, and society) that supports a developmental relationship between ShopCo and the candidate (See **Table 2** for a description of relational packages).

-----INSERT TABLE 2 HERE -----

## **FINDINGS**

### **Variation in Adoption Outcomes Across LMI Platforms**

ShopCo explored the adoption of 13 different LMI platforms to help it quickly source, screen, and reach out to potential candidates for its open technical positions. A technical recruiter at ShopCo described the labor market for technical candidates as “challenging, because (with engineers) *everyone* is after them. So, sometimes (engineering candidates) won’t even respond to you.” Indeed, in my interviews and observations, the Talent team and Technology department at ShopCo would often lament the tight labor market for candidates in technical roles. This was true whether ShopCo managers were talking about traditional, white male engineering candidates or racial minority engineering candidates. One technical recruiter shared, “it’s so hard to find diverse talent...we don’t have a lot of minority women (in engineering)...they’re unicorns.” Given the thin labor market for engineers, ShopCo managers had to find ways to be competitive in the labor market. In general, ShopCo managers competed for engineers using a market-exchange logic. For example, a director in the Technology department described how ShopCo’s starting salaries for different technical roles had changed over the years, “We just made a 40

percent salary increase for Principal Software Engineer roles. That’s due to supply and demand. There is more demand for software engineers than there are (engineers) available.”

ShopCo described the problem (a thin labor market for technical roles) and the potential solution (LMI platforms) using a market-exchange logic. It is not surprising then, that ShopCo adopted LMI platforms that reflected a *market-exchange relational package*. A market-exchange relational package is an employee-employer role-relationship; the rhetoric emphasizes time, quantity, efficiency, opportunity, and compensation; and the practices underscore a financial relationship between ShopCo and the candidate (See **Table 2** for a description of relational packages).

I have eight cases of LMI platforms that use a market-exchange relational package in my dataset. These platforms were matched in terms of price (contingency fee model), quality (candidate credentials and placement statistics), and purpose (thicken a thin labor market). And yet, ShopCo only adopted four of these platforms.

How do I explain this variation in outcomes? I leverage the candidate race of the modal candidate on each platform to explain this variation in adoption outcomes. As **Figure 1** depicts, ShopCo managers adopted LMI platforms where the modal candidate on the platform was white when it used a market-exchange relational package, and it rejected LMI platforms where the modal candidate on the platform was a racial minority when it used a market-exchange relational package. As I describe in the next section, LMI platforms focused on racial minority candidates that used a market-exchange relational package raised the concern of a *repugnant market*.

-----INSERT FIGURE 1 HERE -----

### **Explaining Variation in Adoption Across Platforms: Repugnant Market Concerns**

ShopCo decision-makers considered LMI platforms focused specifically on candidate race to be taboo products. I observed multiple instances of decision-makers at ShopCo exhibiting a distaste for these kinds of LMIs, which served as a constraint on their adoption. During the process of choosing to adopt an LMI platform or not, decision-makers revealed that they found it morally repugnant to emphasize an explicit financial relationship between ShopCo and racial minority candidates. This repugnance limited the adoption of LMI platforms focused on racial minority candidates when salespeople used a market-exchange relational package. Market-exchange relational packages were acceptable in one instance (LMI platforms where the modal candidate on the platform was white), but not another (LMI platforms focused on racial minority candidates).

When the modal candidate on the platform was white (four platforms in my dataset), decision-makers at ShopCo accepted salespeople doing demos that displayed a financial relationship with recruited candidates, as this did not raise any repugnant market concerns. That is because, for white candidates, ShopCo managers drew from a relational package based on a *market-exchange relationship* between the white candidate and ShopCo. As explained earlier, a market-exchange relational package is an employee-employer role-relationship in which the logic, rhetoric, and practices emphasized a financial relationship between ShopCo and the candidate (See **Table 2**).

An example of a market-exchange relationship with white candidates occurred during a conversation on technical recruiting at ShopCo. During this exchange, the head of talent admitted:

With engineers, sometimes we know we're paying them over market because we want to attract top talent. But also, because we want to keep them. We're willing to pay a little bit extra to keep them happy.

During a de-brief for an adopted LMI where the modal candidate on the platform was white (Platform A2) the head of talent explained,

The time that you're saving your team from going out there and continuing to dig and dig and dig (for engineering candidates), where an (LMI) can do some of that work for you? [Pause] The return on investment that getting that engineer in the door a month sooner, two months sooner. The contribution that the person will give in that [saved] time, where otherwise you may still be looking for them. [Pause] It far outweighs the LMI fee that we just paid.

As this exchange demonstrates, ShopCo decision-makers were comfortable paying 'headhunting' fees to LMIs when the modal candidate on the platform was white (reflecting a financial relationship), as this practice aligned with a market-exchange relational package. In contrast, when salespeople doing demos for LMI platforms focused on racial minorities displayed a financial relationship with recruited racial minority candidates, ShopCo decision-makers chose not to adopt those platforms—even though LMIs focused on racial minority candidates were compensated similarly to LMIs where the modal candidate on the platform was white (on average 10-25% of the hired candidate's salary, see **Table 1** for a comparison of LMI platforms). Decision-makers were uncomfortable when LMIs focused on *racial minority candidates* used a market-exchange relational package. For example, in one general statement describing these rejected LMIs, a D&I manager said,

It's like an Indeed [an online job board], but it has diverse candidates (on it) instead. Like, you can go on there and *shop* for diverse candidates, which sounds terrible... You're paying a membership fee to get these (racial minority) candidates.

When she described the platform, the D&I manager put air quotes around the word “shop” and made a face like she was disgusted with the concept. Similarly, an engineering manager described these platforms as,

They say, ‘we’ll help you increase your diversity candidates,’ and then you go on their platform, you pay them money, and they send you candidates that they consider diverse... But I struggle with that because it doesn't seem super good, or [pause] the right way to do things.

ShopCo rejected a market-exchange relationship with racial minority candidates because it represented a *repugnant market*. As the next section will demonstrate, decision-makers exhibited concerns about issues of objectification, the specter of affirmative action, and exploitation when choosing to adopt LMI platforms focused on racial minority candidates, but not when choosing to adopt LMI platforms where the modal candidate on the platform was white. This, in turn, led decision-makers to reject LMI platforms that could have helped them thicken the labor market for hiring racial minority candidates into technical positions. I observed decision-makers do this across LMI platforms when evaluating the platform's processes for the three phases of hiring: (1) sourcing, (2) screening, and (3) outreach (See **Figure 1** for a depiction of the process).

### **Sourcing: Identifying candidates**

One common task between white and racial minority candidates in the sourcing phase at ShopCo was identifying candidates. ShopCo recruiters wanted LMI platforms to actively search for candidates for their open positions, rather than relying solely on 'inbound' applications. As the head of technical recruiting shared, "The caliber of engineer we look for is not (applying online). They're either pretty happily employed and we have to pry them out [of their current place of employment], or they're going through their network of people [to learn about opportunities]."

ShopCo recruiters also wanted to make sure that sourced candidates from LMI platforms were 'warm leads,' meaning the candidate was interested in new opportunities and open to recruitment. In one observation of a technical sourcing effort, the recruiter shared, "I usually go for people who are open to opportunities, but not everyone has that on (their profile), especially *the right people*."

While ShopCo found market-exchange relational packages characterized by time and efficiency acceptable for sourcing white candidates, the market-exchange relational package was

a relational mismatch for racial minority candidates. Regarding the sourcing phase of hiring, ShopCo decision-makers' concern with *objectification* made market-exchange relationships with racial minority candidates repugnant (See **Table 3** for additional examples of repugnant market concerns).

**Sourcing white candidates using a market-exchange relational package was acceptable to ShopCo decision-makers.** When the modal candidate in the sourcing phase was white, decision-makers drew on a market-exchange relational package that emphasized time (theirs and the candidate's), quantity (yielding large numbers of potential applicants), and used the practice of keyword searches. For example, as is shown in my fieldnotes of a recruiter building an initial list of candidates for a software engineering role:

“The way that I usually find people is through keyword searches.” The recruiter then types the keyword terms “software engineer,” “web developer,” “(City) area.” The recruiter said, “and then (I include) the coding language [we use at ShopCo], like Ruby or React, and sometimes I include technologies that we use.” This process yielded 500 potential candidates.

In another example of sourcing practices that emphasized time, a ShopCo recruiter debriefed with the talent team about a phone call with a potential applicant that was cut short, as indicated in my field notes:

“Well, that was a quick call! The salary was too low (for the candidate).” The lead recruiter replies, “Well, it’s better to get that out of the way quickly than to drag (the candidate) along.” The recruiter agrees and says, “Yeah. I like to tell (candidates) right away [about salary] so that if it’s not a good fit, we don’t waste each other’s time.”

In the sourcing phase, consistent with a market-exchange relational package, ShopCo managers adopted LMIs when the salespeople emphasized *time* and *quantity*. For example, a salesperson for Platform A1 (an adopted LMI) described the product as “data driven” and provided placement statistics such as “two-hour response time to a first contact message” and “four days is the average time from (the hiring company) sign-up to a first-round interview (with a Platform

A1 candidate).” Similarly, during an interview about Platform A4 (an adopted LMI), the head of technical recruiting said to me,

Within two weeks we had made our first hire... We were able to save a lot of time and effort in digging and getting the word out about ShopCo ... We may have dug (ourselves) for a month to build that pipeline, whereas with (Platform A4), we were able to build that list of qualified people in days.

**Sourcing racial minority candidates using a market-exchange relational package was repugnant to ShopCo decision-makers.** In contrast, when the modal candidate on the LMI platform was a racial minority, ShopCo decision-makers’ concern with objectification made market-exchange relationships with racial minority candidates repugnant. ShopCo managers rejected LMI platforms when the salespeople drew on a market-exchange relational package that emphasized *time* and *quantity* (e.g. the practice of keyword searches and algorithms). For example, the promotional materials for Platform B4 (a rejected LMI) emphasized time and quantity in sourcing:

(Find out) which recruiting efforts...are most cost-effective... Scan hundreds of thousands of candidates skill sets in seconds...[and] track (your) return on investment of sourcing and recruiting efforts over time.

Even though the material described how the platform’s sourcing efforts could save clients time and yield large numbers of candidates, ShopCo managers rejected it. Along these same lines, similar to Platform A1 (an adopted LMI), Platform B3 (a rejected LMI) touted its ability to quickly source ‘warm leads,’

Our candidates are 5x more likely to respond to our (client) companies regarding their open opportunities...

However, in the case of rejected LMI platforms, ShopCo managers worried about the *objectification* of racial minority candidates. ShopCo managers were concerned that LMI platforms that used keyword searches and algorithms during the sourcing phase to racially



identify candidates dehumanized and transformed racial minority candidates into objects, defined by their race. For example, in a brainstorming session exploring the use of an LMI focused on racial minority candidates, the head of technical recruiting asked,

“What I get uncomfortable about is, are they (the LMIs) drawing assumptions [about a candidate’s race] based on their LinkedIn picture? I’m not comfortable with that... That’s always the challenge with recruiting diverse people. How do you know (they’re diverse)?” After he asked this, the room went quiet, the rest of the talent team looked down, and people shifted in their chairs. It took about ten seconds for the conversation to resume.

Similarly, as indicated in a transcript from an interview with a D&I manager about LMIs focused on racial minorities, the manager said, “I don’t think many (other) companies care about diversity. I don’t think many ask the LMIs about where they get their candidates. I don’t think the LMIs care about the candidates, *not as people*” (emphasis added).

When LMIs focused on racial minorities had salespeople or promotional materials that drew on a market-exchange relational package in describing the sourcing phase, they were rejected by ShopCo decision-makers. In the demo for Platform B1 (a rejected LMI), a D&I manager asked the sales associate, “If I’m seeing (the demo screen correctly), there’s a symbol next to Angie’s name. What does that mean?” The sales associate responded,

“(That’s) diversity sourcing.” She then explains that the symbol indicates Angie is ‘diverse.’ “You can put in a request for what (diversity dimension) you want... You can be specific or pretty general.” The sales associate then pulls up a preview of potential candidates for an open position, displayed as tiles with the candidates’ faces. “If you were looking for all under-represented groups, this [and she floats the pointer over the faces of the candidates] would look differently.”

In debriefing later with other decision-makers at ShopCo, the manager said that she was concerned that the platform was objectifying candidates, “I don’t like that candidates don’t self-identify and don’t know that their info is being aggregated (by an algorithm) in that way.”

Similarly, during the de-brief for Platform B4 (a rejected LMI), a D&I manager explained to the Chief People and Culture Officer and the head of Talent how the platform

sourced candidates and the Head of Talent expressed concern about this sourcing process turning candidates into objects:

“(Platform B4) is, before I start explaining it, it sounds really scary what they’re able to do. We’d want to be comfortable with them. What (Platform B4) does is based on sophisticated algorithms, they take candidate information and assign them demographic identities. The candidate is not self-identifying (their race), (Platform B4) identifies the candidate (race).”

Upon hearing this, the head of Talent opens his mouth wide in shock and says, "That's disturbing! I wouldn't want to be identified by an algorithm." He then makes a face of disgust and shakes off the feeling. A D&I manager agrees that she wouldn't feel comfortable being racially identified by an algorithm.

In sum, when LMIs where the modal candidate on the platform was white had salespeople or promotional materials that drew on the relational package of market-exchange by emphasizing time and quantity (e.g. keyword searches and algorithms), ShopCo managers found this acceptable (See **Table 4** for additional examples of adopted LMI relational package by phase). However, drawing on this market-exchange relational package was a relational mismatch for racial minority candidates. ShopCo decision-makers’ concern with objectification made market-exchange relationships with racial minority candidates morally repugnant.

### **Screening: Evaluating candidates**

In the screening phase of hiring, ShopCo recruiters wanted to make sure that sourced candidates were good potential ‘fits’ for positions at ShopCo. The screening phase typically entailed an evaluation of the candidate’s knowledge, skills, and abilities (e.g. technical screens). ShopCo decision-makers wanted the LMI platform’s process to strike a balance between volume and quality to yield a pool of high-quality candidates who could potentially be hired. A technical recruiter explained to me,

We measure the quality of the candidate, and that’s where we make sure we’re getting the *right* people interested [rather than just a large volume of candidates]. We measure what percentage of the (hiring) pipeline did the candidate get through? So, if somebody flames out after the talent screen, which is the first step in the process, that candidate has a lower quality score than

somebody who gets to an onsite interview... We don't want (LMIs) to just reach out to the lowest hanging fruit to get their numbers.

As these data demonstrate, ShopCo decision-makers looked for an *efficient* screening process when evaluating LMI platforms—meaning a process that would yield a high volume of candidates and at the same time ensured candidates were qualified for the open position.

While ShopCo managers found market-exchange relational packages characterized by efficiency acceptable for evaluating white candidates, the market-exchange relational package was a relational mismatch for racial minority candidates. In the screening phase of hiring, ShopCo decision-makers' concern with the *specter of affirmative action* made market-exchange relationships with racial minority candidates repugnant.

**Screening white candidates using a market-exchange relational package was acceptable to ShopCo decision-makers.** In the screening phase, ShopCo decision-makers typically drew on a market-exchange relational package that emphasized efficiency. ShopCo managers adopted LMIs when their salespeople or promotional materials drew on a market-exchange relational package that emphasized efficiency. For example, the demo materials provided to ShopCo by Platform A3 (an adopted LMI), emphasized that the platforms had a process that enabled the quick assembly of high-quality candidates:

Our (LMI) was able to source, qualify, and quickly assemble the entire team of 60 resources (engineers) over the course of two short months.

Similarly, the demo materials provided to ShopCo by Platform A1 (an adopted LMI) emphasized, “Our proprietary big data tools enable us to identify and vet high-quality candidates...introducing you to great matches in only a day or two.” In general, the LMI salespeople drew on a market-exchange relational package that referenced big data tools during

the screening phase to emphasize an efficient process that would yield high-volume and high-quality candidates.

**Screening racial minority candidates using a market-exchange relational package was repugnant to ShopCo decision-makers.** At the screening stage, ShopCo decision-makers' concern with the *specter of affirmative action* made market-exchange relationships with racial minority candidates repugnant. A specter is “something that haunts or perturbs the mind,” (Merriam-Webster Dictionary), an “object or source of terror or dread” (Dictionary.com), and a “shadowy apparition” (Freedictionary.com) of a former self. In the United States, nothing haunts the hallways of recruitment and diversity, or serves as a source of terror or dread, quite as effectively as affirmative action. The specter of affirmative action is the societal narrative that (falsely) asserts that affirmative action unfairly promotes racial minorities at the expense of more qualified white candidates, to meet hiring 'quotas.' An example of the specter of affirmative action concern being raised occurred during a conversation with a hiring manager in the technology department, who lamented:

I feel that pressure as a hiring manager. We hired two white men. And now I feel urgency to say that we have these (vacancies) left, we have to make sure that women, people of color get the remaining (open positions)... We don't want to have a homogenous team. But I don't want to send the message to my team or candidates, or anyone else, that we're cherry-picking (candidates) to satisfy diversity.

Rejected LMIs' raised the specter of affirmative action by using a market-exchange relational package that emphasized efficiency in the screening phase. In particular, these LMIs emphasized high volume and high quality to evoke the specter of affirmative action—or, a process oriented around 'quotas.'

In this example from Platform B1 (a rejected LMI), the sales associate drew on a market-exchange relational package when she discussed the LMI platform's use of big data tools to *efficiently* source and screen minority candidates (similar to Platform A1). From field notes:

The Platform B1 sales associate says, "Our tool goes through social media links, open web sources, LinkedIn, GitHub, Stack Overflow, Twitter, Facebook, and Indeed to make sure [the candidate has been racially identified correctly]... we make it easier to identify and recruit the brightest and the best."

However, in the de-brief for Platform B1, the ShopCo head of Talent told the D&I manager and the technical recruiter, "This seems built for companies who just pay for diverse talent... it works with those companies who are just trying to bump up their diversity numbers." As these data demonstrate, the ShopCo head of Talent was uncomfortable with LMI platforms focused on racial minorities that evoked a process oriented around quotas during the screening phase.

Similarly, the demo materials provided to ShopCo by Platform B2 (a rejected LMI) drew on a market-exchange relational package that emphasized efficiency in its screening phase,

We recruit and select high-achieving Black and LatinX STEM graduates, from often underrepresented talent sources, into the city's fastest-growing companies...(addressing) a major market inefficiency at play.

While LMI salespeople and promotional materials that emphasized efficiency and drew on a market-exchange relational package were acceptable to ShopCo managers when the modal candidate on the platform was white, when the modal candidate was a racial minority, it was a relational mismatch. ShopCo decision-makers rejected LMI platforms focused on racial minorities when the screening process emphasized efficiency (e.g. volume and quality), as it evoked a process oriented around quotas. ShopCo decision-makers' concern with the specter of affirmative action made market-exchange relationships with racial minority candidates morally repugnant.

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### **Outreach: Engaging candidates**

The final phase of the hiring process was outreach to the candidate. This phase involved getting candidates excited about joining the LMI platform, and focused on benefits to the candidate.

While ShopCo found market-exchange relational packages characterized by opportunity and compensation acceptable for engaging white candidates, it was a relational mismatch for engaging racial minority candidates. ShopCo decision-makers' concern with *exploitation* made market-exchange relationships with racial minority candidates repugnant.

### **Engaging white candidates using a market-exchange relational package was acceptable to**

**ShopCo decision-makers.** In the outreach phase, the market-exchange relational package emphasized opportunity and compensation. For example, the demo materials from Platform A2 (an adopted LMI) used the following rhetoric to encourage candidates to join the platform:

Deeply ingrained within the tech communities, including startups through established companies, our experts will connect you (the candidate) with opportunities where you can grow, earn what you're worth, and keep your career interesting.

Similarly, Platform A4 (an adopted LMI) said,

Not only will we work to connect you with the right position and the right company, but we'll help you understand the market in the near term, discover new opportunities over time, and plan your professional future.

In the outreach phase, when evaluating LMI platforms where the modal candidate on the platform was white, ShopCo managers adopted LMIs when the salespeople emphasized *opportunity* and *compensation* – consistent with a market-exchange relational package.

**Engaging racial minority candidates using a market-exchange relational package was repugnant.** When the modal candidate on the LMI platform was a racial minority, ShopCo decision-makers' concern with exploitation led them to reject platforms when sales associates and materials drew on a market-exchange relational package that only emphasized *opportunity* and *compensation*. ShopCo managers were concerned that racial minority candidates were being *exploited* by LMIs to make money, without receiving sufficient benefits in return. One D&I manager at ShopCo summarized this concern as follows, "We're really mindful of who (LMI) we choose to partner with. We're not predatory in this space."

When the promotional materials or sales associates for LMIs focused on racial minorities drew on a market-exchange relational package that emphasized opportunity and compensation, they were rejected. For example, Platform B2 (a rejected LMI) highlighted "high paying jobs and upward mobility" as benefits the candidate might accrue if they joined the platform. And, Platform B3 (a rejected LMI) said it was "the leading career advancement platform for Black, Latinx, and Native American professionals." Later, in a de-brief session about Platform B3, a director of engineering said, "Yeah (Platform B3) is getting us access to diverse candidates, but what are these (LMIs) really doing for the (candidate)? Are they just *profiting off* of diversity? (emphasis added) Which, honestly, most of them are." The head of talent expressed a similar sentiment when he shared,

I'm against (LMIs) profiting and contributing nothing to the challenge (of diversity in tech)...Where does the candidate experience play out in (their participation on the LMI platform)? How does the candidate benefit from this?... If I'm a diverse candidate, is the platform I participate on vetting the companies for me (for characteristics of diversity and inclusion)? Or are they just taking any (hiring) company's money?

Relatedly, ShopCo managers were concerned that LMIs were exploiting *hiring companies*, such as ShopCo. ShopCo managers worried that LMIs were exploiting a market opportunity by taking advantage of well-intentioned companies' desires for racial minority candidates, without actually

caring about D&I in the workplace. For example, in the same debrief on Platform B3 (a rejected LMI), a technical recruiter voiced concern with the exploitation of hiring companies when he asked, "Like, why are these (diverse) candidates on (Platform B3)? Is there an incentive for them (to be on there)? If it came from a place where we thought that (diverse) candidates were trying to join inclusive companies, that would be fine."

ShopCo managers also referenced concern with the exploitation of hiring companies when they de-briefed on Platform B1 (a rejected LMI):

The ShopCo head of Talent is speaking with the D&I manager and the technical recruiter. He says, "This seems built for companies who just pay for diverse talent and don't want to dedicate a lot of thought or energy to the initiative (of addressing racial inequality in the workplace). They don't really care about the (potential racial minority) employee. (Platform B1) fits the profile of (catering to) companies who have money to throw at diversity problems."

While ShopCo found the market-exchange relational package characterized by opportunity and compensation acceptable for engaging white candidates, they considered the market-exchange relational package as a relational mismatch for racial minority candidates. ShopCo decision-makers' concern with *exploitation* made market-exchange relationships with racial minority candidates repugnant.

-----INSERT TABLE 4 HERE -----

**Using a Developmental Relational Package with racial minority candidates addressed repugnant market concerns, but had unintended consequences**

LMI platforms only gained traction at ShopCo when organizations selling them reframed the product in non-financial terms. These organizations did not present their platforms as a financial relationship with candidates, but rather, as an opportunity for development for traditionally disadvantaged candidates. Attempting to avoid relational packages that objectified and exploited



racial minorities, decision-makers at ShopCo accepted LMI platforms that demonstrated a triple-bottom-line approach to the transaction (e.g. described their recruitment of racial minority candidates as linked to “development”).

ShopCo decision-makers adopted LMIs focused on racial minority candidates when the LMI’s sales associates and promotional materials logic, rhetoric, and practices reflected a *developmental relational package*. A developmental relational package is a beneficiary-benefactor role-relationship and the practices reflect a triple-bottom-line logic (e.g. a business decision that is good for profits, employees, and society) that supports a developmental relationship between ShopCo and the candidate (See **Table 2**). A developmental relational package emphasized *individuality* and *ethics* in the sourcing phase to overcome concerns with objectification, *equity* in the screening phase to overcome concerns with the specter of affirmative action, and *authenticity* and *commitment* in the outreach phase to overcome concerns with exploitation (See **Figure 1**).

Out of the nine LMI platforms in my dataset that were focused on racial minority candidates, ShopCo adopted five. The main difference between the adopted LMIs (5) and the rejected LMIs (4) was the relational package the LMIs drew upon in the sourcing, screening, and outreach phases. As I described above, rejected LMI platforms had salespeople and promotional materials that drew upon a market-exchange relational package with racial minority candidates. While this relational package was adopted for LMI platforms where the modal candidate on the platform was white, it was a relational mismatch for LMI platforms focused on racial minority candidates due to concerns with a repugnant market.

**Sourcing racial minority candidates using a developmental relational package was acceptable to ShopCo decision-makers.** Since ShopCo managers were concerned with issues of

objectification, they wanted to know how the LMIs sourced and identified racial minorities on the platform. An example of this concern was voiced by a D&I manager when she explained to ShopCo managers,

We really want to be able to collect and track data [about our candidate's races] in an ethical way. As of right now, we have no ability for candidates to self-identify (their race)... We want data to make sure we don't have a blind spot with certain candidates (e.g. racial minorities), but we don't have a way to do that without making assumptions about candidates, which we don't want to do.

Consequently, ShopCo managers accepted LMIs focused on racial minorities when the sales associate or promotional materials drew on a developmental relational package that emphasized *individuality* and *ethics* in the sourcing phase. For example, a sales associate for Platform C2 (an adopted LMI) described the platform's sourcing efforts as "we're moving out of a traditional model of finding folks [keyword searches] and discussing how we're *intentionally* reaching out (to racial minority candidates)" (emphasis added). Similarly, in an example from Platform C1 (an adopted LMI), the ShopCo manager asked the sales associate how they sourced and identified candidates for the platform. From field notes:

The ShopCo manager asks the Platform C1 sales associate, "how do you attain these candidates (on your platform)? Do *they* create a profile?" (emphasis added). The Platform C1 sales associate responds, "A big reason people sign up (to join our LMI) is the personal relationship (with other candidates on the platform). We try to build our marketplace with Historically Black Colleges and Universities, the National Society of Black Engineers... We try to *build* a diverse network" (emphasis added).

In the response, the sales associate explained how personal relationships amongst racial minority candidates, and within racial minority communities, were used to identify and source candidates to the platform. In this way, adopted LMI platform salespeople and promotional materials drew on a developmental relational package that emphasized *individuality* and *ethics* in the sourcing phase (See **Table 4** for additional examples of adopted LMI relational package by phase). This is

in stark contrast to the market-exchange relational package, that emphasized *time* and *quantity* in the sourcing phase.

**Screening racial minority candidates using a developmental relational package was acceptable to ShopCo decision-makers.** ShopCo managers were also concerned with the specter of affirmative action, so they wanted to know how LMIs evaluated potential candidates for their open positions. In particular, ShopCo managers adopted LMIs when salespeople and promotional materials drew on a developmental relational package that emphasized *equity* during the screening phase. The developmental relational package did not evoke a process oriented around quotas. Rather, a developmental relational package evoked a process that *recognized* diversity but did not select *because of* diversity. For example, during one demo (Platform C1), a ShopCo manager told the sales associate:

“As far as D&I and having diverse hires, it’s really important to us that we’re not just speaking about hiring people *because* they fit a certain (racial) profile (emphasis added). One, I’m pretty sure that’s illegal. And two, it’s just not who we are (as a company).” The LMI sales associate agreed and said, “I get not wanting to hire or target people (just) because of their (racial) background.”

A ShopCo D&I manager expressed a similar sentiment in the de-brief session for Platform C5 (an adopted platform):

It’s the intention behind (the LMI platform). Take (Platform C5), it doesn’t promise you that you’re going to get (a certain number) of candidates, so that you as a company can say you’re meeting your quota of this many (diverse candidates).

In another example, the sales associate for another adopted platform (Platform C4) described the screening process the LMI used once a racial minority candidate was matched with an employer’s open position. As indicated in my field notes, the sales associate said,

There's tests you have to pass, interviews you have to pass. We want to make sure (the candidate) can succeed [in your open position]. *We give (the candidate) a hand up, not a hand out* (emphasis added).

Adopted LMIs' salespeople and materials drew upon a developmental relational package that emphasized *equity* (rather than efficiency) in their screening phase to overcome the specter of affirmative action.

**Outreach to racial minority candidates using a developmental relational package was acceptable to ShopCo decision-makers.** Finally, ShopCo managers were concerned with the exploitation of racial minority candidates and hiring companies. As such, ShopCo managers scrutinized the logic, rhetoric, and practices LMI salespeople and materials highlighted during the outreach phase and adopted LMI platforms that drew on a developmental relational package that emphasized *authenticity* and *commitment*. For example, during the de-brief for Platform C5 (an adopted LMI), the ShopCo manager's rationale for adoption emphasized the authentic and committed practices used by the LMI in the outreach phase. From field notes:

(Platform C5) is a *community* (emphasis added), and by being part of it, you're saying you're an inclusive place, and you're open to diversity. If candidates come your way, fantastic. But (if not), you (still) get to be part of a community.

At ShopCo, authenticity and commitment practices demonstrated to decision-makers that the LMI understood D&I in the workplace and cared about the racial minorities' success and inclusion. For example, during the demo for Platform C2 (an adopted LMI), the sales associate explained the LMI's mission to address racial inequality in the workplace:

We're (recruiting) people who haven't had opportunities to get into tech because of systemic racism... We're working hard to break that down. We want to be an inclusive space for everyone... We're talking about people who haven't had this opportunity (to enter tech), they've been boxed out of the path.

During the de-brief for Platform C2, ShopCo decision-makers returned to these authenticity and commitment practices when they advocated for the platform's adoption. The head of technology said, "The spirit of this is providing opportunities within engineering to those that have not had that opportunity before. The benefit we get is to give back and to increase our diversity in (engineering)."

Another example of a developmental relational package that emphasized authenticity and commitment occurred during the demo for Platform C1, when a ShopCo manager asked the sales associate how they engaged with racial minority candidates to get them excited about ShopCo:

The sales associate explains, "Candidates may only consider what's in front of them (for job prospects). They wouldn't (usually) consider a start-up in (your city), because that's not in front of them. It's about discovery (of new employment opportunities), which we've made free (to the candidates)."

ShopCo managers later referenced authenticity and commitment signals during the de-brief rationalizing their adoption of Platform C1. From field notes:

The ShopCo D&I manager is speaking to the technical recruiter and head of Talent. She says, "(Platform C1) is connecting (racial minority) candidates with jobs they wouldn't otherwise find. If (a racial minority) went to a great school, but came from a community that's only focused on the massive, (traditional) companies, rather than start-ups. [Pause] It's cool that (Platform C1) is exposing candidates to things that they didn't know about...And now we're opening them up to, not only did I not know these companies existed, but now we're opening them up to companies (like us) that *value culture*."

**However, using this developmental relational package had unintended consequences.** While decision-makers at ShopCo accepted LMI platforms that demonstrated a triple-bottom-line approach to the transaction (e.g. described their recruitment of racial minority candidates as linked to "development"), these decisions had three unintended consequences for racial minorities.

First, ShopCo lost valuable *time* in its racial minority recruitment efforts. The first set of LMIs demoed used a market-exchange relational package, which ShopCo managers found

repugnant. Exposure to these relational mismatches allowed ShopCo managers to fine-tune their demo questions and LMI concerns over time. For example, managers at ShopCo eventually developed a philosophy about these LMI platforms, which the Chief People and Culture Officer articulated as, “There’s this consistent philosophy that’s embedded in what we do and why we do things...If D&I doesn’t matter to you (as a company), it doesn’t matter what tool you’re using. We’re going for the (LMI platforms) that this matters to.” However, in the meantime, the technology department lacked progress on racial minority representation. For example, it took over 18 months for the technology department to increase from 8 percent racial minorities (as measured in the November 2018 D&I survey) to 10 percent racial minorities (as measured in the January 2020 D&I survey). In fact, the technology department remained at 8 percent racial minorities for much of the 2019 calendar year.

Second, ShopCo delayed access to important *candidate skill sets* in its racial minority recruitment efforts. The initial set of adopted LMIs proposed a 'widening the pipeline' approach to racial minority recruitment efforts. These LMIs found non-traditional racial minority candidates and sponsored software engineering boot camps so that candidates could qualify for entry-level engineering roles. While this approach eventually increased ShopCo’s diversity in the lower-levels of the technology department, it did not help ShopCo access senior-level diverse candidates quickly. In one meeting, a D&I manager said, "So, if you look at entry-level positions and you compare them to higher-level roles [pause]. When you look at the demographic spread, we are more diverse in entry-level roles." In fact, ShopCo managers recognized this was an unintended consequence of which LMIs they adopted. During a strategy meeting on the next steps for D&I at ShopCo, the head of Talent said, “We’re not bringing in associate engineers

(entry-level) anymore because we don't have the work that's appropriate for them. (So) we're only hiring senior engineers going forward.”

Finally, and most importantly, ShopCo created *instability* in its D&I efforts. When the global pandemic of COVID-19 struck, ShopCo found itself in a precarious financial position. Faced with these financial constraints, ShopCo had to reduce its labor force, and laid off a lot of its junior employees across the company – a proportion of whom were the racial minorities newly hired through LMIs. For example, after COVID-19, ShopCo no longer had any racial minorities in individual contributor roles in its Product department. Once ShopCo had successfully leveraged LMIs to recruit qualified, diverse employees into the organization, it was over-reliant on its internal labor market processes to promote those individuals into senior-level positions. However, internal labor markets need time to perform, and the COVID-19 pandemic cut ShopCo's time short.

## **DISCUSSION**

ShopCo decision-makers had access to multiple AI-based LMIs that could address their technical position hiring needs for high-quality racial minority candidates. These LMIs had similar fee structures and similar candidate pools on the platforms. And yet, ShopCo managers rejected many LMIs that could have helped address their diversity goals by providing high-quality, racial minority candidates. I examined the logic, rhetoric, and practices of hiring used in each LMI platform process phase (sourcing, screening, and outreach) and created a typology based on candidate race. I used these analyses to inductively reveal the relational package supported by each typology, and make two important findings. First, I find that ShopCo decision-makers adopted LMI platforms that supported market-exchange relationships with white candidates but found this relational package unacceptable for racial minority candidates. A market-exchange

relational package is based on a financial reward between ShopCo and candidates. ShopCo managers found market-exchange relationships with racial minority candidates repugnant, because of concerns with objectification, exploitation, and the specter of affirmative action. Instead, ShopCo decision-makers sought LMIs that formed developmental relationships with racial minority candidates, in order to overcome these repugnant market concerns. A developmental relational package is based on a triple-bottom-line reward (e.g. a business decision that is good for profits, employees, and society) between ShopCo and candidates.

I draw on these findings to develop a model, shown in **Figure 1**, that explains how and when well-intentioned organizations will adopt LMI platforms focused on racial minority candidates in order to address organizational inequality. Relational packages based on developmental relationships with racial minority candidates form a triple-bottom-line reward between ShopCo and the candidate. I find that this type of relational package overcomes the repugnant market concerns – objectification, exploitation, and the specter of affirmative action – associated with candidate markets for racial minorities. In particular, a developmental relational package emphasizes *individuality* and *ethics* to address the concerns of objectification, *equity* to address the concerns of the specter of affirmative action, and *authenticity* and *commitment* to address the concerns of exploitation.

### **Contributions to Our Understanding of Diversity in Organizations**

Though the existing literature suggests a host of ways organizations can achieve organizational diversity goals (Brands & Fernandez-Mateo, 2017; Correll, 2017; Danbold & Bendersky, 2018), the mechanisms proposed may not always work to meet those goals (Kalev, Kelly, & Dobbin, 2006; Kalev & Dobbin, 2006; Dobbin, Schrage, & Kalev, 2015). Given the increasing interest in addressing the representation of racial minorities in technology organizations, barriers to



achieving organizational diversity goals within *well-intentioned organizations* have major practical and theoretical importance. My findings make multiple contributions to this emerging literature on organizational inequality by highlighting a new set of barriers even well-intentioned organizations may face in their pursuit of diversity goals and suggesting a potential mechanism for overcoming these barriers.

To begin, organizational decision-makers' repugnance to different D&I solutions may help explain the mixed findings of previous research (e.g. Leslie, 2019). For example, in Bartels and co-authors' (2013) survey of well-intentioned organizations' diversity management practices, they found that organizations expressed the lowest levels of support for targeted recruitment and the use of minority recruiters. By contrast, respondents expressed greater levels of support for diversity management practices that projected diversity to the public and established a reputation in the community. The authors tested whether majority backlash – that is, claims of reverse discrimination—explained the low levels of organizational support for targeted recruitment and found only 10% of those surveyed reported any majority backlash. My ethnographic study of ShopCo offers a potential explanation for Bartels et al.'s results. Organizational decision-makers can be committed to advancing D&I in the workplace, *and* may find certain D&I solutions *repugnant*.

Second, I used observation and discourse analysis to trace the relational packages used in hiring and the sources of organizational support and resistance to a particular D&I initiative (widening the pipeline through the adoption of AI-based LMIs). Previous diversity studies have used discourse analysis to demonstrate how organizational narratives effect support (or resistance) for D&I initiatives (Ely, 1995; Ely & Thomas, 2001; Padavic, Ely, & Reid, 2019). I contribute to this literature by analyzing the organizational narrative of hiring, and demonstrating

the role of repugnance as a source of organizational resistance and relational packages as a source of organizational support for D&I initiatives. In particular, my discourse analyses revealed that ShopCo managers were concerned with issues of exploitation, objectification, and the specter of affirmative action. Furthermore, these concerns were exacerbated by AI-based LMIs that supported a market-exchange relationship with racial minority candidates but attenuated by AI-based LMIs that supported a developmental relationship with racial minority candidates. If 'widening the pipeline' is a potential mechanism for addressing organizational inequality, my paper demonstrates that *how* the pipeline is widened also matters to organizational decision-makers.

Finally, I contribute to the literature on how organizational diversity can be achieved by providing a micro-level examination of how key organizational decision-makers strategize and address D&I in their everyday work. The literature on organizational diversity generally does not specify how organizations determine which D&I initiatives to pursue (with rare exceptions, such as Thomas, 2004), or conditional on choosing an initiative, which of the many implementation approaches to select (cf. studies on legally mandated actions to comply with EEOC legislation, e.g. Edelman, et al., 1991; 1992, 1999; Kelly & Dobbin, 1998). Some studies on organizational diversity use survey data across firms to analyze self-reported usage of certain diversity mechanisms and outcomes, or qualitative data to go inside the implementation of a single diversity initiative; they do not collect data on the day-to-day strategies used by decision-makers to select *between* and *within* organizational diversity initiatives. D&I initiatives provide opportunities and occasions for addressing organizational inequality (Kelly, et al., 2014; Cook & Glass, 2015; Correll, 2017), but as the existing literature suggests, they are not in and of themselves panaceas. My work aligns with that of other organizational scholars who examined

the organizational features, processes, and routines that facilitated the accomplishment of strategic goals (Howard-Grenville, 2007; Huising & Silbey, 2011; Nigam, Huising, & Golden, 2016; DiBenigno, 2018, 2019).

### **Contributions to Our Understanding of Repugnant Markets**

My findings also make a number of contributions to our understanding of repugnant markets. Prior scholarship has found that the sources of repugnance are often tied to societal norms (Zelizer, 1981; Hochschild, 2003; Almeling, 2007). For example, Almeling (2007) mapped donation center rhetoric about ‘appropriate’ donors to societal norms around motherhood and fatherhood; thereby tying the centers’ source of repugnance to financial-based transactions, with gender-based stereotypes. Similarly, Zelizer (1981) traced society’s growing support for children’s life insurance to changing societal norms around parenthood. In particular, children shifted from being viewed as an object of utility to being an object of sentiment. Therefore, children’s life insurance provided a means for families to secure a decent, Christian burial on behalf of a valued family member. Consistent with this research, I found that ShopCo managers’ repugnance was related to societal norms around race relations. Specifically, ShopCo managers wanted to avoid historical relational packages that objectified and exploited racial minorities. In the United States, there was a time when the objectification and exploitation of racial minorities was not only condoned and openly tolerated, it was protected by the law. Changes in the law and shifting societal norms in race relations, however, have made this type of relationship with racial minorities unacceptable. While it was never openly stated, ShopCo’s concerns with objectification and exploitation point to a broader repugnance to relationships evocative of slavery. White candidates, on the other hand, did not have a race-based historical relational

package of exploitation and objectification by employers. Because of this, ShopCo managers did not consider a market-based relationship with white candidates to be repugnant.

Second, I highlight not only the source of anxiety and tension in addressing organizational diversity goals (repugnant market concerns) but also how these can be overcome (matching relational packages). Previous studies have documented how rhetoric and practices can be used to re-frame the repugnant product in socially acceptable terms. I previously mentioned Zelizer's 1978 work on the life insurance industry. In a similar vein, Anteby (2010) demonstrated how professionals used particular practices in the handling of cadavers to help legitimize the market. And, Turco's (2012) study on the commercialization of motherhood demonstrated how employees' adoption of euphemistic rhetoric (e.g. 'the mythology of motherhood') prevented them from executing market-oriented practices (e.g. 'upselling'). My study builds on this prior research to make two important contributions. First, I demonstrate how rhetoric and practices *reflect* relational packages that can help overcome repugnant market concerns. In this way, Anteby's (2010) practices for handling cadavers (e.g. obtaining consent and respectfully handling cadavers before and after use) reflect a relational package for overcoming the repugnant market concerns of coercion, exploitation, and objectification. Similarly, the employee resistance that Turco documented in her study (2012) represents not only the difficulties of organizational decoupling, but also the repugnance to market-exchange relationships with mothers, and indicates that a relational package reflective of a developmental relationship, for example, might have been preferable. Second, I demonstrate how race can dictate when repugnant market concerns will be present within *the same social role* (e.g. candidate). In his 1990 article, Barley implored researchers to examine the tasks, relational packages, and taken-for-granted social hierarchies within organizational networks to explore

how and when new technologies (e.g. diagnostic imaging) can change the role relations between incumbents. My work builds on this premise by recognizing how new technology (e.g. AI-based LMIs) can make salient taken-for-granted social hierarchies (e.g. race) *within* social roles (e.g. candidates).

### **Scope Conditions and Opportunities for Future Research**

These findings should be considered in light of several scope conditions. First, repugnant market concerns may only be a barrier to achieving organizational diversity goals for *well-intentioned* organizations. In instances where intention and commitment are lacking, the literature's existing set of mechanisms may be sufficient for explaining why organizational diversity has not been achieved (e.g. Edelman, et al., 1991; 1999; Dobbin, Schrage, & Kalev, 2015). And yet, this study demonstrates how a set of concerns about repugnant markets – objectification, the specter of affirmative action, and exploitation issues – influenced the type of hiring relational package deemed acceptable, based on candidate race. At ShopCo, a market-exchange relationship with racial minority candidates exacerbated repugnant market concerns. Future research is needed to examine the extent to which other organizations view market-exchange relationships with racial minorities as repugnant, and could extend my findings by studying whether concerns with a repugnant market exist within other types of diversity recruitment (e.g. gender, LGBTQ+, veterans, et al).

This highlights a second, and related scope condition. Not all organizations desirous of representational racial diversity may find a market-exchange relationship with racial minority candidates repugnant. Indeed, this was evidenced by the fact that LMIs using a market-exchange relational package *were adopted by some hiring companies*, just not ShopCo. At the same time, the existing literature points to how a market-exchange relationship could result in tokenization,

which is a potential driver of turnover and attrition for diverse employees (Laband & Lentz, 1998; Reid & Padavic, 2005; Nishii & Mayer, 2009). This may explain why even when LMIs that use a market-exchange relational package to recruit racial minorities are adopted, organizations will fail to achieve sustained racial diversity due to the low retention of racial minority employees. I would expect tokenized relationships may be especially repugnant to *well-intentioned* companies, who are aware of the importance of diversity *and inclusion* work (e.g. initiatives to improve employees' sense of belonging) to achieve organizational diversity goals. Future research could examine to the extent to which LMI platforms that support a market-exchange relational package can be successfully leveraged to achieve organizational diversity goals.

Advancements in AI-based recruitment technologies present organizations with a unique opportunity to address not only supply-side constraints but also demand-side biases. Previous literature has documented how conscious or unconscious biases in selection processes can subtly disadvantage minority group members by distorting the labor pool (Fernandez & Fernandez-Mateo, 2006; Fernandez-Mateo & King, 2011; Brands & Fernandez-Mateo, 2017). AI has the potential to overcome these sources of bias by using algorithms, rather than human recruiters, to match potential candidates to open positions. In my study, ShopCo adopted AI-based LMIs to help source, screen, and engage racial minority candidates for their open technical positions. Given the double-edged nature of AI (e.g. algorithms that reinforce bias), however, future research could examine the extent to which AI-based LMIs can be successfully leveraged to address organizational inequality.

Finally, this study provides limited insight into the experiences of racial minorities once they were hired into ShopCo. Future research could explore the experiences of diverse

employees hired through LMI platforms, looking at issues of inclusion, promotion, retention, and attrition.

### **Implications: The Potential Downside of Well-Intentioned D&I Initiatives**

My elaboration of the micro-process of racial minority recruitment helps build theory on how and when well-intentioned companies will adopt recruitment tools focused on racial minority candidates to address organizational inequality. But there are several macro-, organization-level implications of this process that speak to a potential downside of repugnant market concerns. Even when decision-makers are well-intentioned and committed to achieving organizational diversity, how they achieve proportional racial representation—by widening the pipeline and adopting solutions that overcome repugnant market concerns—may limit the timeline and extent to which diversity is achieved. In particular, ShopCo managers' repugnant market concerns for market-exchange relationships with racial minorities may have unwittingly reinforced three key 'diversity traps.'

First, ShopCo lost valuable *time* in its racial minority recruitment efforts. In some respects, this diversity trap is an artifact of ShopCo's particular experience. At the same time, other organizations attempting to find diversity recruitment tools may face a similar problem. Organizational decision-makers tend to view it as a best practice to choose amongst multiple, comparable offers when awarding contracts. As ShopCo's experience highlights, finding and vetting multiple contractors to produce a final list from which to select takes a considerable amount of time and effort. This speaks to a more general issue that organizations searching for diversity recruitment tools can lose valuable time as they sort through, and select against repugnant options.

Second, ShopCo delayed access to important *candidate skill sets* in its racial minority recruitment efforts. Again, this reflects a more general diversity trap. Organizations need to ensure that adopted diversity recruitment tools offer access to diverse candidate skill sets to avoid reifying organizational inequality by concentrating diversity in the lower levels of the organization.

Finally, and most importantly, ShopCo created *instability* in its D&I efforts. This example is representative of the third, and final, diversity trap. Organizational decision-makers must have realistic expectations about the limitations of their own internal processes *and* any adopted diversity solutions (e.g. Kalev, 2016; Bidwell, 2017). External solutions, such as LMIs focused on racial minority candidates, must be paired with internal processes that promote diversity, equity, and inclusion. Organizations cannot be over-reliant on any one diversity approach. LMIs focused on racial minority candidates are a powerful solution to organizational diversity hiring goals and an important complement to organizations' internal recruitment processes. At the same time, they are only *one* solution to *one* component of organizational inequality. Organizations must effectively leverage a 'both, and' approach to addressing organizational inequality (e.g. using internal labor markets to promote diverse candidates from within *and* external labor markets to fill important gaps in the meantime) to prevent destabilizing their diversity efforts.



## Tables & Figures

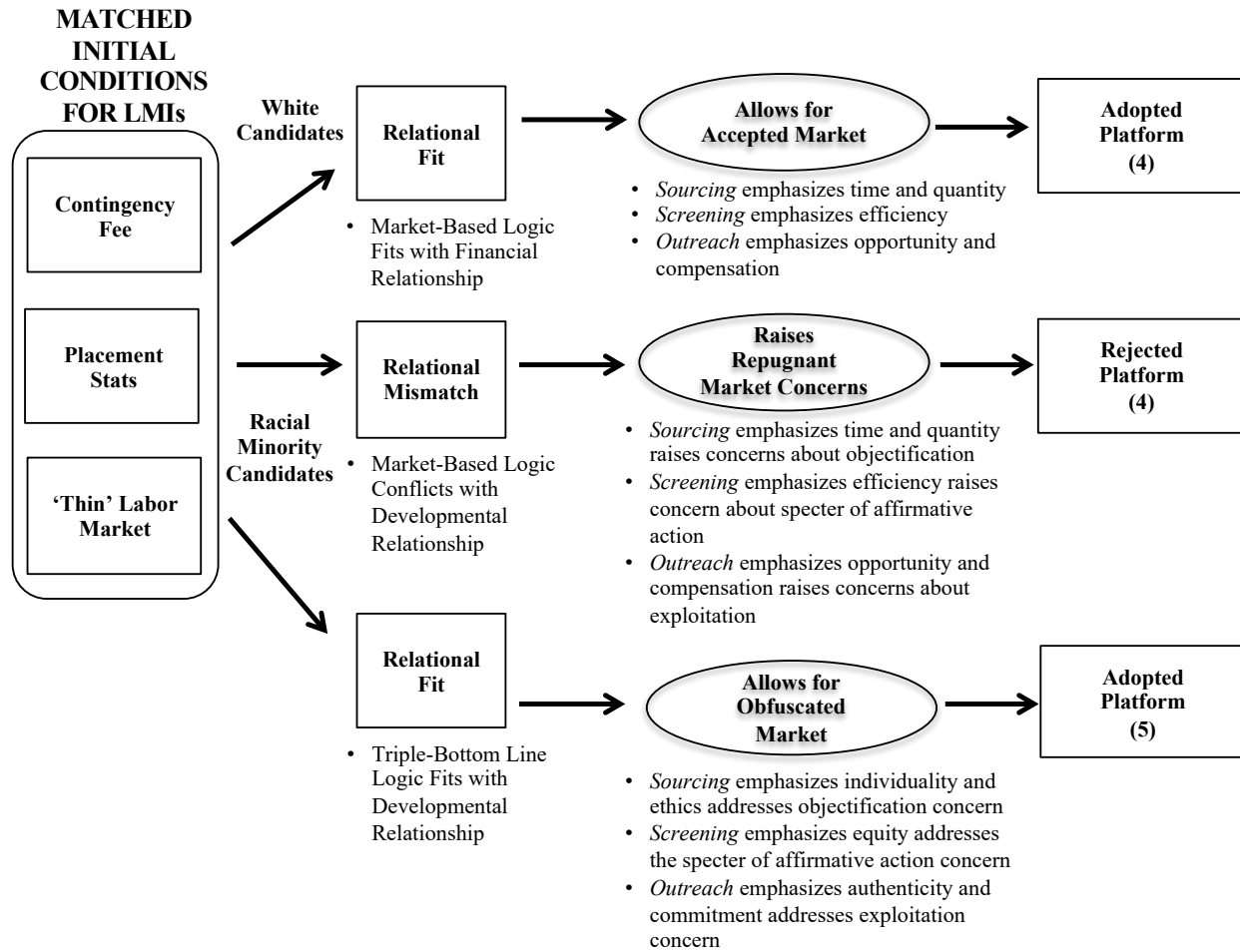
**Table 1. Summary of Cases in my Dataset**

Relational Package	Modal Candidate	LMI Platform Fee Structure	# of Cases in my Dataset	Adopted?
Market-Exchange	White	10 – 35% of salary \$10K/hire (entry-level) \$70K/hire (senior-level)	A1	Yes
			A2	
			A3	
			A4	
Market-Exchange	Racial Minority	10 – 35% of salary \$10K/hire (entry-level) \$70K/hire (senior-level)	B1	No
			B2	
			B3	
			B4	
Developmental	Racial Minority	10 – 35% of salary \$10K/hire (entry-level) \$70K/hire (senior-level)	C1	Yes
			C2	
			C3	
			C4	
			C5	

**Table 2. Definitions of Market-Exchange and Developmental Relational Packages**

Relational Package	Logic	Role-Relationship	Rhetoric of Hiring	Recruitment Practices
Market-Exchange	Financial	Financial relationship between candidate and ShopCo <ul style="list-style-type: none"> <li>Employee - Employer</li> </ul>	<ul style="list-style-type: none"> <li><i>Sourcing</i> emphasizes time and quantity</li> <li><i>Screening</i> emphasizes efficiency</li> <li><i>Outreach</i> emphasizes opportunity and compensation</li> </ul>	<ul style="list-style-type: none"> <li><i>Sourcing</i> by keyword searches and algorithms</li> <li><i>Screening</i> by big data tools</li> <li><i>Outreach</i> by offering competitive salary and career development</li> </ul>
Developmental	Triple bottom line	Developmental relationship between candidate and ShopCo <ul style="list-style-type: none"> <li>Beneficiary - Benefactor</li> </ul>	<ul style="list-style-type: none"> <li><i>Sourcing</i> emphasizes individuality and ethics</li> <li><i>Screening</i> emphasizes equity</li> <li><i>Outreach</i> emphasizes authenticity and commitment</li> </ul>	<ul style="list-style-type: none"> <li><i>Sourcing</i> by individualized searches</li> <li><i>Screening</i> by individualized assessments</li> <li><i>Outreach</i> by sponsored networking and professional development</li> </ul>

**Figure 1. ShopCo Managers’ Adoption (or Rejection) of LMI Platforms based on Repugnant Market Concerns**



**Table 3. Additional Examples of Concern for a Repugnant Market**

<b>Concern with Objectification of the Racial Minority Candidate</b>
<ul style="list-style-type: none"> <li>• “I appreciate that you brought up ethics. There is evolving technology out there now where vendors are thinking about, ‘how do we, based on different indicators, <i>try and guess what categories people are associated with?</i>’ (emphasis added) But there are ethical considerations about how you apply that to candidates.”</li> <li>• A D&amp;I manager asks a black employee at ShopCo, “What do you think about the phrase, ‘we want to hire diverse candidates?’ Does that make you cringe?” As she asks the question, she makes a cringing face.</li> <li>• The ShopCo recruiter is sharing with the Talent team his experience of being admitted to college and having his classmates walk up to him and say, “the only reason you’re here is because you’re black.” He then says, “I’ve never had that experience here (at ShopCo) and I don’t think that is ShopCo’s intentions for getting involved in this work (D&amp;I work). So, I’m not <i>too</i> concerned about it, but I just want to make sure that we don’t create that experience. How do we make sure candidates don’t feel like a token once they’re in the company?”</li> </ul>
<b>Concern with Exploitation of the Racial Minority Candidate</b>
<ul style="list-style-type: none"> <li>• “(This LMI) does work with people from under-represented backgrounds, but it’s more about placing them in a job. It doesn’t have training, or broaden their exposure (to new opportunities).”</li> <li>• “We’re diligent about who we partner with. (We work with) people who work with the communities, and are not just profiting off companies’ needs for diverse talent. The (Platform C3) sales associate explained they do a lot – conferences, workshops, things for people to come and learn, panels about salary negotiations. The</li> </ul>

<p>different things that they provide for members of the community, what they do, how they came to be – it matters.”</p> <ul style="list-style-type: none"> <li>• “You’re paying a membership fee to get these (diverse) people. But what is the money supporting? (Some LMI platforms) are just trying to make money off finding diverse candidates.”</li> </ul>
<b>Concern with Exploitation of Hiring Companies</b>
<ul style="list-style-type: none"> <li>• “I think (Platform B1) is hoping they will catch an unsuspecting company. Like, companies who just throw money at the problem. And I would say (to those companies), since you’ve [thrown money at the problem], what has changed? Once you get all this diverse talent, how do you treat them? How do (the racial minority employees) feel? Are they being treated poorly? Throwing money at the problem, that would make me think (the hiring company) hasn’t put a lot of thought into what they are going to do once (racial minority employees) are there.”</li> <li>• “We try really hard to avoid (LMIs) that just straight up purchase (diverse) resumes. That’s not who we are.”</li> <li>• “So, for me, what differentiates (platforms we adopt) is: what are you doing for the community? What change are you trying to drive?”</li> </ul>
<b>Concern with Specter of Affirmative Action</b>
<ul style="list-style-type: none"> <li>• “How do we run the process to be inclusive, but also based on merit? We need to be good on the merit piece. [Otherwise] it can feel like you’re cherry picking candidates to source (and screen).”</li> <li>• “What I love about (Platform C2), it’s not just, ‘here’s your opportunity.’ (Candidates) have to work for it.”</li> <li>• During a strategy meeting on increasing D&amp;I at the company, a director of engineering asked, “There’s one landmine with this, [pause], what do we say to the middle aged, white male who wants to know why he can’t participate (in these platforms)? ...I need some serious help on how to handle this. People are going to come to me asking these questions and I want to give them honest, productive responses.”</li> </ul>

**Table 4. Additional Examples of Relational Package by Phase, for Adopted LMI Platforms**

Modal Candidate Race	LMI Platform	Relational Package by Recruitment Phase			Adopted?
		Identification	Screening	Outreach	
White		<i>Time &amp; Efficiency</i>	<i>Process &amp; Equity</i>	<i>Opportunity &amp; Compensation</i>	
	A1	“Our proprietary big data tools enable us to identify and vet high-quality candidates...Two-hour response time to a first contact message”	“Technically vetted candidates”	“We’ve got loads of data to support your current and future career growth. Salaries (in a certain labor market)? Just ask!”	Yes
	A2	“Use your time wisely...quickly hire high-impact talent...reach passive candidates...pay only if you hire a candidate we refer.”	“Recruiting the best professionals for your organization – savvy, highly qualified, resourceful experts who align with your opportunities and culture... We combine these insights with our proven recruiting methodologies to create enduring matches...”	“Deeply ingrained within the tech communities, including startups through established companies, our experts will connect you (the candidate) with opportunities where you can grow, earn what you’re worth, and keep your career interesting.”	Yes
	A3	“We research, identify, and introduce qualified technology candidates at all levels...Our	“Our (LMI) was able to source, qualify (screen), and quickly assemble (outreach)	“We have well established, long-standing relationships with many of the	Yes

		clients are only billed for service if a candidate is successfully hired...”	the entire team of 60 resources (engineers) over the course of two short months.”	nation’s most prestigious and successful organizations...No (LMI) is better equipped to help those professionals who specialize within our areas of expertise achieve their professional career objectives.”	
	<b>A4</b>	“We are a top technical talent platform...Our entire process has been tightened up in order to hire the people needed for your company to successfully grow [and] make sure you are quick to respond to qualified candidates.”	“We work with many of the best technology companies to find technical, product, and business talent...We have a deep understanding of the positions and skills for tech workers...We understand technology, product building, and the demands of high growth businesses.”	“Whether you’re a company in need of great people, or a talented individual interested in exploring your next big opportunity, we’re here to help...Not only will we work to connect you with the right position and the right company, but we’ll help you understand the market in the near term, discover new opportunities overtime, and plan your professional future.”	<b>Yes</b>
<b>Racial Minority</b>		<i>Individuality &amp; Ethics</i>	<i>Equity</i>	<i>Authenticity &amp; Commitment</i>	
	<b>C1</b>	“A big reason people sign up [to join our LMI] is the personal relationship (with other candidates on the platform). We try to build our marketplace with Historically Black Colleges and Universities, the National Society of Black Engineers...We try to build a diverse network.”	“You would sit down with an account manager, who’s an algorithm guru...If you wanted associate engineers, we have a custom algorithm that will look at our talent pool, have certain programming languages...We pick out those candidates, engage them, and tell them about your company...Any candidates who bite, we put those people in front of your team (and you complete the vetting process).”	“Candidates may only consider what’s in front of them (for job prospects). They wouldn’t (usually) consider a start-up in (your city), because that’s not in front of them. It’s about discovery (of new employment opportunities), which we’ve made free (to the candidates).”	<b>Yes</b>
	<b>C2</b>	“We’re moving out of a traditional model of finding folks [keyword	“(Candidates) go through a 2-week evaluation for grit and	“We’re (recruiting) people who haven’t had opportunities to get into	<b>Yes</b>

	searches] and discussing how we're <i>intentionally</i> reaching out (to racial minority candidates)."	aptitude. This is the biggest indicator for success... We're not just looking at, 'Oh, you're black, so you should go forward.'... We also measure for company core values through in-person or video calls. We work with you to figure out what you're looking for (in a candidate)."	tech because of systemic racism... We're working hard to break that down. We want to be an inclusive space for everyone... We're talking about people who haven't had this opportunity (to enter tech), they've been boxed out of the path."	
<b>C3</b>	"Our community of diverse, specialized talent is a tight knit one that is built on trust and respect. That's why we help companies connect and engage with the community and get you hiring... By sharing (with the candidate) what makes your culture unique, you can attract talent that will be more energized and enthusiastic about interviewing."	"There are companies that have archaic KPIs around what D&I and hiring look like. They'll say, 'we have a percentage that we want to move towards in a certain date, in terms of hiring women, black folks.' We found there was a breakdown between talent and D&I, and we built (this platform) as a reaction to our conversations with recruiters."	"We help diverse techies find jobs and advance their careers while being <i>visible</i> and <i>valued</i> . We also help companies find the unique talent they need... Find where you belong. We match you with organizations that care about the same things you do. Employers of all shapes, sizes, and industries are waiting for you to apply."	<b>Yes</b>
<b>C4</b>	"(Platform C4) works with local communities and stakeholders to provide no cost career placement support to local residents... We collaborate closely with employers, government agencies, philanthropies, and non-profit organizations to develop a more diverse and inclusive technology workforce."	"There's tests you have to pass, interviews you have to pass. We want to make sure (the candidate) can succeed [in your open position]. We give (the candidate) a hand up, not a hand out."	"We're helping the candidate, as well as the company... One of the (candidates on our platform) was an Uber driver, he was in the gig economy, and (since joining the platform) his life path trajectory just changed. His salary is now in the mid-50s, that's phenomenal. We generate stories like that every day... We're trying to create this pipeline of talent."	<b>Yes</b>
<b>C5</b>	"We're a better way for companies to connect and identify the best skilled job seekers... that reaches a wider, more inclusive talent	"(Platform C5) helps you make better hiring decisions... We're a fairer and more effective way to apply for jobs... We identify the critical skills for	"Even when candidates see a job on (your company website), there is still an impact on (the candidate) coming across it on our (LMI). (The candidate)	<b>Yes</b>

		<p>pool... We reach out to our community partners, like (community organization) or a community college. We send out a notice saying we have a new job opportunity listed and they help get people excited about the opportunity. We don't even call it recruitment."</p>	<p>the job you're hiring for, and help candidates apply for roles based on what they can do, rather than what kind of credentials they have...ensuring you leave no qualified candidate behind."</p>	<p>sees a company they're never heard of, but when they see it broken down (by us), they are more willing to apply... We are a better, more inclusive way to apply."</p>	
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# **A MULTILEVEL MODEL OF TARGET RESPONSES TO MICROAGGRESSIONS**

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## **ABSTRACT**

When it comes to discussions of race and diversity in the 21<sup>st</sup>-century workplace, perhaps no term has gained greater traction than that of a microaggression. However, noticeably absent in the organizational literature is a systematic understanding of precisely what they are, how targets respond at work when they occur, why targets choose their responses and the ramifications of their responses for and beyond the target. To develop this understanding, we build a framework that integrates research and theory on issue selling with research and theory on the emotional consequences of social identity threats. We propose that a target's response to a microaggression at work is driven not only by a cognitive cost-benefit analysis but also by a unique emotional appraisal process that attaches a fear or anger response to the experienced microaggression threatening a target's social identity. In crossing these two dimensions, we identify four archetypal responses that targets may adopt: avoidance, advocacy, social undermining, and social sharing. We theorize that these responses, in turn, have ramifications on target well-being, workgroup functioning, and organizational progress towards addressing systemic prejudice.

When it comes to discussions of race and diversity in the 21<sup>st</sup>-century workplace, perhaps no term has gained greater traction than that of microaggressions—both within and outside the ivory tower (Lilienfeld, 2017). Microaggressions are subtle, often unintentionally disparaging, verbal, paraverbal, or nonverbal social-identity-threatening messages that are communicated by a majority group member (i.e., the perpetrator) and directed towards a minority group member (i.e., the target) (Sue et al., 2007). Reflecting a particularly insidious form of covert discrimination (Davis, Whitman, & Nadal, 2015), microaggressions hurt not only targets but also the workgroups and organizations of which targets are a part (Wong, Derthick, David, Saw, & Okazaki, 2014). For example, scholars posit that the target distress resulting from a microaggression (Pitcan, Park-Taylor, & Hayslett, 2018) often spills over to negatively impact workgroup member well-being and the organizational climate as a whole (Miner-Rubino & Cortina, 2004). Due to the pernicious outcomes associated with microaggressions at each level of analysis, workplace scholars and practitioners have advocated for their eradication, primarily by encouraging targets to speak up when they occur (e.g., Basford, Offermann, & Behrend, 2014; Brickson, 2000; Brief & Barsky, 2000; Cortina, 2008; Hernandez, 2018; McCluney & Rabelo, 2019; Ragins, 2008; Washington, Birch, & Roberts, 2020; c.f., Duiguid & Thomas-Hunt, 2015).

Although such a recommendation may be useful, it glosses over the myriad responses targets may have after experiencing a microaggression. Indeed, targets are not limited to speaking up or staying silent. They may instead gravitate towards others for social support, aggressively confront perpetrators, or engage in low-level retaliation (Galupo & Resnick, 2016; Hernandez, 2018; Nadal et al., 2011; Sue, Capodilupo, & Holder, 2008). In acknowledging this litany of responses, two apparent truths emerge. First, targets may adopt a wide range of sometimes seemingly contradictory responses after experiencing a microaggression. Second,



speaking up and staying silent may be too coarse of categories (e.g., “speaking up” may take different forms, such as engaging in advocacy or social sharing with trusted colleagues; Holder, Jackson, & Ponterotto, 2015; Sue et al., 2008). Yet, while it is clear that targets may employ a varied set of responses, we have less understanding of what informs how targets choose to respond. Building such an understanding is crucial because different responses are likely to have distinct implications for targets and the workgroups and organizations of which they are a part (Morrison, 2011). For example, while we argue an avoidance response may impede organizational progress towards dismantling systemic prejudice because it does not raise awareness around the occurrence of a microaggression, it may also be functional for the target in the near term, helping emotionally-burdened targets disengage from the social-identity-threatening situation (Sue, 2010). In contrast, whereas an advocacy response may facilitate organizational progress towards dismantling systemic prejudice by raising awareness (Basford et al., 2014), it may be dysfunctional for an already-emotionally-exhausted target, given that minority organizational members are often assigned the lion share of responsibility for “fixing” prejudice and bias within organizations (Holmes IV, 2020; Wong et al., 2014).

To begin to understand why and how targets may respond to microaggressions, the literature on voice and issue selling provide a useful starting point. Without a doubt, targets likely engage in a cost-benefit analysis when choosing how to respond, balancing the risks of speaking up against the potential gains for doing so, consistent with the voice and issue selling literature (Ashford & Barton, 2007; Ashford, Rothbard, Piderit, & Dutton, 1998; Morrison, 2011, 2014). However, cognitive cost-benefit analyses likely tell only part of the story. In contrast to the prototypical issues or concerns often discussed in the voice and issue selling literatures (Burriss, Rockmann, & Kimmons, 2017; Li, Liao, Tangirala, & Firth, 2017), microaggressions

emotionally “sting” (Wang, Leu, & Shoda, 2011). As such, the role that emotion plays in informing how a target chooses to respond is likely significant. Yet, because emotions often play a secondary role to rational cost-benefit analyses in most theoretical models featured in the voice and issue selling literatures (Ashford & Barton, 2007; Morrison, 2011, 2014), there are undoubtedly unacknowledged complexities in why and how targets choose to respond in the way that they do.

Accordingly, to better understand how targets decide to respond to microaggressions in the workplace, we build a framework that integrates research and theory on issue selling (Ashford & Barton, 2007; Ashford et al., 1998; Morrison, 2011, 2014) with research and theory on the emotional consequences of social identity threats (Abrams & Hogg, 2010; Smith, 1993). We propose that targets’ mental calculus around choosing how to respond to a microaggression is driven not only by a cognitive cost-benefit analysis that would be predicted by theories of issue selling and voice but also by a unique emotional appraisal process that attaches a fear or anger response to the experienced microaggression threatening a target’s social identity. In crossing these two dimensions, we identify four archetypal responses that targets may adopt: avoidance, advocacy, social undermining, and social sharing. We theorize that these responses, in turn, have ramifications on target well-being, workgroup functioning, and organizational progress towards addressing systemic prejudice. In outlining specific outcomes related to target well-being, workgroup functioning, and organizational progress, we focus on what we believe are the most salient outcomes at each level of analysis, that are grounded in existing work and offer great potential in broadening theoretical understanding (Whetten, 1989). See Figure 1 for our model.

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In building our model, we contribute primarily to the literature on microaggressions with secondary contributions to the literatures on issue selling and discrete emotions. Although microaggressions are often referenced in the organizational literature (Elsass & Graves, 1997; Milkman, Akinola, & Chugh, 2015; Rosette, Carton, Bowes-Sperry, & Hewlin, 2013), a systematic understanding of what they are, how targets respond at work when they occur, why targets choose the responses that they do, and the ramifications of their responses for and beyond the target is noticeably absent. We remedy this omission by providing a theoretical framework that outlines the emotional and cognitive precursors of four archetypal target responses to microaggressions and their multilevel consequences. Second, we contribute to theory and research on voice and issue selling (Ashford & Barton, 2007; Ashford et al., 1998; Morrison, 2011, 2014). Rather than assuming that targets rely solely on rational cost-benefit calculations when deciding how to respond to a microaggression, we build a theory that centers the emotions of anger and fear that stem from social identity threats. In this way, we both interrogate the rational angle often dominant in the issue selling literature and build upon the burgeoning line of work examining the role of emotions in voice and issue selling choices (Edwards, Ashkanasy, & Gardner, 2009; Grant, 2013; Lebel, 2016; Morrison, 2014). Third, we extend theory on the discrete emotions of fear and anger that has long considered their destructive outcomes (e.g., Glomb, 2002; Lerner & Keltner, 2001; Öhman & Mineka, 2001), and more recently, their constructive ones (e.g., Lebel, 2017), to instead integratively examine how both emotions can lead to both functional and dysfunctional outcomes simultaneously at different levels of analysis.

### **DEFINING MICROAGGRESSIONS**

Although the concept of microaggressions has acquired considerable traction in everyday discourse (Lilienfeld, 2017), to date, the conceptual work behind it has largely taken place

outside of mainstream organizational scholarship. In the following section, we review a cross-disciplinary collection of scholarly writings on microaggressions to elicit a clear definition of the construct.

### **What is a microaggression?**

Psychologists, organizational theorists, and critical race scholars have traditionally approached microaggressions from a social psychological perspective, using the work of Pierce (1970) and others as a foundation (Franklin, 2004; Solorzano, Ceja, & Yosso, 2000; Sue et al., 2007). Such scholars define microaggressions as subtle and indirect acts that, while prejudicial, may also be explained by other rationales, essentially leaving targets to decide whether a microaggression has occurred (Sue et al., 2007). Whereas this social-psychological conceptualization of microaggressions has provided scholars with a common understanding to draw upon when studying microaggressions, it has also been met with criticism. For example, because microaggressions are in the “eye of the beholder,” scholars have argued that the number of statements and actions that can be retrospectively labeled as a microaggression is vast (Lilienfeld, 2017; Wong et al., 2014). This is problematic, particularly when statements that are ostensibly anti-prejudicial can be labeled microaggressions post-hoc<sup>1</sup> (Lilienfeld, 2017). Moreover, because microaggressions are attributionally ambiguous (Sue et al., 2007), it is not always clear how they are distinct from established constructs like selective incivility (Cortina, 2008). As such, scholars have deemed it both “essential to shore up the microaggression concept considerably by better delineating its boundaries” and “crucial for scholars to explicate not merely what constitutes a microaggression, but what does not” (Lilienfeld, 2017: 144).

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<sup>1</sup> The classic example implicated in the literature is the labeling of John McCain’s response to a supporter’s criticism that Barack Obama was Arab during the 2008 US Presidential Campaign as a microaggression: “No, ma’am. He’s a decent family man [and] citizen that just I just happen to have disagreements with on fundamental issues, and that’s what the campaign’s all about. He’s not [an Arab].” (Lilienfeld, 2017)

In light of such calls, we offer a unifying definition of microaggressions that builds on previous work and forefronts three key definitional features (1) social identity subordination, (2) unintentionality, and (3) mutual constitution. We conceptualize microaggressions at work as *subtle, unintentionally disparaging, verbal, paraverbal, or non-verbal messages—negotiated between a majority group member (perpetrator) and a minority group member (target)—that subordinates a target’s social identity*. In this way, our definition captures the relational, interactive, and experience-based elements of microaggressions that have been highlighted in past work yet, expands upon it in three important ways. First, prior work on microaggressions has prioritized the target’s perspective in identifying whether a microaggression has occurred (Lilienfeld, 2017; Sue, 2010). While this approach has given minority targets a critical and powerful voice in the microaggressions literature, which we seek to maintain, it ignores the mutually constitutive nature of microaggressions. As prior work hints, the statements and/or actions that may reflect microaggressions and the context in which they are delivered are so intertwined that the label of microaggression cannot be applied without simultaneous consideration (Sue et al., 2007), yet, often, this acknowledgment is forgotten. Second, by highlighting unintentionality in our definition, we highlight the distinctive value that the construct of microaggressions, instead of other similar existing deviant constructs in the literature that either involves ambiguous or malevolent intent, offers. Microaggressions are predominantly emitted unconsciously (Sue et al., 2007), underscoring that even the most well-intentioned organizational members may deliver them. Third, by centering social identity subordination as a key component of microaggressions, we provide a more succinct description of their nature.

To explain how our three definitional features combine to create a microaggression at work, we use the following example (see **Table 1** for a breakdown of each definitional component):

When Dr. Onyeka Otugo was doing her training in emergency medicine in Cleveland and Chicago, she was often mistaken for a janitor or food services worker even after introducing herself as a doctor. She realized early on that her white male counterparts were not experiencing similar mix-ups.

“People ask me several times if the doctor is coming in, which can be frustrating... They ask you if you’re coming in to take the trash out — stuff they wouldn’t ask a physician who was a white male.”

Dr. Otugo said the encounters sometimes made her wonder whether she was a qualified and competent medical practitioner because others did not see her that way. (Goldberg, 2020)

In the following paragraphs, we return to this example to define and elaborate on each definitional component.

---INSERT TABLE 1 HERE---

***Social identity subordination.*** The first component of our definition, social identity subordination, is a core defining feature of microaggressions at work. Social identity subordination occurs when a verbal, paraverbal, or non-verbal message conveys a negative sentiment about the affected social identity. This creates a negative affective state in the target by making social identities primary in the workplace interaction—rather than the existing organizational hierarchy, which is not explicitly based on social identity. Following organizational inequality scholars, we define social identities as categories that are explicitly protected by the law, such as race, gender, religion, national origin, disability, and sexual orientation (Edelman, Fuller, & Mara-Drita, 2001).<sup>2</sup> This definition of social identities allows us

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<sup>2</sup> In defining social identity in this way, we adopt a more narrow conceptualization than that invoked in the social-psychological tradition in which social identities can be, but are not always, based on demographic category

to distinguish it from other social *markers* (e.g., purple hair, tattoos, introvertedness, etc.) that may be differentially valued in a workplace but do not represent a broader, structural allocation of values, meanings, and resources (see Edelman et al., 2001; Ridgeway & Correll, 2004; Ridgeway & Kricheli-Katz, 2013). To illustrate how social identity subordination manifests, we return to the example of Dr. Otugo. In our example, social identity subordination occurred when Dr. Otugo was mistaken for a janitor or a food services worker, rather than a doctor, *because of her social identity as a Black woman*.

***Unintentionality.*** A second defining feature of our definition is unintentionality. As we previously discussed, there are many explanations for why a majority group member may not be aware of how their actions—verbal, paraverbal, or non-verbal—will be interpreted by a minority group member. Although this subordination based on social identity is disparaging, we propose that intent to harm is *absent* from the majority group member (perpetrator). By saying that the intent to harm is *absent*, we propose that a microaggression at work reflects the actions of a well-intentioned individual. In our Dr. Otugo example, intent to harm was absent; that is, patients ‘mistakenly’ thought Dr. Otugo was a janitor or food service worker.

***Mutually constituted.*** The last component of our definition of microaggressions at work captures how its meaning is mutually constitutive, i.e., negotiated between the interactants. By negotiated, we mean that a microaggression is a *processual* interaction, the meaning of which is iteratively negotiated between interactants (e.g., the dominant group member and minority group member) and bystanders. This component is essential because microaggressions are often ambiguous (Crocker, Voelkl, Testa, & Major, 1991; Tao, Owen, & Drinane, 2017)—in part because, as we define it, harm is absent. In our example, Dr. Otugo identifies the experience as a

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membership (Tajfel & Turner, 1979, 1986). In doing so, we remain consistent with the burgeoning microaggressions literature (Kim et al., 2019; Nadal et al., 2011; Sue et al., 2007; Wang & Shoda, 2011).

microaggression after speaking with her other white male colleagues and realizing that similar incidents were not happening to them.

### **Distinguishing Microaggressions at Work from Related Concepts**

We use the subordination of social identities, unintentionality, and mutual constitution to set clear boundaries around what constitutes a microaggression at work and, in doing so, distinguish microaggressions from other forms of discrimination, workplace incivility, and other deviant and transgressive interactions in the workplace (see **Table 2**). As Table 2 depicts, overt discrimination in the workplace represents a transgressive interaction where both intention to harm and social identity-based hierarchies are present. For example, using a racial slur in the workplace or intentionally selecting against job candidates because of their gender represent forms of overt discrimination in the workplace that have been examined by other organizational inequality scholars (Light, Roscigno, & Kalev, 2011; Roscigno, Williams, & Byron, 2012; Tomaskovic-Devey, 1993). As such, overt discrimination differs from microaggressions in that intent to harm is clear and present in overt discrimination but absent in microaggressions. Similarly, microaggressions and selective incivility are distinct. On their surface, these two constructs appear similar. However, there are important differences. Selective incivility is workplace incivility, such as disrespect, condescension, and degradation, that “allows individuals to degrade women and people of color while maintaining an egalitarian image” because “the biased nature of the [discriminatory] behavior is not obvious [and]...can be attributed to something other than gender or race” (Cortina, Kabat-Farr, Leskinen, Huerta, & Magley, 2013: 1581-1582). Unlike microaggressions in which the perpetrator truly does not intend harm, selective incivility allows the perpetrator to mask his or her discrimination behind “everyday acts of incivility” to maintain an unbiased image within the organization.



---INSERT TABLE 2 HERE---

## **TOWARDS A THEORETICAL FRAMEWORK OF TARGETS' RESPONSES TO MICROAGGRESSIONS**

In this paper, we aim to develop a theoretical framework that sheds light on the complex calculus that targets engage in when determining how to respond to a microaggression. To do so, we integrate research and theory on issue selling and voice (Ashford & Barton, 2007; Ashford et al., 1998; Morrison, 2011, 2014) with that on social identity threats and their associated emotional responses (Abrams & Hogg, 2010; Smith, 1993). Research and theory on issue selling and voice unpack the cognitive processes behind why employees engage in discretionary communication to address problematic behaviors or issues—behaviors that could include, for example, microaggressions. Research and theory on social identity threats and their associated emotional responses acknowledge the deeply emotional nature of social-identity-threatening microaggressions. Together, these two theoretical perspectives set the stage for the production of distinctive insights around responding to microaggressions specifically (as opposed to speaking up more generally), that accounts for both the cognitive drivers traditionally emphasized in the voice and issue selling literatures as well as the emotional drivers emanating from work on social identity threats.

### **Cognitive Dimension of Target's Calculus: Weighing of Costs and Benefits**

We first posit that targets engage in an expected utility calculation in determining how to respond to a microaggression, following the literature on voice and issue selling. In line with this body of work, employees consider two fundamental questions when deciding whether or not to draw attention towards a problematic work issue or event (Ashford & Barton, 2007; Ashford et al., 1998; Morrison, 2011, 2014). First, they contemplate whether speaking up will result in a desirable outcome. Second, they ponder whether speaking up will bring about negative

consequences for the self. If the expected efficacy exceeds the anticipated costs, employees call attention to the undesirable event or issue. In contrast, if the anticipated costs exceed the expected efficacy, employees refrain from speaking up.

In the case of microaggressions, minority targets may incur considerable costs if they choose to speak up. For example, due to the inherent attributional ambiguity of a microaggression (Crocker et al., 1991; Tao et al., 2017), targets who draw attention to a microaggression may be perceived as overreacting and subsequently labeled by others as difficult complainers (Endo, 2015; Louis et al., 2016; Milliken, Morrison, & Hewlin, 2003; Morrison, 2014). Indeed, consider an Asian-American target who was told that “microaggressions are ‘not really a big deal’” and that she “bring[s] up ‘the race card’ unnecessarily” after trying to engage her colleagues (Endo, 2015: 622). These reputational costs are not trivial—they often jeopardize both the relationships targets have with others at work and minority targets’ instrumental outcomes. For example, those who speak up about microaggressions may find themselves further isolated given majority members’ discomfort with confronting topics related to race and discrimination (Apfelbaum, Sommers, & Norton, 2008; Kim, Nguyen, & Block, 2019). Likewise, as retaliation for speaking up, targets of microaggressions may find their career progression hindered, receiving less feedback and garnering worse performance evaluations (Constantine & Sue, 2007; Seibert, Kraimer, & Liden, 2001).

Despite the myriad costs that may come from speaking up, such costs may be worth incurring if doing so is likely to bring about a desirable outcome (Ashford et al., 1998; Detert & Treviño, 2010; Morrison, 2014). For minority targets, the outcome that may be most desirable—albeit notoriously elusive—is a workplace future in which microaggressions are largely absent as

a result of active, collective efforts by colleagues, workgroups, and organizations aimed at their eradication (Davis et al., 2015; Kim et al., 2019; Sue et al., 2007; Washington et al., 2020). Achieving such a future requires taking “the first step” of raising awareness (Basford et al., 2014: 346). Of note, factors that promote perceptions of efficacy around speaking up, in general, are likely to also play a similar role in promoting a greater perceived likelihood of microaggression eradication. These factors may include, for example, minority targets’ levels of extraversion and proactive personality, as well as the perceived openness and receptivity of others to discussing and confronting microaggressions (Ashford et al., 1998; Crant, Kim, & Wang, 2011; Detert & Burris, 2007). Importantly, even if the probability of securing a future free of microaggressions seems to eclipse anticipated costs for targets—perhaps enhanced by factors like the perceived willingness of others to confront microaggressions—we argue that such a calculation only partially determines how and why a target may respond to a microaggression.

### **Emotional Dimension of Target’s Calculus: Anger vs. Fear**

A second central driving force in determining how a target responds to a microaggression is likely emotional. Although the traditional view explicating why (and why not) employees speak up in the voice and issue selling literature has strongly underscored a cognitive processing perspective, scholars have increasingly begun to interrogate this purely rational view (Edwards et al., 2009; Grant, 2013; Lebel, 2016; Morrison, 2014). For example, work within the last decade highlights the complex role of discrete emotions like fear in both promoting voice and remaining silent (Kish-Gephart, Detert, Treviño, & Edmondson, 2009; Lebel, 2016). Attention to such discrete emotions is particularly warranted when considering target responses to microaggressions. This is because, in derogating a target’s social identity, microaggressions inherently invite a host of negative emotional reactions (Wang et al., 2011). Indeed, one is not

hard-pressed to find quotes from targets that unmistakably reveal the negative affective experience that follows the receipt of a microaggression:

“Honestly [after experiencing a microaggression], I feel like cursing them out...” (Nadal et al., 2011: 28)

“[The emotion I most feel after being on a receiving end of a microaggression is] anger, being extremely frustrated with it because again it’s not so blatant. . . because the incidents are subtle, it gives that person a chance to say, oh, well, I didn’t include you because it slipped my mind or that’s not what I meant.” (Holder et al., 2015: 172)

“[After experiencing a microaggression] I started getting a little scared of [work] interactions a little bit because you are scared to say the wrong thing. Like it hurt so badly.” (Pitcan et al., 2018: 308)

Among the many negative emotions that targets may feel, fear and anger are likely to predominate, following theory and research on social identity threats (Abrams & Hogg, 2010; Inzlicht & Kang, 2010; Smith, 1993; Vescio, Gervais, Snyder, & Hoover, 2005). Indeed, a second look at the minority target reactions detailed above corroborates that fear and anger reflect the prevailing emotions following a microaggression. Whereas fear is a negative, highly arousing affective experience characterized by a sense of low personal control and certainty, anger is a negative, highly arousing affective experience characterized by a sense of high personal control and certainty (Smith & Ellsworth, 1985). For example, fear would prevail when the microaggression appears particularly ambiguous even after it is negotiated among interactants, and its perpetrator appears untouchable (due to perpetrator’s status, power, etc.). On the other hand, anger would predominate when the microaggression clearly subordinates a target’s social identity, and the target feels restitution is possible. Importantly, whether fear or anger prevails is likely to inform subsequent target action given that fear tends to promote “flight” action tendencies while anger tends to encourage “fight” action tendencies (Frijda, 1986). Importantly, however, variation exists within these “fight or flight” action tendencies such

that fear can beget other responses beyond “flight” (i.e., avoidance) and anger can beget other responses beyond “fight” (i.e., retaliation) (Lebel, 2017)—a notion we expound upon below.

#### **Four Archetypal Target Responses to a Microaggression**

To move beyond “fight or flight,” we cross the cognitive weighting of anticipated costs and expected efficacy with the emotional responses of fear versus anger to identify four archetypal microaggression target responses (see Figure 1). These four responses are what we term avoidance, advocacy, social undermining, and social sharing. Before we describe each of these responses in-depth, we note that, although we present a 2 x 2, our dimensions may be best thought of as continuums. That is, hybrid responses are possible. For example, consider a target who feels elements of both fear and anger due to a sense of low personal control and high certainty and/or one who finds the net weighting of costs and efficacy as near zero. For such targets, they may exhibit elements of all four archetypal microaggression target responses. However, we posit that such a scenario in which a target falls squarely in the middle of both dimensions is likely the rare exception given that costs tend to loom larger than gains, which may make, for example, an expected net utility of zero improbable (Baumeister, Bratslavsky, Finkenauer, & Vohs, 2001). In what follows, we describe each of these four archetypal responses, building theoretically towards our perhaps most novel responses.

***Avoidance.*** Targets who primarily feel fear in response to a microaggression and determine that the risks of speaking up outweigh the benefits are likely to engage in an avoidance response. Avoidance reflects efforts that allow one to engage in either mental or physical escape, or both, echoing the definitions of avoidance found in several other theoretical frameworks (e.g., Lazarus & Folkman, 1984; Rahim, 1983). Avoidance is the likely response when fear dominates, and the costs of speaking up loom large for two interrelated reasons. First, emotion scholars have

long documented that the action tendency most associated with fear is that of escape, whether that is in the form of “flight” (e.g., physically leaving the room after experiencing a microaggression) or freezing in place (e.g., feeling unable and unwilling to process the microaggression) (Frijda, Kuipers, & ter Schure, 1989; Izard & Ackerman, 2000; Lerner & Keltner, 2001). Second, when costs for speaking up loom large, rationally speaking, it is futile to direct one’s efforts in any other way than that of evasion or avoidance (Milliken et al., 2003). Examples of avoidance in the literature on microaggressions abound. Indeed, anecdotally, avoidance may perhaps seem to be the most common target response to a microaggression. Consider the following example that highlights an avoidance response to a microaggression:

Then I also have been in that situation where I was kinda almost frozen [because of fear]. And was like, I’m not gonna, kinda, um I . . . I don’t even know what to start off saying something in the situation because then what’s actually gonna happen? Those conversations are not where you’re gonna win. Um, it probably is not something you’re gonna win. I think that you kinda put a cover face on and bite your lip and kinda keep rolling...(Pitcan et al., 2018: 307)

*Proposition 1: Minority targets are more likely to engage in avoidance response when the microaggression predominantly triggers fear, and the risks of speaking up are deemed to outweigh the efficacy of doing so.*

**Advocacy.** Not all targets who feel fear after a microaggression will engage in avoidance. Indeed, although the action tendency most associated with fear is escape, emotion scholars acknowledge that contextual factors can reinforce or undermine whether this action tendency precisely manifests in this way (Lebel, 2017; Roseman, 2011). For example, “when there is no immediate need to escape”—such as when one perceives that speaking up will likely be efficacious (Morrison, 2011, 2014)—protective effort, rather than escape, is the likely response (Frijda, 1986: 198). Accordingly, we posit that when the context suggests that the benefits of speaking up seem to outweigh the risks, fear will prompt targets to engage in protective effort in the form of what we term an advocacy response. An advocacy response entails speaking up via

carefully identifying allies, building a coalition, and engaging in calculated, organized efforts that draw attention to the microaggression (Druck, Perry, Heron, & Martin, 2019; Morrison, 2014). In this way, an advocacy response reflects coalition-building discussed in the issue selling, upward influence, and social movements literature (Dutton & Ashford, 1993; Falbe & Yukl, 1992; Heaney & Rojas, 2014) and is closest to what microaggressions scholars call for when encouraging that targets raise awareness around the microaggressions they experience (Sue et al., 2019). Because an advocacy response “enlists the aid or endorsement of other people” (Falbe & Yukl, 1992: 643)—often majority group members—an advocacy response protects the target politically while simultaneously allowing him or her to potentially reap the perceived benefits of speaking up. As an illustration, consider how, after experiencing a microaggression, one target reflects on the necessity of enlisting others who have the power to reshape a situation:

“You have to have other people help you and when you’re in a situation and you feel like the fit is not the right situation for you, you need to be able to reach out to people who will help you create a new situation for yourself.” (Holder et al., 2015: 174)

*Proposition 2: Minority targets are more likely to engage in advocacy response when the microaggression predominantly triggers fear, and the efficacy of raising awareness is deemed to outweigh the risks of doing so.*

***Social undermining.*** Targets who primarily feel anger in response to a microaggression and determine that the risks of speaking up outweigh the benefits are likely to engage in a social undermining response. A social undermining response involves engaging in insidious behaviors towards perpetrators and others in the organization that “hinder, over time, [another’s] ability to establish and maintain positive interpersonal relationships, work-related success, and favorable reputation” (Duffy, Ganster, & Pagon, 2002: 332). Concretely, it may involve withholding key information, making another organizational member (e.g., perpetrator) look bad, delaying another organizational member, and other similar actions. Under these emotional and cognitive

conditions, social undermining is likely because, when considering anger on its own, the dominant action tendency is retaliation, in the form of antisocial work behaviors (Lebel, 2017; Roseman, Wiest, & Swartz, 1994; Shaver, Schwartz, Kirson, & O'Connor, 1987). Indeed, the theoretical and empirical link between anger and antisocial work behavior is quite robust (e.g., Hershcovis et al., 2007; Spector, 1997). Importantly, however, a target's assessment of risk modulates the intensity of this antisocial behavior such that the greater risk perceived, the more insidious the form of antisocial behavior (Fox & Spector, 1999). As such, target anger coupled with a cost-benefit assessment in which costs outweigh benefits should predict social undermining, given that social undermining reflects subtle, low-intensity behaviors in which an actor can maintain plausible deniability (Duffy, Ganster, Shaw, Johnson, & Pagon, 2006). Indeed, evidence of a social undermining response resulting from anger coupled with perceptions of high cost for speaking up is present in qualitative investigations of targets' experiences with microaggressions. Consider the employee who "conveniently neglected" to fill out a requested survey in retaliation:

"A diversity survey was sent around to the employees, and it had a question about employees' sex...it really aggravated me that the only available options were male and female. It kind of shocked me to see it; it felt backwards and antiquated. Sure, they didn't have to put MtF or FtM, but at least put the option for intersex or other (or leave it open-ended), right? I felt as though I should have said something to a manager about making the survey more inclusive, but at the time it was at the end of the day...[so] I didn't even complete one." (Galupo & Resnick, 2016: 281)

*Proposition 3: Minority targets are more likely to engage in social undermining response when the microaggression predominantly triggers anger, and the risks of raising awareness are deemed to outweigh the efficacy of doing so.*

**Social sharing.** However, just like with fear, not all targets who feel anger after a microaggression will engage in social undermining. Indeed, although the action tendency most associated with anger is retaliatory in the form of antisocial work behaviors, anger can also be



harnessed into a more productive, rather than counterproductive, action tendency (Lerner & Tiedens, 2006). This is most likely to happen when the target perceives a way to productively “right” the perceived wrong (Harmon-Jones, Sigelman, Bohlig, & Harmon-Jones, 2003), i.e., when the benefits of speaking up outweigh the costs. Accordingly, we theorize that when targets feel anger and determine that benefits may exceed costs of speaking up, they will channel their anger by voicing their frustration towards other organizational members—what we term “social sharing.” Social sharing is characterized by talking through the microaggression with trusted others in a way that allows them to process and reinterpret the experience as needed (Heppner et al., 2006; Hernández, Carranza, & Almeida, 2010; Sue et al., 2008), echoing a process of sensemaking (Shenoy-Packer, 2015; Weick, 1995) and self-disclosure (Phillips, Rothbard, & Dumas, 2009). Because this response still “confronts” the microaggression, social sharing reflects a different kind of “fight” response, consistent with a “fight or flight” analogy, than social undermining. We expound upon this notion in the following section detailing the consequences at the individual, workgroup, and organizational levels of each of our four archetypal responses. Like our other three responses, instances of social sharing responses from targets of microaggressions are prevalent within the literature:

“Another way of coping for me has been to find someone that is going to understand and process it with them...Processing with somebody who can confirm that I am still sane, that I am not crazy, and that I am not hypersensitive or overreacting or any of that stuff.” (Hernández et al., 2010: 205)

*Proposition 4: Minority targets are more likely to engage in a social sharing response when the microaggression predominantly triggers anger, and the efficacy of raising awareness is deemed to outweigh the risks of doing so.*

### **Multilevel Consequences of Target Responses to Microaggressions**

Having theorized around the cognitive and emotional drivers that lead to varied target responses, we consider the multilevel consequences each of these responses may have. Although

much of the existing research on microaggressions resides at the individual level (e.g., Galupo & Resnick, 2016; Nadal, Davidoff, Davis, & Wong, 2014; Pitcan et al., 2018; Sue, 2010), an assumption among scholars and practitioners is that the negative consequences of microaggressions reverberate across levels, beyond the individual (Basford et al., 2014; McCluney, King, Bryant, & Ali, 2020; Ong & Burrow, 2017). In fact, in addition to affecting workgroup members (Basford et al., 2014), scholars see microaggressions as reinforcing systemic prejudice at the organizational level and beyond (Huber & Lewis, 2010; Solorzano, 2010). To date, however, discussions of these multilevel consequences are fragmented and divorced from the specific responses targets may adopt. Accordingly, we focus on delineating the consequences at the target, workgroup, and organizational levels of analyses for each of our four archetypal responses. Our specific outcomes at each level of analysis are likely not the only consequences that may arise. Rather, they reflect those that meet the following three criteria: (1) capable of being elucidated from the nascent, but burgeoning, literature on microaggressions; (2) highly relevant given the surrounding work and dialogues at each of these levels of analysis; and (3) offer significant and distinct value in broadening scholarly understanding of target responses to microaggressions (Whetten, 1989).

*Consequences of avoidance.* We posit that an avoidance response is likely associated with decreased emotional exhaustion for the target in the short term but decreased job satisfaction in the long term. Recent studies on microaggressions have shown how they can set off an emotionally laborious process wherein the target attempts to understand the rationale behind the incident (Sue, 2010). However, when a minority target uses an avoidance response, they do not perform this emotional labor with the microaggression incident, by definition (Nadal et al., 2014). As a result, the target should experience lower emotional exhaustion in the short

term, which “occurs when people feel their emotional resources are depleted” (Chan & Anteby, 2016: 198). Previous studies have documented how emotional labor and emotional exhaustion are inter-connected (Maslach & Jackson, 1981; Wharton, 2009; Wilk & Moynihan, 2005), especially in response to microaggressions (e.g., Call-Cummings & Martinez, 2017; Pearce, 2019; Smith, 2004). For example, in a qualitative study of transgender-based microaggressions (Nadal et al., 2014: 76), a participant shared how “[Sometimes I] let them call me a ‘she’ because I don’t want to have another fight...” In this example from the literature, an avoidance response to a microaggression allowed the participant to avoid a “fight,” thereby experiencing decreased levels of emotional exhaustion.

While an avoidance response is likely to result in decreased emotional exhaustion in the short term, in the long term, it may have detrimental effects in the form of decreased job satisfaction. Over time, the avoidance response requires the target to regulate their emotional responses to microaggressions by engaging in “surface acting” because it is increasingly hard to cognitively maintain an avoidance response in the long term (Roth & Cohen, 1986; Zapf, 2002). Since surface acting by definition requires the target to bridge an emotional chasm (i.e., portray a positive emotional response to a negative microaggression incident), we argue that, over time, such acting will result in decreased job satisfaction, or a decreased “positive emotional state resulting from the appraisal of one’s job or job experiences” (Locke, 1976: 1300). Indeed, empirical evidence suggests that this may be the case (Abraham, 1998; Morris & Feldman, 1996; Thoroughgood, Sawyer, & Webster, 2020). For example, a participant in a study of Black female doctoral students shared how “[having] to present yourself as a static being that doesn’t really respond emotionally either way”—i.e., engaging in avoidance—was stressful and decreased her level of satisfaction in her graduate program (Shavers & Moore III, 2014: 402).

*Proposition 5a: Minority targets who use an avoidance response are likely to experience decreased emotional exhaustion in the short term but also decreased job satisfaction in the long term because the prolonged "surface acting" required of the target results in emotional dissonance.*

At the workgroup level, we posit that an avoidance response is likely associated with decreased expressed relational conflict in the short term but decreased workgroup cohesion in the long term. Since avoidance by definition means the target does not speak up about the microaggression to colleagues and supervisors, the workgroup is likely to continue to behave in its usual manner. Maintaining the status quo means that the workgroup does not experience expressed relational conflict in the short term, even if relational conflict may exist. Relational conflict is defined as “situations where people are opposed to one another, advocating for different outcomes,” and *expressed* relational conflict refers to the intensity and directness of *how that* conflict is expressed between interactants (e.g., an argument, debate, or fight) (Weingart, Behfar, Bendersky, Todorova, & Jehn, 2015: 236). Returning to the transgender participant in the Nadal and coauthors’ (2014) study, an avoidance response to transgender-based microaggressions also meant avoiding ‘fights’ and ‘battles’ (i.e., expressed relational conflict) with colleagues.

However, just because the target does not express the relational conflict directly does not mean that it is not felt (i.e., experienced) relational conflict among the target and other workgroup members. Indeed, empirical research suggests interactants can often pick up on relational conflict over time even when the relational conflict cue is indirect or ambiguous—for example, distancing oneself from others (Weingart et al., 2015). Thus, we argue that, as the minority target becomes more strategic in their interactions, e.g., isolating themselves from workgroup interactions, a contagion effect takes root within the workgroup, whereby workgroup cohesion—or the level of social integration within a group (Harrison, Price, & Bell, 1998)—will

decrease over time as workgroup members reciprocate and respond to unexpressed, indirect, relational conflict cues. Previous studies have documented this ‘defensive distancing’ in close relationships across social categories (e.g., Jaremka, Bunyan, Collins, & Sherman, 2011; Peetz, Gunn, & Wilson, 2010; Vorauer & Sakamoto, 2006). For example, Shelton and Richeson (2005) found that an initial avoidance response from a workgroup member resulted in ‘defensive distancing’ as other workgroup members anticipate, respond, and reciprocate avoidance. As a result, workgroups became less cohesive over time.

*Proposition 5b: When a minority target uses an avoidance response, workgroups are likely to experience decreased expressed relational workgroup conflict in the short term but decreased workgroup cohesion in the long term because of defensive distancing.*

Finally, at the organizational level, we posit that an avoidance response is likely to inhibit organizational progress towards addressing systemic prejudice. Indeed, when a target adopts an avoidance response, they do not speak up about the microaggression incident and, as a result, organizations remain unaware of the microaggression occurrence. We argue that when a target adopts an avoidance response, there is little normative pressure acting as an impetus for change. As such, the organization maintains the status quo. This organizational outcome is not uncommon (see Hannan & Freeman, 1984; Stinchcombe, 1965). Normative pressure is defined as compliance with another’s position or viewpoint in order to gain ‘social rewards’ (e.g., approval, legitimacy, etc.), and multiple studies have documented how it can be an important impetus for addressing systemic prejudice (Blanchard, Crandall, Brigham, & Vaughn, 1994; Skaggs, 2009; Stainback, Tomaskovic-Devey, & Skaggs, 2010). For example, Blanchard and coauthors (1994) found that when targets avoided speaking up about discriminatory incidents, it not only failed to address the microaggression, but actually reinforced discriminatory social norms within organizations.

*Proposition 5c: Minority targets who use an avoidance response are likely to inhibit organizational progress towards addressing systemic prejudice because of the absence of normative pressure.*

**Consequences of advocacy.** At the individual level, we argue that minority targets who use an advocacy response are likely to experience increased emotional exhaustion in the short term but increased job satisfaction in the long term. When a minority target adopts an advocacy response, they speak up about the microaggression to colleagues and supervisors. However, colleagues are unlikely to initially share the incident's interpretation (Basford et al., 2014). For example, one respondent in Sue's study (2008: 334) on microaggressions shared, "It is how your context gets translated through someone else's lens. I think that's another way that the very essence of your life is up for definition, based on any particular lens that a White person is wearing on any particular day in any particular moment." Given this, we argue that the minority target must engage in emotional labor in the form of deliberative dissonance acting (Ashforth & Humphrey, 1993; Zapf, 2002) to persuade their colleagues to share their interpretation of the incident. Deliberative dissonance acting occurs when "different rules exist for the display of emotions and the inner feelings, whereby internal neutrality is typically required" (Zapf, 2002: 246). Consequently, targets will experience greater emotional exhaustion in the short term because deliberative dissonance acting entails regulating emotions to accord with the organizational display rules of professional neutrality and the "happy talk" display rules associated with diversity (Bell & Hartmann, 2007). Indeed, Ahmed (2012: 162) found minority targets experience emotional exhaustion as a result of "mak[ing] strategic decisions *not* to use the language of racism," which, by definition, is a critical component of an advocacy response.

While advocacy may be emotionally exhausting in the short term, we argue that such a response is likely to increase job satisfaction in the long term. This is because the deliberative

dissonance acting serves a functional purpose for the target by promoting smoother interactions with colleagues and communicating with them in a way that more easily facilitates conversion (Ashforth & Humphrey, 1993). For example, in a study of LGBT social identities at work, one respondent (Maria) reflected how advocacy ultimately led to greater satisfaction with her efforts: “We didn’t go and beat up on [the CEO] and say, ‘We want this and we want this.’ We worked with them [to be effective]... We didn’t want to burn any bridges and to be in people’s faces because we didn’t think it was the way to go” (Creed & Scully, 2011: 404). In the end, because she was deliberate in her approach, Marie ended up being more satisfied (Creed & Scully, 2000).

*Proposition 6a: Minority targets who use an advocacy response are likely to experience increased emotional exhaustion in the short term but increased job satisfaction in the long term because of deliberative dissonance acting.*

When a minority target uses an advocacy response, we argue that workgroups are likely to experience increased relational workgroup conflict in the short term but increased workgroup cohesion in the long term. When the minority target uses the advocacy response, they present an interpretation of the event that is likely at odds with the workgroup interpretation (Sue, 2010). We argue that divergent interpretations create relational workgroup conflict in the short term (King, Hebl, & Beal, 2009; Tsui & O’Reilly III, 1989). For example, in a study on minority teachers at predominantly White institutions (Pizarro & Kohli, 2020), minorities shared how workgroup colleagues dismissed their attempts to raise awareness around microaggressions at work. One minority said, “People would just dismiss it as, ‘Oh you’re just being paranoid. There was nothing wrong with what he said,’” indicating the presence and backing of opposing interpretations of the incident, i.e., relational conflict (Pizarro & Kohli, 2020: 981).

However, we also argue that divergent interpretations that emanate from an advocacy response are likely to push workgroup members to engage in further, critical evaluation of the

minority target's viewpoint in the long term (Maass & Clark, 1984; Moscovici & Mugny, 1983). As workgroup members engage in more and more divergent thinking, we argue that workgroup cohesion will increase (Creed & Scully, 2011; Howard-Grenville, 2007). Returning to the Creed and Scully (2011) study on LGBT social identities at work, Maria's advocacy response pushed workgroup members to reconsider their taken-for-granted viewpoints on social identities at work. For example, one respondent exposed to the damage of LGBT-based microaggressions at work shared, "[My colleague's speech] was a breakthrough moment...Something went off in my head, yes! It really changed me...I thought a lot about it. I talked a lot about it. It was very powerful for me...I took [on the advocacy response] just as a personal thing for myself because I believed so strongly in it" (Creed & Scully, 2011: 419). In other words, workgroup members seemed to exhibit greater cohesion due to a target's advocacy response.

*Proposition 6b: When a minority target uses an advocacy response, workgroups are likely to experience increased relational workgroup conflict in the short term but increased workgroup cohesion in the long term as divergent thinking improves over time.*

Finally, we argue that an advocacy response to a microaggression facilitates organizational progress towards addressing systemic prejudice because of increased normative pressure. Under the advocacy response, organizational leaders will be motivated to act due to internal and environmental pressures (Dobbin, Kim, & Kalev, 2011; Dutton, Ashford, Lawrence, & Miner-Rubino, 2002; Stainback et al., 2010; Suchman, 1995). This is because an advocacy response works to generate buy-in from stakeholders across the company (Anderson & Bateman, 2000; Dutton et al., 2002; Dutton, Ashford, O'Neill, & Lawrence, 2001). Again, Creed and Scully (2011) highlight the example of Tom, a CEO, who responded to employee pressure for action on LGBT-based microaggressions by formalizing the company policy on domestic partner



benefits in order to improve the inclusion climate. In this way, Creed and Scully (2011) found that an advocacy response laid the foundation for macrosocial structural changes at companies.

*Proposition 6c: Minority targets who use an advocacy response are likely to facilitate organizational progress towards addressing systemic prejudice because of normative pressure.*

***Consequences of social undermining.*** When a minority target adopts a social undermining response, we argue that a target is likely to experience greater agency, i.e., sense of control (Shnabel & Nadler, 2015), over their work environment in the short term, but also a decreased affective commitment to the work environment in the long term. In the short term, targets are likely to experience greater agency after engaging in social undermining because such a response allows targets to feel like they are actively and effectively correcting instances of justice failures, i.e., those incidents at work in which a perpetrator goes unpunished (Aquino, Tripp, & Bies, 2006; Zhu, Martens, & Aquino, 2012). Because microaggressions exact harm and often remain unchecked within organizations (Offermann, Basford, Graebner, DeGraaf, & Jaffer, 2013; Pitcan et al., 2018), they can reflect justice failures. Examples of minorities engaging in social undermining and reporting greater agency are present in the literature (Brondolo, Brady Ver Halen, Pencille, Beatty, & Contrada, 2009; Hyers, 2007; Lee, Soto, Swim, & Bernstein, 2012; Sue et al., 2019). For example, Hyers' (2007) study on how minority women respond to microaggressions found that participants who responded to microaggressions by making the offender look 'bad' at work seemed to experience increased feelings of control and efficacy in the moment.

However, in the long term, a social undermining response is likely associated with decreased target affective commitment, which captures the emotional attachment an employee feels towards his or her organization (Shore & Wayne, 1993). Although social undermining may

make a target feel that they are effectively correcting justice failures in the short term, social undermining can also make targets feel like they are ineffective in the long term because it encourages targets to ruminate on the perpetrator's offense rather than 'move on' (Andersson & Pearson, 1998; Carlsmith, Wilson, & Gilbert, 2008). Since a sense of efficacy is an antecedent to affective commitment (Allen & Meyer, 1990), we argue that the increased rumination and potential realization of the ineffectiveness of one's efforts are likely to result in decreased affective commitment in the long term. Indeed, in a study on the effect of experiencing perceived subtle gender discrimination in the workplace, minority employee targets who engaged in a social undermining response (such as working slower) also expressed decreased affective commitment (Qu, Jo, & Choi, 2020).

*Proposition 7a: Minority targets who use a social undermining response are likely to experience an increased sense of agency over their work environment in the short term but decreased affective commitment in the long term because of target perceptions of efficacy around redressing justice failures.*

At the workgroup level, we argue that a social undermining response is likely to increase workgroup incivility in the short term and a lower perceived interpersonal justice climate in the long term. Because social undermining is depleting for those who experience and witness it, it can backfire and trigger a conflict spiral that invites more justice failures among workgroup members unable to exercise restraint (Andersson & Pearson, 1998; Lee, Kim, Bhawe, & Duffy, 2016; Zhu et al., 2012). As a result, workgroups with minority targets who engage in social undermining in response to microaggressions are likely to experience greater workgroup incivility, defined by low-intensity deviant disrespectful behavior (Andersson & Pearson, 1998).

In the long term, following the logic of a conflict spiral, a target's social undermining response should result in a lower perceived interpersonal justice climate, which is defined as a workgroup's shared perception of the level of dignity and respect practiced by its members

(Stoverink, Umphress, Gardner, & Miner, 2014). We argue that the social undermining and retaliatory social undermining behaviors will lower the interpersonal justice perceptions for those on the receiving end (Lee et al., 2016), such that the workgroup climate as a whole will suffer (Kozlowski & Klein, 2000). Indeed, Solorzano and colleagues' (2000) qualitative investigation of racial microaggressions aptly captures the conflict spiral theorized here. In this study, the presence of microaggressions led several informants to engage in self-serving social undermining behaviors, which prompted members to act less civilly in response (Solorzano et al., 2000). This incivility eventually informed the workgroup climate, with informants remarking that poor treatment by others was a defining feature of the climate: "I have to be on guard...every time I go and talk to anybody. I'm like, are they here really to help me or are they going to lead me down the path that I don't want to go down?" (Solorzano et al., 2000: 69).

*Proposition 7b: When a minority target uses a social undermining response, workgroups are likely to experience increased workgroup incivility in the short term, resulting in a lower perceived interpersonal justice climate in the long term because of an incivility spiral.*

Finally, we argue that minority targets who use a social undermining response are likely to hinder organizational progress towards addressing systemic prejudice. We argue that in setting off an incivility spiral, organizational members may identify the target minority (rather than the microaggression incident) as the root cause. As a result, rather than labeling the behavior (i.e., the microaggression) pejoratively, organizational members focus on the individual (i.e., the minority target) and are likely to label the target pejoratively (Pager & Karafin, 2009; Steele, Spencer, & Aronson, 2002; Tilcsik, 2021). We argue that such pejorative labeling is likely to hinder organizational progress towards addressing systemic prejudice as people conflate the minority target with their social identity group (Becker, 1963; Goffman, 1968; Pager & Shepherd, 2008). In this way, minority targets, and their fellow social identity group members,

become organizational deviants rather than valued members that should be included. For example, Pager and Karafin's (2009) qualitative interview study of organizational discrimination at New York-based employers found that previous negative experiences with minority employees affected the employers' behaviors towards minority candidates in negative ways. Indeed, one majority member recalled a Black female employee who was "shirking" work responsibilities and having a "bad attitude" in response to workplace discrimination—i.e., engaging in social undermining—as "just stuck in [his] head" (Pager & Karafin, 2009: 87). He continued, saying, "And I could see her [in all future hires]. It was hard not to see her in other people that you meet [that look like her]" (Pager & Karafin, 2009: 87).

*Proposition 7c: Minority targets who use a social undermining response are likely to hinder organizational progress towards addressing systemic prejudice because of being labeled as organizational deviants.*

***Consequences of social sharing.*** Whereas the social undermining response is partially driven by anger to punish or harm others for justice failures reactively, the social sharing response "transforms [anger] into a sense of efficacy to act" (Lebel, 2017: 194) to remediate justice failures. We posit that when a minority target uses a social sharing response, they are likely to experience a decreased sense of agency over their work environment in the short term, but increased affective commitment in the long term. While social sharing is an active and agentic response to a microaggression incident, it is also, by definition, a form of self-disclosure. This has two interrelated consequences for the minority target. First, social sharing does not involve actively "punishing" the perpetrator of the microaggression. Second, it may actually involve relinquishing some control to those with whom they social share because targets must assume vulnerability in self-disclosing (Phillips et al., 2009). Indeed, in their study on microaggressions in the classroom, Sue and coauthors (2009) documented how students viewed

speaking up about microaggressions as “risky,” “vulnerable,” and dependent on the reactions of the audience. For example, one student shared how she did not “want to come across as the angry Black woman” or “say something if it’s just going to be tossed away” by the audience (Sue, Lin, Torino, Capodilupo, & Rivera, 2009: 187). Given this, we argue that the minority target is likely to experience a decreased sense of agency over their work environment in the short term. The existing literature on minority status and self-disclosure contains multiple references to this relationship (Clair, Beatty, & MacLean, 2005; Little, Major, Hinojosa, & Nelson, 2015; Ragins, 2008; Rothbard, Phillips, & Dumas, 2005).

In the long term, however, social sharing should promote increased affective commitment. A central consequence of self-disclosure is the production of emotionally bonded, high-quality relationships (Cozby, 1973; Jourard & Lasakow, 1958). With greater attachment to colleagues, targets should feel greater emotional attachment, i.e., affective commitment, towards their organization. For example, in their study of coping strategies adopted by Black female executives in corporate America (Holder et al., 2015), the authors found that sharing their experiences of microaggressions with colleagues not only helped the participants persist in the profession but also increased their sense of belonging and commitment.

*Proposition 8a: Minority targets who use a social sharing response are likely to experience decreased social control over their work environment in the short term but increased affective commitment in the long term because of self-disclosure.*

At the workgroup level, we posit that when a minority target uses a social sharing response, workgroups are likely to experience increased workgroup civility in the short term, resulting in a higher perceived interpersonal justice climate in the long term. Because self-disclosure promotes the formation of emotional bonds between disclosers and recipients (Cozby, 1973; Jourard & Lasakow, 1958), it is likely to promote a courtesy, rather than conflict, spiral.

Indeed, social sharing with trusted others, as a reflection of self-disclosure, is positively associated with recipient responsiveness, regardless of the level of sensitivity of the content (Derlega, Wilson, & Chaikin, 1976). While responsiveness is distinct from workgroup civility, which is defined as collective behavior that forefronts respect and regard for workgroup members (Andersson & Pearson, 1998), dyadic responsiveness is often the first step in promoting workgroup civility. For example, in a mixed-method study of minority views on ally behavior, Brown and Ostrove (2013: 2214) documented how minority targets of microaggressions who disclosed the incident to trusted others found these others to be “respectful,” which led to supportive, considerate behaviors like trying to help them “figure out a way to correct [the microaggression incident] if it’s possible.”

In the long term, following the logic of a courtesy, as opposed to conflict, spiral, we argue that the social sharing response is likely to result in a higher perceived interpersonal justice climate as workgroup members become motivated to reinforce and restore workgroup norms (Ashford & Barton, 2007; Williams & Polman, 2015). Multiple field-based and experimental studies on diversity in the workplace have shown how a social sharing response, which encourages learning about the perspective of minority targets, can facilitate a civility spiral whereby workgroup members work to strengthen social bonds and enforce norms of respect and dignity (Ely & Thomas, 2001; Lindsey, King, Hebl, & Levine, 2015; Nishii, 2013). For example, Ely and Thomas’s (2001: 249) study on diversity at work found that social sharing led to “not always the easiest conversation,” but nonetheless colleagues willingly engaged, challenging each other and learning from each other—reflecting a stronger interpersonal justice climate.

*Proposition 8b: When a minority target uses a social sharing response, workgroups are likely to experience increased workgroup civility in the short term, resulting in a higher perceived interpersonal justice climate in the long term because of a balance restoration process.*

Finally, we argue that minority targets who use a social sharing response are likely to facilitate organizational progress towards addressing systemic prejudice because of social learning. Social learning occurs through direct experience or observing the behaviors of others and can result in the acquisition of new patterns of behavior (Bandura, 1977; Ely & Thomas, 2001; Reagans, Argote, & Brooks, 2005). We argue that the organization as a whole will observe and learn from the dynamics implemented at the workgroup level (Satterstrom, Kerrissey, & DiBenigno, 2020) in order to facilitate organizational progress towards addressing systemic prejudice. If we return to the Ely and Thomas study (2001: 241), they found how non-minority employees “reshaped the character and priorities of the firm’s work in unanticipated ways as members learned from their diversity and integrated what they had learned into the core work of the organization.” Indeed, one non-minority employee shared how social sharing kept concerns around (lack of) minority discrimination (e.g., microaggressions) from being “hidden under a rock,” and, as a consequence, the company began making progress on increasing the number of minority employees in decision-making positions (Ely & Thomas, 2001: 247-248).

*Proposition 8c: Minority targets who use a social sharing response are likely to facilitate organizational progress towards addressing systemic prejudice because of social learning.*

## **GENERAL DISCUSSION**

Our primary purpose in this article was to jumpstart a conversation amongst organizational scholars that advances our understanding of microaggressions at work. We leveraged theoretical insights from the literature on issue selling, emotions, and social identity to systematically investigate how minority targets decide to respond to microaggressions in the workplace and with what multilevel consequences. This section reviews our conclusions and examines the contributions our work makes to theory and research. We also discuss some of the

‘ironic’ outcomes associated with functional responses to microaggressions. Finally, we identify future research opportunities and highlight implications for managerial practice.

### **Theoretical Contributions**

The concept of microaggressions was developed within the psychology (e.g., Pierce, 1970; Sue et al., 2007) literature and has more recently entered into organizational scholars’ research agendas (e.g., Washington, Birch, & Roberts, 2020; Williams & Polman, 2015). We advance workplace inequality scholarship by integrating the research on issue selling, social identity, and emotions to offer an overarching theoretical model of microaggressions at work and their consequences. While references to the concept of microaggressions at work is not necessarily new to organizational scholarship (e.g., Elsass & Graves, 1997; Milkman et al., 2015; Rosette et al., 2013), the model proposed in this article takes a significant step forward. Specifically, it aims to theorize about the various ways minority targets respond to them and to consider the multilevel consequences emanating from our proposed four target archetypal responses. As a first step, we developed a precise definition of microaggressions at work that forefronts three definitional features—social identity subordination, unintentionality, and mutual constitution. As part of this effort, we also distinguished microaggressions at work from other forms of workplace deviance or discrimination (see Table 2). Doing so was critical given that scholars have remarked that the existing conceptualization precludes sufficient clarity and consensus for rigorous investigation (see Lilienfeld, 2017; Lilienfeld, 2020). As such, our definitional effort answers calls from scholars for a more refined, precise definition and provides essential construct clarity that can serve as a foundation for future research and theory development (Suddaby, 2010).



Indeed, centering social identity subordination in our microaggression construct critically set the theoretical stage for identifying the two foundational emotional responses (i.e., fear and anger) that, together with cognitive cost-benefit analyses, informed our four archetypal responses (Propositions 1 – 4). For example, we argued that fear and the perception that the costs outweigh the benefits of speaking up is likely to trigger an avoidance response, whereas fear and the perception that the benefits outweigh the costs is likely to trigger an advocacy response.

Although we group minority target responses into four archetypes, we also noted that a minority target's actual response may fall along the two underlying emotional and cognitive dimensions. That is, our dimensions may be best seen as continuums. This means that minority targets may exhibit hybrid response in responding to a microaggression at work. Moreover, they may even 'move' between quadrants. For example, a target may adopt an avoidance response initially and then 'move' to a social undermining response. In this example, the target's assessment that the costs of speaking up outweigh the benefits remains constant; however, the target's emotional response moves from a fear-based one to an anger-based one. Similarly, a target may move from an avoidance response to an advocacy response, as the target re-assesses the cost and benefits and determines that the benefits of speaking up outweigh the costs.

Beyond identifying four archetypal responses, we contribute to research on workplace inequality, and the literature on microaggressions more specifically, by considering each response's multilevel consequences. Most existing microaggression research has focused on the dyadic, individual-level outcomes from responding to a microaggression incident (e.g., Constantine & Sue, 2007); our model incorporates a fuller spectrum of outcomes across levels of analysis that emanate from a target response choice (Propositions 5 – 8). We consider how a target's response to a microaggression has implications for the target, the workgroup, and the

organization as a whole. For example, we argue that a minority target response of social undermining is likely to lead to increased incivility and a lower interpersonal justice climate at the workgroup level, and hampered progress towards addressing systemic prejudice at the organizational level. Importantly, we not only incorporate additional levels of analysis (i.e., workgroup and organization), but we also consider the *time horizon* for an outcome to be realized. For example, an avoidance response saves the minority target from emotional exhaustion in the short term, even though it is likely to decrease job satisfaction in the long term.

Furthermore, in crossing levels, we illuminate for organizational scholars the dynamic and ironic ways in which adopted responses that may be ideal for a target, may be less optimal for a workgroup or the organization—and vice versa. For example, our model shows how a social undermining response may increase a target's sense of agency in the short term, even as it drives an incivility spiral amongst the workgroup in the long term. Similarly, an advocacy response can facilitate organizational progress towards addressing systemic prejudice but also increase a target's emotional exhaustion in the short term. These contradictory outcomes highlight the functional purpose of target responses and how short- or long-term outcomes can—and perhaps should—be prioritized.

Our article also makes a set of secondary contributions to the issue selling and emotions literature. First, integrating the emotions and issue selling literature allowed us to balance the emotional impetus (i.e., anger and fear) for responding to a microaggression with the cognitive process of calculating the costs and benefits. As noted, a dominant theme in the issue selling and voice literature is a cognitive, or rational, perspective on when and why employees speak up. This perspective forefronts utility calculations with substantially less consideration of the emotional dimensions associated with the transgression, and the decision of whether or how to

act. In contrast, we incorporate the social identity threat literature (e.g., Abrams & Hogg, 2010; Smith, 1993) to create a more comprehensive evaluation and move beyond a simple cost-benefit analysis or rational view on target responses to microaggressions. Such an extension is not entirely new. Instead, we build on nascent work that forefronts emotions in issue selling and voice (e.g., Edwards, et al., 2009; Grant, 2013; Kish-Gephart, et al., 2009; Lebel, 2016; Morrison, 2014) in order to present an interactive, processual theoretical model of microaggression responses and their multilevel consequences.

Second, by incorporating the short- and long-term implications of an adopted strategy, we contribute to scholarship on discrete emotions. When considering the negative emotions of fear and anger, the dominant narrative is that the two emotions have detrimental consequences (e.g., Glomb, 2002; Lerner & Keltner, 2001; Öhman & Mineka, 2001). However, a smaller stream of work has begun to consider the functional consequences these emotions can have (Kish-Gephart et al., 2009; Lebel, 2016, 2017). We bring these two streams together, to highlight how discrete negative emotions can serve a productive or destructive purpose depending on the level of analysis and the time horizon. For example, the target response of social sharing, which is motivated by the discrete negative emotion of anger, can increase affective commitment, higher perceived interpersonal justice climate, and progress towards addressing systemic prejudice. On the other hand, the target response of social undermining, which is also motivated by the discrete negative emotion of anger, can decrease affective commitment, lower perceived interpersonal justice climate, and inhibit progress towards addressing systemic prejudice.

### **Foundations for Future Research**

To inform future research, our model provides a set of testable propositions—both in terms of what informs a minority target’s response to a microaggression and to what end—which

can be explored both quantitatively and qualitatively. Quantitatively, future scholars could explore the full range of our propositions by surveying employees at multiple points in time according to the temporal order indicated in our theoretical model. In this way, scholars could empirically examine the antecedents as well as the short- and long-term consequences of varied target responses in a manner that strengthens causal inferences (Ostroff, Kinicki, & Clark, 2002). As part of this effort, scholars could consider developing distinct scale measures for each of the four archetypal responses following guidance from Hinkin (1998), which would potentially also allow for the exploration of hybrid responses. Furthermore, scholars could combine such efforts with experiments that manipulate microaggression-induced anger vs. microaggression-induced fear alongside information that highlights the risks and benefits of speaking up. Effectively executing such experimental efforts would require a great deal of consideration and care—both in ensuring that experiments have sufficient psychological and mundane realism and in balancing ethical considerations (Berkowitz & Donnerstein, 1982; Kimmel, 2004). However, such efforts offer great promise in advancing and complementing existing scholarly knowledge, especially given that much of the extant research on microaggressions is qualitative (e.g., Galupo & Resnick, 2016; Pitcan et al., 2018; Sue, 2010; Sue et al., 2019).

Qualitatively, myriad empirical opportunities exist. Indeed, qualitative investigations may be particularly useful in shedding light on the underlying processes and mechanisms implicated in our model (Edmondson & McManus, 2007). For example, scholars could deeply dig into the incivility and courtesy spirals we have theorized to develop rich insights around mechanisms and dynamics that cut across levels of analysis. Alternatively, informed by the mutual constitution definitional component of our microaggressions conceptualization, scholars could unpack exactly how a microaggression cognitively comes to be—informing an understanding that

precedes our theoretical model, and addresses criticisms levied by scholars around the microaggression concept being in the “eye of the beholder” (Lilienfeld, 2017). Another empirical opportunity may lie in exploring how minority targets may move from one response (i.e., one quadrant) to another, given that we alluded that in theory such dynamism should be possible. Finally, on a broader level, our model can inform future interview protocols by sensitizing researchers to the cognitive, emotional, and behavioral responses potentially worth examining when engaging and interviewing minority employees.

### **Practical Implications and Conclusion**

We offer several practical implications for professionals and organizations. First, employers could use our precise definition of microaggressions at work to gather data on their employees’ experiences of these incidents. By using our definition as a guide, investigators can explore the various ways in which unintentional, mutually constituted social identity subordination occurs. Importantly, this allows for an open inquiry approach to investigating microaggressions at work rather than following a prescribed list of potential incidents. Moreover, instead of a direct measurement approach, or if one is not possible, employers could focus on the attendant outcomes from microaggressions to ‘pulse check’ their overall organizational environment. For example, an employee survey could ask about the perceived level of interpersonal justice within a workgroup, or ask employees about their levels of emotional exhaustion, job satisfaction, and workgroup cohesion. By integrating these various data and methods, employers can produce a more holistic picture of their organizational climate and pinpoint areas for improvement.

Our archetypal responses also contain important contextual information for employers around minority target behaviors. Specifically, our theoretical model helps employers consider

how and why a minority employee's behavior—for example, shirking at work (i.e., a social undermining response) or acting more reserved than usual (i.e., an avoidance response)—may be part of, or even an indicator of, a broader contextual picture of the organization's diversity and inclusion climate. Furthermore, our model allows employers to potentially 'diagnose' which response quadrant minority employees are in and consider potential solutions for 'breaking out' of one quadrant and entering another. For example, an employer or workgroup caught in an incivility spiral as a result of a target social undermining response could consider targeted interventions designed to redress the perceived interpersonal justice climate by increasing transparency and accountability measures to change the cost-benefit analysis.

Finally, our combination of short- and long-term time horizons also offers an important caveat for employers: just because measured outcomes are favorable in the short term does not mean they will not produce negative outcomes in the long term. Similarly, discomfort in the short term may actually produce positive outcomes in the long term. These 'ironic' consequences of our archetypal responses to microaggressions serve as an important reminder to employers not to take the status quo for granted. Indeed, depending on the level of analysis and the time horizon, an employer may be both 'succeeding' or 'failing' in their response.

**Tables & Figures**

**TABLE 3. APPLYING OUR DEFINITION OF MICROAGGRESSIONS AT WORK TO A REPRESENTATIVE EXAMPLE**

<b>Microaggression Incident (Goldberg, 2020)</b>
<p>When Dr. Onyeka Otugo was doing her training in emergency medicine...she was often mistaken for a janitor or food services worker even after introducing herself as a doctor. She realized early on that her white male counterparts were not experiencing similar mix-ups.</p> <p>“People ask me several times if the doctor is coming in, which can be frustrating...They ask you if you’re coming in to take the trash out — stuff they wouldn’t ask a physician who was a white male.”</p> <p>Dr. Otugo said the encounters sometimes made her wonder whether she was a qualified and competent medical practitioner, because others did not see her that way.</p>
<b>Component 1: Social Identity Subordination</b>
<p>A verbal, paraverbal, or non-verbal message conveys a negative sentiment about the affected social identity, which in turn creates a negative affective state in the target by making social identities primary in the workplace interaction</p> <ul style="list-style-type: none"> <li>• “She was often mistaken for a janitor or food services worker even after introducing herself as a doctor... the encounters sometimes made her wonder whether she was a qualified and competent medical practitioner, because others did not see her that way.”</li> </ul>
<b>Component 2: Unintentionality</b>
<p>Intent to harm is absent</p> <ul style="list-style-type: none"> <li>• “mistaken for”</li> <li>• “mix-ups”</li> </ul>
<b>Component 3: Mutual Constitution</b>
<p>A processual interaction, the meaning of which is iteratively negotiated between interactants and context</p> <ul style="list-style-type: none"> <li>• “She realized early on that her white male counterparts were not experiencing similar mix-ups.”</li> </ul>

**TABLE 4. DISTINGUISHING MICROAGGRESSIONS AT WORK FROM RELATED CONSTRUCTS**

<b>Constructs</b>	<b>Definition</b>	<b>Key Differences from Microaggressions at Work</b>
Workplace deviance	Antisocial behavior that violates workplace norms, including violence and aggression  (Robinson & Bennet, 1995)	Workplace deviance differs from microaggressions at work in that workplace deviance has clear <i>intent to harm</i> and this overt desire to harm <i>does not involve social identity subordination</i>
Workplace incivility	“Low intensity deviant behavior with ambiguous intent to harm the target, in violation of workplace norms for mutual respect” (e.g., being rude, discourteous, displaying lack of regard for others)  (Andersson & Pearson, 1998: 457)	Microaggressions at work are not merely behaviors with ambiguous intent that violate workplace norms, but they are also based on social hierarchies, a dimension that is not included in workplace incivility
Selective incivility	Expressions of workplace incivility that do not make overt reference to gender, race, or other social dimensions, but are nonetheless directed towards specific group members (e.g., being rude or discourteous to women; displaying a lack of regard for Black people)  (Cortina, 2008; Cortina et al., 2013)	Selective incivility is similar to our construct of microaggressions at work in that the target is a marginalized group member. However, selective incivility is based on actions and behaviors that are facially gender- or race-neutral, whereas microaggressions at work are not. While social identity subordination may be an outcome of selective incivility, it is not the only outcome nor is it the defining feature. Moreover, perpetrators of selective incivility, unlike microaggressions may possess malevolent intent.
Overt discrimination	Expressing blatant antipathy and essentialist views of the inferiority of marginalized group members  (Dipboye & Halverson, 2004)	While overt discrimination does involve social identity subordination, it differs from microaggressions at work in that overt discrimination has clear <i>intent to harm</i>



**FIGURE 1 – ARCHETYPAL TARGET RESPONSES TO MICROAGGRESSIONS**

	<b>Anger</b>	<b>Fear / Anxiety</b>
<b>Benefits &gt; Costs</b>	<p style="text-align: center;"><b>Social Sharing</b></p> <p style="text-align: center;"><u>Outcomes</u></p> <ul style="list-style-type: none"> <li>• <i>Target:</i> Decreased sense of agency in the short term, increased affective commitment in the long term</li> <li>• <i>Workgroup:</i> Increased civility in the short term, higher interpersonal justice climate in the long term</li> <li>• <i>Organization:</i> Facilitated progress towards addressing systemic prejudice</li> </ul>	<p style="text-align: center;"><b>Advocacy</b></p> <p style="text-align: center;"><u>Outcomes</u></p> <ul style="list-style-type: none"> <li>• <i>Target:</i> Increased emotional exhaustion in the short term, increased job satisfaction in the long term</li> <li>• <i>Workgroup:</i> Increased relational conflict in the short term, increased cohesion in the long term</li> <li>• <i>Organization:</i> Facilitated progress towards addressing systemic prejudice</li> </ul>
<b>Costs &gt; Benefits</b>	<p style="text-align: center;"><b>Social Undermining</b></p> <p style="text-align: center;"><u>Outcomes</u></p> <ul style="list-style-type: none"> <li>• <i>Target:</i> Increased sense of agency in the short term, decreased affective commitment in the long term</li> <li>• <i>Workgroup:</i> Increased incivility in the short term, lower interpersonal justice climate in the long term</li> <li>• <i>Organization:</i> Hampered progress towards addressing systemic prejudice</li> </ul>	<p style="text-align: center;"><b>Avoidance</b></p> <p style="text-align: center;"><u>Outcomes</u></p> <ul style="list-style-type: none"> <li>• <i>Target:</i> Decreased emotional exhaustion in the short term, decreased job satisfaction in the long term</li> <li>• <i>Workgroup:</i> Decreased (expressed) relational conflict in the short term, decreased cohesion in the long term</li> <li>• <i>Organization:</i> Hampered progress towards addressing systemic prejudice</li> </ul>

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# TRIADIC ADVOCACY WORK TO GAIN RESOURCES FOR DISADVANTAGED SOCIETY MEMBERS

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## ABSTRACT

How and when do advocates inside of public service organizations attempt to gain access to resources for disadvantaged society members in order to advance social welfare, equity and justice for these members? While the current literature suggests that advocates in public service organizations face barriers of conflicting rules, inadequate resources, and resistance from powerful managers or professionals, but have little need to satisfy disadvantaged beneficiaries, we find otherwise in our ethnographic study of public defenders (PDs) advocating for disadvantaged clients in interactions with more powerful prosecutors (DAs). We argue that, in situations where advocates need to gain information from beneficiaries that is important for advocacy or need to persuade beneficiaries to accept advocates' recommendations for advocacy strategy, advocates are often concerned about beneficiary assessments. Further, when beneficiaries are disadvantaged by the current social system, advocates may be concerned about beneficiary perceptions of cooptation because of issues related to advocate dependence on the system, the problematic optics of interactions between advocates and more powerful targets, and a history of discrimination for many disadvantaged group members. In such situations, advocates may engage in *triadic advocacy work*, assessing and managing the impressions not only of their more powerful direct targets but also of a critically important third party—their disadvantaged beneficiaries—in order gain access to needed resources for these beneficiaries. These findings have implications for our understanding of advocacy in street-level bureaucracies, advocacy through case-based institutional work, and negotiating on behalf of others.

## INTRODUCTION

In many countries worldwide, public service organizations play a special role in advancing social welfare, equity, and justice by enabling disadvantaged society members to gain needed resources. These organizations (state-led, private for-profit, and non-profit) facilitate, mediate, and sometimes undermine, the ability of the poor, immigrants, people of color, women, and unemployed workers to gain access to opportunities and improve their quality of life. Healthcare organizations (such as community health centers, emergency rooms, asylums, reproductive care facilities, and elderly care facilities), welfare organizations (such as welfare agencies, public schools, employment centers, rape crisis centers, food pantries, child care centers, and other social service providers), and criminal justice system organizations (such as courts, police offices, prisons, and halfway houses) influence citizens' levels of access to public services, as well as their experience of that access. As such, these organizations have critical consequences for the life chances of their disadvantaged clients and, thus, are potential vehicles for advancing their rights, opportunities, causes, and human dignity.

Such public service organizations are governed by multiple sets of institutional rules and norms that affect the behavior of individuals within them. For example, rules regarding parole release, rules surrounding the receipt of housing support, or norms shaping what clients ask of and expect from a service provider shape opportunities for disadvantaged society members. Yet, these rules and norms are often unclear or conflicting with regard to particular situations (e.g., Canales, 2014; Manning, 1977), and resources are often inadequate to serve potential beneficiaries (e.g., Lipsky, 1980). Thus, advocates within public service organizations, such as welfare caseworkers (Dias & Maynard-Moody, 2007), crisis counselors (Zilber, 2002, 2013), public defenders and judges (Coslovsky, 2011), teachers (Maynard-Moody & Musheno, 2003),

nurses (Currie, et al., 2010; Lockett, et al., 2014), patient advocates (Heaphy, 2013), and primary care doctors (Currie, et al., 2009; Kellogg, 2014), play an important role in interpreting rules, securing access to resources, and influencing others on behalf of disadvantaged society members. This raises the research questions: how and when do advocates inside of public service organizations attempt to gain access to resources for disadvantaged society members?

Scholars of street-level bureaucracy and scholars of advocacy through institutional work have both investigated these questions. Scholars of street-level bureaucracy have detailed how advocates can use practices of discretion to allocate scarce resources to disadvantaged clients (e.g., Lipsky, 1980; Maynard-Moody & Musheno, 2003). And, scholars of institutional work have focused on how advocates can maintain or create institutions to protect the values of social welfare, equity, and justice in everyday interactions in order to help disadvantaged society members advance their rights (e.g., Currie & Spyrodinitis, 2016; Lawrence, et al., 2009).

This research has been critical to explaining how and when advocates inside of public service organizations work to gain access to resources for disadvantaged society members. However, we find that it has not theorized about an additional barrier that advocates may face as they attempt to do this—advocates may be concerned that the disadvantaged beneficiaries whom they are supporting may view them as coopted by the system of which the advocates are a part. Advocates may want to avoid beneficiary perceptions of cooptation in order to gain information from these clients that is important for advocacy, or to persuade clients to accept advocates' recommendations for advocacy strategy.

While advocate concerns about such beneficiary perceptions have not been theorized, empirical data show that advocates in public service organizations are often mindful of the fact that their disadvantaged beneficiaries may not trust them or the entire system of which they are a

part, and that this may shape their advocacy work. For example, Canales (2011) relates that microfinance loan officers were aware that their low-income clients might see them as coopted by organization managers. And DiBenigno (2018) reports that behavioral health officers were concerned that the soldiers with mental health issues on whose behalf they advocated might view them as coopted by higher power Army commanders.

In this paper, we analyze 79 client cases from our ethnographic study of public defenders (PDs; lawyers employed at public expense in a criminal case to represent a defendant who was unable to afford legal assistance) advocating on behalf of disadvantaged clients with more powerful prosecutors (DAs; lawyers who conducted the case against the defendant in a criminal court) to explore these issues. As the literature on street-level bureaucracy and the literature on institutional work would lead us to expect, we find that advocates assessed and managed the impressions of their more powerful direct targets (DAs) as they engaged in advocacy. But, we find that there was an additional aspect to the advocacy process that has not been previously elaborated: advocate assessment and management of the impressions of a critically important third party—their disadvantaged clients.

In what follows, we first review the relevant literature and describe our research setting and design. We then detail the *triadic advocacy work* that PDs engaged in to advocate on behalf of their disadvantaged clients with more powerful DAs. PDs not only assessed their direct targets (DAs), but also assessed the cooptation perception risk with their disadvantaged clients, and engaged in pre-emptive impression management tactics with their clients to try to minimize this risk. We end by discussing the implications of this triadic advocacy work for understanding how advocates inside of public service organizations may attempt to gain access to resources for disadvantaged society members.

## **Literature on Advocacy in Public Service Organizations Established to Meet the Needs of Disadvantaged Group Members**

The literature on street-level bureaucracy and the literature on institutional work each address the question of how advocates inside of public service organizations can help disadvantaged society members gain access to resources in order to protect the values of social welfare, equity, and justice in everyday interactions.

### **Advocacy in Street-Level Bureaucracies**

Agents in public service organizations such as teachers (Maynard-Moody & Musheno, 2003), police officers (Bechky & Okhuysen, 2011; Brodtkin, 2011; Van Maanen, 1973), social workers and doctors (Heimer & Stevens, 1997; Thomas & Johnson 1991), probation officers and other criminal justice system agents (e.g., Bechky, 2019; Coslovsky, 2011; Kunda, 1986), labor inspectors (e.g., Piore, 2011), and many other advocates who grant access to public service programs and provide services within them are drawn to public service because they want to be of help to others. Through their decisions, these advocates influence both citizens' levels of access to public services or welfare benefits, as well as their experience of that access (Hupe & Hill, 2007). Sometimes, their exercise of discretion has critical consequences for the life chances of their clients (Marinetto, 2011), and is a vehicle for advancing social welfare, equity, and justice.

These organizations, thus, face the dilemma of how to ensure that their agents use discretion productively in complex situations, while at the same time complying routinely and repeatedly with the organization's standards and processes. On the one hand, there is a real need to develop and enforce rules that both standardize, streamline, and increase the efficiency of these organizations' processes, and serve as justifications for action to external and internal constituents (e.g., Heimer, 1992). On the other hand, in the real world of day-to-day practice,

agents struggle with insufficient resources and vague, conflicting, and ambiguous goals (Lipsky, 1980). Different agents often have different interpretations of rules, especially in complex situations where policies provide incomplete or contradictory prescriptions (e.g., Edelman, 1992; Howard-Grenville, 2005). For example, even though agents are formally employed to represent disadvantaged clients, the agents and their managers or their peers in other parts of the organization often have adversarial goals (e.g. advocacy and accommodation versus efficiency and standardization; Battilana et al., 2015; Canales, 2011, 2014; Huising, 2014, 2015). In addition, whereas in many cases rules will rightly describe the situation, in others they will fail to capture relevant variation; in such cases, following a rule may result in counterproductive, unfair, or unethical results (Heimer, 1992; Silbey et al., 2009). Thus, agents' discretion is not only unavoidable, but also, when properly harnessed, can actually be desirable, as it can facilitate fair treatment based on principles of equity that acknowledge individuals' particular needs (e.g., Canales, 2014; Silbey, 2011).

Scholars have demonstrated that occupational and organizational cultures and structures shape agents' use of discretion. Occupation members typically share a collectively constructed typology for how to engage with different client types (e.g., Timmermans, 1998; Van Maanen, 1978), and occupational identities such as state agent (strict rule enforcer) versus citizen agent (resourceful user of discretion) provide agents with guidelines for action (Maynard-Moody & Musheno, 2003). Such occupational values and identities are often reinforced through formal and informal training (e.g. Canales, 2019), socialization (e.g. Brehm & Gates, 1997), and peer accountability structures (Marinetto, 2011). Organization structures also shape agents' advocacy work. Managerial demands for efficiency, high caseloads, fragmented contact with clients with diverse backgrounds, limited information, and the need to make rapid decisions may reduce

opportunities for agents to respond to client needs as they understand them (e.g., Brodtkin, 2011; Dias & Maynard-Moody, 2007; Emerson, 1991). In contrast, the presence of managers who provide support and guidance rather than act as agents of hierarchical control (Evans, 2010), and the availability of organizational spaces that allow for the tacit knowledge of agents to be heard and shared (Piore, 2011) or that allow for negotiation between “spirit of the law” advocates and “letter of the law” rule enforcers (Canales, 2014; see also Battilana, et al., 2015) may increase agents’ ability to respond to client needs.

Regarding the process by which agents can use their discretion productively, scholars have shown that agents can do so by sharing tacit knowledge with one another (Piore, 2011), and by creatively bending policy rules to be responsive to community concerns (Durose, 2009; Markström, et al., 2009; Maynard-Moody & Musheno, 2000). Agents can also engage in “sociological citizenship” (Huising & Silbey 2011; Silbey, et al., 2009) by not only knowing the organization’s systems, rules, and procedures, but also having the experience, tools, and understanding to interpret and enact them in the appropriate spirit (see also, Canales, 2014; Coslovsky, 2011; Salvato & Rerup, 2018). Finally, agents can negotiate with opposing parties within their organizations when serving disadvantaged clients requires trade-offs in their organizations’ ability to accomplish both social and economic goals. For example, Canales’ (2014) study of agents in a microfinance organization and Battilana and colleagues (2015) study of agents in a set of WISEs (work integration social enterprises) show how agents negotiated with more powerful organization members focused on economic productivity in order to gain resources for disadvantaged clients.

### **Advocacy through Case-Based Institutional Work**

While scholars of street-level bureaucracy have elaborated how advocates exercise discretion as they allocate resources to potential beneficiaries in situations of unclear rules and

limited resources, scholars of institutional work have shown how advocates can purposefully maintain, create, or disrupt institutions to protect the values of social welfare in everyday interaction in order to help disadvantaged society members advance their rights, opportunities, causes, and human dignity. Many of these studies have focused on what we will call “cause-based institutional work.” Cause-based institutional work entails efforts to change laws or policies, norms, or beliefs to advance the value of social justice for a large segment of society. For example, Maguire, Hardy, and Lawrence’s (2004) study of advocates in the emerging field of HIV/AIDS treatment and Lawrence and Dover’s (2015) study of advocates creating novel forms of housing for individuals who were at risk of becoming homeless both describe cause-based advocacy work. Similarly, Howard-Grenville and colleagues (2017) elaborate the cause-based advocacy work involved in advancing “green chemistry,” in which chemist advocates used pluralistic frames to persuade peer chemists to reduce the health, safety, and environmental impacts of chemical products and processes. And Burgess and colleagues (2019) explain the cause-based advocacy work by which advocates within the National Health Service and several partner organizations began to move away from top-down regulation to a networked governance approach that facilitated rather than hindered learning across organizations.

Yet, even once established, public services are often unknown or unavailable to those in need. It is difficult for people without resources to learn about sources of help and ways to challenge barriers suppressing human growth and development (e.g., Kellogg, 2014). In many situations, services are not available to meet serious needs (e.g., Mair & Marti, 2009; Mair, et al., 2012). And, even when services are available, powerful professionals may resist advocacy to protect their professional identities and high-status positions in the professional hierarchy (e.g., Currie et al., 2012; Huising, 2014, 2015; Martin, et al., 2009). For example, Heimer (1999)



demonstrates how advocates attempting to help individuals or families around neonatal intensive care were often overruled by powerful doctors who had greater knowledge of how to get problems onto the agenda, and how to propose their solutions in a persuasive way. And Currie and Spyridonitis (2016) show how powerful professionals, such as doctors, resisted the efforts of less powerful advocates, such as chronic heart failure nurse consultants, in cases where the logic held by the powerful professionals was threatened.

In such situations, advocates may engage in what we will call “case-based institutional work”— less visible and more mundane day-to-day adjustments and compromises to attempt to maintain existing institutions or purposefully create new ones to protect the values of social welfare, equity, and justice for particular socially and economically vulnerable individuals and families.

When existing regulative, normative, and cultural-cognitive elements of institutions are in place to support the provision of public services to protect social welfare, advocates may engage in case-based institutional maintenance activities; they may connect individuals and families with the available services by using practices such as discretion work (Radoynovska, 2018), interpretation and mutual adjustment work (Currie & Spyridonitis, 2016), repair work (Heaphy, 2013), or emotion work (Manning, 2014). For example, Radoynovska (2018) details how advocates in a welcome center providing services to homeless and at-risk adults used discretion work to govern how, to whom, and for what purpose, scarce resources were allocated to disadvantaged individuals and families. Currie and Spyridonitis (2016) explain how chronic heart failure nurses used both interpretation work to implement clinical guidelines in specific situations, and mutual adjustment work to align with the logic held by their powerful counterparts to minimize local conflicts. Heaphy (2013) describes how patient advocates in a VA

Hospital engaged in repair work—repairing institutions that supported the provision of health services to veterans by selectively and creatively applying rules to specific situations where these institutions had been disrupted in order to find means for veterans to access the resources they needed from the organization. And, Manning (2014) elaborates how West African nurses on high-mortality pediatric wards used emotion work to maintain the professional institutions that supported the delivery of professional, compassionate care to patients and families during urgent, life-threatening situations.

When existing institutions are not in place to fully support the provision of public services, advocates may engage in case-based institutional change work—purposefully creating new institutions or modifying existing ones in everyday interaction to protect the values of social welfare, equity, and justice on behalf of particular disadvantaged individuals or families.

Advocates may do this using practices such as reinterpretation work (McPherson & Sauder, 2013; Zilber, 2002, 2013), brokerage work (Kellogg, 2014), or enablement work (Mair & Marti, 2009; Mair et al., 2012). For example, Zilber (2002, 2013) shows how volunteers in a rape crisis center reinterpreted institutionalized meanings in everyday interactions to continue to deliver care to rape crisis victims despite a change in funding that required them to provide services under a therapeutic rather than feminist model. McPherson and Sauder (2013) show how actors in a drugs court reinterpreted existing institutions by drawing upon a shared toolkit of institutional logics to pursue their interests on behalf of disadvantaged clients. Kellogg (2014) explains how community health workers used brokerage work to buffer the conflicting professional institutions of health center doctors and legal aid lawyers in order to help implement medical-legal care for low-income patients that addressed their social determinants of health. And Mair and colleagues (2009, 2012) demonstrate how low power actors in Bangladesh

engaged in enablement work— supplementing existing education and health institutions to enable particular members in poverty to benefit from these institutions from which they had been excluded.

Regarding when advocates are likely to engage in case-based institutional work, this is likely to happen either when organizations create new positions to facilitate case-based advocacy work (e.g., Currie & Spyridonitis, 2016; Heaphy, 2013; Huising, 2014, 2015), or when engaging in such advocacy work enables existing lower status organization members to carve out new jurisdictional tasks for themselves (e.g., Currie, et al., 2009; Currie, et al., 2010; Kellogg, 2014). Advocacy is more likely to be successful when it aligns with the interests of higher-status actors (Currie & Spyridonitis, 2016). It also depends on organization structure; structurally differentiated hybrid organizations—organizations in which carriers of different logics are positioned in different units—can secure latitude for advocates because they “refract” logics, shielding advocates from the prescriptions of their home logics, such that the advocates retain autonomy (Martin, et al., 2017).

In sum, both the literature on street-level bureaucracy and the literature on advocacy through case-based institutional work have been very helpful in highlighting the barriers that advocates inside of public service organizations may face and the tactics they may use on a case-by-case basis to gain access to resources for particular disadvantaged society members. Yet, this literature has not incorporated the insight that advocates may be concerned that the disadvantaged society members on whose behalf the advocates are working may not trust them or the system of which they are a part. Our investigation leads us to suggest that advocates may worry that disadvantaged society members may see advocates as coopted by more powerful members of their organizations, and that these concerns may shape advocates’ advocacy work.

## **METHODS**

### Research Setting

In the United States, a public defender (PD) is an attorney-at-law appointed by the courts and provided by the government to represent and advise those who cannot afford to hire a private attorney. PDs are full-time attorneys employed by the government. They are supported by public funding, but are ethically bound to be independent and to not take direction from the government as to the acceptance or handling of cases.

We studied PDs across six offices in the public defender agency of a New England state. The PDs worked in three main practice areas (juvenile, children and family, and adult criminal). They conducted their work in the offices and in courtrooms with prosecutors (DAs) as they represented clients throughout the different phases of a criminal case, including arraignment, bail reviews, pre-trial conferences, motions hearings, trials, and sentencing hearings. Our setting is particularly useful for illuminating how and when advocates inside of public service organizations attempt to gain access to resources for disadvantaged society members because PDs often tried to gain access to resources for disadvantaged clients.

Legal scholars have explained how PD influence of DAs is part of client advocacy, and can lead to better outcomes for individual clients, such as plea deals for defendants, admittance to diversion or treatment programs, and reductions in bail amounts (Lichtenstein, 1984; Moore, et al., 2004; Sandefur, 2015; Taylor-Thompson, 1999). The legal literature notes that, while PDs ideal scenario would often be to get DAs to agree to grand requests, such as having the case dismissed, PDs usually, instead, construct their legal requests to be obtainable from the DA, thereby incrementally improving their clients' lives throughout the criminal proceedings (Moore,

et al., 2004; Rapping, 2012; Taylor-Thompson, 1996).<sup>3</sup> Overall, this literature describes four major categories of opportunities for PD advocacy work with DAs on behalf of disadvantaged clients (**Table 1**). These categories map onto the different phases of criminal cases: (1) PDs have opportunities to influence DAs around issues of scheduling and status updates (scheduling phase of a case); (2) setting bail (arraignment and bail review phases of a case); (3) getting rid of charges that carry mandatory minimum sentences (pre-trial hearing phase of a case), and (4) striking plea deals (plea bargaining phase of a case).

First, PDs often engage in advocacy work with DAs around scheduling issues (Griffin & Caplow, 2011; Laurent, 2012). In some cases, PDs want to delay the next court date because they hope to get a different, “more reasonable” judge assigned. In other cases, PDs want to influence the DA to change the timing of the cases to retain witness participation for their own clients or dissuade witness participation for the other side. PDs also frequently want to influence the DA in order to have the case called sooner or later in the docket in order to allow a client more time to arrive in court, and so prevent a warrant being issued for the client’s arrest for failure to appear. DAs may be willing to accept PD advocacy attempts around scheduling if they allow DAs to accommodate their own schedules or accomplish their own goals around assigned judges and witness participation.

Second, PDs often engage in advocacy work with DAs to set bail amounts that the clients can afford, so that the clients can live with their families during the proceedings (Clair & Winter, 2016). As one PD in our study said: “Being out on bail (pause) it changes everything for the client. They’re able to make decisions more freely. They’re contributing to society. They’re with their family.” PDs also often want to advocate for clients to be allowed to go to work while being

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<sup>3</sup> For a description of the ways in which PDs were less powerful than their DA counterparts, please see **Appendix 1A**.

monitored by GPS or to visit family members outside of the prescribed GPS boundary. For clients who are not considered “flight risks,” accommodating such requests can allow DAs to save the justice system money spent on housing clients and transporting them from the jail to the courthouse.

Third, PDs often engage in advocacy work with DAs in order to prevent a mandatory minimum sentencing requirement if the client is found guilty (Primus, 2016; Taylor-Thompson, 1996). Mandatory minimum sentencing requirements force a judge to hand down a minimum prison sentence for certain crimes, such as drug possession. Originally, these laws were passed to ensure that certain criminals served long prison sentences; however, critics of the system have pointed out that these laws often unfairly target low-level offenders (Clair & Winter, 2016). PDs can get rid of a charge that carries a mandatory minimum sentence by getting DAs to agree to ‘break down the charges.’ DAs may agree to this if the case was an ‘untriable’ case in the eyes of the DA, for example, because of insufficient evidence.

And finally, PDs often engage in advocacy work with DAs in order to strike a ‘fair’ and ‘reasonable’ plea deal based on the PD’s assessment of the ‘value of the case’ (Gertz, 1980; Lichtenstein, 1984). A plea deal involves the defendant pleading guilty, in exchange for (1) a lesser charge and/or (2) a reduced sentence. The “value of the case” is determined by the PD and the DA based upon available evidence, credible witnesses, the severity of the alleged crime, and their assessment of how they think a jury would view the case if it were to go to trial. Accommodating PD requests around plea deals can allow DAs to close cases in situations where they agree with PDs on the “value of the case.”

### **Ethnographic Data Collection**

We used ethnographic data collection methods to observe and trace, in real time, the advocacy work that PDs performed in each stage of a criminal case in their interactions with DAs and clients. For the first 6 months of our two-year ethnographic study, we focused on understanding the daily work of PDs. The first author shadowed PDs in the three main practice areas of the public defender agency (juvenile, children and family, and adult criminal) across 6 offices and attended the 1.5 month-long new public defender orientation and training. During these six months, the first author spent 2 days a week observing PD office and courtroom work involving PD representation of clients throughout the different phases of criminal cases, including arraignment, bail reviews, pre-trial conferences, motions hearings, trials, and sentencing hearings. She took detailed notes and typed these up at the end of each day. During this time, she informally interviewed those she was shadowing to get their interpretations of the work and the challenges associated with it, and conducted 53 formal, semi-structured interviews with PDs, trainers, and managers about the work of PDs, and what it means to be a ‘good’ public defender.

For the next 18 months, the first author observed PDs during 58 two- to three-and-a-half-hour sessions in which she accompanied PDs in the courtroom while they went about their work through different phases of criminal cases. For each of the cases she observed, the first author took detailed field notes describing the PDs’ interactions with clients and DAs, and the PDs’ interpretations of these interactions. For each client case, the PD told us what phase of the case she was in with a particular client, what the PD hoped to influence the DA to do in order to gain resources for the client, how she planned to attempt to do it (or not to attempt to do it), and the reasons for the PD’s decision around whether or not to attempt to influence the DA. The first author recorded, for each case, the PD’s assessment process, the PDs interactions with the client

and the DA, and whether or not the PD actually attempted to influence the DA on behalf of the client. The first author used in-situ interviews during each observation session to test our emerging understanding of how the PD advocacy work was occurring. Over the two years of the study, the first author observed client cases in which PDs had opportunities to attempt to gain access to resources for disadvantaged clients.

We started with 81 cases that included both the small number of cases where PDs started with grand requests to DAs and the large number of cases where PDs made smaller requests to DAs to incrementally improve their client's lives throughout the criminal proceedings. As we would expect given the legal literature, PDs told us that, while their ideal scenario would have been to get DAs to agree to grand requests, such as having the case dismissed, PDs almost always, instead, constructed their legal requests to be obtainable from the DA—thereby incrementally improving their client's lives throughout the criminal proceedings. We observed eleven situations in which PDs actually attempted a grand request with the DA. In all eleven, they did this because their clients were juvenile clients who were charged with serious offenses that carried very large penalties with them. The PDs failed in nine of these eleven attempts, and reconstructed their initial requests into smaller requests; they succeeded in their grand request in two of the 81 cases. Below, we model the 79 cases in which the PDs had an opportunity to influence DAs to incrementally improve their client's lives throughout the criminal proceedings (**Table 1**): (1) scheduling and status updates (scheduling phase of a case); (2) setting bail (arraignment and bail review phases of a case); (3) getting rid of charges that carry mandatory minimum sentences (pre-trial hearing phase of a case), and (4) striking plea deals (plea bargaining phase of a case).



## **Inductive Data Analysis of Advocacy Work on Behalf of Disadvantaged Group Members**

While in the field, we observed variation in how PDs advocated on behalf of their disadvantaged clients. In particular, we noted variation in whether or not PDs used courtroom downtime to coordinate with the DA “off the record.” In order to understand this dynamic, we read in detail the literature on how advocates can gain access to resources for disadvantaged group members. We also read the law and society literature in order to deepen our understanding of the dynamics between PDs and DAs, and to inform our understanding of our courtroom observations.

Based on our observations and our reading of the literature, we became interested in how PDs attempted to gain access to resources for disadvantaged clients by influencing DAs, and why PDs attempted to influence DAs in some circumstances but not others. We took an inductive approach to understanding this. We read through our field notes, interview transcripts, and memos, focusing on data related to advocacy work. As we engaged in our analysis, we noted that PD assessments of the opportunity for DA influence were not limited to the PD’s understanding of the DA. The PD also assessed the client, and the client’s potential perception of PD cooptation by the DA.

We asked PDs about this, and they explained to us that they were concerned about their clients’ impressions because they needed to gain information from clients and to persuade clients to accept PD suggestions. They noted that they worried about their clients’ impressions because PDs’ close interactions with DAs could give the client a perception that the PD was in greater alignment with the DA than the client. In addition, PDs noted, because clients came from a disadvantaged population, they might be more likely to scrutinize advocates appointed on their behalf and to perceive cooptation in advocacy work. Once we became aware of PDs concerns about client perception of cooptation, we began to carefully observe not only how PDs assessed

and managed the impressions of the DAs, but also how they assessed and managed the impressions of their clients.

Using Excel, we analyzed data from each criminal proceeding we observed. We recorded the phase of the case; the desired legal strategy; the desired beneficial outcome for the client; PD-DA-and client-specific details; PD-client interaction, including the PD's concerns with client perception of cooptation, and how PDs managed these concerns; whether and how the PD attempted to influence the DA; and the outcome.

Using an iterative, inductive approach, we analyzed the 79 individual criminal cases in our dataset in which PDs had an opportunity to influence DAs to incrementally improve their client's lives throughout the criminal proceedings in order to understand advocates' process of advocacy on behalf of disadvantaged group members. Analytic induction (Katz, 2001) was a useful methodology for theorizing this social process, as it allowed for the constant comparison of cases in which PDs attempted to influence DAs versus the cases in which they did not. For example, when it appeared that two similar criminal cases had similar trajectories—because of the type of opportunity for advocacy—but resulted in different outcomes, we returned to the data to deepen our understanding of how PDs assessed the opportunity for influence with the DA, and why PDs attempted to influence the DA in some circumstances but not others.

Through this iterative process, we produced a process model of how and when PDs influenced DAs to attempt to gain access to resources for disadvantaged clients (**Figure 1A**). Although the model was developed iteratively, we report only the final model composed of four phases (PD assessment of the DA, PD assessment of the client, PD impression management with the client, and PD influence with the DA).

There are two constraints in our dataset which we would like to address. First, the organization did not allow us to ask clients about their impressions of their PD or of their PD's interactions with DAs. Our reading of the legal literature and street-level bureaucracy literature found that this is a common and pervasive limitation in studies that examine advocacy on behalf of disadvantaged society members. In the legal literature, the advocate (in our case the PD) and the target (the DA) have an organizational obligation to maintain separate databases of information due to the confidential nature of the information exchanged between the advocate and the disadvantaged society member (the client). When researchers have studied the perspectives of clients, they have gained access through client communities rather than through legal organizations, and they have not captured interactions between clients and agents in the legal organizations (e.g., Campbell, et al., 2015; Clair, 2018; Sandys & Pruss, 2017).

At our field site, the top managers who granted us access were concerned that our observations and questions might make clients feel fearful, and therefore, might lead clients to refrain from providing information that could be critical for their cases. In addition, the managers noted that, since we were observing ongoing criminal cases, there was the possibility for our field notes to be subpoenaed and used during a criminal trial. Our reading of the street-level bureaucracy literature found that other researchers have also been prevented from capturing the disadvantaged society member perspective due to organizational concerns about clients' vulnerability, as well as research ethics concerns about the potential exploitation of disadvantaged society members (Hart-Johnson, 2017; Richards, 2002; Rockcliffe, et al., 2018). In reviewing ethnographic studies that do capture the thoughts and perspective of disadvantaged society members, we found that the researchers who conducted them gained access through the disadvantaged society members, not through the social service organization serving them,

because of the ethical concerns of vulnerability and exploitation (Danaher, et al., 2013; Desmond, 2014; Scheyven, et al., 2003;). Therefore, these studies capture the perspective of the disadvantaged society members, but not the interactions between these disadvantaged society members and their public service organization agents.

Second, because of attorney-client privilege, we were forbidden from asking DAs about their views of their interactions with PDs and about their views of PD influence attempts. While these are limitations of our field study, we believe that our work provides a good first step in highlighting the triadic character of advocacy on behalf of disadvantaged group members, an important insight that is missing from the current literature. It is likely that the kinds of dynamics we observed are present in other settings where advocates in public service organizations are attempting to gain access to resources for disadvantaged society members, and our particular setting provided the opportunity to observe and illuminate these dynamics in high relief.

## **A PROCESS MODEL OF TRIADIC ADVOCACY WORK**

### **What Triadic Advocacy Work Looked Like in Practice**

Two examples are helpful for describing what triadic advocacy work looked like in practice. In the first example, the PD ultimately attempted to influence the DA on behalf of the client; in the second example, the PD did not. In both examples, the PDs noted that they considered how their attempts to influence the DAs might look like cooptation in the eyes of the clients.

In the first example, a pre-trial hearing, the client was charged with drug possession, and the PD hoped to influence the DA to agree to a motion to dismiss one of the drug charges. The PD told us that he knew that the DA would ask for more time to prepare the case. Even though the DA was the one who had brought the case to court that charged the client with drug

possession, the DA had forgotten to file the paperwork required to get the DA's witnesses to come to court that day to support these charges.

The PD told us that, in order to better influence the DA to accept the PD's motion to dismiss one of the drug charges, the PD would not object to the delay in court proceedings that the DA was requesting. Yet, at the same time, the PD was concerned that agreeing to another delay in the case would be viewed by the client as evidence that the PD had been coopted by the DA—the delay had the appearance of favoring the DA and his schedule over the client and his family. The PD related to us, “My client and his family have to keep coming into court, dressed and ready to go, even on a snow day like today.”

The PD tried to manage his client's concern by engaging in a set of pre-emptive impression management tactics with the client before attempting to influence the DA.

Afterwards, the PD did attempt to influence the DA. From field notes:

[PD] is meeting with the client in private before the case is called. [PD] says, “We're surfing, we're riding the wave. We're playing the clock... [The DA] is claiming the police weren't properly summoned [to be in court today]. [The DA had forgotten to give them the paperwork to get them to show up in court]. Just so you know, I'm not going to stick the knife in [the DA] (he makes a motion of turning a knife)...just for professional relations in there, I won't be sticking it to him over these delays.” The PD goes on to say that he hopes that this will lead the DA to accept PD influence around the motion to dismiss one of the drug charges.

During the court proceedings, the Judge asks if the hearing for the motion to dismiss is ready to go forward. The DA hesitates and explains how his office failed to summon the police officers (to testify against the motion to dismiss). The PD does not object to the delay. The Judge agrees to delay the hearing to another date. The client and his family will have to appear in court again.

After the hearing, the PD submits to the record his legal argument for a motion to dismiss the charges against his client. The DA does not object.

Later, the PD tells me, “The DA had to be in a defensive posture, wanting to appear cooperative (after the PD did not object to the additional delay in the case). Now [the legal grounds for the motion to dismiss the charge] constitutes a formal record of evidence, it's not just my opinion or legal argument.”

In the second example, also a drug possession case, the PD considered how her attempt to influence the DA might look like cooptation in the eyes of the client. The PD judged that the particular client's negative experience with the criminal justice system could lead the client to perceive that the PD was "schmoozing with the DA" if the PD attempted to negotiate with the DA before the case was called. However, unlike in the first example, the PD did not have the time or space necessary to attempt to manage the client's perception of PD cooptation by the DA. The PD believed that the client would not trust that the PD was advocating for the client rather than coopted by the DA, and the PD did not attempt to influence the DA. From field notes:

The PD has a client who is charged with drug possession. The PD would like to advocate for a reduced bail, and would like to influence the DA to accept the reduced bail by conceding to a continuance (delay in court proceedings) while the DA obtains a drug certification (chemical test verifying the type of drugs confiscated during the arrest).

However, the PD says that the client already doesn't trust her: "He doesn't trust that he's getting good [legal] representation [from me]...He's had bad experiences with public defenders before."

She says that she wanted to help build trust by telling him ahead of time her plan for negotiating with the DA, but wasn't able to: "I tried to meet with [client] at the jail facility last night [to talk about our strategy for court today], but he refused to meet with me."

Because the PD did not have the time and space to meet with the client to go over her plan for a reduced bail, she did not attempt to influence the DA prior to the courtroom proceedings. Later, during the courtroom proceedings she formally requested a reduced bail – highlighting her client's ties to the community – but the DA objected and the request for a reduced bail was denied.

Here, as in the first example, the PD assessed the opportunity for influence with the DA, and how the use of influence tactics with the DA could be perceived by the client as cooptation. In the first example, the PD assessed that he had sufficiently managed the client's impression,

and attempted to influence the DA. By contrast, in the second example, the PD assessed that she had not sufficiently managed the client's impression, and did not attempt to influence the DA.

We regularly observed such examples of the PDs assessing clients' perceptions of cooptation when considering whether or not to attempt to influence the DAs. We call the process that PDs engaged in, "triadic advocacy work," because the process involved the advocate (the PD) not only making an assessment of the direct target (the DA) and trying to influence the direct target, but also making an assessment of a third party (the client), and trying to manage the impressions of the third party.

In **Figure 1A**, we depict the four phases of triadic advocacy work we observed: assessment of the direct target, assessment of the disadvantaged third party, impression management with the disadvantaged third party, and attempted influence of the direct target. Additional illustrative examples of each phase are provided in **Table 2**. In **Figure 1B**, we provide additional detail on each of the four different advocacy paths we observed.

We present these findings in a stylized, linear sequential model in order to underscore the importance of the disadvantaged third party client in shaping a PD's assessments and tactics. In practice, PDs likely cycled through these phased considerations multiple times as they engaged in assessments and attempted influence.

### **Phase 1: PD Assessment of the Direct Target—the DA**

In conducting their advocacy work, PDs first assessed their direct target—the DA. PDs told us that they considered the values and beliefs of the particular DA as they decided whether or not to attempt to influence the DA. PDs related that, from their professional history working with different DAs, they knew that some DAs were more open to influence than others. PDs explained to us that, "Some DAs are a little more zealous—and I mean that in a bad way. They

really believe that [our clients] are bad people.” For example, in a case where the PD would have liked to influence the DA to offer the client probation, the PD explained that he would not attempt to do this because of his moral judgment about the DA’s openness to influence: From field notes:

“Originally, I had thought about [trying to influence the DA to support] a pre-trial dismissal with probation (dismissing the case and having the client serve probation instead). But now my client has picked up another charge while in custody...[The DA] won't want to give my client a good deal on the remaining charges [because of the DA’s beliefs]...She believes she’s on God’s side, and that people who have been charged with criminal offenses should have God’s fury wrought upon them.”

In other cases, PDs felt that the DA’s values would lead the DA to be open to influence. For example, in one bail review case, the PD was considering the best legal strategy to get the client a reduced bail amount the client could afford, so that he could be released home and back at work during the proceedings. The PD told us that she planned to try and influence the DA to agree to the reduced bail amount. The PD related, “[This DA is] legit. He won’t prosecute charges he thinks are unjust. He’s good. He’s one of the good ones.” In another case, the PD wanted to gain access to discovery (information on the DA’s evidence related to the case; here, lab work evidence) and made a moral judgement that the DA shared her values, and therefore, would likely be open to influence. From field notes:

The PD is waiting for DNA lab work to come back from the DA. The PD says to me, “This DA hasn’t been bad to work with. [Hypothetically], I would grab a coffee, a glass of wine, and maybe even share a meal with her.” Later, the PD sits next to the DA and they chat about their children. After the small talk, the PD asks about the lab work, and the DA shows the PD some preliminary results on her phone.

## **Phase 2: PD Assessment of the Disadvantaged Third Party—The Client**

As noted earlier, PDs were keenly aware of the potential for their advocacy work to look like cooptation in the eyes of the client. PDs were concerned that clients were likely to view their advocate as coopted because of (1) the PD’s dependence on the criminal justice system; (2) the optics of the PD’s influence tactics with DAs; and (3) the client’s history of discrimination



within the existing social system. PDs related that, while these issues could negatively impact the client's perception of PD cooptation by the DA, PDs thought that this risk could be minimized if PDs actively participated in local community activities that conveyed PD loyalty to their clients' communities.

**PDs' reasons for being concerned about clients' perceptions.** PDs said that they wanted to manage the risk of being viewed by the client as coopted for two primary reasons. First, PDs noted that when a client trusted that the PD was advocating for the client rather than coopted by the DA, the client often provided more extensive information to the PD. This information was helpful to the PD in building the legal defense for the client—in particular, it allowed the PD to better investigate the alleged crime, properly assess the 'value of the case,' and determine a legal strategy. One PD related, "Earning the client's trust has enabled me to gather everything I need to know to be able to meaningfully assist [him]." For example, in one bail review case, the PD wanted to establish that his client did not have the extensive criminal record that the DA was alleging the client had. From field notes:

The PD says to me, "What we have here is a classic case of mistaken identity, where a defendant in Nebraska [who is from Guatemala] has the same name as my client [who is from Puerto Rico]. The DA is alleging they're the same person."

The PD shares how the client trusted that the PD was trying to further the client's interests. So, the client allowed the PD to work with the client's sister to obtain the necessary personal information about the client to be able to contact the authorities in Nebraska to get photos of the other defendant. The PD was then able to contact U.S. Immigration and Customs Enforcement (ICE) to verify that his client is a legal U.S. citizen.

The PD says that even though the client gave the PD the OK to contact his sister, "[At first], I think [the sister] thought I was trying to steal [the client's] identity or report [him] to ICE. [But I asked the client to explain the situation to her], and since the client spoke to her, it's been a lot easier."

Second, PDs noted that when a client trusted that the PD was advocating for the client rather than coopted by the DA, the client was often willing to accept the PD's recommended legal strategy for the case. One PD shared, "Many [criminal] attorneys will say that the legal

strategy is at the attorney's discretion...but [our approach of] client-centered representation makes this difficult...At the end of the day, it's the client's decision [so the PD needs to persuade the client to accept the PD's recommendation]." For example, we observed a scheduling and status update case in which the PD explained to the client the PD's recommended strategy for getting the client temporarily released from jail in order to witness the birth of his twins. From field notes:

The PD says to the client, "So I'm thinking, we go in there [to the status update] on a united front with [the probation officer]. That whatever he says, we agree with so that we can get you the passes [to be at the hospital for the birth of your twins]. What do you think?" The client agrees and the PD continues, "I just want you to understand why we're not going to fight [anything the PO recommends]. Remember, it's still at [the PO's] discretion whether he gives you the passes. So, you have to be 'on point,' and mind your P's and Q's."

During the proceedings, the client agreed with the PO. Later, the PD tells me that the client was willing to follow the PD's recommended legal strategy because the client trusted the PD.

**PDs considered perceptions about PD dependence on the system.** PDs wanted to minimize the risk that clients would perceive their actions as cooptation in order to obtain more extensive information and to secure the client's deference in their advocacy work on behalf of the client. Yet, as noted earlier, PDs were keenly aware of the potential for their advocacy work to look like cooptation in the eyes of the client.

Because PDs depended, for their livelihoods and careers, on an organization of which their target DAs were a part, rather than on the constituents whom they were representing, PDs worried that the disadvantaged clients being represented might be concerned that the PD would feel more responsible to the organization than to her constituents, thereby neglecting her advocacy duties. For example, PDs told us that they sometimes worried that clients might think PDs would feel more responsible to the government than to clients because PDs were employed and compensated by the government, not the clients. One PD said, "I don't know what it's like

with private attorneys (who are employed by the client, not the government) [in terms of being able to disagree with the client] because sometimes the client will ask me to do something that's crazy. A legal strategy that's completely illogical, hard to sell, absurd. And that makes my work difficult, because I don't want [the client] to think that I'm fighting them [and not on their side]. I want to fight their approach, not them." Furthermore, PDs said, they were *appointed* to advocate on behalf of clients; they were not chosen by the client. One PD said, "Have you heard the phrase, public pretender?" She then quoted a popular rap song: "A public pretender gets you nothing but a long ride." PDs explained that they saw some clients as particularly concerned about this issue of PD dependence. A PD explained:

Some clients will say, "Well you work for the state, you're on the same side [as the DA], you break bread together." Some clients feel they have no shot because they're represented by a PD. They think because they're getting a free lawyer, we're not going to work as hard. They think, "If I just had \$5000 [to afford a private attorney], I'd get my kids back."

Another PD shared, "Some [clients] automatically think you are part of the government...Once [your client] gets to that point, there's not a lot you can do." For example, in one of the pre-trial cases, the PD told us that she'd like to try to influence the DA to do a plea deal with a reduced sentence, but that she wouldn't attempt to do this because this client viewed the PD as more responsible to the government than to the client. From field notes:

[PD] says that she doesn't plan to try to influence the DA to do a reduced sentence plea deal today, because she's concerned with how her client would view this.

"My client has been questioning all of my advice. He doesn't trust that I'm working for him [instead of for the government]. I hate those situations. I don't mind if the client doesn't agree with my advice, but then they should ask for someone else. And [client] did tell me he was 'hiring' [looking for a private attorney]."

I ask why the client would look for a private attorney, rather than retaining his current PD and the PD says, "[With some clients], there's a perception that you get what you pay for. That we're overworked and that if we have too many cases, our bosses tell us to just plea everyone out [to save time and money for the government]."

**PDs considered the optics of their influence tactics.** PDs also considered how the optics of their influence attempt with the DA would be viewed by the client. PDs told us that

they often needed to adopt a non-confrontational style with DAs and make conciliatory gestures such as using amicable language or other expressive tactics in order to gain access to resources for clients. One PD shared, “If the client wants to plead guilty to a charge, the only way to get around the mandatory minimum [the minimum period of incarceration in the event of a conviction] is if the DA agrees. So, we have to be reasonable with [DAs] and particularly nice.” Yet, ironically, PDs said that they were often constrained in their ability to effectively create and claim value for their clients because of the optics of such conciliatory gestures. A PD could not convey the full nuance of what happened in her interaction with the DA to those she represented (clients could often see, but not hear interactions between PDs and DAs), and the more intensive these conciliatory gestures to create value were, the greater the likelihood of generating doubt in clients.

PD influence attempts often involved using ingratiating behavior with DAs such as offering information, providing emotional labor, offering to do scut work, or helping the work flow smoothly. Yet, the optics of engaging in these tactics supported an interpretation of cooptation. As one PD explained about the tactic of offering information to the DA, “My clients...say things to me like, ‘what are you doing with the DA? How could you talk to that ‘f’ing so and so’? ... I don’t want my clients to think that I’m in collusion with the DA.”

PDs were concerned about the optics of upward influence tactics, in part, because clients often had a limited purview into the courtroom. In some cases, clients were in state custody during the case proceedings, and so physically separated from their PDs in the courtroom by a ‘holding area’—a wooden box with a bench and glass window that looked out into the courtroom. In other cases, clients were in the audience area. In both of these situations, the clients could see their PD’s interactions with the DA, but could not hear what occurred in the

courtroom. In this way, PDs could not convey the full nuance of what was happening to their clients. And, PDs told us that the more intensive their efforts to help their clients by using a conciliatory advocacy style with the DA, the greater the likelihood of generating doubt in the client. A PD shared, “[It’s] difficult, because our clients think we’re up to shenanigans, working with the DAs.”

For example, in one case related to scheduling, the PD wanted to influence the DA to allow a continuance (a later court date) due to a recent tragedy in the client’s family. In particular, the PD wanted to offer the DA information on the mitigating circumstances in the client’s case—the client’s clean criminal record since the initial charge, his familial obligations as a caregiver for his elderly mother, and his positive employment track record. Offering this information to the DA would have emphasized that the client was not a threat to society, was committed to appearing in court, and was a good candidate for reform—all considerations the DA must evaluate in determining whether to support the PD’s request. But, the PD chose not to try to influence the DA because she worried about how the client’s ability to see, but not hear, the PD’s advocacy work with the DA would be perceived as cooptation. From field notes:

The DA is present in the courtroom. PD comes and sits next to me and reviews her motion for a continuance request. She then hands me the document to read. The motion for continuance (requesting a later court date) lays out the PD’s request for a later court date because of a tragedy in the client’s family. The DA already has a copy of the request. The client is watching from the audience area. The PD does not try to talk to the DA during the downtime. The court is called into session and the judge reviews the request. The judge asks for the DA’s position, and the DA objects.

When we asked the PD why she didn’t talk with the DA ahead of time to share information about the continuance request, she related a past experience where she was discussing this case with the DA and the client, who could see the PD and DA talking, but couldn’t hear what was being said, thought that the PD was ‘in cahoots’ with the DA. As a result, she said that, because she

hadn't gotten a chance to meet with the client ahead of time to explain her plans, she thought she needed to be careful not to engage in ingratiating behaviors with this DA in front of the client.

**PDs considered the client's history with discrimination.** PDs also had concerns related to a history with discrimination of the disadvantaged clients. PDs noted that, because prejudice and discrimination are a social reality for many members of disadvantaged groups, many of their clients had developed a suspicion of the motives and behaviors of all dominant group members. In particular, PDs suggested that a client's prior history with discrimination or negative interactions with the criminal justice system might affect that client's cooptation perception. Because the court system and the clients started from an historical relationship of inequality, PDs were concerned that clients would expect advocates appointed by the state to be incompetent, prejudiced against the clients, or covertly serving the interests of the existing social system. For example, one PD shared how clients might think that since PDs were appointed by the state to represent the clients, they were not as competent as other lawyers:

Sometimes clients think we're not highly skilled. That we couldn't get a better job...Our representation in pop culture isn't good either. A lot of shows about PDs show us as being hard drinking, not very good at our jobs. I had a client who was like, 'Wow! [Your legal representation] was really good! You can go on to good things. You can become a real lawyer. Become a pay lawyer.' (Laughs) I just told him, 'I'm already doing what I love.'

Another PD shared how some of her clients had viewed her advocacy work as covertly serving the interests of the existing social system:

"Clients can feel when you're fishing for information, and it doesn't feel good. That could be the way the police talk to them or the Department of Children and Families...Your [arraignment conversation with your client] should be really concrete in order to avoid misinterpretation; there could be the automatic assumption that you're lying to them and manipulating them."

Given this historical relationship of inequality, PDs considered the client's previous interactions with the system when determining whether to attempt to influence the DA. For example, in one plea bargaining case, the PD recounted how she would have liked to try to influence the DA to

combine the charges for two different criminal cases the client was facing. However, the PD stated she would not attempt to do this because she was not able to convince the client that it was in his best interest. This particular client had had a bad prior experience with a different PD and the PD's use of verbal disclaimers had been unsuccessful. The client was refusing to accept this PD's legal advice, and the PD thought that it was because the client suspected that this PD had been coopted by the DA. From field notes:

[PD] explains that the client has both this case in the PD's county, and a different case in another county. [PD] says that she does not intend to try to influence the DA to combine the charges for the client's two different cases, even though she thinks that it would be helpful to the client to do so. "[This] client hates me. All he does is just stare, right at me...Some clients, including this one, have had bad experiences in other counties, and they don't trust that they're getting good representation."

**PDs considered their “community loyalty activities.”** Yet, while the PDs were concerned that their perceived dependence on the system, the optics of the upward influence tactics, and the client's history with discrimination could negatively impact the client's perception of PD cooptation by the DA, we noted that these concerns seemed to be mitigated when the PD, himself or herself, actively participated in community service activities in the clients' community. The taint of the public image of PDs was big enough that some of the PDs felt the need to engage in extra community work to repair their image for the public. Engaging in community outreach led PDs to perceive that they were essentially covered, trusted by clients, and hence did not need to refrain from being seen engaging in ingratiating behaviors with DAs. PDs who personally engaged in activities like community service at the local food bank, volunteering by running mock trial debates at the local high school, working with Habitat for Humanity, or volunteering at the local Boys and Girls Club in the community told us that their PD office had demonstrated to clients that they were committed to their client's well-being. PDs also perceived that these activities helped PDs show that they were competent, that they

understood the disadvantaged background of their clients, and that they were not prejudiced against them. One PD said:

We've volunteered at [local food bank], Habitat for Humanity, we participate in food drives, toy drives. We try to participate in those things. Because we're around a lot, people know us...I think these activities help the office reputation...Sometimes a newspaper will write it up, or there will be a picture.

Another PD who had participated in community loyalty activities noted that PDs did not always see their clients at the events, but that, if they did, past clients might tell other community members about their positive experience with PDs. Then, future clients would feel like the system was treating them fairly by appointing competent lawyers to represent them. The PD said, "We're always out there doing things...We're pretty well known and trusted in the community."

As one PD who engaged in community loyalty activities shared,

If our clients know [our office], that will lead to better relations [with clients] and they'll trust us more. PDs have a reputation as public pretenders, people who can't get a real job, people who aren't smart enough...it's essential we have a reputation in the community. It helps [the work] when [the clients] know about us.

Another PD said, "[The community loyalty activities] help our office's reputation. We get to see [community members] on a different level, and they get to see us outside of being lawyers. They get to know that we don't just see them as criminals." In this way, engaging in community loyalty activities helped neutralize the PDs' concerns that the client would perceive PD advocacy work as cooptation because of PD dependence on the system, the optics of upward influence tactics, and the client history of discrimination. We found that when the PD assessed that their active participation in the community loyalty activities provided sufficient cover to address the potential negative interpretation of PD cooptation by the DA, the PD skipped Phase 3, and attempted to influence the DA at this point (See **Path 2A** below).



### **Phase 3: PD Management of the Impressions of the Third Party—the Client**

But, in cases where PDs did not participate in community loyalty activities and the client was present in the courtroom (so would be able to view PD influence attempts with the DA), PDs' concerns about client-perceived PD dependence on the system, the optics of the upward influence tactics, and the client's history with discrimination were not mitigated. In what we call Phase 3, PDs managed cooptation concerns in these situations by engaging in three kinds of impression management tactics with clients: (1) verbal disclaimers; (2) distancing themselves from the system; and (3) enlisting an ally. PDs sometimes used multiple tactics in a single case.

**PDs used verbal disclaimers.** PDs often used verbal disclaimers with the client in advance of attempting to influence DAs in order to try to change the optics of the PDs' advocacy work. One PD explained to us, "I tell [the client], I'm going to talk to and joke with the DA...I have to deal with these people every single day. It doesn't mean I'm not putting your interests first."

In another example, the PD told the client that she knew the DA would ask for more time to prepare the case. The PD explained to the client that she would not object to the DA's request because she could use it as leverage to get the client released home on bail. From field notes:

The PD is meeting with the client down in lockup. The PD informs the client, "The DA is going to ask for a continuance (more time). He's not ready [to present evidence for the probable cause hearing]. I'm going to say to him, 'You agree to let my client [out on bail on personal recognizance], and I'll agree to whatever [future probable cause] date you want.' The judge is going to grant [the DA] the continuance either way, [so I won't be giving up anything by agreeing to whatever future probable cause date the DA wants], but this way we get you out [and home]."

**PDs distanced themselves from the system.** PDs also distanced themselves from the system in order to reinforce their claim that they were not covertly serving the interests of the existing social system. For example, in one probable cause hearing (a proceeding after a criminal complaint has been filed by the DA to determine whether there is enough evidence to support the

initial criminal charges), the PD distanced himself from the system in interaction with the client by denigrating the DA for not following court protocol. From field notes:

The client is out on bail and in court for a probable cause hearing. The DA needs to present a drug certification for the case to move forward, but the drug certification is still not ready. During a court break, the PD meets with the client and explains that she plans to use this opportunity to ask the DA for reduced bail. [PD] says to the client: "The DA is trying to pull some procedural funny business...I'm going to ask for a reduced bail [from \$5000 to \$2500], because otherwise this entire process looks slanted against you."

We frequently observed PDs distancing themselves from the system in front of their clients. For example, PDs aligned themselves with their client (rather than with the existing social system) by commenting, "before we walk the plank," or "let's go walk the plank" during their meetings with clients.

**PDs enlisted an ally.** Finally, PDs sometimes enlisted allies in their interactions with clients in order to counteract PD concerns that the client's history of discrimination would lead the client to view PD advocacy as cooptation. PDs brought in other actors whom the client trusted, such as social workers, youth workers, trusted probation officers (PO), and other community representatives, to help demonstrate to a client that the PD was making particular recommendations because the PD was advocating for, rather than discriminating against, the client. In this example from a pre-trial hearing case, the PD had brought along the probation officer (PO) who had been appointed to supervise the client because the PD knew that the client trusted this particular probation officer. From field notes:

The client looks at the PD skeptically and says, "I know how it is with you lawyers," and shares a previous negative history with a different PD who was pushing him to accept drug treatment to make it "smoother" for the court. The PD replies, "I don't think you have a drug problem. (Pause) But it does seem like you're trying to self-medicate for an underlying issue. So, [your PO and I are] suggesting that you get an evaluation for anxiety. That would help you get a medical marijuana card [and avoid probation violations]." The client is looking between the PD and his trusted PO and eventually says, "Let's do it. Let's do what you're saying."

In another example, the PD told us that she knew that the DA would ask for more time to prepare the case. She wanted to allow the DA's request because she could use it as leverage to get the client's bail terms amended. However, she knew that the client was concerned with how long the case was taking and thought that the case should be dropped since the DA was having a hard time finding witnesses. The PD told us that the DA asking for a continuance was not grounds for having the case dropped, but she was concerned that her client did not trust her and the system of which she was a part. The PD asked a social worker, who had previously helped the client, to be present for her meeting with the client. From field notes:

The PD and social worker meet with the client, who says, "Why isn't this case dismissed?! It's been 100 days!" The PD replies that such a delay is not the standard for having a case dismissed. The client replies, "but no face, no case," meaning the DA does not have any witnesses who are going to testify. The PD looks to the social worker and replies, "I know. I know you keep saying that because no witnesses have shown up in court yet. But the only day they're required to show up is the trial date. Not these other court dates." As the PD is explaining this to the client, the social worker is nodding in agreement.

The PD goes on to explain that because a co-defendant has a new lawyer, the case is going to be delayed even further, but that the PD has a legal strategy for next steps. Given the delays in the case, and the client's good standing in the court (by showing up to every court date), the PD is going to ask the DA to amend the client's bail terms to personal recognizance, which would return the \$500 cash bail to the client.

#### **Phase 4: PD Attempted Influence of the Direct Target—the DA**

In what we call Phase 4, the PDs attempted to influence the DA (or not). Our analysis of the 79 cases in which PDs tried to incrementally improve their clients' lives throughout the criminal proceedings revealed four pathways of PD triadic advocacy work on behalf of disadvantaged clients (see **Figure 1A** and **Figure 1B**).

**Path 1NA – the PD did not attempt to influence the DA after Phase 1.** Under Path 1NA, the PD did not try to influence the DA because the PD made a moral judgement that, based

on the DA's values and beliefs, the DA would not be open to influence. This occurred in nine of our 79 cases. From field notes:

The PD and client are in court for a bail review. The PD receives a large manila file folder (5 inches thick) of discovery from the DA. The PD tells me that "[DA's] had it for ages. It's been before a grand jury, and she just gave it to me today. [This DA] is terrible. She's mean to clients. She's tricky. She lies."

The DA is offering \$25K bail with house arrest.

The PD tells me, "I need to do some deep thinking on how to deal with [the bail request]. The problem with this case is we have such a bad DA." The PD does not try to influence the DA before the proceedings to set an affordable bail amount.

Later, during the courtroom proceedings the PD formally requests a reduced bail, but the DA objects and the request for a reduced bail is denied.

**Path 2A – the PD did attempt to influence the DA after Phase 2.** Under Path 2A, the PD tried to influence the DA after Phase 2. This occurred in 30 of our 79 cases. We observed PDs use four tactics to attempt to influence the DAs—offering information, engaging in emotional labor, helping the work flow smoothly, and doing scut work. These influence tactics have been shown to be effective when lower power agents attempt to influence higher power targets (e.g., Heimer & Stevens, 1997; Huising, 2015; Perlow, 2003; Silbey, et al., 2009).<sup>4</sup>

We observed that PDs attempted to influence the DA after Phase 2 when PDs perceived at this early point in the triadic advocacy process that their clients would not view the PD as coopted despite (1) the PD's dependence on the criminal justice system; (2) the optics of the PD's influence tactics with DAs; and (3) the client's history of discrimination within the existing social system.

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<sup>4</sup> For specific examples of PDs using each of these influence tactics, please see **Appendix 1B**.

The first condition under which we observed the PD try to influence the DA after Phase 2 was when the client was not present for the courtroom proceedings, so could not see any interactions between the PD and the DA. Clients were generally absent for two reasons: (1) if clients were out on bail (and living at home during the proceedings), clients could ask their PDs to request that the court waive their presence at the next court date in light of employment and family responsibilities; and (2) if clients were in state custody (and being held in jail during the proceedings), the state did not bring clients into the courtroom for certain phases of the case (e.g. pre-conference meetings).

The second condition under which we observed the PD attempt to influence the DA after Phase 2 was when the PD had previously participated in community loyalty activities. As noted earlier, PDs related that, while issues of PD dependence, optics, and clients' history with discrimination could negatively impact the client's perception of PD cooptation by the DA, PDs thought that this risk could be minimized if PDs actively participated in local community activities that conveyed PD loyalty to their clients' communities.

For example, a PD who had personally participated in community loyalty activities related to us that she felt that she could offer information to the DA without a close interaction between the PD and DA seeming inappropriate to her client. She noted that her PD office had demonstrated their PDs' commitment to her clients' community. We observed this PD inform the DA that she would need more time to prepare for trial since her expert witness was going to ask for more documents from the DA. The PD had told us that she hoped that by offering the DA this information, the DA would accommodate her request for a later court date. From field notes:

The client and his family are sitting in the audience, watching the PD interact with the DA. The PD explains to the DA that she is waiting for documents and feedback from the expert witness, "But I'm afraid [the expert witness is] going to ask [you] for *more* [documents]." This

means the PD will eventually need to take the DA's time by filing a motion for discovery with the DA, a legal request that requires the DA to share with the PD all evidentiary documents in the DA's possession.

The PD is giving the DA a heads up about this (offering information), so that the DA can factor it in to his own work planning.

The PD proposes a date for trial that will give the PD's expert witness time to prepare and asks, "So are you free then, or not so much?" The DA laughs and checks his phone, making a face like he's always busy but will check. They agree on a date that accommodates the PD's expert witness. (PD was successful in obtaining a beneficial outcome for her client).

**Path 3NA – the PD did not attempt to influence the DA after Phase 3.** Under Path 3NA, the PD did not try to influence the DA after Phase 3 because the PD felt that the PD had failed to manage the client's cooptation concerns. This occurred in 20 of our 79 cases. Sometimes this happened when the PD could not secure what we call a "pre-emptive space" (adequate time and a private space) with the client in order to actively manage the client's impression of PD advocacy work. Often, the courtroom proceedings were overscheduled or other defendants were present with the PD's client in the lockup facility adjacent to the courtroom, so the PD could not secure adequate time and a private space with the client. In those instances, we observed that the PD did not try to manage the client's impressions, but only quickly reviewed the essential information with the client, such as the courtroom agenda and timeline, before the case was called. From field notes:

The PD tells me that the client is likely to be feeling disoriented and frustrated because he had been moved last night from one jail facility to another. [PD and I] had passed by the lockup facility [adjacent to the courtroom], and had seen that it was full of other defendants [so that it would not be possible to get private time with the client].

The PD explains [to me] that she would have liked to discuss with the client the possibility of offering the DA a plea deal, but doesn't want to discuss the sensitive details of the case [including any suggestion of starting the plea-bargaining process with the DA] in front of the other defendants [in the lockup facility]. Instead, the PD says that she will just briefly talk to the client in the courtroom before the proceedings to tell the client, more generally, about how the proceedings will go today.

The other way that the PD did not try to influence the DA after Phase 3 was when the PD had tried to manage the client's perception of cooptation, but felt that he or she had failed to do so. In

these situations, PDs related to us that they thought that the client had failed to accept the PD's recommendations for an advocacy strategy because the client viewed the PD as being coopted.

For example, in one bail case, the PD considered how his attempt to influence the DA might look like cooptation in the eyes of the client. The PD judged that the particular client's negative experience with the criminal justice system could lead the client to perceive that the PD was "schmoozing with the DA" if the PD attempted to negotiate with the DA before the case was called. The PD attempted to manage this impression by using a verbal disclaimer with the client. However, the PD ultimately believed that client would not trust that the PD was advocating for the client rather than coopted by the DA, and so the PD did not attempt to influence the DA.

From field notes:

[PD] tells me that he'd like to talk to the DA before the proceedings about the possibility of a reduced bail amount. But, the PD says that he's concerned about how the PD talking to the DA before the proceedings will look to the client. The client has respiratory issues that have been exacerbated by the jail facilities, and the client thinks that the PD has not done enough to help him.

The PD goes to meet with the client before the proceedings, and tells the client that the PD plans to talk to the DA ahead of time about the PD's strategy for requesting a reduced bail—that they agree to a further delay until the client has completed his mental health evaluation. The PD says that the DA will otherwise object to reduced bail (verbal disclaimer).

The client becomes irritated, "I don't know why you're telling me this now! When are you going to start acting like my lawyer? I'm out here struggling for my life. I can't breathe, [because of health issues exacerbated by the jail facilities]. I don't know why you didn't come talk to me so that I could think about this before today."

Back in the courtroom, the PD says to me, "I've been working the case, but that's not readily apparent when you're in jail. (Pause) Sometimes we forget how these things look in the eyes of our clients, and how isolating it is behind those [jail] walls."

The client is brought into the holding area in the courtroom. The PD does not attempt to talk to the DA beforehand to influence the DA to agree to a reduced bail amount. During the proceedings, the PD asks the judge for a reduced bail amount, and the DA objects. The judge does not allow a reduced bail amount.

**Path 3A – PD did attempt to influence the DA after Phase 3.** Under Path 3A, the PD tried to influence the DA after Phase 3. This occurred in 20 of our 79 cases. It happened when the PD

felt that the PD's tactics of verbal disclaimers, distancing from the system, or enlisting an ally had sufficiently managed potential client perceptions of cooptation. For example, in one pre-trial hearing case, the PD's client was homeless and had been charged with trespassing. The PD wanted to influence the DA to allow the client to do community service rather than serve jail time.

In conducting her advocacy work, the PD had first judged the DA as possibly amenable to influence (Phase 1), and had then judged the client as likely to view the PD as coopted because of the client's history of discrimination by the existing social system given his status as a homeless, racial minority (Phase 2). As described below, the PD attempted to distance herself from the criminal justice system (Phase 3). She then judged that she had sufficiently done so, and attempted to influence the DA (Phase 4). The PD performed scut work for the DA, and was subsequently successful in obtaining a beneficial outcome for her client. From field notes:

The PD is meeting with the client before the case is called. The PD says to the client, "I'm hesitant to move quickly on this case because the DA is asking, 'what can we do here?' which usually means pay a fine or serve a reduced sentence." The client indicates that he has some money he could put towards a fine and the PD shouts, "Don't waste your money on this crap! You have a baby coming!" (PD distancing herself from the system)

The PD instead suggests to the client that the client could do community service. The PD admits that this may be difficult to arrange with the DA since the client is hard-of-hearing, and the DA may worry about liability issues associated with the client doing community service because of this.

The PD goes to the DA and offers community service as a resolution. The DA is open to the suggestion but, as the PD suspected, is worried about the liability of having a hard-of-hearing defendant participating in their usual community service options (e.g., collecting trash along the busy roads).

The PD offers to research other options, and the DA says to get back to him with options. The PD goes to speak to the Clerk and the Head of Corrections, who are both working in the courtroom today, to find a safer community service option (PD doing scut work).

Later, during the courtroom proceedings, the Judge asks the PD and the DA how the case will be resolved, and the DA offers community service in lieu of a fine or jail time (PD was successful in obtaining a beneficial outcome for her client).



**High success rate for PDs who attempted influence.** There was a high success rate for PDs who actually attempted upward influence with DAs. This would seem counter to our phenomenological and empirical understanding of the setting as lower power advocacy. However, as noted in the Methods section, the PDs would have liked to make a grand request, such as having the charges dismissed immediately. However, PDs very rarely attempted a grand request because they judged that the failure rate would be extremely high. We observed them attempt this only in situations where juvenile clients were charged with a serious offense that carried a very large penalty with it. Apart from these rare exception cases, the PD reconstructed the opportunity for influence into a small request that the PD judged was achievable and would incrementally improve the outcome for their client.

## DISCUSSION

By studying public defenders engaged in advocacy with DAs on behalf of disadvantaged clients, we found that, in situations where advocates need to gain information from clients that is important for advocacy or need to persuade clients to accept advocates' recommendations for advocacy strategy, advocates are often concerned about client assessments. When such clients are disadvantaged by the current social system, advocates may be concerned about clients' perceptions of cooptation because of issues related to advocate dependence on the system, the problematic optics of interactions between advocates and more powerful targets, and a history of discrimination for many disadvantaged group members. In such situations, advocates may engage in *triadic advocacy work*, assessing and managing the impressions not only of their more powerful direct targets but also of a critically important third party—their disadvantaged clients—in order to attempt to gain access to needed resources for these clients. These findings have implications for our understanding of advocacy in street-level bureaucracies, of advocacy through case-based

institutional work, and of negotiating on behalf of others.

### **Contributions to Our Understanding of Advocacy in Street-Level Bureaucracies**

The literature on street-level bureaucracy has conceptualized the main barriers to agents attempting advocacy on behalf of disadvantaged clients as rooted in insufficient resources and vague, conflicting, and ambiguous goals (Lipsky, 1980; Maynard-Moody & Portillo, 2010). We show that agents' concerns about client perceptions can provide an additional barrier to advocacy. This runs counter to the current literature, which suggests that agents have little need to satisfy clients; indeed, Lipsky (1980) describes street-level agents as frontline workers with nonvoluntary clients and "nothing to lose by failing to satisfy [those] clients (p. 55)." Our study suggests, in contrast, that agents may be concerned with satisfying clients if agents need to do so in order to (1) gain information from clients that is important for advocacy, or (2) persuade clients to accept agents' recommendations for advocacy strategy. We argue that, in such cases, agents are often concerned about client assessments and, in particular, may want to avoid client perceptions of cooptation.

Regarding when advocacy occurs, scholars of street-level bureaucracy suggest that one important organizational structure for facilitating advocacy is negotiation spaces. Such spaces allow for negotiation between, on the one hand, agents attempting to use the "spirit of the law" to gain resources for disadvantaged clients and, on the other hand, more powerful organization members attempting to enforce rules according to the "letter of the law" (Battilana et al., 2015; Canales, 2014). We demonstrate that what we call "pre-emptive spaces"—spaces that allow agents to preemptively prevent the emergence of problematic client impressions that could arise when agents engage in influence behaviors with more powerful targets that may seem inappropriate to clients—can also facilitate advocacy. In addition, agent participation in what we call "community loyalty activities"—activities that allow agents to perceive that they have

demonstrated commitment to their disadvantaged clients' communities—can facilitate agents' willingness to engage in advocacy because it leads them to perceive that they are then free to engage in influence behaviors with direct targets that have the potential to look like cooptation to disadvantaged clients.

Finally, regarding how advocacy occurs, the current literature suggests that agents can advocate for disadvantaged clients by creatively bending policy rules to be responsive to community concerns (Durose, 2009; Markström, et al., 2009; Maynard-Moody & Musheno, 2000), engaging in “sociological citizenship” (Canales, 2014; Coslovsky, 2011; Huising and Silbey, 2011; Salvato & Rerup, 2018; Silbey, et al., 2009; Silbey, 2011), and negotiating with powerful parties within their organizations when serving disadvantaged clients requires trade-offs in their organizations' ability to accomplish both social and economic goals (Battilana et al., 2015; Canales 2014). We demonstrate that agents can also advocate for disadvantaged clients by engaging in triadic advocacy work, in which they assess and manage the impressions not only of their more powerful direct targets but also of a critically important third party—their disadvantaged clients—in order gain access to needed resources for these clients.

### **Contributions to our Understanding of Case-Based Institutional Work**

Our findings also contribute to the literature on case-based institutional work. First, we propose that our distinction between cause-based institutional work and case-based institutional work is an important one for scholars of institutional work to understand, because different kinds of work may be required to accomplish cause-based versus case-based outcomes. What we call cause-based institutional work entails advocates' efforts to change laws or policies, norms, or beliefs to advance social justice for a large segment of society (e.g., Burgess, et al., 2019; Howard Grenville, et al., 2017; Lawrence & Dover, 2015; Maguire, et al., 2004). In contrast, what we call “case-based institutional work” entails less visible and more mundane day-to-day

adjustments and compromises to attempt to maintain existing institutions or purposefully create new ones to protect the values of social welfare, equity, and justice for particular socially and economically vulnerable individuals and families (e.g., Currie & Spyridonitis, 2016; Heaphy, 2013; McPherson & Sauder, 2013).

Second, scholars of case-based institutional work suggest that key barriers to case-based advocacy work are that public services to protect social welfare are often unavailable and, even when available, may be unknown to intended beneficiaries or resisted by powerful professionals attempting to protect their own professional institutions (e.g., Currie, et al., 2012; Huising, 2014, 2015; Martin, et al., 2009). We find that advocates may face the additional barrier of being concerned about how their advocacy efforts on behalf of a disadvantaged third party may be viewed by the members of that third party because of several issues. First, advocates may be concerned that disadvantaged third parties may think that the advocate is not sufficiently independent of the party with whom the advocate is negotiating because the advocate depends on the target, rather than on the constituents whom they are representing, for their livelihood and career. Second, advocates may worry that the disadvantaged third parties may not trust them because the optics of negotiations suggest cooptation; the advocate cannot convey the full nuance of what happens at the table to those she represents, and the more intensive these efforts to create value are, the greater the likelihood of generating doubt in constituents. Finally, advocates may worry that the disadvantaged third parties may assume that dominant group members have nominated advocates who are incompetent, or who are prejudiced against the third parties, or covertly serving dominant member interests.

Third, regarding when advocacy occurs, scholars of case-based institutional work suggest that it occurs when organizations create new positions to facilitate case-based advocacy work

(e.g., Currie & Spyridonitis, 2016; Heaphy, 2013; Huising, 2014, 2015), or when engaging in such advocacy work enables existing lower status organization members to carve out new jurisdictional tasks for themselves (e.g., Currie, et al., 2009; Currie, et al., 2010; Kellogg, 2014). We demonstrate that advocacy may also occur when advocates participate in “community loyalty activities.” Advocate participation in these activities can facilitate their willingness to engage in advocacy because they perceive that they are essentially covered, and hence do not need to refrain from being seen later engaging in ingratiating behavior with more powerful members of their organizations. In some ways, this is consistent with research on diversity initiatives—programs and policies intended to increase the fairness of organizations for underrepresented groups— which shows that these initiatives may lead to a presumption of fairness on the part of dominant group members, particularly strongly identified members, (e.g., Dover, et al., 2020). However, in that literature, initiatives that lead to dominant group member presumptions of fairness can have negative effects for disadvantaged group members, because dominant group members may feel free to discriminate if they believe that their organization has procedures in place to promote fairness (e.g., Castilla & Bernard, 2010). Our findings demonstrate that initiatives that lead to presumptions of fairness can have positive effects for disadvantaged group members when they allow advocates who have participated in the initiatives to perceive that they have won the trust of disadvantaged group members. In this way, advocates may perceive that they are later covered to engage in influence behaviors with direct targets that may look like cooptation but are, in fact, beneficial to the disadvantaged group members.

Finally, regarding how advocacy occurs, scholars of case-based institutional work have demonstrated the cognitive (re)interpretation work that advocates may engage in as they blend logics to create new institutions on behalf of disadvantaged society members (McPherson &

Sauder, 2013; Zilber 2013) or maintain institutions in interactions with more powerful organization members on behalf of disadvantaged society members (Currie, et al., 2009, 2010, 2012; Currie & Spyridonidis, 2016). Scholars have also demonstrated the behavioral advocacy work that advocates may engage in with powerful organization members to gain access to resources for disadvantaged society members such as discretion work (Radoynovska, 2018), repair work (Heaphy, 2013), emotion work (Manning, 2014), brokerage work (Kellogg, 2014), and enablement work (Mair & Marti, 2009; Mair et al., 2012). We demonstrate that advocates can also advocate for disadvantaged society members by engaging in triadic advocacy work, in which they assess and manage the impressions not only of more powerful organization members, but also of a critically important third party—their disadvantaged beneficiaries—in order gain access to needed resources for these disadvantaged society members.

### **Contributions to our Understanding of Negotiating on Behalf of Others**

Finally, our findings also contribute to the literature on negotiating on behalf of others. This research has highlighted how situational ambiguity (Bowles, et al., 2005; Lee & Thompson, 2011), and dual-loyalty conflict (loyalty to both the beneficiary and the negotiating partner; Ben-Yoav & Pruitt, 1984; Cutcher-Gershenfeld & Watkins, 1999; Kurtzberg, et al., 2005; Wall, 1975) serve as barriers to agents negotiating on behalf of others. We contribute to this literature by highlighting that agents may be particularly concerned about dual loyalty conflict and situational ambiguity when the agent and the target are part of the same system (agent dependence on the system). When agents depend, for their livelihoods and careers, on an organization of which their targets are a part, rather than on the constituents whom they are representing, agents may be concerned that the disadvantaged clients being represented might perceive agents to feel more responsible to the organization than to her constituents, thereby neglecting her advocacy duties.

Studies on negotiating on behalf of others have also highlighted how the “visibility” of the negotiation can limit the agent’s ability to reach creative solutions on behalf of the other. Some of these studies highlight that visibility serves as a barrier to negotiation on behalf of others because it heightens the sense of competition between the agent and the target; in such situations, the agent is less likely to take negotiation positions that could risk the agent’s image or reputation (e.g. King & Zeckhauser, 2012; Kutzberg, et al., 2005; Kutzberg, et al., 2012). Other studies demonstrate that visibility serves as a barrier to negotiating on behalf of others because the agent cannot convey the full nuance of what happens at the table to those she represents, and the more intensive interactions to create value are, the greater the likelihood of generating doubt in constituents (e.g., Cutcher-Gershenfeld & Watkins, 1999; Kochan et al., 2011). Our findings reinforce these findings about the problematic optics of interactions between agents and more powerful targets, and suggest that agents may be particularly concerned about these problematic optics when constituents are members of a disadvantaged group (history of discrimination). Because prejudice and discrimination are a social reality for many members of disadvantaged groups, agents may be concerned that disadvantaged constituents will have developed a suspicion of the motives and behaviors of all dominant group members. Because the system and the constituents start from an historical relationship of inequality, agents may be concerned that constituents would expect agents appointed by the state to be incompetent, prejudiced against the constituents, or covertly serving the interests of the existing social system.

Finally, negotiations studies suggest that an agent is likely to negotiate on behalf of others when agents can reduce the agent image or reputation risk or address concerns about generating doubt in constituents by conducting their negotiations in private spaces (e.g., Kochan et al., 2011; Kolb 1983; McKersie, 1999; Walton & McKersie, 1991). Yet, many public service

organizations are characterized by agents needing to negotiate on behalf of others in highly visible settings. Furthermore, organizations such as community health centers, welfare offices, day care centers, emergency rooms, food pantries, halfway houses, and employment centers are often characterized by both a lack of readily available backstage space and by heavy workloads of agents that limit the time available to search out such space. Our study specifies ways that agents may attempt to manage visibility barriers with disadvantaged constituents on whose behalf they are negotiating when private spaces and time to use them are in short supply. In such situations, agents may use verbal disclaimers, distance themselves from the system, enlist allies, and participate in “community loyalty activities” to prevent disadvantaged constituents from negatively interpreting agent interactions with targets as signals of cooptation.

### **Generalizability and Future Research**

We expect that triadic advocacy work would be most important for attempting to gain resources for disadvantaged beneficiaries inside of public service organizations in situations where advocates need to gain information from beneficiaries that is important for advocacy or need to persuade beneficiaries to accept advocates’ recommendations for advocacy strategy, and where advocates’ advocacy work with powerful direct targets is visible to disadvantaged beneficiaries. Here, advocates are likely to be concerned about disadvantaged constituents’ perceptions of cooptation by higher power targets. For example, advocates in VA hospitals who need to gain information from veterans to more effectively advocate for them (Heaphy, 2013) may be concerned that veterans may perceive that the advocates are co-opted by more powerful doctors. Or, advocates in a microfinance organization who need to persuade beneficiaries to accept advocates’ recommendations for advocacy strategy (Battilana, et al., 2015; Canales 2014) may be concerned that loan recipients may perceive that the advocates are co-opted by more powerful organization members focused on economic productivity. The argument presented in



this article suggests that, under these conditions, advocates may attempt to gain access to resources for disadvantaged beneficiaries by assessing the risks of cooptation perceptions and by using verbal disclaimers, distancing themselves from the system, enlisting allies, and participating in “community loyalty activities.”

These findings raise several questions for future research. First, we have shown that advocates may use triadic advocacy work to try to gain resources for disadvantaged society members in case-based advocacy inside of public service organizations. Future research could investigate whether advocates use triadic advocacy work in cause-based institutional work to try to advance social justice for a larger segment of society. For example, would advocates use triadic advocacy work when engaging with patient advisory boards in community health centers to set policy for all patients rather than only for particular individuals and families? Future research could also investigate whether triadic advocacy work could help inform our understanding of issue selling on behalf of disadvantaged groups in for-profit organizations (e.g., Ashford, 1998; Ashford, et al., 1998) where advocates attempt to engage in ongoing influence of top managers to change inequitable organizational practices on behalf of disadvantaged groups such as female or minority employees.

Second, we have shown how advocates’ perceptions can affect their attempts to influence powerful targets, but we were not able to understand the perceptions of the powerful targets or of the disadvantaged clients. Because of attorney-client privilege, we were forbidden from asking DAs about their views of PD influence attempts. And, we were forbidden from asking clients about their views of PD influence attempts because of organizational concerns that this could have made vulnerable clients fearful. On the one hand, this is a weakness of our choosing this

particular setting in which to conduct our study. On the other hand, our choice of setting was strong in a different way.

PDs and DAs provide an extreme case of public service organization advocates' assessment of the context for influence of higher power targets in situations where advocates may be concerned that their influence attempts may lead disadvantaged beneficiaries to see them as coopted by the higher power targets, rather than as representing the interests of the beneficiaries. Our particular setting provided the opportunity to observe 79 occasions of these dynamics in high relief. This extreme case of a situation in which advocates were concerned about their disadvantaged constituents' perceptions because of issues of optics, dependence, and history allows us to see dynamics that are likely occurring, but less visible in less extreme settings. We believe that our work provides a good first step in highlighting the triadic character of advocacy on behalf of disadvantaged group members, an important insight that is missing from the current literature. Now that we have highlighted these dynamics, future research could explore how the perceptions of the higher power targets and disadvantaged beneficiaries also play into these dynamics.

Third, we found a high success rate for PDs who actually attempted upward influence. This would seem counter to our phenomenological and empirical understanding of the setting as lower power advocacy. However, our criminal cases had a "Phase 0," where the PD would have liked to make a grand request, such as having the charges dismissed immediately. In almost all cases, however, the PD reconstructed the opportunity for influence into a small request that the PD judged was achievable and would incrementally improve the outcome for their client. We discuss this process, and the PD's rationale for this approach, in the Methods section. Future

research could examine the process of triadic advocacy work in settings where advocates are attempting to make more major requests of powerful organization members.

Fourth, we did not find individual differences to be associated with advocate attempts to influence targets on behalf of disadvantaged group members. On the one hand, these findings are consistent with current literature on issue selling, which finds influence attempts to be related not to individual differences, but to other factors such as the issue's importance to the advocate (which is associated with identity; Ashford & Barton, 2007), and to their level of efficacy regarding issue selling and the risks to their image of selling particular issues (which is associated with functional expertise; Ashford, et al., 1998; Ashford, et al., 2017). On the other hand, we do find that advocates' participation in community loyalty activities affected their assessment of client-perceived cooptation risk and, so, their likelihood of trying to influence more powerful targets. Future research could explore the relationship between community loyalty activities and advocates' perceptions and actions.

In summary, while scholars of street-level bureaucracy and scholars of institutional work have elaborated the work that advocates within public service organizations may use to attempt to influence higher power targets to gain access to resources for disadvantaged society members, the current study elaborates the triadic rather than dyadic work that advocates may use to do this. In situations where beneficiaries are disadvantaged by the current social system, advocates may be concerned about beneficiaries' perceptions of cooptation because of issues related to advocate dependence on the system, the problematic optics of interactions between advocates and targets, and a history of discrimination for many marginalized group members. Under such conditions, advocates inside of public service organizations may attempt to gain access to resources for disadvantaged society members not only by considering and interacting with their direct targets,

but also by assessing the risk of perceived cooptation with their disadvantaged beneficiaries and by engaging in pre-emptive impression management tactics with these beneficiaries to try to minimize this risk.

The criminal justice system, healthcare, welfare, and other social service organizations have important consequences for the life chances of disadvantaged groups such as the poor, immigrants, people of color, women, and unemployed workers. These public service organizations are potential vehicles for advancing the rights, opportunities, causes, and human dignity of the truly disadvantaged. As such, it is critical for organization theorists to understand the triadic advocacy work that advocates may use within them to protect societal values of social welfare, equity, and justice.

## Tables & Figures

**Table 5. PD Opportunities for Influence of DA by Phase of Criminal Case**

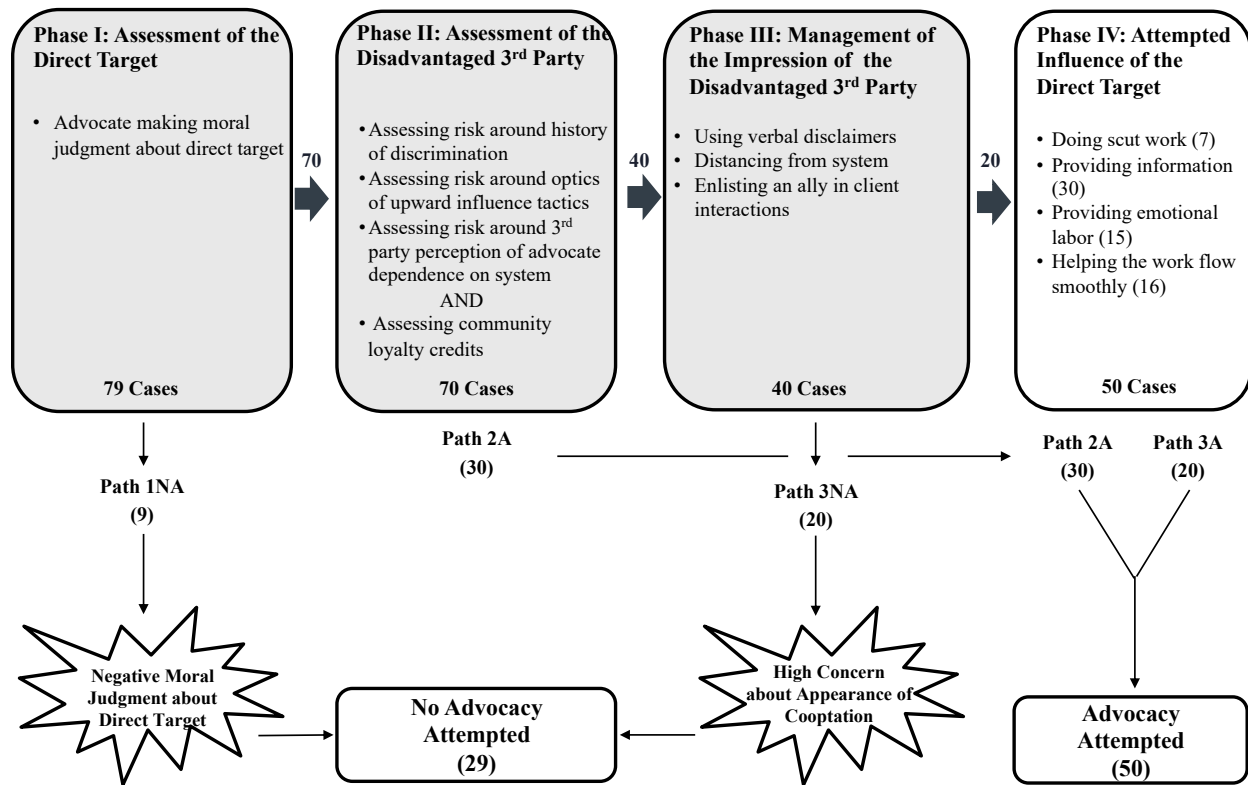
Phase of the Case	Opportunity for Influence	Potential Benefit to the Client	Why the DA May be Open to Influence
<b>Scheduling</b>			
	PD wants client's presence waived for the next court appearance	<ul style="list-style-type: none"> <li>Client doesn't have to take time off work, arrange transportation, and appear in court</li> </ul>	<ul style="list-style-type: none"> <li>DA could save the court system money on transportation</li> </ul>
	PD wants case called sooner or later in the docket order	<ul style="list-style-type: none"> <li>Client doesn't have a default warrant issued for failure to appear</li> <li>Client able to return to work or family responsibilities</li> </ul>	<ul style="list-style-type: none"> <li>DA could accommodate own schedule</li> </ul>
	PD wants next court date scheduled	<ul style="list-style-type: none"> <li>Change timing of case to retain or dissuade witness participation</li> <li>Gain new evidence or prevent gaining of new evidence by the DA</li> </ul>	<ul style="list-style-type: none"> <li>DA would have parallel reasons</li> </ul>
<b>Arraignment and Bail Reviews</b>			
	PD wants affordable bail amount set	<ul style="list-style-type: none"> <li>Client maintains familial and community connections during the court proceedings</li> </ul>	<ul style="list-style-type: none"> <li>DA could save on housing and transportation costs for defendants who are not a 'flight risk'</li> </ul>
	PD wants GPS monitoring in lieu of custody	<ul style="list-style-type: none"> <li>Client maintains familial and community connections during court proceedings</li> </ul>	<ul style="list-style-type: none"> <li>DA could mitigate 'flight risk' concerns</li> <li>DA could save on housing and transportation for defendant</li> </ul>
	PD wants work hour concession or GPS boundaries for house arrest conditions	<ul style="list-style-type: none"> <li>Client maintains familial and community connections during court proceedings</li> <li>Client maintains ability to meet financial obligations and responsibilities during court proceedings</li> </ul>	<ul style="list-style-type: none"> <li>DA could mitigate 'flight risk' concerns</li> <li>DA could demonstrate defendant's ability for reform</li> </ul>
<b>Pre-Trial Hearings</b>			
	PD wants DA to break down the charges	<ul style="list-style-type: none"> <li>Prevent mandatory minimum sentencing requirement if client is found guilty</li> </ul>	<ul style="list-style-type: none"> <li>DA could transform 'untrialable case' (with the current charges and available evidence) into a trialable case</li> <li>DA could reduce the charges to a trialable case</li> </ul>
	PD wants to file motions to dismiss charges or suppress evidence	<ul style="list-style-type: none"> <li>Client doesn't have a criminal charge</li> <li>Client has reduced criminal charges</li> </ul>	<ul style="list-style-type: none"> <li>DA could transform 'untrialable case' (with the current charges and available evidence) into a trialable case</li> </ul>

**Table 6. Additional Examples of Triadic Advocacy Work by Phase**

<b>Phase I: PD Assessment of the Direct Target – The DA</b>
<b>Moral judgment about the direct target</b>
<ul style="list-style-type: none"> <li>From field notes: The PD does not approach the DA. The PD explains to me, “it wouldn’t be worth it (to talk to the DA beforehand) because she would just use any information I told her as leverage...she can’t be trusted.”</li> <li>PD: “[This DA] is tough, and she litigates her cases. She cares a lot about the victims, which I respect. But, we’ve worked together, and she’s not unreasonable, [so I think she would be open to my attempt to influence her to drop the remaining charge.]”</li> <li>From field notes: The PD explains to me that there is a case on for arraignment. The PD explains there was some back and forth with the DA because “she’s a meanie...she said she was going to ask for an increase in bail if I asked for a decrease. And it’s possible the family can put together the original amount, so I’m going to stick with [the original bail amount rather than attempting to influence this DA].”</li> </ul>
<b>Phase II: PD Assessment of the Disadvantaged Third Party – The Client</b>
<b>PDs Considered Perceptions about PD Dependence on the System</b>
<ul style="list-style-type: none"> <li>PD: “I don’t like the way we’re supposed to refer to each other as ‘brother’ or ‘sister’. It makes our clients automatically think that we’re part of the government; that we’re all part of the same system and in cahoots with each other.”</li> <li>PD: “For better or worse, we are members of the criminal justice system. I can understand how a client might see me as someone who’s part of the system trying to lock them up.”</li> <li>From field notes: A trainer leads new PDs through barriers to forming a trusting relationship with the client. She shows a slide entitled, “Common Hurdles to Our Relationship: The Client’s View of Us” and then leads the group through the following bullet points:             <ol style="list-style-type: none"> <li>“We are part of the system,” the trainer explains, “[Our clients] assume because they’re not paying us and we’re being provided by the system, that we’re part of the system, and therefore not there for them.”</li> <li>“We don’t care about them,” and the trainer explains, “Because after all, we were just <i>appointed</i> (by the system) to protect them. We didn’t pick them, they didn’t pick us, so we don’t care about them.”</li> </ol> </li> </ul>
<b>PDs Considered the Optics of their Influence Tactics</b>
<ul style="list-style-type: none"> <li>PD: “You never get a second chance to make a first impression. Think about the impression we’ll make on our client when our client sees us interacting with DAs and other court people. For example, if your client...sees you schmoozing with the DA.”</li> <li>PD: “I try to be conscious of my interactions with the DA when I know the client can see. ...I’m obviously a very funny guy. So, I have to restrain myself from being funny with the DA when the client is present. I don’t want [the client] to think I’m being jovial with the DA while [the client’s] liberty is at stake.”</li> <li>PD: “It can be productive for your client to be friendly with the DA, but you don’t want your client to think you’re not fighting for them.”</li> </ul>
<b>PDs Considered the Client’s History with Discrimination</b>
<ul style="list-style-type: none"> <li>PD: “It takes 1+ years to resolve superior court cases and by then your client trusts you, (pause) as long as [your client doesn’t see PDs as] selling them out...Some clients have trust issues.”</li> <li>PD: “When [a plea deal] is extended by the DA, I have an ethical responsibility to tell my client. I like to tell my client about this requirement <i>in the beginning</i> [before we even have an offer], because otherwise the client thinks you’re just trying to sell them out [when you bring it up later].”</li> <li>PD: “When you’re a client in a criminal case, you have no power whatsoever, and you rightly feel that everyone is out to get you.”</li> </ul>

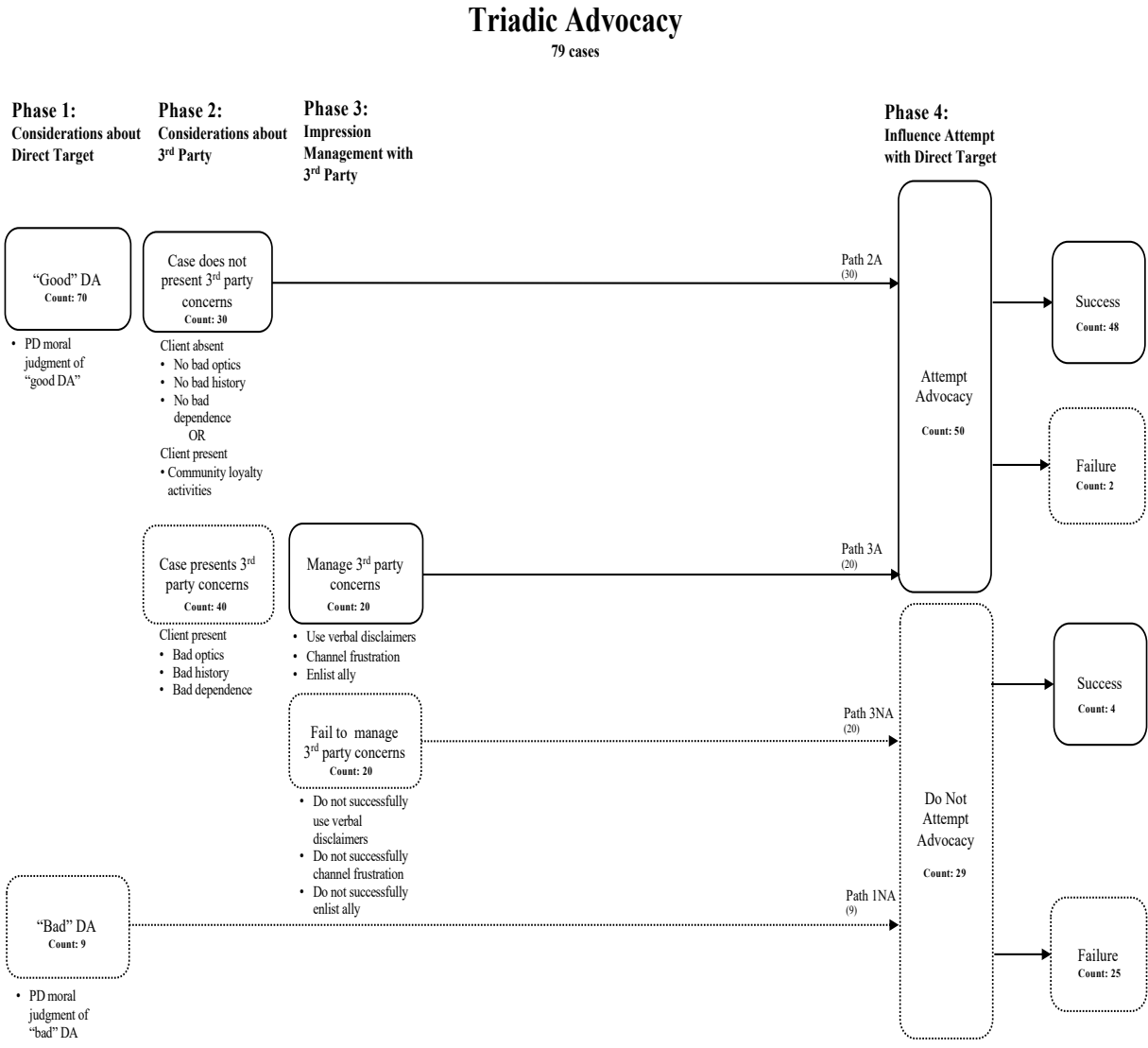
<p><b>PDs Considered their Community Loyalty Activities</b></p> <ul style="list-style-type: none"> <li>• PD who has participated in community loyalty activities: “Because people know [our office], they know...I’m working for them. Every one of [the community members] is going to say, ‘who is that [in court]?’ [And they’ll recognize it’s our office] and say, “That’s the best lawyer...!”</li> <li>• PD who has participated in community loyalty activities: “If you have a reputation of working with [community members] to do [positive] things, [clients] believe in you and give you a chance to do it.”</li> <li>• PD who has participated in community loyalty activities: “Most of us don’t go into public service to be rich. We have given, almost literally, the shirts off our backs [to our clients]...[The community activities we do] are part of this... [Our clients] just know that we’ll help them.”</li> </ul>
<p><b>Phase III: PD Management of the Impressions of the Third Party – The Client</b></p>
<p><b>PDs Used Verbal Disclaimers</b></p> <ul style="list-style-type: none"> <li>• From field notes: The PD is meeting with the client down in lockup. She explains the argument she’s going to make for bail, as well as what is going to happen in court. She explains the logic of the upcoming case and explains why she is putting off scheduling a future court date for the moment. She says to the client, “You’re going to think I’m lazy and not doing anything. But just know, I’m <i>not</i> lazy <i>and</i> I’m not doing anything.” She explains that this delay tactic may be helpful to the client in the event of a trial.</li> <li>• From field notes: The PD says to the client, "You might have seen me chatting around the court... You find out a lot in the margins, find out about people's moods and attitudes (that can be helpful in determining an advocacy strategy)."</li> </ul>
<p><b>PDs Distanced Themselves from the System</b></p> <ul style="list-style-type: none"> <li>• From field notes: The PD is meeting with the client in the lockup adjacent to the courtroom. He shows the client a document. The PD says, “This is a federal [criminal] record. It’s not very organized. Or easy to read. Of course, why should we expect the federal courts to be any more organized than our courts?!”</li> <li>• From field notes: The PD is meeting with the client in a courthouse conference room and going over the intake [new client] form with the client. The court officer comes into the conference room and says, “Are you ready for trial? The judge is ready to hear the case.” The PD asks for ninety more seconds to ask the client a few more questions. The court officer leaves, and the PD says to the client, “I would rather take the time now to gather the information [from you], rather than being rushed. A lot of the time, [the court] tries to rush you, and people do a half-assed job.”</li> </ul>
<p><b>PDs Enlisted an Ally</b></p> <ul style="list-style-type: none"> <li>• From field notes: The PD has a client who violated his probation by smoking marijuana. The PD met with the probation officer [PO] to find out what the client’s options were for remedying the violation, and the PO outlined some potential community service options. The PD asked the PO to meet with her and the client so that, together, they could present the community service options to the client. We’re in the hallway and the PO is here now. The client is reluctant to agree since the process is demoralizing – he would have to wear a bright colored vest and collect trash along the side of the highway. The PD and PO both express, “We know it’s a silly exercise, but this will help improve your image in front of the court.” The client agrees to additional community service.</li> <li>• From field notes: The PD is assigned a new client and is able to talk with the client’s social worker to get up to speed on the case and the client’s life. The PD says to the social worker, “It sounds like [the client] was honest with you [about his drug addiction struggles].” The social worker replies, “Oh yeah, we have a good relationship back and forth. He has a job [now], I’m very proud of him.” The PD asks the social worker to stay when the PD meets the client for the first time. The client arrives to the courthouse conference room and the PD greets with the client with the social worker. In an earlier interaction with his PO, the client had agreed to admit to a probation violation and go into custody. However, the PD wants to try a different approach that would keep the client out of custody. The PD says, “I know we’re all already on a train [of agreeing to a probation violation], but I think I can get us all on a better train.” The PD looks at the social worker briefly and then continues, “I have to say this now. I would be remiss if I didn’t say this. I can’t in good conscience let you agree to those terms [you set with your PO].”</li> </ul>

**Figure 2A. Triadic Advocacy on Behalf of Disadvantaged Group Members**





**Figure 1B. Case-by-Case Analysis of Triadic Advocacy on Behalf of Disadvantaged Group Members**



## **Appendix 1A. PDs were Less Powerful than DAs**

While the U.S. criminal justice system is designed to have ‘an equality of arms’ between PDs and DAs, legal scholars have outlined some of the ways in which DAs are the more powerful group (Cole, 1972; Jacoby, 1977; McIntyre & Lippman, 1970; Sklansky, 2016). The legal literature suggests that PDs and DAs possess a similar amount of practical knowledge of prevailing organizational norms, but that PDs have less formal authority, less access to expertise, and fewer valuable work relationships than do DAs (Dutton et al. 2001; Feldman, 2004; Howard-Grenville, 2007).

First, PDs have less formal authority than do DAs. DAs are the ‘first—movers’ when it comes to a criminal case—they determine whether to bring charges against a defendant and what charges will be brought. Because of this, PDs are dependent upon DAs to start the process, and DAs set the opening negotiation offer that PDs need to counter. To influence DAs, PDs need to convince DAs that the DA’s initial logic and reasoning was incorrect or was based on the DA’s faulty assessment of ‘the value of the case.’

Second, PDs have less access to expertise than do DAs (Bechky, 2014; Laurin, 2015). DAs are aligned with the executive branch of government and have access to internal investigators, expert witnesses, and forensic labs as part of their prosecutorial budget. By contrast, PDs are aligned with the judicial branch and need to get court approval before contracting out the services of private investigators, expert witnesses, and forensic lab work in order to gain technical knowledge.

Third, PDs have fewer valuable work relationships than do DAs (Abel, 2017; Heinz & Manikas, 1992;). DAs have a stronger network of contacts in other governmental agencies than do PDs. DAs’ mission and work is aligned with the mission and work of other government

employees commonly involved in prosecuting a criminal case—for example, members of the police, child welfare services, and social services—and DAs call on these employees regularly for help. By contrast, PDs’ work is often antagonistic to the mission and work of employees in these agencies. This can make it difficult for PDs to influence DAs around things like setting bail and striking plea deals because staff from the police, child welfare, and social services often serve as witnesses for the DAs, but not the PDs. Furthermore, the police, child welfare, and social services are viewed as making better ‘character’ witnesses than the family members or members of the community that PDs can use.

### **Appendix 1B. Examples of PD Influence Tactics with DAs**

**Offering Information.** PDs offered information to DAs about the PD’s planned legal strategies, mitigating circumstances in their clients’ lives, and updates on the status of PD colleagues’ cases. PDs believed offering information to DAs helped ‘humanize’ the client for the DA, kept the relationship between the PD and DA cordial, and prevented the DA from ‘acting out’ against the client later. One PD explained:

As the case progresses, the DA has different sources of information and more information than you do. We do have reciprocal discovery obligations, but for the most part, I’m not obligated to share the information I have with the DA. I have to weigh whether it’s advantageous to the client to share the information. Sometimes, it can be advantageous in the short—term, like giving the DA information about your client to make them sympathetic for a plea.

PDs acknowledged the tension between keeping the DA updated on the PD’s legal strategy, and not wanting to reveal their hand too soon. One PD noted, “I would coordinate with [the DA], as a professional courtesy and I would expect some professional courtesy in return, such as getting an idea [from the DA] of what would happen [to my client] if the DA wins.”

In this example from our field notes, the PD informs the DA that she will need more time to prepare for trial since her expert witness is going to ask for more documents from the DA. From field notes:

The client and his family are sitting in the audience, watching the PD interact with the DA. The PD explains to the DA that she is waiting for documents and feedback from the expert witness, "But I'm afraid [the expert witness is] going to ask [you] for *more* [documents]." This means the PD will eventually need to take the DA's time by filing a motion for discovery with the DA, a legal request that requires the DA to share with the PD all evidentiary documents in the DA's possession.

The PD is giving the DA a heads up about this (offering information), so that the DA can factor it in to his own work planning.

The PD proposes a date for trial that will give the PD's expert witness time to prepare and asks, "So are you free then, or not so much?" The DA laughs and checks his phone, making a face like he's always busy but will check. They agree on a date that accommodates the PD's expert witness. (PD was successful in obtaining a beneficial outcome for her client).

**Emotional Labor.** PDs performed emotional labor by engaging in small talk during courtroom 'downtime,' and promoting a good workplace environment for the DAs. PDs believed offering emotional labor helped secure concessions for their client. As one PD related, "If you start out nasty [to the DA], that's the only place you can stay. You get more with honey than with vinegar." Another PD explained how emotional labor helped secure incremental concessions from the DA, "If the client wants to plead guilty to a charge, the only way to get around the mandatory minimum [the minimum period of incarceration in the event of a conviction] is if the DA agrees. So, we have to be reasonable with [DAs] and particularly nice."

In this example from our field notes, the PD engages in emotional labor with the DA and is later able to secure a concession from the DA that she will not fight the adverse ruling to evidence being deemed inadmissible in the event of the trial. From field notes:

The PD turns to the DA, "So can we pick a date?" [for the motion to suppress; a legal procedure to have evidence inadmissible in the event of a trial] The DA agrees. While flipping through their calendars, they continue to chitchat. The PD proposes a date but the DA responds, "You're going to laugh, but I have a charity golf game that day." PD says, "You play golf?" The DA responds, "Yeah, but I'm terrible at it." PD says, "But you have your own clubs?" DA says, "Yes." PD continues, "I always wanted to play golf. My son plays." While

this conversation is going on, the PD's client is in the holding area, his hands and ankles shackled, watching the PD and DA as he waits for his case to be called.

The PD and DA continue to talk throughout the downtime, and the PD says to the DA, "I'm going to win [my motion to suppress]. I'm so sure it's going to be something that can be decided from the bench." The DA agrees with PD that the motion to suppress is on strong legal ground and says that she will not object to the adverse ruling [to the evidence being deemed inadmissible in the event of a trial].

**Helping the Work Flow Smoothly.** PDs helped the work flow smoothly by not objecting to minor delays or changes in court proceedings. PDs thought that this helped them better influence DAs on incremental beneficial outcomes for their clients. For example, one PD told us how she allowed a minor change to the probation terms because the DA was giving her client a good deal with the plea deal: "This plea is very good for my client." She noted that not objecting to the addition of the probation term of staying away from drugs and alcohol was a small concession as part the larger good deal for the client.

In another example, the PD is frustrated that the DA still hasn't provided her with the search warrants, which are five months overdue. The PD uses the opportunity of helping the work flow smoothly (by not objecting to the delayed discovery) to garner a beneficial outcome for her client. From field notes:

Before the courtroom proceedings, the PD approaches the DA to find out if the search warrants from discovery have been sent by the DA. The DA admits that they have not been sent. This means that the case will have to be delayed and rescheduled for another date. When the case is called, the Judge asks the PD and the DA about the status of the case. The DA informs the court that the PD is still waiting for some discovery documents. The Judge asks for another court date to be scheduled. The PD says, "Since the next court date is just a status update, I would like my client's presence waived at the next court date. He's been to all the court appearances so far, but he does have to ask for the day off of work." The Judge asks for the DA's opinion and the DA does not object. The client's presence is waived for the next court appearance.

Objecting to these minor issues did not result in better outcomes for the client. In fact, the DA was frequently still successful in getting their request approved by the Judge.

**Doing Scut Work.** Finally, PDs performed scut work—routine tasks on behalf of the DA—in order to create additional opportunities to advocate on behalf of their clients. In this example from our field notes, the PD helps the DA find out who the defense lawyer is on the DA case and then immediately transitions to advocating for his PD case with the DA. From field notes:

The PD is in the hallway meeting with a client and notices that the DA is holding a court document with his [PD] name on it and says to the DA, “Well, I can try and help you out right now. I know I don’t have that case. I’m not sure who does, but I can call the office and get that information for you.”

PD then goes on to talk to the DA about an upcoming case the DA will be prosecuting. The PD’s client is a young man, 19 years old, who is being charged with drug trafficking and distribution. The PD advocates to the DA on behalf of his client, offering the narrative that the client is really a good kid, has no prior record, and was just holding on to the drugs for his friend. PD asks the DA, “I mean, haven’t you ever been a stupid kid? Or done something stupid for your friend?” The DA responds aggressively to PD, “Did you have a ‘come to Jesus’ moment with your client?” and the DA lays out how the charges the client is currently facing carry a 12—year mandatory minimum sentence if the client is found guilty. PD says that he did explain that to the client and returns to the mitigating circumstances of the client’s life: how the client doesn’t have a record, lives with his mother, graduated from the local high school, and “just made a stupid mistake that any 19—year old kid would make for his friend.” The DA agrees to look over the case again when he gets back to the office and they can go from there.

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