EQUAL BUT SEPARATE?
BUILDING GENDER, SEX, AND STATUS
INTO PUBLIC RESTROOMS
IN THE UNITED STATES, 1883-2015

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Abstract

“Equal but Separate? Building Gender, Sex, and Status into Public Restrooms in the United States, 1883-2014” investigates one of the most intractable aspects of architectural design in the United States: the physical separation of men and women in public restrooms. Despite their ubiquity, separate men’s and women’s rooms are neither natural nor inevitable. The very first public restrooms in the nineteenth century were unisex by design, and today, gender-neutral bathrooms are re-emerging in many colleges and universities, cultural institutions, and other public spaces. The project thus looks backward in history to understand how gender-segregated restrooms became the normative model of public restrooms in the first place, then inward into contemporary organizations with gender-neutral restrooms to understand how and why those organizations have been able to mount challenges to the gender-segregated status quo.

Drawing on a rich array of historical, textual, and interview data, “Equal but Separate?” reveals how the everyday work of cultural classification has been at the center of decision-making about gender and public restrooms from the middle of the nineteenth century up through the present day. Yet, rather than relying upon the meaning of gender difference alone to shape public restrooms, cultural, educational, legal, and public institutions alike have recurrently wrestled with multiple kinds of boundaries – including physical boundaries built into architectural design and infrastructure, moral boundaries associated with sex and sexuality, and above all, social boundaries related to class and status – to determine the shape of American public restrooms for nearly two centuries.
“Equal but Separate?” thus demonstrates how public restrooms are far from marginal social spaces; instead, they illuminate how moral beliefs about cultural categories, decision-making processes within organizations and institutions, and the material elements of everyday life intersect in the United States to shape possibilities for social transformation. In doing so, the project refines theories of boundary processes from cultural sociology, innovatively synthesizes research from the sociology of organizations with the interdisciplinary field of queer studies, and introduces sociologists to a novel middle-range theory of gender as an institutional accomplishment.
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Chapter 1

Introduction

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“An eminent sanitarian has said that ‘the relations between sociology and hygiene are extremely intimate—a fact which seems not sufficiently appreciated by the students of either subject.’”

Marion Talbot, “Sanitation and Sociology”
*The American Journal of Sociology*, July 1896

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On April 8, 2015, the Obama administration debuted a new, all-gender restroom in the Eisenhower Executive Office Building—the first of its kind within the White House complex. The innovative feature offered a physical counterpart to a number of other recent updates to policies governing restroom access in federal workplaces, all of which were intended to make the White House more inclusive for staff who might be uncomfortable with more traditional, gender-segregated restroom arrangements. As White House spokesman Jeff Tiller explained in his comments to the press that afternoon, the administration had previously undertaken measures to ensure that employees on the White House grounds were allowed “to use restrooms consistent with their gender identity.” The new gender-neutral space was thus intended to offer an additional option for guests and staff alike to use while working in or around the White House—one that the President’s Senior Advisor Valerie Jarrett described in an op-ed published that same day in lesbian, gay, bisexual, and transgender-themed news magazine *The Advocate* as an “important step forward” in ensuring that everyone entering the Eisenhower Building would feel “safe and fully respected.”


2 Jeff Tiller, White House spokesman, as quoted in *The Advocate*, April 8, 2015.

3 Valerie Jarrett, White House Senior Advisor, as quoted in *The Advocate*, April 8, 2015.
Outside of the federal government, parallel regulatory changes related to employment, gender identity, and restroom access had been unfolding for many years at the local and state levels—and in more expansive spheres than workplaces alone. In 1999, Iowa Governor Tom Vilsack issued his own executive order prohibiting discrimination on the basis of gender identity and sexual orientation in state employment, marking the first appearance of the phrase “gender identity” in such a law, and even earlier, in 1993, the Minnesota legislature became the first in the United States to prohibit discrimination in employment, housing, credit, and public accommodations against individuals “having a self-image or identity not traditionally associated with one’s biological maleness or femaleness.” And with respect to restrooms, in 2006, landmark amendments to the District of Columbia’s Human Rights Act were among the first in the nation to grant individual citizens “the right to use gender-specific restrooms and other gender-specific facilities... consistent with their gender identity or expression” and further mandated that all “single-occupancy restroom facilities” throughout the city would be required to “use gender-neutral signage” moving forward.

But given the Eisenhower Building’s location adjacent to the West Wing of the White House; its history of housing the Departments of State, War, and the Navy; and its current function as host to the majority of offices used by White House staff, the new all-gender restroom nonetheless functioned as an especially meaningful harbinger of change for individuals and organizations alike working toward the expansion of transgender rights in the United States. As Senior Advisor Jarrett further explained in her op-ed, the architectural addition was merely one component of a more comprehensive project on the part of the President to “lead by example” and set the standard for the rest of the nation in expanding “the protections of anti-discrimination to apply to the LGBT community.” Indeed, in their coverage of the new restroom space, The
Advocate itself described the entrance of the Obama administration into the “national conversation about trans citizens’ access to bathrooms” as one among numerous “unprecedented” moves that were “affirming of trans citizens,” ranging from the appearance of the word “transgender” in the State of the Union address “for the first time ever” to the pioneering work on the part of the Department of Justice to expand federal protections against sex discrimination to “antitrans discrimination.”

In fact, the date on which the Obama administration announced the availability of the new all-gender restroom also served a symbolic function, as that same day also signified the full activation of Executive Order 13672. Originally signed on July 21, 2014, that new executive order updated two previous executive orders related to employment discrimination throughout the federal government. First, it added gender identity to the list of protected categories within the purview of Executive Orders 11478 and 13087, which had been put into effect years earlier to prohibit discrimination within the federal workforce on the basis of race, color, religion, sex, national origin, and sexual orientation. Second, it added both sexual orientation and gender identity to the scope of Executive Order 11246, which had enacted parallel protections against workplace discrimination for the particular benefit of federal government contractors. While the addition of gender identity to the policy for federal workers had been put into practice effective immediately, the policy for federal contractors required the Labor Department and the Office of Management & Budget to draft and publish a rule for its implementation—a process completed as of the all-gender restroom’s debut on April 8.

Yet the character of the national conversation about restrooms and about preventing employment discrimination on the basis of gender identity was far from uniformly supportive. Instead, such efforts to increase the profile of restroom-related issues and other dimensions of
transgender rights across the United States had also been met with impassioned opposition. In his remarks to the National Religious Broadcasters Convention in 2015, former Arkansas Governor Mike Huckabee infamously criticized recent political transformations related to restroom access for transgender citizens, calling such efforts “inherently wrong,” “ridiculous,” and a “threat”—and further joked that he wished he “would have found [his] feminine side” in high school in order to “shower with the girls.”

Similarly, in an op-ed following Governor Jerry Brown's approval of a bill in 2013 that would allow each student enrolled in California public schools “to participate in sex-segregated school programs and activities... and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil’s records,” Assemblyman Tim Donnelly accused the new law of facilitating “privacy invasion” and “public humiliation” alike, arguing that “the same politicians who want to end discrimination have actually discriminated against the majority of people who are uncomfortable” with such provisions.

Moreover, in some states and municipalities, apprehensions about discomfort with new laws governing restroom access motivated other lawmakers to introduce legislative proposals of their own in direct response—ones aiming to heighten the stringency of gendered prerequisites for accessing workplace and public restrooms rather than reducing them. In response to Miami-Dade County’s addition of the categories “gender identity” and “gender expression” to their human rights ordinance in 2014, for instance, state representative Frank Artiles initiated a bill in the Florida House of Representatives for the sake of “public safety” that would categorize “knowingly and willfully” entering a “single-sex public facility designated for or restricted to persons of the other sex” as a second-degree misdemeanor. Several months later, state representative Debbie Riddle introduced a pair of even more distinctive proposals to the Texas House of Representatives. The first proposed criminalizing the act of entering a restroom labelled
for a gender “that is not the same gender as the individual’s gender,” and the second aimed to define gender for the sake of access to public locker rooms, showers, and toilets at an unusually detailed level: as “the gender established at the individual’s birth or the gender established by the individual’s chromosomes.”

In fact, such “bathroom wars” had become so contentious that some political leaders championing transgender rights – and activists working toward similar ends – explicitly distanced their quest for equality from what one Washington Post opinion writer called a “bizarrely outsize aspect of a serious subject.” For instance, when Councilman Tom Quirk introduced a bill in 2012 proposing the addition of gender identity and sexual orientation to Baltimore County’s law prohibiting discrimination in the workplace, housing, and public accommodations, he expressed frustration that opponents of his proposal focused on “everything except for what this bill is about” and emphatically clarified that his goal was to enact “an anti-discrimination bill,” “not a bathroom bill.” And as Chad Griffen, president of the gay and lesbian civil rights organization Human Rights Campaign, and Mara Keisling, Executive Director of the National Center for Transgender Equality, likewise emphasized in an op-ed of their own in 2015, the continued politicization of restrooms in debates about legal protections around gender identity was a “real tragedy” that “took time and energy away” from combating more pressing aspects of “ignorance, rejection, and discrimination” directed toward transgender people throughout the United States.

So why are bathrooms receiving so much popular and political attention in the first place?
Why Study Bathrooms?

As it turns out, public restrooms have perennially been a lightning rod for cultural conflict in the United States. From the middle of the nineteenth century, when unprecedented changes to population density prompted bitter partisan battles in the urban Northeast over the possibility of creating the very first American public restrooms, through the early years of the twenty-first century, when contemporary debates have been unfolding about the utility of “all-gender” bathroom spaces as alternatives to gender-segregated ones, bathrooms have frequently been a nexus of political contention. Such a reality may seem odd at first blush—after all, bathrooms are spaces in which we routinely negotiate one of the basest, most persistently taboo aspects of the human experience: dealing with the effluvia produced at the margins of the body. But as anthropologist Mary Douglas argues in *Purity and Danger*, efforts to distance ourselves from that which is considered “unclean” are far from an ingrained, universal human response to the presence of a hygienic breach. Instead, our beliefs about “dirty” things like excretion and “dirty” spaces like bathrooms do important cultural work: work aimed at bringing cohesion and clarity to a world – and a social system – that is, as Douglas puts it, “inherently untidy.” As such, when political disagreements erupt over public restrooms, what is ultimately at stake are beliefs about the moral order: what it is, what it has been, and what it ought to be.

Bathrooms, in this sense, do much more than mediate what counts as clean and what counts as dirty. Far from being a marginal social space or an inconsequential dimension of our everyday lives, they are instead an important means through which individual citizens and social institutions alike accomplish what cultural sociologists call *boundary work*: the separation of people, objects, and spaces into distinctive categories on the basis of their perceived similarities and differences. As such, public restrooms serve several symbolic functions: their availability
implicitly suggests which bodies, identities, and communities are expected to be present and are welcome in the public spaces in which they are installed; obstacles to their entrances likewise signal which bodies, identities, and communities are not expected or welcome; and where they are separated into multiple spaces, each with a different entrance, they communicate which bodies, identities, and communities should not intermingle behind closed doors. Restrooms are thus crucial sites through which categorical inequalities – that is, inequalities based on social divisions like race and social class – are reproduced and their effects magnified. For instance, historians Patricia Cooper and Ruth Oldenziel have documented how women of color entering American workplaces during World War II were not segregated from their white counterparts on shop floors. Rather, workplace bathrooms were the sites where “cherished classifications” like race were continually enforced and affirmed through policies of segregation. And more recently, in his reflections on doing ethnographic research in New York City in the closing years of the twentieth century, sociologist Mitch Duneier recounted his surprise at realizing that he – “an upper-middle-class white male” – was able to access restrooms in fast food establishments in Greenwich Village while his “poor and black” research subjects were systematically excluded from such spaces.

But as the anecdote which opens this chapter suggests, the boundaries most often at the center of political conflicts over public restrooms in the United States have been – and indeed still are – gender boundaries. Gender differences, of course, abound in public restrooms. At the level of the physical, men’s and women’s restrooms are often located in separate hallways or opposite corners of a building, they feature distinctive signs and symbols on their doors, and they contain markedly different fixtures behind those doors. At the level of the interactional, norms of etiquette vary drastically between American men’s rooms and women’s rooms, with expectations
of silence and distance typical in the former and norms of sociality more acceptable in the latter. And at the level of the legal, public restrooms designated for men are canvassed for illegal activities – especially public sex – with a frequency much higher than are public restrooms designated for women. But, just as Mary Douglas points out that our pollution behavior is less a universal human reflex that operates to keep our bodies safe and healthy and more an elaborate set of cultural constructions intended to protect our moral beliefs, influential psychoanalytic theorist Jacques Lacan describes such restroom differences as “the law of urinary segregation”: the cultural means through which the basic human need to eliminate waste becomes a site of constructed gender difference that appears natural and inevitable.\textsuperscript{19} In other words, the ubiquity of gender separation in American public restrooms is far from a logical consequence of some sort of inherent biological difference between women and men. Rather, such separation has been a surprisingly open question in the United States, and institutional deliberations about how to answer that question have long been central sites through which the meaning of gender difference has been – and indeed still is – negotiated in the first place.

This project centers on the most recent of these battles: debates over the implementation of degendered restroom spaces as an alternative or as an accompaniment to conventional gender-segregated ones. In particular, it investigates efforts over the last twenty-five years in the United States to design and construct what have been variously termed “unisex,” “gender-neutral,” “gender-inclusive,” and “all-gender” restrooms within the numerous colleges and universities, transit centers, shopping malls, restaurants, museums, government offices, libraries, and other public spaces which have made them available. Although such degendered restrooms have been selectively available in a wide range of institutional settings in the United States since the earliest urban comfort stations were installed in the middle of the nineteenth century, these
contemporary restroom spaces constitute a distinctive transformation on the basis of *institutionalization*. That is, only in recent years have there been sustained efforts on the part of individual citizens, organizations like those listed above, and social movements to encourage or require the addition of a gender-neutral restroom option to buildings as a matter of formal policy. However, before taking up the emergent issue of gender-inclusive restrooms, this project also looks backward in history to understand the institutional decision-making processes that created the status quo of restroom gender separation in the first place. In other words, to make sense of the increasing institutionalization of gender-neutral restrooms, we first need to understand the historical institutionalization of gender-segregated restrooms—and, in addition, the staying power of gender segregation in restrooms as compared to other public spaces, which have increasingly moved away from the nineteenth-century model of men and women existing in “separate spheres” over the course of the twentieth and twenty-first centuries.

The first half of this manuscript thus synthesizes primary and secondary historical sources and employs a qualitative content analysis of federal case law to trace that history of gender segregation in American public restrooms. As it will show, the status quo of gender segregation in public restrooms has been as much about social class as it has been about gender. Between the middle of the nineteenth century and the turn of the twentieth, sweeping cultural, scientific, and technological advancements led to the rise of the indoor water-closet, and the installation of the very first public “comfort stations” for urban citizens soon followed. Yet the most ubiquitous adoption of such engineering marvels in “public” spaces was not in the form of such unisex comfort stations. Rather, it was among middle- and upper-class leisure establishments in major American cities, which themselves reflected the ubiquitous gender segregation of nineteenth-century social life. As the availability of public restrooms gradually
spread to other commercial and civic spaces, then, that dominant model of separate men’s and women’s restrooms persisted.

But where the gender politics of the day were a step removed from the initial gender separation of restrooms in the United States, they have been integral to the institutional trajectory of restroom design, construction, and regulation since then. From the closing years of the nineteenth century to the middle of the twentieth, novel scientific claims about women’s bodies and long-standing moral beliefs about sexual propriety led business owners, elected officials, and experts from a number of professional fields to lobby for laws mandating the separation of men’s and women’s restrooms in work, educational, and public spaces. Then, in the second half of the twentieth century, social-scientific research about women’s unique restroom needs, cultural assumptions about heterosexuality and privacy, and political mobilization around gender equality led to legislation and jurisprudence requiring those restroom spaces to be separate and equal for men and for women. Thus, as individual organizations and legal institutions alike have made decisions about whether or not to separate restrooms on the basis of gender, they also have concretized a particular constellation of cultural ideologies about gender, sexuality, and social status into building codes and design standards; into interlocking layers of local, state, and federal law; and quite literally, into the physical composition of buildings.

The second half of this manuscript then uses in-depth interviews with decision-makers from a wide range of cultural, educational, and public organizations to explore the effects of that history on the increasing popularity of degendered restrooms in recent years. As it will show, the “bathroom war” at hand for those organizations has rarely been a wide-ranging culture war between traditional and progressive values like the one animating the preface to this chapter. Instead, the decision-makers I interviewed tend to agree that supporting gender and sexual
minorities, families with children of all genders, and individuals with disabilities through more flexible restroom policies and degendered restroom spaces is a desirable, even obvious, choice. For them, degendered restrooms serve a decidedly reputational function: they enable their organization to construct and maintain a public image of itself as diverse, inclusive, LGBT-friendly, fashionable, urbane, or modern—characteristics which reflect their definition of what constitutes an *elite* organization in the twenty-first century.

Their “bathroom war” is thus most often a localized one: between their ideal vision of restroom arrangements, which includes at least one degendered space, and the architectural and legal infrastructure bequeathed to them from the past, which presents them with a number of obstacles to overcoming the status quo of gender-segregated restrooms. Because gender separation has been so thoroughly built into the institutional and material structures engulfing their restrooms, then, only those decision-makers with ample financial and cultural resources at their disposal are able to comprehensively adopt degendered restrooms or, just as crucially, reframe smaller-scale renovations into the visage of progressive political commitments on behalf of their organization. Consequently, today’s gender-neutral restrooms serve as status signals: ones which reinforce social class distinctions among individuals and hierarchies of prestige among organizations, even as they lessen the effects of other categorical inequalities for individuals from marginalized social groups.

Across the history and contemporary realities of public restrooms, then, “Equal but Separate?” documents how two intertwining cultural forces have long been at the center of institutional decision-making about gender and public restrooms: classification and convenience. More importantly, it also finds that those forces operate in decidedly status-oriented ways: the wide range of cultural, educational, legal, and public institutions explored in this manuscript have
rarely relied upon the meaning of gender difference alone to make decisions about how to organize gender in public restrooms; instead, they have recurrently wrestled with multiple kinds of boundaries – including physical boundaries built into architectural design and infrastructure, moral boundaries associated with sex and sexuality, and above all, social boundaries related to class and status – to determine the shape of those restrooms for nearly two centuries. Moreover, rather than negotiating those boundaries in a way that optimizes organizational efficiency, preserves a static set of cultural ideologies about gender or sexuality, or even maximizes restroom access for the widest audience of users, the institutions I study have configured public restrooms in a way that creates convenience more for some organizations than others and for the benefit of certain social groups more than others—gendered and otherwise.

A Post-Gender Society?

Popular accounts and social-scientific research on trends over time suggest that there are many reasons to be optimistic about the decline of gender inequality in the twenty-first century. Over the course of the twentieth century, record numbers of women in the United States joined the full-time, paid American workforce; women’s wages from that paid work increased at a faster rate than did men’s wages; and young women came to outpace young men on a wide range of measures related to educational achievement—from reading skills in childhood to the rigor of high school coursework to their collective receipt of bachelor’s and master’s degrees. Alongside such dramatic shifts, gender segregation in a variety of academic, institutional, and physical spheres has likewise eroded. In colleges and universities, for instance, coeducation grew into the dominant model of higher education, and in the paid workforce, changes to the social organization of work have brought about greater gender integration at all levels of employment.
Continuing into the twenty-first century, the Department of Defense began integrating women into combat positions in January 2013, with all military positions being declared open to women in December 2015, and government agencies like the United States Agency for International Development now incorporate “gender analysis” into their strategic planning to identify when and how gender segregation affects their outreach work around the globe.\textsuperscript{22}

Yet sociologists of gender tend to emphasize the resilience of gender-related inequalities even amidst such profound transformations toward a more egalitarian future. With respect to the workplace, ample sociological evidence demonstrates that women are unequally distributed across occupational categories and positions; that female workers are penalized more harshly than their male counterparts when they take time away from work to care for children or other family members; and that “care work” – that is, paid positions typically filled by women which involve teaching, counseling, health services, supervising children, or other forms of emotional labor – pays less than other occupations, even when accounting for educational attainment and employment experience.\textsuperscript{23} With respect to educational spheres, men still dominate academic programs and college majors in the sciences, mathematics, engineering, and technology; in fact, even where women have made substantial inroads in STEM fields, they have done so in areas such as the biological and chemical sciences rather than fields perceived to be more lucrative or math-intensive, such as computer science, engineering, and physics.\textsuperscript{24} And of particular relevance to this project, with respect to gender segregation at its most literal register, a wide range of contemporary institutions, ranging from carceral facilities to inpatient medical programs to public restrooms, still maintain the physical separation of women and men solely on the basis of their legal sex category. Not only do such spatial distinctions reify gender difference at a symbolic register, but they also produce other, more tangible inequalities—such as the awkward
moment faced by presidential candidate Hillary Clinton in December 2015 when a lengthy “schlep” to the women’s restroom caused a delay in her return from a break to the stage for a televised Democratic debate.25

Theories of gender within sociology most often explain this lack of pervasive change in the United States related to issues of gender and inequality as an effect of gender-related cultural ideologies: that is, morally-charged beliefs about who counts as a woman and who counts as a man, what makes men and women different from one another, and what the social consequences of those differences are (or ought) to be. In fact, since the emergence of feminist social science as an intellectual field in the late 1960s and early 1970s, one of the central projects of gender scholarship in sociology and related fields has been to conceptualize gender as a fundamentally cultural force. Pushing back against the then-conventional understanding across the social sciences that cultural and social gender differences were a simple consequence of embodied biological differences, scholars such as anthropologist Gayle Rubin argued for the analytic separation of “sex” from “gender,” defining the former as “biological raw material” and the latter as “a set of” decidedly cultural “arrangements by which” that bodily foundation “is shaped by human, social intervention.”26 In the nascent field of the sociology of gender in particular, that “social intervention” was a wide-ranging array of cultural beliefs which allocated men and women to different social roles: that is, sets of expectations about what behaviors, ambitions, emotional displays, habits of thought, and so forth are appropriate for people given their gender category. Moreover, such beliefs about the suitability of women and men for different social roles also came to be an important origin point for understanding the causes of gender discrimination, women’s lesser social status, and men’s and women’s different experiences within major social institutions alike.27
For contemporary sociologists of gender, however, gender is much more than a cultural characteristic of or role held by individual people layered onto an existing base of inherent bodily difference. Instead, throughout the 1980s and 1990s, the distinction between sex and gender dissolved as sociologists of gender began to theorize gender wholly as, in the words of Candace West and Don Zimmerman, “the product of social doings of some sort.”28 In other words, for gender theory in sociology, the socially- and culturally-constructed character of gender became the origin point for the apparent self-evidence of bodily sex—not the other way around.29 At the microsociological level of face-to-face social interaction, sociologists came to theorize the everyday actions of individual social actors as the primary means through which cultural beliefs about gender aggregate into such broader constraints on gendered actions and gendered expectations. At the middle-range level of organizational theory and the immediate social contexts surrounding face-to-face interaction, sociologists began to understand that the meaning and consequences of gender category membership are not static entities, but rather, ones that can and do change depending on the situation at hand. And at the macrosociological level of social institutions and social structures, sociologists adopted a processual approach which reframed the relationship between gender ideologies and the social organization of gender as an ongoing, mutually-influential, and agency-infused process.30 In short, to return to West and Zimmerman’s language, gender had become something that we “do” rather than something that we “are,” and that enacted character opened the possibility that gender could change at any moment—which, in turn, opened the possibility that gender could be “undone” in the service of actualizing a more egalitarian future.31

But given the continued realities of gender inequality in the twenty-first century – and the remarkable traction of cultural ideologies that fuel such unequal structural arrangements –
the sociology of gender in recent years has shifted toward understanding that paradox of gender’s simultaneous flexibility and rigidity. In particular, over the last two decades, sociologists of gender have moved from arguing that gender is a cultural phenomenon worthy of sociological inquiry to documenting how cultural ideologies of gender shape individual and institutional action. Sociological research on that process of translation has thus produced a dazzling array of more narrowly focused research programs across the field. These range from intersectional approaches to world-systems theory, which foreground how international processes of globalization and capitalist expansion in developing nations intersect with the ongoing production of gender, racial, and class inequalities in a range of national settings, all the way down to social-psychological theories of gendered cognition, which explore how gender stereotypes and other cultural belief systems specific to the American context influence a person’s habits of thought, emotion, and self-understanding. While such efforts have produced a rich, nuanced, and context-specific understanding of the various conditions under which particular gender ideologies persist or, occasionally, are able to change, however, they have also transformed the central project of the field away from crafting a broadly workable “theory of the middle range” connecting gender culture to gendered institutions and toward a set of sub-literatures that are complementary but nevertheless largely disjointed from one another.

This project thus analyzes historical and contemporary decision-making about gender and public restrooms in the United States not only as an end in and of itself, but moreover, as a springboard to sociological theory-building around gender at two levels. First, it refines three of those contemporary sociologies of gender by bringing them into dialogue with conceptual tools from the sociology of organizations, the interdisciplinary field of queer studies, and cultural sociology. Second, and more importantly, it bridges together those three sociologies of gender and
the insights I borrow from other fields to craft a more comprehensive, middle-range, sociological theory of gender: a framework which positions gender as an *institutional accomplishment*, one through which individual social actors work actively to solve pressing organizational problems, draw creatively from existing gender ideologies and produce new ones which allow them to effectively navigate those issues, and concretize the results of that cultural and interactional work into organizational procedures, regulatory structures, and physical spaces like public restrooms. Those concretizations, then, constrain and enable future institutional decision-making work and thus shape the institutional accomplishment of gender in an ongoing way.

In what remains of this chapter, I begin that process of theoretical development with a brief overview of the three sociologies of gender with which my argument is in dialogue, the other academic literatures on which I rely to complicate those central threads, the conceptual underpinnings of my data collection and analytic approach, and the details of the analytic chapters which follow this introduction.

How Gendered Institutions Think

In keeping with the field’s broad shift toward cultural explanations for gender inequality, one of the most important contributions of feminist sociology as an intellectual project has been a fundamental rethinking of the relationship between gender and formal organizations. Rather than casting gender as a characteristic of individual social actors working within the context of formal organizations, theories of the gendered organization emphasize how gender is a broader set of cultural assumptions and expectations built into the very fabric of the bureaucratic structure of those same organizations—especially work organizations. Drawing from Joan Acker’s pioneering article, “Hierarchies, Jobs, Bodies,” such work challenges the notion that organizations are
gender-neutral entities, arguing instead that gendered assumptions – ones which presume that workers have no demands on their attention at home, fully embody rational and calculating modes of thinking, and unfailingly put the organization before all else – permeate the world of work. Consequently, such theories go, men have an implicit advantage over women when it comes to hiring and promotion in the workplace, as they are more likely than women to comport with (and to be imagined to comport with) what legal scholar Joan Williams refers to as that “ideal-worker norm.” Organizational structures thus function as powerful engines of gender inequality at two levels. First, they implicitly connect cultural beliefs about femininity and masculinity to the differential promotion of men and women into positions of authority within such bureaucratic spheres. Second, because men are promoted more often than women, the overrepresentation of men within managerial and executive-level positions cements the apparent validity of such beliefs about gender, work, and leadership and thus contributes to the different career paths made available to and pursued by female and male employees.

Mirroring the fractured character of middle-range theories of gender in sociology, research on the function and consequences of the gendered organization has taken on a multitude of forms in recent years. In some cases, research has taken an intersectional approach to the gendered organization, finding that the ideal worker norm imagines not only a male worker, but one who is also white, middle-to-upper class, and heterosexual. In others, sociologists have begun examining the role of organizational context in shaping the prevalence and impact of gendered bureaucratic structures – marking a theoretical shift from analyzing the “gendered” organization to understanding the processes through which different organizations are enmeshed in their own unique processes of “gendering” – and have likewise expanded their scope to consider how gender and bureaucratic structures entwine outside of the world of work.
most recently of all, sociologists interested in the gendered organization have emphasized the possibility of change, highlighting how, for instance, the presence of women in positions of managerial authority or the adoption of more progressive formal policies for managerial promotion can help to ameliorate gender-related inequalities throughout an organization. But even where scholars have been able to identify promising avenues for a more equitable gendered future, such newer bodies of empirical research tend to share in common a spotlight on policies and practices within particular organizations as the primary engine of organizational change. As such, cultural influences which operate across organizations – that is, ones which cause particular policies or practices to diffuse from one organization to another – remain theoretically underdeveloped in the sociological literature on the gendered organization.

For sociological theories of organizations outside the realm of gender, on the other hand, no organization is an island. In contrast to Max Weber’s canonical formulation of bureaucracy as a rational enterprise through which individual organizations strive to optimize their own efficiency, the central project of two major strands of organizational theory within sociology in the second half of the twentieth century has been tracing the fundamental interdependence – and, thus, the fundamentally social and cultural character – of formal organizations. In terms of social influence, theories of organizational ecology contend that organizations influence one another in much the same way that a population of biological organisms within a shared ecosystem would: “natural” variation in organizational form and behavior emerges (both by chance and by design), a struggle ensues between those different organizational strategies, and certain forms and practices survive while others become extinct. In terms of cultural influence, neo-institutional theories of organizations also emphasize the interdependence of organizations, in that they foreground the broader institutional environment as an important determinant of any
individual organization’s behavior. However, they ultimately attribute that behavior less to conflict over scarce resources and more to the operation of shared culture within that institutional environment: that is, the taken-for-granted assumptions, habits of thinking, and moral beliefs that predominate in a particular institutional field and become especially salient when organizations are faced with uncertainty.41 But whether they focus on competition or cognition, the combined legacy of such theories has been a decidedly relational approach to the study of organizations within contemporary sociology—as well as an understanding that organizational behavior need not be rational nor efficient to persist long-term. Rather, an organization’s behavior need only make sense to other, similar organizations to be viable.

But research in the sociology of organizations also stresses that all organizations in a given institutional field are not equally interdependent. Instead, an organization’s position in the status hierarchies most salient in their institutional field is a crucial refracting factor on organizational behavior as well as on the diffusion of particular behaviors across the broader field. Ample empirical evidence demonstrates that status powerfully influences how other organizations and external audiences alike appraise the current policies, operating procedures, and actions of an existing organization; whether they respond positively or negatively to the arrival of a new organization in the field; and how they assess the acceptability of any novel policies or procedures that an existing organization might adopt. At all three registers, prestigious standing implicitly generates more favorable responses—even in the face of metrics indicating that the organization in question is underperforming or that the practices in question are failing to deliver their promised aims.42 Thus, across the institutional field, because of the perception that the forms and practices most prevalent among high-status organizations are more desirable, profitable, or even efficient than other available alternatives, those forms and practices are more
likely than others to diffuse to other organizations. This process, which Paul DiMaggio and Walter Powell refer to as “mimetic isomorphism,” results in a tendency for organizations within a common institutional field to become more similar to one another over time. More importantly, it also suggests a mechanism through which substantive social transformation can occur: if a high-status organization adopts a new practice, even one thought to be profoundly unorthodox, then other organizations are likely to emulate that practice to the point where it ultimately becomes mainstream.

This dissertation thus bridges together a central assertion from theories of the gendered organization, that gender is tacitly embedded into multiple dimensions of bureaucratic function, with the emphasis on cultural diffusion and status dynamics in organizational sociology. In doing so, it argues that the relational work of organizations to position themselves in their respective institutional fields shapes the social organization of gender, such that organizational practices which may seem to undermine cultural beliefs about gender difference – such as the adoption of degendered restrooms – can emerge and contagiously spread across similar organizations. To theories of the gendered organization, then, the project offers an account that efforts to lessen the effects of gender inequalities within individual organizations need not come from within an organization – nor necessarily be instrumentally geared toward the actual reduction of gender inequality or erosion of gender boundaries within that same organization – to be meaningful or effective. Instead, the everyday decision-making work of organizations to maintain or improve their placement in status hierarchies can induce them to behave in ways that are, on their face, quite progressive in relation to gender. But by bringing organizational theories of diffusion and status into dialogue with theoretical contributions from the interdisciplinary field of queer studies, to which I turn next, it also offers sociologists of organizations a more sophisticated
conceptual toolkit for understanding how practices once considered deviant – even those which challenge cultural assumptions as deeply embedded as those which take gender to be an immutable, binary system – can be readily absorbed into the everyday decision-making work of individual organizations and the taken-for-granted norms governing their broader institutional fields.

Toward a Queer Theory of Institutions

Given a multi-decade explosion of empirical research documenting the plurality and complexity of gendered experience, the notion that binary gender categories are neither natural nor inevitable is now axiomatic in many corners of the sociology of gender. Largely owing to Raewyn Connell’s pioneering work on gender as a social practice, scholars engaged in such work have found that there is not one way to be “female” or “male” in any given historical epoch or cultural context; rather, multiple femininities and multiple masculinities operate simultaneously at any given time and in any given space. Moreover, instead of being feminine or being masculine by virtue of one’s gender identity or assigned gender category – or even possessing femininity or masculinity as a personal characteristic which remains stable over the life course – individuals can move through many different versions of femininity or masculinity by virtue of the gendered practices in which they engage.44 Crucially, however, not all such practices are valued equally. Theories of gender as a social practice also emphasize that there is a power structure governing gender: one through which one particular version of femininity and one particular version of masculinity become valorized above all others, and through which masculine practices tend to (though do not always) maintain an ascendant position over feminine ones. While recent theoretical formulations have further refined Connell’s original formulation, arguing for
recognition that ascriptive characteristics like race shape possibilities for gendered practice or
that heterosexuality is the cultural glue that binds gender hegemony together, the observation
that hierarchies of gendered power tend to persist amidst the surprising flexibility of gendered
practice remains a core feature of gender theory in sociology today.45

More recently, sociologists have returned transgender, genderqueer, and other, non-
binary experiences to the heart of theory construction about the complexity of gendered practice.
Although gender variance has, in some respects, been central to gender theory in sociology since
Howard Garfinkel’s infamous study of “Agnes,” an intersex woman he studied at the Gender
Identity Clinic at UCLA in 1967,46 sociological attention to transgender issues and related
phenomena has undergone a substantial uptick in the last few years. For some scholars engaged
in that growing subfield of transgender studies, the heart of their work mirrors much sociological
interest in gender variance from earlier decades: using transgender experiences to reveal the
often-invisible structure of the gender order, the cultural assumptions in that structure which
disadvantage women, and institutional expectations of universal heterosexuality.47 But for others,
transgender and non-binary experiences have become worthy of attention in their own right, as
the same structures of inequality which disadvantage women also contribute to the exclusion and
marginalization of individuals whose gender identities fall outside of or challenge the coherence
of binary categories.48 Across both approaches, however, is a common emphasis on the fixedness
of cultural and social structures of gender, as individuals and social institutions both respond to
seemingly-radical challenges to the gender order in ways that largely leave the gender system
and gender inequality intact. But where such contributions excel at explaining the stasis of
inequality in the gender order at multiple registers, they are much less able to explain the
circumstances under which transformation to that gender order is able to occur—and under which gender diversity might even be embraced.

Outside of the disciplinary boundaries of sociology, scholars working in the interdisciplinary field of queer studies have been exploring – and critiquing – the surprisingly rapid expansion of institutional recognition for gender variance in the twenty-first century. Three decades ago, as the field was beginning to coalesce, it was marked by a radical impulse toward deconstruction: it challenged the compulsory character of heterosexuality, illustrated the instability and incoherence of what literary theorist Eve Sedgwick describes as “symmetrical binary oppositions” like heterosexual/homosexual, and rejected the seeming stability of categories of gendered experience.49 But with the decriminalization of sodomy, dramatic shifts in public acceptance of gender and sexual minorities, and the arrival of marriage rights for gay and lesbian couples all unfolding in quick succession in recent years, that central focus has shifted away from interrogating identity categories themselves and toward interrogating the logics which have prompted political recognition for sexual and gender minorities—who, only a few decades before, had been deliberately excluded from many dimensions of citizenship. For many queer theorists, those logics have revolved around the role of gay and lesbian rights organizations to engage in what Lisa Duggan calls “the new homonormativity”: that is, “a politics that does not contest dominant heteronormative assumptions and institutions, but upholds and sustains them, while promising the possibility of a demobilized gay constituency and a privatized, depoliticized gay culture anchored in domesticity and consumption.”50 In other words, what has led to the astonishingly fast arrival of new horizons like same-sex marriage and laws prohibiting workplace discrimination on the basis of gender identity has been the work of social movement
organizations to articulate the consonance of gender and sexual minority experience with reigning American cultural values.

But targeted political mobilization has not been the only factor leading to recent increases in institutional recognition for gender and sexual diversity. Substantive shifts in the political landscape, too, have been in the crosshairs of queer studies in recent years—especially the rise of neoliberalism as a dominant political and economic ideology in the United States since the 1970s. Neoliberalism has wrought many transformations over the last few decades: the deregulation of markets with the aim of fostering economic growth both domestically and abroad; the reduction of social welfare programs and fiscal support for public goods in favor of increased privatization; and most importantly (and perhaps most counterintuitively) for understanding recent acceptance for gender and sexual diversity, the promotion of multiculturalism, diversity, and social justice as politically and institutionally desirable. For queer theorists and scholars in related fields, that surprising valorization of diversity stems from the sublimation of certain forms of cultural difference into commodities with unprecedented cultural cachet, which can be readily leveraged by capitalist institutions aiming to maximize their power and their profits. In fact, armed with that neoliberal imperative to understand diversity as an incomparable boon to individuals and institutions alike, even transgender issues—which, as historian Susan Stryker observes, have been so troubling to “the categories on which the normative sexualities depend” that they have been relegated to the periphery of the gay and lesbian rights movement and to the margins of academic scholarship—have reached a level of political visibility that recently described as “The Transgender Tipping Point.” But what is being welcomed in such seemingly revolutionary changes are not all transgender lives or forms of gender diversity; rather, it is a particular subset of gendered identities and experiences—a subset which comports with the
cultural preferences of American elites and, more importantly, does nothing to disrupt the institutional systems which perpetuate their privilege.

This dissertation thus leverages that observation from queer critiques of neoliberalism – that gendered phenomena which might seem poised to disrupt the gender order can be embraced in a decidedly undisruptive fashion – to extend theories of gendered plurality from the sociology of gender as well as theories of diffusion from the sociology of organizations. In terms of the former, queer studies provides an account of how some portions of the patriarchal and heteronormative gender order can be eroded: where such shifts align with the moral values of the dominant classes – and thus do not threaten to dismantle the systems of social and cultural power which advantage them – they are readily welcomed. In terms of the latter, that expansion of elite values to encompass acceptance of gender diversity can override the risks that might be thought to accompany the flouting of a status quo as deeply ingrained and institutionalized as beliefs in gender as a binary system. But by leveraging the emphasis on status dynamics in organizational sociology, the project also goes one step further: the shifting moral values of the affluent classes do more than enable tolerance of or acceptance for gender diversity; public displays of those values also allow members of those classes and the organizations they own, support, and patronize to signal their elite social standing. As such, support for gender variance becomes a means through which individual elites and elite organizations can distinguish themselves as upstanding, moral entities—thus safeguarding their cultural and economic advantages. Yet to fully account for how those value systems connect to actual organizational work requires one final literature: theories of categorization, classification, and boundaries from cultural sociology. By building from such work here and in the chapters to follow, then, this project also
conceptualizes interpersonal flows of shared culture as an integral component of theorizing gender, organizations, and change.

Bringing in Boundaries

The interplay between face-to-face social interaction and structures of social disadvantage is well-trodden intellectual terrain for sociologists studying stratification and gender inequality. Indeed, well before Barbara Reskin’s call in her presidential address to the American Sociological Association in 2002 for research on ascriptive inequalities to move “from motives to mechanisms,” sociological research on gender inequality had produced several decades’ worth of evidence for the role of interactional factors in shaping persistent disparities between men and women. Most such work has revolved around the effects of gender-related status beliefs: that is, pervasive beliefs that one gender group, usually men, are seen as more valuable, more worthy of esteem, and more competent across a range of social settings. Those beliefs, however, are far from innocuous. In terms of their effects on individuals, they induce men to assert themselves and women to behave in more deferential ways; when brought to an individual’s attention, they cause women to underperform on tasks in which men and women otherwise perform equally; and they lead men to consistently overestimate their performance on a wide range of cognitive and professional tasks—all of which have tangible consequences for women’s educational and labor market outcomes. Plus, at a more institutional level, where the effects of those status beliefs intersect with other social-psychological phenomena, such as the “contagious” character of status which brings about preferences for interpersonal association with higher-status others, men become much more likely to accrue more and stronger network connections—thus positioning them for more success in labor markets and many other spheres beyond.
In recent years, research on the mechanisms connecting cultural beliefs to unequal social outcomes for men and women have taken a turn toward an even more individual level of analysis: the intrapsychic foundations of gender stratification. Gender inequality in such accounts stems not only through persistent institutional logics or patterns of stereotyping and social dominance; rather, it also persists due to the cognitive and emotional experiences of individual social actors. In particular, ample empirical evidence demonstrates that self-assessments and self-expression both serve as a foundation for ongoing gender inequalities in education and labor markets. With respect to self-assessments, cultural beliefs about men being better suited for fields involving high levels of mathematics knowledge can induce female math achievers to pursue coursework and eventual career paths that better fit other, self-perceived talents; with respect to self-expression, beliefs about one’s self as emotional or rational – themselves labels inflected with gendered expectations – pull men and women toward different areas of study and occupations.58 Such findings reveal how gender inequalities in labor markets derive from the combined effects of individual choices and institutional constraints: individuals self-select into fields that suit their interests and proclivities, thus resulting in educational and occupational gender segregation, and the institution-level devaluation of female-dominated professions and care work causes such jobs (and the high proportion of women who pursue them) to systematically encounter lower levels of prestige and pay. But where such work does much to conceptually link cultural beliefs in their most personal instantiations to systems of persistent gender inequality, it also operates on a fundamental assumption that static, embodied cultural categories are the base onto which mechanisms of social stratification are installed.

Yet for cultural sociologists, persistent social inequalities derive as much from the active creation of novel cognitive structures as they do through beliefs about those preexisting cultural
categories. In particular, theories of boundary work suggest that one of the most basic and universal of cognitive processes – grouping together things, people, or other entities into categories on the basis of perceived similarities in order to efficiently make sense of the chaos of social reality – often serves as the ultimate origin point for stratified social outcomes. Drawing from Emile Durkheim’s canonical observation in *The Elementary Forms of Religious Life* that processes of constructing conceptual similarities necessarily also entail constructing conceptual differences, cultural sociologists engaged in research about boundaries over the last three decades have targeted much of their attention on the latter half of that symmetrical pairing—the social and cultural exclusion which emerges from everyday classificatory work. More specifically, such theories go, all social groups are confronted with the problem of defining who they are and, by extension, who they are not. Whether or not those symbolic boundaries define exclusion explicitly, by distancing one’s own group from another group, or implicitly, by stressing criteria for inclusion in one’s own group, they all carry with them the potential to become social boundaries: that is, deeply-entrenched social distinctions through which resources and opportunities are differentially allocated. Moreover, in the event that those boundaries become used to anchor organizational work or institutional decision-making, they can fuel unusually persistent inequalities between social groups. As such, cultural categories may have a processual and open-ended character, but that flexibility and fluidity make them no less potent at institutionalizing exclusion and, as a result, inequality.

As Mary Douglas reminds us in *How Institutions Think*, however, “institutions do not have minds of their own.” Instead, the creation, mobilization, and institutionalization of symbolic and social boundaries are all fundamentally social endeavors, and as such, they require the collective cooperation of individual social actors to accomplish. Numerous studies at the intersection of
cultural sociology and specific institutional settings have illustrated this reality: in the realm of art, professional curators, reviewers, and critics all participate in distinguishing what counts as an artistic endeavor and what does not; in the realm of academic research, grant agencies and peer-reviewers alike construct distinctions between academic disciplines as they decide which projects to fund and which papers to publish; and even in the realm of seemingly self-evident human differences, like race, geneticists, demographers, and political activists alike struggle over where the dividing line between racial categories truly lies. In part, such literatures illustrate how boundaries can only become widely accepted and seen as legitimate through the interactional work of individual social actors. But in part, they also tap into what Michele Lamont describes as the “open-ended and complex” pathways through which culture informs inequality in the contemporary United States—pathways which operate as much through the unintended consequences of that legitimizing work as through the symbolic boundaries invoked and deployed in the first place. In other words, categorical inequalities – and indeed, novel cultural categories themselves – can derive from the everyday work of individuals to perceive, make sense of, and act within the various environments that comprise their everyday worlds, and that work needs not be geared toward pernicious ends to be persistent and deeply consequential.

This dissertation borrows from that conceptual toolkit within cultural sociology in order to refine the relationship between culture and inequality in the gender literature and to build a new theory of gender as an institutional accomplishment. In shifting the focus in the stratification literature from interpersonal and intrapsychic mechanisms to interpersonal and intrapsychic cultural processes, it moves beyond conceptualizing culture as an independent causal force which comes before individual action to ultimately reinforce gender difference and produce stratified outcomes. Instead, it offers sociologists of gender a theoretical framework which frames culture
as an intermediary force which operates between individual action and inequality, connecting the two rather than preceding them both. By focusing on processes of boundary construction within the context of organizational decision-making about public restrooms, then, the project thus opens three novel possibilities to the sociology of gender: first, that cultural beliefs about gender can exert a powerful influence on organizational decision-making even when they seem to be tangential to a problem at hand; second, that the meaning of gender can be an outcome of mundane institutional processes as much as it is a refracting force; and third, that under the right conditions, binary gender ideologies which appear unavoidably entrenched into dominant cultural frameworks and social institutions can be surprisingly mutable. In short, “Equal but Separate?” illustrates how the social construction of gender is as much a side effect of mundane organizational work – and the mundane cultural processes of classification and legitimation entailed therein – as it is a deliberate social or political project.

Interrogating Ideational Space

To develop these theoretical contributions, this project relies on a combination of qualitative methodologies – primarily content analysis and in-depth interviewing – which I group together as a cultural analysis of ideational space. Readers interested in the details of my data collection and analytic processes for each individual chapter to follow should consult the Data and Methodology appendix following the final chapter of the main manuscript; here, I briefly outline the theoretical underpinnings of my approach to the project as a whole.

The phrase cultural analysis refers to my treatment of public restrooms as cultural objects. I thus focus the bulk of my analytic attention to the two major components of all cultural objects as Wendy Griswold defines them: “shared significance,” the collective project of meaning-making
within a given social setting, and “embodiment in form,” the installation of that shared significance into the physicality of the object in question. But I also focus on the ways in which meaning is generated in situ, and in particular, in the context of decision-making practices in legal, educational, cultural, and public institutions. To that end, in charting the history of gender-segregated public restrooms and contemporary moves toward degendered restrooms, I target my analytic efforts on processes of boundary construction at two levels: first, as institutional actors invoke and utilize preexisting cultural categories (including categorical pairs, such as female and male, as well as isolated categories, such as libraries or public universities) in the context of their decision-making work; second, and more importantly, as those same institutional actors actively create cultural categories through their decision-making work (for instance, grouping together their organization with other, similar organizations). Thus, I investigate what Andrew Abbott calls “boundaries of things,” by examining the cultural processes through which institutions and the actors within them deductively assert differences between preexisting entities, as well as “things of boundaries,” by examining the cultural categories which emerge inductively in tandem with their everyday meaning-making work.

The phrase ideational space refers to my efforts to prioritize those symbolic underpinnings to the shape of bathrooms alongside attention to their physical character and the institutional contexts in which they are installed. In other words, I am interested in the tangible components of bathroom spaces: the historical evolution of their physical locations, their current layout and fixtures, the design standards which have governed their dimensions and their placement in building infrastructure, their separation into multiple rooms or consolidation into a single space by particular formal organizations, and the influence of a particular institutional context on each of these axes of difference. But I am also interested in how various social actors, groups,
organizations, and social institutions have ideated bathrooms—that is, what popular and media discourses have suggested when they have foregrounded them; how legal institutions have configured them as a possible site of gender discrimination; and why cultural, educational, and public organizations believe the adoption of degendered restroom spaces to be a positive architectural transformation. Thus, my goal is not only to document the various cultural ideologies anchoring institutional debates and decision-making about gender and public restrooms, but more importantly, to understand how those institutions think about restroom spaces: as physical elements of the architectural environment, as symbolic representations of particular sets of organizational values, and even as political entities in their own right.

Many of the antecedents to such an approach derive from the sociological and anthropological literatures on ethnographic methods. From Diane Vaughn’s approach to historical ethnography, I borrow an emphasis on analogic comparison, and I build much of my explanatory account by comparing “similar events or activities across different social settings” in an effort to craft “more refined and generalizable theoretical explanations.” From Leigh Star’s work on the ethnography of infrastructure, I supplement that comparative approach with an interrogation of the “invisible work” which unfolds behind the scenes of crafting, implementing, and maintaining the infrastructure underlying mundane organizational work—which is itself invisible, as it forms “the background for other kinds of work.” And, additionally, my focus on restroom spaces as multivalent sites of cultural and material production owe much to the work of urban geographers on “spatial ethnography,” which understands everyday spaces to be fluid, constructed, and constantly altered in response to changing social conditions. But rather than taking a case study or single-site approach, my primary interest is in developing an account of boundary processes across organizations rather than within one. This is more like what
anthropologist David Valentine calls an “ethnography of a category” – that is, a study of the “emergence and institutionalization of transgender as a category of collective identity and political activism” – which necessarily requires a “move through many contexts, lives, and spaces.”

Because of the inherent difficulty of studying restrooms with ethnographic methods, however, my analytic approach relies largely on after-the-fact narratives of institutional decision-making processes: that is, textual and interview data which tell the stories of restroom-related debates and decisions which have already been made. For my interview data in particular, this limits my ability to assess the veracity of my respondents’ accounts—and to thus explore the telling disjunctures between what my participants say and what they do, as true ethnographic methods allow. However, as Michele Lamont and Ann Swidler observe in their recent defense of interview methods in cultural sociology, in-depth interviewing is nonetheless well-suited to realizing one of the central goals of this project: understanding how individuals make sense of and leverage cultural categories as they go about their everyday lives and, in this particular case, construct and deploy those categories in the decision-making work of the cultural, educational, and public institutions in which they work. But as my theoretical framework further suggests, there is also something inherently productive about justificatory narratives that this project reveals: the ways in which those narratives themselves function as an essential ingredient in conferring legitimacy on social practices. Such interpersonal flows of legitimation among organizational actors – and the interpersonal flows of boundary work with which they are fundamentally entwined – are thus a crucial means through which processes of institutional stasis and change alike are able to occur. In addition to the theoretical contributions this project makes, then, it also makes a methodological one: re-centering justification in its own right as a
cultural process imbricated in the diffusion of innovation as well as the reproduction of social inequality.

The Roadmap

The next four chapters thus investigate those cultural flows in four different institutional contexts. The first two focus on the question of how gender segregation became institutionalized in the United States, and the latter two examine contemporary efforts to challenge or amend that status quo and institutionalize gender-inclusive restrooms. The final chapter then recapitulates my analytic findings and discusses their broader implications.

Chapter two, “Politicizing the Potty,” offers a condensed history of the politics of public restrooms in the United States. It follows the evolution of public restrooms from their multiple precursors, including public baths and the first domestic indoor water-closets, in the middle decades of the nineteenth century all the way up through the adoption of “potty parity” laws, designed to ensure the equivalence of men’s and women’s public restroom facilities, in the closing years of the twentieth century. Within that timeframe, the institutionalization of gender-segregated public restrooms over the last two centuries has been neither universal nor consistent; instead, mutually-influential relationships among the social organization of everyday life in the United States, the work of professional associations and political institutions, technological shifts in restroom infrastructure, and changing moral values related to gender and sexuality have intertwined to shape the gendering of restroom spaces. But rather than revolving around gender
and sexuality wholesale, public debates about restrooms in the United States have been as much about defining and maintaining the social and symbolic boundaries at the heart of American social class distinctions. Moreover, because those boundaries have been imbricated into the physical and legal architecture of public restrooms, they function as a crucial institutional and material force shaping restroom-related possibilities in the present day.

Chapter three, “Regulating Restrooms,” investigates how federal courts in the United States have arbitrated litigation about the gender segregation of workplace restrooms in the second half of the twentieth century and early years of the twenty-first. Over those decades, explicit logics of benevolent sexism, in which gender-segregated restrooms were originally designed to shield women from the dangers of the workplace, have slowly dissolved from the law. Yet, in contrast to a clear and continuous narrative of progress around issues of gender and workplace restrooms, implicit concerns about protecting women’s bodies, privacy, and sexuality have continued to animate legal decision-making about workplace restrooms through the turn of the twenty-first century. In particular, federal courts arbitrating conflicts about workplace restrooms use embodied affective content as the evidence on which they most often scaffold their decisions about the legal status of such spaces and workers’ access to them. That is, instead of holding all litigants to the same emotional standard, judges evaluate the reasonability of affective responses to problems with their workplace restrooms in light of their gender category, drawing different conclusions on the basis of a litigant’s gender—thus reinforcing and naturalizing ideologies of inherent, immutable, heteronormative, and embodied gender difference. Because of the reach of law in shaping organizational work, then, such justificatory logics ultimately influence issues of restroom access and availability well beyond the individuals and organizations involved in federal litigation in the first place.
Chapter four, “Transforming the Toilet,” foregrounds the responses among colleges and universities across the United States to emergent twenty-first-century pressures to add gender-neutral restrooms to their campuses. For university staff and administrators determining whether and how to adopt such all-gender restrooms on their respective campuses, shifting beliefs about the value of diversity and the unique needs of gender and sexual minority students on their campuses are important components of their decision-making work. However, those impulses also systematically intersect with processes of organizational boundary work to guide their approach to upcoming facility construction and renovations. In other words, decision makers within higher education group their own institution within a category of other, similar institutions; distance their institution from categories of institutions thought to be most dissimilar; and use that classificatory work to inform their choices for their own institution. But the age of certain buildings, the unique challenges of plumbing renovations, and the expense of “optional” building updates complicate the ability of decision-makers to modify their respective campuses in ways that implement an ideal number of degendered restroom spaces. As a result, those institutions ablest to afford facility renovations for any reason are those ablest to comprehensively adopt degendered restrooms—and those institutions are overwhelmingly those already atop status hierarchies in the field of higher education. Degendered restrooms thus serve as evidence for social status, as they allow already-elite institutions to promulgate their advantaged position in the field of higher education.

Chapter five, “Leveraging the Loo,” explores how a range of cultural institutions have negotiated shifting legal requirements for restroom provision in public accommodations, especially as those requirements intersect with the possibility of unisex restrooms. State building codes and the Americans with Disabilities Act allow for (or, in some circumstances, require) the
installation of unisex restrooms in buildings considered “public accommodations,” but the extent
to which museums, restaurants, and shopping malls have responded to such legal regulations by
implementing degendered restrooms varies widely. Although financial resources do play a role in
determining how easily and quickly organizations adapt their architectural footprint to respond
to such legal transformations, decision makers themselves play an integral role in sculpting what
restroom renovations – as well as the outlay of time and financial resources they require – mean
for their organization. In particular, while some decision makers describe their restroom
arrangements as a straightforward consequence of building codes and related legal regulations,
others carefully position gender-neutral restrooms as evidence for their organization’s broader
reputation as an inclusive, accessible, and above all, urbane cultural destination. Their ease in
discussing restrooms thus does not necessarily signal a genuine change in institutional support
for disability rights, families, or gender and sexual minorities in and of themselves. Rather, their
interactional boundary work serves as evidence that cultural elites are extraordinarily deft at
articulating the consonance between the outcomes of their mundane, everyday work of
organizational decision-making and the shifting values of the consumer class.

Finally, in chapter six, I conclude by drawing together the various empirical threads
comprising the heart of my analysis and discussing their implications for middle-range theory in
sociology of gender; for the complex intersections of culture, organizations, and inequality; for
the reciprocal relationship between boundary processes and the materiality of infrastructure; and
for the possibility of social transformation – for restrooms, for gender, and for other systems of
power – more broadly.
Chapter 2

Politicizing the Potty

“While the accommodating and progressive business men of our city are making preparations for erecting a free lodging-house and feed stable for the convenience of customers from a distance, would it not be well to consider the fitting up of a toilet-room for the wives and daughters of farmers who come to our city for a day’s shopping?

If the women of our town were the purse-holders, we feel assured that such a room would be secured and fitted up at once for these neglected visitors; but as the business men are the financial powers, as well as the ones chiefly benefited by ladies shopping, we trust that their gallantry will be manifested in a speedy remedy to this inconvenience to the fair sex.”

A tip from an anonymous reader of the Oxford Eagle

*The Times-Picayune*, 1899

In July of 1990, an unexpected detour into a men’s restroom caused Denise Wells, a concertgoer at the Summit in Houston, Texas, to be on the receiving end of a police stop and a two-hundred-dollar fine. Having postponed a trip to the women’s room until after the concert had begun – expecting that the thirty-woman line beyond the restroom door she found upon first entering the arena would have quelled by then – she returned to discover that the line had instead doubled. Because her need to get into a restroom “became kind of urgent,” as she reported to a Houston-area journalist in the wake of the incident, and because she had just witnessed “a guy take his girlfriend” into the men’s restroom across the corridor, she decided that the most effective course of action would be to simply follow the couple into men’s room. While that option “would never” have been her “first choice,” she also added, her situation was so dire that she nonetheless put her hands over her eyes, proceeded past the urinals, and went into a stall to take care of her bathroom-related business. When she emerged, however, she was greeted by a
police officer who had “received complaints from men” about her transgression into their facility and was slapped with a fine for violating a Houston-area ordinance prohibiting access to restrooms “designated for the exclusive use of the sex opposite to such person’s sex.”

When Wells subsequently sought legal representation to fight the city over her fine, what started as a run-of-the-mill dispute about a local ordinance quickly garnered an outpouring of local, national, and even international attention. One local radio station offered to cover her legal expenses—as well as the cost of a ticket to another concert and a portable toilet for her personal use during that future show. A leading Houston newspaper polled local residents about the case, and to the surprise of the editorial board, found that three-quarters of local residents believed that “the law should look the other way” in the event that “nature calls you to the wrong restroom.”

And when the case escalated to trial, ten out of thirty potential female jurors reported that they had themselves been moved to use “a public restroom intended for the opposite sex” at some point in their lives. A few even publicly jumped to Wells’s defense: one opined to a New York Times writer that Wells “clearly did not mean to cause a disturbance,” and another reported that the case was one instance of a much bigger problem, saying, “I think women’s needs have been ignored for too long. It’s time we go back to public buildings and provide adequate facilities for women.” Wells’s lawyer, too, reported receiving nearly sixty phone calls from women as far away as Canada and Australia who had themselves “sought relief in the men’s room” and were willing to pay Wells’s fine or testify at her eventual trial. But her attorney turned down every single such offer, firing back that the situation had clearly “struck a chord with women across the country” and thus needed to be pursued fully. “I don’t intend to lose,” she explained to the press. “This is too important.”
True to that assertion, although Wells’s entrée into the Summit’s men’s room resolved itself quite readily, with the jury deliberating for a whopping twenty-three minutes before deciding to acquit her, the case had sparked a national conversation about women and public restrooms that was not nearly so quick to abate. Indeed, as one writer for the Chicago Tribune observed, the Wells case may have “provided rich fodder for bathroom puns” across the country, but it had also been far from “amusing” to the countless American women who expressed their empathy with Wells—as they had often found themselves “stranded and fuming in sludge-slow, interminable lines for bathrooms at stadiums, museums and theaters while enviously eyeing the men’s room, where a line rarely if ever forms.”

In response, elected officials across the country referenced Wells and the collective empathy for her plight among, in the words of one male councilman from California, all “the women of my life” in a series of new calls for so-called “potty parity” laws to ameliorate such problems. In her home state of Texas, for instance, Wells was a frequently-mentioned impetus for one of the first state laws in the country to require “a ratio of not less than 2:1 women’s-to-men’s restrooms” for all “facilities where the public congregates.” Even Governor Ann Richards celebrated the bill’s original sponsor, State Senator Gonzalo Barrientos, as a “hero” when she signed the measure into Texas law, saying, “I thank you, and my two daughters thank you, and my three granddaughters thank you.”

But the Wells case was not the only motivation for moves toward women’s restroom equality in the early 1990s. Academic research about gender differences in restroom usage, too, was an important catalyst in prompting conversations about women’s restroom equity—with the empirical findings of multiple case studies anchoring political pleas for expanding women’s public restrooms well before the Houston debacle gained national attention. One undergraduate researcher from Cornell found her study of a highway rest stop in Washington state mentioned
on the floor of the Florida and Pennsylvania state legislatures, as she clocked a substantial 34-second disparity between the average times that men and women took in the restroom: where men took an average of 45 seconds to use the toilet, women took 79 seconds. Sandra Rawls, a doctoral candidate at Virginia Tech, likewise inspired elected officials in Virginia to change state laws with her study of gender differences in restroom usage across multiple settings: a highway rest stop, a sports arena, an airport, and a conference center. Her team of researchers found an average discrepancy almost three times that of the Cornell study, with women taking an average of 96 seconds longer to use the bathroom than men. “And not just because they wash their hands,” one journalist was quick to add, nor because of other stereotypical differences in bathroom behavior, such as the idea that men do their business and leave while women lose an abundance of time to “primping.” Biology was not to blame either, Rawls argued. Instead, she found that women take longer for decidedly cultural reasons: “clothing restrictions, a lack of time-saving equipment (like urinals), and because they often must carry in other items, like purses.”

Such quantitative metrics and their social foundations alike thus offered a leverage point not just for potty-minded politicians, but also for engineers, building planners, and architects responsible for restroom design in public spaces for years to follow. In Baltimore, for instance, developers for a new ballpark for the Orioles spoke about research on restroom gender differences as an inspiration for their plan to experiment with a new female urinal. According to the product’s designer, Kathie Jones, the new device which would use less water per flush, take up less square footage than traditional toilet stalls, and above all, “help shorten lines in women’s restrooms because they would require less undressing and no turning, and there would be no toilet seats to cover with tissue.” In Denver, the architect for the Colorado Convention Center
also took bathroom empirics into account when he carved out a different solution to the same problem: he opted to separate the facility’s “men's and women's rooms with a movable wall,” one that could produce “women’s rooms that are three times bigger than the men’s” when needed – say, for an upcoming national convention for the Intravenous Nurses Society – or vice versa. And back in Texas, an equally-new convention center in Austin was designed from the outset with a “radical skewing in favor of women’s restrooms,” allocating twenty percent more toilets to women’s rooms than to men’s rooms—as well as fifty percent more sinks and overall square footage. Plus, like the convention center in Denver, the design readily allowed “center managers to ‘reassign’ restrooms between the sexes when appropriate.”

The biggest coup of all for proponents of potty parity, though, went well beyond the design strategies of individual project managers and into the professional sphere of building code administration. In the wake of the Wells case and a growing volume of restroom research demonstrating gender inequalities in facility provision, national organizations governing building design standards for major geographic regions in the United States, such as the writers of the National Plumbing Code, began to entertain changes in the closing years of the twentieth century to double the number of toilets required for women’s rooms in convention halls and performing arts centers across the country. (But not stadiums, reasoning that “female attire for the theater may be more time-consuming in the restroom than leisure or outdoors attire.”) Taking such potential differences in context one step further, the executive director of the American Society of Plumbing Engineers even explained to one Chicago Tribune reporter that restroom equity for women was “a very big issue” and, as such, he had recently supported the launch of their own four-year, half-million-dollar study to determine the ideal ratio of men’s to women’s restroom facilities across a range of public places. And seeking a more universal solution to such gender-
related restroom ills, the American Institute of Architects began proposing more innovative
alternatives to current bathroom arrangements, including “separate lounges where women can
smoke, put on makeup and change diapers,” communal “hand-washing areas” in between men’s
and women’s restrooms, and – most radically of all – “unisex restrooms.”

**Background and Overview**

Cleanliness has a rich history in social theory, one in which the repudiation of bodily
effluvia has long been conceptualized as a cornerstone of the social order. For Sigmund Freud’s
work on psychosexual development, for instance, healthy personality development for children
hinges on a positive experience in moving through the anal stage of psychosexual development,
during which they master control of their excretory functions. More importantly, such processes
of learning to regard bodily excretions as “worthless, disgusting, horrible, and despicable” are an
integral part of full and welcome participation in civilized social life, as “a person who is not
clean – who does not hide his excreta – is offending other people; he is showing no consideration
for them.” Similarly, for Norbert Elias’s history of the development of manners in Western
societies, expectations of bodily cleanliness became increasingly strict through the Middle Ages
and the sixteenth century. Over time, as a more hierarchical social order began to emerge,
conformity with standards of appropriate conduct shifted from being imposed by external
restraints to being produced by “the sociogenetic apparatus of individual self-control”: emotional
responses on the part of individual social actors, who themselves learned to express “displeasure,
distaste, disgust, fear, or shame” when exposed to bodily effluvia. And for Mary Douglas’s work
on the cultural construction of “dirt,” the margins of all cultural categories are dangerous, and so
their proper treatment and maintenance with purity rituals is essential to keep the possibility of
contamination across such boundaries at bay. Such cultural work is especially necessary for the margins of the human body: as Douglas observes, because the human body functions as a representation of the social body, the proper maintenance of bodily boundaries and margins upholds the cohesion and continuation of society as a whole.  

Despite the importance of that theoretical work (or, perhaps more accurately, as evidence for the insightfulness of such theoretical contentions), public restrooms have remained a marginal topic of study across the social sciences. This is not to say that public restrooms have gone completely unstudied in the academy—in fact, the opposite is true. Demographers and other scholars working in the field of public health, whether their interests lie in the United States or in developing nations, have recurrently documented how clean, safe, and accessible public bathrooms are essential to individual and community-wide wellness. Historians of the body and urban historians alike have frequently addressed public toilets in tandem with their descriptions of changes to other dimensions of public life in the United States, ranging from shifting norms of bodily cleanliness to the constant churn of political support for publicly-funded urban infrastructure. Microsociologists and social psychologists interested in the dynamics of “backstage” social practices and social interactions – that is, those actions which individuals undertake when they are largely out of the view of others – have highlighted public restrooms as revelatory sites of inquiry, largely owing to their status as private spaces in the midst of public life. And as I briefly described in Chapter 1, researchers studying inequalities of race, class, ability, and sexuality across disciplinary boundaries have illustrated the centrality of public restrooms in the United States to reinforcing cultural perceptions of difference and promulgating social and political exclusion. Yet such contributions have unfolded primarily as small bodies of
disconnected research rather than a cohesive intellectual project or as an integrated historical narrative.

In this chapter, I offer a condensed history of public restrooms in the United States, focusing in particular on the evolution of gender-segregated restrooms from an occasional occurrence in the nineteenth century to the hegemonic infrastructural paradigm for public restrooms in the twenty-first century. To do so, I use a synthetic approach which draws from both primary and secondary materials: the overall trajectory of the argument I trace derives from salient themes in over five thousand newspaper articles published in major American newspapers related to gender and public restrooms from 1883 through 2015, but I rely heavily on the existing literature in history, sociology, law, and related fields about American public restrooms and other relevant topics to contextualize and connect those discursive patterns. Because contemporary public restrooms have multiple infrastructural antecedents, ranging from outdoor toilets contained within the property lines of private domiciles to public baths primarily intended for bodily cleansing and thus lacking toilet fixtures, I also include and address the histories of a handful of other restroom-related infrastructural developments as needed. Additionally, because legal institutions and popular media alike have applied the label “public restroom” to many different types of restroom spaces in the United States over the last two centuries, I cover restroom spaces that are located “on the street” or in other definitively public spaces as well as those contained within the quasi-public contexts of commercial, civic, and employment establishments—and the question of what constitutes a “public” restroom is one to which I return at multiple junctures in this chapter and discuss in greater depth in the integrative discussion and conclusion which closes it.
As I will show, three themes recur across the four overlapping “restroom eras” I document in this chapter. First, the history of American public restrooms cannot be understood without the history of gender which has unfolded alongside it. Sweeping changes to cultural beliefs about gendered bodies, political rights for women, and the everyday social organization of gender in the United States have all been important motivating factors for a wide range of historical debates about public restrooms: where they are needed, who ought to be responsible for their construction and maintenance, when they should be separated by gender, and why they ultimately take the physical form that they do. But as the end of the contemporary anecdote which opens this chapter suggests, scientific and social-scientific research about the nature and consequences of gendered bodies have long been at the heart of that elision of social structure and public discourse. In other words, talk of public restrooms of the kind I make central to this chapter is a crucial vehicle through which scholarly knowledge about bodies, women, and gender becomes translated into a set of tangible social consequences—in this case, the legal and architectural outcomes of political contestation over the details of restroom design and provision. As such, I contend that the institutionalization of gender-segregated public restrooms over the last two centuries has not been a straightforward reflection of preexisting gender ideologies about biological difference or social-structural arrangements valorizing separate men’s and women’s spheres. Instead, there has long been a mutually-influential relationship among transformations to the social organization of everyday life, the work of institutions of knowledge production, and physical shifts in restroom infrastructure in the United States—one through which the meaning of gender has been actively and continuously negotiated.

Yet those intertwining histories of social organization, knowledge production, and physical infrastructure have rarely operated in a value-free fashion. Second, then, the shifting
shape of American public restrooms has tended to reflect – or even amplify – existing social inequalities. As the public bath movement strove to spread the new science of cleanliness throughout the United States in the second half of the nineteenth century, movement activists advocated that recent immigrants adopt modes of bodily care that would showcase their commitment to the gender-bifurcated ideals of masculine citizenship or feminine domesticity. As elected officials argued in favor of the first-ever laws mandating gender separation in workplace restrooms around the turn of the twentieth century, they drew from the findings of nascent social-scientific research about maximizing workplace efficiency to argue that protective statutes for women would enable a healthier and more productive factory workforce. And during the height of the Jim Crow era in the twentieth-century American South, theories of evolution and mental capacity from prior decades intertwined to profoundly shape the gendered and racialized architecture of public spaces. But gender has never been alone at the foundation of restroom debates. Instead, public bath reformers, activists lobbying for protective legislation, and the architects of Jim Crow alike have also shared in common the promotion of a set of cultural distinctions beyond those related to gender: social class boundaries. I thus argue that the moral debates about cleanliness, children, contagion, and beyond which have motivated the gender separation of public restrooms in the United States have been as much about ensuring the ascendancy of the affluent classes as about negotiating gender in and of itself.

But social class boundaries have done more than contribute to the cultural ideologies at the foundation of gender separation of public restrooms in the United States. They have also shaped the definition of what a “public” restroom is, and across temporal periods and geographic regions in the United States, that definition has been far from truly public. Although there have been historical moments in which genuinely public restrooms have flourished in cities and towns
across the United States, largely due to the work of affluent women’s groups around the turn of
the twentieth century, those restrooms have quite literally disintegrated as the political interests
of the privileged classes have moved on to different priorities. Third, then, this chapter finds that
the history of public restrooms in the United States has been largely a history of quasi-public
restrooms – such as those housed within the confines of restaurants, libraries, workplaces, and so
forth – simply because middle- and upper-class Americans have most often lobbied for restroom-
related political interventions within particular categories of formal organizations. In fact, even
where legal regulations or professional building codes have mandated the availability or gender
separation of public restrooms, those regulations have tended to be narrowly focused: for
instance, rather than adopting laws mandating equitable restrooms for men and women in all
establishments that might have such spaces on their premises, relevant laws and codes have
prioritized, for instance, educational institutions or concert halls. As such, by focusing on changes
within formal organizations, public debate about restrooms in the United States has not only
revolved around the shifting values of the privileged classes; it has also imbricated a particular set
of those values into the physical and legal architecture of public restrooms—a process of
materialization with an extensive array of lingering effects in the present day.

From the Private Bath to the (Quasi-)Public Toilet: 1800-1905

Of the many revolutionary changes to American culture that occurred over the course of
the nineteenth century, one of the most transformative of everyday life was the rise of everyday
personal cleanliness as a normative aspiration for the majority of the population. Although the
body’s evacuative processes had been a site of cultural concern since well before the nation’s
founding, owing largely to the emphasis on such matters in European and North American
medical thinking, maintaining a properly clean and orderly body became a ubiquitous social practice to an unprecedented degree. In part, such shifts were driven from the start by uniquely American beliefs about the individualistic pursuit of upward mobility. As guidebooks outlining the necessities of respectable living began to celebrate the boons associated with regular washing, bathing and toileting practices associated with the visage of increased personal hygiene began to trickle down from the most affluent social circles in the United States to the growing middle class. Plus, moral reformers believing in a tight connection between bodily maintenance and an individual’s moral character further extended that midcentury emphasis on cleanliness to less affluent groups. For them, regular bathing was an easy ticket for working-class individuals to work their way into acceptance within middle- and upper-class society and for immigrants to likewise demonstrate that they had fully assimilated to native-born culture. Cleanliness thus became a matter of personal self-development for most Americans—and thus became requisite for any citizen interested in climbing (or maintaining their current position on) the social ladder.28

But in part, the new value placed on the clean body was driven by beliefs about what it meant to participate in the collective project of American democracy. Stemming from eighteenth-century beliefs in American exceptionalism, one of the central projects of nineteenth-century American politics was defining the character of the United States as a nation—and effectively demonstrating the success of that character over its European counterparts. By the middle of the century, one of the central outcomes of such cultural and political work was the emergence of a tight connection between an individual’s personal quest for intellectual and moral development and the nation’s quest for demonstrating the unique strengths of American democracy as a whole. Publicly showcasing signals of one’s moral stature thus came to function as a way for individuals to convey their commitment to both ends simultaneously, and regular bathing and
“clean” toileting practices thus proliferated in popularity for men and women alike. That popularity, however, followed gendered tropes: for men, hygiene was a symbol of masculinity that was thought to protect the state from the numerous perils associated with a weak or effeminate citizenry, while for women, hygienic knowledge was an important dimension of effectively maintaining the health and moral character of one’s household and, consequently, of the nation as a whole. Hygiene thus served a dual function throughout the first few decades of the nineteenth century: it could not only uplift the masses, offering an opportunity for individuals to shed moral filth alongside physical dirt and thus pursue the American Dream of upward mobility, but it could uplift the nation as a whole, as well.29

But that revolution in American hygiene was also given several boosts by infrastructural and institutional developments leading up to the Progressive Era. One was a series of technological advancements that enabled public water systems to begin delivering water to private homes. Although middle-class Americans had largely adopted the view that cleanliness was of personal and collective value by the middle of the nineteenth century, most cities did not have fully-functioning municipal water systems until the 1870s and 1880s. The emergence of such systems allowed more Americans than ever before to have technologies like running water and indoor water-closets in their homes. In the wake of such emergent plumbing technologies, advertising as an institutional field also began to emerge. Manufacturers of soap, bathroom fixtures, and other such wares harnessed the new moral standard of cleanliness in the service of marketing bathing products to consumers interested in appearing as healthy and as respectable as possible: marketing messages upheld “toileting soap” as a distinctive and essential household need (despite having identical ingredients to laundry and other household soaps); plumbing supply houses began peddling American-made toilets made with uniquely American sensibilities and
domestic architecture in mind; and international trade shows sensationalized American
preferences for sanitation and hygiene as superior to those more prevalent in other parts of the
globe. The increasing availability of plumbing technology and marketing innovations related to
 toileting consumables thus provided much of the necessary glue to adhere cleanliness, individual
morality, and collective American identity together into a tight and compelling cultural
package.30

Even more crucial, however, was the rise of another institutional field in the late
nineteenth century: public health. Once a scattered set of localized moral reform campaigns, the
American public health movement had evolved through the midcentury years into a centralized
scientific and medical enterprise. Amidst mounting scientific evidence that disease arose from
microorganisms and not miasmas of bad air, medical professionals became actively involved in
political advocacy for a number of transformations to civic law and health education intended to
control the spread of contagious disease. By the turn of the twentieth century, such work had
turned to cleaning up urban spaces: the combined effects of industrialization, urbanization, and
population growth had brought unprecedented levels of filth to city streets in the United States,
and the lack of effective water-cleaning technology meant that the increasing popularity of
water-closets in American homes was also leading to dangerous levels of contamination in urban
water supplies. A number of individual doctors and representatives from new professional
organizations in the field of public health thus approached local and state politicians to address
those issues in a range of American cities and towns. However, their requests were met with a
divided response. When it came to private domiciles and the cleanliness of the water supply, local
politicians and civic organizations were quick to implement design standards that would
standardize plumbing for the modern American home and more effectively filter wastewater to
ensure drinking water was as safe as possible. But rather than investing extensively in public infrastructure as many European nations were in the closing years of the nineteenth century, public restrooms in the United States were often dismissed as too costly or rebuked as unimportant. Consequently, early progress toward indoor plumbing in the United States was largely restricted to the most American of institutions: private domiciles and the families which resided within them.31

The very first public comfort stations, restrooms, and toilets in the United States were thus, in many cases, not particularly public at all. The scant few public restrooms that were genuinely open to the public tended to be financed by private philanthropists who believed that such spaces were essential to improving the lot of urban slum dwellers, yet financiers were generally more interested in providing the city’s underclass with the opportunity to bathe – because of the moral boons still thought to derive directly from regular washing – rather than the broader public’s access to a clean toilet. As such, where the ancestors to contemporary public restrooms were provided, they more often provided fixtures for bathing rather than toileting, and they were typically located near tenements rather than in the commercial and industrial areas with the highest levels of pedestrian traffic. Where true public toilets existed in more centralized locations, they were often poorly maintained, not connected to a sewer, open to men and women alike, and in spaces that were within view of hundreds of passersby—which induced urban women to avoid them, local business owners to protest their existence, and city officials to agitate for their dismantlement and removal in the immediate wake of their construction. The consequence, then, was that the overwhelming majority of “public” toilets installed in the United States in the second half of the nineteenth century were located within privately-owned middle- or upper-class establishments, such as hotels, railroad stations, and department stores. Such
quasi-public toilets thus not only separated affluent city dwellers from the working class and the urban poor in a literal sense, but they did so in a symbolic sense as well: by enabling the former and not the latter to maintain a respectable relationship to their bodily effluvia in the public sphere.32

Moreover, because the majority of those privately-owned establishments were frequented only by men or by women, many of the first public restrooms in the United States were, by default, gender-segregated. In other parts of the globe, including London, England and Melbourne, Australia, the gender separation of “public conveniences” had been a hard-fought battle for women’s groups, as it had taken a multi-decade campaign in both cities to have previously gender-neutral public toilets divided into separate men’s and women’s spaces. In the United States, by contrast, many of the public restrooms which emerged in the nineteenth century were largely installed from the outset as gender-segregated spaces—because of the gendered character of late nineteenth-century sociability, not due to direct political action or agitation for women’s equality. While American women had been politically active in carving out space for themselves in the public sphere for many decades, especially in major American cities, the heavily gender-segregated character of leisure pursuits and civic associations remained largely intact during that same time. Plus, even where men and women did share space in a single establishment, businesses interested in creating a fashionable and exclusive atmosphere for their guests often heightened spatial gender distinctions by offering separate parlors and waiting rooms for men and for women. The rise of gender distinctions in American public restrooms, then, did derive from a particular set of cultural beliefs about gender difference and distinctive roles for men and women – as gender-segregated social spheres were themselves a means of protecting what historian Barbara Welter characterized as “the cult of True Womanhood” – but
those gender ideologies themselves were inextricably entwined with the respectability politics of nineteenth-century American affluence.\textsuperscript{33}

\textbf{From One Workplace Water Closet to Two: 1880-1920}

But as those quasi-public, gender-segregated restrooms became increasingly ubiquitous fixtures of commercial and civic establishments in the closing decades of the nineteenth century, the meaning of gender itself was also changing dramatically across the United States. At the same time that medical discourses about sanitation and disease gained traction in public discourses, the accumulation of medical and scientific advances from the eighteenth and nineteenth centuries was also bringing about a profound revolution in defining the sex of bodies. In what historian Alice Dreger refers to as the “Age of Gonads,” efforts to definitively categorize gendered bodies began to rely upon physical markers, such as the distinction between ovarian and testicular tissue, as the defining characteristic that differentiated the newly-scientific categories of female and male from one another. Abundant efforts to identify the tangible characteristics of each sex soon followed, and American researchers cataloged an endless array of embodied distinctions between female and male forms. Genitals, patterns of facial and body hair, adipose and muscular tissues, endocrine systems, erotic desires and drives, personality characteristics, and even personal hobbies were transmogrified into evidence of supposedly biological and immutable sexual difference. In short, no longer was gender understood to be an aspect of one’s character or moral constitution, as it had for many centuries before; instead, it came to represent an empirically-observable quality of the material body.\textsuperscript{34}

The power and authority vested in such findings had far-reaching implications for how women and their bodies would be treated in a variety of institutional spheres, but they were
unusually resonant in late nineteenth-century labor markets—where two other cultural transformations were also underway. First, lawmakers began to take an interest in the labor movement and in protecting all members of the American workforce from employer abuses, and the nascent legislation which grew out of that interest included provisions that would require employers to provide their employees with adequate toilet facilities. Second, scientific management, a new workplace paradigm which harnessed scientific principles in order to evaluate individual workers and overarching workplace procedures alike, was quickly gaining traction as a reigning ideology in the world of work. The provision of showers and toilets, rest periods of a specially-calculated length, and shorter workdays became an integral component of enabling business owners and managers to maximize employment efficiency and, thus, their profit margins. With the mounting corpus of empirical research about the unique physical capacities of men and women, then, gender became integral to both shifts: a number of state legislatures passed protective laws mandating rest periods and workday lengths that differed for men and women, and scientific management provided a fertile foundation on which the differential treatment of men and women could be justified in American workplaces. As such, where debates about the politics of gender were all but absent in civic discourse about public restrooms – whether truly public ones or the quasi-public restrooms available in leisure spaces – they were omnipresent in discussions of workplace restrooms.35

Far from mandating equivalent treatment, however, the guidance of nascent sex-difference science held that female bodies were inherently weaker and more vulnerable than male ones—and thus helped to build gender difference and gender inequality into new workplace policies and procedures. Indeed, as sanitation came to the forefront of legislative agendas in the early twentieth century, the first discussions in legislative spheres requiring the gender
separation of public restrooms in any sphere revolved around the purported perils of factory work for women workers. When Massachusetts passed the first state law requiring the sex-segregation of public toilets, for instance, the law pertained only to businesses in which “male and female persons” were “employed in the same factory or workshop.” Similarly, when New York became the second state to legally require that “the water-closets used by females shall be separate and apart from those used by males” in work settings, the rationale offered for that and other toilet statutes explicitly drew on language about the health and safety of women workers. And by the turn of the twentieth century, as local, state, and federal policymakers took an interest in the health of factory workers, extensive Department of Labor studies characterized gender-separate bathrooms as an important means of protecting women’s bodies at work, as government officials described workplace restrooms as a haven in which women could rest and recuperate when the onerousness of factory labor depleted them physically. Gender-separated restrooms consequently became a frequently-cited bureaucratic metric for determining whether or not a factory provided acceptable working conditions for its growing female workforce.

Yet creating a physical workplace environment that reflected the most up-to-date knowledge about workplace efficiency and safety was far from the sole justification for legislating bathroom separation on the basis of gender. Among practitioners of scientific management, moral reformers, and government officials alike, beliefs that female employees needed to be able to maintain their modesty and privacy even as they entered the labor force en masse were also salient factors in the separation of men’s restrooms from women’s restrooms in places of work. In many states passing new restroom separation laws, merely having separate toilet facilities for men and women quickly became insufficient; instead, as the number of women employed alongside men outside the home was steadily increasing in the first few decades of the
twentieth century, new laws began to specify the provision of screens, doors, and locks to properly ensure that individuals using workplace restrooms would not have their most intimate bodily functions observed. Although some elected officials described them such fixtures as essential for both female and male workers, most considered the primary impetus for their implementation to be veiling women’s uncovered bodies from the potentially prying eyes of male coworkers. Thus, the more detailed that protective statutes related to workplace restrooms became, the more implications about the character of gender and sexuality – for example, that working men could not be trusted around working women, that working women could not be trusted to protect their own virtue, and that social and sexual hygiene would disintegrate without separate private spaces to protect them – became inscribed into labor legislation as a whole.39

But like the cultural shifts which led up to the arrival of the very first public restrooms in the United States decades earlier, legislative action requiring separate women’s restrooms in the workplace also connected the necessity of protecting individual female citizens to the health and safety of their imagined future offspring. Because paid labor was perceived as a detriment to women’s physical condition for pregnancy, public debates about women at work – and the physical transformations to workplaces that accompanied their presence, such as restrooms – often revolved around safeguarding women’s reproductive potential and their fitness to properly fulfill the domestic and maternal duties expected of them. What the architects of protective statutes had in mind, however, was not just a woman and her own family; rather, the moral boons of gender-separated workplace bathrooms were also imagined to help protect the nation as a whole from the spread of rampant deviance and immoral behavior. Such ideologies leveraged mid-century medical and psychoanalytic dogma to connect women’s increasing interest in work to large-scale social disorder, but they also found a ready companion in legal thought: for
instance, in the Supreme Court’s landmark decision in *Muller v. Oregon* which unanimously justified the constitutionality of protective statues in 1908, Justice Brewer writes, “As healthy mothers are essential to vigorous offspring, the physical well-being of woman becomes an object of public interest.”

A lack of workplace restrooms and toilets for women thus not only threatened workplace sanitation, violated the new science of gendered bodily difference, and promised an individual’s moral degeneration; a lack of available, clean, and well-furnished workplace restrooms was a certain harbinger of community disintegration—and, consequently, could ultimately reap the downfall of the United States as a nation.

Just as the initial arrival of gender-segregated public restrooms did not stem from transformative social change for women’s equality, then, neither did the arrival of gender-segregated workplace restrooms in the United States. To be fair, governmental agencies, trade publications, and workplace administrators all understood gender-segregated workplace restrooms to be a necessary adaptation to their increasingly gender-integrated workforce. And such efforts were indeed successful in providing women with a private place to manage their bodily functions while at work: by 1920, the combined effects of prophesied social problems and other political pressures had pushed nearly every other state in the country to join Massachusetts and New York in enacting laws mandating gender separation in workplace restrooms. But instead of leveraging the more egalitarian attitudes and waning distinction between public and private that led to feminist successes around women’s suffrage rights, efforts to require gender-specific workplace restrooms tended to reproduce ideologies of intrinsic gender difference that framed women’s bodies as weak, vulnerable, and above all, primarily meant for childbirth and childrearing. Paradoxically, then, emerging legislation about workplace bathrooms required employers to provide restroom facilities for their female workers that were equivalent to those
already in place for male workers, but the organizational and legal logics of creating equivalent restroom facilities for men and women ultimately reinforced broader cultural messages about inherent gender difference—and, moreover, did so to protect American exceptionalism as much as individual female citizens.\textsuperscript{42}

\textbf{From Quasi-Public Restrooms to Public Conveniences and Back Again: 1905-1970}

Yet where the persistent cultural connection between femininity and domesticity formed a regressive foundation for the rise of gender-segregated workplace restrooms, it also formed a surprisingly progressive foundation for the expansion of true public restrooms throughout the United States. Due to their belief that their role as the moral guardians of the home extended into the public sphere—and the fact that political activism in the form of voting was still years away for women—early twentieth-century affluent women across the country funneled their interest in political engagement into a series of moral reform campaigns intended to increase the safety, decency, and cleanliness of cities and towns. For such women’s groups, increasing the number of public restrooms held the promise of solving multiple social problems simultaneously: restrooms could promote personal hygiene and lessen the spread of disease among urban denizens; they would allow individuals and families who were only in town for one afternoon to access proper toilets, sinks, and resting areas; and above all, they might discourage working men (especially those most frequently moving through city streets, such as police officers, street sweepers, and mail couriers) to avoid using restrooms locating within saloons, where alcohol, prostitutes, and other tempting vices were readily accessible. While some city officials began to readily accommodate such requests and approved the installation of underground public comfort stations intended to serve men and women alike, other investments in public restroom infrastructure did
not take off until nascent Prohibition-era regulations shut down local saloons and flooded hotels and small businesses with citizens looking to use the toilet. Regardless of the details, however, municipal restrooms soared in number and popularity throughout the United States in the first two decades of the twentieth century.43

Outside of major metropolitan areas, comfort stations, restrooms, and public toilets also increased in number and popularity—but not as a result of targeted political activism or the indirect effects of changes to constitutional law. Rather, in rural areas and the rapidly-expanding American suburbs, public restrooms expanded as a response to a wider cultural and technological shift unfolding in the United States: the rise of the automobile. Existing forms of public transportation, such as locomotives, had previously limited where and when Americans could readily travel, and the high cost of private transportation via a horse and buggy, was not financially accessible to most Americans. Cars, however, offered a huge number of Americans a newfound ability to live, work, and play in a greater diversity of places than ever before. In response, new organizational forms and attendant restroom spaces erupted over the next few decades on American roadsides: in the 1910s, municipal campgrounds cropped up, allowing travelers to camp overnight in proximity to other travelers and have access to running water and outdoor privies; in the 1920s, roadside service stations, eager to outdo one another, began offering products for automotive maintenance and transformed their unisex outdoor privies into indoor, gender-segregated restrooms; and in the 1930s, federal public works projects created an unprecedented number of restrooms in public parks and alongside the growing American interstate system. Far from a uniquely urban phenomenon, then, true public restrooms were reaching an unprecedented level of accessibility and availability throughout the country.44
At the same time, that golden age of American restrooms was still far from an egalitarian new future for public facilities. Rather, newly-constructed restrooms often reproduced familiar inequalities between social groups. In urban comfort stations, suburban service centers, and railway terminals alike, the high cost of public restroom maintenance induced many lawmakers and small business owners to charge fees for toilet access, thus further discouraging women from using public facilities – as, in many cases, fees were either heftier for women or only assessed for the use of a toilet stall – as well as making them virtually inaccessible to would-be poor users. In cities where women’s groups had lobbied so intensively for the provision of expansive comfort stations for all citizens to use, affluent women themselves tended to avoid public restrooms because they preferred the toilet options available to them in department stores, hotels, and restaurants for multiple reasons: public comfort stations were often less well-maintained than quasi-public restrooms, they sometimes lacked full doors or stalls, and they put upper-class women in close contact with immigrants and lower-class men loitering at the entrance. And while the popularity of public restrooms and comfort stations was highest in the urban Northeast, Midwest, and West Coast, as plans for their construction reached Southern cities like Atlanta and Baltimore, the reach of Jim Crow laws mandating racial segregation spread from schools, workplaces, and public transit centers to new public restroom facilities as well—largely to neutralize the perception of any threats to the safety of affluent white women in public spaces. In effect, the net number of public toilets in the United States was steadily increasing, but access to public facilities remained heavily fractured along gendered, classed, and racial lines.45

But by the middle of the twentieth century, laws related to restroom provision appeared to be moving in the direction of unprecedented democratization. Following the successes of the Civil Rights Movement in the 1950s and 1960s, architectural traces of racial segregation – such as
separate building entrances, duplicate water fountains, and basement toilets – were one of the first effects of Jim Crow laws to be relabeled and repurposed throughout the American South. Around that same time, the Congressional passage of the Federal-Aid Highway Act of 1954 and President Eisenhower’s commitment to improving America’s interstate transit system led to extensive federal funding for highway expansion and maintenance—an investment that created a revenue stream for fixtures such as rest stops and public restrooms as well as asphalt and signage. Over the course of the 1960s and 1970s, the growing women’s liberation movement pushed for women’s voices to be heard in public spaces and for new spaces to be created which reflected the inclusion of all women in the public sphere. And the tyranny of the pay toilet fell as well: the combined efforts of that growing feminist movement, an intrepid and insistent group of college students who branded themselves as the Committee to End Pay Toilets in America, and local and state lawmakers throughout the country led to the incremental fall of the ten-cent charge associated with accessing many public comfort stations and restrooms within transportation centers. In short, the future of public restrooms in the United States seemed decidedly more optimistic.46

While laws related to public restroom availability and access were moving in a dramatically more equitable direction in the postwar era, though, on-the-ground support – both financial and popular – for public facilities waned just as dramatically. With the revenue that came from dime-locks on restrooms in public transit centers and underground comfort stations now unavailable and no new sources of local funding implemented to replace them, public restrooms became more and more dirty, more and more broken, and more and more abandoned by the towns and cities that had installed them in prior decades. Without the presence of attendants or other forms of municipal supervision, crime and illicit behavior – both real and
imagined – flourished in abandoned comfort stations and public toilets. In terms of actual crime statistics, police activity and crime reports related to vandalism, drug dealing, and sex work in or around public restrooms skyrocketed in many American cities from the 1960s through the 1980s. And in terms of imagined deviance, moral panics about sexuality from many decades before – such as scattered turn-of-the-century efforts encouraging parents and children to avoid public restrooms, where men were thought to be having sex with other men in public – resurfaced with a vengeance, as police attention to such spaces increased alongside the advancement of scholarly research arguing that homosexuality was a psychological dysfunction. With little funding to support them and increased skepticism among American citizens about their safety, the overwhelming majority of true public restrooms thus shut down at some point in the second half of the twentieth century.47

In effect, then, the decline of federal and state laws governing access to public restroom spaces in the United States ultimately brought about increased regulation of such spaces on the ground— and thus helped to cement a burgeoning cultural association between public restrooms and deviant behavior. New restrooms thus tended to crop up in a range of increasingly-popular suburban destinations – such as those at movie theaters, shopping centers, and fast-food establishments – and existing restrooms experienced a renaissance of restricted access, as many managers of urban hotels and restaurants limited their restroom use to paying customers alone. As a result, American restrooms ultimately returned to where they started nearly a century before: as quasi-public fixtures within commercial and leisure establishments rather than true public facilities. Plus, given the retreat of affluent women from all but the most private of public restrooms, individual establishments and local governments made changes to women’s rooms in particular that would disadvantage all women for decades to come: they reduced the number of
stalls available to women, installed fewer toilets and a greater number of urinals, and even pushed for those changes to be written into local and state building codes. Once again, then, the ubiquitous availability of quasi-public restrooms in the United States and lack of true public restrooms reinforced the privileges of the American middle and upper classes. Affluent Americans alone could be sure that they would find safe and clean restrooms while out in public—and they could do so without having to see their tax dollars spent on public infrastructure that would make public toilets available to all citizens on the street.48

From Separate Spaces to Equal Square Footage: 1945-1995

But much like the turn of the twentieth century, the postwar era also brought with it another outpouring of widespread changes to gender and work in the United States. In the wake of World War II, an increased cultural emphasis on domestic roles for women arose and brought about a surge in marriage and childbirth rates; however, by the 1960s, those trends had begun to quell, and the character of American families began to shift dramatically. Beliefs about family formation were shifting from an understanding of marriage as a pairing of complementary roles toward a more individualized view of the institution as a vehicle for personal fulfillment. The suggestion that laws regarding separation, divorce, and remarriage should be loosened or altered began to materialize in state legislatures around the country. And, perhaps most importantly, an unprecedented number of women pursued opportunities for higher education and entered the market for paid work. Against this dynamic cultural backdrop, fierce debates about and increasing support for legally-mandated workplace gender equity took center stage at the national level. Working class women, some of whom had been in the labor force for many years and some of whom had just entered for the first time, began to publicly vent their concerns about
the lack of workplace equity they faced and the pressing need to address that issue. Meanwhile, wealthier women found representation within the National Woman’s Party, which sought to repeal much protective legislation from earlier decades and replace those laws they described as outdated with more equitable – and less sexist – regulations. In short, the relationship between gender and work in the United States was undergoing a monumental set of changes—ones that would reverberate through law and the social organization of gender for years to come.49

But expanding interest in workplace rights for American women got an unexpected bump in the 1960s from the inclusion of the word “sex” in the Civil Rights Act of 1964. Unexpected, because the amendment which added gender to Title VII – that is, the portion of the Act governing employment – was a tactic originally designed to diminish Congressional interest in passing the bill. When the Act overwhelmingly passed in both the House and the Senate and was signed into law by the president two weeks later, the unusual legislative circumstances under which gender equality came into its purview caused the Equal Employment Opportunity Commission (EEOC) to initially hesitate to pursue legal action about gender inequality. Unlike their implementation of the race-oriented portions of the Act, which they understood to apply in a unilateral way, the EEOC attempted to balance the language of the sex discrimination provision with their own understanding of the purportedly unique needs of actual women workers. Most employment laws differentiating workers on the basis of race were thus quickly targeted and repealed, while state protective laws that distinguished men from women with respect to occupational policies or procedures were allowed to remain intact. And the agency was not alone in maintaining that functional public policy required some form of distinction between men and women: even legal scholars writing in support of codified gender equity in the 1960s continued to describe as self-evident that “society has a legitimate interest in the protection of women’s
maternal and familial functions.” In the years that followed, defining the limits of Title VII – and thus separating justifiable gender differentiation from unjustifiable gender discrimination – became a challenge for legislative bodies and federal agencies to untangle.50

Workplace restrooms thus became an unusually contentious and politically-charged site for delineating when, where, and why gender differences could be written into law in the second half of the twentieth century. At the federal level, the EEOC itself continued to adjust and amend its general employment guidelines through the late 1960s, eventually determining in the early 1970s that any laws providing benefits like minimum wage guarantees, premium overtime, or the meal- and rest-period laws from earlier decades to women alone would constitute a violation of Title VII moving forward. Plus, the creation of the Department of Labor’s Occupational Safety and Health Administration (OSHA) in the early 1970s instituted new national requirements for the availability of a prescribed number of sanitary toilets – ones separated by gender, if the number of employees exceeded a certain minimum – in all permanent workplaces. Subsequently, because of the risk of being at odds with those new federal guidelines, many states which had previously specified guidelines for women’s workplace restrooms repealed those laws. The few statutes that escaped unscathed tended to espouse the more gender-neutral language sanctioned by the EEOC, requiring employers to arrange for “separate toilets and washrooms for males and females” or “separate lavatories or toilet rooms for each sex [emphasis mine].”51 The net effect of such state-level and federal transformations was that the dominant legal framework surrounding restroom regulation in the second half of the twentieth century was quickly shifting from one of paternalistic protection for women toward one of gender equity for men and women alike.52

But shifts toward legislatively-required restroom equity for women were not only restricted to the realm of work; instead, fallout from two other federal policies in the 1970s and
1980s further shaped the contemporary legal landscape of restrooms and gender. The first was Congressional debate about the Education Amendments of 1972—better known today as Title IX. Although Title IX did not explicitly mention restrooms (instead grouping them implicitly under the broader umbrella of “facilities”), concern about their separation nonetheless erupted on the Capitol floor itself: concerned senators discussing the bill’s minutiae argued how best to legislate equity into college sports programs while also enabling toilets, locker rooms, and shower facilities to continue to be gender-segregated. The second was the possibility of a sufficient number of states ratifying the Equal Rights Amendment. For the ERA, however, restrooms were less of a locus of conflict for elected officials and more a source of uproar among the broader public: one infamous rhetorical strategy leveraged by conservative opponents of the ERA was the suggestion that the amendment’s ratification would lead to the unavoidably rise of legally-required unisex toilets. Legal efforts toward gender parity thus evoked century-old suspicions that legal progress toward gender equality might “obliterate, as far as possible, the distinction between the sexes,” and they consequently led to reactionary bathroom legislation throughout the late 1970s and 1980s. Twenty-four states and hundreds of municipalities passed statutes in the span of those years reaffirming and extending that coverage to protect “separate restrooms, dressing, and shower facilities for males and females” in schools, establishments housing “public entertainment,” spaces designed for “public assembly,” and retail establishments. Consequently, gender separation was written into multiple layers of law governing restrooms across a wide range of quasi-public settings at an unprecedented rate.

By the closing years of the twentieth century, that emphasis on legally-enforced gender separation took a turn back toward an emphasis on legally-enforced women’s equality. Prompted both by the public plight of Denise Wells and growing interest among multiple professional
organizations in crafting more fair standards for restroom design, elected officials in several states pushed for another round of updates to recent laws ensuring gender separation in commercial and civic establishments, this time mandating that newly constructed or renovated buildings were to henceforth reserve extra square footage for or install additional fixtures in women’s restrooms. As the introduction to this chapter documents, such legal and popular transformations were grounded in the unique challenges which women confronted when moving through public spaces. But unlike those justifications leveraged in earlier decades, the academic research at the heart of those differences was grounded in a wide range of social – rather than biological – factors: complications in women’s clothing styles that make undressing difficult, the persistent relegation of children’s bathroom and other care needs to women, and even those straightforward numerical disparities between men and women in restroom time not devoted strictly to urination. Amidst that rhetorical shift, however, restroom legislation toward the end of the twentieth century ultimately came full circle to where it had started over a century earlier: legally enforcing bathroom gender segregation to meet the particular needs of women in certain segments of the public sphere.

From Equality for Women to Access for All: 1970-2015

A renewed focus on equality for women, however, is far from the only issue to animate the recent history of gender and American public restrooms. Indeed, in the closing decades of the twentieth century and first few years of the twenty-first century, three additional threads have animated popular and institutional discourses about that intersection—each of which I briefly outline here and delve into in greater detail in the three empirical chapters that follow this one.
The first thread is a tension between women and gender. As far back as the late 1970s, public policy scholars have documented an international shift from “women” to “gender” as the dominant discursive framework in quests for legal equality between men and women around the globe. Some scholars, especially in the field of development studies, attribute this to an explicit attempt by political activists to cultivate men’s interest in and support for advancing formal rights for women. Others describe an increasing acknowledgment among activists, institutional actors, and public policymakers alike that men and women are two relational – and equally important – components of a broader system of gendered advantage and disadvantage. And yet others, particularly those interested in the intertwining histories of feminist activism in the public sphere and feminist theory in the academy, emphasize an overarching paradigm shift in feminism-writ-large to focus on the multiplicity of ways that gendered difference intersects with categorical inequality. That is, rather than assuming a cohesive and always-disadvantaged category of woman, such work suggests that the binary categories of “men” and “women” are themselves complicated by other cultural categories (such as race, class, sexuality, and ability) and that the existence of non-binary gender categories further complicate the character of contemporary gender inequality. In the United States in particular, such shifts have engendered several decades’ worth of public debate and judicial conflict over what legal gender equality looks like—and, for the specific case of public restrooms, whether that equality means that men’s and women’s restrooms should be separate and identical, be separate and distinctive so as to “level the playing field” of restroom-related bodily and behavioral differences, or unfold with another infrastructural configuration altogether. This thread returns in Chapter 3’s analysis of federal jurisprudence related to workplace restrooms.
The second thread is the recent emphasis from the American disability rights movement on accessible public facilities and lawmaking to that end. In the United States, having a physical or cognitive impairment has historically been an important dimension of legal and social exclusion—and, as ample scholarship in the interdisciplinary field of disability studies has shown, logics of impairment have also been frequent justifications for the legal and social exclusion of women, people of color, immigrants, sexual minorities, and other marginalized groups. However, that trajectory changed considerably from the 1970s through the 1990s. As individuals with disabilities mobilized into a visible and politically-active social movement in those decades, local efforts to eliminate discrimination on the basis of disability began to lead to public policy changes at the national level, including high-profile federal legislation that began with Section 504 of the 1973 Rehabilitation Act and continued through the Americans with Disabilities Act of 1990. But more importantly for the shape of public facilities to come, that activism arose in tandem with the rise of the “social model of disability,” which understood disability to be a nexus of social disadvantage produced not by the direct effects of medical or psychological conditions but, rather, by the collective effect of negative cultural beliefs about disability, persistent patterns of social and institutional exclusion, and architectural barriers to physical inclusion. Consequently, lawmaking intended to benefit individuals with disabilities in the United States has had a core emphasis on the material infrastructure of public and commercial spaces – including the public restrooms within such spaces – for over four decades. Moreover, because of specific language in such laws about gender and because of the overlap between those laws and other regulations governing public restrooms in public, commercial, and work spaces, accessibility regulations have been a frequent locus through which present-day organizations have worked out the meaning and
necessity of gendered restroom spaces. This thread picks back up in Chapter 5’s analysis of degendered restrooms in cultural and public institutions.

The third thread is the recent rise of attention to gender-segregated public restrooms as they affect transgender, gender-variant, and gender nonconforming communities. At once a part of and apart from the lesbian and gay rights movement that had begun to coalesce in the United States in the mid-1970s, the contemporary transgender rights movement exploded in the 1990s as middle-class activists and social movement organizations began to lobby for legal rights, access to medical services, and other institutional changes that spoke specifically to the needs of individuals whose gender identity or expression differed from that which they were assigned at birth. Although issues associated with sex-segregated public facilities have been one dimension of that activism since the early 1990s, the last fifteen years have brought about unprecedented popular, institutional, and legal attention to such issues. In part, this has been because of the increasingly high-profile character of transgender issues on college campuses, where “gender-inclusive” facilities have been a nexus of debate since the early 2000s. In part, however, those conversations have begun extending into municipal, state, and federal policymaking bodies, which have introduced – and, in many cases, passed – a series of new legislative proposals that seek to add gender-neutral restroom spaces in public, commercial, and educational institutions. But for present-day organizations, the implementation of such degendered restroom spaces has been as much a material problem as an ideological one, as the materialized history of gender segregation in public and quasi-public restrooms presents multiple complications to the possibility of change—complications which different organizations negotiate in different ways.

This thread continues in Chapter 4’s analysis of gender-inclusive restrooms in American colleges and universities and Chapter 6’s concluding remarks.
Discussion and Conclusion

In her recent lecture- *cum*-article, “The Gender Revolution,” feminist sociologist Paula England characterizes twentieth-century progress toward a more egalitarian future for gender in the United States as “uneven and stalled.” As she writes, “Change in the gender system has been uneven, changing the lives of some groups of people more than others and changing lives in some arenas more than others.” 58 So, too, with the history of public restrooms in the United States. As the brief history I trace in this chapter reveals, middle- and upper-class men and women have largely been able to access clean and safe restrooms whilst out in public since the advent of indoor water-closets in the nineteenth century, yet adequate public toilets have only been available to poor and working-class men – and especially women – during the intermittent historical moments in which affluent Americans have taken an interest in the provision of public facilities. But even when such interest has peaked, such spaces have remained underfunded, under-cared-for, and underwhelming compared to the options available in commercial establishments. Plus, when that interest has resulted in modifications to local plumbing codes or more expansive legal mandates at the state or federal levels, such changes have also disproportionately benefited those occupying a privileged social – or physical – location. The contemporary legal terrain of public restrooms across the United States most often requires a minimum number of restroom fixtures only for establishments which host paying customers (such as restaurants or performance spaces), serve a restricted subset of a local community (such as schools or places of worship), or most commonly of all, house paid employees who work in a static physical location.

But the other, equally consequential effect of that uneven history of gender and public restrooms – that is, American public restrooms have generally not been truly public facilities –
has been that individual organizations have held a tremendous amount of discretion in shaping the conversation about and physical realities of restrooms in the United States. While much scholarly attention to bathrooms speaks to the ways in which pollution beliefs have been invoked to deliberately keep down already-subjugated social groups,\(^5\) I also want to suggest that another possibility has also occurred simultaneously: that the materialized history of social inequality built into contemporary infrastructure has been more of a side effect of everyday organizational work than a deliberate attempt to promulgate pernicious social boundaries. For gender-segregated leisure spaces in the nineteenth century, such as barbershops and ladies’ reading rooms, business owners set out to provide a convenience for their patrons, not to start the ball rolling on a multi-century process of imbricating beliefs about gendered propriety into the built environment. Likewise, for lawmakers in the second half of twentieth century, progressive impulses fueled attempts to legally ensure gender equity for workplace restrooms or in public establishments, but those same efforts further consolidated the provision of public restrooms into establishments most often frequented by the consumer class. And as Chuck Tilly argues in his book *Durable Inequality*, when organizations use cultural categories to solve their everyday problems, the result is often the unintentional manufacturing of social inequality.\(^6\) And while that accidental character may seem less insidious, the reality is often the opposite: because such unanticipated consequences do not fit the conventional American paradigm for what discrimination and inequality look like – that is, intentional acts of exclusion carried out by individual, prejudiced social actors – they are much more challenging to see, let alone eradicate.

More importantly, because restrooms are fundamentally physical spaces, the outcomes of institutional debates and decision-making about public restrooms extend England’s claims one step further: they have quite literally been stalled – or, perhaps more accurately, *in*-stalled – into
the built environment over the last hundred and fifty years. As mid-nineteenth-century business owners created water closets for their affluent customers and repudiated the creation of public toilets in their neighborhoods, then, they also initiated a material precedent that has continued to influence the social stratification of restroom provision up to the present day. Similarly, as turn-of-the-twentieth-century state lawmakers instituted requirements that women have separate restrooms at work to protect their purportedly fragile reproductive capacities from the dangers of factory labor, they concretized a vision of gendered privacy into the physical infrastructure of American workplaces whose vestiges, again, still persist today. The moral imperatives of the past were thus not only concretized into the physical environment ways that erected literal barriers between affluent citizens and lower-class citizens as well as between men and women at the time;\textsuperscript{61} rather, they initiated an architectural – and legal – inertia that would continue to shape public restrooms in the United States for decades to come. Moreover, such processes of materialization are far from historical relics: instead, as feminist legal scholar Mary Anne Case observes about twenty-first century efforts to create more equitable restroom arrangements, new laws put into place to rectify the ills of the past generally apply only to new construction or renovated facilities\textsuperscript{62}—thus leaving out the tremendous number of buildings throughout the United States whose basic physical infrastructure has remained largely intact since it was originally constructed.

Plus, even where lawmakers do craft universal restroom regulations or architects plan the construction of new restrooms, that process of materializing cultural values into the built environment continues today. As I will continue to show in the remainder of this dissertation, gender is not merely an independent variable which has exerted – and continues to exert – an influence on the shape and separation of public restrooms at any given moment in time. Although
individual organizations and legal institutions alike do draw on dominant cultural beliefs about
gender to inform their decision-making work, the meaning of gender is also an effect of those many debates about bodies, cultural consumption, privacy, work, social status, public space, moral boundaries, and so forth that have circulated – and continue to circulate – around public restrooms. In effect, then, the history of gender and public restrooms I have traced above and the empirical analyses to which I turn next heed feminist historian Joan Scott’s call to “not assume the abiding existence of a homogenous collectivity called ‘women’ upon which measurable experiences are visited” and rather “interrogate the production of the category “women” itself as a historical or political event.”63 But I also propose to go one step further: I also ask “how sexual difference is itself articulated as a principle and practice of social organization,” even when the construction of such gendered difference arises from the mundane decisions that individuals, organizations, and institutions alike make when confronted with the question of what a public restroom is and, moreover, what it should be. To the bulk of that project, I now turn.
Chapter 3

Regulating Restrooms

“One must not be misled by the appearance of symmetry: the lamp of the day is only apparently defined in relation to the lamp of the night.”

Pierre Bourdieu, “The Berber House or the World Reversed”
Échanges et Communications, 1970

In the winter of 1977, the United States District Court for the Southern District of New York began hearing arguments for Forts v. Ward, a suit filed in the wake of the Bedford Hills Correctional Facility’s controversial decision to allow men to apply for positions as prison guards in the all-women’s facility for the first time. Personnel qualifications for the penitentiary had been amended a year earlier in an effort to preserve “perceived compliance” with emergent federal anti-discrimination legislation, but a small subset of the institution’s inmates felt that the change comprised a fundamental “violation of their constitutional right to privacy.” The crux of the women’s objection was the degree to which the newly-hired male staff members were able to view their nude bodies in the course of completing their everyday job duties. In their complaint, they described three dimensions of that surveillance as particularly egregious: first, the guards regularly observed them “in states of partial or total nudity during their dressing and undressing, and while sleeping;” second, the guards frequently “had occasion to observe certain of them while using the cell’s toilet facilities;” and third, because of the physical dimensions of the partitions between showers, the guards were under orders to keep the women “under direct observation
while showering.” Taken together, the inmates charged, such conditions constituted “an impermissibly embarrassing situation.”

The plaintiffs in *Forts*, however, were far from the only litigants asking judicial institutions in the United States to address such matters in the closing years of the 1970s. Instead, as District Judge Marvin Frankel remarked in his opinion for a related case, *Wolfish v. Levi*, an “explosively growing field of law about prison conditions” had become an increasingly salient fixture on the agendas of federal courts in recent months. In *Wolfish*, which was filed just a few months prior to *Forts*, prisoners from another correctional facility in the Southern District’s jurisdiction brought suit about a wide range of unacceptable conditions within their own penitentiary – including “a ‘sex blind’ policy of staff assignments” that led to the placement of “male staff on the women’s unit.” Like the plaintiffs in *Forts*, the plaintiffs in *Wolfish* argued that such a policy clearly violated the “measure of privacy and personal integrity” to which they believed they were entitled, even as inmates. But in *Wolfish*, which would eventually escalate through a series of appeals to the United States Supreme Court, the issue of cross-gender surveillance was merely one piece of a much larger penological puzzle: what, if any, right to privacy could be retained by prisoners held in custodial centers, and how, if at all, should prisons go about weighing that right “against problems of security, good order, and the supposed purposes of punishment”?3

On top of this dilemma, *Forts* was enmeshed in another, further-reaching judicial trend: one devoted to defining the appropriate interpretation of Title VII of the Civil Rights Act of 1964. As the first iteration of federal legislation to guarantee equal treatment for employees on the basis of “race, color, religion, sex and national origin” in public and private employment alike, Title VII had granted unprecedented legal protection to several demographic groups prone to
workplace discrimination, including women.\textsuperscript{4} Despite these advances, however, the details of when and how to enforce the landmark legislation were left highly ambiguous. For sex discrimination in particular, the circumstances of the Act’s passage and the language of Title VII itself exacerbated this lack of clarity. Unlike the other protected classes identified in the Civil Rights Act, sex was added as a “last-minute”\textsuperscript{5} amendment while the bill was under debate on the floor of the House of Representatives, and proponents of its inclusion may have been attempting to thwart support for the Civil Rights Act as a whole. This haphazard sequence prompted a great deal of uncertainty about how gender-related issues should be addressed by the federal agencies and federal courts charged with the bill’s enforcement. The “bona fide occupational qualification” clause in Title VII only added to this tangle. Although Title VII explicitly outlawed using sex to make decisions about the hiring or retention of employees, the BFOQ clause left open the possibility that sex might be necessary for the successful completion of job-related duties within a certain subset of occupations. However, mirroring the vagueness of Title VII’s implementation as a whole, the clause did not explicitly specify the conditions under which that exemption might apply.\textsuperscript{6}

Consequently, with little clear precedent on which to operate, District Judge Richard Owen’s opinion in Forts offered a response that acknowledged the difficulty of these tensions. With respect to the possibility of prisoners’ privacy rights, he referenced the recent Wolfish decision, noting, “Obviously, an individual’s normal right of privacy must necessarily be abridged upon incarceration in the interest of security of the institution… Inmates must be kept track of constantly and, on occasion, unexpectedly observed to be sure that plotting is not under way nor is the fashioning of crude but effective weapons, such as pieces of metal sharpened to razor quality to use against either guards or other inmates.” At the same time, however, he contended
that there should be a limit to the reach of prison surveillance: “regardless of how limited an inmate’s right to privacy is, as viewed by penologists and others,” he wrote, “all agree on one thing that there is such a thing as a right of privacy.” Moreover, he went on to explain why he believed that the inmates at Bedford Hills had an especially defensible claim about the violation of their privacy, saying, “All agree that it is an invasion of a female inmate’s right of privacy for her to be viewed by a male guard while she is using the toilet even if he is acting in the normal course of his duties.” That is, the *Forts* decision intimated that the right of privacy had an important dimension which had not been properly handled in existing jurisprudence pertaining to employment equity and prison supervision – and that dimension was gender.

This intertwining of gender and privacy was indeed the keystone on which the *Forts* decision rested. On the one hand, Judge Owen determined that there was “no dispute” that correctional duties at Bedford Hills could be “equally well performed by any qualified and trained man or woman;” thus, sex did not constitute a bona fide occupational qualification for the positions under scrutiny. “However,” he also concluded, that very same “equal job opportunity must in some measure give way to the right of privacy.” For him, even in a carceral context of ubiquitous surveillance, a female inmate’s right to keep her nude body out of the sight line of male guards was inviolable, precisely because of the gendered character of bodily privacy. Citing anthropologist Margaret Mead’s *Coming of Age in Samoa*, he explained his reasoning:

> It is perfectly clear that men and women, from the beginning of recorded history, have had an innate need for privacy in certain areas of living. Virtually all societies even those which have little requirement of clothing for adults and none for children have rules for the concealing of female genitals. And while societies such as the Samoan have “ma(d)e use of the beach as a latrine,” there being “no privacy and no sense of shame,” the norm in
today’s western world is to have enclosed toilet facilities in the home and segregated toilet facilities in public places which children are early taught to use. Even small children in the western world are expected to clothe themselves and keep their private parts covered. These societal rules become mandatory as one approaches adult status. The fact that a need for privacy is the product of social conditioning makes it no less embarrassing or occasions no less feeling of shame when the privacy is invaded.

He consequently charged the prison’s administrators to make accommodations to ensure “the preservation of such minimum of human dignity and such remnant of the quality of life as remains possible,” including the provision of translucent shower screens and the assignment of job responsibilities that might involve witnessing nudity to female correctional officers alone. And although he found that “maximizing equal job opportunity” was necessary for the prison to maintain compliance with federal law, he ultimately concluded that, “the risk of at least embarrassment or shame or humiliation from actual or potential viewing” that a female inmate might experience at the hands of “males whose duty it is to watch her” far outweighed any concerns of unconditional employment equity in the prison setting.8

Background and Overview

In the years leading up to such judicial battles over federal regulations governing sex discrimination in employment, much about the social organization of gender and work was rapidly changing in the United States. Although many American women had been members of the paid work force since the earliest days of the nation’s founding, especially among less well-off communities, the middle of the twentieth century brought about a what economist Claudia
Goldin refers to as a “quiet revolution” in employment, educational attainment, and family formation for women. Where college attendance and participation in the paid labor market had once been temporary stops for many women en route to their more permanent calling to serve as wives and mothers, a majority of American women began to pursue higher education and hold full-time positions through most of their adult years—including positions in previously male-dominated fields such as business, law, and medicine. Where there was once a profound cultural stigma associated with labor force participation for married women and women with children, a majority of young women in the United States began to expect their lives would be primarily defined by their career field rather than their marital status—and invested accordingly in educational markers that would set them up for their future labor market participation and pursuit of professional success. And where laws restricting women’s employment to their pre-marriage or pre-childbearing years were once a ubiquitous fixture of state labor laws, they came to be phased out through a series of federal laws and court decisions geared toward preventing workplace discrimination on the basis of gender rather than ensuring it.

But in addition to intersecting with such broad cultural and institutional shifts related to gender and work, that evolution of nascent legal frameworks in the second half of the twentieth century also paved the way for a new regulatory horizon for public restrooms: the rise of federal jurisprudence as a means of governing workplace restrooms. Consistent with the historical trajectory traced in Chapter 2, state-level public policies requiring the provision of workplace restrooms on gender-related grounds underwent a small uptick as women’s labor force participation increased from the 1960s through the 1990s. Interest at the state level in regulating how restrooms should be gendered has since reached a saturation point and thus largely tapered off in the first few years of the twenty-first century. In contrast, since the first federal cases
Involving gender and workplace restrooms became an issue occupying space on federal dockets in the late 1960s, the total number of cases heard and ruled upon in each decade has steadily increased. While only seventeen cases in which litigants offered arguments involving gender and workplace restroom access or availability were heard in the 1970s, that number more than quadrupled in the 1990s, and the total number of cases heard and ruled upon in the 2000s nearly doubled from the number heard and ruled upon in the 1990s. (See Figure 1.)

![Figure 1](image_url)

**Figure 1** – Count of Newly-Enacted State Statutes and Published Federal Court Opinions Involving Gender and Public Restrooms by Decade, 1960-2010.

In this chapter, I explore the published federal court decisions which have resulted from such litigation, focusing in particular on the justifications with which federal judges in the United States have resolved conflicts over restroom access and availability in a range of American workplaces. To do so, I use qualitative data collected from 256 federal opinions published between 1967 and 2013 to analyze the intertwining legal and cultural logics involved in such institutional
Although federal courts in the United States have addressed cases involving a wide range of legal disputes at the intersection of gender and public restrooms in that timeframe—including cases about age discrimination, cruel and unusual punishment, fair housing practices, freedom of speech, racial discrimination, educational equity, and even tax law—I restrict my focus to cases within which gender discrimination in a work setting was the most salient legal issue at stake. Additionally, because many of the most salient themes in my document sample cut across multiple decades, I organize my results thematically rather than temporally—an organizational choice which reveals a surprising degree of stasis across time and geographic location in how federal courts in the United States approach issues of gendered embodiment and experience.

As I will show, explicit logics of benevolent sexism, which had once induced American judges to uphold many early-twentieth-century laws related to gender and the workplace in order to shield women’s purportedly weaker bodies and oft-imperiled virtue from the dangers of the labor market, have slowly dissolved in late twentieth-century restroom jurisprudence. In their place, new logics of gender equality have taken hold in federal case law, mandating not only separate restrooms for men and for women in work settings but, furthermore, requiring that those separate restrooms be functionally equivalent to one another. Yet, in contrast to a tidy narrative of progress around issues of gender and workplace restrooms, I find that implicit concerns about protecting women’s bodies, privacy, and sexuality have continued to animate judicial decision-making about workplace restrooms through the turn of the twenty-first century. As contestation over workplace restroom arrangements has been increasingly channeled into litigation, courts of law have purported to, in the language of employment law, make “facially neutral decisions”—that is, decisions that do not seem discriminatory at a surface level—about the various restroom-related issues which they have been asked to solve. However, in reality, I
argue that they much more often have a “disparate impact” – that is, they disproportionately affect individuals from certain social groups – along gendered lines. In other words, although legal institutions no longer overtly employ ideologies of women’s bodies as vulnerable and their privacy as expressly sacred, the decisions they make about restrooms still overwhelmingly imply and perpetuate those very same cultural tropes.

Moreover, I find that courts of law use embodied affective content as the evidence on which they most often scaffold their decisions about gender and workplace restrooms. Although courts of law do operate to some extent on “rationally ordained,” autonomous, and self-standing logics, as Max Weber once observed, my analysis demonstrates that they are also thoroughly mutable and surprisingly emotion-driven institutions. In particular, when employees file suit against their employers about the various difficulties which they have experienced with gendered restrooms at work, judicial institutions routinely rely upon the character of litigants’ affective responses to those problems in order to ascertain the presence and severity of a discriminatory act. Whether the cases I study revolve around the complete absence of a sanitary restroom, the inability of employees to conveniently and safely access that restroom, or the failed enforcement of absolute gender separation, I find that judicial decision-makers recurrently construct patterned linkages between legal categories and emotional states to solve the contestation with which they are presented. But more importantly, these evaluations of affective intensity – whether real, as conveyed by the litigants themselves, or imagined, as envisioned by the judges in their written opinions – overwhelmingly reflect the ideologies of gender and privacy I described above. Instead of holding all litigants to the same emotional standard, my analysis demonstrates that judges evaluate the reasonability of affective responses to problems with their workplace restrooms in
light of their gender category, drawing different conclusions for female plaintiffs than for male plaintiffs as well as for transgender plaintiffs than for cisgender plaintiffs.

But above all, as federal courts make their decisions about restroom access and availability, they do not merely parrot preexisting gender ideologies to resolve the conflicts with which they are faced; instead, their everyday decisions congeal together a wide range of cultural beliefs in ways which actively define what gender is and assert what gender means. Although some cases about workplace restrooms gesture toward the possibility that the need for gender segregation applies equally to men and to women, many more frame cisgender women’s bodies as unusually susceptible to unwanted intrusion and attack. Numerous female plaintiffs describe the problematic status quo regarding bathrooms in their workplaces, emphasizing their unique need to manage their hygiene, dignity, or privacy in ways that do not apply to men. Judicial opinions also echo this language, finding that the humiliation and violation that cisgender female litigants report feeling is an unavoidable emotional response to invasions of spaces that are – or should be – gender segregated. Responses to cases involving transgender issues demonstrate this most resolutely, as the unsafe and vulnerable feelings that many transgender women describe about their relationship to workplace restrooms are regularly judged to be less important considerations than the feelings of their cisgender colleagues. Thus, when legislative and judicial institutions alike think about restrooms in the twenty-first century, they generate definitions of gender as a biologically-based, two-category system; of transgender people as gender outliers less deserving of the law’s protection than their cisgender counterparts; of cisgender men as universally heterosexual, insatiable sexual predators; and of cisgender women as inherently weak and vulnerable to assault.
Restrooms as Creators of Sex Discrimination: Isolation, Ostracism, and Stigma

One of the oldest workplace tendencies involving gender and restrooms to be challenged in American courts is the use of physical bathroom facilities as a justification for not training, hiring, or promoting women. In the first case at the federal level to address restrooms as a central nexus of workplace gender inequality, Ostapowicz v. Johnson Bronze Company (1976), a group of women filed a class-action suit alleging intentional discrimination in the treatment of female machine operators. Training at their plant was “given by observation only,” and when the plant’s machines were being assembled for use, “women were told to go to the ladies’ restroom instead of being permitted to stand and observe the setups.” Although Ostapowicz was unusual for the deliberate ways in which workplace restrooms were used to confer an advantage on male workers that female workers could not access – that is, through the physical corralling of already-employed women away from valuable job experiences or training – it was far from the only case in which restrooms became a means of promulgating existing gender biases. Other cases that came in its wake used the absence of restroom facilities to justify unequal treatment on the basis of gender in other ways: some defendants – such as those in Rhoades v. Jim Dandy Company (1978) refused to hire women in the first place, because “there were no bathrooms for them,” others fired female workers to avoid having to construct a separate bathroom for them, and yet others denied women opportunities for overtime work and wages because there would be no restroom facilities for them in the spaces in which that work would need to unfold.

Unfavorable treatment of women with respect to restrooms also emerged in testimony about the broader climate around gender in several workplaces. In addition to concerns about workplace restrooms in and of themselves, restrooms recurrently functioned as one item in a longer list of issues with introducing female employees to a previously all-male workforce. One
particularly striking example occurred in *EEOC v. M.D. Pneumatics* (1985). The opinion notes that two former employees testified to the behind-the-scenes sexism that their superiors espoused: one hiring manager believed that “if they hired women they would have to build restrooms, that the work was too heavy for women, and that if they hired good looking women in the shop, production would go down,” and another indicated aloud that “women would not want to work in the plant” in the first place, “because the work was too heavy and too dirty, and that women would bother the men.” These beliefs about women’s weakness and unsuitability for strenuous work were all the more explicit in *Catlett v. Missouri Highway and Transportation Commission* (1983). Rather than restricting misogynistic attitudes about women and work to more backstage settings, interviewers filling maintenance positions openly “emphasized to the female applicants that there were no restroom facilities for women to use while the maintenance crews were on duty, and that the job required long hours and involved dangerous activities in inclement weather.” Similar details were not brought up in conversations with male applicants.

But for many more women working in formerly all-male workplaces, the existence of a separate restroom space for their use was not the primary source of their workplace strife. Many women’s restrooms and locker rooms were constructed when a firm hired its first batch of female employees, but they were frequently relegated to an undesirable location or outfitted with unsatisfactory fixtures. In *Stapp v. Overnite Transportation Co.* (1988), for instance, a terminal supervisor told a female freight trucker that she needed to “use ‘the little brown building with a moon on it’” when she asked where to find the women’s room, and another terminal forced her to “wait for long periods of time” to use the undersized and “not well lit” women’s restrooms. Such problems were regular sources of requests for injunctive relief—ones that continued well past the turn of the twenty-first century. In *Wedow v. City of Kansas City* (2006), two fire department
battalion chiefs sued the city because of a variety of problems with restroom facilities in the stations they frequented. These included locating women’s restrooms “in the male locker rooms with the male shower room,” using them “as storage rooms” for items like “food and water for the station’s pet dog,” and maintaining them in an especially “unsanitary” condition.\textsuperscript{19} And even more recently, as was the case in \textit{Spees v. James Marine, Inc.} (2010), the only female employee in a welding shop “did not have access to running water” in her washroom, and the water closet provided for her use was “a portable toilet instead of a formal restroom.”\textsuperscript{20} The ruling in each of these cases was that restroom deficiencies constituted far more than “a mere inconvenience,” as the material differences between men’s and women’s facilities “jeopardize[d]” the capacity of female workers “to perform the core functions”\textsuperscript{21} of their jobs and “significantly disrupted”\textsuperscript{22} their overall work performance.

Yet federal courts did not only consider sex discrimination suits involving more tangible consequences of restroom-related workplace inequalities like hiring discrimination or facility shortcomings. Instead, they also heard cases in which the workplace restroom inequalities produced more affective consequences for particular employees. Although material restroom inequalities alone worked as evidence of disparate impact or treatment, litigants also leveraged their negative feelings – like isolation – about extant bathroom configurations as evidence for their claims. In some cases, such as \textit{Mackey v. Shalala} (1999), plaintiffs described such efforts as intentional: because one of the Directors in a subdivision of the National Institutes of Health “conducted informal meetings in the men’s restroom” and “had difficulty in relating to women in managerial positions,” the plaintiff charged that she was isolated from the opportunities available to her male colleagues and subsequently overlooked for an opportunity for promotion.\textsuperscript{23} In other cases, however, the effects of restroom-related isolation were more incidental. For instance, in
Gasperini v. Dominion Energy New England, Inc. (2012), the plaintiff not only argued that her male colleagues had access to the locker room “closest in proximity to the fuel handlers’ work site” but also that it “had an eating area inside” where the men would congregate during meal breaks. As the only woman working during her shift, Gasperini therefore ate alone on a regular basis, which “systemically isolated and excluded from her coworkers... because Dominion failed to provide an eating area where she could join coworkers without the threat of being fired.”

However, in both cases, the opinions ruled that such feelings of distance from colleagues lacked discriminatory intent and thus could not qualify as sex discrimination.

In contrast, restroom cases in which ostracism on the basis of gender was more expansive or more extreme tended to favor the respective plaintiffs. Cases such as Waldo v. Consumers Energy Company (2013) presented the availability and state of bathroom facilities as one important dimension of claims that a workplace could be considered objectively hostile to women. Much of the testimony in Waldo demonstrates the myriad ways in which the plaintiff was singled out because of her gender. Her supervisor openly “stated that she and other women were not wanted, welcomed, or accepted” and that he “intended to wash her out.” Toilet facilities were frequently made unavailable to her, and she was told that “if she needed to use the restroom, she had better urinate ‘like the men,’ on the bin or steps of the trucks.” When they were available, male coworkers would drive their trucks “against the door of the porta-potty to block her escape,” and engage in other behaviors that added up to an inescapable backdrop of being “generally ignored or shunned” at work.

The opinion for Pucino v. Verizon Wireless (2010) involves a similar argument, as it characterizes the absence of women’s restrooms as equivalent to being denied “rest time between assignments,” “questioned and reprimanded without a union representative,” and “given a negative performance evaluation when her rating was an overall
good one.” The circuit court determined that, when combined together, such problems clearly showed that the plaintiff was regularly singled out from her peers and, moreover, that bathroom arrangements provided compelling evidence that women in her workplace were “constantly faced with barriers” and reminded that they were “in a male environment and unwelcome” within it.26

Cases mediating the material circumstances of workplace restrooms thus understand emotional responses to the availability – or lack thereof – of those bathrooms as a crucial yardstick for determining the gender equity of an employment environment. In some scenarios, the physical absence of a women’s restroom or the presence of inadequate fixtures functioned as important pieces of evidence for broader claims of sex discrimination or a hostile work environment. However, in many others, those material aspects of employment settings were tied to more immaterial feelings about what the organization of restroom spaces communicated to potential or current female employees. Judicial decisions in such litigation thus revolve around determining if workplace bathroom availability genuinely produced exclusionary consequences for women, whether they took the form of literal exclusion from opportunities that men could access, or as was much more often the case, and above all, how they made female employees feel as a result of their isolation from and ostracism by their colleagues.

Restrooms as Axes of Sexual Harassment: Embarrassment, Humiliation, and Degradation

Yet as many litigants reported in their respective claims, the presence and physical characteristics of workplace restrooms are irrelevant to the quality of a workplace environment if organizational policy or human intervention prevents access to them. Indeed, in the wake of *Meritor v. Vinson* (1986), in which the Supreme Court recognized certain forms of sexual
harassment as sex discrimination under Title VII, a new crop of restroom lawsuits began to materialize that asked courts to determine what sorts of restrictions on workers’ bathroom usage might constitute such a violation. Like cases contesting the material aspects of restroom availability, claims about the more intangible dimensions of bathroom access to the gender equity of a labor environment tended to fall flat when federal judges perceived the consequences of managerial actions to be minimal. One such case, *Koschoff v. Henderson* (1999), arose when a postal carrier was transferred to a new branch and shortly thereafter began to experience a wide range of “discriminatory acts” at the hands of her new supervisor. The crux of the plaintiff’s claim involved the limitations that supervisor placed on her bathroom usage: “she was not permitted to take bathroom breaks while making deliveries” and “was disciplined for using the bathroom without seeking permission, even though male employees were not disciplined for doing so.” This unwritten requirement that she “notify management” whenever she needed to use the restroom continued for several months until the medical consequences of her “work-related stress” – ranging from sleep disturbances to recurring migraine headaches – became so severe that Koschoff applied for disability retirement. Despite this persistent targeting and its physical toll on her body, the court determined that no adverse employment action had taken place. While unpleasant, the opinion contends, actions like a superior’s oversight of an employee’s bathroom usage “effectuate no real change in the employee’s compensation, terms, conditions, or privileges of employment, nor do they inflict economic harm.”

Claims of sexual harassment also tended to be resolved in the defendant’s favor when the emotional intensity experienced by a plaintiff was relatively low. Judges would acknowledge a litigant’s mild to moderate embarrassment or discomfort in many such instances, but they would ultimately consider that sentiment to be insufficient for successfully arguing that legal gender
discrimination had occurred. Several cases reflected this tendency. In one, *Munday v. Waste Management of North America* (1994), the opinion reports that a supervisor’s possession of bathroom keys, comments like, “How bad do you have to go?” when the key was requested, and infrequent restocking of bathroom paper supplies constitute “the sorts of aggravating circumstances which occur in many workplace environments.” That aggravation was yet again understood to be an unpleasant employment experience, but it did not comprise the severe emotional distress required to effectively buttress a sexual harassment suit. In another, *Brown v. Snow* (2006), the court agreed with the plaintiff that it was indeed “uncomfortable” for his female supervisor to require him to report to her when he went to and returned from the bathroom, but such discomfort could not “rise to the level of actionable sexual harassment.” Also “uncomfortable” was managerial oversight of the plaintiff’s restroom usage in *Ford-Fugate v. FedEx Freight* (2007), but likewise, that court ruled that the evidence presented could “not amount to a working environment that could be characterized as ‘hellish.’” And in *Schultze v. White* (2010), the plaintiff’s case failed because of a complete absence of evidence that her supervisor caused her embarrassment or offense when he was “monitoring her trips to the restroom.”

Sufficiently strong feelings of humiliation could also be inadequate grounds for judicial triumph if they were not imposed on employees in a gender-specific way. A police matron launched a civil rights claim in *Warner v. City of Terre Haute* (1998), challenging a workplace policy requiring her “to call the commander whenever she left her station.” The opinion concedes that, as she put it, it might be “humiliating to have to call a man and ask permission to go to the bathroom;” however, because the defendants “demonstrated a business necessity” that applied equally to both men and women, the court found that it was legally permissible. Similarly, in *Katzev v. Catholic New York*, a manager questioned the plaintiff after she “spent what he
considered to be an excessive amount of time in the bathroom.” The court describes such an inquiry as “arguably embarrassing or even humiliating” for her but determines that gender was not pertinent to the supervisor’s line of questioning and therefore “was not unreasonable.” This justification also reverberated consistently throughout Farmer v. Dixon Electrical Systems and Contracting (2013). A female electrician working in a hospital construction zone sued her employer for gender discrimination after being fired “because [she] complained about the urinals so much.” The urinals in question were external troughs attached to the back of standard port-a-potties at the job site, and Farmer found the regular sight of her male coworkers’ genitals “embarrassing and humiliating.” “But,” the opinion reports, “her embarrassment was not gender-specific.” It cites evidence that, on one hand, the plaintiff’s female colleagues did not find the portalets to be offensive, and on the other, that the men using the fixtures “were equally embarrassed by their use.” Because mortification was spread evenly amongst all the construction employees, no clear disadvantage could be attributed to women working the site.

But the success of emotional appeals around workplace exclusion also relied considerably upon the legal framework a plaintiff and their legal representatives opted to pursue with respect to restroom inequalities. DeClue v. Central Illinois Light Company (2000) illustrates this point at length. In that case, the lone female lineman for an electric company charged her employer with creating a hostile work environment – one legally categorized as sexual harassment – due to a lack of appropriate restrooms facilities. As the opinion recounts,

Linemen work where the lines are, and that is often far from any public restroom; nor do the linemen’s trucks have bathroom facilities. Male linemen have never felt any inhibitions about urinating in the open, as it were. They do not interrupt their work to go in search of a public restroom. Women are more reticent about urinating in public than
men. So while the defendant's male linemen were untroubled by the absence of bathroom facilities at the job site, the plaintiff was very troubled and repeatedly but unsuccessfully sought corrective action, for example the installation of some sort of toilet facilities in the linemen's trucks.

And although the opinion goes on to explain that such an absence of “civilized bathroom facilities” may have constituted “a perfectly good claim of sex discrimination,” the plaintiff’s choice to pursue a hostile work environment claim ultimately fell short of the legal standard necessary to successfully garner a ruling in her favor—but the majority nevertheless expresses sympathy with the plaintiff for the exclusion she must feel as a result of her employer’s unwillingness to provide her with restroom facilities at her public job site. The lone dissenting judge also continues this line of thinking, noting that “the alternatives that the company offered in response to DeClue’s complaints – the use of a truck to drive to the nearest public facility, or summoning a supervisor or troubleshooter to take her to such a facility when a truck was unavailable – were both impractical and served only to stigmatize her.”

But where the ruling in DeClue did not find the plaintiff’s claims worthy of injunctive relief, it did exemplify the ways in which judicial evaluations of emotional responses operate in conversation with – and institutionalize – broader cultural logics of gender. Both the majority opinion and the dissenting opinion heavily accentuate the notion that women have unique needs when it comes to the physiological act of elimination. In explaining the reasons that the case may have succeeded if it had been presented differently, for instance, the majority indicates that employers have an obligation to “make accommodations for differences in upper-body strength or other characteristics that differ systematically between the sexes,” including urinary processes. The dissenting opinion likewise invokes an understanding of physical gender difference as self-
evident: “The fact is, biology has given men less to do in the restroom and made it much easier for them to do it. If men are less reluctant to urinate outdoors, it is in significant part because they need only unzip and take aim.” Yet both components of the published opinion transfigure those seemingly-unproblematic bodily differences into an analysis of the gender-specific emotive consequences of absent restroom facilities. Continuing their discussion of why the plaintiff’s case had been argued inaccurately, the majority notes that the “absence of restroom facilities deters women (normal women, not merely women who are abnormally sensitive) but not men from seeking or holding a particular type of job,” because “women are more reticent [emphasis mine] about urinating in public than men.” The lone dissenting judge, in turn, connects women’s feelings about bathroom usage to the more consequential feelings of exclusion that might result from the absence of restroom facilities. In reviewing several of the cases described elsewhere in this chapter, she finds that “some employers not only maintain, but deliberately play up, the lack of restroom facilities” and this effectively communicates that women are not wanted or welcome in such worksites.37

In contrast to these ineffective cases about restrooms, gender, and feelings of shame, restroom cases in which plaintiffs established clear patterns of gender-based antagonism in the culture of their workplaces were more fruitful. The opinion for Conner v. Schrader-Bridgeport Intern (2000) recounts how the plaintiff’s supervisor regularly timed her breaks with a stopwatch, whereas “male machine operators frequently extended their breaks for an extra ten minutes, without any reprimands for doing so.” Given this gender disparity in tandem with an employment context in which she was given less training than her male coworkers, was regularly “mocked” and “laughed at” by her male coworkers, and “suffered from daily headaches and nausea resulting from the humiliation she experienced at work,” the court deemed that “regular,
profound humiliation” to provide “ample support”38 to sustain a hostile work environment claim. The judicial reasoning in Baker v. John Morrell & Co. (2004) echoes the same logic. During her tenure as a line worker in a meat-packing plant, the plaintiff developed a series of medical issues that necessitated frequent trips to the bathroom. Her manager inevitably would reply in a mocking tone, “I gotta pee, I gotta pee,” “sometimes crossed his legs as if he ‘were trying to hold it,’” and once “got onto the conveyer belt in front of Eichmann [a female coworker] and Baker and rode it with his legs crossed to Baker’s scale.” Even after exacting this ridicule on her, he still reliably “forced [her] to wait 30-45 minutes to use the bathroom.” Combined with the “lewd behavior toward women” he and other men in the plant enacted, the totality of the case’s circumstances led the court to “have little difficulty” concluding that the plaintiff’s employment environment clearly brought about her constant feelings of shame while at work.39

Moreover, where gender-based degradation on the part of coworkers and supervisors was especially forceful, the emotional onslaught of a single restroom-related event could be sufficient to tip the scales in a plaintiff’s favor. Such was the case in Adams v. City of New York (2011) and Johnson v. Atlantic County (2010). Much documentation supporting the plaintiffs’ claims in both cases revolves around the propensity of their immediate supervisors to litter their interactions with female subordinates with explicitly misogynistic commentary. For Adams and her co-plaintiffs, chauvinism was a constant feature of their day-to-day work experiences. Within the prison where they were employed as correctional officers, certain posts did not have restroom facilities nearby, and officers in those posts were required to radio for another officer to occupy their post while using the facilities. They alleged that their male supervisors applied this seemingly “gender-neutral bathroom policy” in disparate ways for female and male officers, making the women under their command wait “an uncomfortably long time for a bathroom
break.” When the plaintiffs were answered, their requests to use the bathroom were also often met with derision: it was “commonplace for supervisors to berate female COs in a demeaning fashion.” But the crux of the case was decided on the feelings of “extreme humiliation and debasement” the plaintiffs experienced as a result of one single comment in response to a request for a restroom break—one which asserted that women belonged “at home barefoot and pregnant.”40 And in Johnson, a corrections officer working in an area of a prison without proximate toilets urinated on herself when she was unable to access a women’s restroom. Because that “incident of hazing” took place “in a prison environment traditionally dominated by males” and “it was effectuated, at least in part, by a male officer allegedly known for his disparate interpersonal treatment of women,” the district judge determined that a singular occurrence of targeting a female employee was sufficient to claim a hostile work environment. In other words, one unusually heinous event located within a context of less severe instances of gendered exclusion could reasonably cause the plaintiff and other female offers to feel “that women do not belong on the prison guard team.”41

Litigation questioning the legal permissibility of rules under which employees are allowed to access workplace restrooms – whether codified and officially sanctioned or informally generated and enforced – thus invokes gender and emotional content in equal measure. When the negative feelings plaintiffs experience as a result of having their restroom habits interrogated or controlled seem to be relatively innocuous to judicial decision-makers, cases about restroom access tend to be resolved in the favor of the defendants. Likewise, when unusually deleterious feelings are distributed evenly between female and male employees, plaintiffs are also largely unsuccessful. And even in the event that federal courts do determine that sex discrimination has very well occurred in light of obstructions to restroom access, defendants may still emerge on the
winning side of litigation if plaintiffs have not situated their pleas in alignment with the right sort of jurisprudential precedent. However, in the event that they can convey that a workplace environment is toxic to their gender, that such sexism produces compelling gender differences in workplace policies pertaining to restroom use, that those distinctions induce sufficiently mortifying affective consequences for them, and that there are legal grounds to find in their favor, courts tend to favor the plaintiff—and foreground the emotional character of gendered experience in the writing of their opinions.

Restrooms as Private Spaces: Danger, Invasion, and Violation

But the most volatile affective responses of all federal opinions related to issues of gender, restroom access, and the workplace came in response to perceived restroom boundary violations. The types of feelings expressed in lawsuits about such violations typically mimicked those in litigation pertaining to restroom policies, but as Rodriguez v. Flow-Zone (2011) illustrates, the intensity of a plaintiff’s emotions tended to be dramatically increased. In that case, a sales representative reports that a fellow employee began sexually harassing her shortly after she was hired, and his harassing treatment persisted throughout the three-month tenure of her employment. His offensive comments and gestures ran the gamut from leering across the room at her chest to forcibly rubbing his body against hers, but the pièce de résistance for Rodriguez’s emotional state was her colleague’s use of the women’s restroom. When she found that he had “left the toilet seat up” for the second time in a single day, “she began to cry uncontrollably.” Two days later, she “was taken to the emergency room by ambulance after she suffered a panic attack,”42 which her medical records attributed to being on the receiving end of severe sexual
harassment at work. This morphing of humiliation into surges of panic was a common reaction to the boundaries of gendered workplace spaces being crossed—especially for women. When a male supervisor followed the plaintiff of Craig v. M and O Agencies (2007) into the women’s restroom and kissed her, “she began to get sick, experienced panic attacks, and had emotional difficulties” that eventually induced her to resign from her position.43

Such full-on assaults were infrequent in number, but many cases did involve men entering into women’s restrooms—or vice versa. This in turn reliably caused plaintiffs to feel that their privacy and space had been intruded upon, whether they were female or male. In Blatnicky v. Village of Shorewood (1995), male police officers made regular intrusions into the bathroom—which was a repurposed public restroom, as “the police station was not equipped for both male and female officers” – assigned to the “only female officer ever employed by the Village of Shorewood.” Moreover, several of the men “intentionally urinated on the toilet seat, sink, and floor,” including her immediate supervisor, and none of the men were ever disciplined for their behavior despite a posted notice indicating that they would be. Even the chief engaged in the “continued abuse”44 Blatnicky alleged was occurring at the station, making light of the situation whenever it was brought to his attention and joking about the matter when Blatnicky was not present. In Vroman v. A. Crivelli Buick Pontiac GMC, Inc. (2010), a comparable suit was filed but with the genders of the supervisor and employee in question flipped. Vroman, a male service technician, took issue with his female supervisor walking through the men’s restroom from time to time during the several year stretch in which they worked together. Though she did so to access a storage space located in the bathroom, he characterized her conduct as extremely “offensive” and did not think that the apology she issued to him for her restroom entry “was not an effective response to the nature and severity of his complaint.” In fact, he believed, if he had
been a woman and she had been a man, such a restroom intrusion “would have resulted in... immediate termination.”

In other cases, however, it was not necessary for a coworker or supervisor to physically enter the restroom space to trigger a sense of invasion; external auditory or visual surveillance of restroom spaces could also lead to feelings of bodily violation on the part of litigants. A tape recorder located in a toilet stall of a police department women’s restroom was the source of workplace strife in *Kohler v. City of Wapakoneta* (2005). The male coworker who had planted the device captured “sounds of water running, doors opening, and other mechanical sounds” and not “voices or ‘personal noises;’” however, the knowledge that he had trespassed into the space of the women’s room and planted a recording device nonetheless left Kohler “noticeably upset and shaken by the incident.” Her distress about the incident persisted after the coworker opted to retire (in lieu of being subject to an external investigation), and she was seeing a psychologist and taking medication for “stress and anxiety” at the time she filed suit.

Visual observation of restroom spaces, which was the central issue in *Cottrill v. MFA*, could also be so emotionally provocative that it could induce physiological symptoms from litigants. Combs, a co-plaintiff in the case, became suspicious of her supervisor when she noticed him following Cottrill to the restroom area in the agricultural cooperative where they were all employed. Upon investigating the break room that the supervisor frequented while Cottrill was using the bathroom, Combs discovered that he had constructed a peephole to spy on Cottrill. She informed Cottrill of the invasive setup, and Cottrill immediately became “so upset that she became physically ill and had to leave work and retreat to the privacy of her home.”

But courts faced three other recurring scenarios in which the gender boundaries associated with workplace restrooms were troubled in ways that were much less straightforward
to untangle. First, in a highly-contentious and reference-loaded series of cases, judges struggled to find an appropriate balance between the privacy rights of individuals whose nude bodies might be exposed in work settings and gender equity in workplace hiring practices. Many older cases about gender discrimination in employment revolved around this quest for restroom-related equilibrium, such as *Ludtke v. Kuhn* (1978) and *Caribbean Marine Services v. Baldrige* (1988). In the former, a female sports reporter challenged a Major League Baseball policy determination banning female journalists from baseball locker rooms, and in the latter, a commercial tuna boating firm took issue with the possible presence of female government agents on vessels with all-male crews and minimally-private toilet accommodations. Both opinions discuss the availability of restroom-related modifications that could ensure privacy for the men in both scenarios and thus conclude that equal opportunities for women trump the feelings of intrusion that their presence might engender. However, when the workplace setting in question was a total institution, judicial decisions and precedent were less clear. The plaintiff in *Backus v. Baptist Medical Center* (1981), a male nurse, contested the repeated administrative rejection of his requests to be placed in the labor and delivery division of the obstetrics and gynecology department at the hospital where he worked. He charged the hospital with gender discrimination, but the district court sided wholeheartedly with the defendant. As the opinion offers while recounting precedential findings, “Those courts coming squarely to deal with this issue have determined that the body involves the most sacred and meaningful of all privacy rights,” and thus, “giving respect to [the] deep-seated feeling of personal privacy involving one’s own genital area” is a more important consideration for employers than “the employee’s competence.”

Cases about personnel in carceral settings epitomize the equivocation reflected in that quest for judicial balance. On the one hand, several opinions espouse the belief that gender equity
should be the preeminent deciding factor when gender-based employment conflicts arise in prisons. As *Dothard v. Rawlinson* (1977) states, “To deprive women of job opportunities because of the threatened behavior of convicted criminals is to turn our social priorities upside down.” On the other hand, as the opinion for *Women Prisoners v. District of Columbia* (1994) notes, inmates are in an unusually vulnerable position because all of their activities, innocuous and intimate alike, are supervised by prison personnel: “The women [inmates] are tightly confined, making their escape from harassment as unlikely as escape from the jail itself. Routine invasions of bodily privacy, such as men peering into women’s cells at CTF or the unannounced presence of male guards in female living areas provide a reminder to women prisoners that their exposure to abuse is almost endless.” Fiercely negative feelings about one’s naked body being viewed by the “opposite” sex figure prominently in such arguments. The plaintiff in *Smith v. Chrans* (1986) reports occasions on which women had observed his nude body while he was moving from the shower to his cell made him feel “humiliated, degraded, and dehumanized.” Thus, cordoning off men from women was a straightforward proposition when it came to an institution’s residents, but complications and controversy exploded when it came to determining which genders of that same institution’s employees were allowed to infiltrate which gendered spaces.

The second scenario was one in which clear physical differentiation between men’s and women’s spaces was absent: when the only restroom in a workspace was gender-neutral or unisex. Plaintiffs in such cases were overwhelmingly female-identified, and their reasons for bringing suit were most often feelings of disturbance after a male colleague accidentally or intentionally entered a restroom space which they were using. This was the state of affairs in *James v. National Railroad Passenger Corporation* (2005), wherein the plaintiff brought a discrimination suit against Amtrak for only providing unisex comfort facilities at one of their
worksites. In addition to the “perpetually unsanitary condition” of the shared facilities, James took issue with the “egregious violations of privacy” that the unisex spaces enabled, including the regular occurrence of men walking in on women using the restroom. The lack of action on the part of her supervisors to rectify either problem brought about severe “depression and feelings of helplessness.” For other plaintiffs, like one of the co-plaintiffs in Dauer v. Verizon Communications (2009), they “suffered indignities” when the situation was flipped and they “inadvertently walked in on men using the restroom.” And over two decades earlier, in Llewellyn v. Celanese Corporation (1988), a female truck driver stopped at a terminal in which the women’s restroom had no shower or dressing area. She asked a group of male drivers if those areas of the men’s room were empty, as she typically did when at that terminal, and they replied that it was. However, when she stepped inside, she discovered that one male driver was still present and still showering, and she stormed out feeling “embarrassment, anger, and humiliation.” Even for plaintiffs whose primary focus was a non-restroom issue, gender-neutral facilities represented an omnipresent workplace threat to their “privacy and dignity as a woman.”

Third and finally, some of the most potent instances of bathroom gender trouble occurred when transgender issues were at the forefront of a case. Transgender women, including the plaintiffs in Kastl v. Maricopa County Community College (2004) and Johnson v. Fresh Mark (2003), expressed apprehensions about their bodily and emotional integrity which echoed those that have recurred throughout other cases about restroom gender violations. Kastl, who was fired from an adjunct teaching position after she resisted a new institutional restroom policy requiring her to use the men’s room, recounts in her deposition that the revised policy made her “fear serious bodily harm as a result of usage of the men’s restroom” and worry constantly about “invasion of
Similarly, Johnson brought action against her former employer after a review of her personnel file “indicated that her gender was ‘male’” and she was consequently asked “to use the men’s facilities at the plant.” Concern “for her own safety and wellbeing”\(^5\)\(^6\) induced her to refuse to return to work unless the requirement was lifted and she would once again be allowed to use women’s facilities. But as the opinion for \textit{Etsitty v. Utah Transit Authority} (2007) demonstrates, such cases about what sorts of bodies were legally allowed to share space in workplace restrooms tended to be resolved in favor of cisgender workers rather than transgender ones. As the majority opinion explains, “Defendants also points out, and the court agrees, that no study is necessary to conclude that many women [emphasis mine] would be upset, embarrassed, and even concerned for their safety if a man used the public restroom designated exclusively for women. Concerns about privacy, safety, and propriety are the reason that gender specific restrooms are universally accepted in our society.” The district court and court of appeals concurred that the former bus driver’s “male genitalia” and status as a “biological male” would make it impossible to “accommodate her bathroom usage because UTA drivers typically use public restrooms along their routes rather than restrooms at the UTA facility,” and both courts thus ruled that her termination should stand unless she were to pursue sex reassignment surgery.\(^5\)\(^7\)

In fact, feelings of violation on the part of cisgender employees could also be precipitating factors in bringing cases revolving around transgender issues to court. When a few female employees observed the plaintiff in \textit{Goins v. West Group} using the women’s restroom, they felt a sense of “uneasiness about sharing their restroom with a male” and asked their supervisors to intervene. Trying to diffuse the potential hostile work environment claim on the part of the concerned employee group, the director asked Goins to henceforth use a single-occupancy
restroom in lieu of the communal women’s room. Courts, too, tended to prioritize the indignation of cisgender workers at the very presence of transgender bodies in workplace restrooms over the deleterious consequences that might result for those same transgender employees. Several cases even took the imagined specter of outrage as a legitimate justification for employers to not hire transgender employees or to discharge them. In other words, “the impact on other employees as to the bathroom use” of transgender workers, as the opinion in Doe v. City of Minneapolis (2002) described it, was critical to shaping judicial outcomes. For instance, the defendant in Sommers v. Budget Marketing (1982) successfully leveraged their claim that “a number of female employees... would quit if Sommers were permitted to use the restroom facilities assigned to female personnel,” as did the defendants in Glenn v. Brumby (2010), who persuaded the court nearly three decades later that a person “with male genitalia using a women’s restroom does present... an increased litigation risk” and that “avoiding the costs of lawsuits, even meritless suits, is a rational legitimate government interest.”

Cases about restroom violations, then, revolve around many of the same themes as cases about bathroom availability and access do. In the broadest sense, judicial decisions configure restrooms as critical sites through which gender inequities in employment can be and are promulgated. The ways in which restrooms contribute to that inequality are not restricted to material disadvantage; instead, restroom facilities, the policies that govern them, and the bodies that enter them instill feelings in workers of different genders about who is welcome, who is respected, and who is valued in labor settings. Additionally, when lawsuits are filed about what sorts of bodies are allowed in or near restrooms, courts configure these affective reactions as central components of their decision-making processes. However, unlike the two categories outlined in previous sections, opinions in which litigants take issue with what they perceive to be
bodily restroom violations are exceptionally apt to rely on justificatory logics of inherent gender
difference. The assumption underlying so many cases is that female and male bodies are clearly
and incontrovertibly distinctive, and to have a space “set apart for nudity,” as *Gatena v. County
of Orange* (1999) put it, that does not keep those different kinds of bodies – or, perhaps more
accurately, different kinds of genitals – separate from one another is a personal violation of the
most serious degree.

**Discussion and Conclusion**

In “Believing Is Seeing: Biology as Ideology,” sociologist Judith Lorber outlines a
fundamental premise about the relationship between gendered bodies and the social organization
of gender: dichotomous differences between female and male bodies are not a physiological
certainty; rather, the social organization of gender itself is the source of perceptions that
embodied differences are biological rather than ideological in nature. As she writes, “Gendered
people do not emerge from physiology or hormones but from the exigencies of the social order,
mostly, from the need for a reliable division of the work of food production and the social (not
physical) reproduction of new members.” And in keeping with that observation, the exigencies
of the social order in legal disputes over the availability of and access to workplace restrooms –
as recounted by the litigants enmeshed in such disputes – do indeed help to congeal a particular
constellation of beliefs about the inherently-gendered character of bodies and the inherently-
affectionate character of gendered privacy into the fabric of contemporary social life. But as my
analysis of federal case law in this chapter also reveals, that institutional work of defining what
gendered bodies ought to do and what violations of gendered privacy ought to feel like is not
necessarily an unflagging engine of regressive gender ideologies or of persistent structural inequalities. While the gender order does tend to reproduce itself in the sphere of workplace discrimination litigation, there is also ample evidence in the published opinions which result from such contestation that the meaning of gender, privacy, bodies, and beyond is a site of continual and creative negotiation on the part of the federal courts—even when the impetus for filing suit is the seemingly marginal site of workplace restrooms.

Such findings also have multiple implications for the sociological literature on gender and legal institutions. One refines the ample volume of work in the field demonstrating that the decision-making work of legal institutions – especially courts of law – has long been an especially potent site of the social construction of gender in the United States. Like Tey Meadow’s empirical work on the institutional production of legal gender classifications for transgender litigants in federal and state courts or Yvonne Zylan’s theoretical work on the ways in which gendered bodies function as a base for the juridical regulation of sexuality, I find that judicial institutions are crucial settings in which the boundaries of “female” and “male” are worked out, the relationships between those categories are delimited, and the consequences of membership in one or the other category are specified. But rather than finding that the law coercively deploys cultural and institutional logics which “ossify outdated concepts of ideal ‘men’ and ‘women’ and of normative masculinity, femininity, and sexuality,” I find that the litigants in my sample of federal case law are also active and engaged participants in such processes. In particular, although many published opinions about sex discrimination, sexual harassment, and privacy violations alike in workplace restrooms invoke and promulgate abstract ideologies of inherent gender difference, many more rely solely upon the embodied emotional responses of litigants themselves to perceived gender violations in order to justify their conclusions. Thus, while the
courts I study tend to keep the normative foundations of the gender order intact as they do so – for instance, finding the embodied comfort of cisgender litigants more important than the comfort of transgender litigants or confirming that women ought to be more discomfited by privacy violations than men – there is also an element of agency at the core of the legal production of gender, one through which litigants themselves participate in that institutional process.

The second implication extends the influence of affective considerations beyond the sphere of litigation itself, as I suggest that gender, too, is an affective matter. While an emotional response to a problem with a workplace restroom was never sufficient for any of the federal courts in my sample to decide in favor of a plaintiff, the presence of such embodied, affective experiences nonetheless functioned as compelling evidence that some crucial dimension of gendered workplace experience had gone awry. At a more abstract level, then, the legal institutions in this chapter suggest that to experience gender is to experience one’s body in relation to other bodies—with all of the affective sensations and emotional residue such interactions entail, whether those interactions are positive or, as is more often true of litigation over workplace restrooms, negative. This “felt sense” of the body, as feminist philosopher Gayle Salamon refers to it, is simultaneously material, ideational, and social: it involves the physical matter of the body, invisible internal perceptions, and the influence of other social actors and social institutions on “not only our knowledge of our bodies but our feelings in them as well [emphasis hers].” But my work in this chapter also goes one step beyond confirming that individuals do experience gender in as deeply embodied experience of sensation and emotion, as it also finds that courts of law arbitrating conflicts over workplace restrooms institutionalize that felt sense of the body into the regulatory structures within their respective purviews. In doing so,
they are thus institutionalizing not only normative visions of gender and privacy into the law, but moreover, they are also institutionalizing a normative vision of what it means to viscerally and emotionally experience being a gendered body in the first place.

That process of institutionalization, then, feeds the third implication of this chapter’s analysis: because the authority of the law extends far beyond the walls of the legislative floor or courtroom into countless other institutional settings, the understandings of gender generated within legal contexts have an extensive influence on the subsequent meaning and institutional consequences of gender. In part, such institutional inertia operates within the field of law itself, as the precedent established in previous jurisprudence informs the making of legal decisions in the present. But in part, that same inertia exerts an influence which extends far beyond future litigation. Instead, as Pierre Bourdieu observes, “Law consecrates the established order by consecrating the vision of that order which is held by the State,” and moreover, “by proclaiming orthodoxy in the name of and to everyone, confers upon” that vision “the practical universality of that which is official.” Put more simply, legal decisions in and of themselves carry forward with them an unusually persistent form of institutional legitimacy, one that permeates the numerous other institutional contexts within the purview of a given set of regulatory structures. When courts of law arbitrate conflicts over the immediate and pressing issue of restroom access in American workplaces, and they use understandings of gendered experience as deeply affective and embodied to do so, they are – by extension – involved in imbricating a particular vision of gender into future lawmaking efforts, the everyday decision-making work of other organizations, and the architectural environment alike. As such, even as courts of law actively and continuously negotiate cultural ideologies related to gender, bodies, and restrooms, the results of such processes have the appearance of solidity and finality. In turn, that appearance of solidity and
finality makes the pursuit of any alternatives or challenges to those results remarkably difficult to sustain—including the degendered restrooms in the analytic crosshairs of the remainder of this manuscript.
Chapter 4

Transforming the Toilet

“The open dormitory didn’t solve any problems. In fact, it created new problems.”

Betsy Wade, “Open Dorms and Co-ed Bathrooms”

*The Wall Street Journal*, October 9, 1973

In the spring of 1970, Harvard University and Radcliffe College embarked on a bold experiment: an exchange in which one hundred fifty Radcliffe students and one hundred fifty Harvard students would swap housing arrangements, live in coeducational dormitories, and share residential bathrooms for a single semester. Following “unanimous approval of the faculty,” the two institutions became the most recent schools to adopt a mixed-gender living scheme that one *Wall Street Journal* article described as “the biggest thing in college dormitories since the hotplate.” In part, Harvard faculty and administrators approved coeducational housing as a response to similar, increasingly-unavoidable pressures from other institutions. Elsewhere in the Ivy League, more and more previously all-male institutions were admitting their first-ever pool of female applicants, and Harvard and Radcliffe were themselves enmeshed in negotiations about when and how to merge into a single coeducational university in the coming years. The success or failure of coeducational housing was thus understood “to have a significant bearing on plans for a full, permanent merger.”

But the national trend toward coeducation was not the only rationale motivating the Harvard faculty’s approval of a mixed-gender housing program. Much more mundane considerations, such as enabling undergraduate men and women to mingle with one another serendipitously – but without amorous trappings – also precipitated administrative interest in the new venture. As the head of one
of Harvard’s merger committees reported, the new housing exchange would allow “Harvard men who would just like to talk to a Radcliffe woman in a common room or taking a walk along the Charles” to do so without having to use “the only apparatus” currently available to him: asking her out on a date. After all, he added, “The date carries with it subtle but clearly palpable expectations as to how one should behave,” and those expectations would undoubtedly “interfere with the originally quite simple expectation” of cultivating a friendship across gendered lines.

Harvard and Radcliffe students themselves also welcomed shared dormitory arrangements for precisely those platonic reasons, though clear gender differences abounded in the details of each group’s appreciation for their newly-shared spaces. Harvard’s male students were particularly taken with the straightforward improvements to their residence life which women offered, praising the “improved housekeeping” in their halls and their newfound proximity to “excellent sources of classroom notes at all hours.” Radcliffe’s female students, on the other hand, welcomed the opportunity to convince “the Harvard men” to rethink such tired gender stereotypes and see them as worthy intellectual colleagues rather than “supermachines.” More importantly, they perceived the long-standing physical isolation of the Radcliffe dorms as not only “socially undesirable” but, more importantly, as a tangible impediment to their academic development. As such, coeducational dormitories promised Radcliffe students the possibility of tapping into “the intellectual advantages of the Harvard house system”—and thus the possibility of achieving true educational equity with their male counterparts.

Despite these differences in perspective, Harvard men and Radcliffe women were nonetheless united in finding the new dorms to be much more “natural,” “normal,” and “like home” than conventional gender-segregated housing arrangements. And outside of Cambridge, students at the many other institutions of higher education throughout the United States experimenting with
coeducational spaces in the early 1970s described their new housemates in similarly familial terms. One female student at Wilmington College found that her foray into coeducational living was analogous to living with “a whole bunch of brothers,” and a male student likewise noted that his dormitory experience helped with “perpetuating relationships” with women—“not sexually,” he carefully added, “but as friends, brothers and sisters.” Although many parents worried that such appeals to family values were a thin veneer, one beneath which the “panty-raids and Saturday afternoon open-houses” which they experienced in their own college days were now omnipresent, students and university staff alike stressed that sexual activity was genuinely no more or less rampant than before gender integration. Indeed, as one publicist from Brown University put it in his public rejoinder intended to quell such parental fears: “There wasn’t any more or any less fooling around than there used to be.”

Shared bathrooms, however, were met with much less enthusiasm. One critical dimension of ensuring that the faculty would favor the Harvard-Radcliffe housing exchange was an administrative condition that the newly co-residing students would continue to have their most private residential spaces separated by gender. For the first round of coeducational housing, then, female Radcliffe students “could easily be placed anywhere in the three houses” that Harvard offered, because Harvard housing was “arranged in self-contained suites, each with its own bathroom.” In contrast, because “such suites” did “not exist at Radcliffe,” the Harvard men had to be assigned to living quarters “in separate corridors in the South, North and East houses.” At other universities, too, mixed-gender bathrooms remained largely off the table even as coeducational dormitories multiplied dramatically. One staff member at Indiana University’s office of residence life determined that “70% of some 315 colleges had some type of coed dorm by 1971, compared to 51% of 376 institutions in 1967,” but “shared bathrooms” had only “come to 15% of the campuses.”
researchers “didn’t even consider” counting shared bathrooms because of their rarity. So while students at Harvard, Radcliffe, and beyond were enjoying the opportunity to challenge residential gender boundaries for the benefit of men and women alike, common bathrooms remained unmistakably verboten.

In fact, even when Harvard and Radcliffe abandoned that policy the very next semester and incorporated mixed-gender bathrooms into coeducational dorms, students bristled at the loss of gender-separated bathrooms. Although some recounted that managing shared bathroom space was as simple as “holler[ing] before you go into the shower,” many others were nonplussed at the substantial “inconveniences” that resulted. For instance, one Harvard student quipped that he could not “leave his razor in the bathroom overnight,” because he found it “dulled by female bathroom mates using it to shave their legs.” And because shared facilities were largely relabeled without being renovated, Radcliffe women invented new roles for the “exotic” plumbing fixtures “built originally for men.” Their creative repurposing turned urinals into racks “for hanging your laundry over,” so that their male housemates would cease using them as intended. The net effect, according to one dean, was that once the novelty of shared space had worn off, students began to have “second thoughts about sharing bathrooms.” “It was a cool thing at first to have shared bathrooms as an experiment,” she offered, “but next year the students wanted the dorm restructured in separate suites, to allow separate bathrooms.” And perhaps most telling of all was the onslaught of complaints about shared restrooms to the college psychiatrist, whose take on such bathroom-related distress was surprisingly straightforward: “You know, these kids are not as cool as you think they are.”
Background and Overview

Between the middle of the twentieth century – when the events opening this chapter originally unfolded – and the turn of the twenty-first century, the increasing popularity of coeducational housing and mixed-gender residential restrooms were just one of a number of dramatic transformations to gender in the realm of American higher education. In terms of demographic shifts, colleges and universities expanded their reach to accommodate unprecedented numbers of young women, and those women came to outpace men in their rates of college enrollment and completion—as well as on many metrics of academic achievement. In terms of changes to cultural values, while young women once attended college as an extension of their broader scholastic preparation to be an educated wife and mother, they increasingly enrolled in post-secondary institutions to further their own self-development and prepare for careers in paid labor markets. And in terms of the law and other bureaucratic regulations, the absolute rule of in loco parentis – a doctrine which granted colleges and universities the discretion to function “in the place of a parent” to mold the moral character of their students – dissolved. In its stead, federal laws geared toward educational equity, like Title IX of the Education Amendments of 1972, began to take hold, as did a wide range of innovative campus-level policies intended to facilitate more opportunities for the exercise of freedom and choice for undergraduate students. As a result of these and related transformations, many institutions that had long resisted moving away from a single-sex model became coeducational, and women increasingly enrolled in majors and participated in extracurricular activities that were once the sole province of men—thus inducing a need for colleges and universities to transform their housing arrangements, athletic facilities, student health centers, and other campus spaces to accommodate the evolving social organization of gender in higher education.11
But at the start of the twenty-first century, the convergence of such demographic, cultural, and regulatory transformations enabled an even more radical change to take hold of the spatial organization of gender on American college campuses: the rise of gender-inclusive housing and restrooms. Primarily conceived of as a means of allowing campuses to better meet the needs of gender and sexual minority students—especially those identified as transgender or gender-variant—such facilities completely remove gender designations from campus spaces traditionally separated on the basis of gender. For housing, gender-inclusive offerings typically allow students to share sleeping quarters regardless of their respective gender identities or legal sex categories, and for restrooms, gender-inclusive offerings typically allow access to all individuals—again, regardless of their gender identities or legal sex categories. And much like the evolution of coeducational dormitories from an unusual institutional experiment to the dominant paradigm for undergraduate residence life in the second half of the twentieth century, gender-inclusive facilities have shifted over the last fifteen years from existing at a mere handful of colleges and universities to being offered at over 150 institutions of higher education as of my data collection for this chapter in 2014—a total that has again grown larger since then. (See Figure 2.)
In this chapter, I investigate the emergence and ongoing diffusion of these innovations, focusing in particular on the processes through which decision-makers at American colleges and universities with gender-inclusive facilities recall accomplishing their institution’s own process of implementing gender-inclusive spaces. To do so, I draw on data collected from 64 semi-structured interviews and 42 informal interviews with administrators, LGBTQ center directors, residential life staff, facilities directors, and other institutional decision-makers at a range of colleges and universities throughout the United States to analyze the shifting cultural logics involved in accomplishing such organizational work. In keeping with the topical focus of the rest of this project, I focus the bulk of this chapter on accounts of de-gendered restroom spaces. This includes the more private restrooms provided within undergraduate residence halls, such as those featured in the anecdote which opens this chapter, but it also encompasses the more public restrooms available in other campus buildings and spaces. However, because gender-inclusive housing and gender-inclusive restrooms have often come to college campuses as inseparable halves of a common institutional project, I also collected

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**Figure 2** – Count of Colleges and Universities Publicly Offering Gender-Inclusive Housing and Restrooms by Year, 2003-2015.
interview data about gender-inclusive housing. In addition to allowing me to speak to my interview respondents in a way that signaled my familiarity with such issues, that methodological choice also enabled a built-in comparative case: one that allowed me to analyze when my respondents’ narratives elided housing and restrooms into a single decision-making category and when they distinguished restrooms from other types of campus spaces—boundary processes which yielded both surprising empirical findings and important theoretical implications for this chapter.

As I will show, most colleges and universities in the last fifteen years initially approached the possibility of gender-inclusive spaces with a high level of trepidation. In some cases, my respondents described such anxieties as intimately connected to uncertainty about how such spaces might impact safety and personal privacy for individual students. Much more often, however, they emphasized uncertainty about the legitimacy of such spatial transformations. More specifically, concerns about how their institution might appear to audiences outside of the campus community – and the risk that gender-inclusive housing and restrooms might cast it in a negative light – played a salient role in their narratives. Moreover, moral beliefs about gender and sexuality were central to such narratives. Many of the imagined threats outlined in decision-makers’ discourses revolved around the risks of being a college or university which sanctioned heterosexual cohabitation or put female students at risk of sexual assault. But again, such concerns were more reputational than individual: especially for the first institutions to discuss the possibility of gender-inclusive campus spaces, decision-makers recalled that early conversations with their colleagues about facility changes focused heavily on the risks associated with being an institution that took too many liberties with gender and sexual mores. But above all, decision-makers recalled worries that, if taking such risks did beget imagined reputational fallout, their institution’s standing in comparison to other institutions of higher education most like their own would suffer lasting damage. Negotiating the possibility of gender-inclusive
housing and restrooms, then, was neither solely about keeping commensurate with comparable institutions nor solely about respecting moral interdictions about the maintenance of gender and sexual boundaries; instead, such boundary processes at multiple levels of analysis unfolded in tandem with one another.

Yet the same reputational forces which produced initial hesitation around gender-inclusive facilities have also been an influential impetus for institutional change. In particular, rather than viewing gender-inclusive facilities as a threat to their students or their institutional standing, decision-makers from the first colleges and universities to successfully implement gender-inclusive spaces recalled framing such spaces as an asset, one which would benefit more than gender and sexual minority students by creating an inclusive campus climate for all students and one which would allow their institution to broadcast a reputation for being LGBT-friendly. And as the “diversity imperative” in elite admissions – that is, what sociologists Mitchell Stevens and Josipa Roska define as “the contemporary expectation that academically excellent schools also be racially heterogeneous”14 – has expanded in recent years to include other dimensions of undergraduate campus life and a broader definition of diversity, decision-makers also described how gender-inclusive housing and restrooms slowly evolved into tangible evidence for public claims of membership in high-status categories in the field of higher education. But the cognitive categories involved in such shifts are far from mere imagined institutional communities. Instead, my respondents described their interactional connections with decision-makers at other colleges and universities as vital resources for helping them plot a course of action, and more importantly, they leveraged imagined institutional communities to convince other decision-makers on their respective campuses to approve gender-inclusive spaces. As such, I argue that interactional flows of boundary strategies are an important
means through which innovations considered deviant can become normalized—and thus through which institutional change with respect to gender writ large becomes possible.

However, such emotional and interactional labor often ran into a wall—quite literally—when decision-makers attempted to translate administrative approval of gender-inclusive facilities into substantive institutional action. Even when decision-makers themselves, their colleagues in other offices across the college or university, and other bodies responsible for institutional governance held the most progressive of intentions, a history of architectural choices (such as campus design standards of their institution’s own creation) as well as a litany of contemporary constraints (such as state building codes) converged to make the reduction of spatial gender segregation on their respective campuses a distinctive challenge. For housing and restrooms alike, the material realities of extant campus architecture thus impeded the speed with which gender-inclusive spaces could be actualized as well as the eventual scope of such spatial offerings. Yet restrooms also occupied a unique role in such narratives: while such spatial constraints were often readily navigable in the realm of housing, my respondents stressed the infrastructural difficulties of affording the necessary renovations associated with gender-inclusive restrooms. As a result, only a certain subset of institutions with ample financial resources at their disposal could do so in a way that exceeded an easily-attained minimum—and thus provide tangible evidence for claims of institutional diversity, equity, and inclusion. I thus conclude that innovations like gender-inclusive restrooms, ones geared toward lessening gender-related inequalities on individual college campuses, ultimately reproduce categorical inequality across those campuses, as those institutions of higher education ablest to comprehensively add degendered restroom spaces to their buildings are overwhelmingly those institutions already atop status hierarchies in the field of higher education.
“What Makes an Institution Elite Is an Unwillingness to Change”

Innovation is a risky proposition for institutions of higher education. Like other formal organizations, colleges and universities exist neither in total isolation from one another nor solely within localized networks of exchange; instead, they operate within a much wider-ranging field of organizations populated with other, similar organizations. That institutional environment, in turn, exerts a powerful influence on how and why each individual organization undertakes particular kinds of action. For sociological theorists of organizations, what Paul DiMaggio and Walter Powell call the “legitimacy imperative” – that is, the requirement that an organization’s actions be perceived as culturally legitimate among other organizations – has long been a central force thought to anchor such contextual influences. As such, rather than being geared toward highly-rational organizational goals such as maximizing efficiency or operating in a solely self-interested capacity, such theories reveal that an organization’s behavior is both deeply cultural and heavily contingent on what types of organizational behavior are thought to be most reasonable in their broader field. Consequently, colleges and universities change constantly in response to the ever-evolving field of higher education, but they do so in ways that maintain their congruence with dominant cultural ideologies about what a post-secondary educational institution should or should not do. As a result, when colleges and universities decide to implement especially innovative policies or practices, that choice to deviate from extant institutional norms and values can be a perilous undertaking.¹⁵

For my respondents employed at the first cadre of colleges and universities to attempt to formally adopt gender-inclusive facilities, then, the novelty of such campus spaces posed a
substantive challenge. As one example, when I asked a particular LGBTQ center director to outline the most pressing obstacles they faced when the possibility of gender-inclusive facilities arose on their campus, that director replied with a comprehensive list of hurdles—which, when numbered in my initial round of transcript coding, totaled over two dozen. This led me to ask a follow-up question about the single, most salient obstacle to implementing gender-inclusive facilities, to which they responded:

The novelty, I think. You have to keep in mind that, back in [year] when housing first became an issue that our students were raising, there was no template. With our discrimination policy, I called up [name] and [name], who are my counterparts at [Research1] and [Ivy4]. But we were one of the first schools in the nation to try to make this happen for our students, and that made answering questions from all the different offices involved about what the program should look like and how it might affect us long-term really quite challenging. (Public / Research / Northeast)

And while such a long list of obstacles was an especially striking outlier when compared to my other interview data, the clarification that followed was a recurrent theme. “If I’m being totally forthright,” quipped a different residence life director after a similar question, “The biggest challenge was convincing our administration, which was not enthusiastic about the possibility of being one of the first institutions in the country to move away from the request-based model of inclusive housing. [Name of the LGBTQ center director] and I heard a lot of ‘no’ before we turned that corner in [year] and started to hear a murmur of ‘maybe.’” (Public / Research / Northeast)

But the source of such hesitation was not merely a concern with the legitimacy of spatial transformations in an abstract sense. Instead, my participants emphasized that their uncertainties
related to gender-inclusive facilities were actually uncertainties about the odds that palpable fallout from facility changes might result. In some cases, my discussions with administrators about their recollections of such risks were vague—about the cause of concern, about the outcomes which might ensue, and about the individual or departmental source of institutional reluctance. As one administrator said, “In the absence of reliable data, which is so often the situation with a new program, it’s hard to say yes. There are too many unknowns, and if anything goes wrong, that’s on us. On the university.” (Public / Research / South) But in other interviews, decision-makers recapitulated their institutional calculus in much more concrete terms. One residence life director described concerns about individual students on their campus when inclusive spaces became a topic of administrative discussion:

There was a great deal of hubbub among our students and our administration alike about what could happen... The concern was that coercive situations might come up. Heterosexual students pressuring their partners to live together, students being trapped in a roommate situation that no longer felt safe, and worst of all, an increased incidence of sexual assault. (Public / Research / West)

And for one administrator, keeping true to the stated mission of their college was fundamentally intertwined with initial hesitation to implement gender-inclusive housing:

We take our responsibility as an educational institution to be about much more than exposing our students to academic knowledge. The heart of a liberal arts education is civic-mindedness, and we take that to mean building a whole, ethical person. While an important part of that is cultivating open-mindedness and embracing diversity, an equally important part is developing a moral compass. As such, we take great care in assessing whether and how to endorse provocative new ventures. (Private / Teaching / Northeast)
Across my interviews with various types of respondents from early-adopting institutions, however, the single most frequently-mentioned – and most emphatically stressed – obstacle to facility change was the risk of one negative consequence in particular: damage to the reputation of the college or university. In fact, such pressures were so potent that a small handful of respondents whose institutions were among the first in my sample to initiate a formal process of proposing gender-inclusive facilities found themselves in a lengthy process of delays and rejections, such that final approval and implementation occurred several years later. In such cases, a recurring theme was institution-wide sympathy for what one administrator called “the intractable and persistent student movement to get gender-neutral housing in place” that, while genuine, was insufficient to override concern with preserving what they called “the university’s character.” That same administrator then went on to recount how their institution’s board of trustees “was supportive in principle” but “refused to fund the necessary renovations when presented with a project plan,” thus thwarting “any possibility of moving forward that academic year.” When I pushed for more details, I was met with a straightforward summary: “Gender-neutral scares us because it scares them, and it scares them because anything new – anything new that might damage the [institution] name – is something to be feared.” (Private / Research / Northeast) In another, parallel account, an LGBTQ center director echoed similar concerns – albeit with a more subtle approach: “The organization wants to do the right thing, when it comes to supporting our queer students, faculty, and staff, but doesn’t always know how,” they opined, then went on to add, “At that time, no one knew how, at least in the context of a major public university like ours, and there was a lot of worry about doing the integrity of the organization – and, by extension, our students – a disservice if we got things wrong.” (Public / Research / West)
In fact, far from an apprehension unique to institutions on the cutting-edge of conversations about inclusive facilities, participants from institutions who began considering facility transformations in later years also explained how that very same specter of a damaged reputation inflected their own decision-making processes. In some cases, such accounts echoed the continued difficulties of navigating the waters of uncertainty, risk, and reputation—even amidst a rising number of housing and restroom transformations at other colleges and universities. As one LGBTQ center director from a midstream-adopting institution outlined, that fraught intersection of organizational concerns simply evolved to map onto a different timeline:

We charted things out—you know, this approach is working well here, that approach is working well there, that sort of thing—but those data points were limited, and that was a real problem. We kept being asked about what gender-neutral housing would look like long-term, what this might do to the university’s image over the next five years, if we would look back and find this to be a risk we shouldn’t have taken. (Public / Research / West)

In other cases, respondents from midstream- and late-adopters recalled a striking degree of certainty: that the repercussions for implementing inclusive spaces suffered by earlier-adopting colleges and universities served as a cautionary tale, and that the best course of action was to heed that warning. As one residence life director from a later-adopting institution outlined, “We put off an official policy for quite some time, because we witnessed some very public, very vitriolic backlash to gender-neutral programs happen at other universities. We didn’t want the same to happen here at [institution], so we were very cautious and very deliberate about how we moved forward.” (Private / Research / South)
But underscoring such recurrent discourses of risk and reputation was another crucial mediating factor: the unique character of moral beliefs about gender. In keeping with several decades of empirical sociological research finding that clear social boundaries between the categories “female” and “male” are largely inviolable at all levels of empirical analysis, several of my participants specifically ascribed their institution’s hesitance around gender-inclusive facilities as hesitance to defy or erode those cardinal categorical boundaries. (A few respondents even cited such academic work in their justificatory accounts.) This was the case with one LGBTQ center director who noted, “If you ask me, the issue here is the intractability of the gender binary and all the cultural baggage that comes with it, and I think that it’s still very scary to a lot of people to think about challenging or contesting the binary in any way.” (Private / Teaching / West) Another LGBTQ center director from a similar institution recalled a similar account when describing the work of a student organization on their campus:

[Our student group] was absolutely and irrevocably dedicated to breaking down the gender binary everywhere on campus, and while I did – and still do – fully support the spirit of their challenges to the status quo at [our college], their attempts at garnering bathroom and dorm changes ended up being lost amidst their quest for ‘queering’ and ‘degendering’ everything. Our administration just couldn’t wrap their heads around it. (Private / Teaching / West)

While such targeted assertions were somewhat unusual in my sample, the language of gender-related anxiety underscored much of the opposition which my respondents recalled to gender-inclusive housing and restrooms. For instance, one administrator enfolded such an implication within a rhetorical question: “One of the sticking points for us at the administrative level,” they recalled, “was not extending gender-neutral offerings to our first-year students. Older students
were one thing, but how would we tell parents when they bring their children for orientation that yes, we will allow their daughter who’s never lived away from them to live with a male student?”

(Private / Research / Midwest)

And in turn, talk of gender was often an entry point to another set of sweeping categorical concerns—ones about sexuality. Connections between moral beliefs about gender and moral beliefs about sexual conduct occupied an especially prominent role when I asked participants to enumerate the specific risks or negative consequences which they or their institution believed could result from adopting inclusive facilities. For instance, after one LGBTQ center director blithely ended a series of remarks about the tortuous process of obtaining administrative approval for any sort of physical transformation to campus buildings with, “Plus, there was that whole other issue of gender,” I asked for more details. They then elaborated:

Even though we had been seeing increased support for our LGBTQ students throughout the university in other spheres, gender-neutral housing became an impassable line in the sand for many individuals who were otherwise very supportive and very proactive about creating an inclusive, LGBTQ-friendly culture in their departments or centers.

Interviewer: Can you be more specific about what you mean by ‘an impassable line’?

Sure. So, for example, some of the people who were extremely influential in promoting [LGBTQ Center] programs to their students, pushing for language about sexual orientation and gender identity in our non-discrimination policy, and such began expressing reservations to me about what they perceived to be a huge misstep in authorizing a gender-neutral housing program. The possibility that men and women might be able to share a dorm room was a step too far—societal norms about gender and privacy was [sic] the line that couldn’t be crossed. (Public / Research / West)
Disproportionately, however, such trepidation was not applied equally to all students, regardless of their gender category. Instead, consistent with Kristen Schilt and Laurel Westbrook’s work on media discourses about transgender issues,18 anxieties about the crossing of sexual boundaries tended to be oriented toward shielding female students from sexual violence: “With our location being in such a high-traffic area, and with individuals from outside the university community constantly moving around and through our buildings,” recalled one LGBTQ center director when describing their university’s decision to “un-gender as many single-stall restrooms as possible” in their academic buildings, “one of the worries was that there would be targeting of our female students, and so what started as trying to get a form to order new signs escalated into a much bigger issue of campus security.” (Private / Research / Northeast)

Yet what made the intertwining moral troubles posed by gender and sexual category violations especially pernicious was the meaning of such violations within a particular institutional category. Such conceptual connections manifested in a wide variety of forms. Some focused most closely on geographic factors. As one LGBTQ center director from an institution which, at the time of our interview, had declined multiple requests on the part of various student groups to pilot gender-inclusive housing, explained:

[City name] has a very liberal political orientation, and that goes for the university community just as much as it does our surrounding geography. But at the end of the day, [state name] is still a very conservative state, and our status as a public university in that broader context exerts a substantial influence on what we’re able to provide... we’re a few years off – at least – from being able to have housing seen as a need that doesn’t take away from or endanger our student body as a whole. (Public / Research / South)
Others drew on boundaries related to the type of institution in which a decision-maker was enmeshed: public versus private, teaching-oriented versus research-oriented, undergraduate-only versus Master’s- or doctorate-granting, and so forth. As one administrator explained, “As a public, state-funded university, we have to engage with the diverse system of values and priorities that come from the entire state of [state]. That diversity is often a rich and wonderful resource for our students, faculty, and staff, but it also creates a situation in which we have to be very careful about when, how, and why we take on projects that might be controversial.” (Public / Research / Midwest)

The most potent consideration, however, was an institution’s standing in the broader field of higher education. Indeed, embedded in my many of my respondents’ accounts was a sense that the true peril of implementing gender-inclusive housing and restrooms was not a tarnished reputation in and of itself; rather, it was the loss of social status that might derive from that diminished repute. For institutions already low on the totem pole of higher education status hierarchies, gender-inclusive facilities threatened their already-precarious position. As one administrator recalled:

One of the transformations I’ve witnessed during my time as [previous position] and now as [current position] is an increasing responsibility on us to be prepared to justify every choice we make at this university to our state lawmakers. And for us, because we don’t have the stature of a [Flagship6] or a [Research3] to point to as a rationale, we approach this sort of thing with a great deal of caution. Restrooms especially. For too many people around the university, it seemed like a trivial thing that could get blown way out of proportion, and we couldn’t afford to be the college hemorrhaging state funds on ‘dangerous’ unisex bathrooms. (Public / Teaching / South)
And at the other end of the spectrum, respondents from higher-status institutions described their own concerns about the precarious nature of their advantaged position. As one administrator explained, “Part of what makes an institution elite is an unwillingness to change. That reality means that the first answer to any sort of request for a new program – especially a controversial one – defaults to no. But if the possibility does open up, the final answer still comes down to that same question: is this something that an elite university should be doing?” (Private / Research / Northeast) And as another administrator pointedly asserted, those status distinctions were of paramount importance in shaping all manner of possible campus innovations—including inclusive facilities: “Our reputation precedes us in a positive way, and any risk of damage to that is a serious concern. Prospective students, alumni donors, potential faculty hires all have an image of [institution] in mind: what kind of institution we are and what kind of institution we are not. If we lose that reputation, then we lose those resources, and if we lose those resources, we lose our place among the top liberal arts colleges in the United States.” (Private / Teaching / Northeast)

The concerns about legitimacy and reputation that inflected my respondents’ narratives of early hesitation related to gender-inclusive facilities were thus, at their core, concerns about two intersecting sets of categories and boundaries: those related to gender and sexuality and those related to organizational groupings and social status. Indeed, neither attention to the influence of cultural ideologies of gender nor to the status dynamics in the field of higher education alone can sufficiently capture how organizational action is shaped in my sample. In terms of the former, many of the apprehensions which my respondents recalled were not merely anxieties about challenging the gender and sexual order in general terms; rather, they were more narrowly focused on what it meant for their college or university – or colleges and universities like their own – to violate deep-seated cultural ideologies of gender and sexuality. And in terms of the
latter, the decision-making on the part of each of the colleges and universities described by the respondents in my sample was not an unthinking mimesis of the choices made at other institutions; rather, pressures for consonance with other organizations systematically intersect with pressures for consonance with broader moral interdictions about how colleges and universities should handle controversial issues related to gender and sexuality. For much of my interview sample, then, the risks associated with innovative boundary violations marked the limits of acceptable organizational deviance: challenging institutional norms could be acceptable, up to a point, but challenging ones scaffolded by deeper cultural ideologies – especially ones pertaining to cultural categories as consequential as gender – was a path which many of the decision-makers in my sample described as too risky to pursue, even when a number of successful templates were already in place.

“The Logical Next Step, Given Our Progressive Reputation”

Yet the very same boundaries which can dissuade novel organizational possibilities can also serve as a resource for change. Recent turns in the sociology of organizations have begun to more carefully investigate such relationships between categorical boundaries and boundary-challenging organizational practices. New theoretical contributions from such work emphasize that the finer-grained categories to which an organization belongs – whether imposed by external forces, like the Carnegie Classification of Institutions of Higher Education, or derived from within organizations themselves, such as a college or university’s reliance on either private contributions or public funding for the core of their operating budget – comprise an important part of a particular organization’s identity and, moreover, determine how external audiences interpret that organization’s actions. In particular, such work has challenged long-standing contentions in the
literature on organizations that the violation of norms in the institutional field automatically results in a loss of social status; instead, it finds that category membership occupies a complicated mediating role in shaping the relationships among organizational behavior, reputation, and status outlined in the previous section. In fact, empirical evidence increasingly suggests that organizations in certain cultural categories – especially high-status ones – are actually shielded from the risk of negative consequences typically associated with violating certain types of norms, adopting normatively illegitimate products, or even explicitly eroding long-standing categorical boundaries. In other words, for organizations, one of the utmost privileges of elite category membership is being able to adopt a wide range of practices with the reassurance that outsiders will automatically and unquestioningly interpret such choices as valid.19

In keeping with such predictions, a number of participants in my interview sample offered an account of adopting gender-inclusive facilities that was surprisingly free of institutional resistance. For them, a particular set of institutional values allowed gender-inclusive housing and restrooms to flourish amidst the challenges of uncertainty and the risks of violating gender and sexual mores. As one LGBTQ center director recalled:

It was – I don’t want to say easier, but less or differently difficult, I suppose – for us, because we could appeal to one of our core values: being student-centered. The request came from the students, it was for the students, and that reality made gender-neutral palatable to individuals around the college who might not otherwise have supported it.

(Public / Teaching / West)

And for others, an inclusive campus climate was not only the goal of gender-inclusive facilities but also the source of institutional support for their introduction in the first place. As one LGBTQ center director put it:
When I started talking to my colleagues about getting gender-neutral restrooms identified in a central database and, from there, installed in buildings that didn’t have them, I took for granted that people understood the value of inclusion. We really try to embody the idea that higher education is for the people, and so it was simply a matter of explaining that this was a small change we could make that, one, resonated with our values, and two, would ensure more people felt welcome on this campus. (Public / Research / West)

Moreover, accounts of unimpeded progress toward facility transformation also differed in another, much more crucial respect: they tended to understand the various organizational categories in which their college or university was enmeshed to be a resource rather than a constraint. In fact, many of the very same organizational categories emphasized in my conversations with respondents from initially-hesitating institutions were the impetus behind a seamless adoption process in my conversations with respondents from more quickly-adopting institutions. For instance, whereas some of my respondents characterized the private liberal arts environment as “hypersensitive to change” (Private / Teaching / Northeast), others found the opposite. When I asked one LGBTQ center director about why they believed their institution was so quick to adopt inclusive housing and restrooms, they replied, “Two things: first, we’re a liberal arts college, which means we do a lot of things for our students that other institutions don’t—and we do them more quickly. But second, and maybe more importantly, we’re a private institution. When you don’t have to answer to state legislative authority, you have a lot more latitude in shaping campus life.” (Private / Teaching / Northeast)

Despite those differences, however, narratives of early support for gender-inclusive facilities also had a recurrent similarity to narratives of opposition: the implication that reputational considerations were especially strong motivators of institutional action. For both sets
of decision-makers, uncertainty, issues of reputation, and concerns about the outcome of challenging gender and sexual boundaries were central themes in my data. But for decision-makers and institutions that moved more quickly, my respondents understood failure to adopt gender-inclusive facilities to carry a much more dangerous set of deleterious consequences than the fallout that might result from challenging gender boundaries or the appearance of sexual propriety. In one such case, an LGBTQ center director which I interviewed early in my data collection process replied again and again that there was “really no resistance” to their requests to first introduce and then later expand gender-inclusive housing offerings. When I expressed my surprise at that reality and asked if they, too, were struck by how responsive their institution was to those requests, I was met with a simple, potent response: “Not at all. It was the logical next step, given our progressive reputation. That we would support inclusive housing was almost a foregone conclusion.” (Private / Teaching / Northeast) Indeed, for such participants, adopting gender-inclusive facilities was about maintaining a particular kind of reputation – such as being expressly committed to gender and sexual minority students – to audiences outside of the institution. As another LGBTQ center director offered, “We have a reputation for being one of the most LGBT-friendly colleges in the US, even compared to liberal arts schools like [LAC3] and [LAC4] and [Research5], and we value that label. Being on top of gender-neutral was an obvious choice because of that.” (Public / Research / West)

But such reputational forces – and the intra-college calculations they engendered – were far from static entities. Rather, as the decision-makers with whom I spoke described their typically “multi-year process” (Private / Research / Northeast) of navigating the novel waters of gender-inclusive facilities, their accounts also touched on two intertwining shifts in the field of higher education writ large in recent decades. The first was a move toward the expansion of
“diversity” from a label primarily used to describe the racial heterogeneity of a particular campus toward a label used to capture the wide range of demographic qualities, personal identities, and cultural backgrounds that might make undergraduate students different from one another.

Multiple administrators described such changes accelerating in the last few years, describing diversity – and its frequent counterpart, inclusion – as “ends worth pursuing for their own sake” (Public / Teaching / Northeast), ones “more and more central” the university context “in the last twenty years” (Private / Research / Midwest), and ones that “goes far beyond race—there’s gender, sexuality, cultural background, musical tastes, preferences in literature, personalities and cognitive style, and so on” (Private / Research / Northeast). For one such administrator, their institution’s overwhelming embrace of diversity was an important factor in paving the way to their adoption of gender-inclusive facilities:

Everyone – except maybe one or two people – is on board with diversity, which makes for a different conversation about social justice. There’s simply much more willingness to give programs like gender-neutral housing the benefit of the doubt, especially when it comes to making our campus safer and more comfortable for our minority students—including our gender and sexual minority students.” (Private / Teaching / Midwest)

The second shift was an increasing pressure to assess and quantify institutional performance, not only in terms of undergraduate academic progress or post-graduation outcomes but also in terms of campus climate. In keeping with Michael Sauder and Wendy Espeland’s observation that the “discipline of rankings”20 is infiltrating ever further into organizational action and decision-making, one LGBTQ center director recalled, “Everything in the last five years has become so data-driven, so what began as a relatively narrow request from a small group of students evolved into a cog in the university’s bureaucratic machine. Suddenly, this [gender-neutral housing] was
something else we could quantify, use to self-assess and as a basis for meaningful comparison to other institutions.” (Private / Research / Northeast)

What made talk of diversity, inclusion, and assessment so effective, however, was the tight linkages decision-makers perceived among such aspirations, measures of institutional performance, and the social status thought to result from reputational accomplishments. Or, as one LGBTQ center director succinctly reported, “One of the turning points for us was realizing you can’t claim to be a diverse and inclusive university if you have students having to run back to their dorms between classes to pee in a safe place.” (Public / Research / West) For decision-makers from institutions that hesitated to immediately embrace gender-inclusive facilities, then, it was not often a commitment to progressive politics or to LGBT-identified students in particular that changed their course. Rather, it was a realization that gender-inclusive facilities could be a means of publicly demonstrating a commitment to— or scoring higher on measures of— diversity and inclusion. As one LGBTQ center director described, “Gender-inclusive housing is where things were heading, but at the time, it was an opportunity for us to stake out a position as an institution at the forefront of these issues and as a leader on the national stage for what a truly inclusive public university can and should be.” (Public / Research / West) In fact, another recurring theme throughout my interview sample was the increasing availability of specific metrics related to gender and sexual diversity—and how such factors shaped administrative interest in and prioritization of gender-inclusive facilities. “The Advocate put out a list of the ‘top ten trans-friendly colleges,’” recalled another LGBTQ center director, “and that was a watershed moment for us. Everyone saw that schools like [Ivy2], [Research6], [Ivy4], [Research7], and even [Research8] were on that list, so there was a lot of asking, ‘Why aren’t we on that list? What would it take to get us there?’” (Private / Research / Northeast)
Instead of taking for granted that shifting institutional priorities and values would automatically trickle down into organically creating support for gender-inclusive facilities, though, my respondents also emphasized the interactional work involved in bringing those linkages to the attention of their colleagues. Often, such efforts unfolded across multiple offices on a single college or university campus, as decision-makers strove to convince a sufficient volume of supporters that gender-inclusive facilities were worth pursuing. One LGBTQ center director articulated such a perspective when they recalled “countless hours spent on the phone” with colleagues across their campus: “Because we’re such a small, close-knit campus, when a new issue or program is on the table, I have to make a lot of phone calls to a lot of offices,” offered one LGBTQ center director, “and I have to do a lot of explaining why that new proposal is so important. Convincing a critical mass of powerful supporters that a new project fits with our institutional mission is crucial if we want it to be a success.” (Private / Teaching / Northeast) But equally important was undertaking that contact in ways which targeted particular individuals or collectives who, by virtue of their position or their character, held a great deal of sway over institutional policy. “Most people are open to a conversation any time something new comes up, but...” offered another LGBTQ center director, before trailing off into a heavy pause. I prodded gently, “But?” “But this is [an athletic conference] school. If I really want something to happen, my first stop is with my colleagues in athletics. That’s the most powerful area of this campus. If I can get them on board, it’s so much more likely that a conversation will translate into action.” (Public / Research / Midwest)

And as my respondents talked me through their recollections of their own interactional work, another factor loomed large in their accounts: the conversations they sought out with decision-makers from other colleges and universities in their institutional networks. At times,
such inter-campus communication was prompted by intra-campus interactional work. In one such interview with an LGBTQ center director, our discussion of took a turn toward what they described as “the unique challenges of the liberal arts environment”—foremost among which was, like the LGBTQ center director quoted in the previous paragraph, “spending hours and days on the phone and doing office visits.” But as they worked to lay that interactional groundwork for administrative approval of gender-inclusive facilities, they found that they had a new set of phone calls ahead: “The first question I got from every office was, ‘What’s [LAC1 – another liberal arts college in the state] doing? What’s [LAC2 – another LAC in the region] doing? What’s happening with our peer institutions out on the east coast, like [LAC3] and [LAC4]?’” (Private / Teaching / West) At other times, however, decision-makers took it upon themselves to reach out to their colleagues at other institutions as a preemptive measure. As another LGBTQ center director remembered, “A group of students approached me and asked if it might be possible to move to a more gender-neutral housing model, like the one at [LAC6], so I made some phone calls.” When I then asked about the reasons for those phone calls, they reported being fairly certain that “gender-inclusive housing would be palatable to our administration,” especially since it would be “right at the intersection of two other things we were already doing: allowing students to live in co-ed halls with mixed-gender bathrooms, and accommodating individual students who needed housing arrangements that differed from the standard, single-sex model.” But they wanted insurance for that outcome, and thus sought out “strategies for success from a colleague who had already seen a similar program through.” (Private / Teaching / Northeast)

While some decision-makers minimized those efforts, characterizing their phone calls with language like “straightforward” or their actions as “sending a few e-mails,” others characterized such work as onerous, stressful, and deeply frustrating. For some decision-makers,
the source of such challenges was the lack of institutions in an organizational category which, in
the words of one LGBTQ center director, “counted as persuasive evidence” that their own
institution should move ahead with inclusive housing and restrooms. As they explained:

“Every single person I initiated a dialogue with asked me what [Ivy2], [Ivy1], and [Ivy3]
had decided to do about gender-neutral housing and restrooms, and just about every
single person who had a favorable response at first backed down considerably when my
response was that none of the three had yet put an official policy on the books. It was
exhausting to rehash that same response over and over again, especially as it became
more and more clear that successful launches at [Flagship2] and [LAC4] weren’t the
evidence necessary to convince the administration to move forward.”

But worse yet was the profoundly visceral toll such exhaustion took. “The hardest thing,” they
went on to add, “was dealing with the students who kept coming to my office in tears. Even when
you’ve worked with student affairs as long as I have, you can only experience that so many times
before you end up in tears yourself.” (Private / Research / Northeast) But for other decision-
makers, even when the “right” type of model institution – one usually in a prestigious category,
such as Ivy League schools or well-regarded private colleges in a school’s own geographic region
– shifted in the direction of adopting inclusive facilities, change was just as emotionally onerous
to engender. As another LGBTQ center director recalled:

“When we were still in the realm of informal talks about making small changes to better
support our trans students, our [board of trustees] was opposed to gender-neutral
housing... They felt that it was one thing for an institution like [Ivy4] in an especially
liberal part of the country to start experimenting with new housing options for their
LGBT students, or for small liberal arts colleges who pride themselves on unusually
progressive practices, but there was a lot of anxiety about how things would play out if we piloted the same sort of program here.”

When I pressed for details about how they navigated the board’s opposition, that Director paused for a moment, sighed audibly, and then replied, “Persistence. In a word, persistence. When you do this kind of advocacy work, you have to value the end game enough to keep pushing, even if the cost is yourself.” (Public / Research / Midwest)

Because such decision-makers were unable to rely upon actual institutional categories to frame their quest for gender-related spatial transformations on their campuses, they often recalled leveraging a different interactional approach: creating imagined institutional communities to convince other decision-makers on their respective campuses to approve gender-inclusive spaces. As the same LGBTQ center director who emphasized persistence explained later in our interview, a crucial turning point for their administration was “buying in” to the possibility that there “could be a future” in which investing in a pilot program for inclusive housing and restrooms might pay positive dividends. “I had been saying, ‘We can be a leader on this,’ ‘We should be a leader on this,’ for some time, but what finally resonated was changing the conversation to be, ‘We’re going to be behind [Research12] and [Research13] on this if we don’t get moving.’” Additionally, that same promise of membership in imagined institutional communities also enabled decision-makers to move closer and closer to their ideal vision for facility arrangements after an initial program was put into place. “One of the tricky things for us was having to translate what had been effective in a private, liberal arts setting to something that would be as effective in a regional, comprehensive setting,” reported another LGBTQ center director toward the end of our interview, “so while [LAC5] and [LAC3] had exactly the sort of program we were aiming for, we ended up basing our initial protocol after what had been
developed at [Regional1].” But “with each new semester,” they went on to add, “we started saying, ‘What about making sure we get an inclusive restroom in the renovations to [academic building name]?’ Or, ‘Hey, why don’t we also add a gender-neutral floor in [dormitory name]? That would make us stand out beyond what [Regional1] has.” (Public / Research / Northeast)

At multiple junctures in multiple interviews, then, my participants repeatedly emphasized the various institutional categories in which they understood their particular college or university to be enmeshed. Whether they did so in a deductive way, by placing their institution in a set of preexisting conceptual categories such as “public universities” or “private colleges,” or in an inductive way, by building categories through grouping their institution with similar schools, my participants understood the possibility of innovation to be predicated on membership in particular institutional categories. But such boundaries were as much a guide to action as they were a means of making sense of new, innovative institutional possibilities like gender-inclusive facilities. In particular, shared institutional categories were at the heart of sustained and deeply affective interactional work – via e-mails, phone calls, and in-person visits – through which decision-makers learned from their colleagues at similar institutions, used those conversations to engage in strategic forms of boundary work at their own campuses, and thus actively created support for substantive spatial change. The most consequential engine of legitimacy for making facility decisions was thus neither the prevalence of particular organizational innovations among similar colleges or universities nor the deployment of status-laden institutional categories intended to exert an evaluative influence from outside the university. Instead, the most consequential engine of legitimacy for my respondents was their own embodied work to create imagined institutional communities and spread their influence from individual to individual—within the university, among multiple colleges, and thus across the wider institutional landscape.
“The Problem Was Working Around the Peculiar Logistics”

Yet the labor of sharing categories is only one obstacle to innovative organizational change, especially when such transformations are spatial in character. While sociological theories of organizations have rarely considered the ways in which physical constraints limit what is possible with respect to the diffusion of innovation, recent turns in cultural sociology have placed a renewed emphasis on the relationship between materiality and everyday meaning-making work. Drawing from James J. Gibson’s theorization of affordances – that is, the set of possible actions which are embedded into and enabled by the material properties of spatial environments and individual objects alike21 – cultural sociologists engaged in such work have re-centered the physical dimensions of objects and spaces as integral components of cultural analysis. In particular, their accounts assert that the symbolic meaning of a given object or space is inextricably tied to the inherent material qualities of that object or space. For instance, the efficacy of advertisement campaigns around issues of public health, the experience of viewing or exhibiting art in a museum collection, and even the emotional ambiance achieved within a particular musical community all derive, in part, from the tangible, material makeup of the objects and spaces involved in such meaning-making practices. And beyond meaning-making as a cognitive or interactional phenomenon, empirical work increasingly suggests that materiality fundamentally influences what is possible when it comes to transformative social action.22

For a few of my respondents, existing campus infrastructure made implementing gender-inclusive spaces a fairly straightforward organizational adaptation. With respect to housing, such accounts typically emphasized the ease of shifting existing residence life arrangements to accommodate one or more gender-inclusive suites or halls. “Getting administrative approval
wasn’t half the battle,” recalled one LGBTQ center director, “it was the whole battle. Once we had the go-ahead, we were able to plug gender-neutral options right into spaces we had previously identified as having private showers and toilets.” (Private / Teaching / West) And with respect to restrooms, existing plumbing structures could sometimes lead to a similarly straightforward adaptation. In a small handful of interviews, academic buildings which predated an institution’s shift from a single-sex institution to a coeducational one were precisely such an asset. As one administrator recalled with a laugh, “We have a lot of buildings that were first fitted for modern plumbing infrastructure when such technology became available decades ago, and we didn’t start enrolling female students until [year]. Those spaces that were built with only young men – and only one bathroom – in mind were an easy flip to gender-neutral.” (Private / Teaching / Northeast) And in a few others, previous work done to restrooms in academic and residential buildings alike yielded similar consequences. “Many of our buildings already had a single-user accessible restroom that was installed in the early- or mid-nineties in order to keep us current with ADA compliance,” recalled one such LGBTQ center director, “so a lot of our process was just about getting the specifics of location and accessibility onto our website.” (Public / Research / West)

But much more often, my respondents described the material qualities of campus architecture as a liability rather than an asset. For some participants, those qualities functioned as a decisive limiting factor on the scope of plausible housing and restroom renovations from the very start of campus conversations about gender-inclusive facilities. As one LGBTQ center director from an early-adopting institution recalled, “I was expecting pushback on housing, but it turned out that there was much more excitement than antagonism. The question wasn’t “Why should we do this?” It was “Do we actually have the space?” (Public / Research / West) In fact, in
many such accounts, my respondents illustrated the unique constraints of materiality by directly comparing gender-inclusive housing and restrooms and other organizational innovations designed to benefit gender and sexual minority students. In one such case, an LGBTQ center director contrasted gender-inclusive facilities and other policy changes made in recent years for the benefit of the university’s LGBTQ students:

Ten years ago, when we had parallel conversations about issues like a domestic partner policy for our lesbian and gay faculty and graduate students, a temporary policy was on the books by the end of the academic year. But inclusive housing and restrooms were a part of that agenda, and we only rolled out our pilot program last year. You can do the math.

Expecting that there was something about gender or sexual mores that distinguished those two transformations, I asked: “Was that due to concerns about what might happen in private residential spaces?” But to my surprise, the response I received took our interview dialogue in a completely different direction:

No, actually, it was about what was physically possible. But with the domestic partner policy, the big hurdles were tracking down all of the forms in various offices around the university and making sure marital status was updated, or making sure that [the student-specific medical insurance plan] could accommodate our ideal situation, that sort of thing. Not that those things were easy, but updating forms pales in comparison to dealing with plumbing. (Public / Research / West)

Moreover, as that quip about plumbing suggests, many of my respondents further distinguished the process of adopting gender-inclusive restrooms as much more unique – and challenging – than even gender-inclusive housing. As another LGBTQ center director put it:
Housing was just modifying a protocol we already had in place. We have plenty of suites and halls that address some sort of special interest or need on the part of our students, and [the department of residence life] was more than willing to work with us to roll gender-neutral rooms into that. But when we tried to figure out how to get at least one neutral restroom in each of our academic buildings, we realized—quickly—that we would be stuck with what the infrastructure already in those buildings would allow. (Public / Teaching / West)

Similarly, as one administrator succinctly put it when I asked why it took their institution multiple years to move from what they referred to as “conversation to implementation” of gender-inclusive restrooms: “We wanted to move as quickly on restrooms as we did on other LGBT issues. The problem was working around the peculiar logistics.” (Private / Teaching / Midwest)

Those “peculiar logistics,” it turned out, were largely a consequence of what Geoffrey Bowker and Susan Leigh Star call the “inertia” of historical architectural choices and building design standards.23 But what recurrently underscored my respondents’ accounts was a very particular kind of inertia: one that reflected a specific cultural history of gender and sexuality being materialized into campus architecture and relevant design standards. Consequently, even for my respondents from colleges and universities committed to the hypothetical possibility of gender-inclusive facilities, the material residue of attempts to create spatial gender equality in earlier decades functioned as a throttle on present-day spatial possibilities. This was especially true for respondents from now-coeducational institutions which were founded as single-sex institutions but had invested a great deal of resources in making campus spaces equally accessible for both men and women. Gender-neutral restrooms thus posed the problem of what one facilities
director called “retrofitting a retrofit.” (Private / Teaching / Northeast) As one administrator explained in more detail, “One of the things you can see in our older buildings is that it was an impressive feat of engineering to add women’s restrooms to buildings that were originally intended to serve men only. That leaves precious little space to add a third option.” (Private / Research / Northeast) But even for colleges and universities founded as coeducational – or heavily renovated since becoming so – similar struggles emerged. As one facilities director noted, “Our campus design standards dictate that we should have equitable men’s and women’s restroom facilities on every floor of new building construction when possible, and because that’s the document we and any external contractors we work with live by, you really only see a unisex option in extenuating architectural circumstances.” (Private / Research / South)

Plus, a history of standards which originated from outside the university – usually the nexus of legal regulations governing plumbing and restroom design – exacerbated the challenges associated with such material obstacles. In some accounts, my participants focused on state building codes as such an obstruction. “State law is really a problem for us,” noted one LGBTQ center director, “because it specifically requires that buildings of a certain type that are over a certain size that service a certain number of workers need to have separate restrooms. If we want to add a neutral option, it has to be on top of meeting that standard.” (Private / Teaching / Northeast) In others, they highlighted federal requirements for restroom access, such as the Occupational Safety and Health Administration’s requirements for gender-segregated workplace restrooms. As one LGBTQ center director recalled, “We had to be wary of which bathrooms we changed over to neutral ones, because [one of the staff unions] had been very clear that they would not hesitate to file a grievance with OSHA. But it wasn’t a threat. They were totally right: there are federal regulations in place about proximity, number, gender, et cetera of restrooms for
a reason, and it wasn’t our goal to make anyone uncomfortable.” (Public / Research / Midwest)
The American with Disabilities Act of 1990 also played a role in gender-inclusive decisions, as the creation of inclusive restroom spaces opened the possibility that certain buildings may no longer meet federal guidelines for wheelchair accessibility. As one administrator opined, “It would be lovely if we could expand our gender-neutral offerings, both from an administrative perspective and from what I know of the student perspective. But there are other issues of restroom access to consider: we have to keep our compliance with ADA requirements, and we can’t sacrifice one form of accessibility for another one, especially when one of those forms is written into federal law.” (Public / Teaching / Northeast)

Yet when I asked my respondents to delve into why, exactly, such infrastructural constraints were so confining – as one respondent insightfully quipped, “Buildings can be renovated, can they not?” (Public / Research / West) – that spotlight on materiality often shifted to a spotlight on cost. In fact, financial constraints were a shared refrain across much of my interview sample, often adding to or complicating other obstacles to creating inclusive housing and restrooms alike. As one residence life director noted, “If we create a space that goes unused, then not only have we made a tactical error by using funds that could go to other projects, but we’ve actually displaced a significant number of students from campus housing… [and] if we end up with empty spaces, we end up with fewer housing fees coming in, and now we’re creating a whole other budget issue.” (Private / Research / South) But refrains of fiscal considerations were much more frequently mentioned in the details of restroom renovations than in talk about housing. As one administrator opined: “It would be great if we could knock down everything and start over—not just for the sake of meeting this new need, but also to rectify a mess of questionable engineering decisions from years past. But we can’t reasonably level every building
with problems at once, and even if we could, renovations on that scale would be prohibitively expensive. Plumbing isn’t cheap.” (Public / Research / Midwest) Similarly, other decision-makers lamented that the cost of adding inclusive restrooms was likely to be especially high due to another material consideration: striving to retain the positive aspects of existing campus architecture. “Old buildings are part of the student experience,” explained one LGBTQ center director, “and part of what students get when they pay for an [institution] education is that unique history and tradition. But they’re also expensive to renovate, so there’s often a huge lag time in getting things to where they need to be.” (Private / Research / Northeast)

Rather than focusing on economic considerations alone, however, many of my respondents described the financial burden of overcoming a materialized cultural history of gender as but one-half of a bilateral balancing act: between what would be ideal for their institution to provide with respect to gender-inclusive facilities and what would actually be feasible to enact. As one LGBTQ center director recalled, “Our original goal was to get at least one inclusive restroom in every single building: residential, academic, libraries, athletic facilities, the whole lot. But as our students started to map out which buildings needed what, it became painfully obvious that making all of those changes at once was going to cost much more than we anticipated.” (Public / Research / Northeast) And like the ideological obstacles they recounted from the early stages of discussing inclusive facilities with their colleagues and campus administrators, decision-makers described such tensions – and justified their own college or university’s response to those tensions – by appealing to salient organizational categories. At times, such categories were inductive constructions, as decision-makers grouped their college or university together with other colleges and universities dealing with similar constraints. As one LGBTQ center director noted toward the end of our interview:
“Our vision was to model our gender-neutral program after some of the most progressive housing policies in the nation, like the ones at [LAC4] and [LAC8], and we ended up being ahead of a lot of other colleges with a profile like ours. But because we’re under a housing crunch, we have far more interest than available spaces, and we’re still working right now to remedy that bottleneck.” (Public / Research / Northeast)

And at times, they were deductive ones, appealing to familiar institutional labels. As another administrator explained, “We absolutely strive to be the standard by which other universities measure their own inclusiveness, but we’re also a public university in a state undergoing serious budgetary shortages. Every single expense – no matter how important – matters in a way that it wouldn’t under other circumstances.” (Public / Research / West)

But institutional categories were more than just a cause or justification for the limited extent of facility transformations. Institutional categories were also a consequence of those same facility transformations: that is, they were an outcome as much as they were an input. Indeed, implicit in my respondents’ efforts to justify their institution’s approach to gender-inclusive facilities were narratives that also located their institution of higher education in one of two categories. The first was a group of institutions – such as those whose decision-makers I quoted in the previous paragraph – that had lofty aspirations for their gender-inclusive offerings but ultimately had to arrive at some sort of less-than-ideal compromise to work within the limits of campus architecture and their budgetary constraints. For decision-makers from such colleges and universities, the modal approach was to enact facility transformations in a way that would keep their college or university commensurate with its immediate peers with respect to LGBTQ issues—but also keep the expenses associated with building construction to a minimum. For housing, that most often meant keeping gender-inclusive options as an as-needed program. And
for restrooms, that usually meant changing the design standards for future buildings—but making do with current buildings with smaller-scale temporary fixes. “We now have a policy in place that all new construction needs to accommodate a gender-inclusive restroom when possible,” one LGBTQ center director explained, “but that, unfortunately, relegates our most inclusive buildings to the periphery of campus. We’re still pushing to get our more centrally-located buildings just as safe and accessible for our trans and gender-variant students and staff.” (Public / Research / Northeast)

The second was a group of institutions for whom landing on such a balance was much more easily accomplished. A scant few participants explicitly acknowledged the privilege of being able to avoid making such a compromise: “We’re extraordinarily fortunate to not only have tremendous administrative support for all sorts of programs targeted to our LGBT students,” reported one residence life director, “but we’re also lucky to be an institution with the means to stay on top of promising new developments across the whole arena of student life.” (Private / Teaching / Northeast). But more often, such resources remained implicit—or absent from respondents’ narratives altogether. When I asked one administrator to describe how their institution was able to come up with the resources necessary to quickly add gender-inclusive restrooms to a substantial number of academic buildings across their campus, they acknowledged that doing so was “not exactly easy,” but then continued: “Expectations for us are higher due to the volume of students we deal with. As a state institution, we answer to different authorities—when there’s a movement by and for our students, we don’t hesitate to do everything we can to put things like more inclusive spaces into practice and to do so as expediently as we possibly can.” (Public / Research / West) And whether they faced an architectural debacle or not, whether they discussed financial resources or dismissed them, and whether they accomplished facility
change quickly or slowly, such institutions were also the ones most often on the receiving end of public accolades for their work toward diversity and inclusion. As one administrator explained, “Things are still far from perfect here. It’s a constant process of education, and we would love to be able to offer even more than we already do.” But instead of turning toward limited resources as a limit on such possibilities, they described a much more optimistic future: “The attention we received as one of the most trans-friendly colleges in the nation will make that happen. More accolades generate more pride, and more pride generates a greater need to keep doing great things. That always leads to more positive action.” (Public / Research / West)

Thus, although my respondents tended to talk about their interactional work related to gender-inclusive spaces in more depth and at greater length than they discussed architectural matters, they nonetheless tended to identify those architectural matters as the most tenacious challenge of all to circumvent. Especially for gender-neutral restrooms, the possibility of spatial updates was made all the more difficult by the multiple layers of standardization surrounding such spaces as well as the projected financial cost of overcoming both those hurdles. But in bringing attention to those limitations, my participants also framed materiality and organizational categorization as inextricably linked. Rather than asserting that the physical qualities of campus spaces exerted an independent influence on facility transformations, many of my participants’ accounts emphasized how those material qualities – and the cost of interventions to overcome them – intersected with the categorical qualities of their college or university to determine the feasibility of facility-related action. But the issue of financial resources also animated some of the most consequential organizational boundaries to emerge across my entire interview sample. Where a restricted adoption of gender-inclusive spaces was the only compromise possible, decision-makers reported doing their best to weather such
challenges. But where institutions had the resources necessary to undertake more sweeping changes, decision-makers were able to leverage the very presence of gender-neutral restrooms as tangible evidence of their institution’s commitment to inclusion, LGBTQ students, and leadership in the field of higher education—and thus benefit from the reputational rewards associated with creating more inclusive spaces.

Discussion and Conclusion

In “Shifting Paradigms and Challenging Categories,” feminist sociologist Judith Lorber emphasizes that eradicating gender inequality first requires the difficult task of changing how we think about and conceptualize gender. As she writes, “There are radical possibilities inherent in rethinking the categories of gender, sexuality, and physiological sex, especially in moving from binaries to multiplicities” [emphasis mine]. And for my respondents, convincing others to do such rethinking around gender was rarely easy or straightforward, and the facility transformations that arose from such conceptual shifts would not have been able to come about without a substantial investment of emotional, interactional, and above all, cultural labor. But on the basis of this analysis – one which documents an increasingly real shift away from spatial arrangements on college campuses which allocate students into dorms and restrooms on the basis of binary gender categories and toward spatial arrangements that acknowledge the multiplicity of possible genders – I conclude that ideology is ultimately much more flexible than architecture. Organizational change around gender, it turns out, requires more than progressive intentions or even progressive actions. It also requires an abundance of resources—resources that enable organizations to overcome the material residue of binary beliefs about gender embedded into public restrooms and other gender-segregated elements of the built environment. Or, as one
LGBTQ center director so illustratively put it, “Given the choice, I would take conservative beliefs about gender roles over re-engineering facilities any day. Hearts and minds can be changed, but putting in new plumbing takes a lot more than patience and stubbornness.” (Private / Teaching / Northeast)

Such findings also have multiple implications for the sociological literature on culture and organizations. The first speaks to work on the ways in which organizational culture is constructed, negotiated, and transformed in and through embodied social interaction. My respondents’ narratives consistently emphasized that gender-inclusive facilities were only possible because of a wealth of interactional groundwork within and between their individual colleges. In some respects, this mirrors Lynne Zucker’s body of work documenting the micro-sociological foundations of organizational culture, within which she theorizes organizational culture as the consequence of localized social interactions geared toward the production of shared meaning, as well as Frank Dobbin’s oeuvre exploring the organizational determinants of corporate diversity programs, which finds that intra-organizational culture is more influential on the adoption of such programs than are other institutional or organization-level factors.25 But my findings further complicate such work: I find that organizational culture is not only processual, local, and consequential, but that its production is an embodied undertaking and, more importantly, one inflected by affective labor. Indeed, as one of my respondents put it, “The most useful piece of advice I ever received from a colleague wasn’t even about gender-neutral: figure out what makes your dean of undergraduate students tick, and then use that to push their buttons.” (Private / Research / South) My findings thus also go beyond Neil Fligstein’s conception of “social skill,” which posits that an individual social actor’s ability to solicit cooperation from others is an important mechanism through which face-to-face interactions contribute to the
broader institutional order, as I find that emotional labor is often the impetus which enables the sharing of shared cognitive boundaries in the first place.

The second pertains to research demonstrating that organizational change often reflects the pursuit of symbolic ends, such as a positive reputation, rather than the pursuit of rational ones, like efficient bureaucratic function. The decision-makers with whom I spoke reference prioritizing the needs of their individual students as well as the goal of creating an inclusive undergraduate culture, but they are also centrally concerned – and perhaps concerned more – with the message that facility transformation conveys to actors, organizations, and institutions outside of their immediate campus environment. Thus, when gender-inclusive facilities were thought to threaten a college or university’s reputation amongst its peer institutions, most of the institutions represented in my interview sample initially chose to “maintain face” by turning down or delaying requests to consider such innovations. However, as the dominant approach to those same facilities began to shift in the field of higher education, that hesitation shifted to an enthusiastic embrace. In part, my work here comports with John Meyer and Brian Rowan’s canonical observation that formal organizations tend to construct an image of themselves which “reflect the myths of their institutional environments.” But my work also reveals that concerns with legitimacy, reputation, and status have actually enabled colleges and universities to override other, historically inviolable moral boundaries—to the point where signaling a commitment to gender and sexual diversity, which was unthinkable in many institutional sectors in the United States up through the turn of the twenty-first century, has actually become an integral component of maintaining a moral identity as an upstanding organization within the contemporary field of higher education.
But such claims also require evidence to substantiate them—which leads to the third implication of my analysis: that organizations rely on the materiality of spaces to demonstrate their membership in vaunted moral categories. Thus, in addition to reputational considerations about expected gains or losses of status and ideological considerations about the meaning of gender and sexuality, materiality functioned as a critical refracting influence on institutional action around gender-inclusive housing and restrooms among the institutions in my interview sample. In other words, much like Thomas Gieryn writes about the ways in which the “architectural layouts and geographic location” of buildings fundamentally shape the ‘doing’ of scientific work at the interactional level, campus buildings likewise exerted a substantive influence on the ‘doing’ of diversity work with respect to gender and sexual minority students at the organizational level. But the material challenges of transforming gender-segregated spaces into gender-inclusive ones—or adding a new series of inclusive spaces onto existing architectural arrangements—affected much more than how decision-makers negotiated their own processes of facility change. Those challenges also produced a new and more pressing pair of organizational categories: one filled with institutions able to overcome the limits of existing infrastructure and actualize their ideal vision related to facility issues, especially restrooms, and one filled with institutions forced into some sort of compromise between that ideal vision and what was actually possible. Architecture, then, not only informs what is possible—or even probable—within a particular organizational context: it places limits on the types of moral identities which certain organizations can meaningfully claim, and it also increases the efficacy of such moral claims for other, more resource-rich organizations.

In short, the boundary work undertaken by the decision-makers within my interview sample were more than abstract, evaluative sets of conceptual distinctions leveraged in media res.
to garner support for facility changes or invoked post hoc to retroactively make sense of several years’ worth of organizational action. Instead, they were also a consequence of that action, one that contributed to the reproduction of status hierarchies within the field of higher education.

Gender-inclusive spaces, then, do much more than reflect institutional priorities or contextualize organizational action. They also function as crucial evidence with which already-advantaged institutions can showcase their commitment to diversity and inclusion, accumulate the awards and accolades associated with such a reputation, and thus secure the promise of continued social status for the future. As such, while the increasing institutional support for gender-inclusive facilities on college campuses represents a profound shift toward greater institutional recognition of gender and sexual minorities, the uneven translation of that support into the creation of actual housing and restroom spaces comes at a high cost—one that is, for many institutions of higher education, as much reputational as it is financial.
“Whatever the future brings, there’s a mom at your front desk right now complaining about how hard it is to get into your restroom with her double stroller.”


In March of 1991, the Montgomery Mall in Bethesda, Maryland debuted a one-of-a-kind feature on its upper level: the first-ever family restroom in a shopping center in the United States. Originally conceived of as a means of simplifying the lives of parents with young children at the mall, the new restroom occupied a temporary spotlight in Washington-area newspapers for providing a welcome corrective for “the occasional awkward moment of a dad taking a little daughter into the men’s room or a little boy going in there alone while his mom waits in the hallway biting her nails.” As the mall’s marketing director explained in more detail to the *Washington Post* journalist profiling the new space, “If you’ve got one child, it’s hard enough to find a place with enough room to put down your bags” and “change the baby.” But the spacious new facility promised a venue within which fathers and mothers alike could “keep an eye on all the children” while dealing with mundane bathroom-related matters. In fact, the family restroom was so popular with parents that the mall quickly amended its plans for another upcoming renovation to add a second family restroom to the mall’s newest wing forthcoming in the fall.

That popularity, it turned out, was not just because the new family restroom offered parents the opportunity to work around that most pressing limitation of conventional, gender-
segregated restrooms. It was also because the space offered a number of additional perks for mall-going families in an era of what the *Washington Post* described as “more sharing of parenting responsibilities between men and women.” For parents with little ones small enough for strollers – or simply a glut of bags from the day’s shopping excursion – the renovation included a separate anteroom for temporarily housing diaper bags, mall purchases big and small, and even that pesky double stroller without worry. For children who were older – but not quite old enough to venture into the multi-user gender-segregated restrooms on their own – there were two toilet areas: one with a “child-sized toilet and sink” and one with a matched pair of adult-sized fixtures “accessible to the disabled.” And for restroom users of all ages, the mall arranged for enthralling drawings from *Alice in Wonderland* to complement the restroom’s “buff-colored marble tiles.” Plus, the restroom offered a dazzling array of vending machines—ones that dispensed a range of essential supplies, from fresh diapers which could compensate for an unexpected shortage to disposable paper barriers for lining the nearby changing table. In short, as one excited father succinctly put it, “This is really convenient.”

Because of the overwhelmingly positive feedback the new family restroom received, the Montgomery Mall’s holding company soon followed up on their pilot program in the District of Columbia’s suburbs by implementing similar family restrooms in several other locales around the country. A few mall executives remained skeptical, such as one regional director who expressed uncertainty about whether or not “people would like” family restrooms, and a small handful of others simply understood the spaces as comparable to any other straightforward customer service issue, such as the manager of West County Center in St. Louis who spoke straightforwardly about his mall’s new family restroom, saying, “We saw a need, and we answered it.” Many more, however, understood the repeated successes of the family restroom as what one mall manager for
Broward Mall, in the suburbs of Fort Lauderdale, characterized as a “sign of the times”—one which portended an even more family-focused future still yet to come for American shopping centers. “Going to the mall has turned into a family event,” she observed, and because “more and more families” were “shopping together,” family restrooms were first and foremost a change meant to “accommodate those families.”

Thus, far from a passing fad or geographically-restricted novelty, the popularity of family bathrooms in American shopping centers continued to swell through the closing years of the twentieth century. One general manager from West Los Angeles, for instance, even challenged the notion that the popularity of family bathrooms was a uniquely suburban phenomenon. Instead, he believed that family bathrooms would soon be making an appearance in his own urban shopping center, because “refocusing on families is the way to go in the ’90s.” And as a testament to that observation, family-friendly mall transformations often went well beyond renovations to restroom spaces alone: at Broward, their family restroom arrived in tandem with “stroller rentals,” “nursing couches,” and even “child-size public phones;” in nearby Dadeland Mall, “three ’kiddie pits’” offered a place for parents to rest “while the children romp;” and at Topanga Plaza in Canoga Park, California, mall developers even crafted a “’munch bunch’ food area with miniature tables and chairs” to boot.

Unsurprisingly, then, such family-friendly shifts quickly spread from shopping centers to other cultural sites. The architect for Atlanta’s new baseball stadium, Turner Field, described the mounting pressure among stadium planners in the early 1990s to take “the evolution of baseball parks another step further,” noting that a new priority for many team owners was taking such spaces from “baseball-only facilities” to ones that offered a “total family experience.” But for project executives, family restrooms provided more than safety, space, and convenience for
families in the closing years of the twentieth century. They were also an opportunity to dazzle those patrons with a wide range of unique customer experiences. Back in St. Louis, for instance, where ground was being broken for a new, domed stadium for one of the National Football League’s newest expansion teams, architects and developers tempted investors with a dazzling package of “state-of-the-art” features: seats a full “inch wider than the norm,” each equipped with its own beverage holder; a variety of food and concession offerings “as wide or wider than most major-league stadiums” had ever offered; enormous scoreboards featuring video replay boards with “resolution like your home TV set” and a separate area for up-to-the-minute “game stats, out-of-town scores and other information;” luxury suites galore with “eight elevators” for handicapped visitors; and, as the project executive proudly told journalists covering stadium construction, “the same number of water closets for women as there are urinals for men”—and, most crucially of all, family restrooms in all levels of the blueprint.11

That appeal, in turn, benefited mall and stadium owners as much as it did their parental patrons. Family restrooms thus offered, as one reporter observed, a means through which such consumption hubs “struggling mightily to attract Mom, Dad, and the kids” could successfully lure back in the presence and — more importantly — the discretionary spending of the middle class. Indeed, for the same mall manager in West Los Angeles expecting family restrooms to be a forthcoming addition to his food court, any changes to refocus his mall’s appeal to families were an obvious opportunity to pursue, precisely because the “mall did $8 million in children’s business last year.”12 Surely enough, as the initial successes of restroom renovations from shopping malls and sports arenas alike continued to garner positive press, one Newsweek writer observed that other consumption sites throughout the country were increasingly eager to take advantage of the “marketability” of “this very ’90s concept.”13 In fact, as some developers began to realize, family
restrooms could appeal to would-be patrons for reasons beyond family-friendly convenience: with its “pleasant lighting, the black marble counter/diaper-changing area and the muted mauve tile walls,” the new family restroom that one reporter for the San Jose Mercury News visited in Stoneridge Shopping Center seemed to her to be “more upscale than the traditional restrooms located on either side of it.”

Background and Overview

In the second half of the twentieth century, cultural tastes among elites in the United States underwent a monumental and unprecedented shift—one concisely summarized in the words of sociologists of culture Richard Peterson and Roger Kern as “from snob to omnivore.” Where high-status Americans once espoused a heavy preference for “highbrow” genres such as classical music and opera, their musical horizons began to expand in a way that came to value such bulwarks of elite taste alongside more “lowbrow” genres, ranging from hip-hop to American folk music. Where their restaurant patronage was once largely restricted to those high-end restaurants whose sole province was the multi-century tradition of French haute cuisine, they began to value nouvelle cuisine, with its simplicity of preparation and elegance of presentation; they began to frequent restaurants with a decidedly American culinary perspective, as well as ones representing the diversity of culinary perspectives taken in nations across the globe; and they even ushered in a new age of appreciation for inexpensive, ethnic tastes—provided they offered the most authentic taste possible of abuela’s mole or bubbe’s latkes. And where the most disinvested segments of major American cities were once neighborhoods wholly avoided by young, urban elites, many such areas are now the most popular destinations within which such elites spend their leisure time and their considerable volume of discretionary income.
In response to such shifts in elite taste, high-end cultural institutions have, too, changed: upscale bars and nightclubs have relocated themselves in formerly working-class neighborhoods, restaurants have crafted farm-to-fork menus drawing from the best of local agriculture, and even musical venues housing major American symphony orchestras and opera companies have increasingly scheduled up-and-coming contemporary composers alongside their more traditional fare. By the close of the twentieth-century, then, shopping malls and venues for professional sports were not alone in beginning to recognize that seemingly unimportant architectural details, including restrooms, could also be a generative means of appealing to newly-omnivorous elites. Thus, high-end restaurants, museums, and other cultural sites began to add family restrooms and other, degendered restroom spaces to their architectural footprints as a means of accommodating the shifting needs and preferences of their respective customer bases. Various labels, such as “unisex” restrooms, “handicapped” or “disabled” restrooms, “accessible” restrooms, “restroom” with no additional modifier, or, occasionally, “gender-inclusive” or “all-gender” restrooms, such spaces have existed in cultural organizations, government buildings, and other public spaces since the arrival of indoor water closets in the United States over a hundred years earlier. However, as the introduction to this chapter illustrates, such restrooms went from being an unremarkable – and largely un-commented upon – feature of such settings through the 1970s and 1980s to a buzzworthy feature of a wide range of cultural organizations throughout the United States in the 1990s and first few years of the twenty-first century. (See Figure 3.)
In this chapter, I explore the increasing prevalence and popularity of such restroom spaces, focusing in particular on the processes through which decision-makers at five different types of cultural organizations – museums, restaurants, shopping malls, libraries, and performance venues – recall accomplishing their institution’s own process of implementing gender-inclusive spaces. To do so, I draw on data collected from 64 semi-structured interviews with managers, directors, curators, owners, and other administrative personnel involved in making infrastructural decisions for their respective organizations, and like the previous chapter, I analyze the cultural logics involved in accomplishing such organizational work. In again keeping with the previous chapter, the methodological choice to include a range of institutional settings and a range of restroom labels in the same analysis afforded me two built-in dimensions of comparison. On the institutional side, organizations within each of the five categories included in my sample draw from different funding sources, profess divergent institutional missions and
aims, offer quite different types of cultural products to their customers and patrons, and operate around distinctive bureaucratic structures—and thus could reasonably be expected to approach the question of degendered restrooms with vastly different approaches. On the restroom side, surveying a wide range of restroom labels allowed me to compare the organizational logics motivating decision-makers to label their restroom spaces in particular ways—and thus to analyze how and why the seemingly unimportant detail of restroom signage actually conveyed quite a bit of information about what a particular degendered restroom represented to the organization whose architecture in which it was enmeshed.

As I will show, place and space are important mediators of how cultural organizations approach the question and implementation of degendered restrooms. Like the decision-making narratives from colleges and universities I profiled in the previous chapter, respondents from cultural organizations described how the physical characteristics of their building readily enabled certain restroom-related possibilities or foreclosed others, thus centering materiality as an integral force that shapes how organizations think through, decide upon, and execute a wide range of architectural transformations. Unlike those narratives from institutions of higher education, however, the law played a much more salient role in the restroom-related decision-making of my respondents from cultural organizations. In particular, rather than pointing to other, comparable institutions or restroom users themselves as the most salient inspiration for their restroom renovations or additions, decision-makers from cultural organizations identified shifting state plumbing codes or federal standards related to restroom access for individuals with disabilities as the most frequently-mentioned origin point prompting substantive changes to their organization’s restrooms. Moreover, whether an organization had restrooms that were the only physical structure out of compliance with recently-updated state building codes, a wider range of
architectural issues which violated federal guidelines for accessibility, or plans for an unrelated renovation which triggered the legal necessity of bringing other building elements up to current standards, the law was an imposing pressure on the details of when and how those changes were executed. But the law did not operate alone; instead, my respondents described how geography, institutional identity, materiality, and restroom regulations all coalesced to yield the conditions under which degendered restrooms could emerge for their respective organizations.

But where the respondents from nearly all of the cultural institutions in my sample agreed that law and materiality intersected to prompt their restroom renovations, they diverged considerably in how exactly their organizations navigated those intertwining pressures as they undertook the restroom renovation at hand. For some decision-makers, whom I refer to as “restroom opportunists,” the addition of a degendered restroom was a process undertaken as quickly as possible – sometimes arriving before updated plumbing codes or federal legislation were being actively enforced – and such renovations tended to go far above and well beyond minimum legal requirements for degendered restroom spaces. Yet for other decision-makers, whom I refer to as “restroom legalists,” their organization’s adoption of one or more degendered restrooms was much more reactive, and when it did finally come to fruition, it was designed to meet minimum legal requirements with the smallest investment of time and labor possible. But in addition to those more tangible differences of timing and scope, legalist and opportunistic decision-makers also framed their organization’s relationship to such pressing legal dictates in distinctive ways. Whether restroom accessibility itself prompted renovation work or became relevant later in the course of a more expansive renovation, restroom legalists found restroom laws to be a persistent and constraining force, one which stretched their budgets for infrastructure thin and thus caused them and their colleagues perennial frustration. Restroom opportunists, on the other
hand, celebrated restroom-related laws, because they unlocked a broad range of architectural possibilities for their organizations. They referred to such regulations as flexible and dynamic, and as such, viewed them as opportunities to exercise architectural creativity. They thus talked about the very same legal mandates which caused legalists such consternation with an abundance of enthusiasm, and above all, they did so with little attention to cost.

Consequently, while financial resources did provide the necessary materials for some organizations to more quickly reconstruct their architectural infrastructure in agentic ways, the cultural resources held by individual decision-makers fundamentally affected what that outlay of cost meant. For restroom legalists, any expense associated with substantial and time-consuming restroom renovations was a difficult pill to swallow – and, moreover, was largely not worth discussing with me – because the cost of restrooms seemed to be an impediment to pursuing more worthwhile organizational projects. But for restroom opportunists, the often-exorbitant cost of lavish degendered restrooms was, counterintuitively, both an easy choice and easy to defend to an interested outsider: because degendered restrooms spoke to demands in their respective institutional fields to become more accessible, family-friendly, or transgressive, such spaces, gave decision-makers themselves the leverage they needed to talk up their cultural organization as a leading, twenty-first-century institution. This ease of justification, as I refer to it, does not necessarily signal a genuine change in institutional support for disability rights, families, or gender variance in and of themselves; rather, it serves as evidence that decision-makers for elite cultural organizations tend to be extraordinarily deft at articulating the consonance between their organizational work and the shifting values of their customer base. And for opportunists, that customer base was indeed the crux of their narratives: they imagined that accessible, beautiful, and attention-grabbing restroom spaces would appeal to wealthy, urbane, and cosmopolitan
customers, and those customers were imagined to engage in generative justifications of their own: that is, ones that would carry a favorable assessment of a cultural organization to their wealthy, urbane, and cosmopolitan social networks. As such, talk of restrooms – whether real or imagined – was a crucial means through which a certain subset of decision-makers could showcase their organization’s commitments, compensate (and then some) for the financial cost of infrastructural updates, and above all, set their spaces apart as fashionable and elite cultural destinations.

“This Wouldn’t Have Been Possible in SoHo”

Cultural objects and physical spaces all carry with them multiple possible meanings. As “shared significance embodied in form,” in the words of sociologist Wendy Griswold, objects and spaces do have inherent qualities that make certain meanings more or less possible, but human interpretation and involvement are the means through which those meanings actually come to be activated. Yet as much as human interpretation shapes culture, in turn, human interpretation is also shaped by culture: indeed, one of the most robust empirical findings within the sociology of culture from the last two decades is that context matters for how social actors make sense of objects and spaces. That is, rather than assuming that a particular cultural object prompts a universal set of interpretations regardless of its physical or social location, sociologists studying the reception of a variety of cultural products have recurrently found that the meaning of a particular object is inseparable from the multiple meanings of the various components of that object’s environment. For instance, sociologists studying the reception of art have identified the ways in which a particular medium of delivery can shift the meaning of a nude image from artistic to pornographic, and they have also demonstrated how a particular physical location can
cause published evaluations of a sculpture’s aesthetic merits to be more or less favorable. Recent
turns in that literature have focused in particular on physical place as an especially salient
refracting factor. For such scholars, the location in which a cultural producer creates a cultural
product – whether that product is intangible, like a hip-hop song, consumable, like an heirloom
tomato, or architectural, like an urban nightclub – influences perceptions of the quality and
desirability of that product.18

In keeping with such predictions, place was a recurring theme in many of my
conversations with cultural decision-makers about the character of their past restroom
arrangements—and what led them to their current ones. For my respondents who hailed from
organizations located on busy avenues in the heart of major Northeastern cities, the peculiar
constraints of the urban environment were a common response to one of my first few questions
that spoke specifically to the issue of their organization’s restrooms. This was most memorably
the case with Elizabeth, who – without skipping a beat – issued a pointer rejoinder about
geography when I asked about the oddly-placed degendered restroom in the front corner of her
urban café: “This is New York. We’re lucky that we have a bathroom at all.” But in addition to
influencing how the respondents in my interview sample made sense of their restroom
arrangements in a general sense, place also exerted a clear influence on what my respondents
recalled imagining with respect to the possibility of degendered restrooms. For those decision-
makers whose organizations were ensconced in small towns overlooking bucolic landscapes of
local farmland or in recently-cleared zones for commercial development in suburban landscapes,
geographic factors offered their organizations considerably more latitude in restroom
infrastructure than my urban respondents remembered experiencing. Kiara, for instance,
recounted that her suburban restaurant’s location on an “expansive lot with more than enough
parking space” provided her and her colleagues with the latitude to “extend the rear of the building” in the course of their most recent renovation, thus considerably expanding “the square footage of the kitchen, the unisex restroom, and all of our storage areas.”

But just as important in my interview data was a more social sort of location: the institutional field in which a particular organization was embedded. With Sharon, for example, having at least one degendered restroom per floor had become an important priority for her museum several years earlier precisely because of the tight linkage she and her colleagues perceived between architectural features like restrooms and the mission of organizations like hers to “bring the arts to the public.” For her, the idea that there might be museums without a wide range of restroom options – including degendered ones – bordered on unthinkable: “It surprises me that this is still a hurdle for some museums,” she explained, “because when your stated purpose as an institution is to serve as a bridge between the community and the arts, you do what you need to do to be that bridge. Our programming runs the gamut: we have interactive explorations for moms and tots in the mornings, we have weekly afternoon opportunities for our retired patrons to get involved with the arts, and we do a lot of outreach for adults with developmental disabilities. Unisex restrooms are part of serving all those groups effectively.” Similarly, for Taylor, geography and institutional mission intertwined to lead her urban performance venue to relabel all of its existing single-user restrooms with “gender-inclusive” signage a few months before our interview: “We host a lot of afternoon programs for underprivileged youth from the local community, and for queer teens especially, dance and music are the spaces in which they can explore their identities in a safe and non-judgmental space.” She paused for a moment, then went on to add, “The all-gender signs are convenient for everyone, for sure, because you don’t have to hike down the hall or to the other side of the building when you
need to go. But it’s about comfort, really. It’s hard to tap into your creative energy if you need to pee and there’s no safe space for you to do that.”

As I compared interview responses across geographic and institutional categories, however, I found little evidence that my respondents’ telling of the histories of their degendered restrooms neatly aligned along one or the other dimension of organizational difference. Instead, such contextual factors became relevant only when they intersected with the more pressing and tangible realities built into what Geoffrey Bowker and Susan Leigh Star call “the installed base” of a particular organization’s architectural infrastructure: that is, elements of the preexisting physical environment which shape current and future infrastructural possibilities. Aaron was one of my first conversation partners to clue me in to that reality. For him, the gender-neutral restroom located at the end of a long hall at the rear of his urban restaurant was neither a new addition to his organization’s space nor a choice he and his co-owners made when they first opened; instead, it was, as he put it, “the bathroom that was there when we moved in.” But echoing Elizabeth, who was grateful to have a restroom to offer to her patrons at all, he articulated that he would absolutely make the choice to build a degendered bathroom again if the choice was his to make: “Look around—this is [neighborhood name],” he said, then added while pointing to each of the four walls of his dining room in turn, “There’s another business there, one there, and one right off the back. There aren’t exactly a lot of options.” But even for the bulk of the decision-makers in my sample whose degendered restrooms were not preexisting, what an organization’s plumbing bequeathed them was nonetheless a critical determinant of their restroom options. With Taylor’s theater, for example, the multiple degendered restrooms reflected her organization’s collective vision for what it meant to meaningfully contribute to the surrounding neighborhood, but “a string of plumbing problems, including several burst pipes” that
stemmed from their building’s age and out-of-date insulation many years prior were what led to the creation of several single-user restrooms in their building in the first place.

Yet across my interview sample, the most frequently-mentioned motivation for restroom renovations or relabeling was a catalyst beyond the walls of the organization itself: the law. Indeed, as many decades of scholarship at the intersection of urban studies and architectural theory documents, many dimensions of the physical makeup of buildings are overdetermined by the nexus of regulatory structures that govern such buildings.20 Such policies are especially voluminous when it comes to restrooms, which are subject to local ordinances requiring that a certain number of certain types of restrooms must be available, state plumbing codes specifying the details of restroom fixtures and the materials from which those fixtures can legally be engineered, federal guidelines about restroom availability in workplaces and public spaces which serve a certain number of employees or customers, and even international building standards that outline up-to-date protocols for the safety of infrastructural design and construction.21 In keeping with such accounts, law as a motivating factor for degendered restrooms was a fixture of almost every interview I conducted with a decision-maker from a cultural organization. As Laura, a decision-maker for a suburban shopping mall, recalled, “Building codes change and evolve over time, and it was, what, fifteen or sixteen years since any major updates had been made to our physical infrastructure?” For her mall, the “family-slash-unisex restroom” recently added across the hall from one set of their gender-segregated restrooms “was just one of dozens and dozens” of “small issues” that had to be worked into a renovation intended to bring their building into compliance with local and state laws governing “restroom fixtures and access.” Another decision-maker, Scott, even joked that he had become “an expert in workplace safety law,” as his restaurant’s restrooms had to comply with both local plumbing codes and the Occupational Safety
and Health Administration’s federal guidelines for restrooms, which encompassed “workplace bathroom themselves” as well as “food contamination issues” specific to restaurant restrooms.

Within that realm of restroom regulations, however, the regulatory requirement which decision-makers for cultural organizations most frequently discussed was the Americans with Disabilities Act of 1990. Passed into the United States Code by Congress in 1990, the ADA inaugurated a wide array of federal policies designed to address discrimination against individuals with disabilities. For bathrooms in particular, the ADA granted the United States Access board the jurisdiction to craft guidelines for “access to restroom facilities” in “places of public accommodation”—that is, museums, libraries, restaurants, performance venues, shopping malls, and a range of other public spaces. Per the regulations put into placed by the Department of Justice in the Code of Federal Regulations in 1991, those guidelines include, but are not limited to, the “removal of obstructing furniture or vending machines, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls, and installation of grab bars.” Plus, in addition to requiring such changes of existing restrooms, the Department of Justice also included a recommendation in their published guidelines which advocated the addition of “unisex” or “family” accessible toilet rooms to an existing floorplan:

Experience has shown that the provision of accessible “unisex” or single-user restrooms is a reasonable way to provide access for wheelchair users and any attendants, especially when attendants are of the opposite sex. Since these facilities have proven so useful, it is often considered advantageous to install a “unisex” toilet room in new facilities in addition to making the multi-stall restrooms accessible, especially in shopping malls, large auditoriums, and convention centers.
But most crucially of all for the organizations whose decision-makers I interviewed, those guidelines also allow public accommodations and commercial facilities to use such a single-stall, degendered restroom to meet the ADA’s Standards for Accessible Design when it would be “technically infeasible” to update existing, gender-segregated restroom spaces to be accessible.

In some respects, then, the increasing ubiquity of degendered restrooms thus was a consequence of what sociologists of organizations refer to as coercive isomorphism: the tendency of organizations to adopt similar practices as a result of their shared legal environment. For some decision-makers, like Roger and Andrew, that option was precisely the rationale behind the way in which degendered restrooms arrived in both their cultural organizations. In Roger’s case, “a total lack of wheelchair accessibility” to his small urban bistro’s existing restrooms led to the addition of “a unisex restroom with floor space of legal size” a few years earlier, and in Andrew’s case, two degendered restrooms in his suburban performance venue were “part and parcel of a series of renovations related to accessibility” which had occurred nearly two decades before our interview. Similarly, for Ellen, plans for a small expansion to her suburban library served as a trip wire for compliance with the Department of Justice’s 2010 ADA Standards for Accessible Design: one that obligated the entire library to be updated to meet that most recent iteration of federal accessibility regulations. While the ADA does not have a true “grandfather” clause that insulates organizations in older buildings from updating their infrastructure, it does allow accessibility modifications to be delayed in older buildings if they are not “readily achievable”: that is, able to be enacted quickly and without great expense or effort. That insulation, however, can dissolve if renovations are substantial enough to “affect the usability” of a building element or space: for example, when an organization takes on an extensive renovation of an existing structure, creates a new addition or extension to that structure, or plans to change flooring or restroom fixtures.
But as the ADA’s “technically infeasible” criterion suggests, my respondents also emphasized how legal regulations and the material realities of a building’s infrastructure coalesced to shape the trajectory of their restroom transformations. For Roger’s bistro, opting to tear down a wall between two gender-segregated restrooms to create one larger, degendered space not only created the clearance around restroom fixtures necessary to rectify a lack of compliance with federal building design standards, but it was also simpler – “given which walls contained gas, electrical, and the water line,” he explained – than “trying to figure out which walls could reasonably be moved.” For Andrew, putting new restrooms in his performance venue’s oversized custodial closets was another strategy intended to work with his organization’s existing spatial infrastructure: because those closets “already had a sink and a floor drain and slip resistant tile,” they were well-suited to be adapted into “a pair of proper single-stall restrooms.” And for Ellen, rather than completely overhauling the multi-user, gender-segregated restrooms so that they would meet the new standards required by the ADA, the architects for her library’s renovation suggested replacing only the sinks and toilets in those existing restrooms – which were, at that time, no longer compliant with state plumbing codes – and incorporating an accessible family restroom in the library’s new wing. “Modifying the existing bathrooms would have involved a lot of work: moving plumbing, widening the stalls, things like that,” she explained, “But putting a unisex bathroom in the new wing brought us up to compliance. That was the easier way forward, given that we were locked into having to do some form of updating to those [gender-segregated] bathrooms and also had to budget for making our entrance more accessible, as well.”

And that interplay between legal requirements and spatial possibilities was, in turn, often inextricable from an organization’s geographic locale and institutional identity. When I asked
Kiara, who opted to build an addition off the rear of an existing building to create a more expansive kitchen and restroom area, what prompted her pursuit of that addition in the first place, she candidly discussed how she only did so because the building she inherited was “egregiously out of compliance” with health and safety codes for restaurants. But her suburban locale was “a blessing in disguise” for handling those problems: “I have a lot of friends who work in the city, and they gave me a lot of flak when I first moved out to the suburbs. But this wouldn’t have been possible in SoHo—you’re stuck with the walls you have, and there’s no getting around that.” And when I pushed Elizabeth, who quipped about her luck in having a restroom in New York City at all, to explain why the restroom was in the front corner of her café – of all places – she brought in her organization’s identity as a café as another complicating factor behind that choice. As she explained, the “rarity of bathrooms in coffee shops all over the city” itself led her to want “a bathroom, even if it was a tiny one” [emphasis hers]: “I hate to be in a place picking up a cup of coffee or a croissant and have nowhere to wash my hands, so I knew I wanted to put a bathroom in somehow.” But the odd confluence of city building codes, federal guidelines like the ADA, and the available space in her building gave her only two choices: to put that bathroom off the rear of the kitchen, where customers would not be able to access it, or “right up front.” “So,” she said, “if I was putting in a bathroom so that my customers could clean up before having a bite to eat, I had to actually put it in the spot where they’d be legally allowed to actually use it.”

In short, while the law was an unavoidable ingredient in all restroom-related decisions made by the decision-makers in my sample, it never operated in isolation. Instead, it worked in tandem with geographic location, institutional context, and the materiality of buildings themselves to quite literally shape the arrival of degendered restrooms within their respective cultural organizations. When a restaurant’s urban location limited the square footage that could
be spared to create at least one fully-accessible restroom space, a single degendered restroom often became a more reasonable method of meeting the requirements of municipal zoning ordinances than a pair of gender-segregated ones. When an organization’s identity as performance venue lent itself to gender-neutral restrooms, my respondents explained that such preferences were not often realized without the intersection of a failing building structure and revised state plumbing codes to create a scenario in which an ideal vision of restroom provision could be brought to fruition. And when outdated toilets, sinks, floors, or doorways were out of compliance with federal guidelines for accessible design and building construction, what a building had to offer intertwined with institutional imperatives about what customers, patrons, and even fellow employees would most prefer to determine the final outcome of restroom renovations. Thus, although local health and safety requirements, state plumbing codes, and federal building standards all exert a powerful influence on the shape of building design and the meaning of physical spaces, material and institutional considerations also intersect with such regulatory structures to influence how a particular organization uses their architectural choices to respond to multiple – and sometimes conflicting – legal dictates.

“We Were Able to Make the One Bathroom a Little Bit More of a Conversation Piece”

But the coercive power of the law is far from an omnipotent bully that pushes organizations within a shared legal environment into one, specific course of action. While evolving federal law, state statutes, and even local administrative codes may indeed “shape the financial and aesthetic conditions within which popular culture develops,” as Richard Peterson put it in his canonical statement about the social-structural constraints on the production of culture, the law can also simultaneously prompt inventive and novel cultural possibilities. In the
last three decades, sociologists of culture tracing the historical underpinnings of cultural innovation have emphasized this idea in numerous cultural spheres: for the production of American literature, nascent nineteenth-century copyright laws caused American authors to adopt new themes in long-form fiction-writing and to move toward short stories that could readily be published in the growing magazine industry; for the emergence of new musical genres, the role of early twentieth-century contingencies of patent law and twenty-first-century trends in digital copyright have fundamentally shaped the work of industry labels and individual artists alike; and even for the evolution of fashion in the clothing industry, legal restrictions on dress in public have prompted clothing manufacturers to adapt the details of their products to cleverly walk the line between conservative enough to be legal and progressive enough to stay up-to-date with evolving urban norms. And even more recently, sociologists of culture have shifted from taking a historical approach to studying the outcomes of shifting legal structures toward a relational approach, one that centers the interpersonal connections within cultural communities and cultural organizations as a crucial mediating force in transforming legal regulations into a particular set of cultural outcomes.

Indeed, for one subset of decision-makers in my interview sample, whom I term “restroom opportunists,” building codes and federal regulations like ADA provided them personally with the opportunity to exercise quite a bit of creative agency in shaping their organization’s restrooms. Opportunists thus tended to work on their own timeline—one that was attentive to the demands of legal regulations but nonetheless attempted to prioritize their own organization’s preferences for the timing and speed of a plumbing renovation. In fact, for some such organizations, restroom transformations were so proactive that they occurred several months or even years before the Department of Justice put the first iteration of the ADA Standards for Accessible Design into full
effect in 1992. This was the case for Dan, whose suburban library anticipated needing to account for accessibility in their proposal for a planned renovation in the early 1990s. As he recalled, all three of the renovations or expansions he had witnessed during his tenure focused on three crucial questions: “Who are our patrons, what are they using the library for, and are we meeting those needs?” Interest in a degendered restroom, one potentially organized around “family-friendly features” and “aging patrons who might need help in the restroom” thus first emerged in the course of informal conversations about better tailoring the library’s collections and physical layout to the patrons who most frequently and consistently sought out library resources. As he explained, “With most of our everyday patrons being mothers of pre-school-aged children or older, retired adults, we were talking about rearranging our stacks to create reading areas for both groups, which led to rethinking how else we use our space.” But knowing that the ADA was “likely going to pass in both houses of Congress” he also recalled budgeting for updates to a number of “less-than-accessible” aspects of the library’s current physical layout. In short, he “realized then that there were multiple reasons that a unisex bathroom made sense” for his library, and he and his colleagues thus eagerly went about bringing such a space to fruition.

Plus, in many cases, opportunists explained how going further than dismantling obstacles to accessibility was an organizational priority for them, and they recounted how those efforts often manifested in costly renovations—which often went above and beyond what would be necessary to create bathrooms which complied with relevant local, state, and federal laws. One of the common threads across many shopping malls and museums, like those described in the newspaper coverage of family restrooms in the introduction to this chapter, was a laundry list of features included in their installation of a family restroom. Often, such restrooms were not only spacious and fully wheelchair accessible – thus satisfying federal design guidelines for ADA
compliance and any more stringent state building codes – but they also featured lavish bonuses. These bonuses ranged from generously-sized changing tables (complete with the most up-to-date accoutrements to prevent accidental infant falls and unwanted bacterial transfer alike) to scaled-down toilets and sinks designed with the comfort of preschool-aged bodies in mind to an airy vestibule for stroller parking—one located at an ample distance from any of the restroom’s toilets and urinals but still located safely behind the restroom’s lockable entrance door. Many organizations also opted to include a separate wing off of the restroom’s main entrance in which mothers with infants could find a clean and private space in which to nurse or, if a completely separate alcove was unavailable in a restroom itself, to build a separate, locked room in close proximity to the family restroom. And in several cases, the cultural experience of the site in question even extended into such restroom and nursing spaces, providing kid-friendly factoids about American history, modern art, or dinosaurs to, as Meg, one museum decision-maker explained, “entertain an older brother or sister while mom or dad tends to a fussy infant or toddler.”

But not all of the decision-makers in my interview sample described the interactions leading up to a degendered restroom within their organization in such a generative light. Instead, for the other subset of decision-makers in my interview sample, who I term “restroom legalists,” a degendered restroom was, above all else, one among many routine capitulations to shifting legal and architectural requirements that they had to manage for their organization. As such, degendered restrooms tended to arrive in legalist organizations as a reactive measure. In several such cases, such as the custodial-closets-turned-restrooms in Andrew’s performance venue, changes to state building codes or the full implementation of the ADA Standards prompted small-scale infrastructural updates to ensure compliance with such regulatory structures; in others, such
as the expansion to Ellen’s library, a planned renovation for reasons completely unrelated to accessibility or to restrooms led to the creation of one or more degendered restroom spaces to head off any possible legal infractions. In yet others, however, such reactivity took on an especially frantic character. For Ken, whose urban restaurant had postponed taking on any accessibility updates for several years past the turn of the twenty-first century, bringing the entrance to his restaurant, his restrooms, and the pathways connecting the two into compliance with the ADA Design Standards as “increasingly unavoidable.” In his case, his restaurant’s position within a historic building allowed them to “skirt by under the radar for a while.” But as he explained, pressure from a number of local nonprofit organizations promoting the rights of individuals with disabilities in their neighborhood led him – and several other restaurant owners in close proximity – to tackle accessibility updates before any such activists filed a formal complaint with the Department of Justice. “We took our chances for as long as we could,” he explained, “knowing that we would probably end up with nothing more than a slap on the wrist. I know that sounds terrible, but the City tends to be very lenient with businesses in older buildings, so we looked the other way for some time. But when word got out that compliance checks were happening right down the street, we decided to bite the bullet.”

Because of that reactive posture, legalist decision-makers typically approached the addition of a degendered restroom in a way that strove to maintain the status quo of their architectural environment as much as possible. For several such respondents, like Gen, adding a new gender-neutral restroom to her suburban library was not merely the most straightforward approach to the ADA possible; it was also the approach that would allow her library to meet the bare minimum facility standards required by law—no more, no less. “We took a storage closet, cut a hole in the wall where we knew the plumbing lines were what we needed, and put in a toilet
and sink,” she recalled, before quickly punctuating her recollection with one more short sentence: “Problem solved.” And even when gender-neutral restroom additions were one piece of a more substantive renovation – most often, because the addition of a gender-neutral restroom alone would not allow an organization to comprehensively meet accessibility requirements – many decision-makers still strove for a minimal approach. Roger, the decision-maker who converted two undersized gender-segregated restrooms into one larger, degendered space, explained how his approach stemmed from a laundry list of other accessibility issues:

Our parking lot had problems. Our sidewalks didn’t have the right kind of ramps. They ruled our entrances obstructed – and I still don’t understand that one, but that’s neither here nor there. Our bathrooms didn’t have grab bars and the right amount of clearance between the toilets and the stall walls. We needed to do something about our signs because they were in the wrong place or had the wrong font or something. It was a disaster.

Not knowing how exactly to proceed, he contacted an architect with expertise in accessibility renovations, and he was the one that recommended going with a unisex space. “Because we had a long list of problems to address,” he explained, “he [the architect] figured that turning our men’s and women’s rooms into one, bigger, unisex space would be the easiest path to get us up to code.”

At first, it seemed that the recalcitrant posture many legalists and their colleagues adopted was a result of the often-high cost of restroom renovations. Aaron, the decision-maker who was one of my first respondents to clue me in to the importance of a building’s existing infrastructure in shaping current bathroom arrangements, was also one of my first respondents to make me suspect that financial considerations were at the heart of the substantial differences in timing and scope that different decision-makers described. Early in our interview, I asked him whether or not
he was happy with having that one restroom. “Sure,” he replied, “but I’m happy with anything that’s functional, because the alternative would be obtaining construction permits and hiring contractors to make changes.” When I then asked him to elaborate more on why that alternative was unappealing, he explained his perspective by drawing a parallel to his restaurant’s kitchen—and bringing in the financial cost of renovations as a crucial influence on his decision:

“Sure,” he replied, “but I’m happy with anything that’s functional, because the alternative would be obtaining construction permits and hiring contractors to make changes.” When I then asked him to elaborate more on why that alternative was unappealing, he explained his perspective by drawing a parallel to his restaurant’s kitchen—and bringing in the financial cost of renovations as a crucial influence on his decision:

“Sure,” he replied, “but I’m happy with anything that’s functional, because the alternative would be obtaining construction permits and hiring contractors to make changes.” When I then asked him to elaborate more on why that alternative was unappealing, he explained his perspective by drawing a parallel to his restaurant’s kitchen—and bringing in the financial cost of renovations as a crucial influence on his decision:

There are things I can’t stand about the layout of the kitchen, but I know what we have right now meets all the applicable building codes and safety regulations. Construction isn’t cheap or fast in the first place, and in the second place, you have to worry about scheduling the health inspector to double-check everything. And that’s if the changes you want will even fit into the city’s building code...

He drifted off, then punctuated his response: “So it’s much easier to let the layout be what it is.”

Luke, too, recalled similar priorities, albeit with much more colorful language: his biggest priority for his suburban restaurant’s most recent renovation to be “dealing with that trifling bathroom bullshit with as little work” – and cost – “as possible.” When he and his co-owner hired a contractor in the mid-1990s to rectify their known ADA compliance issues, the preferences he had for the extent of that work were simple: “I remember saying, ‘Okay, we need the parking lot, wheelchair ramps, and bathroom fixed as quickly and painlessly as possible. No bells, no whistles. In and out. Done yesterday.’ And the first guy who didn’t try to upsell me on more renovations was the guy we hired.”

But complicating matters were the many opportunists who referenced equally-tight budgets in their accounts of trying to sort out their own restroom renovations. One of the recurring themes throughout my conversation with Ted, a decision-maker for a recently-opened urban restaurant, was his emphasis on “not wanting to have great plans derailed by all the legal
claptrap that surrounds restaurants.” “When we were first sketching out our vision of what [the restaurant] would be,” he explained, “our mantra was, ‘Design first.’ So, for example, we wanted to decide, for us, how many tables we thought would be the right number for how we wanted [the restaurant] to feel and flow, then find a space to rent that would match our plan—rather than the other way around. We wanted to make as few concessions as possible.” And after he had come back to that point several times in our interview, I started to suspect that he espoused a legalist approach to the restrooms in his restaurant. But to my surprise, when I asked him point-blank what he meant by “legal claptrap,” he explained that he was worried that state building codes would actually corner his restaurant into having gender-segregated restrooms:

Oddly enough, our original plans called for a pair of bathrooms. You know, one male, one female. But when we checked the codes and realized we could get away with one unisex bathroom, we were stoked. It was a win all around: it was one fewer bathroom to keep clean and maintain, it gave us a couple more feet to work with in terms of the size of the bar and bar storage, and my managers were enthused about making the bathroom itself an interesting feature. By saving cash that would’ve spent on the second bathroom’s plumbing and fixtures, we were able to make the one bathroom a little bit more of a conversation piece.

As I delved deeper, then, I realized that what bothered legalists was having to make expensive capitulations to the law in ways that felt constrictive and compulsory. In other words, as economic sociologist Viviana Zelizer explains, money for my respondents was not a “single, interchangeable, absolutely impersonal instrument”; instead, they “routinely assign[ed] different meanings” to infrastructural funds depending on the cultural and social influences predominating in their particular cultural organization.28 At best, then, legalist decision-makers approached that
sense of obligation with nonchalance; but at worst, it pushed them to attack the rule of law with an arresting degree of vituperation. Mark, a decision-maker for a historical-site-turned museum in the outskirts of a suburb, recounted that his organization’s status as a historic site made restroom renovations particularly onerous. “If I’m being honest,” he recounted, “that handicapped bathroom was a nightmare. Truly a nightmare.” He paused for a moment, then issued a caveat: “Now, don’t misunderstand me: I absolutely agree with the city and with the state that having sanitary and wheelchair-accessible bathrooms are important, and I would never want one of our visitors with special needs to feel as if they weren’t welcome in [museum name].” “But,” he said, returning to his initial train of thought, “there’s a point at which fussing over a single inch of space in a doorway or a wall is frustrating to all of us.” When I then asked who he meant by “all of us,” he described the palpable frustration of his subordinates to their most recent batch of plumbing updates, saying, “I’ve fielded disgruntled phone calls from my curatorial colleagues all the way down to gift shop staff. It’s not about the bathroom, really. But the bathroom becomes the last straw when a dozen other issues associated with constantly-changing building code requirements have come up in the last year alone.”

But for opportunists, legal restroom regulations were an issue they had to keep in mind, but those regulations did not seem to diminish the control they believed they held over the size and contents of a degendered restroom space in the slightest. They thus met the arrival of such spaces with a substantial degree of enthusiasm. When I asked Jess, a decision-maker from a chic, suburban restaurant and lounge, to walk me through when and why she had converted both their gender-segregated restrooms into gender-neutral ones, she perfunctorily replied, “We took the whole building down and started over from scratch.” Seeing the surprise on my face in response to her nonchalance, she chuckled and then quickly followed up with a more detailed explanation:
“Not to change the bathrooms, obviously – oh gosh, now that would be funny, right? – but because the building that was on the lot had been built to code in... I want to say 1964. Something like that. So we had an inspector in to check out all the electrical, all the plumbing, the foundation, the whole deal. And as the list of problems got longer and longer, we started joking that we should just bulldoze the thing and start over. And one day, we sort of all looked at each other one day and said, 'Hey, what would happen if we really did bulldoze the thing and start over?' So we talked to the architect and priced things out, and decided that we could really do things right if we went for it.”

When I then asked her to say more about what “doing things right” meant to her, she grabbed a cocktail napkin and asked to borrow my pen. She began drawing lines on the napkin, saying, “One of the big things was relocating the kitchen...” Her voice trailed off as she connected those lines to form one large square, then added three smaller squares right inside of one edge of the larger square. She then continued, “The previous building had the kitchen and the restrooms back here, in the rear of the building – which is normal, okay, and not a big deal – but if you’re building from the ground up...” She paused again to draw a new, large square with three smaller squares. But this time, the smaller squares were aggregated together toward the middle of the larger square. She resumed her train of thought with a gleeful smile:

“You can make choices to use those sort of utility areas to carve up the dining room in an artful way, see? So the effect is that we now have what feels like three, smaller, more intimate dining areas instead of one big, open room. It makes the dinner experience feel more personal if you can’t see how many tables your waiter is really serving. And to get back to your original question, so, even with the bathrooms, we made them oversized for
the capacity we seat because of the same principle: a few extra square feet makes everything feel less cramped, which makes everything also feel more upscale.”

What ultimately distinguished opportunist decision-makers from legalist decision-makers was therefore much more than the timeframe within which their organization put a degendered restroom into place, the size and contents of the restroom spaces that resulted from such work, or even the cost of materials and labor associated with even the smallest of restroom renovations. Above all, it was how decision-makers themselves actively arbitrated the intertwining effects of the law, architectural infrastructure, and budgetary considerations. When they perceived those intersecting forces to create a situation outside of their control, the decision-makers in my sample strove to preserve the status quo as much as possible when responding to restroom regulations—thus leading to a tendency to work on a more reactive timeline and with a more restricted renovation scope. But when that very same intersection seemed to be a creative opportunity rather than a pressing constraint, restroom regulations could be an organizational boon—and thus were worth engaging with as quickly and as expansively as possible. Counterintuitively, then, the simpler a degendered restroom was, the more likely it was that a respondent would describe it as an architectural challenge, a source of frustration, or a financial hardship; but the more extravagant and elaborate a degendered restroom was, the more likely it was that a respondent would downplay how much time, energy, and money went into creating that same space and instead emphasize how a degendered restroom was a positive addition to their organization’s architectural environment. The effect was thus that two virtually identical restroom spaces—and moreover, two restroom spaces in two organizations facing comparable architectural constraints, sharing an institutional identity, and working within a shared geographic and legal context—can have diametrically opposed meanings for the organizations in which they are located, such that
human interpretation renders one an expensive annoyance and the other as an invaluable organizational investment.

“Whatever Makes Our Patrons Happy”

But the power of human interpretation is itself an organizational resource—and one not evenly distributed across all social groups. Although sociological research about cultural production and reception has provided ample evidence that institutional context, spatial realities, and even the law impact the meaning and success of a wide range of cultural products, rarely have scholars in those fields theorized the interactional work through which such processes of translation occur. But for cultural sociologists interested in what Randall Collins terms “situational stratification” – that is, the ways in which the interactional flows of everyday life aggregate up to the maintenance of broader systems of social inequality – such connections between face-to-face social encounters and widespread patterns of social organization have long been central. Drawing from Pierre Bourdieu’s now-classic argument about the ways in which “cultural capital” – that is, the knowledge, experiences, and interactional skills which derive from growing up in a middle- or upper-middle-class family – benefits children from wealthier backgrounds as they move through educational institutions, recent research on the microsociological foundations of social stratification has recently expanded such work to explore the ways in which interactional prowess forms the basis of social stratification in numerous other spheres. Potential employers in elite firms, for instance, evaluate job seekers on the basis of their perceived “fit” with existing workers – which they evaluate first and foremost on the basis of the interactional cues such job seekers exhibit during their interviews – and middle-class young adults are themselves more likely to push institutions to accommodate their needs rather than
playing by the stated “rules of the game.” In fact, as Shamus Khan argues in his recent book Privilege, one of the most distinguishing characteristics of contemporary elite culture is the ability of individual elites to easily navigate a diverse array of social institutions and mundane interactional settings alike with “ease”: that is, carefully-cultivated and well-practiced set of embodied practices that allow members of the middle- and upper-middle-classes to appear naturally comfortable in any situation.30

For the legalist decision-makers in my sample, ease was notably absent from our interview conversations: degendered restrooms were not only difficult to actually implement, but they were also extraordinarily difficult to discuss. In fact, legalists typically had very little to say about restrooms—period. My interview with Jerry started off in an unusually promising direction: the restaurant at which he worked had recently moved into a new building, and Jerry was eager to walk me through all of the transformations that had accompanied the move. “Everything is new,” he explained, then quickly rattled off an itemized list of everything in sight. “The menu, the bar, the seating, the sign out front, the paint, everything. We’ve been waiting to do this for such a long time, and it’s wonderful to see it all come together.” As we continued to chat, he talked about the minutia of the renovation at an ever-increasing level of detail, even spending a few minutes heaping praise on the arrival of LED lightbulbs in the restaurant’s new light fixtures. When I asked about the gender-neutral restroom at the rear of the building, however, my expectations that he would take an opportunist approach to that restroom dissolved as his interest tapered off considerably:

Jerry: That wasn’t really up to us. With the plumbing and the kitchen, [the city] makes our choices for us.

Interviewer: What does that mean?
Jerry: It means that our contractors look at what the code says, and we make sure that we have the right number of fixtures and spaces for the number of people we have on staff and the number of customers we serve. That’s really it.

Indeed, from that point forward, my subsequent questions about the restaurant’s gender-neutral bathroom continued to circle back to that first answer. As I realized that no amount of cajoling was going to convince Jerry that his restaurant’s gender-neutral restroom merited more discussion, I switched to asking him a few improvised questions about the decor and the menu, and I wrapped our conversation up much more quickly than I had planned. (I anticipated that we would talk for forty-five minutes to an hour, but I decided to abandon my interview schedule at the fourteen-minute mark, and I turned off my recording device after about eighteen total minutes of conversation.)

Opportunistic decision-makers, on the other hand, had plenty to say about restrooms—and, in some cases, even the tiniest details within them. My interview with Michael, a decision-maker for an urban museum, unfolded as the complete inverse of my interview with Jerry. At first, Michael seemed to espouse a legalist perspective, as he expressed disappointment early in our interview that his museum had to work within the confines of legal mandates when they last updated their restrooms: “As much as we attempt to make every single inch of our property part of the [museum] experience, we are still beholden to the law. We have to choose fixtures that meet building and plumbing code requirements. We still have to have the right number and kind of restroom spaces to keep compliance with state and federal guidelines about size, about number, about wheelchair access.” But as we continued talking, he turned to a focus on architectural design, and in particular, how much care and consideration went into choosing restrooms for any museum like his own:
“It’s a common misconception that design matters for some parts of an institution like ours and not for others. I once heard restrooms in art museums described as “functional art,” and I find that to be such an apt characterization. Whether you actually commission an artist or an architect to design your restroom space or they more closely resemble a traditional public restroom, you can be sure that multiple committees were convened to decide where that restroom was going, what should go into it, how it should look, what signs should go outside the door, and so forth.

Shifting gears from generalizations about museums as a whole into talking about his own organization, he then continued his explanation with a focus on the particular case of toilets:

“Take the toilets as an example. You might think that they would be an unimportant consideration, or that there wouldn’t be much variety to choose from even if you found them important. But it’s remarkable how many choices there really are, and how the tiniest details can affect the entire feel of the space. There are decisions to be made about how they flush, whether they fit into the ground or the wall, what the base looks like, what the seat looks like, what the mechanism that flushes the toilet looks like... and that doesn’t even get into the flooring or walls or stalls around them.”

In fact, Michael not only talked about the gender-neutral restrooms (and toilets therein) within his organizational purview for much longer than most of my other respondents, but our interview as a whole also pushed well beyond the hour mark.

Where the details of faucets and flooring might have been difficult for opportunist decision-makers and their colleagues to settle on, however, degendered restrooms themselves were rarely a source of consternation. Instead, legal regulations like the ADA functioned as a rich organizational resource for opportunists—and, as such, one which they were delighted to discuss
at length with me. Chris, one such decision-maker, reported that his suburban shopping mall’s recently-installed degendered restroom was “a no brainer” among the different offices and property groups who owned and oversaw the space. For them, he explained, recent brushes with formal ADA complaints motivated them to change their protocols for all future mall construction and renovation, such that they specified the addition of a sizable family restroom. But because those restrooms often included the many family-friendly accoutrements described above, Chris explained that “the legal regulations that caused those changes” were imagined to portend positive consequences for the mall. And as luck would have it, they were indeed “a godsend for business.” He then rattled off a list of the numerous compliments he had personally heard from parents happy with the mall’s family restroom space: “The most common response I get is probably from moms with little kids, because they’re really grateful to be able to round up the whole herd in a single space that locks.” But as he continued describing customer feedback, he also noted that the space also fulfilled multiple other needs for other types of mall visitors:

I’ve also heard from a few wheelchair-bound customers that the unisex bathroom is more accessible for them than our other restrooms, because the sinks are at multiple heights, and I’ve also seen the bathroom used by customers who have someone with them who has a developmental disability. Oh, and in the height of holiday shopping season, women shopping together will absolutely use it to skip the line for the ladies’ room.

He paused briefly, then summarized his own observations with a grin: “All-around, it’s been a great thing.”

In On Justification: Economies of Worth, Luc Boltanski and Laurent Thévenot offer a social theory of justification: as they put it, “people do not ordinarily seek to invent false pretexts after the fact” to make sense of their previous actions, “the way one comes up with an alibi;” instead,
they go on to explain, individuals “seek to carry out their actions in such a way that these can withstand the test of justification.” Applied to the realm of restrooms and cultural organizations, what decision-makers like Chris were suggesting was that their organization chose to add one or more degendered restrooms to their environment expecting that such choices would be defensible after the fact. But as the lengthy responses from him and other opportunist decision-makers revealed, degendered restrooms did not withstand that test of justification on their own. Instead, the opportunist decision-makers with whom I spoke were actively involved in enacting such justifications on behalf of their organizations—and explicitly articulating the consonance of degendered restrooms with dominant institutional logics about how a museum, shopping mall, or in Amy’s case, performance venue should act. For her theater, which had recently been updated to add state-of-the-art acoustic technology and more comfortable seating, she started to respond to my queries about the origins of their degendered restrooms by highlighting how accessibility was increasingly important to her venue’s mission:

“We have these patrons who have been coming here for twenty, thirty, even forty years, and it’s not acceptable for them to face a literal struggle in attending events here. We want them to be able to get upstairs; we want them to have an easy time getting down the aisle to their seats; we want them to be able to access a bathroom with enough space for an attendant but enough privacy to do their business. If we’re not fully accessible, then we’re doing both those patrons—and the artists that choose to perform here for those patrons—an exceptional disservice.”

But in addition to speaking about her organization in particular, though, she also extended her observations about the necessity of accessibility updates to other, similar organizations: “Bigger issues like accessible parking or an elevator can be tricky, but companion seating for wheelchair-
bound patrons is another one that requires very little effort. Assistive listening technology should be available at every facility dedicated to live artistic performance. Most of this is not complicated. These are all little changes that make a huge difference."

What was so easy for restroom opportunists, then, was what I call the *ease of justification*: a capability on the part of decision-makers themselves to readily mobilize a defense of current organizational realities, such as degendered restrooms, as an agentic choice that comports with a reigning set of institutional values. In fact, most revelatory of all was the interactional skill opportunists deployed as they responded to my interview probes. Not only did they frame restrooms as an asset from the outset of our conversations, but they were also incredibly deft at redirecting my questions to their own preferred narrative. For instance, in my interview with Miles, a decision-maker for an urban museum, I struggled to get a word in edgewise after I asked him to explain why building architects had opted to include gender-neutral restrooms in lieu of gender-segregated ones in a handful of galleries. He responded that those particular choices were “sensible from a design perspective.” When I then asked a follow-up question about whether he thought any other considerations entered into his museum’s calculus for the degendered spaces, even naming the financial cost of optional renovations and state building codes as factors potentially impinging on such choices, I was met with a cold stare. After a few uncomfortable beats of silence passed, he finally replied: “As an institution which exists to preserve, protect, and share objects that are the very embodiment of human creativity and emotion, we take seriously our obligation to provide those objects with an appropriate backdrop and to provide our visitors with an all-encompassing aesthetic experience. That vow certainly does not end at a restroom door.” And when I then started to interrupt with another follow-up question, he continued, undeterred: “Think about domestic spaces. Imagine Mies van der Rohe saying, ‘No, I’ll design the
whole house *except* the bath.’ Never! The great modernists extended the clean lines and straightforward elegance of the modern home into every single room, because every single room was integral to the form and function of the modern home. The same applies here."

But in keeping with Miles’s quick reference to the experience of his museum visitors and Amy’s more extended ruminations on her concert hall’s aging patrons, one thread cutting across most such redirections was valuing a customer-centered approach. Julia, a decision-maker for a suburban shopping mall, made this explicit as she spoke in detail about the excitement she shared with her colleagues about enhancing the “family-friendliness” of their space in the early 1990s. Echoing many of the comments from mall managers appearing in newspapers in that same timeframe, such as those animating the introduction to this chapter, she replied to a question I had specifically asked about the ADA with a rejoinder about why their “family restroom—not a wheelchair-accessible unisex restroom” [emphasis hers] was such a pressing priority for them:

“All who’s ever been a mom with a son or a dad with a daughter has gone through all of the agony of being out in public with your child and not having an easy way to deal with public restrooms. With infants, there’s always the question of whether or not you’ll be able to find a changing table, and with toddlers, there can be unexpected accidents or they can decide that today is the day I’d like to crawl out from under the stall, and even with older kids, there’s always that worry about sending them behind closed doors with adults you don’t know and don’t trust in a public place. We’ve all had those experiences; we’ve all heard customers come to us with those experiences. So the question wasn’t whether we should add a family-friendly bathroom space, it was how quickly we could make it happen – because we really wanted to be one of the first shopping centers in [the region] to add that element of customer service for our shoppers.”
In fact, even on the rare occasion that a restroom opportunist would follow one of my leading questions with an acknowledgment that legal or financial constraints informed their restroom-related choices, decision-makers construed such strictures as a valuable outlay of funds rather than a compulsory hardship. When I challenged Dylan’s unusually rosy account of his performance hall’s recent move to add multiple degendered restrooms, for instance, he granted that, “It was an investment, of course. Even the tiniest changes to infrastructure carry a massive price tag in [city], between getting all of the necessary permits in order and hiring contractors with the right sorts of credentials and that doesn’t even include the costs of materials, which are increasing every day it seems, and the exorbitant labor costs for that crew that’s properly certified.” As he immediately went on to explain, however, that cost also had a clear bright side: “But the outcome is that you’ve created a better experience for your visitors,” and as such, that better experience would ultimately translate to “more than recouping your losses on the other side.”

Embedded at the heart of such a customer-centered focus, then, was ensuring that those customers exercised their own ease of justification when talking to others about the cultural organization in question—even when it came to a seemingly inconsequential detail like a degendered restroom. And as Scott, the decision-maker who joked about becoming an expert in workplace safety law, implied in the history he traced of the matched pair of gender-neutral restrooms in his urban restaurant, restroom-related enthusiasm was all the more effective if it came from patrons themselves. “So I went to Las Vegas a few years ago,” he recalled, “and I can’t remember which casino it was, but there was this one-sided glass that allowed you to, like, look out over the city as you were using the toilet. And it was just wild.” For him, “seeing things as a customer” induced him to consider his own restrooms “through that lens.” “Not that I hadn’t
before,” he quickly added, “but I had in a way that was more about the menu and our wait staff and things like that. And I thought to myself, hey, bathrooms don’t have to be unsexy. They should be just as sexy and appealing as everything else. You never know what’ll get people talking.” And taking things to an even more unambiguous level, Lisa, explained her rationale for switching the “classic men’s and women’s room signs” on her urban restaurant’s single-user restrooms for ones that simply said “restroom.” “We expect that these changes, including the bathroom, will not only please our customers enough to convince them to come back again and again,” she remarked, “but it’ll also convince them to recommend us to their friends, to use our space for their work functions, to recommend us to their clients, to recommend that colleagues in from out of town stop in for a drink – or better yet, dinner – while they’re here. And every little thing we can do to ensure that press on top of providing one of the best dining experiences in [neighborhood] is money well-spent.”

In fact, the push and pull of shifting customer values led multiple decision-makers in my sample to transform the identity of their restrooms several times—not just from gender-specific to unisex, as in Lisa’s case, but through various iterations of degendered signage. For Chuck, his suburban museum’s degendered space was most illustrative of such an evolution. As he recalled, it was first installed “in the early ’90s” with “a sign that just said ‘restroom,’ and had three stick figures: one in a dress, one in pants, and one in a wheelchair.” After only a couple of years, they “swapped that one out for one with the same stick figures,” but one that read “‘accessible restroom’ and had braille letters underneath as well.” But as family restrooms “gained notoriety” over the next few years, he went on to explain, he and several of his colleagues pushed in the mid-2000s “for a switch over to a ‘family restroom’ sign with four stick figures: one big stick figure in a dress, one small one in a dress, one big one in pants, and another small one in pants.”
Just a few months before our interview, however, the museum opted to purchase “yet another new sign,” this time one that had no stick figures at all. Instead, the newest sign proudly read “all-gender restroom,” and in the space above that label, an outline of a toilet filled the space traditionally occupied by gendered human outlines. Below was a brief explanation, both in text and in braille: “Anyone may use this restroom, regardless of gender identity or expression.”

When I asked Chuck what he made of the newest sign, he replied, “You know, I hope we’re done buying new signs, because I don’t know what you can do to be more inclusive than just have an outline of a toilet...” He paused to chuckle to himself, then continued his train of thought: “... but we’ll probably have to buy a new one in ten more years. Whatever makes our patrons happy.”

Degendered restrooms are thus neither mere reflections of an organization’s most cherished values, nor are they evidence for those same values—at least, in and of themselves. Instead, like all cultural objects, the meaning of degendered restrooms in the organizations in my interview sample required human intervention to actualize, and the decision-makers with whom I spoke were, themselves, a crucial channel for the doing of that meaning-making work. But more importantly, the volume of their interactional contributions conveyed as much as the content of those interactions did. For restroom legalists, if the law required a particular configuration for an organization’s restroom layout and an organization complied with those demands without question, then a degendered restroom was merely a restroom, and there was very little to recount to an interested researcher about those restrooms. For restroom opportunists, however, even though state and federal regulations shaped some aspects of their restroom renovation, that very same degendered restroom was an opportunity for them to actively highlight their organization’s most valued commitments in conversation with an interested outsider. Yet beneath such appeals to family-friendliness or the aesthetic principles of modern design, restroom opportunists
recurrently connected those values – sometimes deliberately and sometimes not – to the perceived priorities of their most important patrons, customers, and visitors. And those consumers, in turn, were imagined to be crucial cultural channels in their own right, as they, too, possessed the cultural and social capital necessary to ensure that cultural organization’s current and future revenue. As such, whether they came from under-funded public libraries, leading cultural institutions in the heart of one of the largest cities in the United States, or middle-class dining establishments targeting affluent suburban families, opportunists and legalists were not so different after all: while they certainly went about it in different ways, their own financial bottom line was what most often led them to pursue and, in some cases, promote degendered restrooms in the first place.

Discussion and Conclusion

In “Hierarchies, Jobs, Bodies: A Theory of Gendered Organizations,” Joan Acker contends that the apparent absence of gender in organizational discourses reveals as much about the operation of gender inequality as does its presence. As she explains, although “gender-neutral” organizational logics may suggest an equal playing field between men and women at work, they actually camouflage gender inequities: ones which assume that all organizational actors are male and thus covertly contribute to workplace disadvantages for women. And although Acker’s interrogation of tacit patriarchal beliefs may seem anachronistic in today’s postmodern gendered universe – one where several of my interview respondents openly discussed glass ceilings and transgender youth with me – I ultimately conclude that my interview data extend rather than refute Acker’s claims. While it may seem that my respondents’ accounts of degendered restrooms were rarely about gender at all, a deeper look reveals that talk of gender was ubiquitous: the
needs of nursing mothers, fathers with young daughters, and individuals reliant on an adult of the “opposite sex” to help with restroom-related matters were, indeed, frequent themes. As such, I argue that the meaning of gender categories and gender boundaries is often – perhaps always – at the heart of “gender-neutral” organizational work, even when that work aims to dismantle the effects of those categories and boundaries. But Acker’s argument is as much about how scholars study organizations as it is about those organizations themselves. And where scholars ignore the gendered assumptions permeating all aspects of bureaucratic function, her argument goes, it is impossible to see gender as the “complex component of processes of control and domination” (p. 144) that it truly is.31 By centering my analysis on the everyday, embodied labor of interaction within cultural organizations themselves, I extend Acker’s argument even further: as organizational work related to “gender-neutral” spaces reveals the operation of systems of social and cultural power that go far beyond gender alone.

My findings thus have multiple implications for sociological research at the intersection of culture, law, and organizations. First, consistent with recent work in the law and society tradition which Abigail Saguy and Forrest Stuart characterize as reflecting a “law-as-culture” model,32 the legalists and opportunists alike in my interview sample shared a sense that the law and everyday cultural practices within organizations are fundamentally co-constitutive. Even for the staunchest legalists, who protested the reach of the law at length in our conversations, there was unfailingly quite a bit of leeway in how exactly they went about adapting plumbing codes into infrastructural updates; inversely, even for the most convincing opportunists, who swore that every element of their architectural design reflected a lofty aesthetic or moral commitment, health and safety codes could not be disregarded altogether. But where those two groups differed was in how they actively positioned themselves and their organizations in reference to regulations like New York
City’s building codes or the ADA Standards—and only opportunists were able to harness the ease of justification in a way that relegated the law to a minimal role in the telling of their organization’s restroom-related history. My findings thus go beyond contentions that “the ‘haves’ come out ahead” only in the context of litigation or other formal legal settings, as Herbert Kritzer and Susan Silbey argue, as decision-makers speaking on behalf of elite cultural organizations in everyday social interactions actively exercise their cultural capital as they draw on the law (or, perhaps more accurately, omit the law) in ways that maintain status boundaries—and thus fuel social inequality. Moreover, those same decision-makers understand such cultural work to operate through their patrons as much as it does through themselves or their colleagues, thus making the imagined cultural capital of those patrons as crucial a vehicle for the maintenance of status distinctions as their own interactional work.

The second pertains to the abundance of sociological work documenting how organizations respond in decidedly less-than-progressive ways to laws geared toward equity, rights, and social justice. Lauren Edelman and Frank Dobbin, for example, have observed that the rise of Equal Employment Opportunity procedures and other anti-discrimination practices in the wake of the Civil Rights Act of 1964 are, more often than not, symbolic gestures rather than substantive improvements. The varied responses of my interview respondents to laws about restroom fixtures, plumbing infrastructure, and accessibility appear to complicate such research, as they reveal how certain organizations often go beyond minimum requirements—and even beyond what other, similar organizations have chosen to install—to distinguish themselves as unusually accessible or committed to often-marginalized social groups. Yet those same organizations respond to laws intended to ameliorate social inequalities in ways that overwhelmingly maintain the status quo, and moreover, justify the changes they do adopt as
commensurate with familiar bureaucratic aims of increasing efficiency and maximizing economic gain. Whether they took a legalist approach and implemented a degendered restroom as an alternative to making a pair of gender-segregated restrooms fully accessible or an opportunist approach that created a lavish new restroom space to accompany a pair of equally-spacious gendered restrooms, then, the decision-makers I interviewed tended to transform restrooms in ways that were most convenient for their cultural organizations—even if that convenience was couched in terms of long-term benefits. As such, I argue that symbolism and substance are not mutually exclusive: instead, costly, time-consuming, and objectively onerous organizational transformations can ultimately serve symbolic – and, more importantly, hierarchical – ends.

But decision-makers themselves are more than mere storytellers, and that reality is the basis of the third and final implication of my analysis: the meaning of the law and of material structures is never settled, but those meanings are profoundly shaped by the history of cultural work done to an object or space. In other words, just as infrastructure itself has an installed base which “inherits strengths and limitations from that base,” as Leigh Star writes, so, too, does the meaning of the law and the doing of culture within the cultural organizations I studied.35 Despite their varied responses and often-lengthy justifications, for the overwhelming majority of my respondents, their restrooms which bear the labels “family” or “all-gender” only became possible when organizational actors grappled with the ADA’s suggestion that a unisex restroom is worth adding whenever possible. In part, this comports with research on legal consciousness and with neo-institutional theories of legal compliance about the flexibility of individual and organizational responses to nascent legal regulations,36 and in part, it comports with research demonstrating how circuits of meaning between organizations and the law enable “unanticipated consequences” that were never expected by lawmakers or the people who first did the work of applying that
original law to the organization in the first place. But I also find that organizations respond creatively to the law even when faced with a fairly rigid and prescriptive set of guidelines or standards, and moreover, that the meaning of a space might evolve to remain consonant with shifting cultural values even while the materiality of that space might stay static—as was the case for the ever-changing identity of the degendered restroom in Chuck’s museum. The consequence, then, is that restrooms built on more regressive gender politics (such as a family restroom built “for moms”) or ones not built for gendered reasons at all (such as a unisex restroom built to be wheelchair-accessible) can lay the interactional groundwork for ones that reflect decidedly postmodern gender politics.

In short, in a market with so many similar products, stores, goods, and experiences, even a degendered restroom becomes an opportunity for cultural organizations to set themselves apart. As Georg Simmel argues in his essay entitled “Fashion,” the continually-evolving character of fashion allows those who wish to differentiate themselves from the conformity of a social group to do so. And at their core, the wide variety of claims offered by restroom opportunists about their organizational values likewise revolved around differentiating their organization as distinctive—and, moreover, in possession of the markers of an elite social institution in the contemporary United States. As such, the expansion of degendered restrooms may be the way of the future. But it also may not—and only time will tell which way the cyclical pendulum of fashion will swing next for the gendering of public restrooms. But however regulatory structures, cultural beliefs about gender, and shift in the future, the organizations with the cultural resources necessary to stay on top of those transformations – ones which transmogrify legal compliance and updates to aging buildings into agentic and value-driven claims about family-friendliness, progressive values around disability and gender variance, and above all, being a leading cultural
Chapter 6

Conclusion

“And what one has is a case of institutional reflexivity: toilet segregation is presented as a natural consequence of the difference between the sex-classes, when in fact it is rather a means of honoring, if not producing, this difference.”

Erving Goffman, “The Arrangement between the Sexes”
Theory and Society, 1977

On March 23, 2016, the North Carolina General Assembly convened a special, one-day session to debate and vote on House Bill 2, the Public Facilities Privacy and Security Act. HB2—or “the North Carolina bathroom bill” as it quickly became known in press coverage across the United States—proposed two intertwined additions to North Carolina state law. First, it would define biological sex as “the physical condition of being male or female” specifically as “stated on a person’s birth certificate.” Second, it would limit access to gender-segregated restrooms in educational, public, and work spaces to users whose biological sex, as now stringently defined by the other aspects of the bill, matched the designation on a given restroom door. The bill passed quickly through both houses of the state legislature (with unanimous approval in the state Senate, as Democrats walked out in protest of the bill), and just as quickly, Governor Pat McCrory signed the bill into law that very same night. For he and other supporters of HB2, the need for “immediate” action to pass the bill was simple: a number of local ordinances had recently been approved across North Carolina to prevent discrimination in public accommodations related to sexual orientation and gender identity—most notably in the city of Charlotte, whose new policies ensured that transgender residents could access public restrooms congruent with their gender
identity. As the governor thus explained in a tweet accompanying his approval of HB2, that “Ordinance defied common sense, allowing men to use women’s bathroom/locker room for instance. That’s why I signed a bipartisan bill to stop it.”

But as quickly as HB2 had moved through the legislature and into North Carolina state law, political mobilization in opposition to the bill had also gotten underway. The very next day, protestors began gathering at the North Carolina Capitol to speak out against the bill’s passage and the dubious means through which they perceived that passage to be accomplished. (One particularly cheeky citizen even had a porta-potty delivered to the Capitol grounds, though the lack of an appropriate permit meant it had to remain on the bed of the delivery truck which brought it.) By the end of the week, national nonprofit organizations, including the American Civil Liberties Union and lesbian and gay civil rights organization Lambda Legal, as well as their state-specific counterparts, the ACLU of North Carolina and Equality North Carolina, had filed a complaint with the United States District Court on behalf of a transgender University of North Carolina-Greensboro student, a transgender UNC-Chapel Hill employee, and a lesbian North Carolina Central University law professor. The suit charged HB2 with multiple violations of both the Equal Protection Clause of the Fourteenth Amendment and the portions of Title IX specific to gender and educational equity. And in the weeks to follow, public backlash against HB2 moved other Governors in nearby states considering their own restroom-related gender restrictions to reject such possibilities. This included Georgia Governor Nathan Deal, who defended his choice to veto a religious freedom bill perceived to be “anti-LGBT” by saying that the law did not adequately “reflect the character of our state and the character of our people.”

For those elected officials and political hopefuls alike, however, legislation like HB2 was problematic not just because of what the editorial board for the Charlotte Observer described as
the “inherently discriminatory” character of such nascent public policies. Instead, they also worried about how those policies might threaten the continued success and prosperity of all of a state’s citizens—regardless of their sexual orientation or gender identity. In North Carolina in particular, Attorney General and Democratic gubernatorial candidate Roy Cooper, for instance, characterized HB2 as “a national embarrassment” when he publicly announced that his office would not defend the Governor or the measure in the forthcoming legal battles over its constitutionality. More importantly, he went on to add, that embarrassment would also cost the state of North Carolina—quite literally. “The threats to our economy will grow even darker the longer this law stays in effect,” he explained, expecting that the costly “flood of litigation” in response to HB2 would quickly be followed by further fiscal consequences. Drawing a parallel to the losses that Indiana had suffered in the wake of passing a religious freedom law several months earlier, he observed that “business left the state, or thought twice about bringing in new jobs, and millions of dollars in revenue was lost,” and the fallout from HB2 was likely to mirror that reality. Consequently, he concluded, HB2 not only legalized discrimination against “the LGBT community,” but those financial consequences would also bring harm to every single one of the “innocent people” of North Carolina “who work hard every day and pay taxes.”

And surely enough, those losses did begin to add up. In addition to the number of major American corporations who took to social media to speak out against HB2, including “American Airlines, Wells Fargo, Apple, Microsoft, Dow Chemical, and the NCAA,” according to the Washington Post, several corporations and public figures did indeed take their business elsewhere. PayPal canceled their plans for an expansion to their offices in Charlotte, specifically citing HB2 as the reason for their change of heart; television studio Lionsgate likewise moved their production plans for a new comedy series from Charlotte, noting that they would be “hard
pressed” to pursue any future work in North Carolina as long as “this regressive law remains on the books;” and artistic talents ranging from Bruce Springsteen to Cirque du Soleil canceled scheduled performances in North Carolina, opting to absorb their own loss of revenue in order to protest the new state law. Not to be outdone, small businesses unable to relocate outside of state lines found their own means of leaping into the political fray. Two owners of local breweries, for instance, developed a new beer – “Don’t Be Mean to People: A Golden Rule Saison” – as a fundraiser against HB2, promising to donate all of the proceeds from the sales of the brew to Equality North Carolina and QORDS, a summer camp specifically for empowering Southern queer and transgender youth to take on future political activism. Another, featured on North Carolina’s official tourism websites, even asked to sever ties with that national advertising campaign, as he believed that HB2 was “bad, and bad for business.”7

Yet one detail of HB2 readily allowed business owners throughout North Carolina who opposed the bill to do more than speak out or contribute financially to repeal efforts. Built into the new law was an important exception to the sweeping new restroom regulations: nothing in any of the new sections of state law would prohibit local boards of education or public agencies “from providing accommodations such as single occupancy bathroom or changing facilities.” As such, numerous educational institutions and public accommodations leveraged that loophole to their advantage, as a small-scale bathroom backlash of their own. Gas stations and grocery stores alike began advertising their unisex restrooms in their storefront windows. The Raleigh Convention Center reached out to event organizers unable to relocate their events, offering inventive solutions that would temporarily reconfigure some of their existing restrooms into gender-neutral options for conference-goers. Nearby hotels moved quickly to add a gender-neutral restroom to their lobby or another, heavily-trafficked public area for the benefit of their
guests. Many restaurants and bars with single-user restroom spaces took gender-specific signs down altogether and replaced them with “all-gender” labels. Various programs and departments in some of North Carolina’s institutions of higher education reached out to their students, faculty, and staff to share the locations of the nearest gender-inclusive restroom space, and several others, like Cape Fear Community College, added deadbolts to the main entrances of their existing, multi-user gender-neutral restrooms to keep them intact but nonetheless compliant with HB2’s new requirements.

That restroom ripple effect, it turned out, even continued well beyond the North Carolina state line—extending across multiple states also located in the American South. Right after the passage of HB2 into state law, for instance, a Kroger grocery store in Athens, Georgia gained national attention after a shopper posted a picture of a new sign on their unisex restroom to Facebook that went viral. “We have a UNISEX bathroom because sometimes gender specific toilets put others into uncomfortable situations,” the sign read, “And since we have a lot of friends coming to see us, we want to provide a place for our friends who are: Dads with daughters, Moms with sons, Parents with disabled children, Those in the LGBTQ community, Adults with aging parents who may be mentally or physically disabled. THANK YOU for helping us to provide a safe environment for EVERYONE!” Similarly, Ellwood Thompson’s, another grocery store in Richmond, Virginia, explicitly pointed to HB2 as their rationale for moving forward on a number of previous conversations about relabeling their single-user restrooms to be gender-neutral. As the store’s marketing manager explained, the store had long been a haven for progressive-minded community members, even hosting a number of trans-identified employees and customers for quite some time. Switching all of their restrooms to gender-neutral so that those individuals could “feel comfortable” was thus an easy choice to make. “Ellwood’s doesn’t
mind being a leader or an activist on this,” he said. “If it draws negative attention, we don’t mind it at all.”

The Consistency of Change

In the seven-year lifespan of this project, institutional and public conversations about degendered restrooms have undergone numerous unprecedented shifts across the United States. The number of colleges and universities publicly reporting gender-neutral housing and restroom offerings for their undergraduate students has more than quadrupled between 2009 and 2016 and, as Chapter 4 recounts, has also spread far beyond the realm of small liberal arts colleges in the Northeast and on the West Coast and into institutions of all types and in all geographic regions. Legal debates about the relationship among transgender employees, regulatory structures intended to limit the effects of labor market discrimination, and degendered workplace restrooms have moved out of the judicial realm analyzed in Chapter 3 and into local and state legislatures – often in ways that replace biological criteria or legal sex as listed on state-issued identification with identity-based criteria for legal access to gender-segregated restroom spaces – and back into the federal courts once more. And perhaps most strikingly of all, the very possibility of an “all-gender” restroom, one distinctive from a “family” or “unisex” restroom, has moved from the margins to the mainstream. Such spatial designations, which were once common only in queer spaces or radically progressive establishments, have found a place in the numerous restaurants, libraries, museums, and performance venues explored in Chapter 5—as well as in many other public spaces throughout the country, including those located well outside the left-leaning cities, suburbs, and college towns in which most of my interview respondents live and work.
On the one hand, then, one might conclude from the precipitous speed of such transformations that gender is becoming less salient to the everyday lives of individuals and the everyday work of institutions alike. In many respects, the emergent institutional logics analyzed in this project do lend themselves to such a conclusion—and even more so when considering that such change is still very much ongoing. In June 2014, for instance, a nationally-representative CBS News poll revealed that 59% of Americans believed that transgender people should use the gender-specific public restroom corresponding to their gender assigned at birth, while only 26% believed that individuals should choose the gender-specific public restroom which makes them most comfortable; by February 2015, a parallel, nationally-representative poll carried out by the Reuters/Ipsos found that the percentage of respondents in support of restricted restroom access had fallen to 39% and the percentage in support of restroom self-determination had climbed to 44%. And such polling data increasingly seem to reflect genuine and persistent cultural change, as they comport with other attitudinal trends related to transgender issues well-documented across the social sciences. Mirroring a substantial uptick in positive attitudes toward gay and lesbian people, survey data over the last few years reveal unprecedented levels of favorable attitudes toward transgender people and a parallel decline in support for beliefs that men and women should fulfill distinctive social roles. In short, like the early twenty-first-century evolution of efforts toward gender equality for women briefly outlined in Chapter 1, the rigidity of gender separation in public restrooms and other public spaces – as well as the rigidity of the gender binary itself – appears to be loosening considerably as the twenty-first century continues to unfold.

Yet, as the events recounted at the start of this chapter suggest, there has also been a stasis to gender-segregated restrooms and wider-reaching gender boundaries—one which has
persisted amidst such vertiginous spatial and social transformations. In a number of states and municipalities, including North Carolina, efforts to prohibit discrimination on the basis of gender identity or to lessen the absolute gender separation of public restrooms have been met with a legislative backlash intended to shore up that separation and the stringency of legal definitions of biological sex. Many colleges and universities, including multiple flagship state universities, continue to rebuff the requests on the part of student activists to reduce spatial gender segregation in undergraduate campus life, opting instead to handle students with a “gender-based need” for degendered residential arrangements on a case-by-case basis—or not at all. Others profess an institutional commitment to embracing gender diversity, but campus-specific design standards remain unaltered and thus allow renovations and new construction to proceed without making room for gender-inclusive restroom spaces. Where individual organizations or neighborhoods have wanted to move toward a greater number of degendered restrooms – in some cases, preferring to not build any gender-segregated restrooms at all – local and state building codes have often foiled those aspirations. And across all such institutional settings, even when support for degendered restrooms is strong enough to lead particular organizations to implement such spaces into their physical infrastructure, they are most often added as a third alternative to existing men’s and women’s spaces—thus leaving conventional, gender-separated arrangements largely undisturbed.

On the other hand, then, one might conclude that such realities illustrate an extraordinarily strong cultural investment in gender as a binary system anchored by rigid categorical boundaries. Indeed, in recent public discourses about degendered restrooms and my qualitative data alike, the rise of alternatives to conventional, gender-segregated restroom spaces has only occasionally displaced binary ways of thinking. Courts of law, like those profiled in
Chapter 3, continue to assert that there is an unshakable foundation of embodied, emotional substance to the experience of being a man or a woman, even as those same courts have begun to selectively recognize transgender individuals as included in the law’s umbrella of protection against sex discrimination. Colleges and universities interested in following in the footsteps of the institutions within my interview sample for Chapter 4 continue to rehash the same anxieties about troubling spatial gender distinctions on their respective campuses, despite the ample volume of evidence that such innovations can be implemented successfully without imperiling a college or university’s reputation. And even for many of the cultural, public, and commercial establishments who have opted to install new degendered restrooms or rebrand existing ones with more up-to-date signage, their spoken justifications for such changes continue to rest on decidedly traditional rationales: parents with small children tend to be the most frequently mentioned beneficiaries of degendered restroom spaces, and within such accounts, talk of mothers with small children occurs with much more frequency than talk of fathers. As such, parts of this manuscript confirm one of the recurrent findings of the sociology of gender described at length in Chapter 1: that the social organization of and cultural beliefs about gender as a two-category system of embodied, inherent difference are unusually resistant to change.

But ultimately, rather than concluding that something remarkable is happening to gender in this contemporary moment or confirming that cultural beliefs about gender difference remain unassailable even in the face of complicating evidence, this analysis of the institutional logics shaping American public restrooms over their nearly two-hundred-year history reveals that the cultural meaning and social consequences of gender have never been settled or final. Gender is, instead, a site of perpetual negotiation by a wide range of social institutions and formal organizations – and the individuals working therein to sustain those institutions and
organizations—and public restrooms have long been a material and ideational prism through which that negotiation has been filtered. Going back to the nineteenth century, the idea that gender could be a characteristic of the body was a novel possibility as factories and state legislatures struggled over how to handle restrooms for women in American workplaces, and those struggles themselves helped to redefine gender as located in the physical body—and to build that new definition into institutions and infrastructure alike. And today, as universities and the federal courts alike grapple with the complications which transgender bodies and identities pose to the presumption of immutable binary gender categories, they are likewise redefining gender as a dimension of the self which transcends the particulars of the physical body—and again building that new definition into the architectural and cultural environment. As such, I conclude that gender is an *institutional accomplishment*: an ongoing process through which individual social actors actively and creatively meld together the specific set of institutional logics and beliefs about gender which are most ascendant in a particular time and place and, more importantly, concretize that amalgam into organizational procedures, regulatory structures, and physical spaces as they go about their everyday institutional work.

In what remains of this chapter, I expand on that central assertion, drawing from the empirical findings of this project to bridge together the various threads from the sociology of gender, cultural sociology, institutional theory, and queer theory which I have explored over the course of this manuscript. That framework has four pillars, each of which reflect one of the four themes which have been most salient throughout the previous five chapters: first, everyday institutional decision-making; second, the inertia of infrastructure; third, interactional flows of shared culture, and fourth, the interplay between symbolic boundaries and broader systems of social inequality.
Gender as an Institutional Accomplishment Foregrounds *Institutions*

The first pillar of a theory of gender as an institutional accomplishment is a decidedly sociological one: an emphasis on institutional action. This idea finds consonance in numerous theoretical turns in the sociology of gender over the last few decades toward understanding institutions as gendered. As Joan Acker writes in “From Sex Roles to Gendered Institutions,” such a perspective conceptualizes gender as a “process, not a characteristic of persons,” but one that nonetheless includes “the assignment of persons to gender categories” as a central element of that process. Indeed, as Acker explains, institutions construct hierarchies based on gender, they use gendered ideologies and images to legitimize their actions, they provide contexts for the enactment of gender in face-to-face social interaction, and they induce individuals to construct appropriately gendered personas. Moreover, that “pervasive ordering” of institutional life happens not only at the level of social interaction alone; it also occurs where the social interactions of individual social actors shape – and are shaped by – other dimensions of institutional work. In using the adjective “institutional,” then, the conceptualization of gender as an institutional accomplishment proposed in this dissertation also retains one crucial aspect of existing theoretical formulations such as Acker’s: the reality that the social construction of gender occurs within, through, and in concert with mundane organizational and institutional processes as much as it does through the everyday work of individual social actors to fashion their bodies, interact with others, and comport themselves in gendered ways.

But theorizing gender as an institutional accomplishment also differs from such existing accounts in two crucial respects. First, it emphasizes how other institutional logics are inextricable from the ongoing social construction of gender. For early twentieth-century factory owners and managers faced with a growing female workforce, the consonance between the rising
paradigm of scientific management and the new science of sex difference provided a ready-made pathway for thinking about when embodied gender differences should fuel gender-specific workplace guidelines and procedures. For late twentieth-century federal judges grappling with the reach of nascent sex discrimination laws, cultural beliefs about gender, privacy, and the body entwined with judicial precedent regarding the Eighth Amendment’s prohibition against cruel and unusual punishment to determine when gender could legally constitute a bona fide occupational job qualification. For early twenty-first-century colleges and universities with an increasing number of transgender- and genderqueer-identified students, the combination of a student-centered institutional mission and shifting beliefs in the field of higher education about the value of institutional inclusion have yielded official policies which recognize gender as a spectrum rather than a dichotomy. And for today’s cultural and public institutions invested in serving a customer base that is ever-more diverse and supportive of diversity, that emphasis on diversity has worked in tandem with a customer- and patron-centered approach to produce new institutional narratives which rework the absence of gender-separated restroom spaces as an asset rather than a liability. Taken together, such findings demonstrate how the beliefs about gender most ascendant in a particular time and space are actively produced in and through the everyday work of formal organizations to tackle their everyday bureaucratic work and solve the various problems with which they are faced.

Second, that active and ongoing reconfiguration of gender is often a consequence of everyday institutional work which, on its face, is not always directed primarily toward defining what gender is or determining the consequences of an individual’s membership in a particular gender category. In other words, framing gender as an institutional accomplishment also attends to the reality that the cultural construction of gender is often a side effect – or an intentional yet
incidental component – of organizational action geared toward other ends. Public health officials and sanitary engineers in the nineteenth century were primarily invested in making urban public spaces safer, cleaner, and healthier for residents and visitors, but in doing so, they also inscribed a particular middle-class vision of gendered privacy into the plumbing infrastructure and building codes that resulted from their work. College and university administrators attempting to remain commensurate with – or ahead of – their peer institutions on novel metrics of institutional inclusion have done so by expanding their institution’s official understanding of what gender is to accommodate gender identities and gendered experiences which challenge or transgress binary systems of gender categorization. And individuals within cultural and public organizations doing the interactional work of representing their organization to the broader public have leveraged their architectural and procedural choices as evidence for a particular set of aesthetic, social, or political commitments—and those rhetorical strategies illustrate the flexibility of postmodern gender ideologies as much as they describe what a museum or performance venue owes its customers. Put more simply, then, this project demonstrates that gender is thus not a cultural force which works apart from institutional function; instead, it is a part of – and, moreover, a product of – that very same institutional function.

**Gender as an Institutional Accomplishment Creates (and Comes from) Inertia**

Yet equally important to the new conceptual framework this dissertation proposes are the lingering consequences of those institutional negotiations—whether those negotiations are organized explicitly around gender or not. The second pillar of a theory of gender as an institutional accomplishment, then, is an emphasis on the iterative and cumulative character of that institutional work. Like the centrality of everyday institutional work described in the
previous section, the idea that there is an inertia to the social construction of gender, too, has a well-established history in extant theories of gender in sociology. For instance, as Barbara Risman, Judith Lorber, and Jessica Sherwood recently outlined as a prelude to their call for feminist theory and activism to pursue a “post-modern, post-gender society at all levels,” the weight of gendered expectations in shaping social organization has persisted from agrarian societies all the way up through and including today’s post-industrial world, continues to be enshrined in social institutions ranging from education to religion, and follows individual men and women alike from childhood gender socialization through the end of the life course. And this project likewise finds evidence that renegotiations of gender— even as they pertain to decision-making about the specific case of public restrooms— are never isolated incidents; rather, as decision-makers meld together relevant institutional logics and constellations of gender ideologies to accomplish organizational work, the results of that labor are institutionalized into far-reaching organizational policies and broader regulatory structures.

But as this project reveals, such instances in which culture and social structure collide through the institutional accomplishment of gender also have material consequences. More importantly, that physical record contributes to a tenacious, material inertia that shapes possibilities for future negotiations of gender within a given spatial context. For instance, near the turn of the twentieth century, protective statutes intended to protect purportedly-fragile women workers from the perils of the workplace mandated separate restrooms for women, and near the turn of the twenty-first century, new beliefs about women’s unique bodily needs led to new laws mandating more space and more fixtures for women’s restrooms. And while many of my contemporary interview respondents explained that gender-inclusive restroom spaces were initially met with anxiety about eroding physical gender separation in the most private spaces of
social life, that hesitation faded quickly. Yet the material inertia of architectural decisions and legal mandates of the past remained a particularly challenging obstacle to expanding their degendered restroom options in the present day. As such, challenging the gender binary – and the differential allocations of rewards, resources, and advantages it dispenses to men versus women as well as to cisgender individuals versus transgender, genderqueer, and gender-variant individuals – is not merely a project of collective action to build more egalitarian social institutions or symbolic work to build more expansive and acategorical understandings of gender. It also becomes a project intimately intertwined with physically re-engineering the architectural environment to accommodate and reflect new understandings of gender.

The results of such processes of materialization and physical re-engineering subsequently inform how institutions think about gender moving forward—and, moreover, how the decision-makers within those institutions account for their architectural choices. The material character of buildings and the moral boundaries most ascendant in a particular time and place thus coalesce to shape the meaning of gender. For instance, for colleges and universities who were previously all-male institutions, the long-standing material inertia embedded in a number of older academic buildings – which still retained one restroom on some floors or in particular areas well after their transition to a coeducational student body – stood as continued evidence that campus architecture had never been fully renovated to accommodate women. But with the recent premium placed on gender-inclusive restrooms, such spaces became a ready-made opportunity to benefit from the absence of gender-separated restroom spaces. Similarly, for restaurant owners whose urban locales provided them with one, single-stall restroom and no opportunities to expand their restroom space beyond that singular offering, the limits of physical space could be imaginatively spun into an opportunity to play with gender boundaries—and thus mark their
establishment as a fashionable culinary destination. In short, then, the aggregated and materialized history of previous institutional decision-making about gender makes certain institutional approaches to gender more readily available than others – in ways both material and ideational – but what that history means in the present day requires human creativity and intervention to actualize.

Gender as an Institutional Accomplishment Can (and Does) Change

As the persistent-yet-negotiable character of that material and ideational inertia suggests, however, individuals and institutions alike can take a surprisingly flexible approach to the cultural meaning of gender—and they often do. Consequently, the third pillar of conceptualizing gender as an institutional accomplishment is a central focus on the ubiquity of change. Indeed, as Patricia Yancey Martin writes in “Gender as a Social Institution,” all social institutions – including gender – are remarkably durable across time and space, yet they are also simultaneously in a constant state of flux. That is, despite the existence of a hegemonic definition of what gender is and the persistence of expectations that gendered individuals should act in concert with that definition, the specific content of that definition and those expectations is constantly being redefined and renegotiated. Moreover, as she goes on to explain, the everyday practices of “active human agents” within social institutions are an important origin point for the possibility of change, both in regard to “gender as well as other social institutions.”\(^1\) The idea that gender is an institutional accomplishment thus carries forward both these dimensions of Martin’s theoretical account: first, that gender is under a constant process of renegotiation and redefinition, and second, that individual actions and institutional work are co-constitutive social
processes and thus must be theorized as complementary parts of the collective accomplishment of gender.

Going one step further, this dissertation also finds that the institutional accomplishment of gender relies upon the construction and mobilization of shared cultural categories among individual social actors. As Chapters 2 and 3 demonstrate through the historical trajectories they trace, that consistent process of boundary work often shores up and reinforces aspects of the existing social organization of gender. To mobilize support for the creation of laws mandating safe and sanitary restrooms in turn-of-the-twentieth-century workplaces, political activists and factory managers actively leveraged familiar moral boundaries, ones which understood female and male bodies to be distinctive, women to be unusually vulnerable to sexual predation, and the values of the middle- and upper-classes to be worth formalizing into law and organizational practice. Likewise, to gain a ruling in their favor when faced with restroom-related problems in the workplace, employees filing discrimination suits and the attorneys working on their behalf framed the embodied experience of gender and affective responses to workplace discrimination or privacy violations in ways which resonated with judicial precedent and many of those same beliefs about gender, sex, and status. Thus, to revisit and expand upon the epigraph to this chapter, institutional negotiations of public restrooms are indeed premier sites for the production of categorical gender differences—and all of the normative expectations about bodies, sexuality, privacy, and inequality that so often attach to such cultural distinctions.

But as Chapters 4 and 5 also demonstrate, interactional flows of shared culture can also be an important means through which substantive shifts toward reducing the institutional enforcement of categorical gender differences become possible. Many decision-makers from cultural, educational, and public institutions highlighted how issues of diversity and inclusion
were becoming more and more consonant with the values of the middle and upper classes, and they strategically leveraged that resonance to accomplish change in their own organizations—pursuing restrooms and other institutional policies which reflected an understanding of gender as a spectrum rather than a dichotomy. Crucially, however, decision-makers could never act alone. LGBTQ center directors and diversity administrators alike recalled speaking with their counterparts at other institutions about the possibility of adding or expanding their gender-inclusive facility offerings, and they used the narratives shared by those counterparts as templates for action—ones that gave those decision-makers an ideational and practical toolkit for convincing others at their own institution that change was a worthy possibility. And when decision-makers in cultural institutions recounted the ease with which they were able to modify their architectural surroundings, they were actively involved in constructing a broader reputation for their organization as progressive, forward-thinking, family-friendly, inclusive, up-to-date, and beyond—a reputation engineered to ensure the support of their current patrons and to lure those patrons into speaking highly of their organization to others like them. Such flows of legitimation—and the flux of boundary work which so often accompanies them—among living, breathing, interacting organizational actors are thus a crucial means through which gender is able to change—in ways both regressive and progressive.

*Gender as an Institutional Accomplishment Reflects and Reinforces Power*

But the freedom to change gender is itself entwined with social status and cultural power—which leads to the fourth and final pillar of theorizing gender as an institutional accomplishment. In their path-breaking article “Doing Gender,” Candace West and Don Zimmerman named gender was an accomplishment—that is, “an achieved property of situated
conduct.” In other words, for them, gender exists to the extent that individual social actors routinely, methodically, and recurrently engage in interactional behavior that reflects reigning institutional ideas about femininity and masculinity. Crucially, however, although individuals could choose to violate or challenge those reigning institutional ideas in any given interaction—and, indeed often do—those violations or challenges entail the risk of disturbing the social order and, in turn, inducing others to view them as lacking “competence as members of society.” As such, West and Zimmerman conclude that the interactional accomplishment of gender reinforces and essentializes the idea of gender difference. In using the nominalization “accomplishment,” then, the middle-range framework for theorizing gender proposed in this dissertation retains two crucial aspects of West and Zimmerman’s formulation: first, as Chapter 5 foregrounds with its focus on the interactional work of restroom decision-makers within cultural institutions and as Chapter 3 foregrounds with its emphasis on the affective basis of federal restroom jurisprudence, that gender as an organizing principle of social organization works in and through the embodied and affective work of everyday social interaction, and second, as Chapter 4 foregrounds with its exploration of the initial hesitation of many college and university decision-makers to erode gender boundaries in residential campus life, that violations of normative expectations about gender entail the risk of social sanctions for organizations as much as they do for individuals.

But perhaps most importantly of all of the findings of this project, a framework which understands gender to be an institutional accomplishment foregrounds the reality that certain individuals, groups, and organizations possess a level of social status which allows them to override that system of gendered expectations. Although the first colleges and universities to adopt gender-inclusive facilities were small liberal arts colleges with an unusually progressive reputation, the diffusion of such innovations only picked up considerably once a number of
higher-status institutions – especially Ivy League universities and a number of leading public flagsips – adopted similar spatial transformations on their own campuses. And as innovations geared toward recognizing diversity through architectural means began to find consonance with the values of affluent Americans, the cultural skill held by decision-makers allowed them to rethink existing spaces as material evidence for projecting an image of their organization as an elite habitat. For many performance venues, museums, and shopping malls, the inaccessibility of their existing gender-segregated restroom spaces motivated supervisors, owners, corporate offices, and other administrative personnel to add single-stall, accessible restrooms as part of more substantive architectural updates—which, for the comparatively insignificant cost of adding an additional set of fixtures and a changing table, could also function as a vaunted “family restroom.” And for restaurant owners who inherited a pair of single-stall restrooms from the engineering choices made prior to their business’s arrival in a particular building or space, a simple change of signage, décor, or both could elevate those parallel spaces – originally intended to be gender-segregated – into a better fit for the ambiance of that particular culinary destination.

The privilege of gender boundary transgression, moreover, involves more than the invincibility conferred through social status: because of the material character of gender distinctions, it also requires the financial resources necessarily to quite literally dismantle the physical structure of gender existing in particular buildings. For public libraries, universities, performance venues, and beyond, the possibility of spatial updates was often delayed until funding was available to renovate the spaces involved—and when those renovations did occur, they were sometimes much less comprehensive than decision-makers would have preferred. But whether degendered restrooms were convenient or not, financial resources readily enabled some organizations who professed a commitment to inclusion, queer and transgender students, or a
particular set of progressive political commitments to substantiate those moral claims with tangible physical evidence. Where a restricted adoption of gender-inclusive spaces was the only compromise possible, decision-makers reported doing their best to weather such challenges. Where organizations had the resources necessary to undertake more sweeping changes, however, decision-makers were able to leverage the very presence of gender-neutral restrooms as tangible evidence of their institution’s commitment and leadership in the field of higher education—and thus benefit from the reputational rewards associated with creating more inclusive spaces. Consequently, framing gender as an institutional accomplishment entails framing gender as a social and cultural force which never acts alone. Instead, it foregrounds the interplay among multiple systems of power and, above all, understands the power to manipulate gender boundaries with minimal (or no) backlash as intimately intertwined with other forms of cultural advantage and social status.
Data and Methodology

“Any man who remains in a public restroom for more than five minutes is apt to be either a member of the vice squad or someone on the make. As yet, he is not suspected of being a social scientist.”


In the 1960s, Laud Humphries, a doctoral candidate in the Sociology Department at Washington University in St. Louis, undertook his now-infamous dissertation research on the anonymous sexual encounters had by men in public restrooms—later published as the ethnographic book *Tearoom Trade*. Although his work was decades ahead of its time in the thoughtful way that it distinguished individuals who pursued sexual interactions with others of the same gender from individuals who identified as gay or homosexual, the infamy of the project has much more to do with its breach of research ethics than with the contributions it made to a nascent sociology of sexualities. Today, *Tearoom Trade* serves as a ubiquitous example of deception in scholarly research gone awry – as Humphreys tracked down the men he observed having sex in public through their license plate numbers, then used public records to find their residential addresses and interview them about their sexual behaviors under the guise of a community health survey – as well as an illustration of the necessity of Institutional Review Boards to protect would-be human subjects from such violations of privacy.

But as Earl Babbie points out in his reflections on that legacy of Humphreys’s reputation, the project prompted outrage at a time when research ethics were, as he puts it, “a rather low
priority for many social scientists.” As such, he suggests, the furor over *Tearoom Trade* was neither a referendum on the use of deception in sociological research nor a true violation of privacy—the men were having sexual encounters in public restrooms, after all. Instead, it was actually the subject matter at hand: “Laud Humphreys didn’t just study S-E-X but observed and discussed *homosexuality*. And it wasn’t even the caring-and-committed-relationships-between-two-people-who-just-happen-to-be-of-the-same-sex homosexuality but tawdry encounters between strangers in public toilets. Only adding the sacrifice of Christian babies could have made this more inflammatory for the great majority of Americans in 1970.”

Similarly, in their recent book *Laud Humphreys: Prophet of Homosexuality and Sociology*, John F. Galliher, Wayne Brekhus, David P. Keys observe that Humphreys’s work was doomed from the start because it was “triply marginalized:” first, the study featured “devalued men,” second, it involved the recording of “otherwise intimate sexual behavior,” and third, that behavior was itself “a violation of legal statutes prohibiting sexual relations in public.” Yet what such rehabilitations forget, I might suggest, is that the stigma associated with Humphreys’s ethnographic study likely had as much to do with the project’s content as its location in a public restroom—a space which, as Chapter 1 outlines in more detail, is a central nexus of cultural taboo.

Indeed, while my use of interview methods allowed me to elide the maelstrom of ethical and legal issues now associated with a more observational approach to public restrooms, my attempts to garner respondents for this project were not without substantial challenges. Many of the reasons that public restrooms invoke polemical contestation in political spheres – their moral charge, their bridging of public and private, their connectedness to gender and the body, their multiple nexuses of legal regulation – also make public restrooms challenging topics for in-depth interviewing. In fact, even with a goal of understanding gender-neutral restrooms at arm’s length
that is, how formal organizations negotiate decision-making around bathroom spaces (rather than understanding, say, what Spencer Cahill and his multiple coauthors described in 1985 as the “interaction order” of public restrooms\(^4\)) – my early attempts to reach out to organizations publicly advertising their gender-neutral restrooms revealed that the taboo character of restrooms caused many would-be respondents to balk when asked to discuss them. Or, as one would-be respondent quipped to me over the phone when turning down my request to discuss their organization’s recent renovation that included the addition of a degendered restroom, “Certainly, you could do more with a Princeton education than ask highly-trained professionals about bathrooms [emphasis theirs].”

As such, while my original research design aimed for an intentionally balanced sample at multiple levels – one-third of my interviews with respondents from the field of higher education, one-third with respondents from public institutions like libraries and museums, and one-third with respondents from local cultural establishments like restaurants and nightclubs – it became quickly obvious that such a framework would not neatly pan out in practice. Respondents from institutions of higher education were generally excited to speak with me, and even among potential interview participants whose schedules could not accommodate my interest in their campus, regret often accompanied their inability to contribute to the project. This was most likely a reflection of their familiarity and interest in being involved with scholarly research, their sympathy for the challenges associated with being a graduate student enmeshed in the dissertation process, and the increased profile of bathroom-related issues on their campuses as related to the needs of their gender and sexual minority students. For respondents from other types of organizations, however, I quickly learned that many more decision-makers were willing to speak with me – both about the odd subject of public restrooms and about the “backstage”
machinations of their respective organizations – if I framed my interest in speaking with them as a broader interest in the infrastructural history of their organization’s entire building. Plus, cutting across all the institutional contexts in my sample, I also found that requesting a fifteen- or twenty-minute “unstructured” interview (that is, one in which I eschewed my interview schedule and a recording device for an informal, conversational approach and note-taking either in a word-processed electronic document or pen and paper) instead of a full hour could also garner more eager participation.

My interview sample thus turned out to be a variegated aggregate of organizational representatives. Sometimes, I interviewed a museum executive responsible for vetting all building-related decisions, a library supervisor contributing to such decisions but also involved in other organizational spheres, the owner of the small business in question, or a university administrator whose purview included diversity programming—organizational actors responsible for overseeing organizational decisions of all types. At other times, I spoke with folks charged with the specific task of managing the physical organizational environment, such as the head of a facilities department at a particular college or university. And at yet others, I talked with individuals intimately involved in the process of implementing gender-neutral bathrooms in particular, ranging from those who wrote project or grant proposals to fund building renovations in which degendered restrooms were a central component (and thus became “more familiar with bathroom building codes than I ever wanted to be,” as one such decision-maker put it) to college and university staff at the helm of the campus resource center for lesbian, gay, bisexual, transgender, and queer undergraduates. And sometimes, I spoke to a person who did not neatly fill any of those roles but was nonetheless knowledgeable enough about their organization’s restrooms to talk to me about the design and construction decisions that went into such spaces.
Rather than viewing such diversity as a liability, however, I take my cue from grounded theory strategies of inquiry and suggest that such variation is an asset. As Barney Glaser and Anselm Strauss write in their canonical reference for grounded theory methods, “different people in different positions may offer as ‘the facts’ very different information about the same subject, and they vary that information considerably when talking to different people,” and “some sociologists see these circumstances as presenting an un-bounding relativism of facts—no data is accurate.” Yet for comparative analysis across multiple dimensions of variation, such as that required for a grounded theory approach, “the result is not unbounding relativism [emphasis theirs].” “Instead,” they go on to add, “it is a proportioned view of the evidence” which “has taken into consideration more aspects of the substantive or formal area” and thus can produce stronger and more robust theories of the middle range. At the same time, however, because the variation in my data is so substantial – and applies as much to my sample of textual sources as to my interview data – I base my final analysis on patterns that consistently emerged across multiple texts (e.g., several federal court cases), multiple interviews (e.g., interviews with multiple respondents from the same college or university), or multiple organizational settings (e.g., interviews with respondents from a number of public libraries in a similar geographic context).

In terms of the specifics, then, my data for this project include a wide range of primary sources as well as in-depth interviews conducted with actors within formal organizations which had adopted one or more gender-neutral restrooms in the last fifteen years. Because each chapter relies on a different set of data, I discuss them in turn, then return to an integrative discussion of the common analytic process I used to produce my results.

For Chapter 2, Politicizing the Potty, my document sample consists of 4348 newspaper articles pertaining to public restrooms published between 1883 and 2011 in major American
newspapers. I retrieved that document sample in May 2015 through a series of parallel key term searches in ProQuest Historical Newspapers and ProQuest Newsstand and supplemented those results with 912 additional articles from a Google News alert I used to aggregate newspaper coverage related specifically to degendered public restrooms from January 2012 up through the final revisions to this dissertation in April 2016. Because of my initial interest in using computational text analysis for this project, I restricted my search strategies solely to texts available in an electronic form. However, rather than analyzing newspaper documents in-depth, either with computational approaches or a more traditional form of qualitative content analysis, I rely on my newspaper data to provide a contextualizing backdrop for the major themes in public discourse about restrooms in the United States from the closing years of the nineteenth century through the first few years of the twenty-first.

For Chapter 3, Regulating Restrooms, my document sample consists of 256 published opinions from federal court rulings for cases within which gender, restrooms, and work were central issues. I retrieved my initial document sample from Westlaw in January 2014 with a series of key term searches designed to return results for federal case law arbitrating litigation within which the core dispute pertained to gender and public restrooms. That initial sample consisted of 838 federal court opinions, and after previewing each document to assess its relevance to this project and eliminating those which turned out to be irrelevant, I retained a sample of 388 opinions covering a wide range of legal disputes related to gender and public restrooms, including cases about age discrimination, cruel and unusual punishment, fair housing practices, freedom of speech, racial discrimination, educational equity, and even tax law. Following an initial sweep of computational text analysis (a methodological approach that I do not draw upon in this final version of the manuscript) and qualitative content analysis, I further restricted my scope to cases
in which the dispute over gender and restrooms was primarily an issue of gender discrimination or gender equity in the particular context of work environments—which yielded the final document sample of 256.

For Chapter 4, Transforming the Toilet, I draw on 64 semi-structured interviews and 42 unstructured interviews with a sample of restroom decision-makers from colleges and universities across the United States. Between September 2013 and December 2014, I conducted those interviews with directors of LGBT Centers (n=38), campus administrators overseeing either diversity and inclusion programming or facilities management (n=36), directors of residence life (n=17), and staff in facilities management (n=15) at the 154 colleges and universities publicly offering gender-inclusive housing and restrooms for their undergraduate students. I intentionally sampled institutions across four dimensions of difference: whether their primary funding source was public (n=36) or private (n=28); whether their primary institutional mission was research (n=38) or teaching (n=26); whether their undergraduate enrollment size was under five thousand (n=26), between five and fifteen thousand (n=14), or above fifteen thousand (n=24); and whether their geographic region was in the Northeast (n=22), Midwest (n=16), West (n=15), or South (n=11). In order to maximize that institutional and geographic diversity across my interview sample, I conducted all of my interviews long-distance via Skype, Google Hangouts, or telephone. I also recorded them digitally for later transcription and analysis when participants consented.

For Chapter 5, Leveraging the Loo, I draw on 64 semi-structured interviews with another sample of restroom decision-makers from cultural and public organizations in the Northeastern United States. Between September 2014 and August 2015, I conducted those interviews in person with individuals holding a wide range of job titles and descriptions from restaurants (n=18), public libraries (n=11), museums and historic sites (n=12), shopping malls (n=11), and
performance venues (n=12) which either publicly advertised the availability of a degendered restroom on their organization’s website or are identified as offering at least one unisex or gender-neutral restroom on REFUGE Restrooms, a website maintaining a database of publicly-available unisex and accessible restroom spaces. In addition to those differences of organizational categorization, I also intentionally sampled organizations across geographic differences: their organizations were located in Philadelphia (n=19), New York City (n=14), and the suburbs of Pennsylvania, New York, and New Jersey spanning the space between them (n=31). Like my interviews with decision-makers from colleges and universities, I recorded all of my interviews digitally for later transcription and analysis when participants consented.

For both Chapters 4 and 5, no two interviews took an identical form. In part, this was because of the semi-structured character of my approach to interviewing. The open-ended character of the questions on my interview schedule, the ebb and flow of my conversations with participants, and the improvised probes I asked while conducting each interview caused each interview to unfold in a unique trajectory. In part, however, this was also because of constant adjustment of my interview schedule. My first few interviews with respondents from each of the institutional categories in my sample involved a series of broad, flexible questions designed to understand how my participants and their organizations approached the question of how to organize their restrooms on the basis of gender. After transcribing, anonymizing, and analyzing that initial set of interviews, I used the results of my first pass of analysis to revise my interview schedule. My subsequent rounds of interviewing, transcription, and analysis proceeded in a similar sequence. Each round of analyzing my interview data became iteratively more focused on specific themes, and each round of interviewing became iteratively more connected to those specific themes which had emerged in my earlier rounds of interviews.
For Chapters 3, 4, and 5, my analytic process involved parallel strategies and sequencing. Rather than attempting to approach the data without preconceptions and existing theories as true grounded theory methods would prescribe, I utilized a more flexible approach that balanced deduction and induction: I used insights from the sociological literatures on gender, culture, and organizations to shape my engagement with my data, but I also relied upon the themes most recurrent and salient in my document and interview samples to guide that analytic work. As such, I undertook three rounds of qualitative analysis with every document or interview transcript in my sample: a first to identify the wide range of themes in my data, a second to reevaluate each document or transcript in light of those themes which emerged in other documents or transcripts, and a third to explicate the conceptual connections and patterns of relationships which existed among the most recurrent and salient themes across my sample. That third and final stage of analysis – and the integrative memos that resulted from it – form the foundation of the results and arguments presented in each chapter of this manuscript.
Notes to Chapter 1, “Introduction”


12. *An Act Relating to Single-Sex Public Facilities; Providing Purpose and Legislative Findings*, Florida House Bill 583 (2015); the full text of the bill’s preamble reads: “The purpose of this act is to secure privacy and safety for all individuals using single-sex public facilities. The Legislature finds that: (a) There is a longstanding history of restricting access to single-sex public facilities on the basis of sex. (b) There is an expectation of privacy in single-sex public facilities. (c) Users of single-sex public facilities reasonably expect not to be exposed to individuals of the other sex while using those facilities. (d) Single-sex public facilities are places of increased vulnerability and present the potential for crimes against individuals using those facilities, including, but not limited to, assault, battery, molestation, rape, voyeurism, and exhibitionism.”


15. Alison Knezevich, “Transgender Bill Stirs Fear, Controversy in Baltimore County,” The Sun (Baltimore), February 19, 2012; one of his co-sponsors, Councilwoman Cathy Bevins, also expressed nearly identical sentiments about the “many concerned phone calls and emails from constituents” being directed to her office about the measure, saying, “I hate it that it’s boiled down to being called ‘the bathroom bill.’”


29. A brief note on language: although many contemporary feminist scholars argue for the continued linguistic distinction between “sex” and “gender” – with the former representing various “biological” differences and the latter representing “cultural” or “social” differences – I consider that distinction theoretically and empirically problematic. “Sex” categories are as thoroughly socially constructed as categories of gender identity and expression; see Joan Fujimura, “Sex Genes: A Critical Sociomaterial Approach to the Politics and Molecular Genetics of Sex Determination,” *Signs* 32, no. 1 (2006): 49–82 and Thomas Laqueur, *Making Sex: Body and Gender from the Greeks to Freud* (Cambridge: Harvard University Press, 1992). Consequentially, I use “gender” as an umbrella term to emphasize the socially-constructed character of both gendered bodies and gender identities, and I only use “sex” only when directly referencing the language of the primary and secondary sources referenced throughout this manuscript.


33. Sociologist Robert K. Merton’s term for any social theory that is more expansive than a summary of patterns observed in one’s data but also more restrictive than an account of social organization or social change writ large; see Robert K. Merton, “On Sociological Theories of the Middle Range,” in *Social Theory and Social Structure* (New York: Free Press: 1968).


52. Additionally, as intersectional work in queer studies has long recognized, part of what has led to shifts in institutional recognition has been the relegation of issues of race, disability, and above all, social class to the margins of the contemporary gay rights movement; see, for instance, Anna M. Agathangelou, M. Daniel Bassichis, and Tamara L. Spira, “Intimate


Notes to Chapter 2, “Politicizing the Potty”


4. Laura Tolley, “Police Refusing to Wash Hands of Men’s Room Case,” *Austin American Statesman*, July 26, 1990; *Entering Restrooms of Opposite Sex, Houston Code of Ordinances*, chapter 28 § 42.6, ordinance number 72-904; the full text of the statute reads, “It shall be unlawful for any person to knowingly and intentionally enter any public restroom designated for the exclusive use of the sex opposite to such person’s sex without the permission of the owner, tenant, manager, lessee or other person in charge of the premises, in a manner calculated to cause a disturbance.”


10. Weingarten, “Men’s Room Trip.”


19. Ayala, “It’s Been Debated.”
20. Weingarten, “Men’s Room Trip.”
22. Sigmund Freud, Civilization and Its Discontents (London: Hogarth Press, 1949); as Freud also observed, “Anal erotism, therefore, succumbs in the first instance to the ‘organic repression’ which paved the way to civilization. The existence of the social factor which is responsible for the further transformation of anal erotism is attested by the circumstance that, in spite of all man’s developmental advances, he scarcely finds the smell of his own excreta repulsive, but only that of other people’s. Thus a person who is not clean – who does not hide his excreta – is offending other people; he is showing no consideration for them.”
26. See sources referenced in notes 31, 33, 35.


51. Separate Toilet Rooms for Males and Females, Arkansas Code, chapter 5 § 11-5-112;

52. Linder and Nygaard, *Void Where Prohibited*.


“Genderism and the Bathroom Problem: (Re)materialising Sexed Sites, (Re)creating Sexed Bodies,” *Gender, Place & Culture* 11, no. 3 (2004): 331–46; Brett Beemyn, Billy Curtis, Masen Davis, Nancy Jean Tubbs, “Transgender Issues on College Campuses,” *New Directions for Student Services* 111 (2005): 49–60; Sheila L. Cavanagh, *Queering Bathrooms: Gender, Sexuality, and the Hygienic Imagination* (Toronto: University of Toronto Press, 2010); Petra L. Doan, “The Tyranny of Gendered Spaces – Reflections from beyond the Gender Dichotomy,” *Gender, Place & Culture* 17, no. 5 (2010): 635–54; Catherine Connell, “The Politics of the Stall: Transgender and Genderqueer Workers Negotiating ‘the Bathroom Question’” in *Emodied Resistance: Challenging the Norms, Breaking the Rules*, edited by Chris Bobel and Samantha Kwan (Nashville: Vanderbilt University Press, 2011); Jody L. Herman, “Gendered Restrooms and Minority Stress: The Public Regulation of Gender and Its Impact on Transgender People’s Lives,” *Journal of Public Management & Social Policy* 19, no. 1 (2013): 65–80; as Gayle Salamon writes in “Boys of the Lex: Transgenderism and Rhetorics of Materiality” (GLQ 12, no. 4, 2006: 575-597), “Restrooms are precarious terrain for the genderqueer, and the decision as to which door to enter is not always an easy or obvious one, particularly for butches or FTMs at an early stage of transition…. If a butch chooses the women’s room, the “proper” choice for the sex to which sie is assumed to belong if sie is not able to “pass,” sie risks stares, hostile commentary, or getting chased right out by women alarmed that a “man” has entered (either mistakenly or with predacious intent). If sie enters the men’s room and fails to pass, sie risks worse.”


59. As sociologist David Inglis observes in *A Sociological History of Excretory Experience*, toilet habits are very often used to assert the cultural and biological inferiority of subaltern groups and classes: as an example, he documents how that discrimination against British gypsy communities is frequently justified by the stereotype that they live in squalid conditions with filthy toilet facilities.

60. Charles Tilly, *Durable Inequality* (Berkeley: University of California Press, 1998); as he puts it, “Durable inequality among categories arises because people who control access to value-producing resources solve pressing organizational problems by means of categorical distinctions.”


Notes to Chapter 3, “Regulating Restrooms”


5. *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986) at 106. See also Justice William Rehnquist’s remark in *Meritor* at 106: “This argument [against adding sex to the bill] was quickly defeated, the bill quickly passed as amended, and we are left with little legislative history to guide us in interpreting the Act’s prohibition against discrimination based on ‘sex.’”

6. The relevant excerpt of the Act reads, “Notwithstanding any other provision of this subchapter, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise;” see Title VII § 703(e), 42 U.S.C. § 2000e (1964).

7. *Forts* at 1098.

8. *Forts* at 1099-1101.


11. However, this number has increased again in the 2010s, as the transgender rights movement has gained traction at the state and national level in pursuing workplace discrimination protections—and as backlash to that movement has concomitantly succeeded in implementing newly stringent laws related to gender and restroom access. For more on these emergent issues, see Chapter 6.

12. In social psychology, benevolent sexism refers to the idea that women are inherently weaker than men and thus in need of protection; see Peter Glick and Susan T. Fiske, “An Ambivalent Alliance: Hostile and Benevolent Sexism as Complementary Justifications for Gender Inequality,” American Psychologist 56, no. 2 (2001): 109-118.


21. Wedow at 671.

22. Spees at 5.


27. See Meritor.


32. **Schultz v. White**, 50 So. 3d 949 (2010).
37. DeClue at 437, 439.
47. **Cottrill v. MFA, Inc.**, 443 F.3d 629 (2006).
65. Meadow, “A Rose Is a Rose.”

Notes to Chapter 4, “Transforming the Toilet”

2. Wade, “Coed Dorms ‘In’ With Nary a Ripple.”
4. Reinhold, “Coeds to Share Harvard Housing.”
5. Wade, “Coed Dorms ‘In’ With Nary a Ripple.”
7. Wade, “Coed Dorms ‘In’ With Nary a Ripple.”


13. For more on the distinction between semi-structured and informal interviewing, see the Methodological Appendix at the rear of this manuscript.


17. One particularly memorable participant had an extended conversation with me about “classic sociological theories of gender, like ‘Doing Gender,’ performativity, Judith Butler, and all that.” I didn’t have the heart to inform them that Butler – for better or for worse – is not a sociologist.


**Notes to Chapter 5, “Leveraging the Loo”**


8. Longa, “Family Friendly Malls.”


**Notes to Chapter 6, “Conclusion”**


**Notes to Appendix, “Data and Methodology”**


5. I thank Lynda Holmstrom for noting that this was an asset to my sample rather than a liability—and for a wonderful e-mail exchange following the 2014 Eastern Sociological Society Annual Meeting about my nascent work.


7. These include: Atlanta Constitution (1868-1945); Atlanta Daily World (1931-2003); Austin American Statesman (1871-1976); Baltimore Afro-American (1893-1988); Baltimore Sun (1837-1990); Boston Globe (1872-1984); Chicago Defender (1909-1975); Chicago Tribune (1849-1992); Cincinnati Enquirer (1841-1922); Cleveland Call & Post (1934-1991); Dayton Daily News (1898-1922); Detroit Free Press (1831-1922); Indianapolis Star (1903-1922); Los Angeles Sentinel (1934-2005); Los Angeles Times (1881-1992); Louisville Courier Journal (1830-1922); Nashville Tennessean (1812-1922); New York Amsterdam News (1922-1993); New York Times (1851-2012); New York Tribune (1841-1962); Norfolk Journal and Guide (1921-2003); Philadelphia Tribune (1912-2001); Pittsburgh Courier (1911-2002); San Francisco Chronicle (1865-1922); St. Louis Dispatch (1874-1922); Wall Street Journal (1889-1998); and Washington Post (1877-1999).


Browne, Kath. “Genderism and the Bathroom Problem: (Re)materialising Sexed Sites, (Re)creating Sexed Bodies.” *Gender, Place & Culture* 11, no. 3 (2004): 331–46.


Risman, Barbara J. “From Doing to Undoing: Gender as We Know It.” *Gender and Society* 23, no. 1 (2009): 81–84.


