

**DIVERSITY PIPELINE TASK FORCE
COURTS WORKING GROUP
FINAL REPORT AND RECOMMENDATIONS
FEBRUARY 15, 2007**

BACKGROUND

In September 2005, the State Bar created the Diversity Pipeline Task Force, a broad-based group of stakeholders committed to furthering the State Bar's diversity goals.

The Task Force is comprised of representatives from the bench and bar, law firms, corporate counsel, educational institutions and the government/public sector. The pipeline model is intended to serve as a resource model and guide to fostering collaborative activities and efforts along the career pipeline, pre-school to law school, resulting in entry and advancement into the legal profession. Its main goal is to develop student aspirations and to generate and provide support to increase the number of diverse lawyers in the legal profession.

The work of the Task Force was performed by various work groups, with the Courts Working Group being one such entity. The Honorable Brenda Harbin-Forte, a judge of the Alameda County Superior Court, chaired the Courts Working Group. A complete roster of the Courts Working Group is appended hereto as Attachment 1.

As part of its Task Force activity, the Courts Working Group held a Judicial Summit in conjunction with the State Bar Diversity Summit in June 2006. The summit, themed "Continuing a Legacy of Excellence: A Summit On Diversity In The Judiciary", was called for the purpose of convening judges and other key participants, including representatives from the Governor's Office, Legislature, Judicial Council and bar leaders, to discuss the current state of diversity in the judiciary and to develop recommendations to encourage a more diverse bench. A copy of the agenda for the Judicial Summit is appended hereto as Attachment 2.

After considering the comments from the members of the judiciary and other participants at the Judicial Summit, and based on legislative events that occurred thereafter, the Courts Working Group has developed the following recommendations.¹

¹ Many of the original recommendations advanced by the Courts Working Group regarding collection and reporting of demographic information were incorporated into SB 56, the requirements of which are discussed on the following pages.

FINAL RECOMMENDATIONS OF THE COURTS WORKING GROUP

I. DATA COLLECTION AND ACCESSIBILITY

RECOMMENDATIONS

1. The State Bar should assist the Governor's office and the Administrative Office of the Courts in the implementation of Senate Bill No. 56 (2005-2006 Reg. Sess., as amended August 29, 2006), now codified at Government Code section 12011.5(n), which requires the following:
 - (a) the Governor to disclose aggregate statewide demographic data provided by all judicial applicants relative to ethnicity and gender,
 - (b) the designated agency of the State Bar responsible for evaluation of judicial candidates to collect and release on an aggregate statewide basis (a) statewide demographic data relative to ethnicity and gender provided by judicial applicants reviewed by the designated State Bar agency, and (b) the statewide summary of the recommendations of the designated agency by ethnicity and gender, and
 - (c) the Administrative Office of the Courts to collect and release the demographic data provided by justices and judges relative to ethnicity and gender, by specific jurisdiction.
2. Working through the Bar Leaders Conference, the State Bar should encourage each county bar to provide an annual report to the State Bar regarding the state of diversity on that county's bench, using uniform reporting categories such as the racial and ethnic classifications used by the Department of Finance in its collection and reporting of demographic information. The State Bar should facilitate data collection by providing a standardized form. The report should be submitted by June 30 of each year, and should detail, as of December 31 of the preceding year, the aggregate race/ethnicity and gender of the judicial officers on that superior court bench. For those locales with no county bar association, the local bar association in an adjoining county should be encouraged and enlisted to gather the demographic data for that county.
3. The ethnic judges' associations (The Judicial Council of the California Association of Black Lawyers, The California Asian American Judges Association, the California Latino Judges Association, and the National Asian Pacific American Bar Association Judicial Council) should continue to work collaboratively to collect and release, on an aggregate statewide basis, demographic data on the diversity of California's state and federal courts. The racial and ethnic categories should correspond to those classifications used by

the Department of Finance in its collection and reporting of demographic information. The groups should issue their first reports on June 30, 2007.

4. The Administrative Office of the Courts should be encouraged to collect and release aggregate data on the level of racial, ethnic, gender, and other recognized types of diversity among the commissioners and referees hired by the courts in the 58 counties.
5. The State Bar should seek to facilitate future discussions on pipeline “leakage” by maintaining statistics on the ethnic minority and women law school enrollment of all accredited California law schools and receiving input from minority and women law student associations (e.g., Law Students of African Descent, La Raza Law Students, Asian Law Students, etc.), minority bar associations, and its own advisory committees such as the Council on Access and Fairness.
6. The Governor’s Office, the Administrative Office of the Courts, and the State Bar should establish a confidential mechanism for collecting and reporting voluntary information on the aggregate number of judges and SJOs who are lesbian/gay/bisexual/transgendered or who have a disability.

II. OVERCOMING BARRIERS:

RECOMMENDATIONS:

1. The State Bar should continue to conduct outreach to the minority and specialty bar associations to explain the role and procedures of the JNE Commission in the appointments process, to encourage members of minority and specialty bar associations to apply for positions on the JNE Commission, and to educate members of minority and specialty bar associations on the types of professional backgrounds, training, and experiences they should seek out to make them more attractive as judicial applicants.
2. The State Bar should require a minimum of two (2) hours of mandatory training for all JNE commissioners in the areas of fairness and bias in the judicial appointments process.
3. The State Bar should work with the Administrative Offices of the Courts and the Governor’s office in implementing Senate Bill No. 56, as stated above.
4. County and state population figures , not state bar membership, should be used as the standard in the reports under Senate Bill No. 56 by which the pool of desired level of diversity of judicial applicants should be measured.

²The Working Group relies on *Connerly v. State Personnel Board* (2001) 92 Cal.App.4th 16 for its view that the collection of accurate data based on race and gender does not violate Proposition 209. “[A] monitoring program designed to collect and report accurate and up-to-date information is justified by the

5. County bar associations that have evaluation contracts with the Governor's office should be encouraged to submit an annual public report on the total number of applicants evaluated and the aggregate ratings given to applicants, relative to ethnicity and gender, modeled after the reports required of JNE by SB 56. These county bar association judicial evaluation committees should also be encouraged to disclose voluntarily the makeup of their membership in terms of racial, ethnic, gender and other recognized types of diversity.
6. The application form for judicial appointment used by the Governor's Office should be amended to add questions specifically designed to elicit an applicant's experience in areas of the law that may not involve jury trials or litigation and information about other qualifying experiences and skill-sets, including cultural sensitivity.
7. The JNE evaluation form should be amended to elicit evaluator comments on an applicant's experience in non-jury trials and about other qualifying experiences and skill-sets, including cultural sensitivity.
8. The Governor's Office is encouraged to articulate publicly its position on the importance of judicial diversity and its philosophy and strategies for achieving a more representative judiciary.
9. The leaders of the Executive, Legislative, and Judicial Branches should continue to work collaboratively to ensure that California's judiciary reflects the rich diversity of the population that it serves.

III. RECRUITMENT

RECOMMENDATIONS

1. To the extent allowed by relevant provisions of the California Constitution (e.g. Proposition 209), the pool of commissioners and referees hired by each superior court should represent the rich diversity of the community served by that court.
2. In an effort to increase the applicant pool, judges should take a pro-active role in recruiting, grooming, and mentoring candidates from diverse backgrounds for judges, commissioners, referees, pro tem judges, and judicial clerks for the trial and appellate courts, helping them design individual strategies calculated to qualify them for eventual judicial appointment.
3. The State Bar should work with courts, in conjunction with local and specialty bar associations, to present educational programs for lawyers, patterned after the "So, You Want To Be A Judge?" programs presented by the California Women

compelling governmental need for such information. So long as such a program does not discriminate against or grant a preference to an individual or group, Proposition 209 is not implicated." (Id., 46-47.)

Lawyers bar association, to educate attendees on the judicial appointments and elections processes, judicial salary and benefits, and the overall benefits of pursuing a judicial career.

4. Because elections to judgeships can serve as a viable option for increasing diversity on the bench, judges should take a pro-active role in educating lawyers from diverse backgrounds on how to run for open judicial seats.
5. Judges should work with local, minority and other specialty bar associations to identify, recruit and support all qualified candidates for judicial appointment.
6. Mentor judges should provide support and preparation for all levels of the appointments process, in particular early career planning, “how to be a judge” programs, and mock interviews to prepare for meetings with local screening committees and the Governor’s Office.
7. Retiring ethnic minority judges should engage in “succession” planning by grooming ethnic minority lawyers to succeed to that seat.
8. Local, minority and other diversity bars should develop methods to identify and track the progress of ethnic minority and women judicial applicants.

IV. OUTREACH AND EDUCATION

RECOMMENDATIONS

1. The State Bar should work with the Judicial Council to implement an action plan to carry out Goal 1 of its strategic plan, with specific deadlines and timetables for achieving the goal of ensuring that the judicial branch reflects the diversity of the state’s residents.
2. The State Bar and the Administrative Office of the Courts should implement similar education and outreach efforts to publicize career opportunities within each organization and strive to ensure that staff members fairly represent the rich diversity of California’s population. In addition, the Judicial Council should encourage justices of the Supreme Court and the Courts of Appeal to hire a diverse pool of law clerks and staff attorneys.
3. **OUTREACH TO THE COMMUNITY:** The State Bar and/or the Judicial Council, the Administrative Office of the Courts and its appropriate departments should:
 - a. develop strategies to educate the community at large on the importance of the judicial branch and the value of diversity on the bench career opportunities in the legal field. Courts should identify and present to diverse community groups judicial role models from non-traditional backgrounds.

- b. consider developing and offering periodic regional workshops for judges and court leaders on appropriate community outreach, and should allow judges to count toward their minimum continuing education expectations any hours spent on such “qualified” outreach efforts.
 - c. encourage judges to work with community-based organizations (community groups, churches and other religious institutions, service clubs, etc.) in efforts to increase diversity in the courts.
4. OUTREACH TO SCHOOLS: The State Bar, and/or the Judicial Council, the Administrative Office of the Courts and its appropriate departments should:
- a. work with school districts to develop age-appropriate “street law”- type programs for all grade levels (K-12) that expose students to the judicial process and the various roles for law enforcement, lawyers and judges in the juvenile and adult criminal justice systems.
 - b. be encouraged to develop, with the assistance of bar associations, educational programs for high school, college and law students on the judicial appointments and elections processes as a way to encourage youth to consider the judiciary as a career option.
 - c. be encouraged to fund local programs designed to create volunteer opportunities in the courts for high school, college and law students, and to expose them to job opportunities in various levels of court administration.
 - d. encourage courts to use the American Bar Association’s mock trial programs or other similar programs for elementary school students (i.e., those based on familiar fairy tales) as a means of getting young people interested in legal careers.
 - e. be encouraged to work with junior high and high school career counselors to encourage them to steer students from diverse backgrounds toward law as a viable career option.
 - f. prepare a readily accessible packet of materials for wide distribution to students providing information on the law as a career and the various roles lawyers can play in the judicial system, including becoming judges. The packet, which should be available online and through the mail, should also educate students on career options related to the judicial system, including such careers as court interpreters, police officers, probation officers, court reporters, clerks, bailiffs, etc.
5. OUTREACH TO LAW SCHOOLS: The State Bar, and/or the Judicial Council, the Administrative Office of the Courts and its appropriate departments should:

- a. be encouraged to work with college career planning counselors to develop and host pre-LSAT classes and “So, You Want To Be A Lawyer?” workshops.
- b. be encouraged to work with local law schools to host an annual program for first year law students on how to lay the foundation for a future career as a judge.
- c. work with local law schools to design county programs for law students, such as the Legal Aid clinics.
- d. encourage and work with law schools to develop a week-long orientation course for entering students to help prepare them to succeed in law school.

CONCLUSIONS

The Courts Working Group believes that a diverse judiciary is not just an admirable goal, but also a necessary and achievable one. If the recommendations contained in this report are implemented, California’s judiciary will be on the path to reflecting the diversity of the population it is designed to serve. Increased diversity will result in a greater degree of public trust and confidence in the court system, and all California citizens will reap the positive benefits that flow from the perception that equal justice is indeed being dispensed in the state’s courthouses.