

Diversity in the Legal Profession, Past and Future

By Gregory P. Conyers

The State Bar of Michigan has a long history of working to address diversity issues within the legal profession, rooted in the larger role that race, ethnicity, and gender play in access to justice. It is an ongoing endeavor that identifies approaches to these issues that are endemic to society as a whole and affect how people perceive the legal system.

The perception of bias in the profession was first quantified in the 1986 report of the Michigan Supreme Court Citizen's Commission to Improve Michigan's Courts, led by former Michigan Supreme Court Justice Patricia Boyle. The report concluded that more than one-third of Michigan citizens at that time believed the state's court system discriminated against individuals on the basis of gender, race, or ethnic origin. Additionally, the lack of diversity within the profession undermined trust in the system and the rule of law. As a result of the report, the Bar committed to mitigating those beliefs in strategic ways by educating and engaging the profession and the public regarding issues of fairness, access, and equality.

In 1987, the Michigan Supreme Court created the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts. In their 1989 reports, the task forces made 167 recommendations for improving the quality of justice and eliminating bias and discrimination. The Bar developed a number of approaches to address the concerns outlined in the reports leading up to the present-day focus on continuing to improve the legal profession in Michigan and seeking access to justice for all its residents.

In 1996, under then State Bar president and current federal judge Hon. Victoria Roberts, the State Bar Task Force on Race/Ethnic and Gender Issues in the Courts and the

Legal Profession was charged with reporting on the status of the recommendations made in 1987 and developing a strategy for implementing those recommendations as well as identifying new areas of concern.

In 1997, following on the heels of these extensive reports, the Open Justice Commission was empowered to look at access to legal services and the courts for underrepresented populations. When that body was replaced by the Committee for Justice Initiatives in 2009, the Equal Access Initiative took up responsibility for what could be described as two sides of the same coin: access to the system and courts for the underserved and increased diversity of the profession.

In 2009, the Equal Access Initiative held a series of statewide strategy sessions to educate the legal community about the ongoing challenges of serving an increasingly diverse public and to receive feedback on why the profession should be concerned with reflecting inward. The State Bar created the position of director of diversity within the Executive Office, weaving tightly into the fabric of the Bar the thread that began in 1986.

The direct focus on issues surrounding diversity is necessary because of the ongoing need for improvement. There have been significant accomplishments since the 1986 report was released, but much remains to be addressed. The challenges have become

more complex over time, even as the ranks of those dedicated to overcoming them have grown. Moreover, the focus on diversity has evolved to encompass distinctions in sexual orientation, disability, generation, and background, to name a few.

In fact, Michigan's legal profession mirrors the rest of the country in two significant ways. The percentage of diverse populations represented within the profession continues to be of concern, as does the ability to thrive of those entering the profession. Nearly three decades after the initial task force reports were released, the number of minority attorneys, which has ebbed and flowed since 1986, still is not reflective of the general population and lags near the bottom among professions. We know, for example, that in general the number of nonwhite lawyers in Michigan is approximately 15 percent, including people of mixed-race background (of those who choose to self-report). The largest minority population in Michigan, African Americans, makes up just over 14 percent of the total population but only approximately 6 percent of lawyers. This is not by any means unique to Michigan. In fact, despite numerous indicators that conclude the country as a whole is moving rapidly toward a majority-minority demographic composition, the legal profession is not keeping pace in terms of reflecting the makeup of the community it serves.

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Of equal concern is the inclusivity of the profession at various levels. Women and minorities continue to be underrepresented in positions of leadership. We know, for example, that across the board nearly 50 percent of law school graduates are female. Membership in our Bar in Michigan is approximately 70 percent male and 30 percent female and growing closer every year toward 50-50. Yet numbers for women in leadership positions as partners are low nationally and in Michigan. The National Association of Women Lawyers reports that of the top 200 firms, women account for only 17 percent of equity partners and consistently make up the greatest percentage in the lowest positions within the firms.¹ The makeup of equity partners continues to be overwhelmingly male and white.

Inclusion requires a recognition that problem solving, which is at the heart of the legal profession, is best accomplished when there are diverse voices around the table and they are given appropriate consideration. Some law firms continue to struggle with building a culture that attracts and retains diverse talent, which ultimately affects access to adequate representation for some members of the public. With the relatively recent development of having four generations in the workplace comes the challenge of how to capitalize on each employee's strengths and plan strategically for the eventual retirement of an entire cohort.

These are only a few of the many vital considerations that must be addressed to have a relevant profession in the twenty-first century that meets the needs of the local community and the reality of a global society. The Bar recognized the importance of these issues and how they impact respect for the rule of law decades ago and continues to bring focus and resources to improving the profession and service to the public.

In 2010, the President's Diversity and Inclusion Advisory Group was created under then State Bar President W. Anthony Jenkins. The group of legal luminaries of various backgrounds from across the state was tasked with developing a long-term strategy to address existing and emerging diversity and inclusion issues within the profession and act as an advisory body to Bar leaders. The Pledge to Improve the Diversity and

Inclusion of the Legal Profession in Michigan was adopted unanimously by the State Bar Board of Commissioners and Representative Assembly and rolled out statewide to gather signatories from both individuals and entities that combined now number in the thousands. In 2011, the advisory group was renamed the Diversity and Inclusion Advisory Committee and given bylaws and an ongoing mission as a full committee of the Board of Commissioners.

To date, the Diversity and Inclusion Advisory Committee has developed surveys of the law firm and corporate law office sectors, developed a report of caregivers in law firms, gathered data regarding diversity among law school faculty and students, and created annual meeting programs on implicit bias and workplace inclusion. The coming year will include further emphasis on pipeline programs and collaborations with affinity bar associations.² ■

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ENDNOTES

1. National Association of Women Lawyers, *Report of the Eighth Annual NAWL National Survey on Retention and Promotion of Women in Law Firms* (February 2013), p 10.
2. For more information about the Diversity and Inclusion Advisory Committee, visit <<http://www.michbar.org/generalinfo/diversityinclusion>> (accessed April 19, 2015).

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