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President’s Blue Ribbon Commission on Diversity in the Legal Profession
In Silicon Valley

I. EXECUTIVE SUMMARIES

In order to help our profession reflect the changing demographic of our society and therefore the clients we serve, a President’s Blue Ribbon Commission on Diversity in the Legal Profession in Silicon Valley was appointed in 2005. The Commission consisted of firm and government leaders from around Silicon Valley, and studied issues within the region and programs from across the state and nation to formulate an indigenous solution to the unique hurdles to a representative profession facing the legal profession in Silicon Valley.

Justice Carlos Moreno of the California Supreme Court and Bruce Sewell, Senior Vice President and General Counsel at Intel co-chaired the Commission. The Commission members recognized that diversity was no longer simply the right thing to do, but as our global markets expand it became a necessity to maintain a competitive business advantage.

The Commission held its first meeting on February 28, 2006 at Fenwick & West. The SCCBA hosted the State Bar Diversity Summit sponsored by Intel in San Jose on June 2-3, 2006, held only once every three years as part of our efforts. The Commission met at the Summit and the meeting was hosted by Hoge, Fenton and McManis, Faulkner. The recommendations and final report were presented on October 17, 2006 at a Diversity Conference and Job Fair at the San Jose Fairmont hosted by Intel, it was then submitted for review by the public and approval by the SCCBA Board of Trustees. The Commission was divided into four sub-Committees: The Pipeline, Hiring and Retention, The Glass Ceiling and Job Fair.
A. Pipeline Subcommittee

As the minority population continues to grow in the United States, so does the disparity between the minority population and the minority representation in the legal profession. In Santa Clara County, Asian American and Hispanic/Latino residents make up the majority of the population, but only a very small fraction of its attorneys. In contrast, whites make up 44.2 percent of the population but comprise of an overwhelming 80.3 percent of the County’s attorneys.\footnote{“Challenges to the Practice of Law – Perspectives of Attorneys from Diverse Backgrounds.” The State Bar of California: 2006 Spring Summit. San Jose, 3 Jun. 2006.} Increasing California’s bar passage rate of minority candidates will not reverse this disparity because “leaks” exist at every level of the education “pipeline,” not just at the bar passage level. Thus, in order to achieve meaningful steps to diversify the legal profession, the education pipeline must be strengthened.

In Santa Clara County, the legal community has recognized that diversity in the profession requires investments in minority youths who form the pipeline. The President’s Blue Ribbon Commission on Diversity in the Legal Profession created the Pipeline Committee to find workable solutions to plug the leaks. To that end, the following report aims to: 1) identify barriers unique to each level of education, beginning from kindergarten through bar passage 2) establish objectives for each level of education in light of the identified barriers and; 3) make recommendations to Commission members, bar associations, and local schools to achieve those objectives. The Pipeline Committee recognizes that a truly successful program will require a collaborative effort that will involve the local and state bar associations, law firms and corporate law departments and local schools. Thus, specific recommendations are made to each group.

In order to better tailor best practices and make recommendations, the Committee first reviewed national, state, and local statistics to identify where we lose considerable numbers of
minority students. The major leaks identified are: 1) from high school graduation to college 2) from college through graduation 3) from college graduation to law school and; 4) from law school to bar passage. (Chart2)

The Racial/Ethnic Pipeline

Kent Lollis, LSAC Presentation

Second, the Committee collected, reviewed, and identified current pipeline programs in the Bay Area, with a focus on existing programs in Santa Clara County for each level of education – elementary, high school, undergraduate, law school. (See Appendix.) Third, the Committee identified best practices and made recommendations by weighing the following factors: 1) Santa Clara County’s unique demographic 2) barriers identified for each level of education and 3) the Committee’s objectives below.

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2 Id.
This report does not focus on fixing the failures of the public schools and education system. Instead, our objective is to identify barriers and remain committed to, 1) fostering students’ interest to pursue a career in the law, 2) support and develop skills needed to be successful in a career in law and, 3) teach students the importance of personal commitment, passion, and perseverance needed to achieve a career goal. In so doing, we hope to provide support and assure academic rigor at each level of education in order to increase the pool of qualified minority students in law schools and bar passage.

**Recommendations:** Specifically, the Committee recommends that: 1) the Bar Association become a clearinghouse for volunteer opportunities in schools on its website and by creating a Diversity Liaison position 2) K-12 Schools should work with the SCCBA to continue programs like the High School Mock Trial Program and expand programs for Fifth Graders like the District Attorney’s LRE program and Law Day 3) Law Schools should more aggressively recruit and implement expand programs to retain minority law students and decrease a reliance on LSAT scores for admission and 4) Firms and corporations should participate in local programs like “adopt a school,” support scholarship funds locally for students of color, LGBT, women and those with disabilities and advocate for better funding of public schools.

**B. Hiring, Retention and Promotion Subcommittee**

In California, racial and ethnic minorities comprise a majority of the state’s population but the percentages of minority lawyers – African American, Asian American, Latino, and Native American – on the State Bar has yet to reflect California’s diverse population. Although Anglo Americans make up roughly 48 percent of the state’s population, they make up almost 85
percent of the State Bar.\(^3\) Projections into the year 2020, show that minority representation in the State Bar is unlikely to significantly change from the percentages that exist today. For Santa Clara County, a recent survey conducted by the Santa Clara County Bar Association (SCCBA) reveals that only 7.8 percent of its members identified themselves as Asian American, Latino, or African American\(^4\). Despite some incremental changes, minority entry into the legal profession has slowed considerably since the mid-1990.

In a positive light, a recent study of the State Bar found that of the major urban areas in California, the San Jose/Silicon Valley did much better than any other area with 11 percent of its firms partners being persons of color. The Valley also had the highest percentage of minority summer clerks and associates by a large margin.

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\(^3\) Source: California State Bar Association.
\(^4\) San Jose Mercury News Article, June 25, 2000.
However, while the Valley has attracted and retained more attorneys of color, the firms fell behind San Francisco and about in the middle with the hiring and retention of women with about 18 percent of the partners being women and doing particularly poor in the recruitment of summer associates at only 40 percent. While Silicon Valley is doing better than most, it certainly does not match the representation of the Bar at 17 percent persons of color and 33 percent women, let alone the population at 50 percent minority and 50 percent women (Source: State Bar of California Diversity Pipeline Taskforce).

In order to accelerate this trend, the committee identified existing best practices in the community focusing on building on these past attempts in order to find organic solutions tailored
to Silicon Valley’s specific demographic (see the Appendix for a list). As the need for diversity becomes more and more apparent as a matter of good business, not just good conscience, renewed and ongoing commitment by the members of the Bar to promote progress will surely benefit our profession and community. This effort has been lead by the corporations. Prominent members of the Commission such as Intel, Sun, Google, HP, Yahoo, Oracle, Adobe, Stanford and Phoenix Technologies, have openly requested their outside counsel better reflect the diversity of the global and local markets to better serve their shareholders.

In order to better tailor best practices and recommendations to Silicon Valley’s unique demographics and economy, the Hiring and Retention Subcommittee formed small informal focus groups to receive input from both diverse and non-diverse attorneys living and working here in Silicon Valley on the issues of diversity in the legal profession. The focus groups highlighted the continuing need to increase mentorship, networking and quality of life policies to increase minority retention.

The input from the focus group weighed heavily in identifying the best practices and in formulating recommendations for this report. Fortunately, despite the concerns that many participants had, there existed hope that the legal profession did not have to remain in its present drought of diversity. The frustration that many diverse attorneys expressed was based on an underlying belief that the legal profession could be improved and diversified. They constructively expressed specific recommendations to increase hiring and retention of diverse attorneys and improve the professional landscape as a whole.

**Recommendations:** The following best practices and recommendations reflect the input of the focus group as well as the assessment of sub-committee members. These best practices and recommendations establish a strong basis for continued progress in diversifying the legal
profession. Specifically, firms and corporations should seek to: 1) create formal and informal mentorship opportunities for young attorneys 2) seek a work life balance for associates 3) teach business development to new attorneys 4) make mentorship and diversity a priority with annual recognition by awards and financial incentives 5) support diversity job fairs, scholarship and associate participation by giving billable hour time for such work and 6) create a diversity plan tailored to the firm with meaningful top to bottom review.

C. Glass Ceiling Subcommittee

The legal profession, like engineering, accounting, and medicine, recognizes a need to increase diversity within its ranks to reflect the changing demographics in our society and the clients it serves.

![Selected Professions/Minority](chart)

Source: State Bara Diversity Pipeline Taskforce, 2006

This need for diversification is particularly acute at the upper levels of the profession. According to the National Association for Law Placement, 83 percent of the general counsel and partners in corporate departments and law firms are men. Women, ethnic/racial minority, and
LGBT (lesbian, gay, bisexual and transgendered) attorneys have had a small but steady increase over the past twenty years in the top positions in the legal profession. However, more needs to be done in order to alleviate the “glass ceiling” effect.

The current issues underlying the “glass ceiling” are not unique to Silicon Valley. Lack of mentoring, cultural biases, and overall job dissatisfaction often impede the advancement of women, ethnic/racial minority and LGBT attorneys to legal leadership positions in all areas of the country and in all areas of practice from law firms to the bench.

*Ethnicity of Santa Clara County Population v. Judges (2006), Source State Bar of CA.*

The Glass Ceiling Subcommittee acknowledged that certain groups are underrepresented at the top of the legal profession and set out to investigate what successful local law firms, companies, and government and judicial offices have done to promote diversity in their highest positions. The subcommittee interviewed over 26 local leaders in these sectors to learn about their individual stories and best practices. Four common best practices of companies and firms in Silicon Valley were: (1) effective formal and informal mentoring programs (2) top leaders should make diversity a priority and core value of the institution (3) recognize and communicate the business case for diversity and (4) providing for meaningful part-time work arrangements for women with children in a way that does not marginalize that choice.
**Recommendations:** Specific recommendations that can be implemented locally include:

1. Firms implementing part-time work programs that allow attorneys to continue to advance in the institution.
2. Firms and the Bar making informal mentoring of underrepresented attorneys a priority that is valued by the organization.
3. Opening a professional community dialogue with current legal leaders about cultural biases and stereotypes that influence decision making.
4. Providing business and leadership training models for legal organizations to use in their own organizations. The goal is that these local changes will lead to a change in perception and opportunity for underrepresented groups at the top of the organizations.

In the interviews with these highly successful women, ethnic/racial minority and LGBT attorneys in all areas of practice, it also became clear that they shared common characteristics which allowed them to be successful and “crack the glass ceiling.” The interviewees credit their individual success to hard work, determination, and persistence. They described a refusal to be discouraged by setbacks or bias, a desire to be a leader and affirmatively seek advancement. They sought out mentors for advice on how to move forward and build their credentials. They stressed the need to understand how those you work with perceive you and learn from that feedback. Aside from personal characteristics, the interviewees most frequently cited their mentors as the reason for their success. Interestingly, most of the mentor relationship were informal and were not with colleagues of the same gender or ethnicity.

**D. Job Fair Subcommittee**

The Santa Clara County Bar Association (SCCBA) held the first Silicon Valley Diversity Job Fair in conjunction with the Commission’s Diversity Conference on October 17, 2006 at the San Jose Fairmont. The Job Fair was sponsored and hosted by Intel. The purpose of the Diversity Job Fair was to increase the participation of women, ethnic/racial minority and LGBT
attorneys with one to five years experience and second year summer associates who have traditionally been underrepresented in the practice of law. The Job Fair sought to: (1) increase the numbers of women, ethnic/racial minority, those with disabilities and LGBT attorneys hired in Silicon Valley (2) dispel myths that say minorities are simply not interested in or are not qualified to work at large law firms and (3) bring a much needed diversity to California’s legal profession.

The Job Fair was marketed to second year law students attending Lincoln Law School, Santa Clara University School of Law and Stanford Law, but was open to all Bay Area minority second year students and new attorneys. Students and lateral attorneys were invited to participate regardless of race, ethnicity, gender, sexual orientation, or disability. Employers chose to interview from one or both groups.

SCCBA solicited resumes from students and lateral attorneys through minority law student groups, law schools and minority lawyer associations. Electronic registration by candidates and employers was required for participation in the Job Fair and was done via e-mail. Candidates were required to submit a registration form, resume, writing sample and law school transcript to SCCBA. Participating employers reviewed the resumes on-line, in advance and submitted their top eight candidates. They interviewed between 6 and 8 candidates for approximately 20 minutes, at least half of each employer’s interviews consisted of candidates the firms had pre-selected and half from candidates that they might not otherwise have encountered. The latter were matched by a sub-committee based on stated preferences of the candidates, background, experiences and grades in conjunction with the practice areas and focus of the participating employers.
**Recommendations:** SCCBA’s Minority Access Committee should serve as the advisory group and assist in the planning and execution of the Job Fair. The Job Fair should be hosted by a large corporation in the Silicon Valley to better recruit both students and law firms to participate and send a message that corporate clients value diversity. The Job Fair should be an annual event organized by the SCCBA and supported through corporate sponsors like Intel and through the fees charged to local firms to interview.

**Summary of Recommendations for SCCBA:**

► **Diversity Liaison position:** Create within the SCCBA to coordinate and disseminate new and existing diversity programs and information.

► **Foundation:** Create a Foundation to provide women, ethnic/racial minority, those with disabilities and LGBT in Silicon Valley with need based Bar Exam grants and LSAT prep course scholarships.

► **Silicon Valley Diversity Job Fair:** Continue and maintain the Silicon Valley Diversity Job Fair for 2L students and new attorneys, overseen by the Minority Access Committee and solicit sponsorships to finance it from General Counsel to reinforce its importance with area law firms.

► **Bay Area Minority Clerkship Program for 1L Students:** Continue to support and renew the Bay Area Minority Clerkship Program for 1L students, with particular focus on the Silicon Valley.

► **Annual Diversity Award:** Recognize the outstanding diversity efforts of firms, entities and individuals within the legal community with an annual award from the Bar Association.

► **Website Clearinghouse:** Use Diversity Programs link on the SCCBA Pro Bono website to be a clearinghouse of county programs for attorney volunteers and local area schools interested in promoting early awareness of opportunities in the legal profession and give attorneys Pro Bono credit for volunteering.

► **Mentorship Programs:** Work with existing mentorship programs like the Role Model Program, through the Minority Access Committee and create mentorship opportunities for new attorneys in firms to interact with older attorneys, through networking and formal relationships.
► **Rankings Letter:** Draft an open letter from the Commission to the U.S. News and World Report annual law school ranking survey encouraging them to limit the importance of the LSAT in their findings and encourage the addition of percentage of the rank for diversity admissions and retention.

► **Pipeline Programs:** Combine volunteers for the District Attorney’s Law Related Education Program for fifth graders in SJUSD and the SCCBA Law Related Education High School Mock Trial Program. Also coordinate with the County Department of Education to re-institute the Annual Law Day Program for fifth graders.

► **Implementation and Priorities:** Require a report to the Board of Trustees on the progress of implementation of these diversity efforts from the Minority Access Committee every year in September, including priorities for implementation, and conduct formal review of progress made in three years.

**Summary of Recommendations for SCCBA Members and Firms:**

► **Law Firm “Best Practices” Policy:** Commission members should create a diversity policy within their offices, including a succession plan for the identification and recruitment of diverse leadership and encouragement of formal and informal mentorship plans.

► **General Counsel Pledge:** Commission members should continue to support diversity as a good business decision with their client firms and request minority partners as contacts within outside firms.

► **Training:** Create and promote ongoing diversity training from the “top down.”

► **Mentorship Programs:** Create and maintain programs that promote diversity and reward either financially or with public acknowledgement, successful mentorship efforts.

► **Business/Networking for First Years:** Create and promote effective business management training for first year associates, specifically including networking and business development.

► **Work/Life Balance:** Promote flexible work schedules for attorneys with families that do not inhibit advancement or leadership opportunities.

► **Billable Hours Credit:** Give attorneys credit for Bar Association and diversity activities or mentoring, (whether internal or external).

► **Silicon Valley Diversity Job Fair:** Support and participate in Diversity Job Fairs and scholarship programs.

► **Commission Pledge:** Firms to sign pledge to strive to implement these recommendations.
II. REPORTS

A. PIPELINE SUBCOMMITTEE REPORT

I. Introduction

The lack of racial and ethnic diversity in our legal education system is a problem of national dimension. In Miles to Go 2004: Progress of Minorities in the Legal Profession, the American Bar Association reported that the total minority representation among law students has dropped in the past two years\(^5\) – due to a large drop in the number of African American law students and a slight drop in Hispanic students.\(^6\) According to the ABA, “the proportion of minorities in the legal profession is not likely to attain parity with that in the general population in the foreseeable future.”\(^7\) Increasing the current graduation rate of minority candidates from accredited law schools will not reverse this disparity because “leaks” exist at every level of the education “pipeline,” not just at the graduate level. Thus, in order to achieve meaningful steps to diversify the legal profession, the education pipeline must be strengthened.

The Santa Clara County legal community has recognized that diversity in the profession requires investments in minority youths who form the pipeline. In order to assist the legal community invests in minority youths, the President’s Blue Ribbon Commission on Diversity created a Pipeline Committee to achieve the following goals: 1) identify the barriers unique to each level of education, beginning from kindergarten through bar passage 2) establish objectives for each level of education and; 3) make recommendations to member firms, the bar association and local law schools to achieve those objectives.

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\(^6\) Over the past two years, African American representation among law students has fallen from 7.4\% to 6.6\% and Hispanic students also has dropped slightly from 5.8\% to 5.7\% 

\(^7\) Id.
We are aware of limits placed on the legal community's ability to increase and maintain the pool of minority students in our public schools. However, our goal is not to fix the education system. Instead, our focus is to identify barriers and remain committed to: 1) fostering students’ interest to pursue a career in the law 2) support and develop skills needed to be successful in a career in law and 3) teach students the importance of personal commitment, passion, and perseverance needed to achieve a career goal. In so doing, we hope to provide support and assure academic rigor at each level of education in order to increase the pool of qualified minority students in law schools and bar passage. The Pipeline Committee also recognized that the pipeline problem begin as early as pre-kindergarten. However, due to limited resources, the committee will only focus on identifying barriers and making recommendations for grades kindergarten to high school, and beyond.

II. Methodology

In order to better tailor best practices and make recommendations, the Committee first reviewed national, state, and local statistics to identify where we lose considerable numbers of minority students. The major leaks identified are: 1) from high school graduation to college 2) from college through graduation 3) from college graduation to law school and; 4) from law school to bar passage.

Second, the Committee collected, reviewed, and identified current pipeline programs in the Bay Area, with a focus on existing programs in Santa Clara County for each level of education – elementary, high school, undergraduate, law school. (See Appendix A.) Third, the Committee identified best practices and made recommendations by weighing the following factors: 1) Santa Clara County’s unique demographic 2) barriers identified for each level of education and 3) the Committee’s objectives as discussed below.
This report does not focus on fixing the failures of the public schools and education system. Instead, the committee’s objectives are to identify barriers and remain committed to: 1) fostering students’ interest to pursue a career in the law 2) support and develop skills needed to be successful in a career in law and 3) teach students the importance of personal commitment, passion, and perseverance needed to achieve a career goal. In so doing, we hope to provide support and assure academic rigor at each level of education in order to increase the pool of qualified minority students in law schools and bar passage.

III. Findings

A. Kindergarten to High School

Many K-12 students of color face serious cultural and societal barriers to success on the road to high school graduation. According to the California Public Policy Institute, less than 50 percent of Hispanic children in California have a parent with a high school diploma and less than 10 percent of the children have a parent with a Bachelor degree. This disparity not only contributes to a higher poverty rate, but also erects greater barriers to these students’ early literacy, preparation for school, and subsequent educational development. This disparity continues when one examines the high school graduation rates for minority groups: only 50.2 percent of African American students and 53.2 percent of Hispanic students graduate from high school as compared to 74.9 percent for white students.8

8 ABA/ LSAC Pre-Conference Report: The Critical Need to Further Diversity the Legal Academy and the Legal Profession (2005)
In Santa Clara County, Asian and Hispanic students make up the majority of the student population in the K-12 public school system. The greatest number of English learner students are Spanish speakers, followed by Vietnamese speakers (Tables9).

<table>
<thead>
<tr>
<th>Students by Ethnicity</th>
<th>Santa Clara County, 2004-05</th>
</tr>
</thead>
<tbody>
<tr>
<td>County</td>
<td>Enrollment</td>
</tr>
<tr>
<td>American Indian</td>
<td>1,610</td>
</tr>
<tr>
<td>Asian</td>
<td>60,670</td>
</tr>
<tr>
<td>Pacific Islander</td>
<td>1,749</td>
</tr>
<tr>
<td>Filipino</td>
<td>12,727</td>
</tr>
<tr>
<td>Hispanic</td>
<td>69,200</td>
</tr>
<tr>
<td>African American</td>
<td>8,662</td>
</tr>
<tr>
<td>White</td>
<td>72,719</td>
</tr>
<tr>
<td>Multiple/No Response</td>
<td>5,608</td>
</tr>
<tr>
<td>Total</td>
<td>253,085</td>
</tr>
</tbody>
</table>

Languages of English Learner Students
Santa Clara County, 2004-05

<table>
<thead>
<tr>
<th>Language</th>
<th>Number of Students</th>
<th>Percent of Enrollment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spanish</td>
<td>42,767</td>
<td>16.9%</td>
</tr>
<tr>
<td>Vietnamese</td>
<td>7,919</td>
<td>3.1%</td>
</tr>
<tr>
<td>Filipino (Filipino or Tagalog)</td>
<td>2,263</td>
<td>0.9%</td>
</tr>
<tr>
<td>Mandarin (Putaoqhua)</td>
<td>2,009</td>
<td>0.8%</td>
</tr>
<tr>
<td>All other non-English lan</td>
<td>1,450</td>
<td>0.6%</td>
</tr>
<tr>
<td>All Other</td>
<td>8,259</td>
<td>3.3%</td>
</tr>
<tr>
<td>Total</td>
<td>64,667</td>
<td>25.6%</td>
</tr>
</tbody>
</table>

In light of the County’s ethnically diverse student population, the Committee has identified several barriers which include: language barriers, financial barriers, and the lack of role models and mentors at home. In addition, the Committee identified the following weaknesses in the education system: limited pre-law programs and curriculum, problems with teacher retention, unidentified and unaddressed learning, hearing, visual, and other disabilities, lack of classroom visitors from the legal profession, and lack of positive role models and mentors with connections to the legal profession.

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B. College/University

The Committee identified the college/university years as the critical penultimate stepping stone to entry into the legal profession. Despite the importance of college education, we lose considerable numbers of minority students at two major leaks in the pipeline: 1) from high school graduation to college and 2) from college through graduation. For example, according to data collected by the University of California, for Fall 2006, only 3,240 African American and 13,509 Chicano/Latino students submitted on-time applications to the UC campuses, compared to 26,075 white/other students and 20,521 Asian American students.\textsuperscript{10} For those minority students who submitted on-time applications, they face a greater challenge in admission due to a ban in affirmative action programs in California public schools.

\textbf{The Racial/Ethnic Pipeline}

\begin{center}
\textbf{Kent Lollis, LSAC Presentation}
\end{center}

\textsuperscript{10} University of California. Office of the President. \textit{Student/Workforce Data: Percent Change in On-time Applications – California Freshmen – Fall 2006} 7 Jun. 2006 \url{http://www.ucop.edu/news/studstaff.html}
The Committee has identified the following weaknesses to the pipeline: lack of college course preparation, lack of financial and academic planning, low SAT scores, low numbers of applicants, lack of mentors in the legal profession, and financial barriers.

C. Law School

The decline in minority representation in the legal profession has been attributed most specifically to drops in minority enrollment of African Americans and Hispanics in law schools. According to the American Bar Association, “the crisis in the pipeline continues with disproportionately lower applications, enrollment and graduation rates of minorities in US law schools.” According to the LSAC data, 59 percent of African American applicants, 35 percent of Hispanic/Latino applicants, and 30 percent of Native American applicants received scores below the average LSAT score.11

In addition, students of color face higher attrition rates during law school and lower bar passage rates after graduation. For example, the July 2005 California Bar passage rate for first-time takers for whites was 69.1 percent, compared to 33.8 percent for African Americans, 48.8 percent for Hispanics, and 61.7 percent for Asian-Americans. Among the first-time takers, only 198 African American students, 477 Hispanic students and 818 Asian-American students took the July 2005 California Bar exam as compared to 3,704 whites.12 These numbers show that without adequate resources and attention to this part of the pipeline, the pool of qualified minority applicants to law schools will be neither wide nor deep.

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12 ABA/ LSAC Pre-Conference Report; The Critical Need to Further Diversity the Legal Academy and the Legal Profession (2005): http://calbar.ca.gov/calbar/pd...s/Statistics/JULY2005STATS
The Committee identified the following barriers and weaknesses in the pipeline: 1) recruitment, application, admission, and retention (including learning environment and impact of various teaching methods) 2) academic success (including learning styles and study skills) and; 3) graduation and bar exam preparation. Additional “non-academic” factors were identified, such as financial concerns, isolation from family / community support, and lack of confidence.

**IV. Recommendations**

The following are recommendations for SCCBA, its members and firms, and local schools to improve the numbers of women, minority and LGBT students in the education
pipeline and get them interested in law. In addition, in the Appendix, the committee has collected examples of existing programs and practices.

**Recommendations for SCCBA:**

**Kindergarten to High School**

▸ Award grants or increase funding for pre-law programs that expose minority youths to the law and legal profession.

▸ Create and support pro bono projects such as Disability Rights Education and Defense Fund (DREDF) to accommodate, support, and provide legal representation for youths with disabilities.

▸ Make Public Service Announcements (PSAs) in local media to highlight local minority attorneys and the importance of diversity in the legal profession.

▸ Give MCLE credits for lawyers who mentor youths or who participate in law-related educational presentations for youths.

▸ Award scholarships to minority students.

▸ Have Law Related Education (LRE) Committee teach law courses to students.

▸ Establish a clearinghouse link on SCCBA website for volunteers to serve as mentors and/or classroom visitors.

▸ Implement training programs for law students and attorneys to become volunteer mentors.
  * Conduct a survey of bar members to determine who is already working with youth on legal educational issues.
  * Do a publication of possible “best practices” for attorneys to use in law-related presentations.
  * Do a “Myth and Fact” sheet to dismantle possible myths and stereotypes about the legal profession (e.g., *You have to be rich to be a lawyer, You have to have good grades your whole life to be a lawyer, You cannot be a lawyer unless you have connections*).

**College and University**

▸ Establish a foundation to provide SAT preparation course scholarships and stipends

▸ Grant scholarships

▸ Build on-campus connections with law student mentors and attorneys in the community to mentor youths (Minority Access Committee)
Law School

► Establish a foundation to fund LSAT prep courses, bar exam scholarships, and summer internship programs.

► Join with other Bars in suggesting that U.S. News & World Report diminish LSAT scores in annual survey and to consider additional diversifying factors in rankings.

► Build connections between law student and attorneys in the community through events such as the Minority Summer Associates Reception.

► Track the disparate impact of the bar exam on minorities entry into the legal profession.

► Support and fund academic success programs at schools such as Santa Clara University’s Center for Multicultural Learning, the Arrupe center, and PLUS program and Stanford University’s Offices of the Provost and Deans of Student Affairs (SCCBA collaborate with minority bar associations).

► Build upon the academic success programs already in place at many Bay Area law schools and provide attorney mentoring throughout the law school years (not just in terms of jobs and networking).

► Provide financial assistance and mentorship for law students taking the bar exam.

► Fund bar preparation courses for students.

► Link post-J.D. bar students with attorneys (particularly those who have recently passed the bar) to give them advice and encouragement.

► Establish a liaison or ombudsperson to work with local colleges and universities.
  ● Tasks: document resources, facilitate information-sharing, and encourage collaborations among the County’s colleges and universities to increase diversity outreach.
  ● The LSAC-funded PLUS programs currently in place at Santa Clara University School of Law and UC Davis School of Law could serve as templates for summer pre-law institutes on a number of campuses.
  ● Bay Area schools could collaborate to provide LSAT courses, writing workshops, and seminars on legal / public policy issues.
  ● The liaison position could encourage and help to publicize speaker series featuring local minority attorneys, and produce a publication geared toward undergraduates interested in the legal profession.
  ● The publication could be disseminated widely throughout Bay Area schools and could be posted on the SCCBA website.
  ● The position could be funded through the contributions of local law firms, companies, or private donors or it might be crafted as a pre-J.D or post-J.D. fellowship. The fellowship could be named after both the SCCBA and the sponsoring firm or
company.

Tracking Success

► Collect statistics concerning the number of racially and ethnically diverse students enrolled in current “best practice” programs.

► 3 year review by Minority Access Committee to evaluate and analyze results, address shortcomings, and track progress made toward implementing current “best practice” programs.

► Monitor, analyze and report the progress of Commission members on an annual basis.

► Collect, study, maintain, and disseminate model diversity programs to the legal community.

Recommendations for Commission Members and Firms:

Kindergarten to High School

► Implement an “Adopt-A-School” program with local schools with high minority student enrollment.

► Implement pro bono opportunities with current community programs such as LACY and Child Advocates.

College and University

► Summer internship programs.

► Mentorship programs for students interested in pursuing a legal career.

► Grant scholarships.

Law School

► Participate in summer internship programs such as the Bay Area Minority Summer Clerkship Program.

► Provide mentorship programs that link students with a network of attorneys from whom they can seek professional guidance and possibly provide job opportunities.

► Provide scholarships and mentorship program to assist law students throughout the bar exam.
Recommendations for local schools:

Kindergarten to High School

► Give academic credits for law students who mentor youths or participate in law-related educational presentations for youths.

► Work with the State and local bar to coordinate and establish pre-law programs in the school curriculum.

► Establish school mock trials for non-English speakers.

College and University

► Counselors for career awareness and college admission process.

► Career academic assistance to teach students how to plan their future career in law and to select appropriate courses to develop skills in analysis, problem-solving, reading, writing, research, and synthesis.

► Provide pre-law education programs such as Street Law.

► Collaborate with law schools to have law student mentor youths.

► Guidance in selecting range and balance in extracurricular activities and part-time jobs.

► Provide adequate professional and psychological counseling services for students with disabilities.

► Tutorial services to strength test-taking skills.

Law School

► Aggressive diversity recruitment efforts by the admissions and diversity committees (aided by law faculty and law students).

► Encourage admissions committee to “look beyond the numbers” of LSAT scores in evaluating student applications. (Note: In a recent article, a past LSAC president and law school dean concluded that law schools’ chase to increase US News & World Reports rankings by establishing higher LSAT “cut-offs” is a key factor in diminishing diversity among law school populations.)

► Academic success programs that provide sustained attention to writing, reading, and

analytical skills throughout a law student’s education.

► Collaborative efforts among faculty, students, and administrators to provide collegial and professional communities in which diverse students are welcome and issues of diversity are openly discussed.

► Implement a curriculum that address issues of diversity in the law.

► Grant financial aid (scholarships and not just loans).

► Implement Legal Educational Opportunities Programs (LEOP), CLEO-style programs, and conditional admission programs at law schools.

► Academic counseling to emphasize the importance of preparation for the bar exam, and professional / personal / financial support through the student’s first post-J.D. year to facilitate passage of the bar.
B. HIRING, RETENTION AND PROMOTION SUBCOMMITTEE

I. Introduction

Racial and ethnic minorities comprise of over 50 percent of California’s population, but minority attorneys make up only approximately 15 percent of the State Bar. The State Bar’s progress in increasing diversity in the legal profession has slowed in recent years and even regressed in some areas. In order to hold tightly to the progress attained through active commitment, there must be a concerted effort to further recruit, retain, and promote minority attorneys throughout the legal employment. Research shows that recruitment, retention, and promotion issues are so interconnected that less success in one area inevitably leads to less success in the other areas. It is only through active commitment to increasing diversity, implementing successful programs and policies, and building on the lessons of less successful efforts through critical self study and reflection that the State Bar will reflect the diversity and greatness of California’s population.

II. **Methodology**

In order to supplement the valuable information found in national and regional reports on diversity, the SCCBA Hiring and Retention Subcommittee formed informal focus groups made up of diverse attorneys – women, ethnic/racial minority and LGBT, and “non-diverse” attorneys defined as heterosexual white males. Participants were recruited by the Hiring and Retention Subcommittee members and law clerk. The confidential focus groups were comprised of volunteers from different sized law firms, corporate law departments and government agencies.

In the first focus group, three participants were diverse males and four were diverse females.\(^{14}\) In the second focus group, four participants were diverse females.\(^ {15}\) The control group was comprised of four white male attorneys from private law firms and in-house legal departments.\(^ {16}\) Because government attorneys were not significantly represented in the two focus groups, subsequent telephone interviews were conducted with attorneys who work in government agencies. Eight diverse participants from the focus groups identified themselves as being the first attorneys in their families. A summary of the observations of participants in the SCCBA Hiring and Retention Subcommittee’s focus groups is included in this report as Appendix. All citations to information in the focus groups identify the groups by location and the date discussion was held.

Focus group participants were instrumental in shedding light on the multifaceted approach that diversity efforts must take to be successful overall. They identified opportunities for improvement in interpersonal interactions, internal and external support mechanisms,

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\(^{14}\) This group met at Fenwick & West in Mountain View, CA on April 24, 2006.

\(^{15}\) The focus group meeting took place at Santa Clara University on April 27, 2006.

\(^{16}\) Finally, the “control” group conferred at Fenwick & West in Mountain View, CA on May 10, 2006.
business management, and the structure of legal organizations. Participants honestly critiqued existing practices identifying ways to increase the success of present diversity efforts while incorporating an expanded role of the SCCBA in their suggested recommendations.

III. Findings

A. Recruitment

Hiring minority laterals and expanding hiring selection criteria are ways to increase recruitment of minority attorneys. Representation of minorities in law firms, legal departments, and government agencies begins with effective recruiting. Although law firms are increasingly seeking out “qualified” minorities, traditional reliance on “box credentials” – class rank, law review, moot court participation and clerkship—limits the pool of minority applicants interviewed by these firms. Associates in one California firm cited their partners’ view on diversity and quality as a “dichotomy” and a major obstacle to both recruitment and promotion. Even without such bias, law firms are resistant to changing their criteria in recruiting for fear that expanding the criteria will negatively impact work quality and morale within the organization.

The lack of a “critical mass” of senior minority partners is another obstacle to overcome in both recruitment and retention of minority associates. The American Bar Association informs us that minority law students want firms that are already diverse, giving firms with a

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17 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006 and May 10, 2006, as well as Santa Clara, CA, April 27, 2006.
18 Id.
21 Interview with Attorney Gordon Davidson, Chairman, Fenwick & West. February 16, 2005.
relatively high proportion of successful minority partners and associates an advantage in recruiting. 23

Law firms and legal departments committed to attracting diverse associates find themselves in fierce competition with other major firms for elite candidates at top schools. 24 While top ranked minority students at elite law schools may have several offers from different law firms, successful minority law students at non-elite schools are likely to be overlooked.

There is also room for support from the campus career services in providing a more diverse applicant pool in response to employment opportunities. Stanford University Career Services reported that approximately 33 percent of their graduating class was diverse. 25 It is assumed that this percentage continues in the hiring of graduates into law firms, clerkships, and public interest employment. 26 However, the University did not track minority career placement separately and there is no way of knowing with certainty where diverse law students were employed after graduation. 27 Neither Stanford University nor Santa Clara University Schools of Law career services indicated any affirmative efforts on their behalf to increase the diversity among the job applicant pool. On the other hand, although Lincoln Law School does not have a separate career services department, the Dean and other faculty members have made concerted efforts to place minority attorneys in local firms and government agencies. Approximately 55 to 60 percent of the students at Lincoln Law School are of diverse background. It is not uncommon

23 Id.
24 Interview with Attorney Gordon Davidson, Chairman, Fenwick & West. February 16, 2005.
25 Telephone Interview by Sub-Committee Co-Chair, Attorney Ed Moran with Attorney Susan Robinson, Associate Dean, Stanford University School of Law. May 2006.
26 Id.
27 Id.
for the Dean or other faculty members to call a hiring partner at a local firm or the senior
attorney at a government agency to promote a student at Lincoln Law School.\textsuperscript{28}

\textbf{B. Retention}

Even when recruiting efforts are successful, the attrition rates among minority attorneys
reveal recruiting to be only one of the first steps on the long road to diversifying the Bar. One
study found that 50 percent of all minority associates leave their firms within the first three years
of practice and two thirds leave within the first four years.\textsuperscript{29} Rates of attrition for minority
women are even higher, with 12.1 percent leaving their firms within one year of being hired and
over 85 percent leaving by the seventh year.\textsuperscript{30}

Attrition of minority associates has been attributed to many things, but studies suggest
that minority associates face social and professional isolation in law firms and have difficulty
gaining access to influential mentors and quality work assignments.\textsuperscript{31} Even minorities who make
partners have been leaving their law firms at an increasing rate for employment in corporate law
departments or partnerships at other firms.\textsuperscript{32}

Lack of mentorship leads to more than feelings of isolation, it is usually through
mentorship that associates are placed on the “training track” or receive interesting and or
noticeable assignments.\textsuperscript{33} Without mentorship to form professional networks, minority
associates have more difficulty developing clients which weakens their chances of succeeding
within their firm’s structure. According to a report recently released by the American Bar

\textsuperscript{28} Telephone interview by Subcommittee Co-Chair Attorney Ed Moran with Dean of Lincoln Law School, August
\textsuperscript{29} National Association of Law Placement, “Keeping the Keepers: Strategies for Associate Retention in Times of
\textsuperscript{30} Id.
\textsuperscript{31} Chambliss, Elizabeth. “Miles to Go: Progress of Minorities in the Legal Profession,” ABA Publication, February
2005, at pg 34.
\textsuperscript{32} Id. at 35.
\textsuperscript{33} Id. at 88.
Association, 62 percent of minority women attorneys surveyed in large firms said they believed they were excluded from formal or informal networking opportunities.34

In many ways retention has proven to be the most challenging part of increasing diversity, since many minority attorneys have cited somewhat intangible reasons for leaving, such as feeling “unappreciated,” feeling pressured to do better work than fellow associates in order to have their competency recognized by others, and feeling that the organization’s values differed too greatly from their own.35 Because these feelings can be based on any number of factors, they remain more difficult to address and remedy but must be addressed in order to see additional progress in diversifying the legal profession.

35 Interview with Attorney Gordon Davidson, Chairman, Fenwick & West. February 16, 2005.
Focus groups composed of Silicon Valley attorneys confirmed these national findings. Although the above difficulties are experienced by the majority of new attorneys, focus group participants indicated that they have the added weight of the possibility that their treatment or negative experience is based on their gender, race/ethnicity, or sexual orientation.36 Specifically, participants stated that in comparing their work experiences with those of their white male colleagues, they “hoped” that discrepancies in recognition or work assignments were not due to their gender, race/ethnicity, or sexual orientation but “could not be sure” that these characteristics were not factors in their treatment. One participant stated, “I don’t want to think that it is because of my race or ethnicity, but I don’t know that it isn’t.”37 Women echoed the same concern over the subconscious impact of their gender.

Even where there is no stated discrimination, diverse attorneys described the burden of the possibility that their treatment is based on subconscious perceptions which they have no control over dispelling.38 Notably, two female attorneys (one white, one African-American) and one white male attorney from the same firm participated in the diverse and non-diverse focus groups respectively. Although, they were employed at the same firm and location, their description of firm life and support was dramatically more positive for the white male than for either female attorneys. One government-employed attorney mentioned that while discrimination is not overt, there is a perception of what a government prosecutor or defense attorney “should” look like.39 This image does not comport with “accents” often attributed to diverse attorneys or to the often softer voice of a female attorney.40 Such perceptions discourage

36 SCCBA Hiring and Retention Focus Group, Mountain View, CA. April 24, 2006.
37 Id.
38 Id.
39 SCCBA Hiring and Retention Focus Group, Mountain View, CA, July 21, 2006.
40 Id.
diverse attorneys from succeeding in the workplace and raise the question whether a public service oriented practice can escape the traditional stereotypes of law firms.

C. Promotion

Even when legal employers achieve strong recruitment and retention programs, progress in the area of promotion continues to be excruciatingly slow. Although San Jose firms have almost twice the percentage of minority partners than the nation’s largest 250 firms, minority attorneys continue to make up only 11.1 percent of partners in San Jose. That number is up from 8.1 percent in 2003 and currently makes up the highest percentage in the state.\textsuperscript{41} However, even when they are made partners, most minorities are clustered “at the bottom of the firm’s financial and status pecking order.”\textsuperscript{42} Among the limited number of minority partners, even fewer hold leadership positions, such as managing partner, department chair, or membership on the management committee.\textsuperscript{43} The greatest disparity between associate and partner levels is among Asian Americans: while 15 percent of all associates were Asian American, they were only 4 percent of all partners.\textsuperscript{44}

\textsuperscript{41} Source: 2003 National Association for Law Placement Summary Chart [http://www.nalp.org/nalpresearch/mw03sum.htm]. Minorities are only 4.4% of partners in the nation’s largest 250 firms. Figures are based on statistics provided by firms in the 2003-2004 NALP Directory of Legal Employers. Figures for firms with foreign offices may include foreign lawyers, which may inflate the percentage of minority lawyers. And “Challenges to the Practice of Law – Perspectives of Attorneys from Diverse Backgrounds.” The State Bar of California: 2006 Spring Summit. San Jose, 3 Jun. 2006.


\textsuperscript{43} Id.

\textsuperscript{44} Bar Association of San Francisco, Goals and Timetables for Minority Hiring and Advancement. November, 2005, at 13.
Attrition is a large factor in the limited number of minority lawyers at high level attorney positions regardless of legal employment type. At a higher rate than whites, minority associates opt out of all firms before being considered for partner.\textsuperscript{45} Some associates see the top partners at their firms leading lives they cannot imagine themselves leading in the future.\textsuperscript{46} However, the attrition challenge is not limited to law firms. Even for federal government lawyers, where minorities are typically better represented than in law firms or corporate law departments, opportunities for advancement may be limited because of low turnover in senior positions.\textsuperscript{47} Government attorneys participating in the Subcommittee’s focus groups felt that, while public service practice offers many substantive benefits such as increased court time and case management responsibility, significant workplace obstacles exist that could easily be remedied to attract and retain more diverse attorneys. For example, because of the notion that taxpayer


\textsuperscript{47} Holden, Mary Wisniewski, Women and Minorities Find Benefits at Government offices, Chicago Lawyer, May 1997, at 16
dollars fund the salaries of government attorneys, there is no flexible time schedule or work-from-home policy. Therefore, attorneys are tied to traditional office hours and are expected to put in “face time.” The inflexibility particularly discourages women from continuing with government legal practice and creates an atmosphere of mistrust between supervisors and team members.

Many of the issues that arise regarding retention also affect promotion. The same partner mentorship so vital to attaining interesting assignments is also needed to attain the type of assignments that expose you to clients, bring you to the attention of hiring partners, and lay the ground work for promotion. In addition to lacking mentorship, associates suspect that inadequate tracking of associate work prevents them from having the quality and quantity of their work recognized. Unspecified steps for professional advancement allow for self misperception in regards to professional progress. Focus group participants stated that the difficulty in assessing how well they were doing professionally left them “floating” within their organization.

Source: State Bar of California

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48 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006.
IV. “Best” Practices

A. Principles of Best Practices

In each category of legal employer, there is wide variation in the attainment of diversity and the means available in different organizations to work toward it. The following is a list of generally identified principles of best practices:

- Strong Visible Upper Level Leadership
- Comprehensive, Formalized Mentorship of Associates
- Diversity Training and Effective Means of Communication
- Participation in Diversity Efforts in the Legal Community
- Expanded Criteria in Hiring Standards and Structures for Advancement
- Critical Self-Study and Reflection
- Reasonable and Measurable Program Goals
- Flexible or Part-Time Working Arrangements

Alternative approaches to promoting diversity focus on the economic side of the legal profession. There is much optimism when it comes to the encouragement of diversity that business incentives can provide. Corporate clients such as Wal-Mart and Sarah Lee have insisted that the primary contact with the selected law firm be a minority attorney or, at least, that minority attorneys participate in their matters. Some corporate clients have gone as far as requiring firms to report the number of hours that attorneys of color bill and have threatened to drop firms which try to comply by only marginally involving attorneys of color. Overall, firms report that diversity is a factor when corporate clients are evaluating which law firm to do business with. The general feeling is that once partners realize that business can be lost

\[49\] Bar Association of San Francisco, Goals and Timetables for Minority Hiring and Advancement, November, 2005, at 45-46.
\[50\] Koppel, Nathan, “Shell’s Reward for Diversity: Work,” Legal Times, June 28, 2004, at 1 (reporting that over 500 general counsel have signed the so called “Charles Morgan Letter” promising to consider law firms’ commitment to diversity when choosing outside counsel).
\[51\] Id.
because their firm lacks diversity, they will take notice and react by increasing the number of diverse attorneys they hire.

Making the business case for diversity has included tying compensation for individual lawyers to their diversity efforts, including partner bonuses. Tying lawyers’ compensation or promotion to their personal recruitment and mentorship of diverse attorneys is one example of spurring upper level attorneys to take diversity initiatives seriously. Fenwick & West instituted a system in which associates evaluated senior partners’ diversity efforts and the firm used that feedback to determine additional bonuses for their partners.\textsuperscript{52} The theory behind this “best practice” is that compensation drives behavior.

In addition, publicized diversity goals and pledges as well as Bar Association “report cards” have motivated law firms to intensify their efforts for fear of negative publicity. Like corporations, legal organizations have varying levels of commitment and regard for public judgment. This sort of public accountability hopes to reward those legal employers that excel in diversity and embarrass into action those who fail. However, even those law firms that have received “failing” grades remain entrenched in the traditional business practices they consider color-blind and a pure meritocracy.\textsuperscript{53}

\textbf{B. Existing Best Practices in Silicon Valley}

With the complexity of diversity issues in mind, a number of Silicon Valley practices were identified by focus group participants and committee members as most effective in hiring and retaining diverse attorneys.

Particular to Silicon Valley is the allure of working in the in-house legal departments of one of the Valley’s many high tech companies. Both diverse and non-diverse focus group

\textsuperscript{52} Interview with Subcommittee Co-Chair Gordon Davidson, Chairman, Fenwick & West, February 16, 2006.
participants extolled the virtues of working in the in-house setting. In articulating their satisfaction with this setting they identified several best practices. The attributes they most cited as being responsible for their employment satisfaction were (1) “full use of their intellect”; (2) greater input into strategy and decision making regarding their cases; and (3) feeling like they were “problem solving.”  

Participants indicated that being involved in important decisions sooner allowed them to understand “where they fit into the scheme of things.”

Additionally, participants emphasized how much their quality of life improved once they had set hours, free weekends, and time off was respected. One participant who shifted from a large firm to in-house employment stated: “I love being a lawyer. I am amazed that I can be a lawyer and still have a life.” Another participant added, “The first weekend I was home and didn’t have to be on call I thought to myself, ‘I didn’t know my life could be this good.’”

In addition, in house attorneys stated that companies they worked for made a concerted effort to show employee appreciation. Although present in other legal settings, corporate environments tend to dedicate more resources and personnel to this purpose.

Attorneys working in a law firm setting also identified those practices that most attracted them to firms or inspired them to stay. Although attorneys at smaller firms in Silicon Valley expressed more job satisfaction than those at larger firms, increased opportunities to interact with the firm’s partners were recognized by both groups as contributing to a better work environment. Some participants appreciated how accessible partners at their smaller firm were due to their “open door policy.” They acknowledged organized social interactions as providing the opportunity to gain greater comfort levels with upper level management. Another larger law

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54 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006 and May 10, 2006.  
55 SCCBA Hiring and Retention Focus Group, Mountain View, CA, May 10, 2006.  
56 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006.  
57 SCCBA Hiring and Retention Focus Group, Mountain View, CA, May 10, 2006.  
58 SCCBA Hiring and Retention Subcommittee Focus Group, Mountain View, CA, April 24, 2006.
firm associate appreciated that a partner at his firm checks in with him every so often and reminds him regularly to “come talk to me if you are ever thinking of leaving.”

Associates relayed how important it is to both be given feedback and have the opportunity to give input. Those attorneys who were given the opportunity to express what work they were most interested in also felt that their supervising attorneys had the greatest interest in their work satisfaction. Diverse attorneys also mentioned that having more feedback provided more opportunities to ask for clarification and instruction. Finally, they emphasized that constant feedback, not just yearly reviews, helped them focus their efforts regarding their professional development.

As identified previously in reports on retention, diverse attorneys are attracted to law settings that are already diverse. Participants placed importance on diversity at all employee levels from administrative staff up to senior/managing partners. Women employed at organizations with a high representation of women in senior positions or as partners noted that seeing women leadership led them to aspire to similar professional achievement. The impact of “seeing other people who look like you” in your legal employment cannot be overstated. One participant went from a firm where he was the only African American at his firm to being one of four at a new firm. Despite the low number, he felt it significantly impacted his desire to remain. He stated, “Even this small critical mass made the firm a much more welcoming environment and makes me want to stay.”

60 SCCBA Hiring and Retention Subcommittee Focus Group, Mountain View, CA, April 24, 2006 and Santa Clara, CA, April 27, 2006.
61 Id.
62 This was a very common observation among focus group participants for both diverse and non-diverse groups.
63 SCCBA Hiring and Retention Subcommittee Focus Group, Mountain View, CA, April 24, 2006.
Clarity in requirements and expectations was identified as both a need and a best practice in Silicon Valley. Legal organizations (such as government agencies) possessing a more structured promotion policy that is known to attorneys were seen as more attractive by attorneys because of the added certainty with which they could set professional plans. Just as attorneys expressed frustration at not knowing what was expected of them, those attorneys who felt that they grasped professional expectations through written policy or through mentors expressed optimism about their professional future. One white male participant clarified, “It is important to have expectations made as clear as possible so that you can plan accordingly.”

For legal settings where time, resources or tradition did not allow for any of the above practices, management support for outside Bar, professional and support activities gained importance as best practices. For example, Littler Mendelson, as part of its overall recruitment and retention initiatives, has established a Gay/Lesbian/Bisexual/Transgender Subcommittee to promote awareness, inclusion and support for GLBT issues, both within and outside the firm. Diverse and non-diverse attorneys expressed the importance, regardless of internal diversity efforts, of formal and informal professional support. Attorneys specifically emphasized that they most benefited from these opportunities when their employer not only encouraged participation but actually supported their participation by allowing them time to participate.

V. Recommendations

The following are recommendations for organizations and SCCBA to recruit, retain and promote the numbers of women, minority and LGBT attorneys in law firms, legal departments

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64 SCCBA Hiring and Retention Subcommittee Focus Group, Mountain View, CA, May 10, 2006.
65 SCCBA Hiring and Retention Subcommittee Focus Group, Mountain View, CA, April 24, 2006 and Santa Clara, CA April 27, 2006.
and government agencies. In addition, in the Appendix we have collected examples of existing programs and best practices.

**Recommendations for SCCBA:**

► Create a professional mentorship program outside of law firms, legal departments and government agencies for both diverse and non-diverse attorneys, through the Minority Access Committee.

► For either internal or external mentoring programs, create a two-tiered mentoring program so that a new associate receives a mentor that was a second or third year associate to convey “survival” tactics, in addition to receiving a senior mentor to support long term goal formation.

► Develop management skills beginning with first year associates and continuing to upper management. The SCCBA Education Committee could coordinate programming that would facilitate attorneys to access general business management training to supplement the proposed additional internal training. In addition to accessing information from the workshop presenter or guest speaker, programming coordinated by the SCCBA would allow for more interaction between attorneys in varied areas of practice.

► Hold social and formal networking events similar to the Palo Alto Summer Associate Mixer or create a program aimed at supporting business development to help attorneys increase access to potential clients through the young lawyers Barrister’s Committee.

► Develop a formal collection and distribution of local diversity issues and successes such as collecting updated demographic information of the Silicon Valley legal community, gathering statistics, conducting focus groups by creating a Diversity Liaison position at the SCCBA.

► Improve information dissemination of SCCBA diversity programs and committees so that attorneys are informed of what resources are out there.

► Establish the Minority Access Committee to continue the study of diversity efforts and best practices and to monitor their implementation and measure their results with annual reports to the Board of Trustees and a three year review.

**Recommendations for SCCBA Members and Firms:**

► Provide opportunity for direct input to employer regarding present diversity efforts, such as mentoring programs.

► Increase feedback frequency regarding work quality and professional development.

► Create and promote ongoing diversity training from the “top down.”
► Implement ways to monitor an associate’s progress on work assignments.

► Create and promote effective business management training including first year associates.

► Increase resources and staff focus on employee morale and or improved work/life balance.

► Allocate billable hours at least a portion of hours spent on diversity activities or mentoring (whether internal or external).

► Allow attorneys real time to participate in diversity efforts.

► Create a meaningful formal “Diversity Plan” for your office and a Diversity Committee to monitor progress.

► Recognize good work on diversity efforts with formal awards and monetary incentives at the firm annual meeting.
C. GLASS CEILING SUBCOMMITTEE

I. Introduction

The legal profession recognizes a need to increase diversity at the highest levels of the profession to reflect the changing demographics in our society, the clients we serve, as well as to provide role models for those who are entering or are starting out in the profession. Minorities and women are entering the legal profession in increasing numbers, but this increase has not translated to a similar increase in their representation in leadership roles.

In Silicon Valley, the trend appears to be a little better than it is in California generally or nationwide – women and ethnic/racial minorities are holding leadership positions at some of the biggest law firms and technology firms and are leading the way to cracking the glass ceiling when compared to their peers. For example, ethnic minorities make up 11.03 percent of partners in Silicon Valley’s major law firms, compared to 4.63 percent of partners nationwide and women comprise about 18 percent of partners at major law firms, compared to 17 percent nationwide:66

Women and Attorneys of Color Continue to Make Small Gains at Large Law Firms

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The news is not as good for judges. Minorities make up 18.6 percent of all federal judges and 17.1 percent of all California judges.\(^{67}\) In Santa Clara County, 16.5 percent of the judges are ethnic minorities.\(^{68}\) In federal and state government positions, minority attorney representation varies by type of office and geographic region.\(^{69}\) A 2004 survey found that minority representation among government lawyers is substantially higher in San Francisco, where they make up nearly 40 percent of city government lawyers, than other diverse states such as New York and Illinois.\(^{70}\) With respect to sexual orientation representation in the legal profession, statistics are few. According to an online poll conducted by the State Bar of California, LGBT


\(^{68}\) 2006 Spring Summit, *supra*.

\(^{69}\) *Id.* at 46.

\(^{70}\) *Id.*
attorneys often do not self-identify and may feel they need to hide their sexual orientation to avoid discrimination in the legal profession.\textsuperscript{71}

The Santa Clara County Bar Association created the President’s Blue Ribbon Commission on Diversity to spotlight access issues for minority attorneys locally. The Commission has identified the “glass ceiling” – the impediments to reaching top positions in the profession – as the final issue in the pipeline of access for women, ethnic/racial minority and LGBT attorneys. The Glass Ceiling Subcommittee, composed of women in leadership positions in various areas of the legal profession in the Silicon Valley, conducted 26 interviews with local women, ethnic/racial minority, and LGBT attorneys at top levels of the profession.\textsuperscript{72} The goal of

\textsuperscript{71} Spring Summit: According to a 2005 Online Poll conducted by Various Access and Fairness Committees of the California State Bar, some LGBT attorneys reported that they needed to hide their sexual orientation to avoid discrimination in the legal profession.\textsuperscript{71}

\textsuperscript{72} Interviews were conducted by telephone, or in person with identified women, gay, lesbian, and minority attorneys in leadership positions in Silicon Valley. Questions for interviewees were: How do you define leadership or success in the profession? How is leadership defined in your organization? What formal or informal programs does your organization have for grooming leaders? Do these programs seek out women/minority/LGBT candidates for future leadership? What is/was your practice area? What has been your career path? Who are/were your mentors that allowed you to become successful? What is the one thing that you think has had the most to do with your success? What advice would you give to women/minorities/LGBT to help them succeed and break through the glass ceiling within (law firms, corporations, public sector positions, and the judiciary)? What pitfalls/obstacles do you see for women/minorities/LGBT in reaching the top? If you could do one thing to make it more likely for women/minorities/LGBT to success in the profession, what would it be? What are the best practices you have seen
the subcommittee was to gain insight on issues that impact advancement in the profession for these groups and to make practical recommendations on what organizations can do to increase diversity at the top of the legal profession as well as what individual attorneys can do for those who want to be leaders in their profession.

II. Methodology

A. Interview Selection Process

The subcommittee used the Silicon Valley/San Jose Business Journal Book of Lists (2005 publication) and firm websites to identify large private law firms in Silicon Valley that have women or ethnic minorities in current top leadership positions. The subcommittee also gathered names of local women and minority general counsels through general counsel organizations, publications, personal contacts, and from SCCBA members. Finally, the subcommittee identified leaders of the local public agencies and the Santa Clara County Superior Courts and Appellate Court through personal knowledge and the court and county websites.

B. Participant Demographics

Subcommittee members conducted 26 interviews in 2006 with managing partners of law firms, general counsels and senior in-house lawyers, state judges, county/city counsels, public defenders, and a law professor. Three participants were males and 23 were females and included five African Americans, four Asian Americans, two multiracial, one Hispanic, 11 Caucasians. One individual identified herself as lesbian. The interviewees were one law professor, five judges, 15 senior partners/general counsels and five government attorneys.

that have been helpful for women/minorities/LGBT to succeed in obtaining leadership roles? What has not worked? Anything else think be useful?
III. **Findings**

A. **Mentorship**

“A mentorship program, whether formal or informal, sends a message that ‘if s/he could do it, I can do it.’”

“I never had a woman mentor. You have to take your mentors as you find them.”

Mentoring plays a critical part in the success of women, ethnic/racial minority, and LGBT attorneys.73 This was the item most often mentioned as a key to success and something that the organization needs to provide to allow underrepresented attorneys to become leaders. Mentors can be informal or formal, and can serve as a source of insight and advice into the legal practice74 and for learning office protocols and procedures as well as serving as a personal advocate.75 Most of the interviewees felt that formal programs, where they existed, could be helpful, but that informal mentoring was the most important factor in their own advancement. Most of the women interviewees had predominantly male mentors and most of the top minority attorneys had Caucasian mentors. One participant noted: “mentoring programs that are based on gender/race/sexual orientation are not as effective as those based on other common interests in the organization.” Some women tend to seek out other women mentors, but one interviewee noted that this group of women is still relatively small and in her experience the women were already stretched with other responsibilities and did not have time for leadership mentoring. The clear consensus was that the most important characteristics of a mentor are: (1) demonstrated success as a leader; (2) knowledge of the organization; and (3) willingness to help.

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73AJD, supra note 1, at 80.
74AJD, supra note 1, at 80.
75AJD, supra note 1, at 80.
Attorneys were advised to be proactive in seeking out mentors, both inside and outside the organization. It can take a lot of energy to be a good mentor and finding someone who will spend the time required is necessary. One interviewee stated that the best feedback she received from a mentor was “you are good but you can be a lot better and here are three ways.” It took a lot of effort to follow up, but it was worth it. This same participant noted that when she mentors others, the mentees sometimes did not listen to the feedback or did not want to spend the time to follow through, both of which were required to advance. Another participant advised: “find mentors who will tell you what is really going on in the organization and advise you.”

Even if there is not a formal mentoring program, organizations need to make mentoring a valued activity to assure that people will devote the time necessary to be a good mentor.

**B. Cultural Biases**

| “In technology there is still bias against women and minorities” |
| “You have to develop thick skin and believe that you deserve to be in the club” |

Several national and regional studies have identified cultural bias as a common impediment to the advancement of women, ethnic/racial minority and LGBT attorneys to leadership positions within law firms and corporate departments. This was confirmed by the interviews we conducted. Stereotypes and assumptions about women, sexual orientation, and ethnic minorities still exist, impeding upward progress for these groups. Leadership from the top is viewed as necessary to set the right tone and values for the organization. Several interviewees commented that they felt they had to be better than white men just get to an even starting point and had to work harder. Several others felt that to be successful, one cannot be derailed by bias, but must persevere and establish relations with all types of people with all types of biases. A

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76 For example, studies conducted by the Minority Corporate Counsel Association, the American Bar Association, and Nancy Reichman and Joyce Sterling.
number of interviewees commented on the importance of knowing yourself and valuing the
different attributes you bring, because if you are not confident in yourself, others will not look to
you as a leader. One person stated that a 360 degree evaluation performed by her company was
extremely valuable to her leadership development.

Several women noted that they felt that women, including themselves, are often not
aggressive enough in promoting themselves. One women noted that she did not seek a
promotion early in her career because she did not feel she was good enough, but later realized
that her insecurities interrupted her rise to the top and she now knows that she could have been
successful in that position. She stated: “An attorney’s gender, cultural background or LGBT
status should not stop them from applying for leadership positions.” A minority attorney noted
that “you cannot let the fact that you are the only different person in the room keep you from
speaking up.”

C. Gender and Work Life Balance

“Women can get hired, but legal organizations don’t know how to advance women”

“It is important for women with children to think about how they want to be perceived in the
office. Everyone needs to make choices. You can’t do it all.”

According to a recent online survey conducted by the California State Bar, a serious gap
exists between policies prohibiting gender discrimination and actual practices. The survey
showed that nearly half of the 833 female attorney respondents felt they had been denied equal
pay, benefits, promotion or other employment opportunities because of their gender.

Drs. Heilman, Fiske, and Glick have documented a no-win situation that affects women
in the law: “if women act in traditional feminine ways, they are likely to be considered

77 The State Bar of California: 2006 Spring Summit, supra.
78 Id.
unqualified for partnership because they are not ‘go-getters’. Yet if women act in traditionally masculine ways, those qualities could be viewed as unattractive interpersonal skills. One local interviewee cautioned: “You have to be willing to sit in the discomfort of dissention and disagreement when the stakes are high. I have observed that conflict is difficult at times for women or is considered ‘too masculine’ by their male counterparts.”

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The New York Times > Business > Image > Unequal Partners

March 18, 2006

Unequal Partners

Nearly half of all law school students are women, but they still represent fewer than 20 percent of law firm partners, on average. In some cities, the percentage is even lower.

WOMEN IN LAW SCHOOLS
Percentage of juris doctor enrollment

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<tbody>
<tr>
<td>Value</td>
<td>0</td>
<td>10</td>
<td>20</td>
<td>30</td>
<td>40</td>
</tr>
</tbody>
</table>

WOMEN IN LAW FIRMS
Percentage who are partners, 2005

<table>
<thead>
<tr>
<th>City</th>
<th>National Average</th>
<th>Miami</th>
<th>New Orleans</th>
<th>Denver</th>
<th>San Francisco</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highest</td>
<td>17.3%</td>
<td>23.7%</td>
<td>22.8%</td>
<td>22.3%</td>
<td>21.8%</td>
</tr>
<tr>
<td>Lowest</td>
<td>8.7%</td>
<td>12.7%</td>
<td>12.4%</td>
<td>11.5%</td>
<td>8.7%</td>
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Sources: American Bar Association; NALP.

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Researchers have found that masculine stereotypes of how pregnant women and mothers are supposed to behave contribute to poor performance evaluations. This can also be true for female lawyers who choose to work part-time. An interviewee noted that law firms can only do so much by creating part-time policies to level the working environment for attorneys who are the primary caregivers in their families. Despite what the firm “puts on paper, it must realize that you cannot legislate away cultural biases” and “you have to face the biological reality that women have a different experience in a law firm if they choose to have children.” This interviewee noted that the sense of a lack of equity among peers between part-time and full-time attorneys was much more difficult to manage. The working mother who couldn’t travel, stay late at night to finish projects or work at home gets treated differently by those peers who have to pick up the slack. Most women feel that having work flexibility is essential for women with children to advance, but note that it has to be done in a fair way that has true support from firm leaders and peers. It has to become part of the culture of the organization to value the part-time work and the choices being made. One person in a public office noted that women sometimes go off the leadership track when they have children, and do not realize that they can get back on that track.

Most of the successful women with children who were interviewed worked full time and attributed their reaching leadership positions to the fact that they worked hard. When asked what had the most to do with her success, one woman noted that she never had the option to stay home with her children. Another answered the same question by stating that she “came back to work right away after having children and always worked full-time plus.” There is a sense among those interviewed that this model is slowly changing however, and it is becoming more

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acceptable for women with children to have a more flexible schedule and still advance in the organization.

D. Ethnicity/Race Issues

“There are internal obstacles, stereotypes and expectations. As an Asian American woman, there is a stereotype that we are not aggressive enough.”

 “[African Americans] do not have the same margin for error… you carry the baggage of other minorities before you who did not succeed.”

Cultural bias is shown in ethnic minority groups, where conscious and unconscious stereotypes about the ability of minority attorneys hinder their promotion.\textsuperscript{82} Studies show that white associates are usually viewed as “competent” and their supervisors tend to dismiss their mistakes as “aberrational.”\textsuperscript{83} For minority attorneys, their mistakes were viewed severely and used as evidence of incompetence.\textsuperscript{84} That was also the view by minority candidates that their work was more closely scrutinized than that of white males and that they had to be better to be considered as good.

Minority attorneys, particularly Asian Americans, often attribute the high attrition rates of minority associates to stereotyping of minorities as “not partnership material” or “not leadership material.”\textsuperscript{85} According to the Bar Association of San Francisco 2005 diversity report, several Asian American associates believe that they were regarded by their firms as good “worker bees” but not able leaders.\textsuperscript{86}

Successful minority attorneys who were interviewed credit their success to hard work, striving to be better, and not letting short term frustrations with bias or problems derail them.

\textsuperscript{82}Elizabeth Chambliss, \textit{Miles to Go: Progress of Minorities in the Legal Profession}, AMERICAN BAR ASSOCIATION, December 2004, at 83.
\textsuperscript{83}Chambliss, \textit{supra} note 3, at 85.
\textsuperscript{84}Chambliss, \textit{supra} note 3, at 85.
\textsuperscript{86} \textit{Id.}
from their long term goals. They credit their strong interpersonal skills as an important means of allowing them to get along with all kinds of people and persuading others of the value and expertise they bring to the organization.

E. Sexual Orientation

“If [LGBT attorneys] can’t be out about their life, then their office can’t really know them.”

Many LGBT attorneys prefer to remain silent about their sexual orientation status. John Shope, a partner at Boston’s Foley Hoag & Eliot says, “To remain closeted, one has to become somewhat aloof. And successful attorneys tend to be gregarious and friendly and open.” Not only does this attitude affect law firm activities that help with promotion, it also inhibits building trust and friendships with clients. One lesbian attorney who was interviewed stated that you must believe that your diversity is irrelevant to your ability to perform and that you cannot be blind to what other people think and do, but you just move forward through it.

A number of law firms have formed LGBT attorney networks (such as Pillsbury and Bingham McCutcheon) and have LGBT attorneys in prominent leadership positions (such as Morrison & Foerster and Pillsbury). The 2006 Human Rights Campaign's Corporate Equality Index recognized 138 companies in the United States for “perfect scores” on LGBT policies, up from 13 in the first annual Index in 2002. The Index rates show how corporations treat LGBT employees based on domestic partner benefits, discrimination policies, advertising and marketing, and other categories. Four Bay Area law firms – Heller Ehrman, Morrison & Foerster, Orrick, Herrington & Sutcliffe, and Pillsbury Winthrop Shaw Pittman – earned perfect scores in 2006.

88 Id. at 4.
89 Id. at 4.
IV. Leadership in Private Law Firms and Companies

“The Silicon Valley culture rewards value more than others. If you are a minority, you have to be a bit better. Do not give any excuses, just do the work well.”

“There must be a formal commitment to diversity and it has to be a core value of the organization.”

We interviewed a number of managing partners and senior partners in major law firms. The good news is that there are a number of women in these positions. Some female managing partners described their roles as having structural authority, but opined that the “real power” still resided in those partners who had the largest books of business within the firm. Other participants stated the opposite view – that their position was in fact the top leadership role with cultural authority to make the most important decisions and set the vision for the firm. In most law firms, collaboration is still an essential aspect of the top position because the organizations are fairly flat as far as hierarchy is concerned. One of the key issues law firms have grappled with is how to have a part-time program for women with children that does not marginalize those who use it or treat them as not serious about career or advancement. Such programs have been successful in some firms, where women have attained leadership positions while working part-time.

In companies in the Valley, it can be especially difficult for women and minority attorneys who are underrepresented in the technology and science fields. Two companies have a formal program to expose their in-house attorneys to various aspect of the company’s business and others have informal means of doing so. Seeking out ways to become knowledgeable about the business is an important key to success. Making a business case for diversity is also important, for those companies whose sales and operations reach across the globe. In a corporate
environment, finding mentors who can explain how the organization works and how to get ahead is essential.

V. Leadership in Public Practice

“I am happy that close to 50 percent of the district attorneys in [Santa Clara] are women.”

Diverse clientele, affirmative action programs, and diverse mentors are some factors that may explain why government employment are generally more diverse than the private sector. This is also true at the top – Silicon Valley has had and continues to have very visible women lawyers heading up the public agencies. The Public Defender, the County Counsel and the Chief Assistant District Attorney are all women. Several interviewees from the sector commented on the importance of having women leading these key offices. One interviewee noted that the County offices are the size of large firms and seeing a woman run the office demonstrates the County’s commitment to diversity. One interviewee commented that the County Counsel office in Santa Clara County has diverse attorney staffs and clients and that she does not see any obstacles in the office. She believes that women, ethnic/racial minority, and LGBT attorneys who join the office have ample opportunities to be successful and rise to leadership positions.

VI. Leadership in the Judiciary

“A glass ceiling does exist in the judiciary.”

There is no systematic data on the racial make-up of state and local judges but Hon. Brenda Harbin-Forte gathered some of this data for the 2006 Judicial Diversity Summit. Her findings show that women and minorities are underrepresented in gender and ethnic/racial

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90 Chambliss, Elizabeth, supra. at 46.
diversity among California judges. This is also the experience in Santa Clara County where 16.5 percent of the judges are ethnic minorities, although ethnic minorities are 54.5 percent of the total population.

The barrier identified by several participants is the lack of diverse support networks that women, ethnic/racial minority, and LGBT attorneys may face in their paths to judicial leadership. A participant noted that it is important to know how to navigate through the system, cultivate relationships with various communities, and find mentors and support networks. Other factors which contribute to the low number of minority judges include a limited number of applicants due to a mistrust of the system or unwillingness to take on the reduced judicial salary from mid-career successful minority attorneys. Putting more women and minorities on the judicial selection committees was recommended. The Santa Clara County Bar holds workshops and seminars aimed at increasing judicial diversity by helping minority attorneys demystify the appointment or election process, and by fostering networks.

Several participants reported that informal mentorship with a judge is important in helping a new judge be successful, but there are no formal programs for judicial advancement.

**VII. Recommendations**

The following are recommendations for organizations to improve the numbers of women, ethnic/racial minority and LGBT attorneys in leadership positions and recommendations for individuals who want to make it to the top of their profession. In addition, in Appendix A we have collected examples of existing programs and best practices.

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91 See Appendix, Graphs 1 and 2 from the 2006 Spring Summit, *supra.*
92 2006 Spring Summit, *supra.*
**Recommendations for organizations:**

► Make effective mentoring (whether formal or informal) available to all attorneys, with special attention to attorneys from groups that are underrepresented in the organization.

► Recognize mentorship as a valuable contribution to the organization and reward good mentors.

► Provide for flexible, part-time schedules for attorneys who are the primary care-giver for children. Such a program has to have the vocal support of the leaders of the organization so there is a culture that is supportive and respectful of those who use it. Do not take attorneys who work part-time off the track for advancement and leadership.

► Adopt and publicize a commitment to diversity that recognizes the value that diversity adds to the organization.

► Create a leadership training program or send attorneys to an existing leadership training program and give special attention to assuring that underrepresented groups are provided such training. (See Appendix A, Santa Clara County Counsel’s Leadership Program)

► Provide funds to help grow diverse leadership in the organization. Engage in succession planning and proactively look for underrepresented candidates for leadership positions.

► Ensure that diverse attorneys have the same opportunity to perform important work assignments, receive interesting and challenging work, and receive training, performance feedback, and other opportunities to grow and succeed.

► Support bar association, networking, and outside leadership opportunities for diverse attorneys.

► Have an open dialogue about cultural biases. Provide diversity training that is supported by the top leadership of the organization or create a committee to build awareness and support. (See Appendix A, Wilson Sonsini’s Women’s Initiative Network Committee)

► Look for opportunities and programs which would ensure that women and minority attorney get significant client visibility. (See Appendix A, Orrick’s Women’s Networking Event)

► Develop marketing strategies and programs that emphasize marketing strengths that are specific to women and minority attorneys.

► Adopt best practices policies that support women, minority and LGBT attorneys in the workplace.
**Recommendations for individuals:**

- Proactively seek mentors in your organization who can advise you on how the organization works and how to succeed. Follow up on their suggestions.

- Also seek mentors outside of your organization to provide access to larger network of attorneys and different perspectives.

- Become a mentor to others in the organization.

- Look for and take opportunities for business training and learning new areas of your organization. Seek positions on important committees and groups in your organization.

- Network. Take on leadership positions outside your organization, such as in bar associations or nonprofits groups.

- Work hard and be committed to your career. It sounds simplistic, but it is one of the most common characteristics of the highly successful attorneys.

- Persevere. Be determined to reach your goal. Do not let problems, the biases of others or setbacks derail you. Everyone fails, learn from it.

- Understand your strengths and weaknesses. Find out how you are perceived by those you work with.

- Be persuasive and improve your communications skills. Develop the interpersonal skills to establish effective relationships with all types of people.

- Do not be afraid to speak up for yourself. If you cannot do this, you may not advance as quickly as you should.
D. THE JOB FAIR COMMITTEE

I. Introduction

The Santa Clara County Bar Association (SCCBA) is working to increase the participation of women, ethnic/racial minority and LGBT attorneys and summer associates that have traditionally been underrepresented in the practice of law. In *Miles to Go 2004: Progress of Minorities in the Legal Profession*, the American Bar Association reported that minorities in general are less likely than whites to begin their careers in private practice and they remain underrepresented in top-level private sector jobs.\(^93\)

In Santa Clara County, women and minorities are making gains at big law firms. The number of women in Silicon Valley law firms is on par with women in law firms nationwide. Meanwhile, ethnic minorities appear to be leading the way to cracking the glass ceiling when compared to other counties in California and to law firms nationwide. (Table 1)\(^94\)


The Silicon Valley legal community recognizes that diversity in the workplace is not only the right thing to do: diversity makes economic sense. In order to help legal employers recruit more diverse attorneys in their workplace, the SCCBA has elected to hold the first Silicon Valley Minority Job Fair in conjunction with the Commission’s Diversity Conference on October 17, 2006.

The Job Fair aims to accomplish the following goals: (1) to see Silicon Valley legal employers hire and retain more minority attorneys (2) to dispel myths that say minorities are simply not interested in this type of work or work environment or that they are not qualified to work at big name law firms; and (3) to bring a much needed diversity to California’s legal profession.
II. What is a Diversity Job Fair

A diversity job fair provides an excellent forum for assisting the legal profession in fulfilling its commitment to diversity. For employers, a job fair provides a format that enables them to meet a diverse group of law students and qualified attorneys for legal employment opportunities at their workplace. For law students, a job fair fosters access to meet both traditional and non-traditional legal employers for internships, summer associate positions and full-time employment.

To date, a number of diversity job fairs nationwide, such as the Northwest Minority Job Fair and the Bay Area Diversity Career Fair, have reported successes toward achieving their goal of increasing diversity within the legal community. Participating employers at these job fairs have reported extending job offers to minority students that they have interviewed. As a result, many minority students have found employment with prestigious firms that were once not so diverse.

III. Who Attends

A. Students and Lateral Attorneys

Most job fairs invite second year and third year law students and recent law graduates to participate. Other participants may include domestic LLM students, lateral attorneys and first year law students who are researching employers in preparation for fall recruiting.\(^95\) Although no students are denied an opportunity to participate, legal employers attending a diversity job fair primarily focus on hiring students from diverse backgrounds that have been traditionally underrepresented in the practice of law. These include students, graduates and lateral attorneys

\(^{95}\) As per NALP rules, first-year law students cannot be interviewed on site but can submit resumes directly to recruiters at the event.
of racial/ethnic minority, females, persons with disabilities, and LGBTs - lesbian, gay, bisexual, and transgender.

B. Legal Employers

Several diversity job fairs welcome only locally-based legal employers to participate while others have invited legal employers from across the country. Participating employers range from law firms of all sizes, government agencies, legal recruiters and corporate counsel departments.

Many job fairs place a focus on opening doors of larger prestigious firms that had been previously closed to minorities. However, the Louisiana State Bar Association (LSBA) has identified, from past experience, that a focus on larger firms created unrealistic expectations for some students who were not meeting the criteria of larger firms.96 Further, most of the students who participated in the job fair competed for the limited number of positions available at the participating prestigious firms, and many were left without other options for employment.97

IV. How to Participate

Pre-registration is usually required for participation. There are two primary methods for registering for diversity job fairs.

A. Mail / Electronic Mail

All communications regarding the job fairs are conducted via email or mail. For example, the Northwest Minority Job Fair requires applicants to complete and return a registration form via mail or email.98 Applicants are later sent a link to a chart of participating

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97 Id.
employer and an Interview Request Form. The Bay Area Diversity Career Fair uses a similar registration process. Students are asked to submit a registration form, resume, and unofficial transcript via email or mail to the recruiting coordinator. Employers and students are sent an interview schedule and all future updates via email.

B. Online Registration Software Program

Student and employer registration is done through an online software program. For example, students participating in the Cook County Bar Association (CCBA) Minority Job Fair register through an online program, where they are able to input and update their profile information and resumes, view the hiring criteria for each participating employer, and select/rank employers with whom they are interested in meeting. Employers also register online through the software system and are able to fill their interview slots, view student resumes and transcripts, and manage all aspects of their participation through their profile.

V. How Applicants are Selected for Interviews

There are two primary methods for selecting applicants for interviews.

A. Lottery

Employer’s interview schedules are assigned on a lottery basis. Applicants are asked to select the employers with whom they are interested in meeting. If candidates meet the employers’ hiring criteria, they are eligible for the lottery for those employers’ interview schedules.

B. Pre-Selection by Employers

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99 Id.  
101 Id.  
103 Id.  
104 Current programs which follows this format: Northwest Minority Job Fair.
Employers select all interviewees through pre-screening. Some employers grant interviews to students based upon preferences expressed by the students in the registration process. During the registration process, students are asked to select the employers with whom they are interested in meeting, provided that they meet the employer’s hiring criteria.105 Other employers grant interviews to students based upon employer selections only. Under this method, students are not asked to select the employers with whom they are interested in meeting.106

C. Others

Some job fairs grant interviews to students by using a mixture of the two methods above. For example, participating employers of the Heartland Diversity Legal Job Fair have the opportunity to pre-select one-half of their interview schedule. The remaining one-half of the interview schedule is randomly assigned through a lottery process or bidding process.107 The Minnesota Minority Recruitment Conference allows employers to choose a percentage of their interview schedule. The percentage is equal to five interviews per schedule. The remaining slots are filled by student requests.108

In addition, interviews can take place in a “table talk” job fair. Under this method, no formal interviews are scheduled. Instead, the job fair provides a forum for contact between students and participating employers. Employers set up information tables and students are

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108 Minnesota Minority Recruitment Conference.
VI. Who is Organizing the Job Fair

The designer and organizer of job fairs have ranged from county bar associations to legal employers, universities, minority organizations, and career centers. For example, the Heartland Diversity Legal Job Fair is hosted by the county bar, Kansas City Metropolitan Bar Association’s Diversity and Managing Partner Committees. The Northwest Minority Job Fair is hosted by a large prominent law firm – Perkins Coie. Vault Inc. and the Minority Corporate Council Association (MCCA) collaborated together to host their first large-scale national job fair event in New York City in 2006.

VII. Who is Funding the Job Fair

Most job fairs do not require a participation fee for students, graduates and lateral attorneys. Instead, funds usually come from employer sponsors and employer participation fees. For example, the Northwest Minority Job Fair is sponsored and hosted by Perkins Coie. In addition, the event is funded by a consortium of private and public sector employers. The

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110 Current programs which follows this format: Rocky Mountain Diversity Legal Career Fair, Southeastern Minority Job Fair, Vault Legal Diversity Job Fair.
111 Heartland Diversity Legal Job Fair.
112 Northwest Minority Job Fair.
113 Vault Legal Diversity Job Fair.
114 Northwest Minority Job Fair.
115 Id.
registration fee is a flat rate of $250.00 for all participating employers.\textsuperscript{116} The Bay Area Diversity Job Fair is sponsored by Orrick.\textsuperscript{117} The registration fee is $450.00 plus opportunities for a full or partial sponsorship.\textsuperscript{118} The Minnesota Minority Recruitment Conference is supported entirely by the generosity of its sponsors, in addition to support from the Minnesota State Bar Association.\textsuperscript{119} Their fees range from $100.00 for public/non-profit/government entities to $500.00 for large firms and corporate law departments.\textsuperscript{120}

Sometimes sponsorships are divided into levels: Platinum, Gold, Silver, Bronze, and Supporters. Each sponsor level includes the registration fee plus additional benefits. For example, the Lavender Law Fair sponsorship ranges from $10,000.00 for Platinum level to $1,000.00 for Supporter level.\textsuperscript{121}

\section*{VIII. Tracking and Evaluating Success}

Most job fairs track their success through the number of participating students and legal employers at the job fair and by the average number of interviews each student receives on their interview schedule. The Bay Area Diversity Career Fair asks participating employers to provide the results of their interviews and to report any job offers they made to students at the Job Fair.\textsuperscript{122} The Southeastern Minority Job Fair requires applicants to indicate their ethnicity in the registration form.\textsuperscript{123} The ethnicity information is used for statistical purposes only, and is not made available to employers.\textsuperscript{124} The Heartland Diversity Legal Job Fair monitor its success

\begin{footnotes}
\textsuperscript{116} Id.
\textsuperscript{117} Bay Area Diversity Career Fair.
\textsuperscript{118} Id.
\textsuperscript{119} Minnesota Minority Recruitment Conference. 2006. 22 Jun. 2006 \url{http://www.tcc-mmrc.org/}.
\textsuperscript{120} Id.
\textsuperscript{121} Lavender Law Fair.
\textsuperscript{122} Bay Area Diversity Career Fair.
\textsuperscript{123} Southeastern Minority Job Fair.
\textsuperscript{124} Id.
\end{footnotes}
more thoroughly by tracking the number of students who attended the job fair, the number of 
students who received call back interviews, the number of students who were extended an offer, 
and the number of students who accepted the offer. Information regarding the students who 
accepted offers is further broken down into the following categories: graduation year, gender, 
and ethnicity.125

IX. Accommodations

A job fair may provide accommodations and/or scholarships for students attending the 
fair. For example, the Heartland Diversity Legal Job Fair awards travel stipends on a need basis 
as well as a first-come, first serve basis.126 The stipends are limited to a maximum of $100.00 
per student.127 The Northwest Minority Job Fair awards four $500.00 scholarships.128 
However, these job fairs usually invite students from across the nation to attend. Thus, they 
anticipate that participating students will incur some or substantial costs in attending.

IX. Recommendations

The following are recommendations for SCCBA’s first diversity job fair.

Recommendations to SCCBA:

► Solicit through law school career services, student organizations, 
  minority legal organizations, and student and community newspapers.

► Increase legal diversity in Silicon Valley and encourage diverse law students to 
  make Santa Clara County their first choice in careers and homes after law school.

► Focus on connecting legal employers in the Bay Area with local law students and 
  lateral attorneys.

125 The Heartland Diversity Legal Job Fair.
126 The Heartland Diversity Legal Job Fair.
127 Id.
128 Northwest Minority Job Fair.
Encourage law students to apply for small to medium-sized law firms and public entities to maximize the number of employers with whom they may interview.

A pre-selection method is preferable because it guarantees that each employer will meet those students it considers most promising and a lottery basis will allow each employer to meet candidates that they might not have encountered.

SCCBA’s Minority Access Committee (MAC) should serve as the advisory group and assists in the planning and execution of the Job Fair.

Rotate the Job Fair sponsorship amongst Commission members on an annual basis.

MAC Committee - monitor, collect, evaluate, and report statistics regarding the number of participating minority law students and lateral attorneys that are recruited, hired, and promoted by legal employers.

Distribute student evaluation forms to help the MAC committee tailor future Job Fair events to serve the participants’ needs.
APPENDIX A

Current Diversity Practices, Programs in the Greater Silicon Valley

1. Law Firms
2. SCCBA and Bar Associations
3. Other Organizations
4. Law Schools
5. Undergraduate
6. High Schools
7. Elementary Schools

1. Law Firms (Mentoring Programs):

1. McManis Faulkner & Morgan Mentoring Program: MFM implements a formal, two-year, mentoring program for its new associates. Every junior associate is paired with a senior associate who is the junior’s coach. Each pair is allowed a budget to spend on coffee or lunch, so that the mentor may take his or her new colleague out for “mentoring sessions.” The mentor has the responsibility of spending time with his/her junior to discuss everything the person needs to know, including office policies and procedures, firm functions and events, working with clients, handling cases, networking and marketing.

Contact: Marwa Elzankaly, 50 W. San Fernando Street, 10th Flr, San Jose, CA 95113; (408) 279-8700; melzankaly@mfmlaw.com

2. Fenwick & West’s Attorney Professional Development Program: Fenwick provides substantial in-house education program. Each practice group has a large and well-organized curriculum for new attorneys, including Boot Camp and Nuts and Bolts programs. Following the first year of practice, the firm offers a variety of ongoing and increasingly sophisticated legal education programs and other professional and practice development training such as Working with a Mentor at Fenwick & West, Making the Most of Your Performance Evaluation, and Negotiation Skills Workshop. In addition, there are regular weekly educational programs presented by partners and associates to help keep attorneys up-to-speed on new developments in various practice areas.

Web: http://www.fenwick.com/careers/prof-dev.asp
3. **Latham & Watkins LLP Diversity Weekend**: The annual Diversity Weekend brings together 2L and 3L recruits, attorneys and firm leaders from diverse backgrounds for a weekend of learning, sharing and networking. Each fall, the firm invites self-identified law students of color and openly gay law students (with offers to join the firm) to come together with Latham attorneys and firm leaders for three days of substantive discussion and social events. The first Diversity Weekend was launched in Washington, DC in 2003. Since then, the firm has held two additional weekends, San Francisco in 2004 and Chicago in 2005, and are currently planning the next weekend to be held in 2006 in Los Angeles.

   Contact: Sharon Bower, Partner; 885 Third Avenue, Suite 1000, New York, NY 10022; (212) 906-1332; Sharon.bowen@lw.com

4. **Bingham McCutchen LLP’s Attorneys of Color Retreat**: A two day session. The program focused on practical “Active Career Management” strategies that improve the ability of the firm’s attorneys of color to both self-direct their careers and increase their experiential value. Over time, gains in these two areas will directly support the efforts of Bingham McCutchen to increase the retention and promotion of attorneys of color. The goal of the program is to support the professional development of attorneys of color, foster greater initiative and leadership within the firm, and establish a more effective working relationships firm wide.

   Contact: Ralph C. Martin, II & Julia Frost-Davies; 150 Federal Street, Boston, MA 02110; (617) 951-8000; ralph.martin@bingham.com or Julia.frost-davies@bingham.com

5. **Intel’s Diversity Management Review Committee (MRC)**: the Committee meets regularly to set the direction for diversity efforts in the legal department to ensure staff-level awareness of and focus on diversity initiatives and to review and ratify proposals from the sub-teams.

   Contact: Joanne Suh, 2200 Mission College Blvd, SC4-203, Santa Clara, CA 95054; Joanne.w.suh@intel.com

6. **Intel’s Growing Critical Mass (GCM) Team**: this team focuses on recruitment and hiring of diverse talent and works closely with staffing and human resources. A marketing sub-team of the GCM team identifies key external events of interest and manages Intel’s participation in the events. This includes sponsorships, panel discussions, job fairs, conferences, etc.

   Contact: Joanne Suh, 2200 Mission College Blvd, SC4-203, Santa Clara, CA 95054; Joanne.w.suh@intel.com

7. **Intel’s Mentoring Team**: this team facilitates formal and informal mentoring of attorneys to provide attorneys with career guidance and departmental and substantive knowledge. In addition to matching mentors and mentees within the legal department, the mentoring
program will facilitate mentorship relationships with someone outside the department if requested.

Contact: Joanne Suh, 2200 Mission College Blvd, SC4-203, Santa Clara, CA 95054; Joanne.w.suh@intel.com

8. Intel’s External Influencing Team: this team develops materials for external presentations and events to highlight the department’s commitment to diversity, outline the issues we face and our approaches to addressing them.

Contact: Joanne Suh, 2200 Mission College Blvd, SC4-203, Santa Clara, CA 95054; Joanne.w.suh@intel.com

9. Pillsbury Winthrop Shaw Pittman LLP’s Diversity Committee: The Diversity Committee includes firm leaders recognized in the legal community for their commitment. The leader of the committee, Kevin Fong, currently serves on the ABA Commission on Racial and Ethnic Diversity in the Profession. The Diversity Committee sponsors networks for the firm’s African-American, Asian-American, Latino, LGBT and Women Attorneys. The Committee works closely with organizations in the community, law schools, bar associations and minority organizations through financial support, volunteerism and pro bono activities.

Web: www.pillsburylaw.com

10. Orrick, Herrington & Sutcliffe LLP’s Diversity Committee: Orrick’s Diversity Committee established the firm wide mentoring program to ensure that each new attorney has access to partners and more experienced associates who can provide advice and guidance. Local diversity committees organize internal diversity events, including affinity dinners and seminars on a variety of topics relevant to diversity issues.

Web: http://www.orrick.com/about/diversity.asp

11. Wilson Sonsini Goodrich & Rosati’s Associate Career Development Committee: Each year the Committee, consisting of partners representing all offices and practice areas, oversees associate reviews to provide meaningful and constructive feedback regarding performance and career development. In addition to the formal annual review process, associates are encouraged to seek out continuous feedback on individual projects.


12. Orrick’s Women’s Career Initiative Committee: Orrick established the Women’s Career Initiative to affirm the firm’s commitment to recruiting, retaining, and advancing the professional development of women attorneys. The firm supports the goal of work/life integration and assists its lawyers in balancing their obligations through alternative work schedules. Orrick hosted their third women’s networking event in 2006, for their female partners, counsel and associates on the West Coast to meet with women executives,
investment bankers and in-house counsel. The Committee also launched its mentoring circles program for women lawyers in Orrick’s U.S. offices.

Contact Person: Lorraine McGowen, Diversity Chair; 666 Fifth Avenue, New York, NY 10103; (212) 506-5114, lmcgowen@orrick.com.

13. Wilson Sonsini’s Women’s Initiative Network (WIN): WIN is managed by partners, associates and professional staff. The Women’s Initiative Network Committee establishes goals for the year, forms alliances with outside organizations and provides resources and plans to meet its goals. In addition, the firm created a Women’s Task Force, which serves as a liaison between associates and the committee. Together, the committee and the task force are working to promote change at the firm.

14. Wilson Sonsini Goodrich & Rosati’s Part-Time Policy: The program does not have a requirement that the attorney work a minimum number of years before eligibility for part-time schedule. The firm requires a minimum of 60 percent time and approval of the supervising partner of the arrangement. The program allows attorneys to adjust their part time status frequently to reflect the actual amount of time they are working. The firm also provides a true-up annually if the attorney worked more hours than their pay arrangement. All part time attorneys are eligible for pro rated bonuses. Wilson Sonsini’s Diversity Statement is posted on their website. Web: http://www.wsgr.com/WSGR/Display.aspx?SectionName=careers/diversity.htm

15. Pillsbury Winthrop Shaw Pittman: The firm sponsors networks for women, African American, Asian American, Hispanic and LGBT attorneys. Programs include annual firm-wide retreats for African American attorneys, roundtable diversity conferences with clients and diverse attorneys, regional conferences for all minority attorneys, “book clubs” on professional topics of interest to the various networks and a dedicated annual budget to support the firm’s diversity plan and programs. Policies work hand-in-hand with the programs and include a part time policy open to men and women, a partial leave program for attorneys who need to “step off the track” for a while, but also want to stay engaged with the profession, domestic partner benefits, child care leaves for adoptive parents and access to back-up child care for all attorneys and staff.

Contact: Deborah Johnson, Chief Human Resources Officer, deborah.johnson@pillsburylaw.com

16. Pillsbury’s Parti-Time Policy: 1) An attorney with at least two years of experience at the firm, may request a part time schedule for any reason, subject to the business needs of the firm 2) Part-time schedules are individually tailored and require local section and section leader approval 3) Part-time schedules are flexible in duration; however, attorneys must include the anticipated duration when they submit their written requests and 4) Associates on part-time schedules are eligible for hours, merit and discretionary bonuses on a pro-rata basis and for promotion consideration.
17. McManis Faulkner & Morgan: MFM works with its associates (and all of its employees) to provide flexible work schedules (to the extent possible in a litigation firm) in order to allow employees to meet their family needs. MFM has allowed its associates extended maternity leaves or sick leaves, as needed. MFM has also allowed certain of its associates to work on a part-time schedule in order to meet family needs.

Contact: Marwa Elzankaly, 50 W. San Fernando Street, 10th Flr, San Jose, CA 95113; (408) 279-8700; melzankaly@mfmlaw.com

18. Google Inc.: Google offers its employees a host of benefits which include healthcare services, on-site physician and dental care at the headquarters in Mountain View, California; flexible work hours, maternity and parental leave, plus new moms and dads are able to expense up to $500 for take-out meals during the first four weeks that they are home with their new baby; adoption assistance, Google Child Care Center, and back-up child care.

Contact: www.google.com

2. Current Practices, Programs in Place at the SCCBA:

*Contact: Irene Cortez, 4 N. Second Street, Suite 400, San Jose, CA 95113, (408) 975-2114 or email at irenec@sccba.com or www.sccba.com

1. Bay Area Minority Clerkship Program: Founded in the early 1990’s to increase diversity in the Profession. About 20 to 30 firms participate around the bay area with BASF and the ACBA. Firms are not required to hire the First Year students for more than a summer internship, providing the firms with the experience of dealing with diverse attorneys, and giving the students an opportunity to work at a large firm.

2. High School Mock Trial Program: Benefits high school kids by giving them exposure to attorneys, the courts and trials. Cooperation with the courts and County Department of Education.

3. Minority Affiliate Seats on SCCBA BOT: By providing Minority Bars seats on the Board of Trustees of the County Bar over the last decade, we have made a bold statement to be inclusive on many levels including small regional bars, like the Palo Alto Bar.

4. Minority Access Committee and Unsung Heroes: We have recognized many attorneys who might not have received awards for the work they do specifically to increase access to justice and representation within the profession.
5. **Rainbow and Women Lawyers’ Committee**: Both are actual committees of the Bar Association but they have been given the freedom to make endorsements for the Bench in order to give them the influence they desire, but still include them as part of the larger Bar Association.

6. **Barristers’ Leadership Program**: A four month program to give new and younger lawyers an opportunity to see how the bar association functions from an inside leadership perspective and to provide leadership training and access to bar and bench leadership. Participation is by application. The program’s goals: educate new and younger lawyers about the bar association to encourage their long-term participation; train minority lawyers in leadership skills; provide access to bar and bench leadership for networking; promote understanding of how attorneys achieve leadership positions in the legal community as role models; encourage minority lawyers to seek leadership positions within the bar association

**Affiliated Bars:**

1. **Many of the affiliated Bars** such as La Raza Lawyers, Black Lawyers and the Asian Pacific Bar put on scholarship events to promote students of color in law school and to allow them to find mentors to help with their careers. The SCCBA routinely supports these efforts.

2. **Law Related Education**: The District Attorney’s Office administers a program for 5th grade students in the San Jose Unified School District, supported by the Mayor’s Gang Prevention Task Force that puts attorneys in the classroom to demystify the legal system, provide role models and organize field trips to county courthouses.

**Past Events:**

1. **Minority Job Fair**: The Minority Access Committee and other affiliated Bars have put on various events to promote the hiring of students of color.

2. **Law Day, Legal Fair**: The Minority Access Committee has organized fairs with legal service providers to give free legal advice and information to under-served communities in Silicon Valley.

**3. Other Organizations:**

1. **Santa Clara County Counsel’s Leadership Program**: The program’s purpose is to enable an understanding of the broader issues of the County and to help acquire the knowledge and experience to put selected deputies in a good position to assume leadership roles in the County and in the Office. The program will include mentoring by County Counsel, Assistant County Counsel, and leads; participation with the management team at meetings of significance with the Board and other County Officials; meetings in Sacramento with Legislators and CSAC and other County Counsel leaders; and mentoring sessions with County Officials about Countywide issues of importance.
Contact: Ann Ravel, Office of the County Counsel, 70 W. Hedding Street, East Wing, 9th Floor, San Jose, CA 95110-1770, (408) 299-5902 or email at Ann.Ravel@cco.sccgov.org.

2. **Santa Clara University School of Law Teaching Fellowship**: Santa Clara Law School has a teaching fellowship, which allows J.D. graduates from across the country to spend one to two years at Santa Clara teaching law school classes and producing scholarly work for publication. The purpose is to develop new law faculty from previously underrepresented groups such as women, ethnic minorities, and LGBTs.

   Contact: [www.scu.edu/law/](http://www.scu.edu/law/)

3. **Stanford University**: The Diversity and Access Office releases an annual statement from the President of the University about the importance of diversity and the affirmative steps taken to ensure that there is diversity at all levels of the institution, as well as statistics on diversity, and the university's mission with respect to diversity. Web: [http://www.stanford.edu/dept/diversityaccess/index.html](http://www.stanford.edu/dept/diversityaccess/index.html).


   Stanford’s Institute for Women's Leadership is one group that an interviewee mentioned as a source of training for women. Web: [http://www.womensleadership.com/index.php](http://www.womensleadership.com/index.php)

4. **Minority Corporate Counsel Association**: MCCA puts on roundtables and conferences, as well as publications and surveys (they have a new survey of minority general counsel in Fortune 1000 companies). They work with companies to encourage diversity.

   Web: [http://www.mcca.com/](http://www.mcca.com/)

5. **Catalyst**: a group that many law firms and companies use, including Pillsbury and Wilson. Catalyst describes itself as an organization working with businesses and the professions to build inclusive environments and expand opportunities for women at work.

   Web: [http://www.catalystwomen.org/](http://www.catalystwomen.org/)

6. **BASF's Work/Life Balance Task Force**: A half-day conference to address the challenges attorneys face when caring for children or elders, or taking on other responsibilities or interests while working in a demanding profession. The Task Force is conducting a survey of law firms, corporate law departments, and local government to gather resource information to develop best practices that firms and companies can adopt going forward.

   Contact: Barbara Fanning, 465 California Street, 11th Flr., San Francisco, CA 94104, (415) 782-8911 or email at bfanning@sfbbar.org
7. **BASF’s No Glass Ceiling Task Force**: The Task Force was formed to increase the opportunity for women to serve in leadership positions within the legal profession in the San Francisco Bay Area. The goals established were at least 25% women partners and at least 25% women in management positions by January 2005. All signatory firms that participated in the 2005 survey have committed to the goal of having at least one managing partner of an office by the end of 2006. Plans for the next 3 to 5 years include increasing the current percentage goals for women in management and partnership positions.

   Contact: Abby Ginzberg, 465 California Street, Suite 1100, San Francisco, CA 94104, (415) 782-8937 or email at aginzberg@sfbar.org

8. **BASF’s Goals and Timetables for Minority Hiring and Advancement**: In an effort to advance racial and ethnic minorities in the SF Bay Area legal community work force, BASF has adopted a set of goals and timetables and periodically conducts surveys measuring the success of the initiative. Since 1989 over 100 Bay Area legal employers have voluntarily adopted our goals and timetables for minority hiring and advancement. A number of these participating law firms and legal departments have become signatories to the goals and timetables.

   Contact: Abby Ginzberg, 465 California Street, Suite 1100, San Francisco, CA 94104, (415) 782-8937 or email at aginzberg@sfbar.org

9. **Journey to the Bench - Options & Opportunities**: The program is divided into seven discussion panels which include the judicial career, the governor’s office/process, the election process, salary/benefits/education/retirement, and a Q&A session. The program’s goal is to educate about the process of becoming a judicial officer and to encourage attorneys and law students to consider a judicial career.

   Contact: Justice Patricia Bamattre-Manoukian or Donna Williams, Law librarian; California Court of Appeal, 333 W. Santa Clara St., Ste. 1060, San Jose, CA 95113, (408) 494-2599 or by email patricia.manoukian@jud.ca.gov or donna.williams@jud.ca.gov

10. **Forum for Women Entrepreneurs and Executives**: The program is sponsored by Orrick and Pillsbury and is based in Palo Alto. It is a membership organization but sometimes has events open to nonmembers.

   Web: [http://www.fwe.org/](http://www.fwe.org/)

4. **Law Schools**:

1. **Bay Area Minority Summer Clerkship Program (BAMSCP)**: Founded in the early 1990’s to increase diversity in the Profession. About 20 to 30 firms participate around the Bay Area with BASF and the ACBA. Firms are not required to hire the First Year
students for more than a summer internship, providing the firms with the experience of dealing with diverse attorneys, and giving the students an opportunity to work at a large firm.

Contact: Irene Cortez, Administrator; 4 N. Second Street, #400, San Jose, (408) 975-2114; email: irenec@sccba.com; web: http://www.sccba.com/docs/cs_proj6.pdf

2. Bay Area Minority Law Student Scholarship Program: Scholarship given to students of an underrepresented minority group attending various ABA-accredited Bay Area Law Schools. 45 scholarships have been awarded since the program’s inception in 1998 in the amount of $30,000.

Contact: Raquel Cabalding; 465 California Street, #1100, San Francisco, (415) 782-8916; email: rcabalding@sfbar.org; web: http://www.sfbar.org/charitable/scholarships.aspx

3. Minority Summer Associates Reception: An opportunity for all minority summer associates working in Palo Alto to meet each other and also network with both minority and non-minority attorneys in law firms, and the government and public interest field. Held annually every July at different law firms.

Contact: Irene Cortez, Administrator; 4 N. Second Street, #400, San Jose, (408) 975-2114; email: irenec@sccba.com; web: http://www.sccba.com/docs/cs_proj6.pdf

4. Intel/Santa Clara County Bar Association Diversity Job Fair: The Job Fair brings together hiring representatives from prominent law firms, corporations and government legal departments in the San Francisco Bay Area and qualified applicants in two categories: second year law students for summer associate positions and attorneys with one to five years practice experience seeking a lateral move. Law students are solicited from bay area law schools, including Stanford, Lincoln Law School, and Santa Clara University School of Law. Attorneys are solicited from the Santa Clara County Bar Association membership.

Contact: Chris Burdick, SCCBA Executive Director; 31 N. Second Street, 4th Flr, San Jose, CA 95113, (408) 287-2557; email: chrisb@sccba.com

5. La Raza Lawyer Association Scholarship: Three scholarship grants in the amount of $1,500 to $2,500 are available. Including the first Annual Andrew Gonzales Scholarship for Leadership to honor our Scholarship Founder and the 2nd Annual Daniel V. Hernandez Award for Community Service. The scholarship grants are to encourage and advance the social, cultural, economic and legal equality of minorities.

Contact: Richard Alvarez, Scholarship Chair; PO Box 30, San Jose, CA 95103; web: http://www.larazalawyers-santaclara.com/_wsn/page3.html
6. **Asian Pacific Bar Association Annual Dinner and Vietnamese Bar Association Annual Dinner.** The scholarship grants are to encourage and advance the social, cultural, economic and legal equality of minorities.

7. **Judicial Internship Opportunity:** Placement of minority and disadvantaged law students with state and federal judicial officers for summer internships by the American Bar Association. Placement criteria place greater emphasis on an applicant’s personal statements and life experience than traditional criteria such as grade point average. Applicants are paid a stipend of $1500 upon placement and are required to work for a minimum of six weeks. This program is an opportunity for students to enhance their legal skills and to also develop mentor relationships with members of the judiciary and those of the legal profession.

   Contact: Gail A. Howard, Program Director; 321 Clark Street, Chicago, (312) 988-6348, email: howardg@staff.abanet.org; web: [http://www.abanet.org/litigation/jiop/](http://www.abanet.org/litigation/jiop/)

8. **Latham Diversity Scholars Program:** A $10,000 non-renewable award to second year law school students for use during their third year of law school. Applicants are evaluated on their ability to contribute to the diversity objectives of global law firms, success in overcoming any obstacles faced in deciding to choose law as a profession, academic and/or leadership achievements, and a desire to practice in a global law firm.

   Contact: Sharon Bowen, Partner; 885 Third Avenue, Ste 1000, New York, (212) 906-1332; email: Sharon.bowen@lw.com; web: [http://www.lw.com/resource/Publications/_pdf/pub1392_1.pdf](http://www.lw.com/resource/Publications/_pdf/pub1392_1.pdf)

5. **Undergraduate:**

1. **PLUS (Prelaw Undergraduate Scholars Program):** PLUS is geared towards students who are from backgrounds historically underrepresented in the legal profession. Over the course of four weeks (7/10 – 8/4), 24 students and four counselors from across the country stay in dorms on SCU’s Mission campus and are exposed to the law school culture as well as the reality of being a lawyer through classes taught by law professors, visits to court rooms, social events with practicing lawyers, and LSAT preparation classes. The program culminates with students arguing actual cases in front of their peers, law professors, and practicing lawyers in SCU’s moot court room.

   Contact: Law Admissions Office; 500 El Camino Real, Santa Clara, (408) 554-5048, email: lawadmissions@scu.edu; web: [http://www.scu.edu/law/admissions/plus_program.html](http://www.scu.edu/law/admissions/plus_program.html)

2. **Minority Law Day:** A half day program designed to introduce applicants to the Santa Clara University School of Law admissions process, campus life, and student organizations. A prominent key note speaker is scheduled annually, along with a luncheon with law students, faculty, staff, and alumni.
3. **Disability Rights Education and Defense Fund (DREDF), Berkeley office:** DREDF is a nonprofit national law and policy center dedicated to expanding the civil rights of people with disabilities and their families. DREDF offers education, training and technical assistance to persons with disabilities, parents of children with disabilities, lawyers, service providers and policy makers about disability civil rights laws and policies. Since the passage of the ADA in 1990, DREDF has provided training on this law to over 45,000 people from virtually all 50 states, annually providing an additional 13,000 people with information about their legal rights.

   Contact: Main Office, 2212 Sixth Street, Berkeley, CA 94710, (510) 644-2555; email: dredf@dredf.org; web: http://www.dredf.org/what.shtml

6. **High School:**

1. **High School Mock Trial Program:** The SCCBA Law Related Education Committee co-sponsors the local high school mock trial tournament, which attracts approximately 400 Santa Clara County high school students each year. Students present a hypothetical criminal case before a sitting Santa Clara County judge. Attorneys from across the county participate as attorney coaches and donate time to score students’ presentations. The tournament offers students an opportunity to experience the criminal justice system up close and provides positive role models in the field of law. Benefits high school kids by giving them exposure to attorneys, the courts and trials. Cooperation with the courts and County Department of Education.

   Contact: Joan Green; (408) 453-6824; web: http://www.sccoe.k12.ca.us/newsandfacts/newsreleases/2005-06/news022406.asp

2. **BASF’s School-to-College Program:** A year-long high school mentoring curriculum that inspires disadvantaged students from Balboa High School in San Francisco to attend college. Mentors from the legal community work intensively with the students during weekly after school classes during the second semester junior year and the first semester senior year. Mentors help the students understand the long-term benefits of attending college and coach them through the entire college application process. The program also provides students with an east coast college trip.

   Contact: Jayne Salinger; 465 California Street, #1100, San Francisco, (415) 782-8910; email: jsalinger@sfbar.org; web: http://www.sfbar.org/charitable/schooltocollege.aspx

3. **BASF’s San Francisco Law Academy:** A yearlong program that encourages and increases career opportunities for disadvantaged students in Mission and Balboa High Schools in San Francisco. The curriculum is built into several core classes where students learn basic legal concepts. The legal community contributes greatly by
mentoring and hiring the students as summer interns. These students realize personal strengths that they may not otherwise discover.

Contact: Jayne Salinger; 465 California Street, #1100, San Francisco, (415) 782-8910; email: jsalinger@sfbar.org; web: http://www.sfbar.org/charitable/lawacademy.aspx

4. **Lawyers’ Committee for Civil Rights of the SF Bay Area - Educating for Justice**: Each year over 250 students from Oakland Technical High School and Skyline High School meet with attorneys over four days to discuss civil rights law. The 2006 program topics were Search and Seizure and Student on Student Harassment. The Lawyers’ Committee provides curriculum packets, background materials and training to assist attorneys. Attorneys’ and students’ class schedules are accommodated. The project brings lawyers of color and attorneys from diverse backgrounds directly into classrooms to act as role models for students.

Contact: Elizabeth Marenco; 131 Steuart St., Ste 400, San Francisco, (415) 543-9444; email: emarenco@lccr.com; web: http://www.lccr.com/race.html#Educating

5. **Junior Achievement’s Groundhog Job Shadow Day**: Each year beginning on Groundhog Day and continuing through the school year, students spend part of the day in the workplace “shadowing” employees as he or she goes through a normal day on the job. Students engage in early career exploration that leads to better-informed career choices. Employers have the opportunity to present industry trends and career options to potential future employees in their own locales. Locally, Junior Achievement of Silicon Valley and Monterey Bay and NOVA collaborate to send middle and high school students to shadow employees at area businesses.

Contact: Junior Achievement of Silicon Valley; 3150 De La Cruz Blvd., Ste 103, Santa Clara, (408) 988-8915, email: info@siliconvalley.ja.org; web: http://www.ja.org/nested/santaclara/

6. **Street Law**: The objective of StreetLaw is to link law students with young people in the surrounding communities through law-related education. StreetLaw instructors teach incarcerated youth at the Santa Clara County Juvenile Hall and at-risk youth in surrounding high schools about the law and their legal rights through an internally-developed, eight-week curriculum. StreetLaw offers law students a chance to build a rapport with the juvenile hall and high school students, which can change preconceptions that each may have about the other.

Contact: Lauren Brady 3L, Street Law student organization president; email: lebrady@stanford.edu; web: http://www.law.stanford.edu/students/life/orgs.html#street

7. **Legal Eagle – F.L.Y.**: Legal Eagle builds healthy decision-making skills in at-risk teens, empowers them with a sense of purpose, and helps them graduate from high school with a career or vocational plan through: 1) A course in law-related education; 2) leadership training; 3) mentoring; and 4) career coaching. Legal Eagle will work with 270
underserved at-risk youth and their families and collaborate with community members reaching a total of 2,000 people a year.

Contact: Christa Gannon; 120 W. Mission St., San Jose, (408) 263-2630 ext.20; email: christa@flyprogram.org; web: http://www.freshlifelinesforyouth.com/index.html

8. **Teacher Courthouse Seminars**: All-day seminars taking place at a local courthouse to give government and social studies teachers a first hand look at the justice system. This will enable teachers to better teach their students about the justice system. The seminars focus on juvenile and criminal justice.

Contact: Judge Richard Frouin, Los Angeles County Superior Court; 111 North Hill St. Rm 307, Los Angeles, (213) 974-5606; web: http://www.courthinfo.ca.gov/programs/innovations/accpubserv-10.htm

9. **From the Courtroom to the Classroom**: A team of one Los Angeles Superior Court Judge and two attorneys come to middle school and high school classrooms twice every year. They present pre-prepared lessons to students that deal with the history of the Constitution. As a part of the lesson, students work with the team to conduct a moot court argument on an actual U.S. Supreme Court case of interest to the students, i.e., censorship of a school newspaper by a principal. The team serves as role models for what students can achieve in their lives by working hard. The program in turn humanizes judges and informs students, and likely their families, about the importance and value of courts.

Contact: Keri Doggett, Constitutional Rights Foundation; 601 S. Kingsley Dr., Los Angeles, (213) 316-2115; email: keri@crf-usa.org

10. **Youth Leadership Academy**: A five-week summer program for high school students. Outreach for students is conducted in all high schools of the county, including those with large populations of students of color. Judges and other justice system professionals teach classes for the students. Students also visit various county court locations. Each student is required to observe a variety of trials. Students receive mentoring from a person in a justice system profession field they have selected. Students must be nominated by a teacher or counselor. Attention is given to ensuring participation by students from segments of the community that have historically ad access and fairness concerns about the justice system.

Contact: Hon. Richard Vlavianos; 222 E. Weber Ave., Room 303, Stockton, (209) 468-8373; email: Richard.vlavianos@courts.san-joaquin.ca.us

11. **Color of Justice**: A one-half day program to encourage minority students in 7th through 12th grades to consider the law and judgeships as career goals. The program focuses on career preparation, panel discussions with judges and lawyers sharing personal and professional insights, and small group discussions during box luncheons.

Contact: Cristina D. Silva, Director of Programs of National Association of Women
7. Elementary School

1. **Law Related Education**: The District Attorney’s Office administers a program for 5th grade students in the San Jose Unified School District, supported by the Mayor’s Gang Prevention Task Force that puts attorneys in the classroom to demystify the legal system, provide role models and organize field trips to county courthouses. Specially-trained teachers, textbooks, professionally designed curricula, and extensive use of resource people from the legal field all combine to create a comprehensive course in law and the courts for these young people. Lawyers may come into a classroom to facilitate a mock trial, a police officer may speak about what a “good police officer will do in a specific situation,” or students may come to the courthouse for tours.

   Contact: Marc Buller; 70 West Hedding Street, West Wing, San Jose, CA 95110, (408) 792-2770; email: mbuller@da.sccgov.org

2. **Law For Your Life – F.L.Y.**: Law For Your Life helps middle school children choose healthy behaviors, feel safe in school, and have the motivation to do well academically through: 1) A course in law-related education and life skills; 2) a law club and field trips to Santa Clara University; and 3) peer leadership training and presentations on resisting negative peer pressure and working hard in school. Law For Your Life will work with 900 middle school children each year.

   Contact: John Bianchi, L.F.Y.L specialist; 120 W. Mission St., San Jose, (408) 263-2630 x12, email: LFYL@flyprogram.org; web: http://www.freshlifelinesforyouth.com/program-legal-eagle-overview.html

3. **The Role Model Program – The Community Classroom Visit Program**: To support a strategic partnership between The Role Model Program and San Jose Unified School District to bring critical adult role models and academic achievement skills to first-generation, under-represented elementary and middle school students. The program provides two critical interventions: 1) positive adult role modeling of high achievement expectations and successful careers and 2) skills development to reach higher education.

   Contact: The Role Model Program; 1922 The Alameda, Ste 217, San Jose, (408) 246-0433, email: info@therolemodelprogram.org; web: http://www.therolemodelprogram.org

4. **Law Day**: The Santa Clara County Bar Association has extended an invitation to all 4th-9th Grade classrooms in Santa Clara County to participate in Law Day 2004. A presentation to the classes will be based on the Landmark Brown vs. The Board of Education and its impact on our learning institutions. Observance of Law Day has been extended through the entire month of May.
5. **Lawyers in the Schools**: The program presents an opportunity for young lawyers to go into San Francisco classrooms, 1st through 12th grades to speak for an hour either about legal topics related to the class’s studies or what it is like to be a lawyer.

Contact: Dana Justi, Events and Program Coordinator, BASF; 465 California St., Ste. 1100, San Francisco, (415) 982-1600, email: barristers@sfbar.org

6. **Shortstop Juvenile Diversion Program**: A program for 10 to 17 year olds who are at risk of delinquency, this program aims to improve the lives of youth and guide them toward productive citizenship by providing law related education to youth, strengthening parenting skills, improving family communication and emphasizing the importance of education while holding youth accountable for their behavior and providing them with information that will assist them in thinking about the consequences of their actions.

Contact: Kathy Du Vernet, Executive Director of Long Beach Bar Association; 3515 Linden Ave., Long Beach, (562) 981-7525; email: director@longbeachbar.com; web: http://www.lbbf.org
APPENDIX B

Observations from Focus Groups of Silicon Valley Attorneys

In looking at diversity issues and solutions it is important to assess how pertinent national statistics and data are to the people you directly hope to impact. The focus groups formed by the SCCBA Hiring and Retention Subcommittee to achieve this end were instrumental in getting to the heart of Santa Clara County’s diversity issues and indicated what is missing in most diversity effort analysis.

Frustration was apparent in the voices of many of the focus group participants. In fact, despite early concerns that attorneys would have difficulty opening up, they seemed to have been waiting for the opportunity to express, like balloons that had expanded to the point of bursting.129 The areas of the greatest insight were in the so called “intangible” areas around the different aspects of hiring and retention summarized below.

Box Credentials

Attorneys agreed that the professions emphasis on “box credentials” was misplaced. Participants felt that the reliance on grade point average as a way to measure ability was depriving many organizations of more diverse and talented work force. Minorities were not being given the opportunity to show that they could do the work. Specifically, participants felt that prior work (in any field) should be weighed in heavily as an indicator of ability to handle pressure and responsibility. One participant observed that jobs such as field work indicated a stronger work ethic than law review work but was not even taken into account now.130

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129 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006.
130 Id.
In apparent contrast, one Latina attorney, having previously worked at a large firm and now working in a government position, strongly disagreed.\textsuperscript{131} She opined that grades were not a good indicator of ability, but they were probably good indicators of success in a law firm since ability was not the only factor in success there. She stated that you needed to be willing to accept the law firm’s system in order to survive. “Getting good grades in law school indicates that you will buy into a bull**** system and do what ever it takes to excel in it,” she said. “Including sacrifice your personal time and strain your personal relationships.”

Different Values

The general perception of the focus groups was that diverse attorneys place a higher value on time with family and on their health than on money. Quality of life was based on more than a paycheck for most of this group, although their financial obligations such as loans or dependents encouraged some degree of compromise on these issues. Women expressed child rearing concerns noting that regardless of the amount of help that they received either from spouses, family, or hired caretakers, they still felt that they were neglecting childcare responsibilities by working long hours.\textsuperscript{132} One woman observed, “No matter how much my husband helps he still isn’t the equivalent of the stay at home wife that most partners had.”\textsuperscript{133} Others stated that time spent with their families was hard for them to sacrifice, especially for attorneys who came from immigrant families where family unity and mutual support had been the basis of their success in the United States.

Some participants referred to health concerns as the reason prompting their exit from big law firm life. “I was in therapy and on medication by the time I left the firm,” stated one participant. “A few months after I left, I was fine,” she continued. Later she found out that a

\textsuperscript{131} SCCBA Hiring and Retention Focus Group, Santa Clara, CA, April 27, 2006.
\textsuperscript{132} Id.
\textsuperscript{133} Id.
colleague that had always seemed to have it so together left a month after she did. Her colleague was in therapy and on anxiety medication as well. These concerns are shared by non-diverse attorneys as well. In comparing the change from a law firm to an in-house position with set hours, one white male attorney stated that he “just didn’t know that life could be this good.”

Diverse Attorney Expectations of Law Practice

Participants found that despite their academic preparation, the practice of law was in many cases a shock. One woman said, “I expected it to be bad, bone crushing even, but it was far worse than I expected.” For many, the systems within their employment were difficult to manage (i.e. billable hours) especially with the minimal training provided. Another diverse attorney stated, “I really thought that the practice of law was about working hard and producing a good work product for your client, not enough billable hours for your firm.” Others specified that they thought the law was about helping people and solving problems not just a business.

Most specifically, a participant stated that when he is asked how different “work is from my [his] expectation as to what it would be like to be a lawyer, one word comes to mind . . . sucker.” After the shock at the contradiction between practice and expectation wears off, the remaining challenge is accepting what is referred to as the “bait and switch.” A Latino attorney observed, “I have had to adjust my view of work. My work is not going to be fulfilling. It is not going to bring me happiness. It’s just a job but I want to do a good job.”

134 SCCBA Hiring and Retention Focus Group, Santa Clara, CA, April 27, 2006.
135 Id.
136 Id.
137 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006.
138 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006.
139 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006.
Unwritten Rules and Expectations of the Legal Profession

Several areas for improvement were identified as issues of poor communication and business management. Several participants stated that they do not get enough feedback on their work, either good or bad. Many agreed they often do not know whether they are doing well or not. “I just wish people would be honest,” one participant said. He continued:

I wish that someone would just let me know ‘This is what I expect, this is what you will get in return.’ I can deal with that. But I need to know what is going on. Don’t tell me you support me and then not give me any guidance.”

Few work and organization processes are explained. Ambiguity about policies and expectations exacerbates insecurity “making you a peon,” another participant observed. Attorneys noted that even common systems such as billable hours were more challenging because of little guidance in how to best manage this task. It appears that the ambiguity in management expectations results in attorneys working defensively because they have difficulty assessing whether they are doing enough to keep their job or be promoted.

Participants found that the success of programs and policies purported to accommodate attorneys needs were also fraught with unarticulated consequences. Programs such as non-partner track work, “part-time schedules,” and maternity leave seem to indicate flexibility and sensitivity on behalf of the profession. Many attorneys cited that such programs or even the acceptance of working remotely, enabled by increasingly sophisticated technology, would make the demands of legal practice easier to manage and comport with time-constraints and family demands.

However, participants claim those who choose the so called “family friendly” options are often perceived as “less reliable” and not “serious” about their careers. In addition, diverse

140 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006.
141 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006.
142 SCCBA Hiring and Retention Focus Group, Santa Clara, CA, July 22, 2006.
attorneys also insist that after requesting a change they are given less interesting and less important work. A female attorney noted that she recently overheard colleagues discussing whether another colleague would be able to handle her work load when she came back from maternity leave. She added, “The sad part is, this woman hasn’t even left on maternity leave yet and people are already questioning her capacity.”

The lack of written references to organization practices adds another layer of disincentive to electing alternative work arrangements. A female focus group participant concluded that employers fail to write down alternative track policies “so that when you ask for it [a change] you feel that you are asking for a favor, not asking for the fulfillment of one of their policies.” Participants indicated that they felt that employers used ambiguity and the ensuing insecurity as a way to feel in control of subordinates.

The often unspoken and uncertain methods for advancing in the legal profession add to difficulty assessing career progress and security in the profession. Almost unanimously focus group participants expressed that the lack of stated criteria for career advancement left them feeling like they were “floating” in their organizations. Even accessing resources known to be important to career advancement remain ambiguous. One focus group participant stated, “If a partner does not take an interest in you then it [advancement] just isn’t going to happen.” He continued, “But how can you ‘make’ a partner take interest?”

The uncertainty plaguing many aspects of the legal profession extends to discriminatory undertones. Participants cite the difficulty in breaking in to “the good ol’ boy network” as a basis for feeling isolated, but also wonder about racial, gender and sexual preference

143 SCCBA Hiring and Retention Focus Group, Santa Clara, CA, April 27, 2006.
144 SCCBA Hiring and Retention Focus Group, Santa Clara, CA, April 27, 2006.
145 Id.
146 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006.
implications. In comparing their work experiences with those of their white male colleagues, participants stated that they hoped discrepancies in recognition or work assignments were not due to their race or gender, but they were not sure that it was not a factor in the way they were treated. One associate said that although the belief that there is a lack of minority talent is a misperception, “despite minorities joining firms and demonstrating their ability . . . the misperception remains.”147

Commitment to Diversity

Doubt as to the sincerity of diversity efforts also was consistent throughout the groups. One associate observed that the straight, white, male partner chairing the diversity committee at his employment “just doesn’t get it.” Others expressed less enthusiasm in mentorship programs because of the “unnatural” and often “awkward” resulting interactions. They expressed difficulty in feeling at ease with a mentor who is there out of obligation.

Perhaps what cast most doubt as to the sincerity of their employers’ commitment to diversity was the general belief that changes could be made to improve their experience at work, but that employers were choosing not to make them. Contradictory messages confirmed these suspicions. For example, participants say that they are encouraged by upper level management to participate in outside activities for support, such as identity bar associations, but then no effort is made to allow them time to actually attend or participate in events.

Emotional Impact of Practicing Law

Perhaps the most revealing observations were the attorneys’ revelations about how they personally felt practicing law in present and past environments. Attorneys with set hours and more transparent structures, such as those practicing in corporate law departments, expressed higher levels of comfort and satisfaction than their colleagues. They felt that they were “solving

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147 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006.
problems” at their work and that their “entire intellect was being utilized.”

Attorneys in smaller firms stated that, although they shared many of the experiences and concerns of their large firm colleagues, it was “easier to feel more like a person” at a small firm.

In contrast, those that worked in larger firms spoke of the pervasiveness of a “hazing mentality” by upper level management. One former large firm associate said, “There [at a large firm] I was just a ‘billable hours’ machine. They [management] didn’t want to hear from me unless I was billing.” A white female attorney stated her frustration at having little value beyond her work product. She explained, “The same partner that will use my ideas in a brief will shoot me down [on participating] in a conference call.” One government attorney said she felt that the mere fact of being diverse may simply limit whether senior attorneys view her as an individual who can become successful within the organization.

Another associate stated that he had trouble dealing with being treated as if he had no value. In frustration, he wishes he could tell his superiors, “If you are going to pay me this much money to work this hard, then at least treat me like I’m worth it.” A Latina participant said, “I just feel that we [people of color] have already experienced enough humiliation and invisibility getting here [into the legal profession]. I don’t need any more.”

The focus group and personal interviews of both groups of attorneys of color, women, and members of the GLBT community and white males reveal more than the personal impact of national and California statistics. Diversity proponents have surmised that the answer to attorney attrition lies in how to determine why minorities became attorneys to begin with and how to

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148 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006 and May 10, 2006.
149 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006.
150 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006.
151 SCCBA Hiring and Retention Focus Group, Mountain View, CA, July 21, 2006.
152 SCCBA Hiring and Retention Focus Group, Mountain View, CA, April 24, 2006.
153 SCCBA Hiring and Retention Focus Group, Santa Clara, CA, April 27, 2006.
shape their employment experience to fulfill those goals. Yet, focus group participants tend to agree that changes in the structure of organizations could be made to ameliorate the negative impact of some practices.
APPENDIX C

Defining and Identifying Privilege

Privilege is defined as a “systemic conferral of benefit and advantage,” triggered not by merit but by “affiliation, conscious or not and chosen or not, to the dominant side of the power system.”\(^{154}\) John A. Powell describes privilege as “a system by which group of people actively acquire or passively attach to reward without earning it, but rather simply by membership in privileged groups.”\(^{155}\) Those who benefit from privilege need not do so with the intention of exploiting their advantage. Regardless of intent, those already in the privileged group are still involved “in this arrangement by their willingness to see the deficit in others and to wear the benefit conferred on them by [privilege].”\(^{156}\) Thus, the good intentions of diversity advocates can only reach so far, since “privilege is mediated through structures, language, power, and institutions that always outrun the control of any given individual.”\(^{157}\) Privilege manifests itself in complex ways. “First, the characteristics of the privileged group define the societal norm, often benefiting those in the privileged group. Second, privileged group members can rely on their privilege and avoid objecting to oppression.”\(^{158}\)

Stephanie Wildman concludes that the “normalization of privilege means that members of society are judged, and succeed or fail, measured against the characteristic that are held by those privileged.”\(^{159}\) In the legal profession specifically and in the workplace in general, whiteness, heterosexuality, and middle-class values are all privileged.\(^{160}\) Yet, privilege remains invisible or if noticed at all is interpreted as “just the way things are.” However, privilege

\(^{154}\) Id. at 29
\(^{156}\) Id. at 424
\(^{157}\) Id.
\(^{159}\) Id. at 14
\(^{160}\) Id. at 27
holders, though blind to their privilege, see that “others” have a lack, a deficiency, a deficit. In the legal profession, diverse attorneys are judged by standards and characteristics that were created and perpetuated through the exclusion of diverse voices. People of color, women and GLBT individuals had no role in the creation of these standards or the selection of these characteristics, yet they are subject to these standards as the organic development of the practice of law. Add to the exclusion the assumption that existing workplace arrangements are natural or neutral and you get the illusion of something that is also inevitable.161

Diversity efforts are complicated by the opportunity privilege gives group members to opt out of struggles against oppression. This manifestation of privilege can take the form of silence, inaction, or in choosing the types of struggles in which to engage.162 Privilege specifically manifests itself in diversity efforts by making both the participation and the level of commitment completely optional.163 Diversity efforts are often seen by both privilege holders and the unprivileged as an act of kindness not as fulfilling a responsibility or remedying an inequity.

Though the necessity of acknowledging privilege for a more productive diversity dialogue is clear, how to achieve such an acknowledgement and dialogue is not. The first step toward this dialogue is to make privilege visible. We must deeply interrogate and challenge the norms associated with privilege perpetuated through out the legal profession. Another is to “stop pretending that race does not matter, even though our aspiration continues to be that it should not

163 In response to my question regarding how much responsibility professional organizations had to have their workforce reflect the population, one white male participant said “None. Is there a responsibility to reflect the diversity of the applicant pool? Yes. But is it our responsibility to reflect the population? No. At least the federal government doesn’t think so.”
 Advocates must also recognize that making privilege visible is not the end of the quest. “Once the hierarchy is made visible, the problems remain no less complex, but it becomes possible to discuss them in a more revealing and useful fashion.”165

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165 Id. at 24.
Bar must address lack of diversity in the Legal Profession

The San Jose Mercury News Commentary 2-28-06

And The San Francisco Chronicle 6-19-06

By Carlos Moreno and Bruce Sewell

California is in the unique position to be a leader in addressing access and diversity issues. However, the state's legal profession has not met the challenge.

According to the State Bar of California the majority of attorneys and judges remain overwhelmingly Anglo, while the majority of California's population is comprised of racial and ethnic minorities. Over 30 percent of California is now Latino, yet Latinos comprise only 5 percent of the state's attorneys. Similar under-representation exists for Asian-Americans who comprise about 12 percent of the population and 5 percent of the Bar. African-Americans are about 8 percent of the population and 3.5 percent of the Bar.

In comparison, Anglo's make up roughly 48 percent of the state's population but almost 85 percent of the lawyers. Anglo representation in the judiciary is slightly higher.

The bar estimates that at current law school enrollment and bar passage rates, projections over the next 15 years for ethnic minority groups are unlikely to show significant, or even moderate, increases. By 2020 they tell us that only 6 percent of the lawyers will be Latino, 7.4 percent will be Asian-American and 3.9 percent will be African-American. Yet, the population will be 40 percent Latino, 14.2 percent Asian-American and 6.1 percent African-American. The demographics will keep changing, yet representation in the bar will remain largely the same.

Santa Clara County is not immune to this statewide trend. The Santa Clara County Bar Association conducted a survey of its own in 1998, finding that minorities make up a fraction of
its membership -- 74 percent were white, 3.4 percent of each group identified themselves as Asian or Latino and less than 1 percent listed themselves as African-American. Sixteen percent did not provide ethnic information.

The disproportionately low numbers of minority lawyers necessarily means under-representation in law firms, corporations and public entities. Remarkably, many are still below even the representation within the state bar and well below law school graduation rates. This continued disparity will lead not only to a disconnect between attorneys and judges with the people they serve, but also will deepen the crisis of confidence many in the public feel toward our justice system even today.

In addition, the state is experiencing a boom in the number of female lawyers. Over the past 10 years law schools have been producing classes that are 50 percent women and the profession itself has reached over 33 percent women. As retirements occur, women will make up an increasing percentage of the state bar. However, they continue to encounter historic limits and glass ceilings in both private and public settings.

We will also need to examine the emerging status of gay, bisexual and transgender attorneys as they face historic limitations on their right to choose their partners and gain equal protection under the law.

Many professions have embraced this reality and have begun to change their demographics. Engineering and medicine, for example, have far outpaced lawyers in diversification efforts. Not only is ensuring access and equality the right thing to do, but slowly, our firms and corporations are understanding that such behavior is simply good business. Corporations have gone global in Silicon Valley and none can exist anymore thinking only of the U.S. market. They cannot afford to have homogenous staffs that do not reflect or fully understand the customers
they serve or their workforce. As we have seen with Wal-Mart's recent firing of 40 of its approximately 100 outside counsel for failing to meet diversity requirements, corporations are taking such concerns very seriously and those who do not will be left behind.

In addition, many Silicon Valley companies like Intel are raising the bar on law firms that want their business by setting diversity goals and demanding diversity on matters they are paying for. There are also several fledgling programs to bring more minority attorneys in house.

We have been asked to chair the Santa Clara County Bar Association's President's Blue Ribbon Commission on Diversity in the Legal Profession in Silicon Valley by bar President Christopher Arriola. Our commission, which holds its second meeting June 2\textsuperscript{nd} at the State Bar Diversity Summit in San Jose and will review the best practices of law offices in the region and explore solutions to the diversity challenges facing our profession. We must adapt or become irrelevant to our clients and the community at large.

The first step to any meaningful change is serious self-examination. The commission's work will, at a minimum, shed light on an issue that does not always get the attention it deserves because of the sometimes benign neglect. Our society is changing and innovating, and the legal profession must begin to move to meet the demographic, business and professional demands of the future.

\textbf{CARLOS MORENO} is an associate justice of the California Supreme Court. \textbf{BRUCE SEWELL} is senior vice president and general counsel of Intel in Santa Clara.

\textit{For a full list of members go to [www.sccba.com](http://www.sccba.com) and click on the President's Page. The Commission will meet at the State Bar Diversity Summit at the San Jose Marriott on June}
APPENDIX E

MEMBERS OF THE SUBCOMMITTEE ON HIRING AND RETENTION
SANTA CLARA COUNTY BAR ASSOCIATION
BLUE RIBBON COMMISSION ON DIVERSITY

Co-Chairs:

Gordon Davidson, Chairman, Fenwick & West LLP
Ed Moran, Chief Deputy City Attorney, City of San Jose

Members:

Hon. Robert Baines, Mediator and Arbitrator, JAMS
Michael Dillon, General Counsel, Sun Microsystems, Inc.
Kate Fritz, Managing Partner, Fenwick & West LLP
David Garrett, Corporate Counsel, Oracle USA, Inc.
Jennifer Hill, Associate, Fenwick & West LLP
Enrique Marinez, Partner, Ropers Majeski Kohn Bentley P.C.
James McManis, Managing Partner, McManis Faulkner & Morgan
Alida Rincon, Associate General Counsel, Commercial, eBay Inc.
Scott Taylor, General Counsel, Phoenix Technologies Ltd.
Andrew Vu, Legal Counsel, Sony Corporation of America
Joan Wakeley, Partner, Littler Mendelson P.C.
Charles Wilson, Associate, Gordon & Rees LLP

Law Clerk:

Cynthia Avitia, Student, Santa Clara University School of Law

Sub-Committees:

1. **Pipeline Issues:** Elementary and High School interest in the legal profession can be increased by programs such as High School mock trial teams and other law related education programs in the public schools that increase students contacts with attorneys, judges and other professionals.

   Co-Chairs: Margaret Russell, Professor, Santa Clara University Law School
   Christa Gannon, Executive Director, FLY Program
   Law Clerk: Gabriel Castillo, Golden Gate

2. **Hiring, Retention and Promotion:** Outreach, mentoring and promotion are all important concerns for any firm, company or government agency. Examine issues of Race, Ethnicity, Religion, Gender, Sexual Orientation and Disability in the profession.
Co-Chairs: Gordon K. Davidson, Firm Chairman, Fenwick & West LLP  
Ed Moran, San Jose City Attorney’s Office  
Law Clerk: Cindy Avitia, Santa Clara

3. **Glass Ceiling Issues:** Issues dealing with gender discrimination, hiring, retention and promotion of women and other minorities in the profession.
   
   Co-Chairs: Debra Zumwalt, General Counsel, Stanford University  
   Kathryn Meier, Managing Partner at Hoge Fenton Jones and Appel, LLP  
   Law Clerk: Kalila Spain, Santa Clara

4. **Job Fair:** Evaluate the best manner to implement diversity hiring and organize a job fair for the October 17th Diversity Conference.
   
   Co-Chairs: Dean Joseph Moless, Lincoln Law School  
   Tamara Lopez, Deputy County Counsel  
   Law Clerk: Erika Rivera, Santa Clara

**Research Law Clerk:** Ana Lai, Hastings College of the Law
President’s Blue Ribbon Commission on Diversity in the Legal Profession 2006

Pledge to Support Diversity in the Profession and Commission Recommendations

Corporations and Government Offices

I, __________________, Pledge on behalf of my law firm, ___________________, to support diversity in the legal profession and efforts to increase the pipeline of minority attorneys by striving to meet the guidelines and recommendations listed in the Santa Clara County Bar Association’s 2006 Diversity Commission Report. I recognize that diversity is a matter of good business and an obligation on individual attorneys and law firms that will benefit both the profession and public.

Specifically, I pledge to:

1. General Counsel Pledge to continue to support diversity as a good business decision with their client firms and request minority partners as contacts within outside firms.
2. Create and maintain a “Best Practices” policy for diversity in my office that will include plans for implementing the recommendations and a structure for the hiring, retention and promotion of attorneys of color, women, LGBT and those with disabilities.
3. Create both informal and formal networking and mentorship opportunities for new attorneys.
4. Encourage efforts of attorneys to participate in diversity training, programs and job fairs.
5. Encourage participation in school programs in K-12 education, college, as well as, law school to increase interest among minority students in the law.

Signature: ________________________       Date: __________________
President’s Blue Ribbon Commission on Diversity in the Legal Profession 2006

Pledge to Support Diversity in the Profession and Commission Recommendations

Law Firms

I, ___________________, Pledge on behalf of my law firm, ___________________, to support diversity in the legal profession and efforts to increase the pipeline of minority attorneys by striving to meet the guidelines and recommendations listed in the Santa Clara County Bar Association’s 2006 Diversity Commission Report. I recognize that diversity is a matter of good business and an obligation on individual attorneys and law firms that will benefit both the profession and public.

Specifically, I pledge to:

6. Law Firms sign a pledge to adopt a “Best Practices” policy for diversity in my office that will include plans for implementing the recommendations and a structure for the hiring, retention and promotion of attorneys of color, women, LGBT and those with disabilities.
7. Create both informal and formal networking and mentorship opportunities for new attorneys.
8. Encourage efforts of attorneys to participate in diversity training, programs and job fairs.
9. Encourage participation in school programs in K-12 education, college, as well, as law school to increase interest among minority students in the law.

Signature: ___________________________ Date: __________________