

Chapter 9

Minority Lawyers in the Legal Profession

Minority membership in the Oregon State Bar is significantly below the percentage of minorities in the general population of Oregon. The following statistics were provided by the affirmative action office of the Oregon State Bar and were current as of July 1993.

Table 9-1

Quantity and percentage of active members of the Oregon State Bar

Members	Number of active members of the bar	Percentage of Bar membership
Total number	9,653	100.00%
All minorities	257	2.66
African American	48	0.49
Asian/Pacific Islander	100	1.03
Hispanic/Latino	74	0.76
Native American	35	0.36

The following statistics are taken from the *Statistical Abstract of the United States 1992* 112th edition, and are based on figures compiled from the 1990 national census.

Table 9-2

Quantity and percentage of Oregon population in 1990

Population	Quantity of Oregon population	Percentage of Oregon population
Total population	2,842,000	100.00%
All minorities ¹⁸	266,000	9.35
African American	46,000	1.61
Asian/Pacific Islander	69,000	2.42
Hispanic/Latino ¹⁹	113,000	3.97
Native American	38,000	1.33
Caucasian/White	2,637,000	92.78

Tables 9-1 and 9-2 show that minorities are greatly underrepresented in the Oregon legal profession. Approximately 9.35 percent of the general Oregon population are minorities, but only 2.66 percent of the active members of the Oregon State Bar are minorities.

The task force believes that a bar that reflects the racial and ethnic makeup of society is essential. However, it is difficult to dramatically increase the number of minority attorneys in Oregon in the short term. As Professors Holley and Kleven noted in their article, *Minorities and the Legal Profession: Current Platitudes, Current Barriers*, 12 T. Marshall L Rev 299, 304 (1987),

“[H]igh school and college drop-out rates are disproportionately high for both Blacks and Hispanics. For our purposes, what the numbers mean is that much of the explanation for minority underrepresentation in law school and in the profession relates to factors *the current hierarchy will have difficulty impacting directly.*” (Footnote omitted; emphasis added.)

What is needed is a long-term plan to increase minority high school and college graduation rates, and *to enlarge the pool* of minority persons interested in a legal career.

All components of the Oregon legal system (including the Oregon State Bar, Oregon law schools and Oregon practicing attorneys) as well as Oregon public and private elementary and secondary schools must focus their efforts on this challenge and work

together to deal creatively with the problem. For example, the Oregon State Bar in partnership with Oregon public and private high schools can effectively implement a program targeting minority freshman high school students to inform them of future legal opportunities as well as the academic standards necessary to reach those goals. Although worthwhile efforts have been made to interest minority students in the legal profession, no statewide comprehensive effort has been made to target them at a crucial time in their educational development.

The task force notes two programs. One is the *I Have a Dream* program now in existence in Portland, and in other cities nationwide. Under that program, the sponsors encourage elementary school children to commit to going to college, promising assistance with college costs and giving ongoing assistance to the children through elementary school and high school. A second program, the YEEP program, is designed to keep at-risk young people out of gangs and into jobs. The Oregon Trial Lawyers Association is participating in this program.

As noted in Chapter 8, the percentage of minority law school applicants nationwide is much less than the percentage of minorities in the general population. This means that nationwide, law schools will continue to compete for a finite pool of minority students. As a result, still greater efforts are needed to expand the pool of minority persons interested in a legal career.

Minorities Practicing Law in Oregon

Findings

We turn to a discussion of the task force survey to consider the lot of Oregon minority attorneys. Question 3 asked the respondents to give their *opinion* concerning how minority lawyers are perceived and treated. Actual experience with minority lawyers was not required to answer this question. Respondents were asked to agree or disagree with the following statement: "Minority lawyers need better grades in law school to be hired."

Table 9-3

Respondents who agree that “minority lawyers need better grades in law school to be hired.”

Respondents	Percentage who agree
All respondents	22%
Nonminority lawyers	25
Minority lawyers	51
Prosecutors	8
Criminal defense attorneys	32

Question 3 also asked whether “minority lawyers have fewer opportunities for advancement.”

Table 9-4

Respondents who agree that “minority lawyers have fewer opportunities for advancement.”

Respondents	Percentage who agree
All respondents	37%
Nonminority lawyers	46
Minority lawyers	76
Prosecutors	20
Criminal defense attorneys	51
All lawyers	46

These numbers indicate that a significant percentage of all respondents believe that minority lawyers receive disparate treatment in their legal careers. A significant number of all respondents believe that minority lawyers find it harder to get jobs and to be promoted after they get a job. Question 3 also asked if minority lawyers lack mentors. The responses:

Table 9-5

Respondents who agree that minority lawyers lack mentors

Respondents	Percentage who agree
All respondents	48%
Nonminority lawyers	54
Minority lawyers	74
Prosecutors	44
Criminal defense attorneys	54
Judges	56
All lawyers	56

More than half of all lawyers agree that minority lawyers lack mentors. Over 74 percent of the minority lawyers have that opinion.

The task force also conducted a survey of some of the largest law firms in Portland and discovered that the percentage of minority attorneys in those law firms was 3.05 percent. Only one African American is a partner in any large Portland firm.

Legal scholars have identified a phenomenon that may partly explain why minority lawyers, once hired, have difficulty advancing. Professors Holley and Kleven noted the perception that affirmative action “cheapens” a law degree, and may “adversely affect the careers of minorities whether or not they were admitted under affirmative action programs.” *Minorities and the Legal Profession, supra*, 12 T. Marshall L Rev 299, 310–11 (1987). Some commentators have referred to this as “stigmatizing” minority lawyers. A minority lawyer, once hired, may be stigmatized as an affirmative action “hiree” whether or not that lawyer was in fact hired in an affirmative action program. This stigma may result in more difficulties in career advancement.

The task force also notes that there are other difficulties involved in being a racial minority in a predominantly white profession. A law review article addressed a relevant consideration when discussing the career difficulties of minority lawyers:

“When faced with the choice of assimilation with a white-dominated, establishment firm or separatism with a ‘hardy band of brothers,’...a minority lawyer may be strongly motivated to go where he will not risk rejection by mere virtue of being different and will not have to cope with the daily pressure of being *the* Hispanic in the office.” *The Underrepresentation of Hispanic Attorneys in Corporate Law Firms*, 39 Stan L Rev 1403, 1414 (1987).

A comment by the lone minority partner at a large Portland firm provides some support for this observation. He said that his firm had made major efforts to hire three African-American associates during the last three years, only to lose them to offers from more racially diverse metropolitan areas.

Few minority lawyers occupy positions of responsibility in the Oregon State Bar or in bar-related organizations. The task force is convinced that it is as difficult to *be* a minority attorney in Oregon as it is to *become* one. Major efforts by the legal community must be mounted to support minority lawyers that successfully clear the difficult hurdles of law school and bar passage. Although "self-help" among minorities is admirable, it is not enough. Prestigious components of the legal community, including law firms and Oregon law schools, have made some admirable efforts, but they have not, to date, used the pressure of their prestige to ensure that minority attorneys are represented *at all levels* of the profession. The power and prestige of these groups should focus on the need to ensure that minority attorneys gain a meaningful place in the practice of law in Oregon.

Recommendations

Recommendation Number 9-1

In order to encourage more minority Oregonians to consider legal careers, the Oregon State Bar and the legal profession must assume lead roles. Grade school and high school students should be exposed to persons in a legal career. Lawyers should participate in a variety of programs to teach minority youth about the legal system.

The Oregon State Bar should initiate a partnership with Oregon public and private schools to provide information to minority high school students, to outline career opportunities in the legal profession and encourage academic achievement necessary to reach such goals.

Estimated date for implementation to be completed: July 1, 1995.

Estimated cost of implementation: Minimal.

Suggestions for implementation: The Oregon State Bar should develop an ongoing program using the committee structure commonly utilized by the bar.

Recommendation Number 9-2

Law schools should be encouraged to cooperate in Recommendation 4-1 by encouraging law students and faculty to commit themselves to a “pro bono” requirement directed toward encouraging minority youth to consider a legal career by participating in the high school program as guest speakers and mentors.

Estimated date for implementation to be completed: September 1, 1995.

Estimated cost of implementation: Modest.

Suggestions for implementation: Develop a program with local elementary and high schools for law students and faculty to work with interested minority students. Include in law school catalog details about the program. The program could be administered by law students.

Recommendation Number 9-3

Law firms, state agencies and other employers of lawyers should evaluate their hiring practices to avoid bias in the hiring process. The Oregon State Bar should have a program to assist law firms, including education in “how to insure that your hiring practices are free of racial and ethnic bias.”

Managing partners in law firms and representatives from the Oregon law schools should work in partnership with the Oregon State Bar to focus on the need for immediate measurable gains in minority participation in private practice. A high profile effort in this area is necessary to dissolve the “status quo” that has prevented meaningful minority participation in big firm practice. Success in this area is the first step to ensuring that minorities attain meaningful participation at all levels of the legal profession.

Estimated date for implementation to be completed: July 1, 1995.

Estimated cost of implementation: Less than \$2,500.

Recommendation Number 9-4

The Oregon State Bar, and other bar-related organizations, should implement plans to involve more minority lawyers in positions of responsibility. Affirmative action plans for such organizations are as relevant, as important and as needed as affirmative action plans for

employers (such as law firms and the Judicial Department). A high profile effort in this area is necessary to change the status quo.

Estimated date for implementation to be completed: January 1, 1995.

Estimated cost of implementation: Minimal.