



## **Executive Summary**

# **THE STATUS OF MINORITY ATTORNEYS IN NEW MEXICO - AN UPDATE**

**1999-2009**

## **An Update on the Status of Minorities in the Legal Profession in New Mexico**

The extensive commitment of the State Bar of New Mexico to the mission of this Committee has produced more than two decades of credible information on the status of minorities in the legal profession. That information now serves as a lens that allows us to examine and gauge the growth, value and future of our diversity as a profession with greater resolution and understanding.

The Committee on Diversity is the successor in interest to the Standing Committee on Minorities in the Profession and to the original Task Force on Minorities, which was created by the Board of Bar Commissioners in 1987. One of the primary and consistent responsibilities of these working groups has been to study and prepare a comprehensive report on the status of minority lawyers in New Mexico, to identify any barriers that may impede the full integration of minorities into the practice of the profession and to recommend what the State Bar of New Mexico could be doing to assist minority lawyers in their practice. This Report is the third detailed study published by these committees since 1990.

This third decennial report addresses a variety of subjects ranging from narrowing disparities in bar examination passage rates to the impact of the judicial selection process on the diversity of our courts. As described throughout this Report, when current data is compared with the Committee's prior studies, important improvements are demonstrated on several diversity fronts while less success is seen on others. For example, current survey data reflects significant reductions in reported instances of demeaning comments or actions by opposing counsel based on race or ethnicity when compared to those reported in the 1999 Report. On the other hand, observed and perceived instances of gender bias by opposing counsel have declined only marginally. At the same time, it is important to recognize that perspectives on these and many other significant issues are markedly different among diverse members of the bar.

In the end, this Report will assist each of us in defining the breadth, richness and volatility of diversity in our profession. Hopefully, the long look back will also reinforce the enduring value of acceptance, tolerance and respect for the dignity of others, while prompting all lawyers and judges to be always mindful of the continuing challenges faced by diverse practitioners who find themselves outside the mainstream of our profession.

Thus, the issues addressed in this Report are as follows:

1. What is the demographic distribution and profile of the membership of the State Bar of New Mexico? What additional information should the State Bar collect?
2. To what extent have reported observations and perspectives of New Mexico lawyers on racial and ethnic fairness in the practice of the profession changed since the 1999 Report?

3. Are the activities directed towards recruitment and retention of minority law students in New Mexico adequate and effective? What action should be taken by the State Bar to complement these efforts?
4. What is the percentage of full-time faculty positions held by minorities at the University of New Mexico School of Law? What steps should be taken by the State Bar to encourage the appointment and retention of minority faculty in the future?
5. In reviewing bar examination passage rates over the last ten years, do disparities continue to exist between minority and non-minority applicants? What steps should be taken by the State Bar to support and collaborate with the New Mexico Board of Bar Examiners to identify and address disparities?
6. What is the distribution of minority lawyers among the various categories of public and private sector law practitioners? Do disparities exist by sector, and, if so, what role should the State Bar play in addressing this issue?
7. Have minority lawyers experienced disciplinary actions at disproportionate rates? If so, why, and what steps should be taken by the State Bar to address these circumstances?
8. Are minority lawyers actively and meaningfully involved in the activities and leadership of the State Bar of New Mexico? What steps are being taken to promote active and meaningful participation of minority attorneys in the State Bar?
9. What impact has the constitutional requirement on the judicial selection process had upon minority lawyers in securing appointment and/or election to judicial positions?

For purposes of this report, “minorities” are defined as females, ethnic/racial minorities, Lesbian, Gay, Bisexual and Transgender (LGBT) members and those who are disabled. Data is segmented by the various minority groups throughout the report. Given the comprehensive segmentation of the data presented, it is important for the reader to use the text as a guide when reading the graphs and tables throughout the report.

## **Survey Methodology**

As part of the 2009 study, the Committee on Diversity in the Legal Profession commissioned Research & Polling, Inc. to conduct a survey of active Bar members. The survey was conducted via the Internet and by mail. Email invitations were sent to all active Bar members who have an email address. The email contained a link to an external website where the survey could be completed online. A paper survey was sent by mail to those members who did not have an email listed in the member database.

Each of the 5,322 active in-state members were invited to participate in the survey which included 4,718 email invitations and 604 paper surveys sent by mail. A total of 1,318 completed surveys were returned which included 1,167 completed Internet surveys and 151 completed standard mail surveys. The 1,318 returned surveys represents a response rate of 25%. All individual responses to the survey were kept confidential and anonymous. Surveys were completed between June 8th and July 3rd, 2009.

Some of the questions in the survey were taken from a similar study conducted in 1998. When possible, comparisons are made between the results of the 1998 study and the results of the current study. Due to limitations in the sampling methodology used in the 1998 survey, direct comparisons are only made at the subgroup level (race/ethnicity and gender) rather than making comparisons at the total sample level.

The overall demographics of those who responded to the 2009 survey closely match those of the membership of the State Bar of New Mexico. As shown above, 67% of the survey respondents are White non-Hispanics, 22% are Hispanic, while 6% are Other non-Hispanic minorities. Another 5% did not specify their race/ethnicity. Data supplied by the Bar shows that 77% of active in-state members are White Non-Hispanics, 18% are Hispanic, and 5% are Other non-Hispanic minorities.

The overall age demographics of those who completed the survey are almost identical to those of the State Bar membership. For gender, 56% of those who completed the survey are male and 43% are female, which is similar to overall Bar membership (62% male/38% female).

## **Demographic Data on Minority Attorneys in New Mexico**

From data provided by the State Bar of New Mexico Between 1988 and 1998 the percentage of in-state racial/ethnic minority attorneys increased by four percentage points from 18% to 22%. However, over the past 11 years, there has been very little change in the percentage of racial/ethnic minorities practicing in New Mexico. Currently, minorities make up 23% of all active in-state members, nearly identical to that observed in 1998.

Segmenting the data further it is observed that Hispanics currently make up 18% of the Bar, while 5% of the members are Other minority members. Interestingly, the percentage of members who are non-Hispanic minorities has not changed over the past 20 years, while Hispanic membership has grown by five percentage points. It should be noted that 3% of Bar membership is comprised of American Indian members, while 1% are Black/African Americans and 1% are Asian.

While the percentage of racial/ethnic minority membership has changed very little over the past 10 years, women continue to increase their membership levels in the Bar. Currently, nearly two-in-five Bar members (38%) are female up from 32% observed in 1998 and 28% observed in 1989.

Data furnished by the State Bar of New Mexico reveals that approximately two-thirds of Bar members are either solo practitioners (37%) or work for a law firm (31%), while 25% work for a government agency and 2% work for a corporation.

Looking further into the composition of the various practice settings, 68% of the solo practitioners are male, while 32% are female. Law firms have a very similar profile as 66% of the attorneys are male and 34% female. However, the percentage of female attorneys in the government sector (49%) is nearly equal to that of men (51%).

## **The Perspectives of New Mexico Attorneys on Racial and Ethnic Fairness in the Legal System**

This section of the report discusses the key survey findings, with breakouts of important population groups. Also reported are comparisons to a study conducted for the 1999 Task Force. In the 1999 study, 152 respondents completed the questionnaire, 40% of whom were Hispanic, more than twice the actual percentage of Hispanics in the Bar at that time. Because of this, comparisons cannot be made among the total samples; however, it is possible to show comparisons between White non-Hispanic members and Hispanic members when looking at the results from the 1999 and 2009 studies.

Bar members were asked a variety of questions pertaining to career advancement in the legal profession. Approximately one-fifth (18%) of all respondents do believe that non-ethnic minority attorneys attain partnership status faster than do ethnic minority attorneys. One-third of Hispanics and 35% of other minority respondents believe that non-minority members attain partnership faster compared to just 11% of White non-Hispanic respondents.

Looking at gender, it is observed that 36% of respondents believe that male attorneys attain partnership status faster than female attorneys. Women are nearly three times as likely as men to believe that male attorneys attain partnership faster than female attorneys (56% compared to 21%, respectively).

When comparing the results to those observed a decade ago, it is observed that both White and Hispanic members are now more apt to believe that non-ethnic minorities achieve partnership faster than minorities do. This is interesting given that for other questions in the survey, perceptions have actually improved over the past decade.

One-in-five of the survey respondents believe their professional opportunities as an attorney have been limited in the past five years because of discrimination. This feeling is more prevalent among Hispanics (27%) and other ethnic/racial minorities (29%) compared to White non-minorities (17%). Women (31%) are also more inclined than men (13%) to believe their professional opportunities have been limited because of discrimination. It should also be noted that those who have a disability (39%) are twice as likely as those who are not disabled (19%) to believe their opportunities were limited because of discrimination.

Perhaps the most striking finding is that nearly half (49%) of LGBT members say their professional opportunities as an attorney have been limited because of perceived discrimination.

Very few of the respondents feel they have received preferential treatment based on their race/ethnicity (5%), gender (7%), sexual orientation (1%), a disability (>1%), or age (6%). Overall there are only slight differences in perception among the various demographic groups. Hispanics and other minorities (8%) are twice as likely as White respondents to say they have received preferential treatment.

Bar members were asked to evaluate the job the State Bar of New Mexico is doing in addressing issues relating to various population groups. Half of the survey respondents believe the State Bar is doing either a good (35%) or excellent (15%) job in addressing issues relating to racial and ethnic minority members, while 13% give a fair rating and just 3% rate the State Bar poorly. One-in-three respondents have no opinion as to how the State Bar is doing when it comes to addressing issues relating to racial and ethnic minority members. It should be noted that while there are no significant differences between different racial/ethnic groups in terms of the percentage of those giving good or excellent ratings, White non-minorities are far more inclined than others to have no opinion. Hispanics and other minority respondents are also more inclined than their White colleagues to give the State Bar fair or poor ratings.

Approximately half (48%) of the survey respondents also believe the State Bar is doing either a good (34%) or excellent (14%) job in addressing issues relating to female members, while 15% give a fair rating and 6% rate the State Bar poorly. Thirty-one percent of respondents have no opinion of how the State Bar is doing when it comes to addressing issues relating to female members.

Members were asked if they feel ethnic/racial minority clients receive less favorable treatment in the judicial system when compared to non-minority clients. 36% of respondents do believe that ethnic/racial minority clients receive less favorable treatment in the judicial system. Overall, Hispanics (52%) and other minorities (53%) are more likely than White members (28%) to believe minority clients receive less favorable treatment in the judicial system. Furthermore, females (43%) are more likely than males (30%) to believe minority clients receive less favorable treatment.

When compared to the 1999 study it is observed that Hispanics are now less likely to believe that minority clients receive less favorable treatment in the judicial system (68% and 52%, respectively). Interestingly, 28% of White non-Hispanic members currently believe that minorities receive less favorable treatment, which is a seven percentage point increase from that observed in 1999.

## Focus Group Research

This focus group research project was commissioned by the State Bar of New Mexico Committee on Diversity in the Legal Profession, as part of its 2009 diversity research which also includes a quantitative survey among active State Bar members. The three focus groups were conducted in order to capture more in depth observations from minority attorneys regarding their experience practicing law in New Mexico. The minority populations included in the research were Native American, African American, and Lesbian/Gay/Bisexual/Transgender (LGBT) Bar members.

The focus groups were conducted as follows:

African American attorneys	Wednesday July 22	11:00 a.m. to 1:00 p.m.
LGBT attorneys	Thursday July 23	11:00 a.m. to 1:00 p.m.
Native American attorneys	Thursday July 23	5:30 p.m. to 7:30 p.m.

Marie Mound, owner of Insight Out, worked with staff of Research & Polling, Inc. in developing the discussion outline. She moderated the focus groups and wrote this summary of findings.

In most focus group research, the identity of the participants is protected. This practice made writing this report challenging because of the unique profiles and personal histories of the attorneys who participated. But the anonymity of the participants has been preserved, sometimes at the expense of providing specific details that were offered by participants.

The further one looks back, the greater the case can be made for progress in race relations (prejudice) within the New Mexico legal profession. Progress in people's receptivity to LGBT attorneys practicing in the New Mexico legal profession is less evident, yet pockets of openness and respect were certainly reported.

Participants in all three focus groups acknowledged a decrease in the level of prejudicial attitudes by generation. Younger attorneys recognized that they have had it easier than those that "blazed the trails" before them, and LGBT attorneys felt younger attorneys were finding it easier to 'come out' than older attorneys. The contrast in views among older Blacks and Native Americans and those much younger was stark. Does this constitute progress?

Participants felt that it did. Is there more to be accomplished? According to participants, more progress is warranted.

## The University of New Mexico School of Law

UNM's dedication to offering opportunities to minority law school students is evident when looking at first year enrollment numbers over the past two decades. Between 1987 and 1997 minority enrollment for first year law students at UNM Law School was more than twice that of

the national average for ABA accredited law schools across the country (41% and 17%, respectively). It should be noted that UNM Law School was ranked number one for Hispanics for the third consecutive year by Hispanic Business magazine in its report on the top ten law schools and was ranked number four by U.S. News for diversity.

Ten years later the results are similar, as 40% of first year students at UNM Law School between 2000 and 2008 were minorities, compared to 22% minority enrollment for first year students at ABA schools across the country.

At the Law School, the percentage of first year minority students fluctuates a bit on a year-to-year basis, ranging from 34% in 2001-2002, to a high of 50% in the 2006-2007 entering class. It should be noted that over the past three years, first year minority enrollment at the Law School has averaged 46% compared to 37% over the five previous entering classes. In comparison, the national average has been quite stable over the past decade.

Looking at the total enrollment at UNM Law School when compared to the national average of ABA accredited schools nationwide, it is again observed that the Law School has a much higher ratio of minority students compared to the national average. Between 2000 and 2008 minorities constituted 38% of the Law School compared to 21% at the national level. Between 1994 and 1999 the total enrollment of minority students at the Law School was slightly higher than that observed between 2000-2008 (41% and 38%, respectively).

Total minority enrollment at the Law School has fluctuated between 34% in the 2002-2003 school year to 46% in 2006-2007 and 2008-2009. In comparison, minority enrollment at ABA accredited schools nationwide has been extremely consistent at 21% or 22% in each school year since 2000-2001.

Enrollment of minority males has risen from 14% in the early part of the decade to 21% in each of the past three years. Enrollment among minority females and white males has remained relatively stable over the past 10 years, while there has been a drop among white females from a high of 40% between 2002-2004, to 28% over the past two years. As previously noted, enrollment among women at the Law School was particularly high in the first half of the decade.

UNM Law School's commitment to diversity is clearly illustrated when looking at the demographic makeup of the faculty in the 2008-2009 school year. The 35 full-time/tenured Law School professors, 16 or 46% are ethnic/racial minorities. It should also be noted that 55% of the faculty is female and 45% male. While UNM Law School has been a leader in minority hiring over the past few decades, there has really been a dramatic change over the past 10 years. In 1989, 21% of Law School faculty were minorities, which rose to 26% at the time of the 1999 Task Force Study. However, since 1999, the percentage of minority faculty has nearly doubled to 46%.



## **The New Mexico Bar Examination – History, Progress, and an Update on New Initiatives**

The Task Force on Minorities in the Legal Profession detailed the history of the New Mexico Bar Examination in its initial report, titled “The Status of Minority Attorneys in New Mexico (January 1990)(“1990 Task Force Report”) and its update to that report, titled “The Status of Minority Attorneys in New Mexico—An Update (1990-1999)” (“1999 Update Report

Looking at New Mexico Bar Exam passage rates over the past four decades dramatic improvements are observed among Hispanic applicants. Between 1970 and 1978 just 39% of Hispanics taking the New Mexico Bar Exam passed compared to a 76% passage rate among non-Hispanics, a spread of 37%.

The 1980s saw an improvement in passage rates among Hispanics rising to an average of 61% compared to 39% just a decade earlier. However, Hispanic applicants still lagged far behind non-Hispanics who had a passage rate of 81% during the 1980s.

In 1995, the score for bar passage was lowered from 133 to 130. This resulted in another large improvement in passage rates among Hispanic students. Between 1996 and 1999 passage rates among Hispanics jumped from 61% observed in the 1980s to a high of 83%. In fact, between 1996 and 1999, overall passage rates among Hispanics nearly mirrored that of non-Hispanics (83% and 88%, respectively).

The past decade saw a drop in passage rates among both Hispanic and non-Hispanic students. Between 2000 and 2008, passage rates among Hispanics averaged 77% compared to an average of 84% among non-Hispanics.

It is important to point out that in the 1989 and 1999 Task Force reports, comparisons were only made between Hispanics and non-Hispanics. The non-Hispanic classification included both white applicants and non-Hispanic minorities. This simple classification of Hispanics versus non-Hispanics can be misleading given that minority non-Hispanics have lower overall passage rates than do either Hispanics and White applicants in both their first attempt and repeat attempts.

Looking at the differences between racial/ethnic groups between 2000 and 2008, it is observed that 91% of White first time applicants passed the exam, compared to 82% of Hispanic first timers and 77% of other minority applicants.

There is a significant drop-off in passage rates for repeat applicants. Among Hispanics, just over half (54%) of the repeat applicants passed compared to 82% of first-time applicants, a difference of 28%. Similarly, passage rates among Other minority groups fell from 77% among first-time applicants to 39% of those repeating the exam between 2000 and 2008.

From 1996 to 2008, Native American applicants (both first-time and repeat) have shown consistently lower passage rates when compared to others.

Finally, the Board emphasizes that, in many instances, the number of minority applicants taking the Bar Examination from particular racial groups, such as African American, Native American, and Asian applicants, is very small, thereby perhaps limiting the meaning of the statistical results. For example, there may be only one African-American applicant taking the Bar Examination either as a first time or repeat taker. In such an instance, the African American passage rate for that particular exam would be reflected as either 100% pass or 100% fail.

In the spring of 2008, the Board of Bar Examiners discussed the development of strategies to improve Bar Examination passage rates among minority and repeat applicants. In August 2008, the Board unanimously approved and moved forward with implementation of new initiatives under a written Strategic Plan for Bar Exam Passage (“Strategic Plan”). The Strategic Plan states that:

In response to continuing disparities in Bar Exam passage rates, particularly among African American, Native American, and repeater applicants, the Board will pursue the following three specific goals intended to improve the passage rates for such applicants:

Goal 1: Bar Exam Preparation Initiative

Goal 2: Bar Exam Passage Mentoring Program

Goal 3: Information Access Project

The Board of Examiners identified a number of proposed activities under each of these goals to start the process. The entire Board overwhelmingly supports these goals and activities.

## **Career Preferences and Employment Opportunities of Minority Attorneys**

It should be noted that the study of this area was narrow due to the lack of data available, since questions on this topic were not included in this Update. Information on career patterns for this update on the status of minority attorneys in New Mexico is drawn for the most part from annual Salary Summary Reports prepared by University of New Mexico Law School for NALP, The Association for Legal Career Professionals. It tracks employment status of students at, and six months after, graduation. The original Report and the first Update both used survey instruments directed at a wide pool of New Mexico lawyers that asked specific questions about minority and women lawyers that differ from the more general questions in the NALP instrument. In addition, earlier reports surveyed some employers as well as lawyers who were graduates of various law schools, while the NALP surveys are limited to UNM graduates. For most of the past decade, more non-UNM graduates have taken the New Mexico Bar Examination than have UNM graduates. It would be hard to make firm assessments about the career status of lawyers in New

Mexico like those made in the earlier reports without a survey regimen similar to those used in the past.

According to the most recent NALP survey for the nation as a whole, of the 41,833 graduates of the Class of 2008, 47% were women and almost 23% were minority graduates. The median starting salary for women graduates was \$67,500 in comparison with \$75,000 for men (continuing a pattern of lower salaries for women), and with the median for minority graduates higher than that for non-minority graduates. In 2008, the median starting salary was \$85,000 for minority graduates and \$70,000 for non-minority graduates. National salaries for attorneys are always considerably higher than those for New Mexico lawyers.

This 2009 Update reflects economic conditions through 2008, a period of stability and growth in employment for attorneys in the United States, in contrast with an unprecedented downturn in employment prospects facing lawyers starting in 2008 and continuing into 2009. Observations about career patterns for the past may not hold in the current economy where there has been such severe dislocation and uncertainty in lawyer employment.

## **Disciplinary Sanctions and Minority Attorneys**

Both the 1990 and 1999 Task Force reports found that Hispanics received a disproportionate rate of sanctions when compared to their overall membership numbers in the State Bar of New Mexico. The Task Force concluded that the disparity was explained at least in part by the fact that solo-practitioners and those from small firms were far more likely than others to receive sanctions and that Hispanics were more likely to work as a solo practitioner or in a small firm.

The trends observed in the 1990 and 1999 studies hold true when looking at the disciplinary actions between 2000 and 2007. As shown above, between 2000 and 2007, Hispanics received 27% of the major sanctions compared to 21% observed in the period between 1988 and 1997. Holding all things equal, one would expect such an increase given that Hispanics now constitute a higher percentage of overall bar members than was observed in previous decades.

Unfortunately, there is no hard data in terms of practice setting among those disciplined between 2000 and 2007. This is due to the fact that the forms do not require attorneys to report their practice setting when they received a disciplinary action. While an assumption could be made that that little has changed in that solo-practitioners and those from small practices are more likely to received disciplinary actions, it cannot be verified by the data available.

Hispanics have received a disproportionate number of sanctions based on their Bar membership levels. Hispanics received 27% of the sanctions imposed between 2000 and 2007, yet only 18% of the Bar is comprised of Hispanic members. Other minority groups have received sanctions at a level that is consistent with their membership numbers, while White non-Hispanic members have received fewer sanctions relative to their membership level. As previously noted Hispanics received 27% of all major sanctions, while white attorneys received 59% of all sanctions. It is

also interesting to note that male attorneys received 82% of the sanctions issued while female attorneys received just 18% of the sanctions. Although women make up 37% of bar membership, they only account for 18% of the major sanctions imposed.

## **Mentorships/Participation by Minorities in Leadership Roles and the State Bar**

Approximately three-in-five survey respondents say they have had a mentor during their law career, either sometime in the past (48%) or presently (11%). The only significant finding when looking at the various demographic groups is that members who have a disability are less inclined than those who do not have a disability to say they have/had a mentor (45% and 60%, respectively).

It should also be noted that older attorneys are less apt than younger attorneys to have, or have had a mentor. The primary reasons for not having a mentor include not having any mentors/programs available (34%), never having thought about it (34%), not having the need/interest (29%), and not being aware of a mentorship program (22%).

Nearly half (48%) of survey respondents say they have been a mentor for another attorney. Forty-nine percent of both Hispanic and White non-Hispanics say they have been a mentor compared to 38% of other minority attorneys.

Over two-fifths (45%) of the survey respondents say they are either currently in a leadership role within the Bar or have taken a leadership position in the past. Being a CLE presenter is the most common role taken (32%), while 7% have served in the NM Bar Association, 6% served in the American Bar Association, and 4% served in the Albuquerque Bar. No significant differences are found in leadership participation between Hispanics and other minority members when compared to White non-Hispanics. Men (48%) are somewhat more inclined than women (41%) to have participated in a leadership role.

Though slightly more than half of the attorneys have not participated in leadership positions, race, gender, or cultural barriers do not appear to play a major role for the lack of involvement. However, Hispanics (8%) and other minority members (15%) are more apt than White non-Hispanic members (4%) to say they have experienced barriers. Women (8%) are also twice as likely as men to say there are barriers (4%).

## **Minorities in the Judiciary**

As of this writing in 2009, the New Mexico Judiciary is comprised of 166 lawyer judges. This does not include magistrate and probate judges who are not required to have had the benefit of law school. Of the 166 judges, 63 or 38 percent are minorities. Considering that the overall minority attorney population in the State of New Mexico is at 23 percent, this indicates a substantial presence of minority representation in the judiciary.

In 1990, minorities represented 27 percent of the judiciary. In 1999, that number was 26 percent. As the New Mexico population is approximately 45 percent minority; it appears the judicial branch is more in balance with the overall population than is the lawyer population.

Between 1998 and 2008, the New Mexico judiciary saw the appointment of 100 judges to Bernalillo County Metro Court, the 13 Judicial Districts, the Court of Appeals and the Supreme Court. The appointees were recommended to the Governor from 90 Judicial Nominating Commissions (some commissions appointed more than one position).

A total of 920 lawyers and judges made application to the JNCs for these 100 positions. Of the 920, 596 (65%) were men and 324 (35%) were women; 228 (25%) of the 920 were minority applicants, both male and female.

Of the 228 minority applicants, 100 (44%) were recommended to the Governor for appointment. Of the 100, 40 were appointed to judicial positions. Of the 100 appointments, 70 were male and 30 were female. Of the 40 minority appointments, 23 were male and 17 were female.

The first study of minorities in the profession described the historical diversity of the judiciary in New Mexico and considered the potential impact of the 1988 Judicial Reform Amendment upon minorities seeking appointment to judicial positions. A brief summary of that discussion provides an appropriate context for updating the impact of the Judicial Reform Amendment on the diversity of the Judiciary in New Mexico over the last ten years.

For many decades prior to the 1988 Judicial Reform Amendment, minority attorneys had been highly successful in obtaining appointments to judicial positions or in being elected to judicial office in partisan elections. By 1988, of the 81 justices and judges then comprising the New Mexico Supreme Court, Court of Appeals, District Court and Bernalillo County Metropolitan Court, 22 or 27% were of minority descent. At that time, minorities represented only about 17% of the State Bar of New Mexico. Under the electoral system, minority attorneys were very well represented in the State's judiciary.

As the original Task Force anticipated in 1990, the one time partisan election component of the Judicial Selection Amendment has been an advantageous feature that has been effectively used by minority attorneys to maintain and increase their traditional role in the State's judiciary. The present Task Force has every reason to believe that minority attorneys will continue to benefit in the years ahead from this important aspect of the State's judicial selection process.

## **Recommendations of the Committee on Diversity in the Legal Profession**

The Committee requests that the following recommendations be considered by the Board of Bar Commissioners of the State Bar of New Mexico in addressing the issues described in this Report:

1. To better understand the demographics of minorities in the legal profession and increase awareness by the legal profession of the issues and challenges faced by traditional and non-traditional minority groups, the State Bar should request and maintain statistical demographic information on practice type, length of practice, ethnic/racial identity, sexual orientation/gender identity, disability and enrolled tribal membership, utilizing the annual dues form. The Bar should also recommend that the Board of Bar Examiners, the Disciplinary Board, MCLE and CLE, Inc., collect and maintain comprehensive statistical demographic information on applicants seeking admission to the Bar, lawyers who are subject to disciplinary actions or who are sanctioned for failure to meet MCLE requirements, and lawyers who participate as instructors and presenters in CLE programs.
2. The State Bar should reach out to and collaborate with the state's minority bar associations to promote increased and equitable minority participation and leadership in State Bar sections, committees, divisions, the Board of Bar Commissioners, and its public service projects and programs, including but not limited to those introducing the legal profession to high school students. The State Bar should also take appropriate steps to increase and ensure that lawyers serving as presenters, instructors and moderators for its CLE programs reflect the diversity within and desired by our State Bar
3. The State Bar should confer and collaborate with the UNM School of Law to understand why minority law graduates are leaving the state to practice law in order for the State Bar and Law School to cooperate in developing approaches to encourage minority law graduates to practice law in New Mexico and to encourage continuation of the Law School's excellent history of appointing minority faculty.
4. The State Bar should request the support of the New Mexico Supreme Court for developing and institutionalizing a mentor program for new or recent admittees to the State Bar and collaborate with the UNM School of Law to establish a mentor program as an adjunct to its curriculum.
5. The State Bar should encourage law firms throughout New Mexico to increase the diversity of their employment applicant pools and enhance career advancement opportunities for minorities and women.
6. The survey results indicate that only 18% of LGBT members believe the State Bar is doing a good or excellent job in addressing issues that relate to them while 24% rate the State Bar as fair and 31% give a poor or very poor rating. The State Bar should reach out to LGBT lawyers and offer workshops and focus groups to determine how the State Bar can better serve the interests of LGBT members.
7. Since there is the Indian Law Section, Navajo Bar Association and the New Mexico Indian Bar Association in the state, the State Bar should reach out to these groups and offer workshops and focus groups to determine how the State Bar can better serve the interests of Native American attorneys who practice law, including but not limited to

Indian law, and to learn about the differences and similarities of the section and associations.

8. The survey results suggest there is a high incidence of female attorneys experiencing demeaning comments or actions and the work of female attorneys being judged differently than the work of male peers. All of the focus groups revealed the female quandary – whether they were being demeaned or receiving unprofessional behavior because of their minority status or for being female. The State Bar’s Committee on Women in the Legal Profession and the New Mexico Women’s Bar Association should be invited to collaborate with the State Bar in addressing these issues and possibly cosponsoring professionalism programs to increase gender bias awareness and reduce discriminatory words or actions in the practice of our profession.
9. The survey results indicate there is a significant perception among minority lawyers that ethnic/racial minority clients receive less favorable treatment in the judicial system compared to non-minority clients. The State Bar should encourage the New Mexico Supreme Court and the Administrative Office of the Courts to collect information on litigant gender, race and ethnicity and case outcome (guilt/innocence, probation/incarceration, and length of sentence in criminal cases, and at a minimum when a judgment is entered on the merits in a general civil case whether it is rendered by a judge or a jury and which party prevailed) so that the courts, the bar, and the public can know whether minority group members receive equal justice from the courts.
10. The State Bar should support the Board of Bar Examiner’s recommendations outlined in the Bar Examination section of the report and specifically, continue to collaborate with the BBE, along with the minority bar associations and other interested entities, through periodic joint forums, surveys, and other meetings on finding additional effective ways to improve Bar Exam passage among minorities and repeat takers of the exam, and to encourage minority bar associations and other interested entities to increase affordable and equitable access to Bar Exam preparation and mentoring programs.
11. As part of the State Bar’s history project and to promote awareness of diversity efforts over the past half-century, the State Bar should encourage the minority bar associations to develop a history of their respective organizations, which would be incorporated into the State Bar history, and enlist the assistance of the Senior Lawyers Division, which is developing the oral history project, to assist the minority bar associations.
12. The State Bar should promote awareness of diversity issues by hosting forums or workshops to educate bar members on diversity and sensitivity issues, address topics of interest to various minority bar associations, and explore ways to increase awareness of and participation in mentoring opportunities.
13. In the next State Bar Compensation Survey, questions on practice type, career preferences and satisfaction and employment opportunities of minorities should be included.
14. The Board of Bar Commissioners should be provided with a periodic report of the diversity of sections, committees and divisions, and the participation of minorities, women and LGBT lawyers serving as presenters, instructors and moderators for CLE programs sponsored by the various sections, committees and divisions.

15. The State Bar should put together programs to encourage interest in the judiciary and how to successfully apply for appointment or run for election to the Bench.
16. The State Bar should collaborate with and encourage the Disciplinary Board to collect and maintain data on the practice area of attorneys when they receive a disciplinary action and obtain data from the State Bar on firm size, so that the data can be applied to disciplinary statistics.
17. The State Bar should encourage and recruit minority participation on the Committee on Diversity. Additionally, the State Bar should task the Committee on Diversity with monitoring the implementation of these recommendations, including but not limited to producing an annual report to the Board of Bar Commissioners, minority bar associations and the State Bar membership on the status of such implementation, and to assist the committee in producing further periodic updates on the status of minorities in the profession.