VII.

RESEARCH FINDINGS
A. Law School Recruitment Of Minority Students And Faculty: Introduction

The Task Force first addressed the issues of law school recruitment of minority students and faculty and then undertook an historical review of the New Mexico Bar Examination with respect to minority applicants. A subcommittee gathered and analyzed the available data on these subjects, and its findings and recommendations are reported in this section. The subcommittee report was adopted by the Task Force and is here incorporated as a portion of the Task Force Report.

The subcommittee report is organized by subject area. The first part concerns law school recruitment, admissions and retention of minority law students. The second part addresses the recruitment and hiring of minority lawyers for law school faculties. The third part presents an historical review of the New Mexico Bar Examination with respect to minority applicants.

Law School Admissions, Recruitment, Retention And Financial Aid For Minority Students

Those interested in becoming lawyers in New Mexico must graduate from one of the 175 American Bar Association (ABA) accredited law schools before they can sit for the New Mexico Bar Examination. The only law school in the State of New Mexico is the University of New Mexico School of Law, established in 1947. The School has been accredited by the ABA since 1948, and it has also been accepted as a member of the Association of American Law Schools (AALS), an Association with membership requirements. The UNM School of Law is reviewed every seven years by the accrediting committees of the ABA and the AALS in order to retain its accreditation.

A. Admissions

Although the UNM School of Law supplies fewer than one-half of the new lawyers admitted to the New Mexico State Bar each year, the UNM School of Law is the greatest "feeder" school for New Mexico lawyers. It has graduated approximately 100 Bar examinees each year since 1974. The total number of law alumni is 2,247. No other accredited law school supplies as many New Mexico Bar applicants.

Minority enrollment in the UNM School of Law was 31 percent of the 1987 first year class of 112, as compared to 13 percent first year minority enrollment in all ABA accredited law schools. Of the 112, 27 were Hispanic, 1 was Black, and 7 were Native American. In the 1980s, the number of first year students has ranged from 124 to 103, with approximately one-third (1/3) of the UNM School of Law student body comprised of minority students. Minority enrollment figures have ranged for Mexican Americans and Hispanics, from 38 to 23; for Native Americans, from 11 to 4; and for Blacks, from 5 to 1. The Task Force observes that, of the Native American students admitted to the Law School, few are native New Mexicans. The Law School should actively recruit at New Mexico pueblos and New Mexico Indian schools.

The UNM School of Law Admissions Committee is comprised of four faculty members appointed by the Dean and one student elected by the Student Bar Association, which includes all law students.

A preference is given to New Mexico residents and the Law School limits enrollment of non-residents to approximately 10 percent. The Admissions Committee considers quantifiable factors (LSAT and grade point averages) and non-quantifiable factors (letters of recommendation, personal statements, extracurricular interests) in making decisions.

The admissions process also uses the assistance of the minority student organizations at the Law School, the American Indian Law Students Association (AILSA), the Black Law Students Association (BALSA), and the Mexican American Law Students Association (MALSA), which assist interested applicants through the admissions process. The minority student organizations offer to interview minority applicants, and when appropriate, write letters of recommendation to the Admissions Committee advocating their admission. The Committee considers these letters of recommendation on behalf of minority applicants.

Participation in prelaw programs for minority and disadvantaged applicants is taken into account by the Admissions Committee. Since 1974, the Law School has hosted the Southwest Regional Council on Legal Education Opportunity (CLEO) program every fourth year. In the other years, the Law School operates its own summer prelaw program, **El Instituto Preparativo Legal**. In addition, the American Indian Law Center operates a summer prelaw program at the Law School.

The Admissions Committee considers race and ethnic origin as a relevant factor but not as a determinative factor. The Law School seeks to enroll students from diverse backgrounds and with varied experiences. The Law School has no quotas for any group of applicants, and the admission decisions are based on the entire application, including both quantifiable and non-quantifiable factors.

B. Recruitment

The UNM School of Law recruits New Mexico residents and minority applicants. The Law School sends a recruiting team comprised of a faculty member and several students to every four-year degree granting New Mexico college and university each fall. The minority student organizations are invited to send representatives on the recruiting trips. The Law School has established contacts with prelaw advisors and with minority faculty at each of the State's colleges and universities. The Law School does not recruit at branch colleges, junior colleges, or at high school levels. Because of the policy of the Law School, which limits enrollment of non-residents to approximately 10 percent, the Law School does not recruit outside of New Mexico, except for its attendance at the Law Services' Los Angeles forum.

This year, in addition to law students and faculty representatives, local bar members participated in four of the six Law School recruitment visits to the State's four-year institutions.

The applicant pool ordinarily includes a substantial number of Hispanic applicants, but relatively fewer Native American and Black applicants. The size of the minority applicant pool appears, in large measure, to be related to the number of minority applicants ultimately accepted and enrolled. Data since 1985 demonstrate the importance of a large minority applicant pool.

Law School Applications and Enrollment

UNM School of Law
1985 - 1989

	Applications	Accepted	Registered
1989			
Blacks	23	5	1
Native Americans	24	12	6
Hispanics	141	63	34
Non-Minorities	606	136	67
1988 (Data Not Available)			
Blacks	NA	NA	2
Native Americans	NA	NA	3
Hispanics	NA	NA	28
Non-Minorities	NA	NA	79
1987			
Blacks	18	3	1
Native Americans	41	16	7
Hispanics	106	49	27
Non-Minorities	483	142	77
1986			
Blacks	25	7	2
Native Americans	32	13	4
Hispanics	98	44	28
Non-Minorities	456	153	71
1985			
Blacks	20	8	4
Native Americans	41	17	8
Hispanics	82	39	25
Non-Minorities	489	138	68

C. Retention

The UNM School of Law offers first year students an intensive writing program taught by full-time faculty members in classes of 15 to 20. In addition, students with the lowest LSAT scores and undergraduate grade point averages are placed in a special first semester course in legal analysis designed to develop written analytical skills.

The Law School also offers tutorials during the first semester in each of the first year substantive courses. The Law School also provides academic counseling to students who are placed on probation due to unsatisfactory grades. Students on probation must choose a faculty member who will diagnose the student's problems and prescribe a plan for rectifying the problems that caused the academic difficulties.

A mentor program was established in fall 1989 for members of the first year class. The program is voluntary and matches attorneys with students for a series of planned contacts. The mentor program is a collective effort, co-sponsored by the New Mexico Hispanic Bar Association, the Indian Bar Association of New Mexico, the New Mexico Black Lawyers Association, and the State Bar of New Mexico.

The academic failure rate at the Law School is low. From the entering classes of approximately 105 students, three students were suspended from the graduating class of 1985 for academic reasons; two students from the class of 1986; two from the class of 1987; seven from the class of 1988; and two from the class of 1989.

In 1986-87, 16 students in all three classes did not continue in Law School. Of the 16, five were minority students, and four of the five left for academic reasons. In 1987-88, 11 students did not continue, including two minority students who left for academic reasons. In 1988-89, 14 students did not continue, including seven minority students. Of the seven, five left for academic reasons.

D. Financial Aid

The Law School offers financial aid to needy students. The financial aid may include grants, loans, work-study money or a combination of these. The tuition at the UNM School of Law in 1989-90 is $842.00 for residents and $2,830.00 for nonresidents.

The UNM School of Law's financial aid program is primarily based on need, which is calculated on the basis of a budget for tuition, fees, and living expenses.

Figures made available by the University of New Mexico School of Law indicate the amount of loans, work-study money, and scholarships/grants received by UNM law students. The years reviewed include 1987-88, 1988-89, and 1989-90.

The three-year financial aid picture at the Law School reveals that loans comprise the largest portion of the aid received by law students. The second most important source of financial aid for UNM law students for the same three-year period was work-study and other employment programs. Apart from employment at the Law School, many students clerk for local attorneys at rates up to $15.00 per hour.

Scholarship grants constitute the third and smallest source of financial aid for UNM law students. Although most of the Law School's grant assistance is based on need, a portion of the grants is earmarked for tuition grants for Native American law students and tuition grants for students who attended and completed the CLEO summer program, most of whom are minority students.

UNM minority law students also often qualify for special grants targeted at certain groups. These grants, none funded by the Law School, include CLEO stipends, American Indian Graduate Scholarship (AIS) stipends, tribal grants to tribal members, Bureau of Indian Affairs (BIA) grants, and Patricia Roberts Harris grants (GPOP). The CLEO, AIS, BIA, and Patricia Roberts Harris grants are all federally funded; and the CLEO and Harris grants are based on financial eligibility. Most of the special grants

described in this paragraph go to minority students who meet the special qualifications for the specific grants. In 1987-88, UNM law students received $21,200.00 in CLEO scholarships and $19,383.00 in Patricia Roberts Harris grants; in 1988-89, $27,000.00 in CLEO scholarships and $36,116.00 in Harris grants; in 1989-90, $27,200.00 in CLEO scholarships and $27,543.00 in Harris grants.

Minority Law School Faculty And Recruitment

The UNM School of Law has 29 full-time faculty members, all in tenure track positions. Six (or 20.6 percent) of the full-time faculty members are members of minority groups. They include two Black professors, one tenured and the other eligible for tenure, and four Hispanic professors, three tenured and one eligible for tenure. In addition, the faculty includes one half-time Native American tenured professor. The Law School administration also includes one minority associate dean.

The number of minority professors at the Law School is quite high in comparison with other law schools in the United States. However, the Task Force believes that because of the minority population in New Mexico, greater efforts in this area should be considered. The *Review of Legal Education in the United States*, Fall, 1988, listed 5,075 full-time law teachers in ABA accredited law schools. This number included only 273 minority law professors (5.4 percent). In the 1988-89 academic year, 7.2 percent of the law professors in the *Directory of Law Teachers* listed themselves as minority professors. As recently as the 1986-87 academic year, over one-half of the American law schools had one or no minority faculty members. The University of New Mexico, by contrast, employs six minority professors, including four of the 51 full-time Hispanic law teachers reported by the Association of American Law Schools. The Law School has had minority professors since 1972, and has hired three other minority faculty members who left the Law School to return to the practice of law.

The pool of candidates almost always includes minority applicants. The Law School utilizes both the AALS Register and informal contacts, including national Hispanic and Black lawyer organizations, for identifying interested minority applicants. The Law School has hired four minority professors out of 12 new hires since 1980.

The School of Law also hires a number of adjunct professors each semester to teach specialized courses that the Curriculum Committee and faculty decide should be offered. For example, courses in Patent Law, Construction Law, and Immigration Law have been taught by adjuncts. The Dean of the Law School hires as adjuncts lawyers who have expertise in the specialty to be taught. In addition, the Law School invites lawyers who wish to teach a special course to submit their names with the proposed course to the Dean. This invitation is published in the New Mexico State *Bar Bulletin* each year. In 1988 a course entitled "Economic Development in Indian Country" was taught by Native American adjunct professors. This semester, a course on Indian Pueblo Law was taught by an Indian lawyer who suggested the course and offered to teach it. The School of Law should develop and encourage additional specialty courses on Indian Law such as these in the future.

Observations And Recommendations

1. Admission of Minority Students to Law School

Since the late 1960s, the UNM School of Law has played a role in increasing the number of minority lawyers in the State of New Mexico. The Law School's admissions statistics show that approximately one-third of the admitted students over the past decade have been members of minority groups, mostly Hispanics. To increase further the numbers of minority students, especially Blacks and Native

Americans, the pool of applicants from those minority groups must be increased. The Law School and State Bar should address a strategy for accomplishing this goal.

2. Recruitment of Minority Applicants to Law School

The UNM School of Law has recruited minority applicants, especially Hispanics, with its recruiting visits to each of the New Mexico universities and colleges. The use of minority law students as recruiters has been especially valuable. If the pool of minority applicants is to increase, additional recruiting strategies are needed requiring new efforts by members of the New Mexico State Bar and by the Law School.

First, the State Bar could help recruit at the New Mexico branch colleges, community colleges, high schools, and Indian pueblos. The State Bar could institute a recruitment program consisting of a brochure outlining the benefits of a legal career for members of minority groups and development of an outreach program in which members of the Bar, including minority lawyers, would visit high schools, community colleges, and Indian pueblos and schools to explain what lawyers do, their importance to the State and their minority groups, and to encourage their consideration of law as a career. Communications between the Law School and minority organizations should be established. Minority organizations should be invited to participate in the Law School's recruitment visits to the State's universities, colleges, high schools, and Indian pueblos and schools.

Second, the State Bar President should send an annual letter to all New Mexico college and university placement officers expressing the State Bar's interest in increasing the pool of minority applicants to the Law School and encouraging such application. Names and addresses of Law School organizations that could assist with the application process could be included in the letter. Similar letters should be mailed to all New Mexico undergraduate minority student organizations, as well as to New Mexico high schools.

Third, the Law School could broaden its recruitment effort by visiting colleges and universities in Colorado, Texas, and Arizona with substantial minority enrollments. If recruitment in surrounding states produces a substantial increase in the pool of minority applicants, the Law School should consider whether the percentage of nonresidents admitted and enrolled should be increased.

3. Financial Aid for Minority Law Students

The work and debt burdens of many minority students could be alleviated if more grants and loans were available. The State Bar, in cooperation with the Law School, should consider establishing a financial aid program including scholarships and loans. Minority students should be made aware of any available Bar Examination study loans.

4. Minority Law Faculty

The Law School has recruited and hired minority lawyers for the faculty, but because of the large minority population in New Mexico, the Law School should continue and intensify its efforts to recruit, hire, and retain minority professors. Additionally, the Task Force observes that no minority professor has ever served as Dean of the Law School. The Task Force is concerned with the lack of Native American faculty members, especially in light of the fact that the Native American Law Center is located within the Law School. The Law School should seek to hire a full-time tenure tracked Native American professor. The State Bar and the Law School should encourage minority lawyers to consider teaching law as a career or to consider teaching specialized courses as adjunct faculty members.

B. A History Of The Bar Exam Struggle By Minorities In New Mexico: Ten Years After

Introduction

In December 1979, the New Mexico Supreme Court *en banc* conducted an evidentiary hearing to determine whether or not the New Mexico Bar Examination unfairly discriminated against minority groups. Never before, nor since, has such a proceeding been conducted in the chambers of the Supreme Court. Evidence was presented for five days. Briefs were filed. Recommendations were made. Before the hearing was over, several members of the Board of Bar Examiners resigned. Now, ten years later, it is appropriate to re-visit the issues raised at that hearing and see what was done with the recommendations, and if the statistical disparity revealed at that hearing still exists.

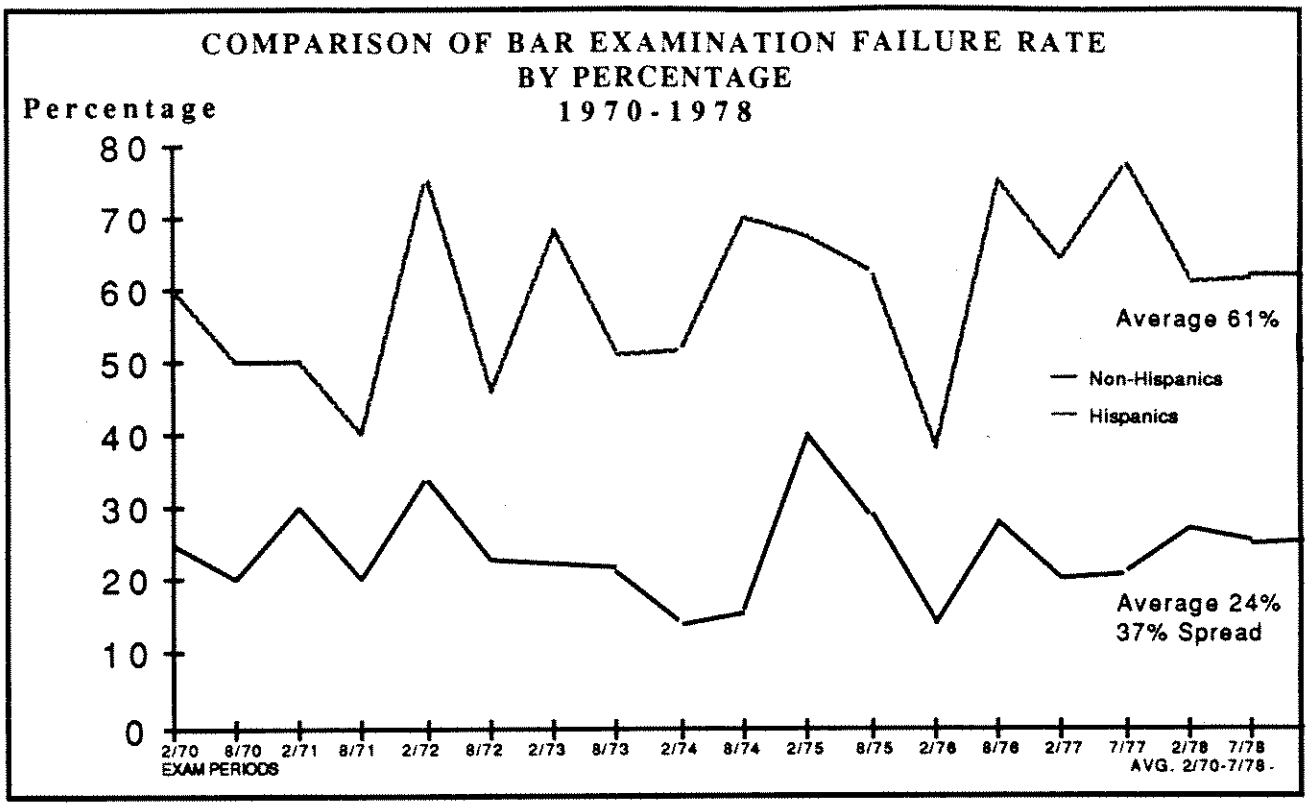
A Historical Perspective

Melendez v. Burciaga (Supreme Court No. 12449) was the culmination of several years of struggle for minorities trying to gain equal access to the legal profession. As early as 1972, several Hispanic applicants filed a petition in the Supreme Court of New Mexico challenging the way the New Mexico Bar Examination was being administered. The Petition alleged equal protection and due process violations and requested a reappraisal of the examination. The Petition was brought after it was discovered that eight Anglo applicants who had originally failed the examination had their examinations reappraised and were subsequently admitted to the Bar. A prominent political figure in New Mexico was one of the Anglos. The minority applicants and the Anglo applicants had failing scores that were all in the same "borderline area." The Petition was dismissed.

Also in 1972, an Hispanic applicant unsuccessfully petitioned the Supreme Court to review his answers to the Bar Exam. The petitioner raised several points, including that the Bar Exam was unfair to minority groups. The Supreme Court, in dismissing the Petition, did not address the allegations of disparate treatment of minorities. *Petition of Pacheco*, 85 N.M. 600 (1973).

In October of 1974, the Supreme Court refused to administer the attorney's oath to several prospective attorneys when they appeared at the swearing-in ceremony wearing black arm bands. The arm bands were intended to silently protest the large number of minorities who were failing the New Mexico Bar Exam. Statistics compiled at that time indicated that on the August, 1974 Bar Examination, 70 percent of the Hispanics taking the Exam "failed" while only 24 percent of all applicants "failed" the Exam. As shown on the following graph, statistics compiled for the decade of the 1970s reveal the same disparate pattern.[12]

[12]The statistics contained in the graph were compiled by reviewing the surnames of applicants taking the Bar Exam. Some Hispanics will, therefore, probably be excluded from this analysis. However, the Task Force does not believe that this approximation will materially affect the results shown in the graph.



A special report of the United States Civil Rights Commission entitled "Mexican-Americans and the Administration of Justice in the Southwest" published during this time period attributed the lack of minority lawyers to the "denial of equal protection of the law in the administration of justice in the Southwest."

More out of a sense of frustration than anything else, the treatment of the issue by the Courts led to large scale protests and sit-ins protesting the treatment of minorities with regard to the New Mexico Bar Examination. In late 1974, protests and demonstrations against the Bar Exam gained a great deal of momentum and became an issue of significant public and community concern. In December of 1974, the United Press International voted the Bar Examination struggle by minorities as the eighth most significant news story in New Mexico for that year. The November 27, 1974 editorial in the *Santa Fe New Mexican*, in recognizing the disproportionate number of minorities who were failing the Exam, said, "Educators recognized long ago that cultural and background differences significantly influence a student's performance on these so-called standardized tests. It would be ironic if the same problems which minority students face during the entire time of their education within our present system also serves as a handicap for them on the State Bar Exam."

The Albuquerque Journal wrote in its October 24, 1975 editorial that, "At best, the Bar Examination is an imperfect tool to determine the future competency of an individual who has completed prescribed college courses. At worst, it could be used against individuals from educationally disadvantaged backgrounds."

In May 1975, the United States House Committee on Education and Labor conducted two days of hearings in the Federal Courthouse in Santa Fe on a bill designed to remove discriminatory barriers to minorities seeking legal services or admission to the Bar.

Again on September 18, 1975, the *Santa Fe New Mexican* wrote, ". . . the Bar Examination needs to be examined and perhaps revised to eliminate possible racial or ethnic bias."

The Case Of Melendez v. Burciaga

Finally, on April 4, 1979, 15 attorneys filed a petition in the New Mexico Supreme Court asking the Supreme Court, under its power of superintending control, to direct the Board of Bar Examiners to investigate the Bar Examination process. The petition represented the collective efforts of hundreds of concerned individuals and sought to verify that the Bar Exam systematically excluded minorities from the practice of law. The statistical disparity of minorities to non-minorities failing the Bar Examination continued to be overwhelming, as shown by the graph on page 38.

In his opening statement, counsel for the petitioners stated:

> "We believe that by week's end, the state of the art in Bar Examinations will be presented for the first time in an open public hearing, in front of the New Mexico Supreme Court... [A]n important component of this proceeding will be the disparate effect the Bar Exam has had on minorities, and second of all, the ways that we humbly suggest to the Court, to improve and professionalize the Bar Exam in New Mexico." (Transcript of Proceedings, Vol. 1, page 11).

The entire Supreme Court of New Mexico listened for five full days while expert after expert testified on the adequacies of the New Mexico Bar Exam. Three industrial psychologists, Dr. Richard S. Barrett, Dr. Stephen P. Klein, and Dr. Ralph Hoephner testified at the hearing. The Chairman of the California Board of Bar Examiners and a member of the National Bar Examiners, Armando M. Menocal, III, Esq., were also called to testify. The dean, an assistant dean, and a professor from UNM Law School testified. The Administrator of the National Conference of Bar Examinations, who administers the Multi-State Bar Examination, testified. Several members of the New Mexico Board of Bar Examiners testified. At the conclusion of the evidence, the petitioners submitted a lengthy document outlining proposed changes suggested by the testimony.

The petitioners recommended that procedural and statistical processes governing the writing, grading, calibration and maintenance of data by the Board of Bar Examiners be conducted in conformity with the current state of the art in psychometrics and statistics. Changes were recommended in the following areas, among others:

1. Careful drafting and review of test questions;
2. Reducing the number of questions and subjects on the essay exam;
3. Standardizing grading instructions;
4. Concentrating greater scrutiny on borderline exams and reappraisals;
5. Developing a five point grading scale;
6. Establishing a grading calibration system;
7. Equating essay question scores to give each proper weight and using the scores from every question;
8. Scaling the essay to the MBE;
9. Adjusting the scaled MBE score necessary to pass the Bar Exam in accordance with minimum competency as defined by the experts; and
10. Performing professional validation studies on the examination as a whole.

What did the Board of Bar Examiners do with the suggestions?

The Last Ten Years

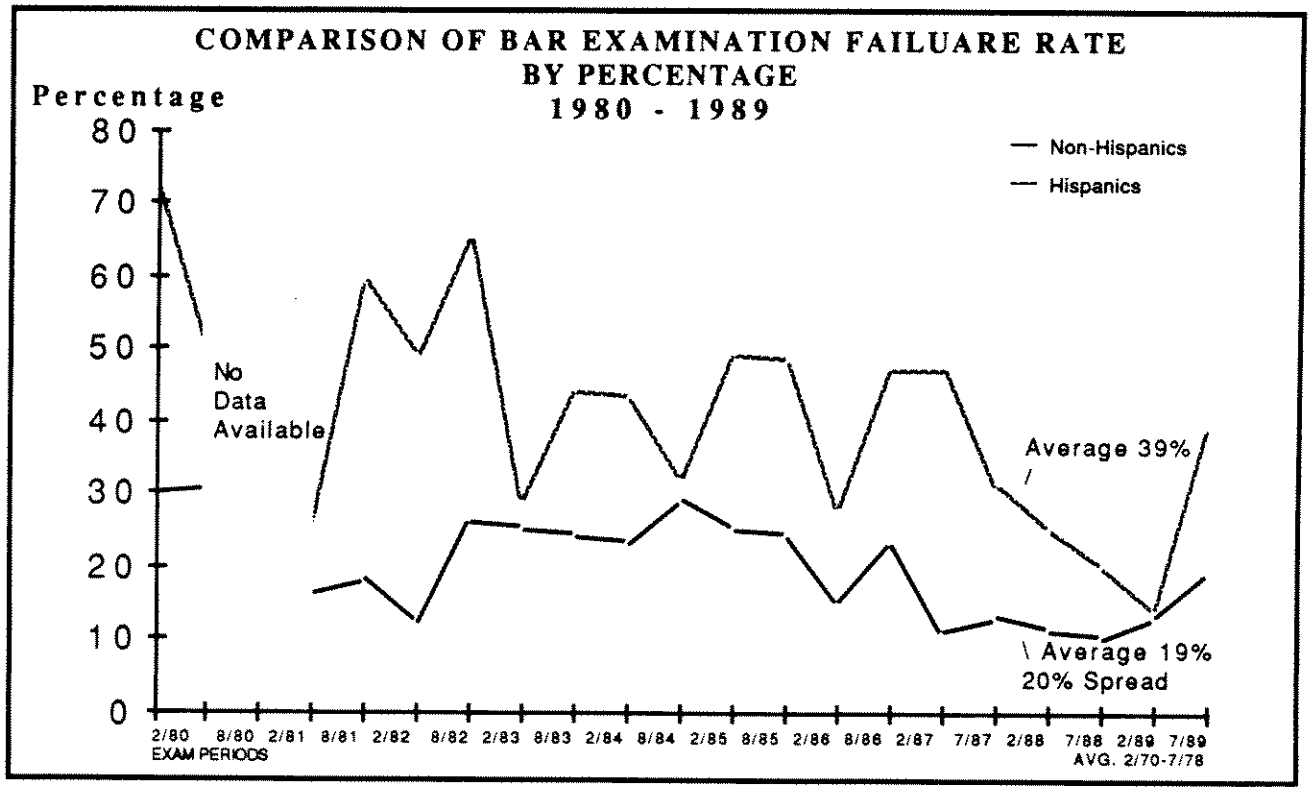
One of the most important recommendations made to the Supreme Court was changing the composition of the Board of Bar Examiners to more accurately reflect the composition of the Bar as a whole. Vacancies on the Board of Bar Examiners in the last ten years have generally been filled by younger members. Since 1980, 15 members of the New Mexico Board of Bar Examiners have been appointed to fill vacancies. Of this number, five (5) or 33 percent have been Hispanic and four (4) or 27 percent have been women. At one time, the Chairman of the Board of Bar Examiners was a lawyer who was co-counsel for the petitioners in the *Melendez v. Burciaga* lawsuit. The current Chairman is Hispanic.

The Board of Bar Examiners hired Dr. Klein as their consultant. With his assistance, almost all of the recommendations made by the petitioners relating to the administration of the Exam have been implemented. The result is that the written Bar Examination given today does not resemble the Exam given prior to *Melendez v. Burciaga.*

For example, to decrease the subjective grading inherent in the written examination, papers in the borderline area are re-graded by more than one grader. To eliminate the possibility of one question controlling the results of the entire Exam, the grading scale has been changed to a five (5) point system. (Dr. Klein had testified that under the old grading scale, there were some questions that could control the entire results of the Examination. This lack of "standard deviation" was systematically violated prior to *Melendez v. Burciaga.*)

The number of questions has been reduced to simulate more realistically the practice of law. Dr. Klein continues to work with the Board of Bar Examiners to help conduct a more reliable examination.

The results have been encouraging. The following graph shows the statistical disparity between the number of Hispanics and non-Hispanics who have failed the Bar Examination in the last ten (10) years has significantly decreased.[13]



[13]The data on this graph are likewise based upon an analysis of the surnames of the applicants taking the Bar Examination for the exam periods indicated.

A comparison of these statistics with those in the previous graph shows that while the statistical disparity has significantly decreased, particularly in more recent years, it has obviously not disappeared. The decrease in the disparity can, we believe, be directly attributable to the changes in the Bar Examination since *Melendez v. Burciaga*.

Conclusions And Recommendations

The Task Force concludes from the foregoing historical review of the struggle by minorities over the Bar Examination in New Mexico that significant progress towards equality of opportunity can be accomplished as long as there exists a mutual willingness to recognize the need for change and to work for its realization. By evaluating the disparity the Bar Exam had on minorities in the 1970s and then taking action to correct deficiencies in the process, the percentage of Hispanics versus non-Hispanics failing the Exam has markedly decreased. Yet, much is left to be done.

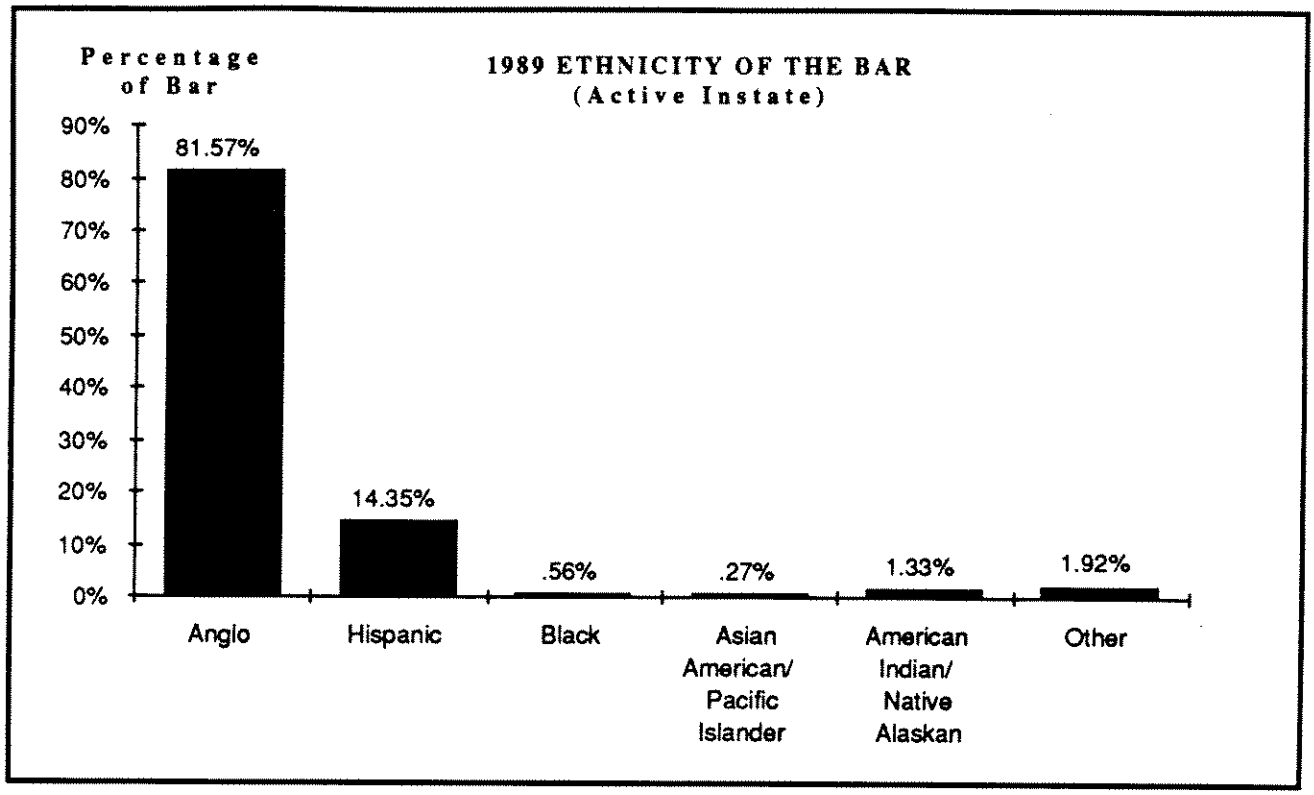
It remains questionable whether the written Bar Examination is a valid predictor of "competency to practice law." In this regard, the Task Force learned that, with few exceptions, applicants who have failed the New Mexico Bar Examination and who have taken the Examination on subsequent occasions have eventually passed it. Many members of the Task Force are of the opinion that ultimate validity of the Bar Examination can never be achieved through a standardized written examination because of the innate difficulty in such a procedure of drawing "the line" above or below which competency to practice law may exist. The Board of Bar Examiners should recognize that they are administering an imperfect examination and that further study and analysis of methods for improving the fairness of the Examination and its administration must continue as a crucial part of the Board's functions and duties. Additionally, in furtherance of this goal, alternative methods of testing and licensing should be investigated by the Supreme Court through its Board of Bar Examiners.

Much hard work has been done in the past ten years to make the New Mexico Bar Examination more "reliable." This conscientious effort by the Board of Bar Examiners is highly commendable, and the effort must continue. The Bar Examination will remain a "minority" issue as long as minorities continue to "fail" the Examination at higher rates than non-minorities.

C. Career Preferences And Employment Opportunities Of Minority Attorneys

The Task Force addressed the question whether minority attorneys are adequately represented among the ranks of public and private sector legal employees. If it appeared that disproportionate representation exists in either of these sectors, the Task Force thought it appropriate to inquire into the reasons for the disproportionate representation, and also the role the State Bar should play in seeking to remedy the situation.

Data compiled by the Task Force sheds light on these questions. Data relevant to an examination of these questions were compiled from four different sources. Demographic information compiled by the State Bar from the membership dues form provides some general information about the profile of the New Mexico Bar generally.

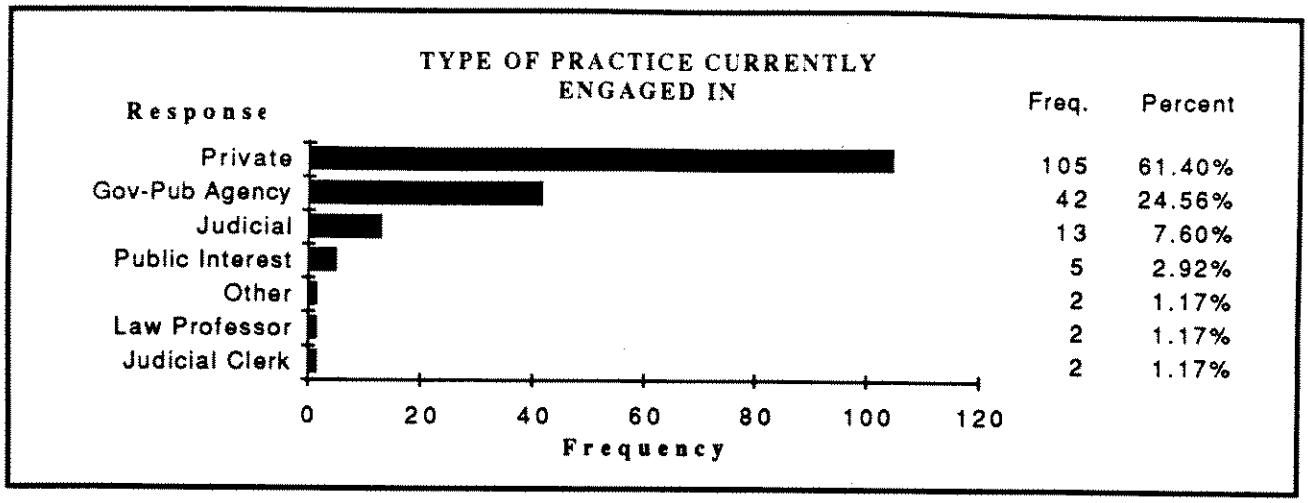


In addition, each of the three Survey Instruments developed by the Task Force was designed to elicit information about employment opportunities and practices in the legal profession.

Survey Form 1 elicited information from minority attorneys themselves.

Survey Form 2, addressed to managing partners of selected law firms of all sizes in the State, was designed to obtain empirical data concerning employment of minorities in law firms. This instrument was sent to the managing partners of 308 law firms ranging in size from offices of sole practitioners to the largest law firms in the State. One hundred thirty-nine (139) firms responded, which represents a 45 percent return.

Finally, Survey Form 3 was sent to 203 employers of lawyers other than law firms. These included law offices within federal, state and local governments, whether in the executive, judicial and legislative branches of government; corporate law departments; public interest and community legal services offices; public defenders' offices; tribal governments; and academic centers. Fifty-eight (58) of the recipients responded, resulting in a 28 percent return. Respondents to this Survey consisted predominately of public sector employers. Approximately 89.65 percent of the respondents consisted of employers in government, the judiciary, public interest and academic areas of employment.



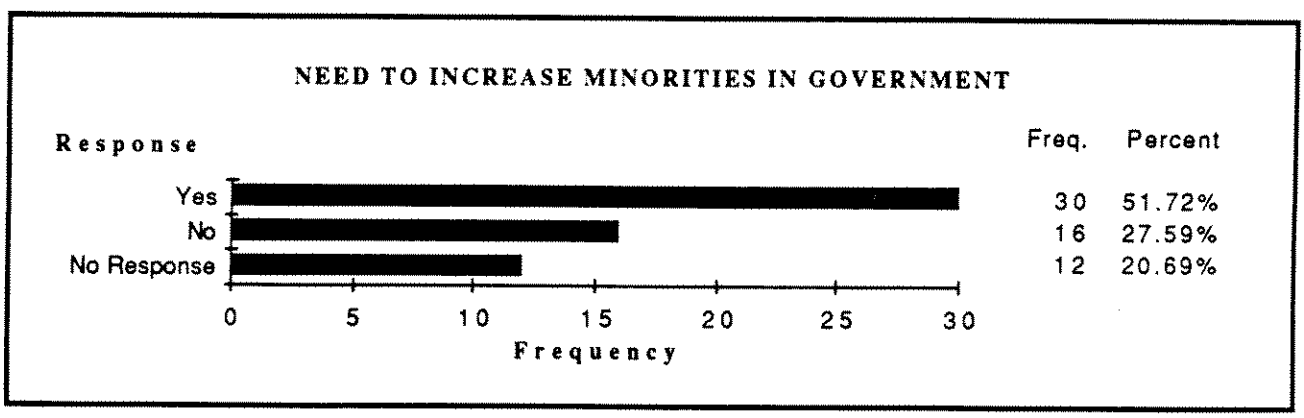
Based on the compiled data, certain comparisons can readily be made between the employment profile of minorities and the employment profile of all attorneys in the State. At least in a statistical sense, these comparisons indicate that minorities are underrepresented in many areas of the legal profession.

Based on Survey responses, minorities appear to be especially underrepresented among medium and large member law firms.

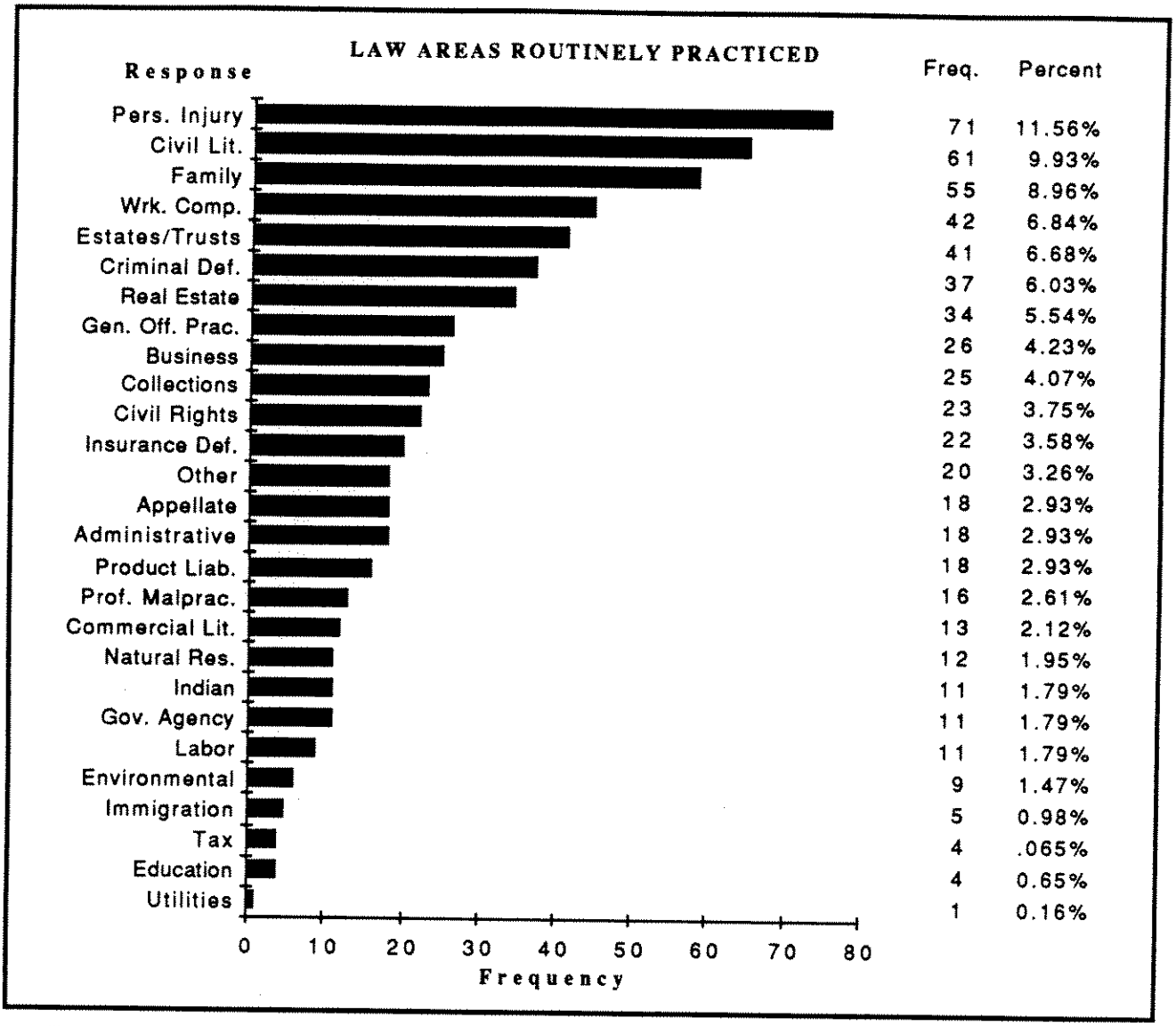
Among minority attorneys, the percentage engaged in the private practice of law (61.4 percent) appears to be roughly comparable to the percentage of all attorneys engaged in a law firm practice (62.75 percent). The percentage of minority attorneys engaged in the private practice of law as sole practitioners (32.16 percent) appears to be only slightly higher than the percentage of sole practitioners among the general attorney population (30.53 percent). However, the level of representation of minority attorneys employed in law firms declines markedly as the size of the firm increases.

Four and sixty-five one hundredths (4.65) percent of minority attorneys are employed in firms having 10 to 16 members. By comparison, 7.14 percent of all attorneys are employed with firms ranging in size from 10 to 19. Within law firms having 21 or more attorneys, minority attorneys represent only 6.97 percent, compared to 25.07 percent of all such attorneys in the State. Thus, the Surveys suggest that minorities in private practice are predominantly employed in firms (including offices of sole practitioners) having less than 10 attorneys (88.3 percent), compared to 67.79 percent of all attorneys.

On the other hand, minority attorneys seem to be better represented in government agencies generally, at least in relation to the percentage they represent of the 1989 general attorney population: 24.56 percent vs. 15.80 percent. Nevertheless, a 51.72 percent majority of respondents to the Ethnic Minority Survey indicated that there is a need to increase representation of minorities in government, while only 27.59 percent feel there is none. Twenty and sixty-nine one hundredths (20.69) percent did not respond to this question.



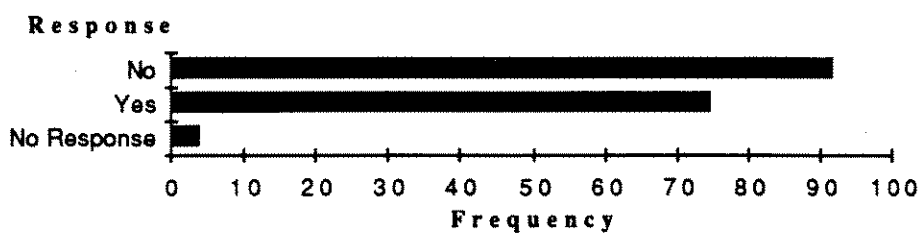
Areas of law in which minority attorneys in private practice routinely practice are illustrated below. The largest number of attorneys (11.56 percent) are routinely engaged in personal injury work, a statistic ostensibly consistent with the large number of sole and small firm practitioners. Nevertheless, minority attorneys appear to be involved in the practice of all areas of the law.



The underrepresentation of minorities in law firms itself raises a number of questions. Is there generally a preference among minority attorneys to practice alone or in small law firms? Or, are minority attorneys faced with perceived or actual barriers to entry, retention and promotion in the law firms? While data from the surveys do not provide a clear answer to these questions, they do suggest that the underrepresentation of minorities in law firms may be the result of a conscious choice on the part of minority applicants because of perceived barriers to minority entry and advancement, as well as the actual existence of such barriers.

Fifty-three and eight tenths (53.80) percent of minority respondents to the Ethnic Minority Survey indicated that they had not applied nor considered applying to a firm of 10 or more attorneys for employment, while 43.86 percent indicated they had applied or considered applying.

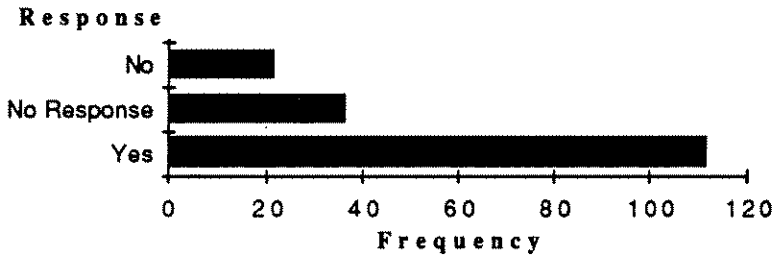
HAVE YOU APPLIED OR CONSIDERED APPLYING TO A FIRM OF 10 OR MORE ATTORNEYS?



Response	Freq.	Percent
No	92	53.80%
Yes	75	43.86%
No Response	4	2.34%

As repeatedly indicated in open-ended survey questions, the reason such a large percentage of minority attorneys chose not to seek employment with large law firms is related to a perception that they would not be treated equally with other applicants or ultimately with other attorneys in the firm. Sixty-five and five tenths (65.50) percent of the minority attorneys answered "yes" to the question whether minority lawyers face barriers to law firm employment not equally faced by non-minority lawyers. Only 12.9 percent responded "no" (21.64 percent did not respond).

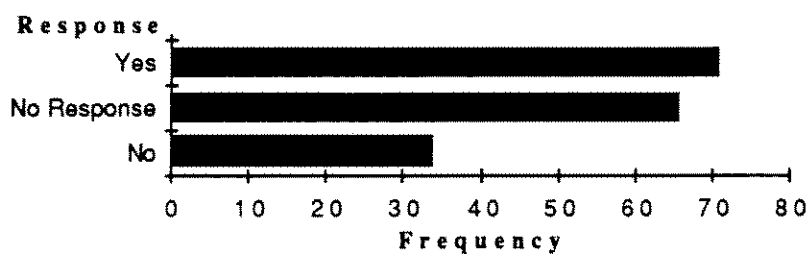
DO ETHNIC MINORITY LAWYERS FACE BARRIERS TO LAW FIRM EMPLOYMENT IN THIS STATE NO EQUALLY FACED BY NON-MINORITY LAWYERS?



Response	Freq.	Percent
No	112	65.50%
No Response	37	21.64%
Yes	22	12.87%

However, fewer, but still a large number of minority attorneys, feel that minority lawyers are faced with barriers to advancement or retention by law firms not faced by non-minority attorneys. Once employed, 41.52 percent believe that such barriers exist, while 19.88 percent answered "no." Thirty-eight and six tenths (38.60) percent did not respond.

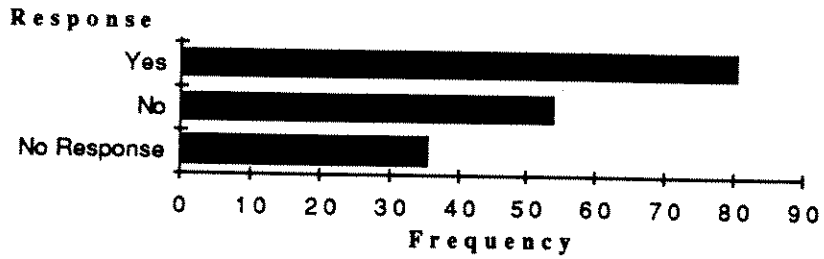
DO ETHNIC MINORITY LAWYERS FACE ANY BARRIERS TO ADVANCEMENT OR RETENTION BY LAW FIRMS IN THIS STATE NOT EQUALLY FACED BY NON-MINORITY LAWYERS?



Response	Freq.	Percent
Yes	71	41.52%
No Response	66	38.60%
No	34	19.88%

Many minority respondents do not seem to perceive that the existence of barriers is unique to law firms. Rather, the perception seems to apply to law practice generally in New Mexico. When asked whether minority lawyers face barriers to the development of a successful law practice in this State not equally faced by non-minority lawyers, 47.37 percent of the minority respondents answered "yes" and 21.05 percent responded "no." Thirty-one and fifty-eight one hundredths (31.58) percent did not respond.

DO ETHNIC MINORITY LAWYERS FACE ANY BARRIERS TO THE DEVELOPMENT OF A SUCCESSFUL LAW PRACTICE IN THIS STATE NOT EQUALLY FACED BY NON-MINORITY LAWYERS?

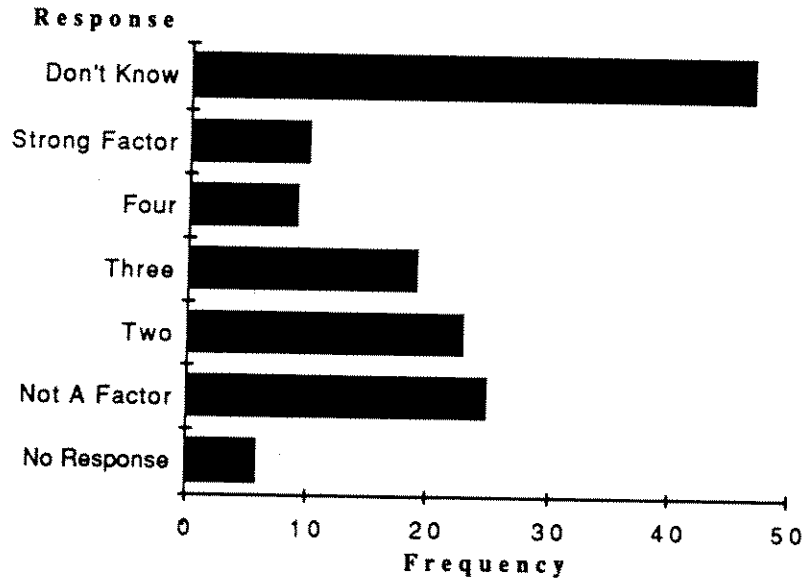


Response	Freq.	Percent
Yes	81	47.37%
No	54	31.58%
No Response	36	21.05%

If minority attorneys believe that there are barriers to their entry into law firms, that perception does not seem to be shared to the same extent by the law firms themselves. On the premise that minority underrepresentation exists in law firms, questions were asked concerning the factors they believe contribute to minority underrepresentation in majority firms. The respondents were asked to weigh on a scale of "1" to "5" various items contributing to underrepresentation. On the scale, "1" represented "not a factor" and "5" represented a "strong factor."

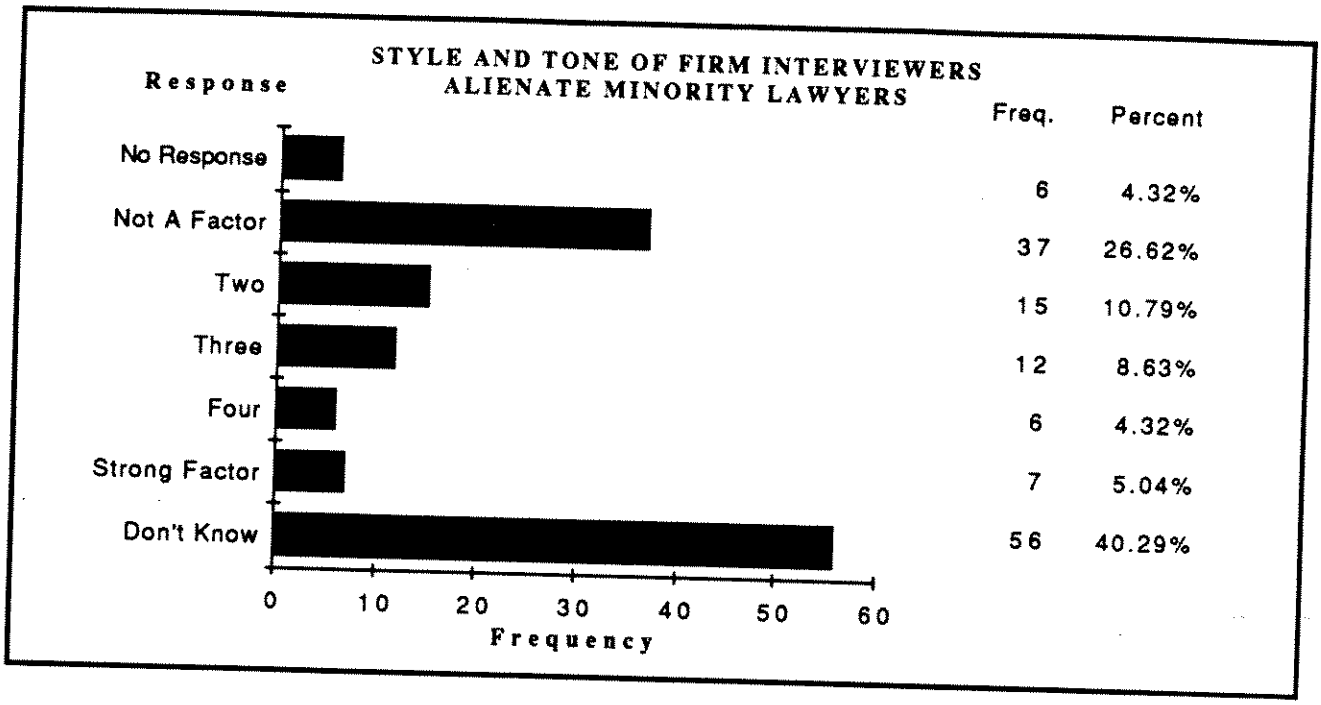
Only a small percentage of respondents viewed screening and recruitment techniques to be a significant factor operating to the disadvantage of minorities (6.47 percent rated the factor a "4," and 7.19 percent a "5"). Seventeen and ninety-nine one hundredths (17.99) percent said it was not a factor; 16.55 percent rated it as a "2" and 13.67 percent rated it as a "3." Thirty-three and eighty-one one hundredths (33.81) percent said they did not know.

SCREENING/RECRUITMENT OPERATE TO THE DISADVANTAGE OF MINORITIES

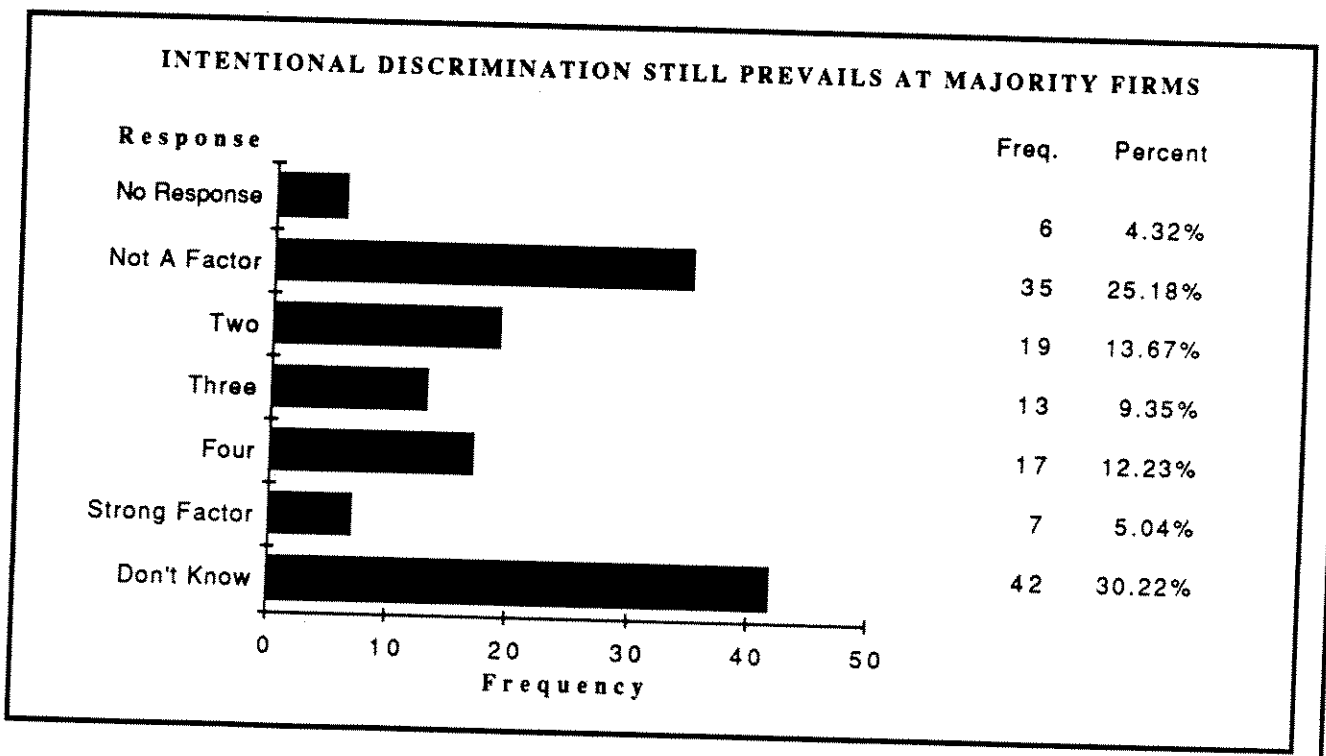


Response	Freq.	Percent
Don't Know	6	4.32%
Strong Factor	25	17.99%
Four	23	16.55%
Three	19	13.67%
Two	9	6.47%
Not A Factor	10	7.19%
No Response	47	33.81%

The pattern of responses was similar on the question concerning whether the style and tone of firm interviewers alienate minority lawyers. Twenty-six and sixty-two one hundredths (26.62) percent rated this factor a "1;" 10.79 percent a "2;" 8.63 percent a "3;" 4.32 percent a "4;" and 5.04 percent a "5." Forty and twenty-nine one hundredths (40.29) percent said they did not know. On the other hand, a significant number of respondents seem to acknowledge the existence of intentional or passive racial discrimination among law firms.

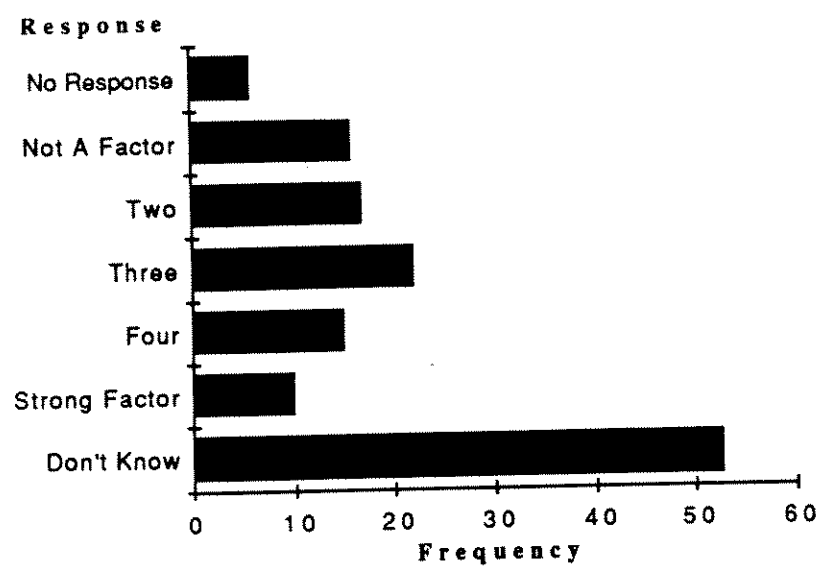


Twelve and thirty-three one hundredths (12.33) percent of the respondents rated the existence of intentional discrimination a "4," and 5.04 percent rated it a "5."



As to unmindful, inactive discrimination, 12.23 percent rated it a "4" and 10.79 percent rated it a "5."

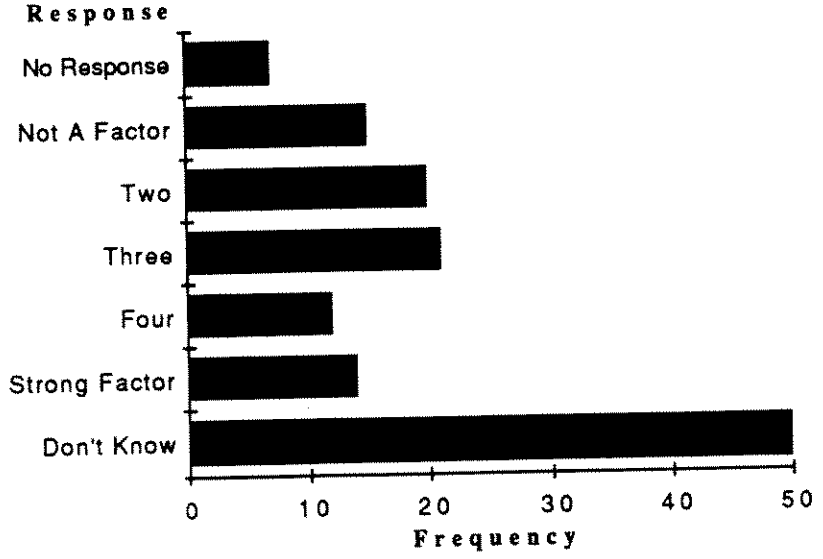
MINORITY LAWYERS TEND TO SEEK PUBLIC SECTOR EMPLOYMENT



Response	Freq.	Percent
No Response	6	4.32%
Not A Factor	16	11.51%
Two	17	12.23%
Three	22	15.83%
Four	15	10.79%
Strong Factor	10	7.19%
Don't Know	53	38.13%

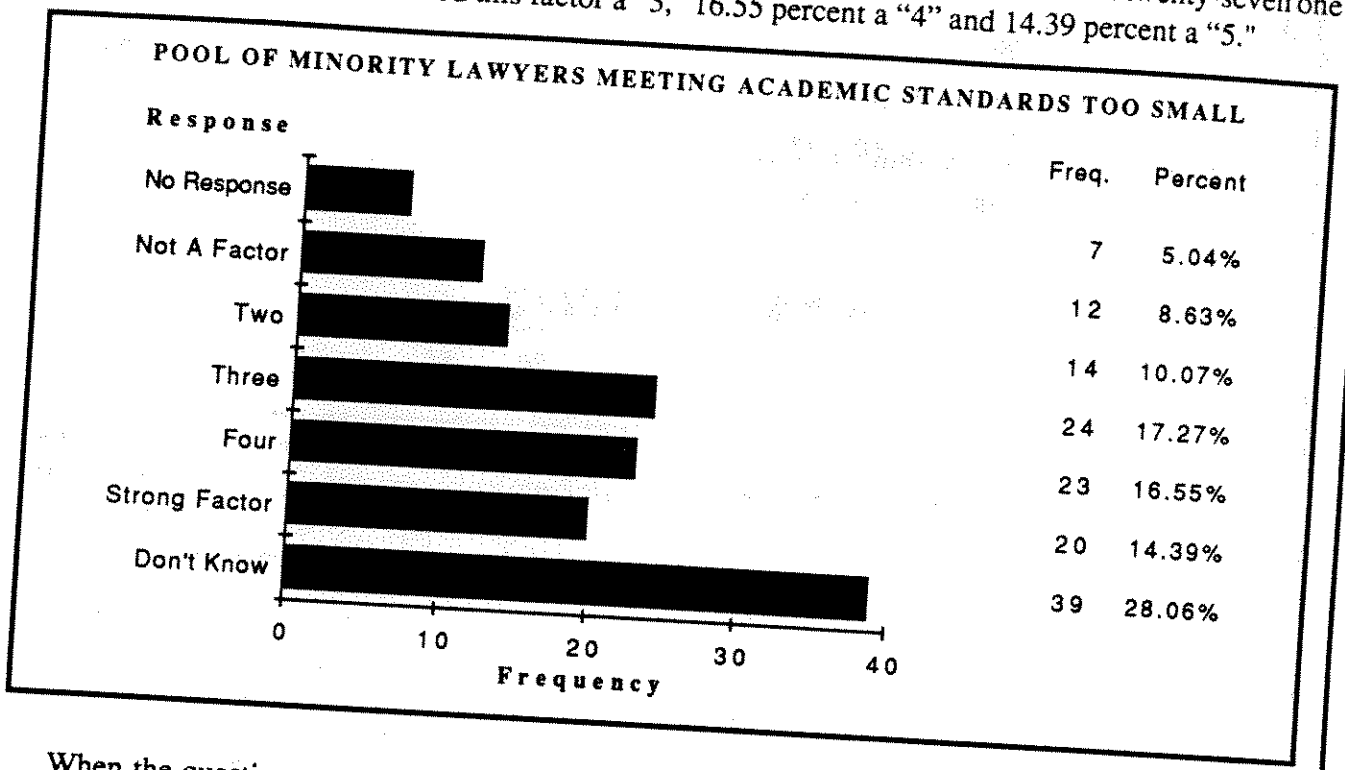
A significant number of respondents attributed the lack of active recruitment efforts to be a contributing factor. Fifteen and eleven one hundredths (15.11) percent rated this factor a "3," 8.63 percent a "4" and 10.07 percent a "5."

MAJORITY FIRMS DO NOT ACTIVELY RECRUIT MINORITY LAWYERS

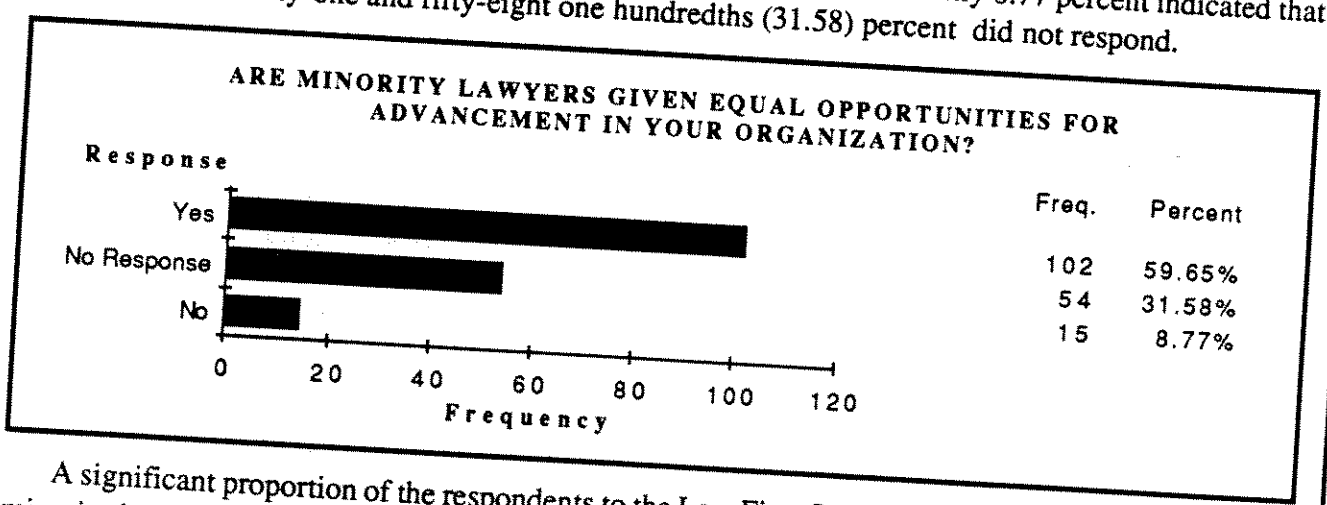


Response	Freq.	Percent
No Response	7	5.04%
Not A Factor	15	10.79%
Two	20	14.39%
Three	21	15.11%
Four	12	8.63%
Strong Factor	14	10.07%
Don't Know	50	35.97%

To an even greater extent, law firm respondents seem to attribute minority underrepresentation to the pool of minority lawyers meeting academic standards being too small. Seventeen and twenty-seven one hundredths (17.27) percent rated this factor a "3," 16.55 percent a "4" and 14.39 percent a "5."

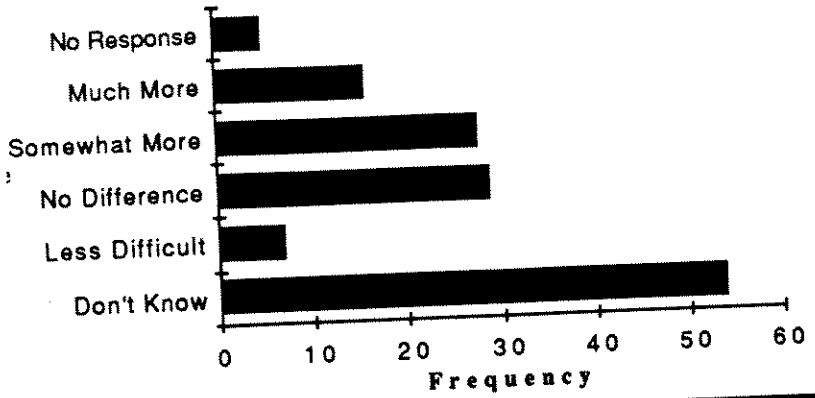


When the question was not limited to law firms, but employment organizations generally, 59.65 percent of the minority respondents said that they believed minority lawyers were given equal opportunities for advancement in the respondent's organization, while only 8.77 percent indicated that they were not. Thirty-one and fifty-eight one hundredths (31.58) percent did not respond.



A significant proportion of the respondents to the Law Firm Survey seem to share the perception of minority lawyer respondents that advancement for minority attorneys within a law firm may be more difficult than for non-minority attorneys. Law firms were asked whether it is more difficult for minority lawyers than for their majority colleagues to achieve partnership in majority law firms. Twenty and eighty-six one hundredths (20.86) percent indicated that there was "no difference" and 5.04 percent felt that it was "less difficult." However, 20.14 percent indicated that it was "somewhat more difficult" and 11.51 percent said that it was "much more difficult." Thirty-five and eighty-five one hundredths (35.85) percent did not know.

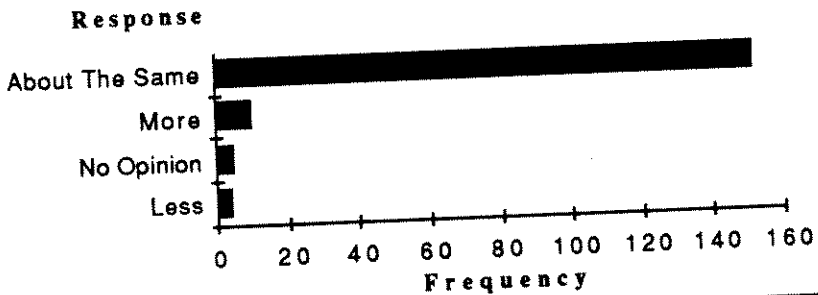
IS IT MORE DIFFICULT FOR MINORITY LAWYERS THAN FOR THEIR MAJORITY COLLEAGUES TO ACHIEVE PARTNERSHIP IN MOST MAJORITY LAW FIRMS?



	Freq.	Percent
No Response	5	3.60%
Much More	16	11.51%
Somewhat More	28	20.14%
No Difference	29	20.86%
Less Difficult	7	5.04%
Don't Know	54	38.85%

Responses to the surveys suggest that minority attorneys do not relate the level of underrepresentation in law firms to the legal abilities of the minority attorneys. Eighty-eight and eighty-nine one hundredths (88.89) percent of the minority respondents believe that minority lawyers are "equally as competent" as non-minority lawyers, and 5.85 percent indicated that minority lawyers are "more competent." Only 2.34 percent indicated that minority lawyers are "less competent." Two and ninety-two one hundredths (2.92) percent had no opinion.

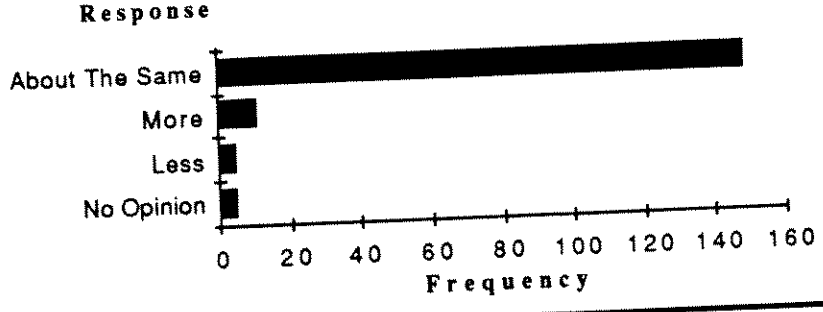
DO MINORITY LAWYERS, AS A GROUP, TEND TO BE MORE OR LESS COMPETENT THAN NON-MINORITY LAWYERS?



Response	Freq.	Percent
About The Same	152	88.89%
More	10	5.85%
No Opinion	5	2.92%
Less	4	2.34%

Similarly, when asked whether minority lawyers are more or less prepared for court proceedings than non-minority lawyers, 87.65 percent of the respondents indicated that minority lawyers are "equally prepared" and 6.47 percent said they are "more prepared." Only 2.94 percent believed minority lawyers to be less prepared. Two and ninety-four hundredths (2.94) percent had no opinion.

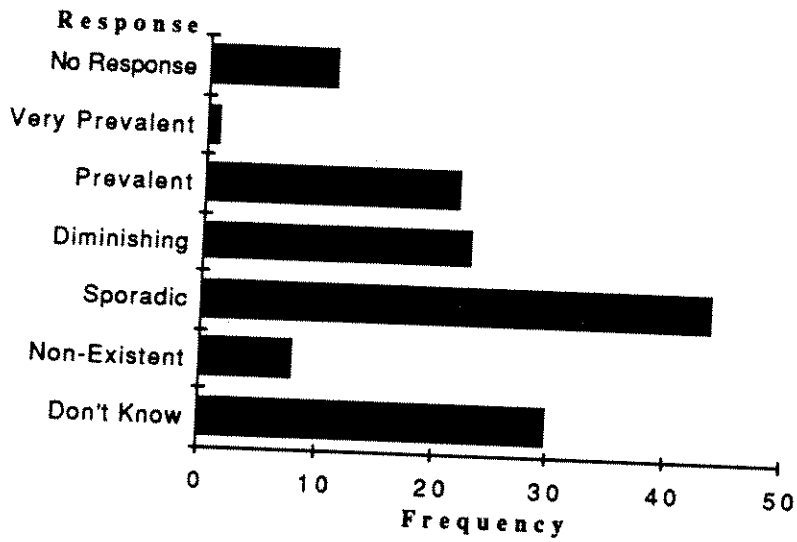
DO MINORITY LAWYERS, AS A GROUP, TEND TO BE MORE OR LESS PREPARED FOR COURT PROCEEDINGS THAN NON-MINORITY LAWYERS?



Response	Freq.	Percent
About The Same	149	87.65%
More	11	6.47%
Less	5	2.94%
No Opinion	5	2.94%

Certainly, among law firm respondents there seems to be a perception that barriers do indeed exist to minority hiring, retention and advancement in law firms. In response to the question whether there is perceived racial discrimination in law firm hiring, only 5.76 percent of the respondents said that racial discrimination was "non-existent." Sixteen and fifty-five one hundredths (16.55) percent believed it to be "diminishing," 31.65 percent "sporadic," 15.83 percent "prevalent," and .72 percent "very prevalent." Twenty-one and fifty-eight one hundredths (21.58) percent said they did not know.

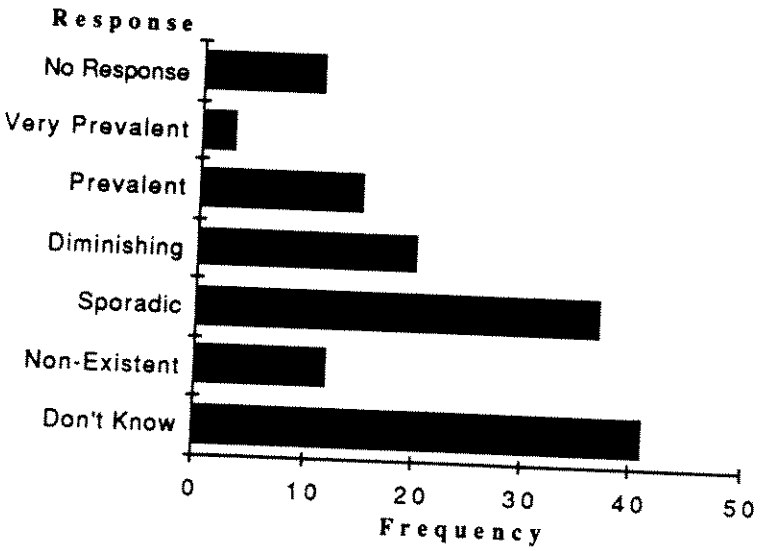
PERCEIVED RACIAL DISCRIMINATION IN LAW FIRM HIRING



Response	Freq.	Percent
No Response	11	7.91%
Very Prevalent	1	0.72%
Prevalent	22	15.83%
Diminishing	23	16.55%
Sporadic	44	31.65%
Non-Existent	8	5.76%
Don't Know	30	21.58%

Similarly, a significant number of respondents perceived racial discrimination to exist in law firm career advancement. Only 8.63 percent of the respondents said it was "non-existent." Some 14.39 percent characterized it as "diminishing," 26.62 percent as "sporadic," 10.79 percent "prevalent," and 2.16 percent "very prevalent." Twenty-nine and fifty hundredths (29.50) percent did not know.

PERCEIVED RACIAL DISCRIMINATION IN LAW FIRM CAREER ADVANCEMENT

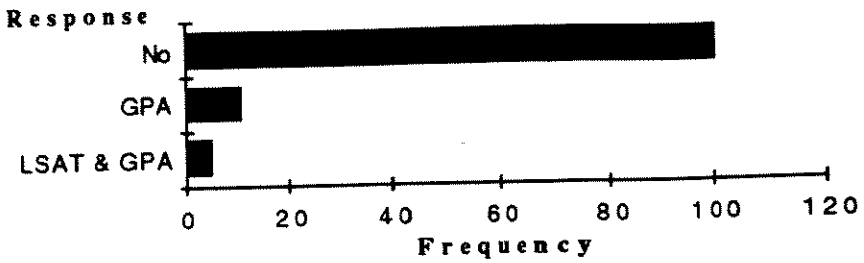


Response	Freq.	Percent
No Response	11	7.91%
Very Prevalent	3	2.16%
Prevalent	15	10.79%
Diminishing	20	14.39%
Sporadic	37	26.62%
Non-Existent	12	8.63%
Don't Know	41	29.50%

Identifying the criteria used by law firms in deciding to make employment offers to appli
instructive in attempting to define possible entry barriers minorities face.

Eighty-six and thirty-two one hundredths (86.32) percent of the responding law firms indica
they had no GPA or LSAT cut-off for interviewing clerk or associate applicants. Only 9.4
indicated they had a GPA cut-off and only 4.27 percent reported having both an LSAT and GPA

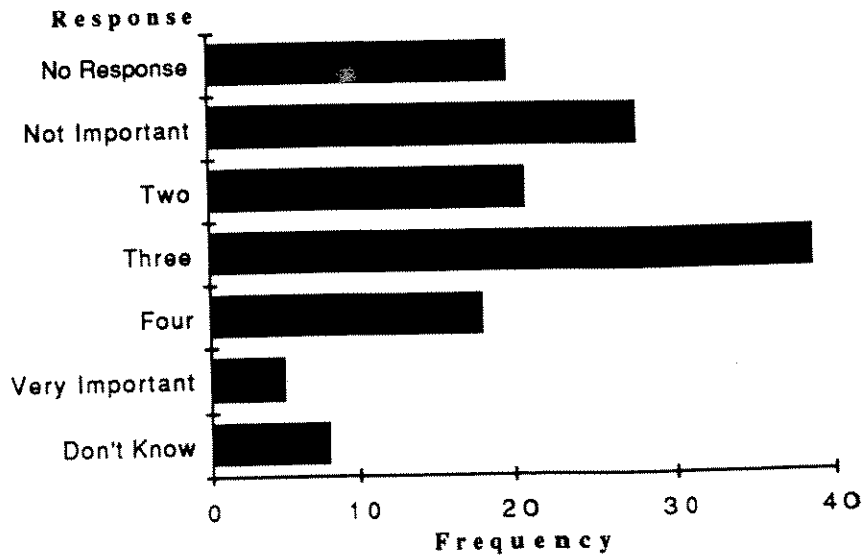
IS THERE A CUT-OFF FOR INTERVIEWING CLERK OR ASSOCIATE APPLICANTS?



Response	Freq.	Percen
No	101	86.32
GPA	11	9.40
LSAT & GPA	5	4.27

On a scale of "1" to "5," with "1" being "not important" and "5" being "very important," 41.0
of the law firms ranked the LSAT score as a "1" in terms of importance. Only 5.76 percent as
a value of "4" and 2.16 percent assigned it a value of "5." On the other hand, academic perfo
particularly law school performance, was generally considered to be important in the decision
job offers. The undergraduate GPA was rated a "3" by 28.06 percent of the respondents, a "4"
percent and a "5" by 3.60 percent.

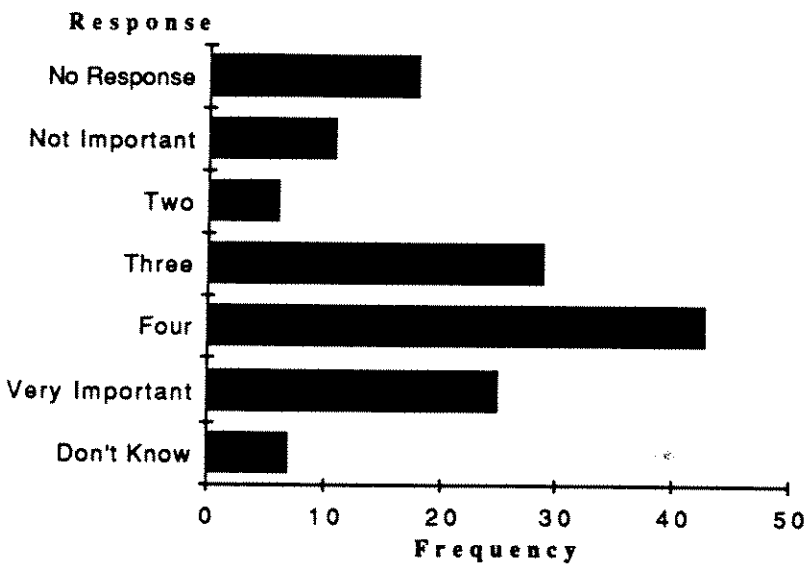
IN EVALUATING PROSPECTIVE ASSOCIATES, HOW IMPORTANT IS UNDERGRADUATE GPA?



Response	Freq.	Per
No Response	20	14.
Not Important	28	20.
Two	21	15.
Three	39	28.
Four	18	12.
Very Important	5	3.
Don't Know	8	5.

Only approximately 12 percent of the respondents ranked law school grades as a "1" or "2" in importance. However, 20.86 percent ranked law school grades as a "3," 30.94 percent gave it a ranking of "4" and 17.99 percent gave it a ranking of "5."

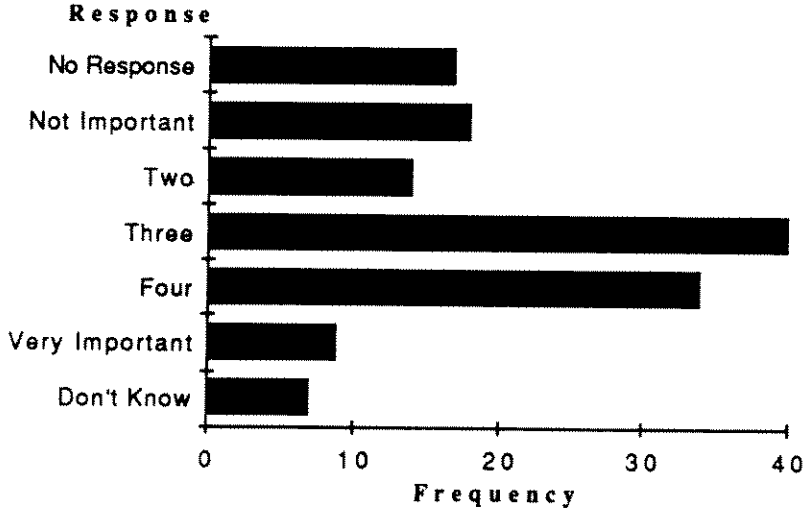
IN EVALUATING PROSPECTIVE ASSOCIATES, HOW IMPORTANT IS LAW SCHOOL GPA?



Response	Freq.	Percent
No Response	18	12.95%
Not Important	11	7.91%
Two	6	4.32%
Three	29	20.86%
Four	43	30.94%
Very Important	25	17.99%
Don't Know	7	5.04%

Another significant criterion is the law school attended. Thirty-three (33) percent assigned it a "1" or "2," 28.78 percent assigned it a "3," 24.46 percent assigned it a "4," and 6.47 percent assigned it a "5."

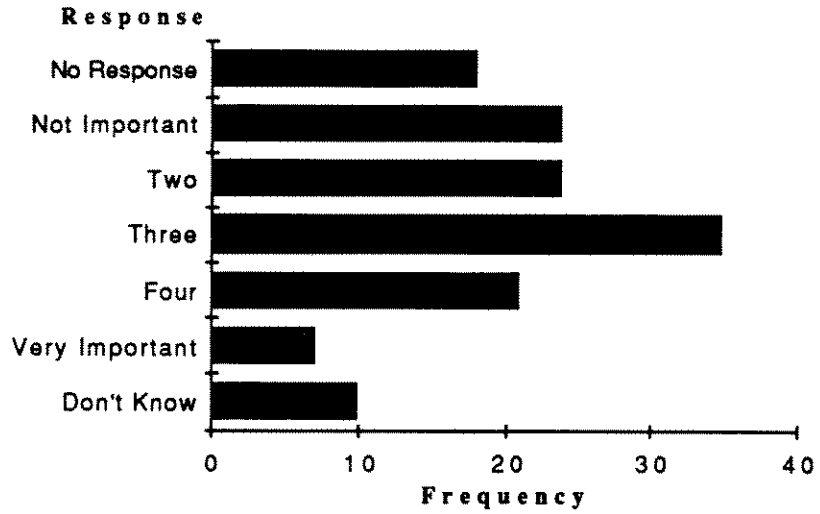
IN EVALUATING PROSPECTIVE ASSOCIATES, HOW IMPORTANT IS LAW SCHOOL ATTENDED?



Response	Freq.	Percent
No Response	17	12.23%
Not Important	18	12.95%
Two	14	10.07%
Three	40	28.78%
Four	34	24.46%
Very Important	9	6.47%
Don't Know	7	5.04%

Finally, one last academic indicator, "Law Review" appears to be of lower or neutral importance. Seventeen and twenty-seven one hundredths (17.27) percent assigned it a value of "1," 17.27 percent a value of "2," 25.18 percent a value of "3," 15.11 percent a value of "4," and only 5.04 percent a value of "5."

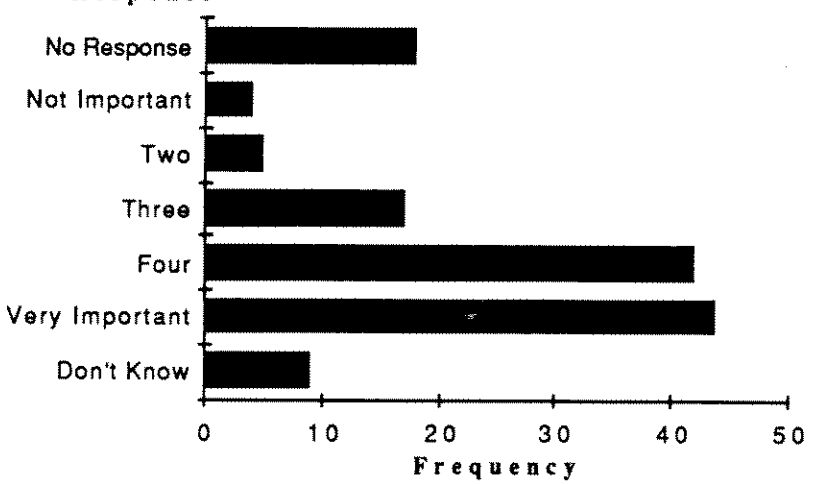
IN EVALUATING PROSPECTIVE ASSOCIATES, HOW IMPORTANT IS "LAW REVIEW"?



Response	Freq.	Percent
No Response	18	12.95%
Not Important	24	17.27%
Two	24	17.27%
Three	35	25.18%
Four	21	15.11%
Very Important	7	5.04%
Don't Know	10	7.19%

A large number of law firms surveyed place a great deal of emphasis on employment experience. Only 2.88 percent considered it not important, while 3.6 percent assigned it a value of "2" and 12.23 percent a value of "3." However, 30.22 percent assigned it a value of "4" and 31.65 percent indicated that it was "very important."

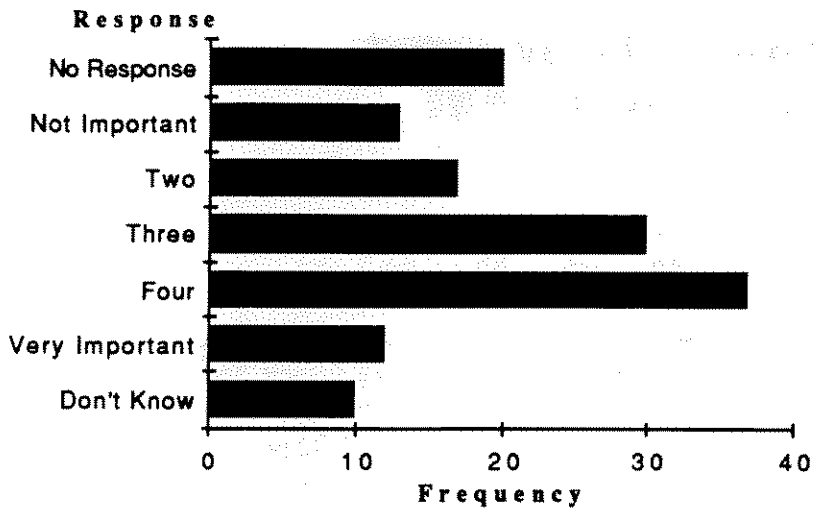
IN EVALUATING PROSPECTIVE ASSOCIATES, HOW IMPORTANT IS EMPLOYMENT EXPERIENCE?



Response	Freq.	Percent
No Response	18	12.95%
Not Important	4	2.88%
Two	5	3.60%
Three	17	12.23%
Four	42	30.22%
Very Important	44	31.65%
Don't Know	9	6.47%

Many firms seem to attach some value to leadership positions held by the applicant. Twenty-one and fifty-eight one hundredths (21.58) percent assigned it a value of "3," 26.62 percent assigned it a value of "4" and 8.63 percent assigned it a value of "5."

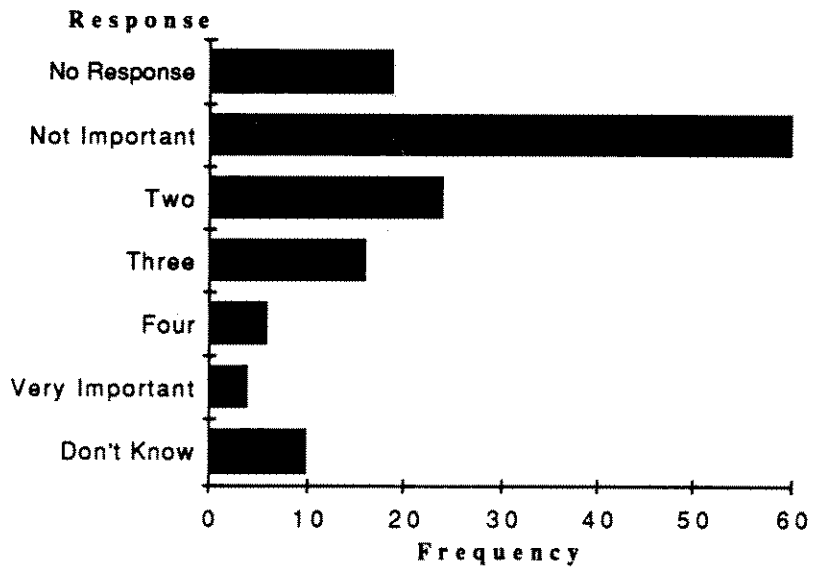
IN EVALUATING PROSPECTIVE ASSOCIATES, HOW IMPORTANT IS LEADERSHIP POSITION HELD?



Response	Freq.	Percent
No Response	20	14.39%
Not Important	13	9.35%
Two	17	12.23%
Three	30	21.58%
Four	37	26.62%
Very Important	12	8.63%
Don't Know	10	7.19%

Social standing and family connections were viewed as relatively unimportant. Forty-three and seventeen one hundredths (43.17) percent of the respondents gave it a value of "1," 17.27 percent assigned it a value of "2," and 11.51 percent a value of "3." Only 4.32 percent assigned it a value of "4" and 2.8 percent a value of "5."

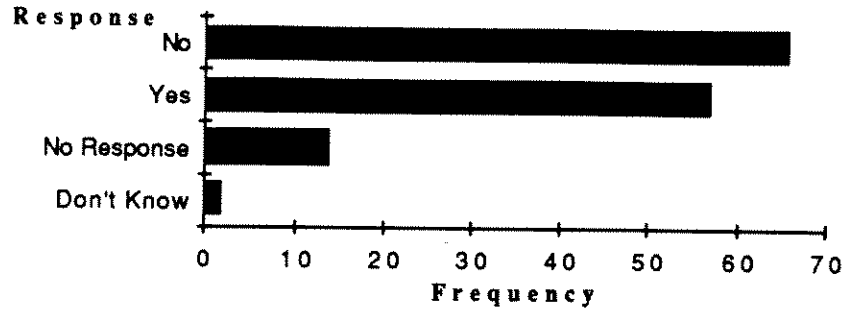
IN EVALUATING PROSPECTIVE ASSOCIATES, HOW IMPORTANT ARE SOCIAL STANDING/FAMILY CONNECTIONS?



Response	Freq.	Percent
No Response	19	13.67%
Not Important	60	43.17%
Two	24	17.27%
Three	16	11.51%
Four	6	4.32%
Very Important	4	2.88%
Don't Know	10	7.19%

It appears that many law firms do in fact make offers of employment to minority attorneys. Of the firms surveyed, 41 percent indicated that they had made offers to minority attorneys within the past 1 to 2 years, and 47.48 percent said they had made none. Ten and seven one hundredths (10.07) percent did not respond and 1.44 percent said they did not know.

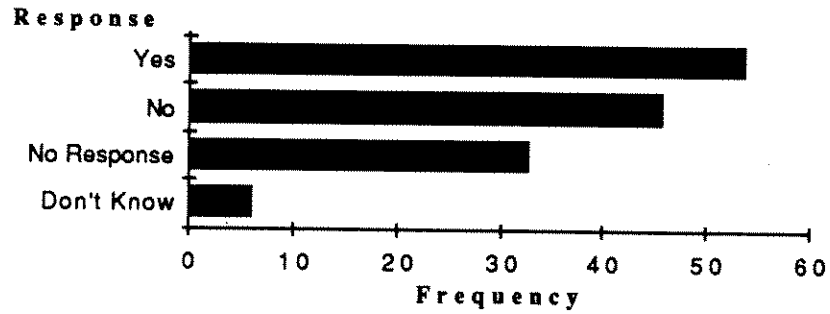
FORMAL OFFER TO MINORITY ATTORNEY PAST 1 - 2 YEARS



Response	Freq.	Percent
No	66	47.48%
Yes	57	41.01%
No Response	14	10.07%
Don't Know	2	1.44%

Within the last 3 to 5 years, 38.85 percent of the firms said they had made formal offers of employment to minority attorneys, while 33.09 percent said they had made none. Twenty-three and seventy-four one hundredths (23.74) percent did not respond and 4.32 percent did not know.

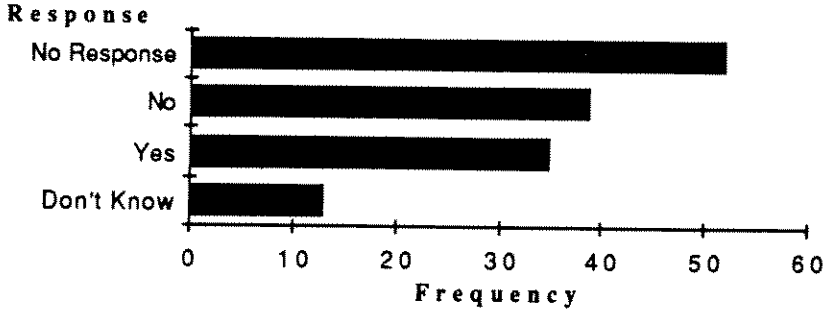
FORMAL OFFER TO MINORITY ATTORNEY PAST 3 - 5 YEARS



Response	Freq.	Percent
Yes	54	38.85%
No	46	33.09%
No Response	33	23.74%
Don't Know	6	4.32%

Within the past 5 to 10 years, 25.18 percent indicated that they had made formal offers, while 28.06 percent said they had not. Thirty-seven and forty-one one hundredths (37.41) percent did not respond and 9.35 percent indicated they did not know.

FORMAL OFFER TO MINORITY ATTORNEY PAST 5 - 10 YEARS

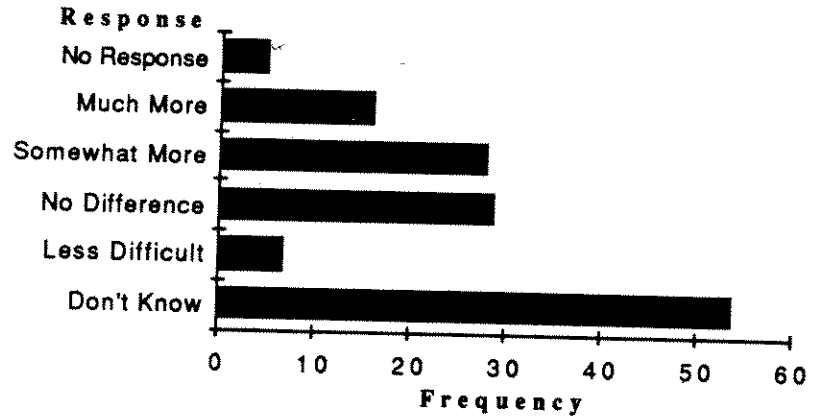


Response	Freq.	Percent
No Response	52	37.41%
No	39	28.06%
Yes	35	25.18%
Don't Know	13	9.35%

Once minority attorneys are employed by law firms, the question of their retention and promotion by the firm comes into focus.

A significant proportion of the respondents to the law firms surveyed seemed to recognize that minority lawyers face greater difficulties than their majority colleagues in achieving partnership in majority law firms. Only 20.86 percent of the respondents believe there is "no difference." However, 20.14 percent indicate that minority lawyers have "somewhat more difficulty" and 11.51 percent believe they have "much more difficulty" in achieving partnership. Thirty-eight and eighty-five one hundredths (38.85) percent did not know.

IS IT MORE DIFFICULT FOR MINORITY LAWYERS THAN FOR THEIR MAJORITY COLLEAGUES TO ACHIEVE PARTNERSHIP IN MOST MAJORITY LAW FIRMS?

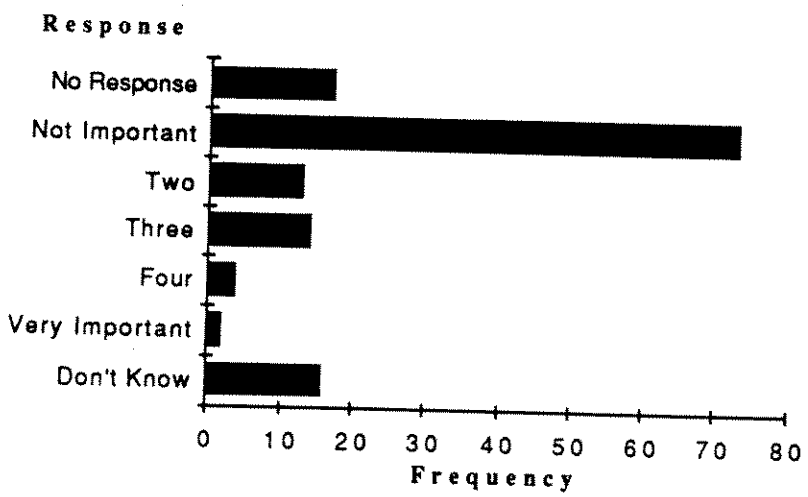


Response	Freq.	Perent
No Response	5	3.60%
Much More	16	11.51%
Somewhat More	28	20.14%
No Difference	29	20.86%
Less Difficult	7	5.04%
Don't Know	54	38.85%

Again, identifying the criteria used by law firms in evaluating their associates for partnership may be instructive in trying to identify barriers faced by minority lawyers in achieving partnership.

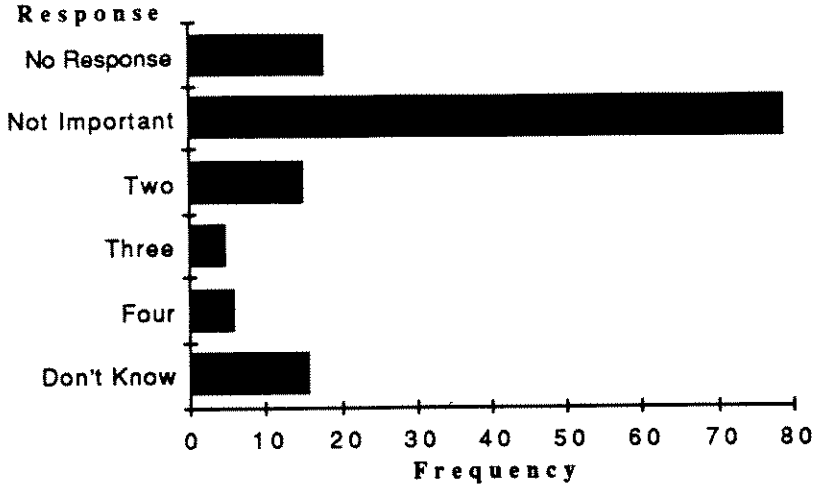
Law firms surveyed were asked to consider the importance of various factors in evaluating associates for partnership. Those factors are: 1) law school attended, 2) LSAT or GPA score, 3) social standing and family connections, 4) billable time, 5) billed dollars, 6) success in attracting clients, 7) compatible personality, 8) demonstrated legal skills, 9) demonstrated leadership abilities, 10) allegiance to firm goals, 11) active participation in organized bar, and 12) active participation in pro bono activities.

HOW IMPORTANT IS LAW SCHOOL ATTENDED IN EVALUATING AN ASSOCIATE FOR PARTNER?



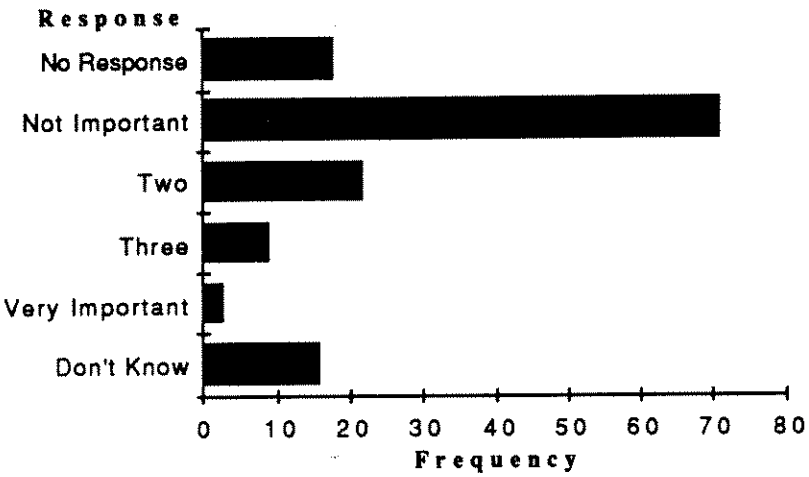
Response	Freq.	Perent
No Response	17	12.23%
Not Important	73	52.52%
Two	13	9.35%
Three	14	10.07%
Four	4	2.88%
Very Important	2	1.44%
Don't Know	16	11.51%

HOW IMPORTANT IS LSAT SCORE OR GPA IN EVALUATING AN ASSOCIATE FOR PARTNER?



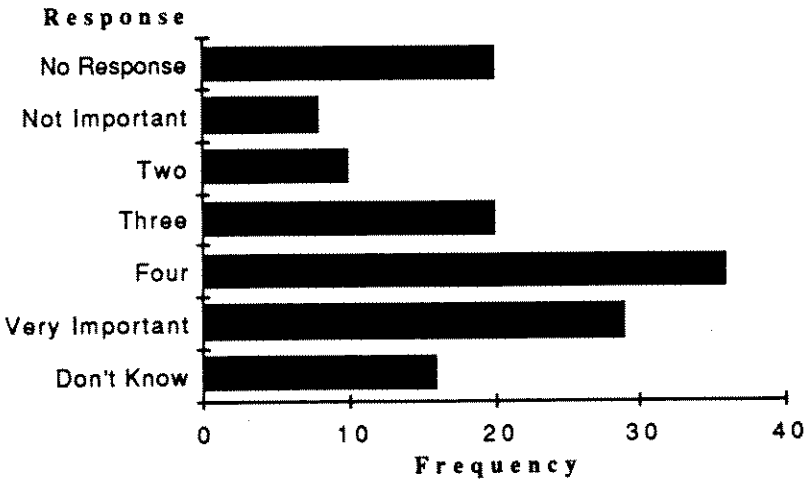
Response	Freq.	Percent
No Response	18	12.95%
Not Important	79	56.83%
Two	15	10.79%
Three	5	3.60%
Four	6	4.32%
Don't Know	16	11.51%

HOW IMPORTANT IS SOCIAL STANDING/FAMILY CONNECTIONS IN EVALUATING AN ASSOCIATE FOR PARTNER?



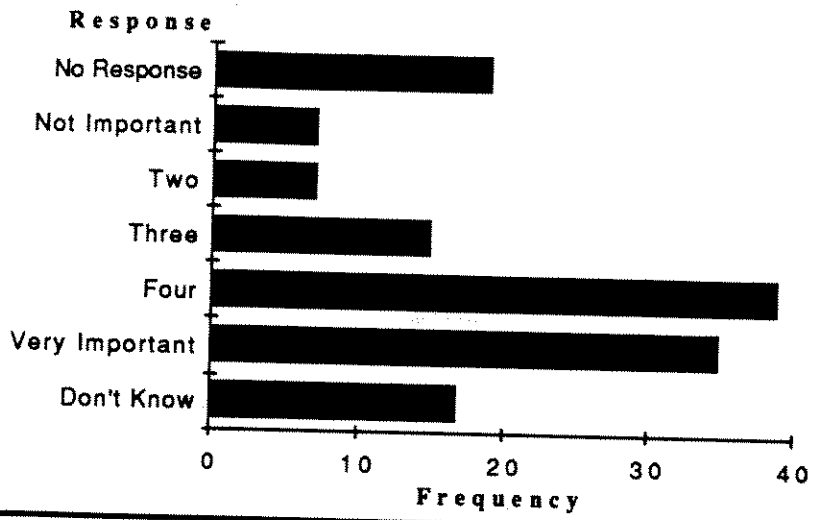
Response	Freq.	Percent
No Response	18	12.95%
Not Important	71	51.08%
Two	22	15.83%
Three	9	6.47%
Very Important	3	2.16%
Don't Know	16	11.51%

HOW IMPORTANT IS BILLABLE TIME IN EVALUATING AN ASSOCIATE FOR PARTNER?



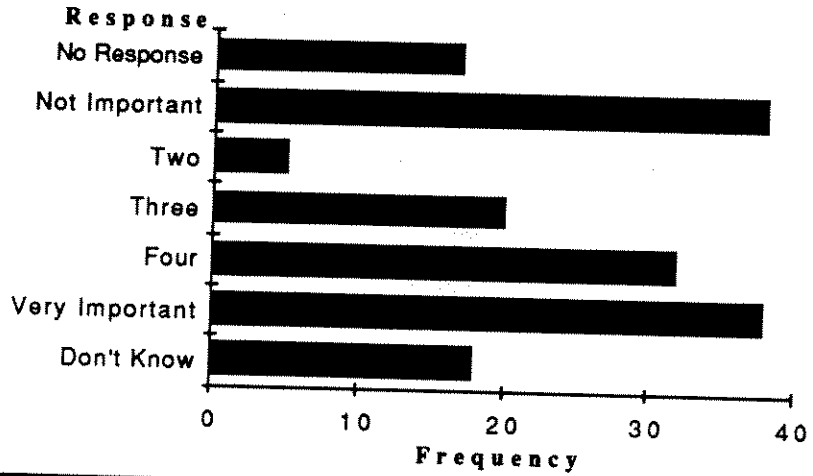
Response	Freq.	Percent
No Response	20	14.39%
Not Important	8	5.76%
Two	10	7.19%
Three	20	14.39%
Four	36	25.990%
Very Important	29	20.86%
Don't Know	16	11.51%

HOW IMPORTANT ARE BILLED DOLLARS IN EVALUATING AN ASSOCIATE FOR PARTNER?



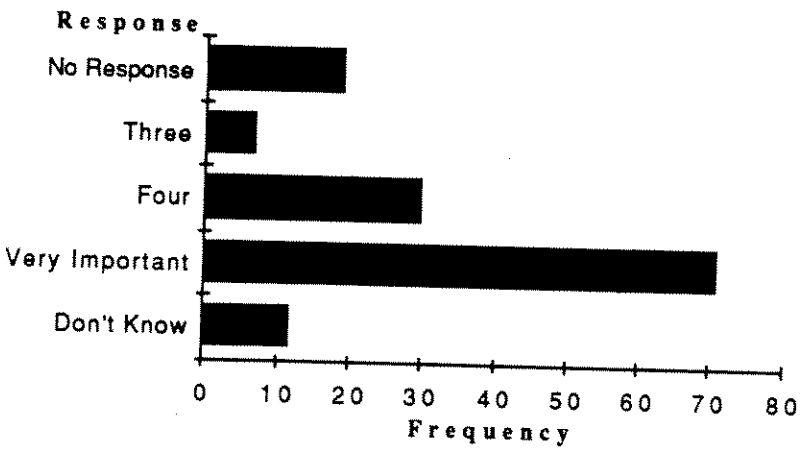
Response	Freq.	Percent
No Response	19	13.67%
Not Important	7	5.04%
Two	7	5.04%
Three	15	10.79%
Four	39	28.06%
Very Important	35	25.18%
Don't Know	17	12.23%

HOW IMPORTANT IS SUCCESS IN ATTRACTING CLIENTS IN EVALUATING AN ASSOCIATE FOR PARTNER?



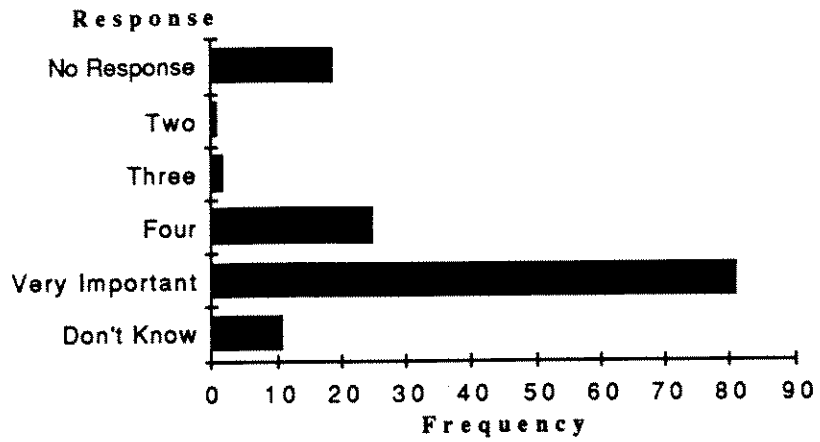
Response	Freq.	Percent
No Response	17	12.23%
Not Important	9	6.47%
Two	5	3.60%
Three	20	14.39%
Four	32	23.02%
Very Important	38	27.34%
Don't Know	18	12.95%

HOW IMPORTANT IS COMPATIBLE PERSONALITY IN EVALUATING AN ASSOCIATE FOR PARTNER?



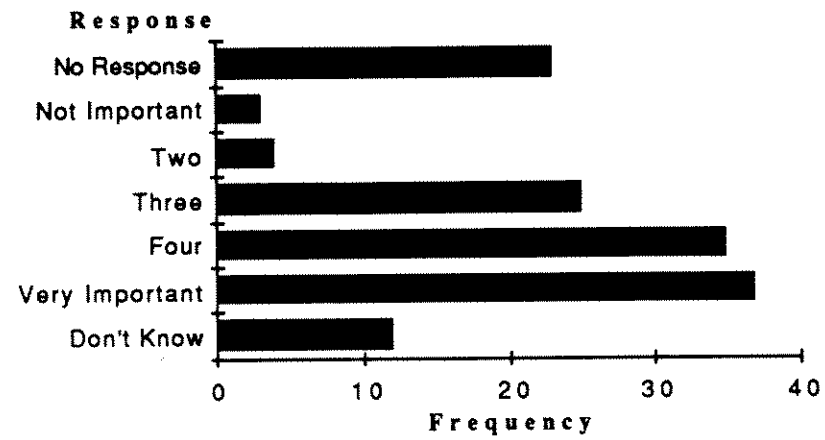
Response	Freq.	Percent
No Response	19	13.67%
Three	7	5.04%
Four	30	21.58%
Very Important	71	51.08%
Don't Know	12	8.63%

HOW IMPORTANT ARE DEMONSTRATED LEGAL SKILLS IN EVALUATING AN ASSOCIATE FOR PARTNER?



	Freq.	Percent
No Response	19	13.67%
Two	1	0.72%
Three	2	1.44%
Four	25	17.99%
Very Important	81	58.27%
Don't Know	11	7.91%

HOW IMPORTANT ARE DEMONSTRATED LEADERSHIP QUALITIES IN EVALUATING AN ASSOCIATE FOR PARTNER?

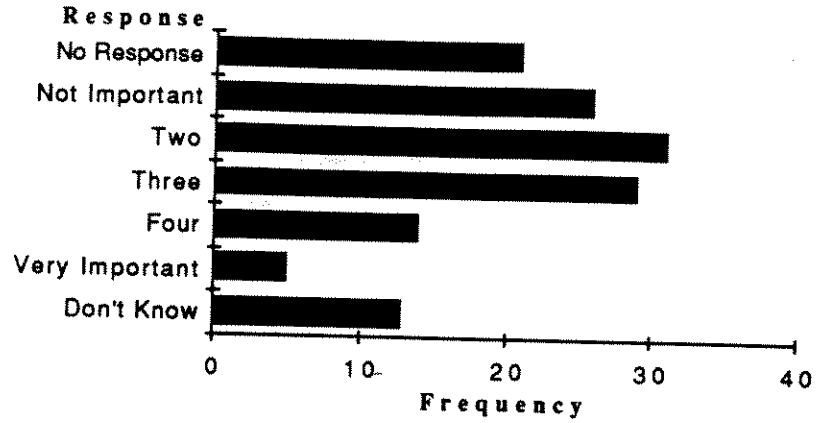


	Freq.	Percent
No Response	23	16.55%
Not Important	3	2.16%
Two	4	2.88%
Three	25	17.99%
Four	35	25.18%
Very Important	37	26.62%
Don't Know	12	8.63%

HOW IMPORTANT IS ALLEGIANCE TO FIRM GOALS IN EVALUATING AN ASSOCIATE FOR PARTNER?

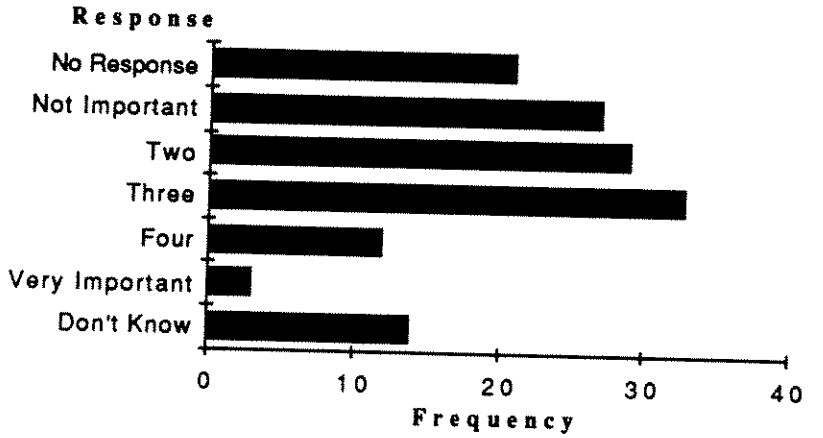
	Freq.	Percent
No Response	21	15.11%
Not Important	1	0.72%
Two	1	0.72%
Three	18	12.95%
Four	32	23.02%
Very Important	53	38.13%
Don't Know	13	9.35%

HOW IMPORTANT IS ACTIVE PARTICIPATION IN THE ORGANIZED BAR IN EVALUATING AN ASSOCIATE FOR PARTNER?



Response	Freq.	Percent
No Response	21	15.11%
Not Important	26	18.71%
Two	31	22.30%
Three	29	20.86%
Four	14	10.07%
Very Important	5	3.60%
Don't Know	13	9.35%

HOW IMPORTANT IS ACTIVE PARTICIPATION IN *PRO BONO* ACTIVITIES IN EVALUATING AN ASSOCIATE FOR PARTNER?

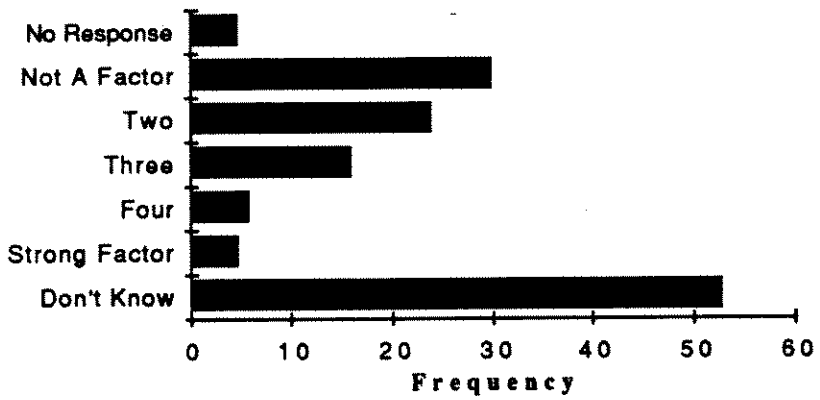


Response	Freq.	Percent
No Response	21	15.11%
Not Important	27	19.42%
Two	29	20.86%
Three	33	23.74%
Four	12	8.63%
Very Important	3	2.16%
Don't Know	14	10.07%

Not surprisingly, many law firms place a high degree of importance on the legal skills of the lawyer and his or her ability to attract business. Other factors that do not directly relate to performance at the law firm seem to be of subsidiary importance. For example, academic credentials, while important in obtaining employment in the firm, seem to be of relative unimportance in evaluating an applicant for partnership. Forty-six (46) percent of the respondents assigned billable time a value of "4" or "5" and 53 percent of the law firms assigned billed dollars a value of "4" or "5." Success in attracting clients was ranked as a "4" or "5" by 50 percent of the respondents and legal skills received a ranking of "4" or "5" from 76 percent of the respondents. Not surprisingly, how the individual "fits in" with the firm was also a significant factor. Seventy-three (73) percent of the law firms assigned "compatible personality" a value of "4" or "5" and 61 percent of the law firms considered "allegiance to firm goals" to have a ranking of "4" or "5." Leadership qualities of the individual, presumably measuring an individual's standing in the legal and civic community, were considered fairly important. Fifty-two (52) percent of the firms responding considered leadership qualities to have a ranking of "4" or "5."

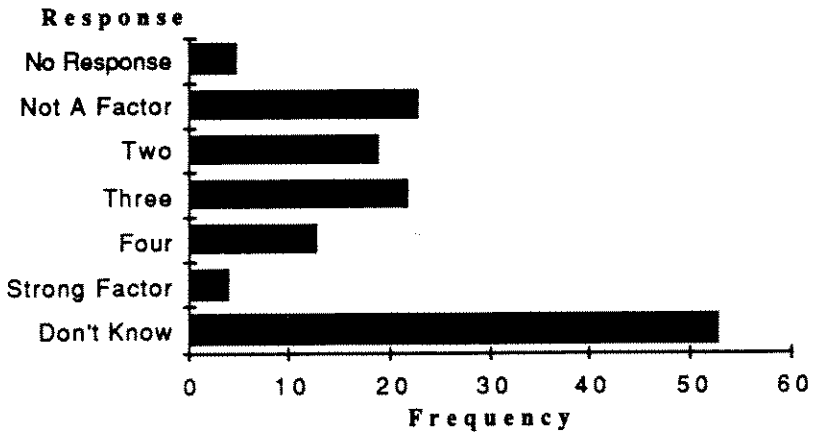
Respondents to the Law Firm Survey were asked to evaluate a number of factors that contributed to the difficulty of minority lawyers becoming partners in majority firms. The factors considered by the respondents of the Law Firm Survey were 1) majority partners unwilling to act as mentors, 2) ineffectiveness of majority partners as mentors to minority associates, 3) lack of minority partners acting as mentors to minority associates, 4) inability to attract desirable clients, 5) lack of personal compatibility with colleagues, 6) lack of opportunities to demonstrate talent, and 7) philosophical differences with firms' practices and goals.

TO WHAT DEGREE DOES UNWILLINGNESS OF MAJORITY PARTNERS TO ACT AS MENTORS CONTRIBUTE TO DIFFICULTY MINORITY LAWYERS FACE IN BECOMING PARTNERS IN A MAJORITY LAW FIRM?



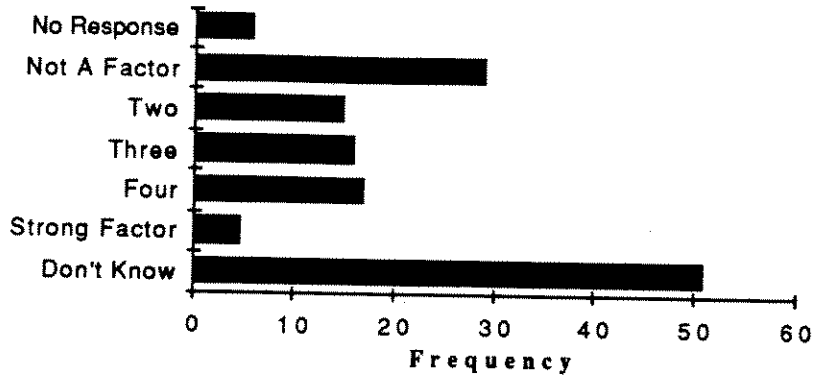
Response	Freq.	Percent
No Response	5	3.60%
Not A Factor	30	21.58%
Two	24	17.27%
Three	16	11.51%
Four	6	4.32%
Strong Factor	5	3.60%
Don't Know	53	38.13%

TO WHAT DEGREE DOES INEFFECTIVENESS OF MAJORITY PARTNERS AS MENTORS TO MINORITIES CONTRIBUTE TO DIFFICULTY MINORITY LAWYERS FACE IN BECOMING PARTNERS IN A MAJORITY LAW FIRM?



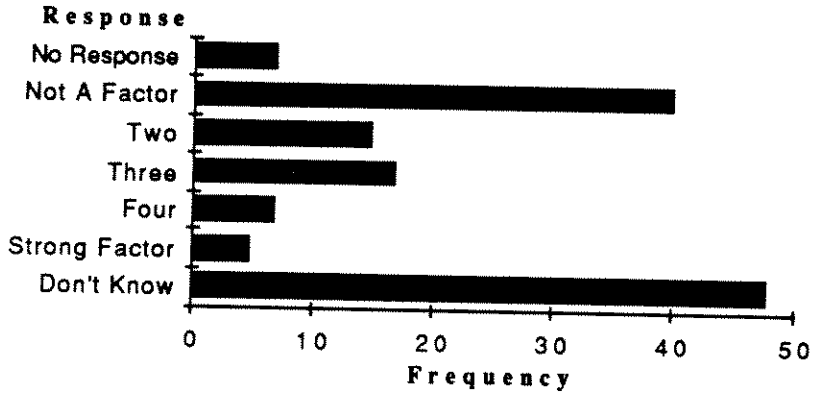
Response	Freq.	Percent
No Response	5	3.60%
Not A Factor	23	16.55%
Two	19	13.67%
Three	22	15.83%
Four	13	9.35%
Strong Factor	4	2.88%
Don't Know	53	38.13%

TO WHAT DEGREE DOES INABILITY TO ATTRACT DESIRABLE CLIENTS CONTRIBUTE TO DIFFICULTY MINORITY LAWYERS FACE IN BECOMING PARTNERS IN A MAJORITY LAW FIRM?



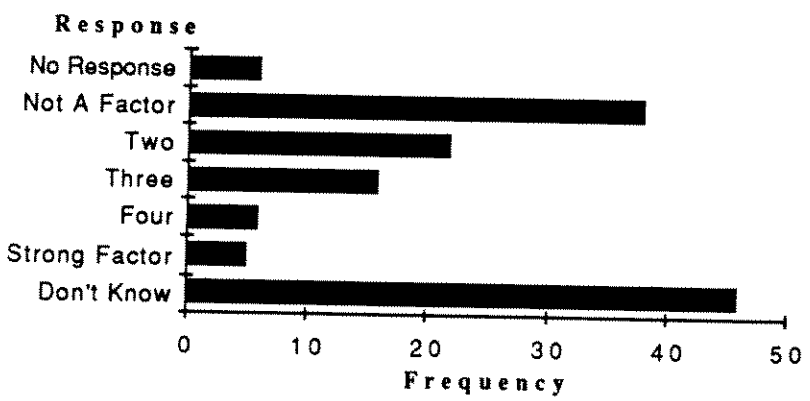
	Freq.	Percent
No Response	6	4.32%
Not A Factor	29	20.86%
Two	15	10.79%
Three	16	11.51%
Four	17	12.23%
Strong Factor	5	3.60%
Don't Know	51	36.69%

TO WHAT DEGREE DOES LACK OF PERSONAL COMPATIBILITY WITH COLLEAGUES CONTRIBUTE TO DIFFICULTY MINORITY LAWYERS FACE IN BECOMING PARTNERS IN A MAJORITY LAW FIRM?



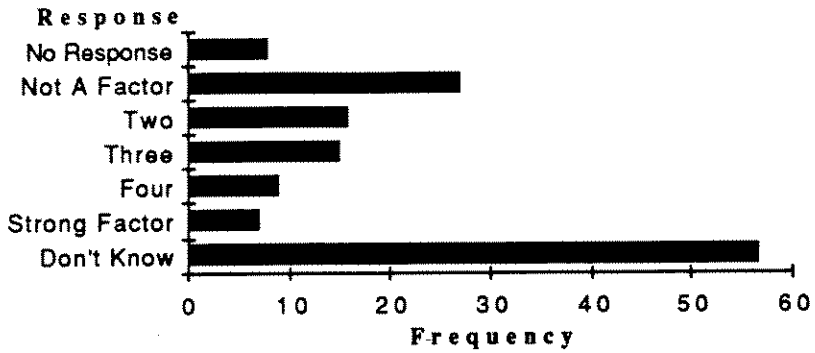
	Freq.	Percent
No Response	7	5.04%
Not A Factor	40	28.78%
Two	15	10.79%
Three	17	12.23%
Four	7	5.04%
Strong Factor	5	3.60%
Don't Know	48	34.53%

TO WHAT DEGREE DOES LACK OF OPPORTUNITIES TO DEMONSTRATE TALENT CONTRIBUTE TO DIFFICULTY MINORITY LAWYERS FACE IN BECOMING PARTNERS IN A MAJORITY LAW FIRM?



	Freq.	Percent
No Response	6	4.32%
Not A Factor	38	27.34%
Two	22	15.83%
Three	16	11.51%
Four	6	4.32%
Strong Factor	5	3.60%
Don't Know	46	33.09%

TO WHAT DEGREE DO PHILOSOPHICAL DIFFERENCES WITH FIRMS' PRACTICES AND GOALS CONTRIBUTE TO DIFFICULTY MINORITY LAWYERS FACE IN BECOMING PARTNERS IN A MAJORITY LAW FIRM?

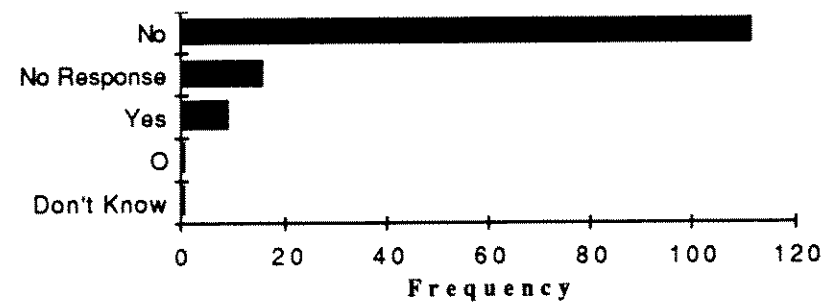


Response	Freq.	Percent
No Response	8	5.76%
Not A Factor	27	19.42%
Two	16	11.51%
Three	15	10.79%
Four	9	6.47%
Strong Factor	7	5.04%
Don't Know	57	41.01%

There appears to be no consensus that any single factor contributes to the difficulty minority attorneys face in making partner. Law firm respondents tend to discard the "lack of opportunity to demonstrate talent" as a contributing factor. Twenty-six and thirty-four one hundredths (26.34) percent rated this a "1," 15.83 percent a "2," and 11.51 percent a "3." Thirty-three and ninety-one one hundredths (33.91) percent said they "do not know." While some respondents cited as a factor the "inability to attract desirable clients," a greater number indicated that this was not a factor or not a significant factor. Twenty and eighty-six one hundredths (20.86) percent rated this a "1," 10.79 percent a "2," 11.51 percent a "3," 12.23 percent a "4," and 3.6 percent a "5." Thirty-six and sixty-nine one hundredths (36.69) percent "do not know." The lack of minority partners acting as mentors to minority associates was cited by many respondents as a factor. Seventeen and ninety-nine one hundredths (17.99) percent rated this a "3," 15.83 percent a "4," and 5.04 percent a "5." Thirty-four and fifty-three one hundredths (34.53) percent "do not know."

Based on responses to the survey, it appears that the vast majority of law firms make no special effort to recruit minority lawyers. Some 80.58 percent indicated that they make no special effort, while only 6.5 percent indicated having special recruitment efforts.

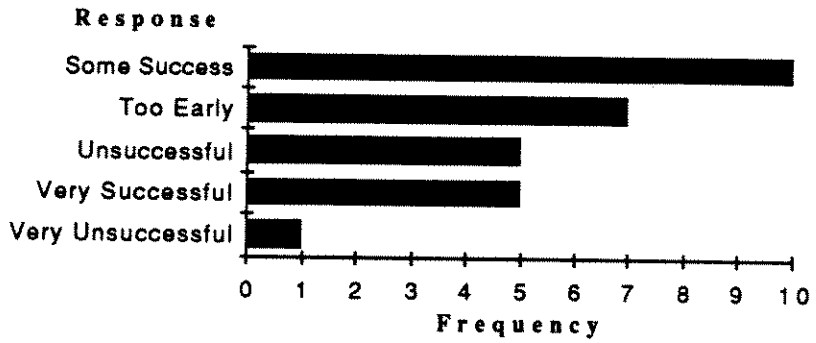
DO LAW FIRMS MAKE ANY SPECIAL EFFORT TO RECRUIT MINORITY LAWYERS?



Response	Freq.	Percent
No	112	80.58%
No Response	16	11.51%
Yes	9	6.47%
O	1	0.72%
Don't Know	1	0.72%

However, the experience of law firms using recruitment efforts generally seemed to pay off, according to the respondents. When asked how successful the methods have been for recruiting minority lawyers, 35.71 percent indicated that they had "some success," and 17.86 percent said they had been "very successful." Seventeen and eighty-six one hundredths (17.86) percent indicated they had been "unsuccessful" and 3.57 percent said they had been "very unsuccessful." Twenty-five (25) percent said that it was "too early" to evaluate the results.

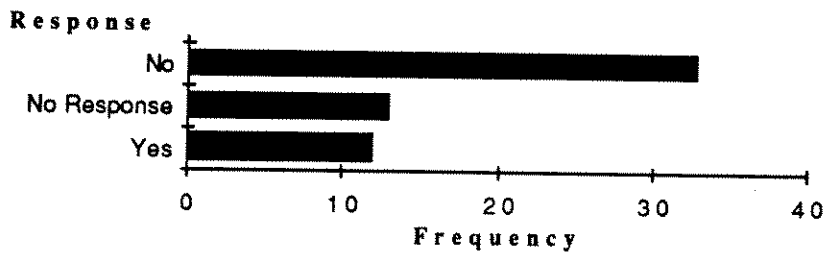
HOW SUCCESSFUL HAVE THE METHODS BEEN FOR RECRUITING MINORITY LAWYERS?



Response	Freq.	Percent
Some Success	10	35.71%
Too Early	7	25.00%
Unsuccessful	5	17.86%
Very Successful	5	17.86%
Very Unsuccessful	1	0.72%

In contrast to their colleagues in private law firms, non-law firm employers responding to the Task Force Survey do not perceive that minority lawyers face barriers to employment and retention in the public sector not faced by non-minority lawyers. Fifty-six and nine tenths (56.90) percent of the respondents said that such barriers do not exist, while only 20.69 percent believed they do. A percent of 22.41 did not respond to this question.

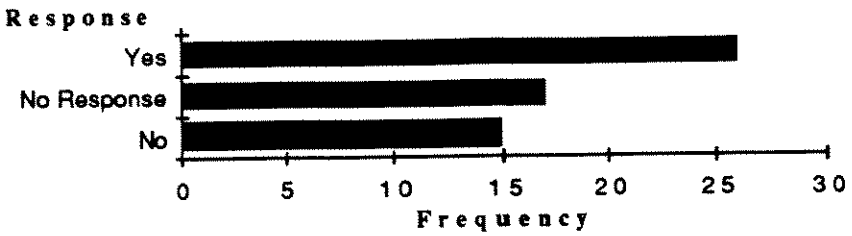
DO MINORITY LAWYERS FACE BARRIERS TO EMPLOYMENT AND RETENTION BY PUBLIC SECTOR EMPLOYERS NOT FACED BY NON-MINORITY LAWYERS?



Response	Freq.	Percent
No	33	56.90%
No Response	13	22.41%
Yes	12	20.69%

Nevertheless, 44.83 percent of the respondents felt the need and justification for a State Bar of New Mexico sponsored referral program for ethnic minorities, while only 25.86 percent believed that there was no need.

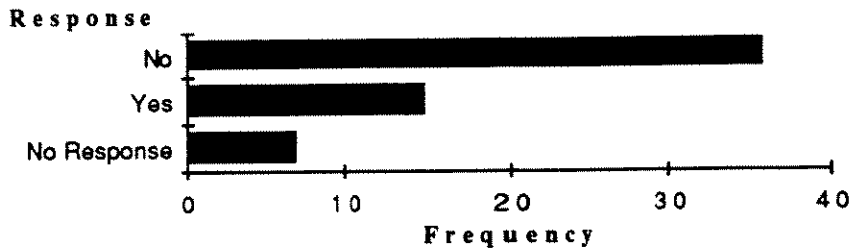
IS THERE A NEED AND JUSTIFICATION FOR A STATE BAR OF NEW MEXICO SPONSORED REFERRAL PROGRAM FOR ETHNIC MINORITY LAWYERS?



Response	Freq.	Percent
Yes	26	44.83%
No Response	17	29.31%
No	15	25.86%

The statistics suggest that while public sector organizations recognize that minorities are underrepresented among their ranks, the majority do not feel that minority lawyers who are attracted to the public sector will be at a disadvantage in employment and advancement within these organizations. Only 25 percent of the organizations reported having a hiring program that targets minority lawyers, while 62 percent reported having none. Responses seemed inconclusive as to whether such recruitment efforts pay off.

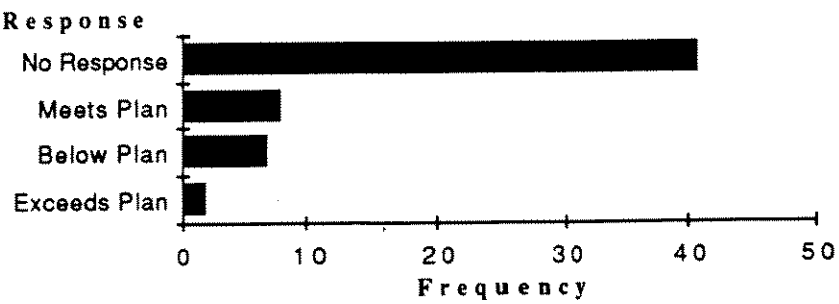
HIRING PROGRAM THAT TARGETS MINORITY LAWYERS



Response	Freq.	Percent
No	36	62.07%
Yes	15	25.86%
No Response	7	12.07%

Minority recruitment efforts were rated as "meeting the plan" by 13.79 percent of the respondents and 3.45 percent said that "it exceeds the plan." On the other hand, 12.07 percent indicated that the level of success was "below the plan" and 70.69 percent did not respond to the question.

RATE THE SUCCESS OF MINORITY RECRUITMENT EFFORTS



Response	Freq.	Percent
No Response	41	70.69%
Meets Plan	8	13.79%
Below Plan	7	12.07%
Exceeds Plan	2	3.45%

Conclusions And Recommendations

Minority attorneys in private practice appear to be concentrated in sole practice and small law firms to a far greater extent than their non-minority colleagues. Thus, minority attorneys appear to be underrepresented among the ranks of the medium and larger law firms.

Minorities appear to be better represented among the ranks of attorneys employed in government, although, here too, there is a perception that underrepresentation exists.

No single reason emerges as a cause for the underrepresentation of employment opportunities for minorities in law firms. Rather, a number of factors might be attributed to this problem.

The perception among a large number of minority attorneys that minority attorneys face barriers to law firm employment, retention and promotion not faced equally by their non-minority counterparts would appear to inhibit minority attorneys from planning a career in a law firm. Law firms, themselves, although to a lesser degree, seem to acknowledge that minority attorneys do face barriers to hiring and advancement, and that forms of racial discrimination may still exist. As a general rule, hiring law firms seem to place an emphasis on law school academic performance and work experience of prospective applicants. At least among some law firms, there seems to be a perception that the pool of qualified minority attorneys meeting their hiring standards is too small and, therefore, results in less minority applicants being hired.

Many firms acknowledge that once a minority applicant is hired by a law firm, advancement to partnership level may be more difficult for a minority applicant than for his or her non-minority counterpart. Some firms recognize that the lack of minority partner mentors may explain why more minority attorneys do not make partner.

Recruitment efforts targeted at minorities seem to be the exception, rather than the rule. Many law firms who have adopted targeted recruitment practices indicate that the programs have been successful.

The Task Force believes that the State Bar can and should play a role in seeking to increase employment opportunities for minority attorneys both in the private and public sectors.

The State Bar can and should be instrumental as an advocate calling for better employment opportunities. The resolution adopted by the 1989 State Bar Convention to this effect is a first step. In furtherance of implementing the Resolution, the Task Force believes that the State Bar and its leadership should sponsor specific programs aimed at achieving the following:

1. With the assistance of minority bar association organizations, conduct programs for law students to make them better aware of existing employment opportunities and how better to seize those opportunities.

2. Promote consultation between minority bar association organizations, minority business leaders, and successful minority attorneys, on the one hand, and management partners of medium and large law firms on the other, to assist those law firms in developing effective minority recruitment programs.

3. Encourage law firms and government employers of attorneys to adopt aggressive minority recruitment programs. Such programs should seek to recruit minority attorneys into their organizations at the earliest stages of their careers as possible, preferably at the clerkship level. Also, such programs should be designed to provide mentoring for minority applicants, and, if possible, mentoring by minority partners.

D. Disciplinary Procedures And Minority Attorneys

One of the most intriguing yet highly sensitive issues addressed by the Task Force involves attorney discipline. There exists, in the New Mexico Bar, a perception that minority attorneys are disproportionately involved in disciplinary proceedings and that the minority attorneys disciplined are subjected to harsher penalties for their actions than non-minority attorneys who have committed the same offense. Thus, the Task Force was given the job of determining whether minority attorneys were in fact involved in disproportionately more disciplinary proceedings and the reasons for this circumstance. Due to the confidential nature of disciplinary proceedings, it was difficult for the Task Force to compile raw data and conduct interviews with those involved in disciplinary actions. However, with the assistance of the State Bar and the Disciplinary Board, the Task Force was able to compile sufficient data to shed some light on this subject.

The Task Force was provided with various statistics from the Disciplinary Board of the Supreme Court of New Mexico summarizing the action taken by the Disciplinary Board during the years 1983-1987. The data reflects that the Board has applied seven types of sanctions to attorneys who violate the Rules of Professional Conduct. They are, in ascending order of harshness: Letter of Caution, Informal Admonition, Formal Reprimand, Public Censure, Probation, Suspension and Disbarment.

During the years 1983-1987, 241 attorneys received some type of disciplinary sanction. The reasons for the sanctions varied considerably. In compiling its statistics, the Board employed seven categories to describe the reasons for sanctions.

Of the 241 attorneys disciplined in the time period examined, 91 received a Letter of Caution; 90 received an Informal Admonition; 16 received a Formal Reprimand; 5 received a Public Censure; 5 received Probation; 18 were Suspended; and 16 were Disbarred.

The Task Force, with the assistance of the State Bar staff, attempted an analysis of the involvement of minority attorneys on the receiving end of these sanctions. The analysis was hampered somewhat by the fact that the Disciplinary Board provided the Task Force with only general data rather than an identification of the ethnicity, sex, size of firm, age, years in practice, or reasons for the sanction associated with a particular complaint and type of sanction. Research into other State Bar data sources was therefore necessary to accomplish the study. Additionally, statistical analysis was somewhat problematic because of the bimodal nature of the use of sanctions by the Board. The Board applies the two extreme ends of the sanction spectrum quite regularly, and the middle sanctions only sparingly. One further problem was that the only ethnic and demographic information available to the State Bar was for 1988 and 1989, while the Disciplinary Board information covered the period 1983-1987. Certain extrapolations from the data therefore had to be made.

Despite these limitations, some significant observations relevant to the mandate of the Task Force were noted. The Task Force compared the firm size of those attorneys sanctioned to the approximate percentage of the members of the State Bar in that size firm. Fifty-three (53) percent of the attorneys sanctioned by the Board **were sole practitioners**. By way of contrast, only 30 percent of the active-instate Bar members were sole practitioners in 1988.

In 1988, 27 percent of the active-instate Bar members were in firms with 2-5 attorneys. Thirty-nine and eight-tenths (39.80) percent of the attorneys sanctioned during the period studied were in firms of that size.

Five and one-half (5.5) percent of the attorneys sanctioned during the period studied came from firms with 6 to 9 members. Eleven and one-tenth (11.10) percent of the active-instate attorneys were in firms of that size in 1988. Furthermore, only 1.7 percent of the attorneys sanctioned in any way were from firms with 10+ lawyers, even though 31.7 percent of the active attorneys in the State in 1988 practiced in firms of that size.

These comparisons clearly indicate that sole practitioners and attorneys in the smaller law firms of the State are disproportionately represented in the group of attorneys sanctioned while attorneys in the larger firms are seldomly involved in disciplinary proceedings.

The Task Force also compared the ethnicity of the State Bar with the ethnicity of the sanctioned attorneys. The State Bar's active-instate membership in 1988 was 81.9 percent Anglo, 14 percent Hispanic, 0.36 percent Black and 1.04 percent Native American/Native Alaskan. When the ethnicity of the attorneys sanctioned is examined, one finds that 68 percent were Anglo, 29 percent were Hispanic, 1.6 percent were Black and 0.80 percent were Native American. These percentages indicate a highly disproportionate number of Hispanics in the group of sanctioned attorneys. Some differences in the representation of other minorities exist, although the numbers are probably too small to be meaningful.

The overrepresentation of sole practitioners in the group of sanctioned attorneys combined with the disproportionate number of Hispanics in the sole practitioner and small law firm group may very well explain the disproportionate number of Hispanics in the sanctioned group of attorneys.

The Task Force was also interested in the factors that determined the severity of sanction imposed once an attorney was found to have violated the Rules of Professional Conduct. Several statistical regressions were conducted using the Disciplinary Board information.

In looking at the variables, "size of firm" emerges as the most notable factor relating to the severity of sanction received. Of the sole practitioners sanctioned during the period studied, 21.9 percent received the two most severe sanctions of suspension and disbarment. For attorneys in firms with 2-5 attorneys, 5.9 percent of those sanctioned received the two most severe sanctions, while 7.7 percent of the sanctioned attorneys with firms having 5-10 lawyers were suspended or disbarred. No attorney from a firm with 10 or more lawyers received any sanction higher than an informal admonition. In fact, only a total of four attorneys from large firms received any kind of sanction from 1983 to 1987.

The "reason" for sanction was also highly significant in determining the severity of a sanction. If an attorney was being sanctioned for trust account violations or for having been convicted of any serious criminal violation, the attorney would typically receive one of the more harsh sanctions.

"Ethnicity" also emerged as an important factor in evaluating sanction levels, although it was not as significant as size of firm or the reasons for sanction. The two lowest sanctions (Letter of Caution and Informal Admonition) were imposed on 78 percent of the Anglo attorneys who were sanctioned, while 12.8 percent received the severest two sanctions. Seventy (70) percent of the sanctioned Hispanic attorneys received the two lowest sanctions, while 15.4 percent received the harshest two sanctions. Four Black attorneys were sanctioned in the time period studied. Two of them were cautioned, one was suspended and one was disbarred. Only two Native American attorneys were sanctioned between 1983-1987. One was informally admonished and one was formally reprimanded.

Differences in sanctions also exist with respect to gender. As a general rule, males who were sanctioned received a higher sanction than females who were sanctioned. Sixty-four (64) percent of the males sanctioned received more than an informal admonition compared with only 50 percent of the women.

Conclusions And Recommendations

Based on the findings of the Task Force, it is apparent that minorities are disproportionately involved in disciplinary proceedings. One may jump to the conclusion that the administration of attorney discipline in New Mexico is discriminatory against Hispanics and other minorities. However, such a conclusion would overlook the statistical evidence and the findings of this Task Force. What cannot be denied is that a problem does exist. There are two reasons.

First, a large percentage of attorneys who are disciplined are sole practitioners or in small firms. A large percentage of minority attorneys are in sole practice or in small firms. These attorneys are offered very little guidance or training and have no mentors or role models to pattern their behavior. Attorneys are not usually taught in law school how to handle trust accounts or their daily business affairs. They are left to learn their trade by trial and error. When disciplinary matters arise, sole practitioners often do not have the resources, support and time flexibility to adequately respond to Disciplinary Board complaints.

Second, attorneys in sole practice or with small firms feel compelled, primarily for financial reasons, to accept almost every conceivable case that comes their way without giving sufficient thought to the fact that he or she may not be prepared (by experience or training) to properly handle the case. Accepting a case when an attorney has little or no experience in the area increases the risk of that attorney being the subject of disciplinary action when the case turns sour and the client becomes disgruntled.

It is the Task Force's opinion that this problem can be alleviated through the joint effort of the law schools, the State Bar, law firms and the individual attorney. First, law schools should provide courses or clinical programs that deal with small law office management, the handling of client funds, and the establishment of internal mechanisms for client and docket control. In addition, the law schools should provide courses dealing with ethical issues that arise in the practice of law as well as courses dealing specifically with the Code of Professional Responsibility and disciplinary issues.

Second, the State Bar should continue its efforts to provide continuing legal education to lawyers which emphasizes the practical aspects of the legal profession. While it is difficult for some sole practitioners and members of small firms to leave their busy practices to attend such seminars, it is important for the State Bar to emphasize the usefulness of these type of seminars. With the reinstitution of Mandatory Continuing Legal Education, it should be easier for the State Bar to provide programs with the emphasis on sole or small office practice and have those programs attended by attorneys who can take this knowledge into their practice.

It may also be possible for the State Bar to implement a "mentor program" similar to the Bill Kitts Society administered by the New Mexico Bar Foundation. While the Bill Kitts Society was created to assist lawyers with legal questions, a program could be established to help sole practitioners or members of small firms answer management, trust fund and ethical questions. Alternatively, the Bar Foundation might consider expanding the Bill Kitts Society by inviting greater participation by experienced minority attorneys as mentors and notifying recent minority admittees of the benefits of the program. It is conceivable that one of the reasons why attorneys in larger firms are rarely involved in disciplinary proceedings is that when legal or ethical questions arise, advice is readily available from other members of their firm. Making such advice available to sole practitioners would not only be beneficial to the individual attorney but would provide an invaluable service to the Bar as a whole.