

### **E. Involvement Of Minority Attorneys In The Activities Of The State Bar**

Although the State Bar of New Mexico is an integrated bar, the historical lack of significant involvement by minority attorneys in the activities and leadership of the Bar poses a troublesome issue that has not previously been systematically addressed by the Bar. In order to identify the factors that may explain this traditional lack of interest or involvement by minority attorneys and to determine the appropriate steps that should be taken by the Bar to encourage and promote meaningful and active participation of minority attorneys, the Task Force designed a portion of Survey Form I to develop specific information on various aspects of Bar participation by minority attorneys, including specific areas and levels, as well as any perceived barriers to participation. Two questions (17 and 18) containing six subparts were analyzed to produce the information contained in this section of the Report.

The research methodology used to analyze these data included frequency of response tabulation and the resulting percentages, cross-tabulation of selected responses within the survey form and crossbreak construction using data from other sources within the data bases of the State Bar. The additional State Bar data bases used in this analysis included:

1. The Task Force on the Participation of Government Lawyers in the Activities of the State Bar Survey which was undertaken in May, 1988. This instrument surveyed both public and private practicing attorneys. The response rate was 39 percent of the private practitioners and 53 percent of the public practitioners.

2. The State Bar program and demographic data bases which are comprehensive, integrated data bases and are related to programs and member demographics.

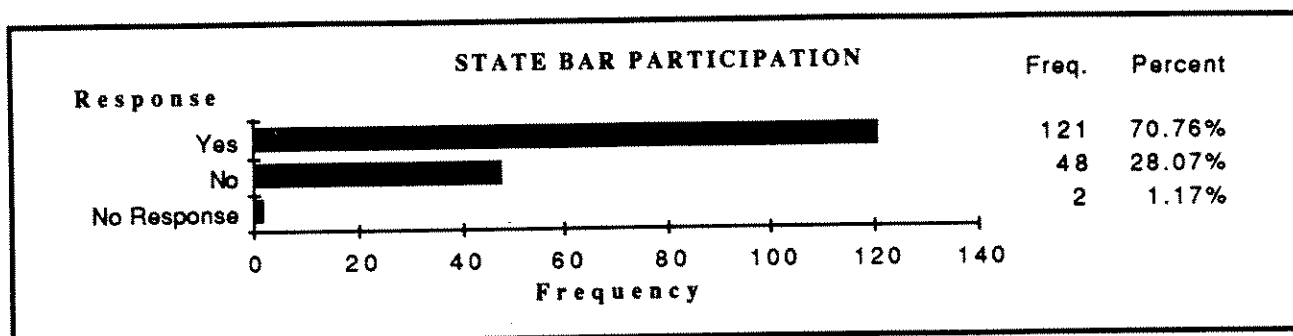
From these demographic data, the 1989 minority attorney in-state active membership is established at 14.35 percent of the total in-state active membership of the State Bar. In addition to using other survey information as comparative data, the percentage of in-state active minority attorney representation to the whole will be used throughout this portion of the Report as one of the more appropriate data references.

The survey results from ethnic minority members of the State Bar and analysis by the Task Force follow.

## State Bar Participation

Survey Form I, Question 17(a): Have you participated in a State Bar of New Mexico activity in the last three years?

Participation by minority attorneys in the overall activities of the State Bar in the last three years has been at a rate of 70.76 percent. Twenty-eight and seven one hundredths (28.07) percent indicate that they have not participated in any Bar activities in the last three years.



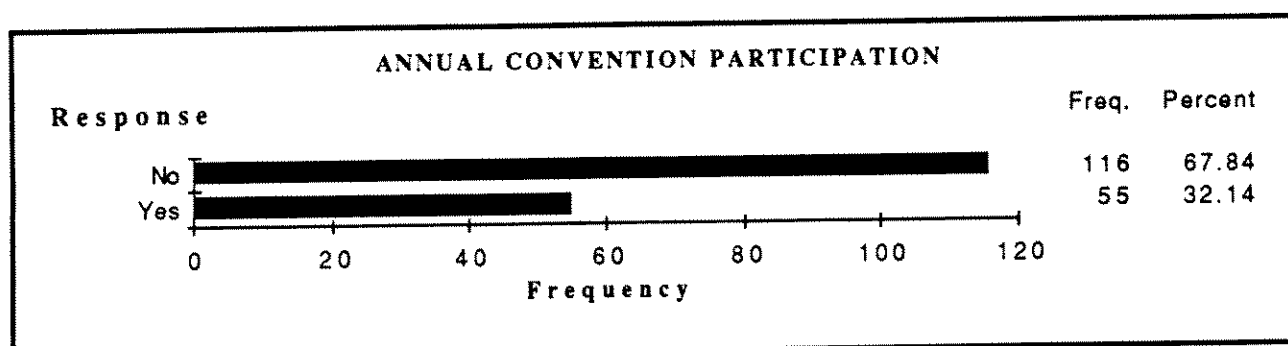
The same question was posed to public and private practicing attorneys in the 1988 Government Attorney Study and the results were that 85 percent of the public attorneys and 91 percent of the private attorneys had participated in State Bar activities in the last three years. Overall participation by minority attorneys in the past three years has been markedly lower.

	Government		Non-Government	
	Number	Percent	Number	Percent
Yes	246	85%	570	91%
No	42	15%	57	9%

For those individuals indicating some participation, Question 17(b) asked about areas of participation. Nine specific areas were analyzed. They were: Annual Convention, Section Leadership, CLE, Law Day, Young Lawyers Division (YLD), Section Membership, Task Forces or Special Committees, Lawyer Referral and the Board of Bar Commissioners.

## Annual Convention

Minority attorneys participated in the Annual Convention, at some point over time, at the rate of 32.16 percent; 67.84 percent indicate that they have not participated in this activity.



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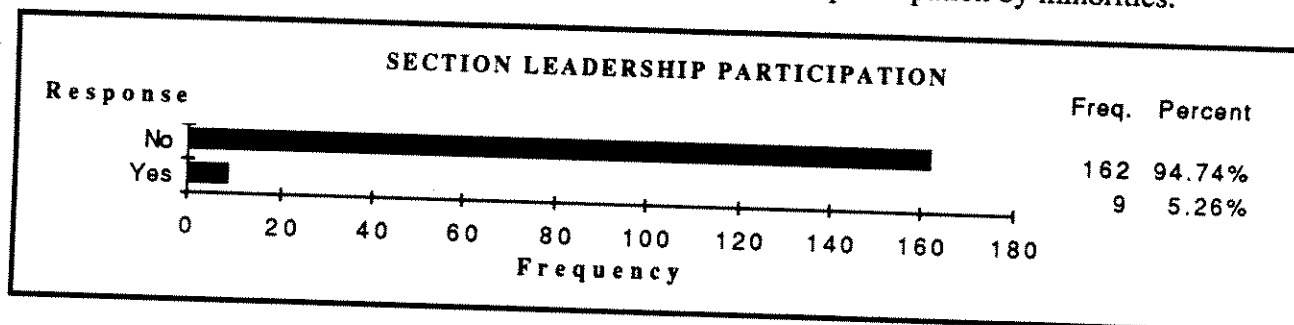
The data from the Government Lawyer Study indicate an attendance rate, at some point over time, for public practicing attorneys at a somewhat lower rate of 24 percent; and for the private practicing attorneys, 27 percent.

Government		Non-Government	
Number	Percent	Number	Percent
77	24%	195	27%

The total attorney attendance at the Annual Convention in 1988 was 416; and in 1989, 294. In-state active membership was 4,345 in 1988; and 4,594 in 1989. Thus, the membership of the State Bar, as a whole, attended the Annual Convention on an annual basis (using data from 1988 and 1989) at rates of 10 percent and 6 percent, respectively. In general, the data suggest that minority attorney participation in the Annual Convention, on a percentage basis, has been higher than the participation of the Bar membership as a whole. This trend is expected to continue with the reinstatement of Mandatory Continuing Legal Education in 1990.

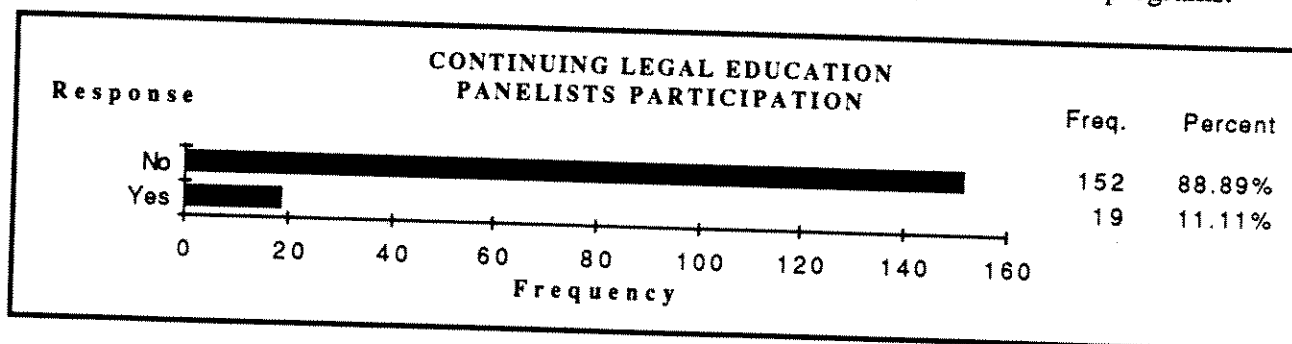
### **Section Leadership**

The minority attorney participates in the leadership of sections at a rate of 5.26 percent. The lack of interest or involvement by minority attorneys in this aspect of Bar activities is readily apparent. The Task Force believes that the rate of participation can be increased significantly with efforts by the State Bar aimed at better educating members generally on the varied purposes, functions and benefits of Bar sections and on outreach efforts designed to encourage section participation by minorities.



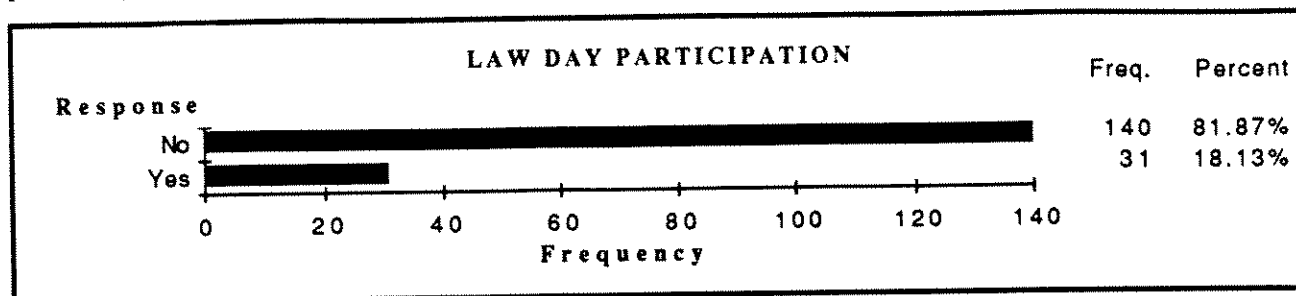
### **CLE Panelists**

The minority attorney participates as a lecturer or panelist for State Bar sponsored CLE at a rate of 11.11 percent. While the participation rate is encouraging, this is an area where the State Bar, in cooperation with minority bar associations, can jointly promote and encourage greater minority involvement through outreach efforts aimed at identifying and inviting minority attorneys with the requisite expertise to participate as a lecturer or panelist in State Bar sponsored CLE programs.



## Law Day

The minority attorney participates in Law Day activities at a rate of 18.13 percent, a relatively high percentage.

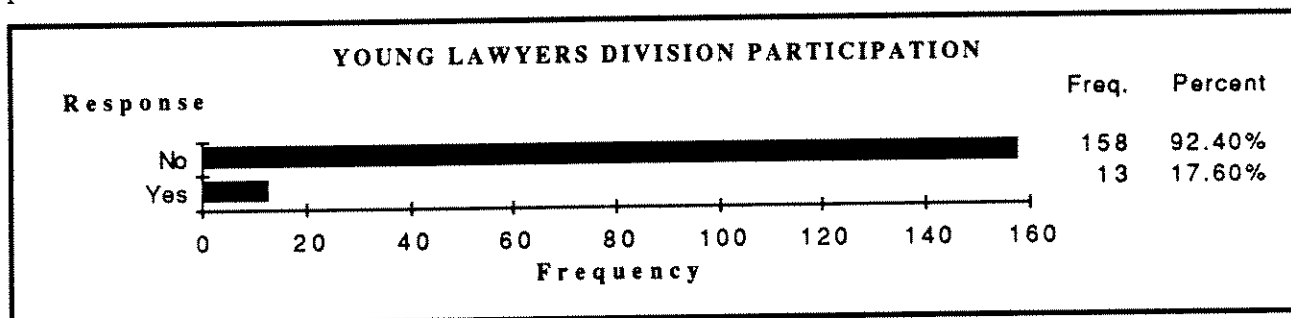


By way of comparison, the Government Survey indicates a participation rate of public practicing attorneys at 10 percent and private practicing attorneys at 15 percent.

Government		Non-Government	
Number	Percent	Number	Percent
29	10%	108	15%

## YLD

The minority attorney is represented in Young Lawyers Division (YLD) activities at a rate of 17.60 percent.



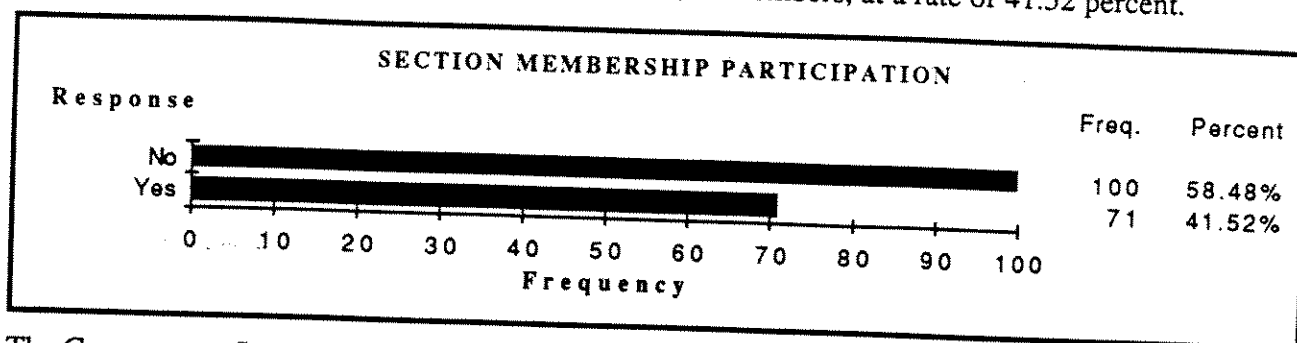
The Government Survey indicates a participation rate of public practicing attorneys at 3 percent and private practicing attorneys at 3 percent.

Government		Non-Government	
Number	Percent	Number	Percent
9	3%	25	3%

Although this participation rate is proportionately higher than the public and private attorneys surveyed, approximately 40 percent of all minority attorneys surveyed are under 36 years of age and should be more involved in YLD activities. The data suggests the need for greater outreach by the leadership of YLD with the objective of increasing YLD participation by minority attorneys.

## Section Membership

The minority attorney is represented in sections, as members, at a rate of 41.52 percent.



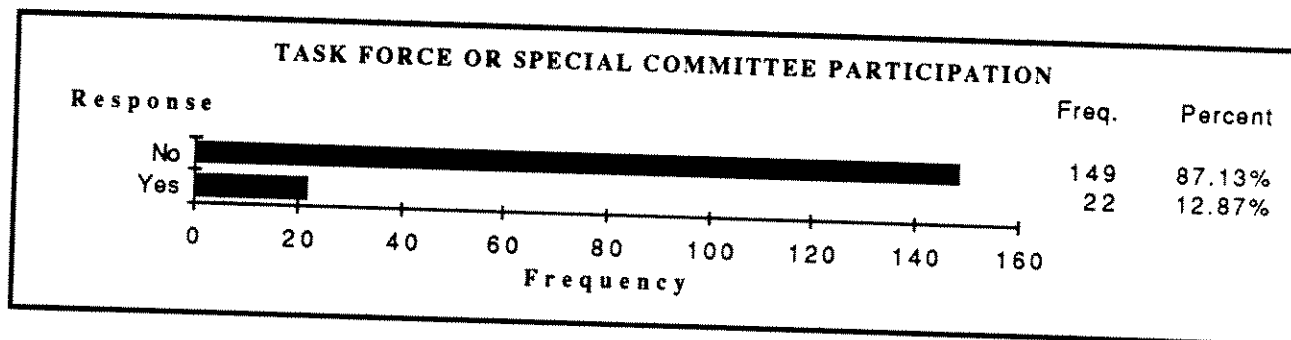
The Government Survey indicates a participation rate of public practicing attorneys at 36 percent and private practicing attorneys at 34 percent.

Government		Non-Government	
Number	Percent	Number	Percent
105	36%	250	34%

Membership in sections of the State Bar is voluntary. As of June 1989, 2,831 members, or 62 percent, were registered in specialty sections. More must be done by the State Bar to interest minority attorneys in section activities.

## Participation in Task Forces or Special Committees

The minority attorney is represented in task forces or special committees at a rate of 12.87 percent. These figures have been impacted by the significant number of minority attorneys who currently serve on The Task Force on Minority Involvement in the Profession and The Task Force on Women in the Profession. Absent these special Task Forces, the participation rate would likely be considerably lower. The Minority Task Force experience over the past two years has demonstrated that the interest and motivation among minority attorneys clearly exist to participate actively in State Bar activities of this type. The key to accessing that interest and involvement will be progressive promotional efforts and outreach by the State Bar.

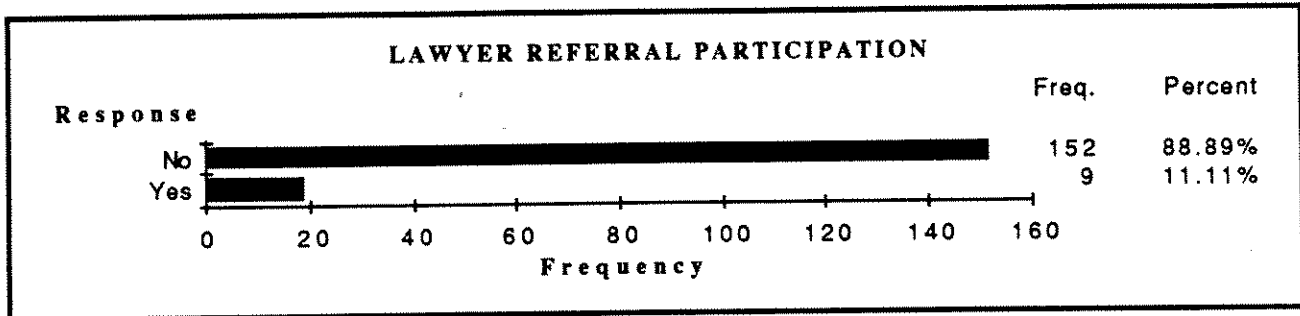


The Government Survey indicates a participation rate of public practicing attorneys in task force or special committees at 12 percent and private practicing attorneys at 15 percent.

Government		Non-Government	
Number	Percent	Number	Percent
34	12%	110	15%

## Lawyer Referral

The minority attorney is represented in lawyer referral at a rate of 11.11 percent.



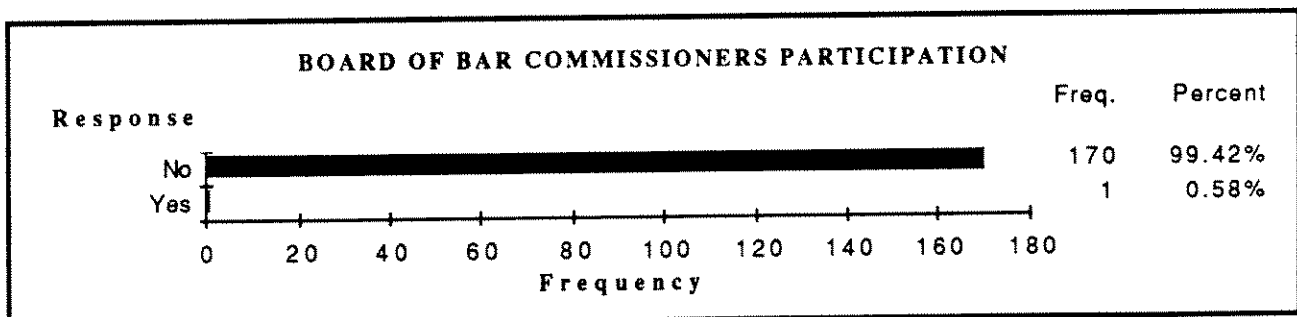
The Government Survey indicates a participation rate of public practicing attorneys at 4 percent and private practicing attorneys at 17 percent.

Government		Non-Government	
Number	Percent	Number	Percent
12	4%	125	17%

The State Bar has a Lawyer Referral for the Elderly Program. Panel membership in this Program is in a range of 450 on an annual basis, or 10 percent of the State Bar as a whole.

## Board of Bar Commissioners

The minority attorney is represented on the Board of Bar Commissioners at a rate of .58 percent.



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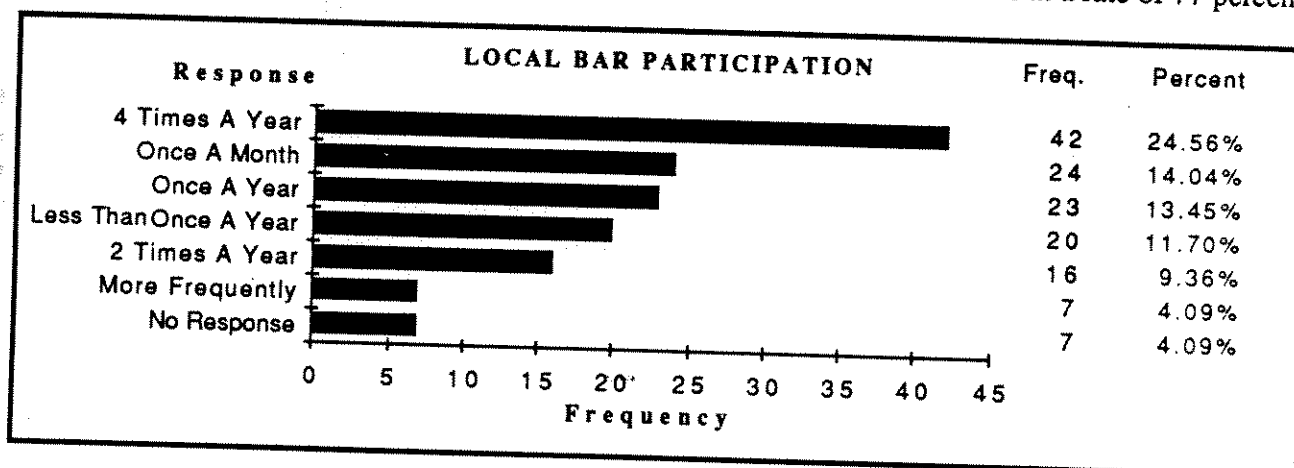
The Government Survey indicates a participation rate of public practicing attorneys at 0 percent and private practicing attorneys at 1 percent.

Government		Non-Government	
Number	Percent	Number	Percent
0	0%	10	1%

There are 19 elected members of the Board of Bar Commissioners and two members who serve by virtue of their position in relation to the Board; i.e., past-president of the Board (non-voting) and president of the Young Lawyers Division (voting). The Young Lawyers Division has 10 elected positions. The total of all of these elected positions is 32, or approximately 1 percent of the Bar. Only in recent years have minority attorneys sought election to the Board of Bar Commissioners in any significant numbers. In the recent 1989 elections, five minority attorneys were candidates. One was elected. There are presently two minority attorneys serving on the Board of Bar Commissioners. Until there is a greater initiative taken by minority attorneys to seek election to this governing body of the State Bar, there is not likely to be any significant increase in this rate of participation.

### Question 17(e): Do you participate in local bar activities?

On a cumulative basis, the minority attorney participates in local bar activities at a rate of 77 percent.



The Government Survey indicates a participation rate of public practicing attorneys at 55 percent and private practicing attorneys at a rate of 71 percent.

Government		Non-Government	
Number	Percent	Number	Percent
147	55%	512	71%

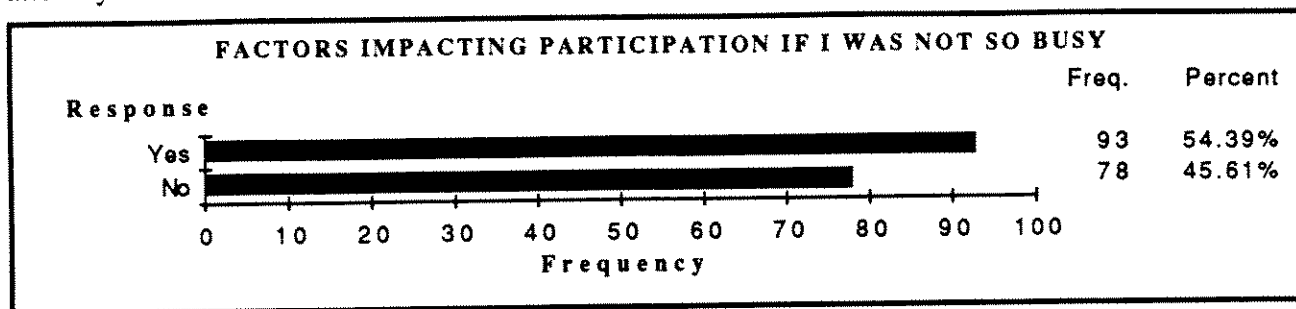
### Factors Impacting Minority Involvement

The Task Force next inquired into various factors which might operate to increase minority attorney participation. The results of this aspect of the Survey Form I were as follows:

#### Question 17(f): My participation in State Bar activities would increase:

### If I Was Not So Busy

The minority attorney responded positively at a rate of 54.39 percent and negatively at a rate of 45.61 percent. Time availability is obviously a significant limiting factor in Bar participation among minority attorneys.

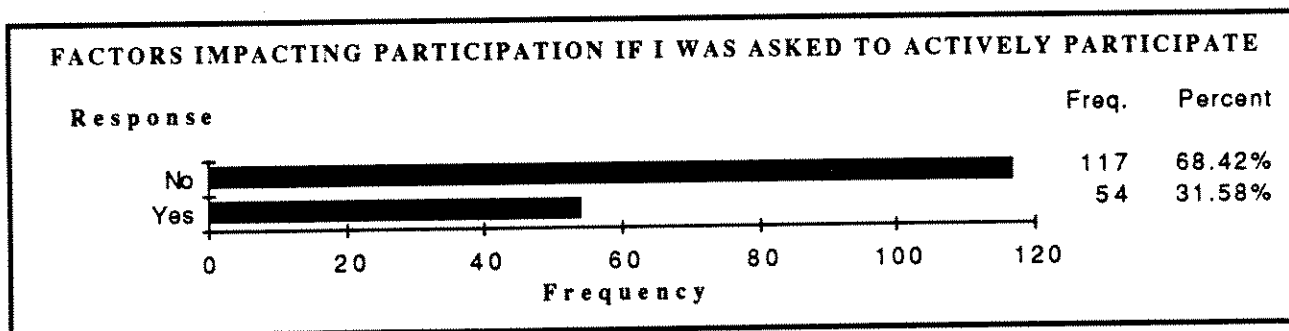


By comparison, the Government Survey indicates positive response at a rate of 40 percent for the public practicing attorney and 48 percent for the private practicing attorney.

Government		Non-Government	
Number	Percent	Number	Percent
119	40%	347	48%

### If I Was Asked To Actively Participate

The minority attorney, if asked to actively participate in State Bar activities, would respond positively at a rate of 31.58 percent. The indication is that outreach efforts by the State Bar would have a significant impact on increasing minority participation.



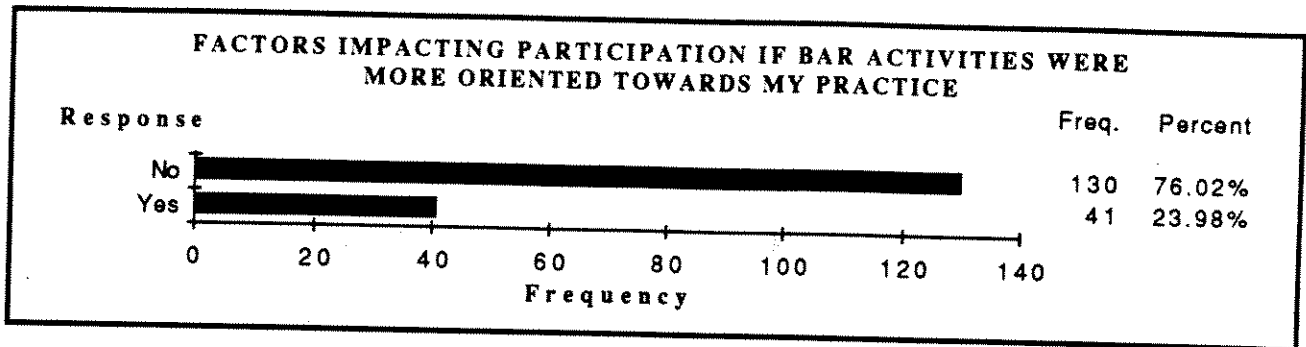
By way of comparison, the Government Survey indicates government lawyers would respond positively if asked to actively participate in State Bar activities at a rate of 15 percent and the private practicing attorneys at 12 percent.

Government		Non-Government	
Number	Percent	Number	Percent
43	15%	88	12%



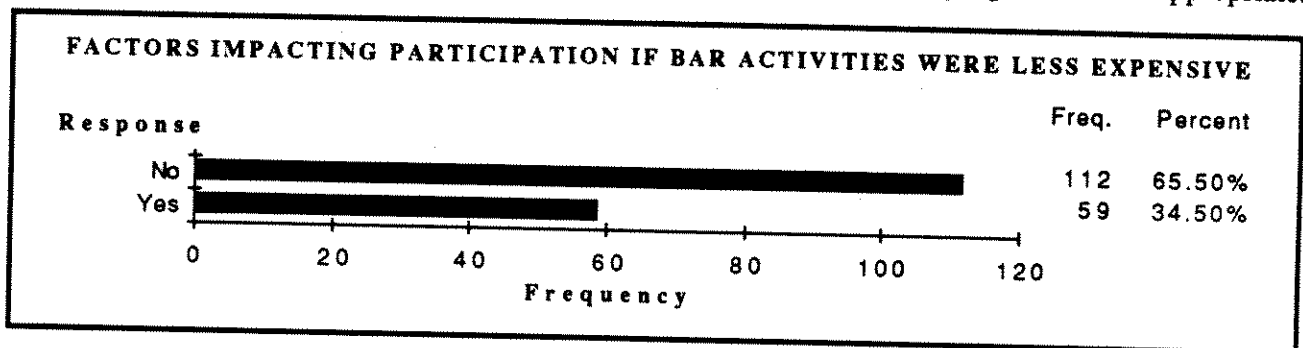
### **If Bar Activities Were More Oriented Towards My Practice**

The minority attorney would participate more in activities if the activities were more oriented toward their practice at a rate of 23.98 percent.



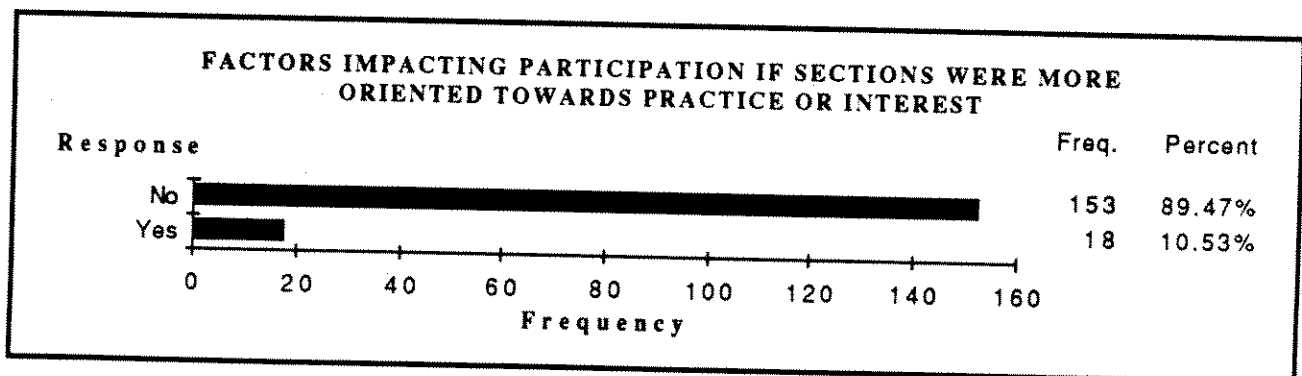
### **If Bar Activities Were Less Expensive**

The minority attorney positively responded at a rate of 34.50 percent. This response indicates that some consideration should be given to reduced fee or cost reimbursement programs where appropriate.



### **If Sections Were More Oriented Towards Practice Or Interest**

The minority attorney responded at a rate of 89.47 percent that a different orientation of sections would **not** make a difference in the level of participation. Programs or modifications in this area can apparently be ruled out.

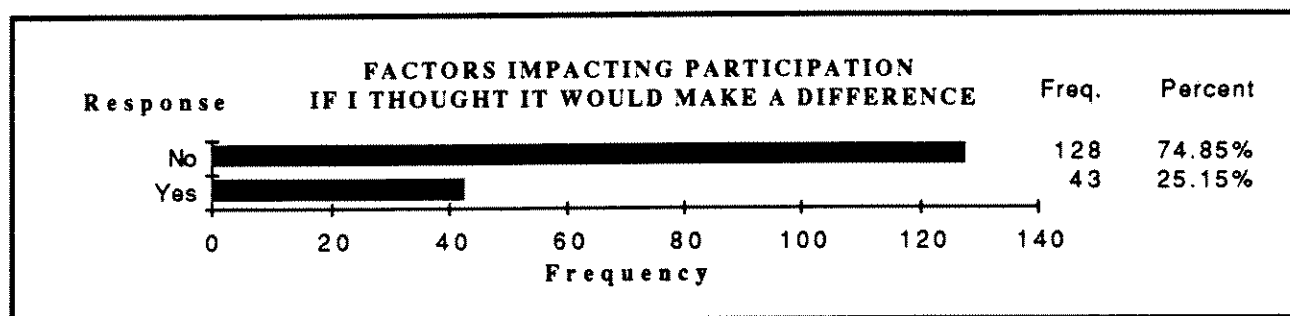


The Government Survey indicates that public practicing attorneys would increase their participation if sections were more oriented towards practice or interests at a rate of 36 percent and the private practicing attorneys at a rate of 1 percent.

Government		Non-Government	
Number	Percent	Number	Percent
107	36%	7	1%

### **If I Thought It Would Make A Difference**

The minority attorney responded to this inquiry at a rate of 25.15 percent.

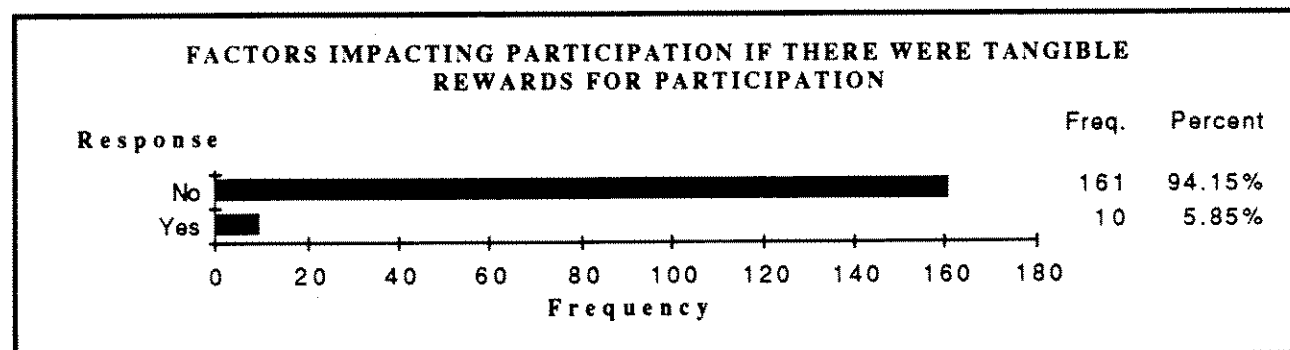


The Government Survey indicates that the public practicing attorneys would increase their participation if they thought it would make a difference at a rate of 17 percent and the private practicing attorneys at a rate of 10 percent.

Government		Non-Government	
Number	Percent	Number	Percent
49	17%	72	10%

### **If There Were Tangible Rewards For Participation**

The minority attorney responded at a rate of 5.85 percent that they desired tangible rewards for participation.



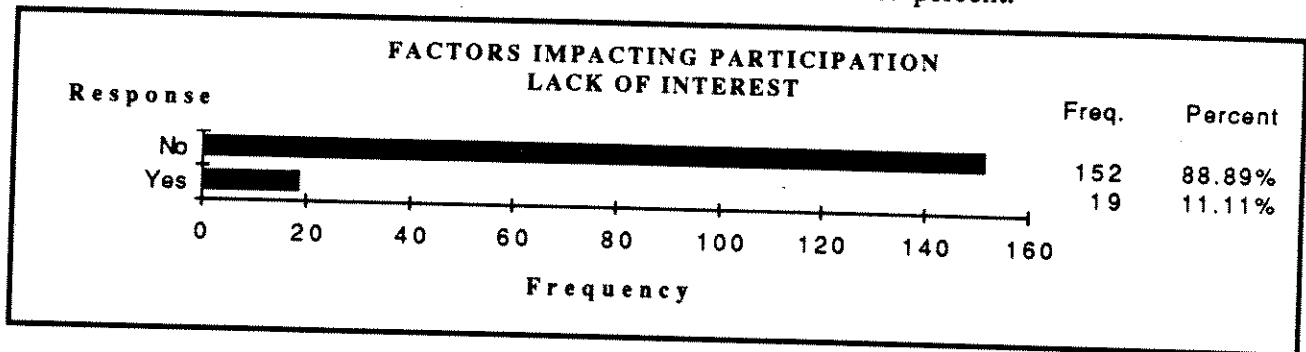
Similarly, the Government Survey indicates that the public practicing attorneys would be motivated by tangible rewards at a rate of 8 percent and the private practicing attorneys at a rate of 5 percent.

Government		Non-Government	
Number	Percent	Number	Percent
23	8%	33	5%

**Question 17(g): If you do not participate in State Bar activities, what is the principal reason?**

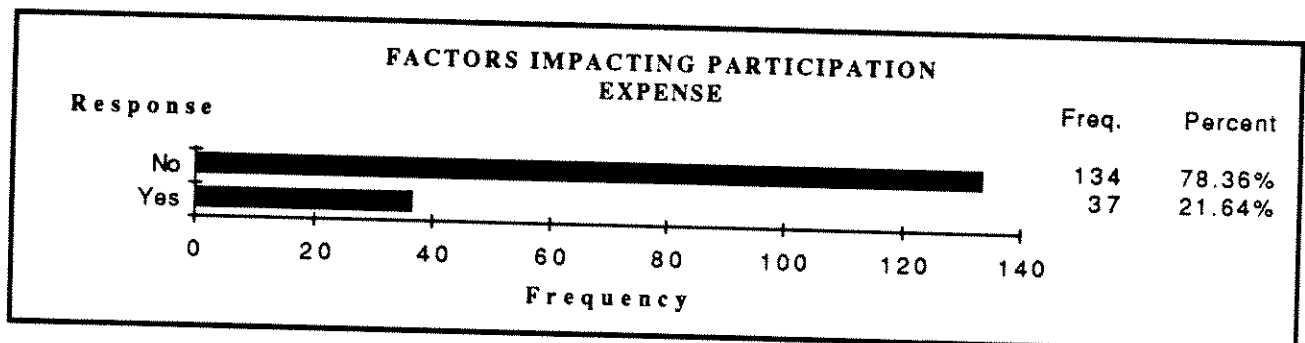
### Lack Of Interest

The minority attorney responded in the negative at a rate of 88.89 percent.



### Expense

The minority attorney responded 21.64 percent in the positive and 78.36 percent in the negative related to expense as a principal reason for lack of participation.

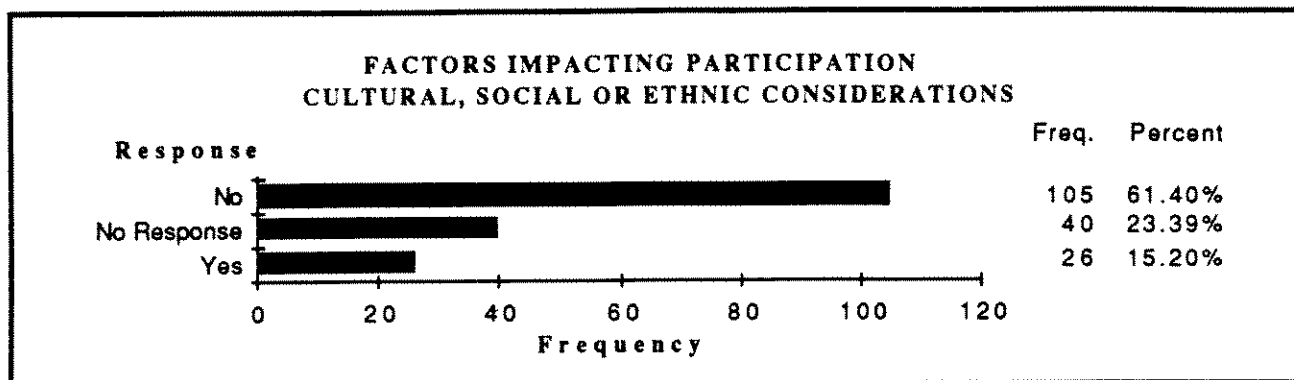


The Government Survey indicates that public practicing attorneys responded positively at a rate of 19 percent and private practicing attorneys responded at a rate of 4 percent related to cost being a factor limiting participation.

Government		Non-Government	
Number	Percent	Number	Percent
55	19%	30	4%

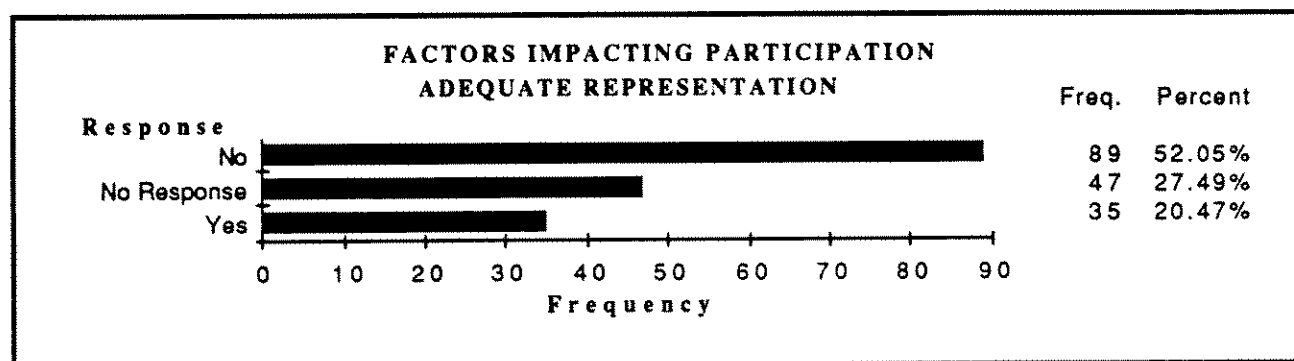
**Question 17(h):** If you do not actively participate in State Bar activities, are there any cultural, social, or ethnic considerations which bear upon your lack of involvement or interest?

The minority attorney responded at a rate of 61.40 percent that there are no cultural, social, or ethnic considerations which bear upon their lack of involvement or interest in activities; 15.20 percent responded in the positive; 23.39 percent gave no response.

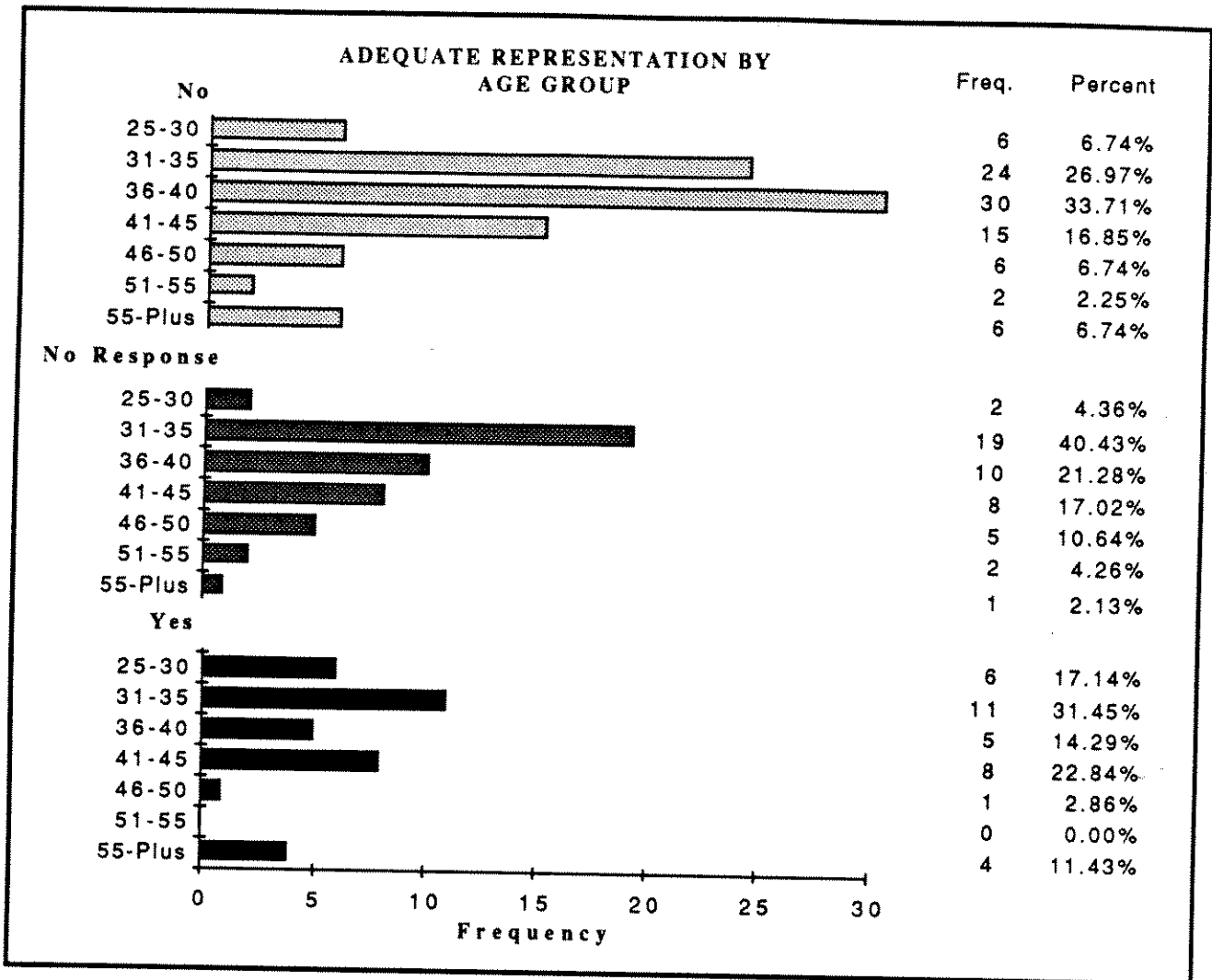


**Question 18(a):** Do you believe that the interests of minority lawyers are being adequately represented by the State Bar of New Mexico?

The minority attorney responded at a rate of 52.05 percent in the negative; 20.47 percent in the positive; and 27.49 percent gave no response. These data were consistent with information obtained from answers to open-ended questions in the Survey. Those answers repeatedly pointed to the traditional absence of minority attorneys serving on the Board of Bar Commissioners and reflected the perception by many minority attorneys that the Board of Bar Commissioners is dominated by large firm, male, Anglo attorneys.

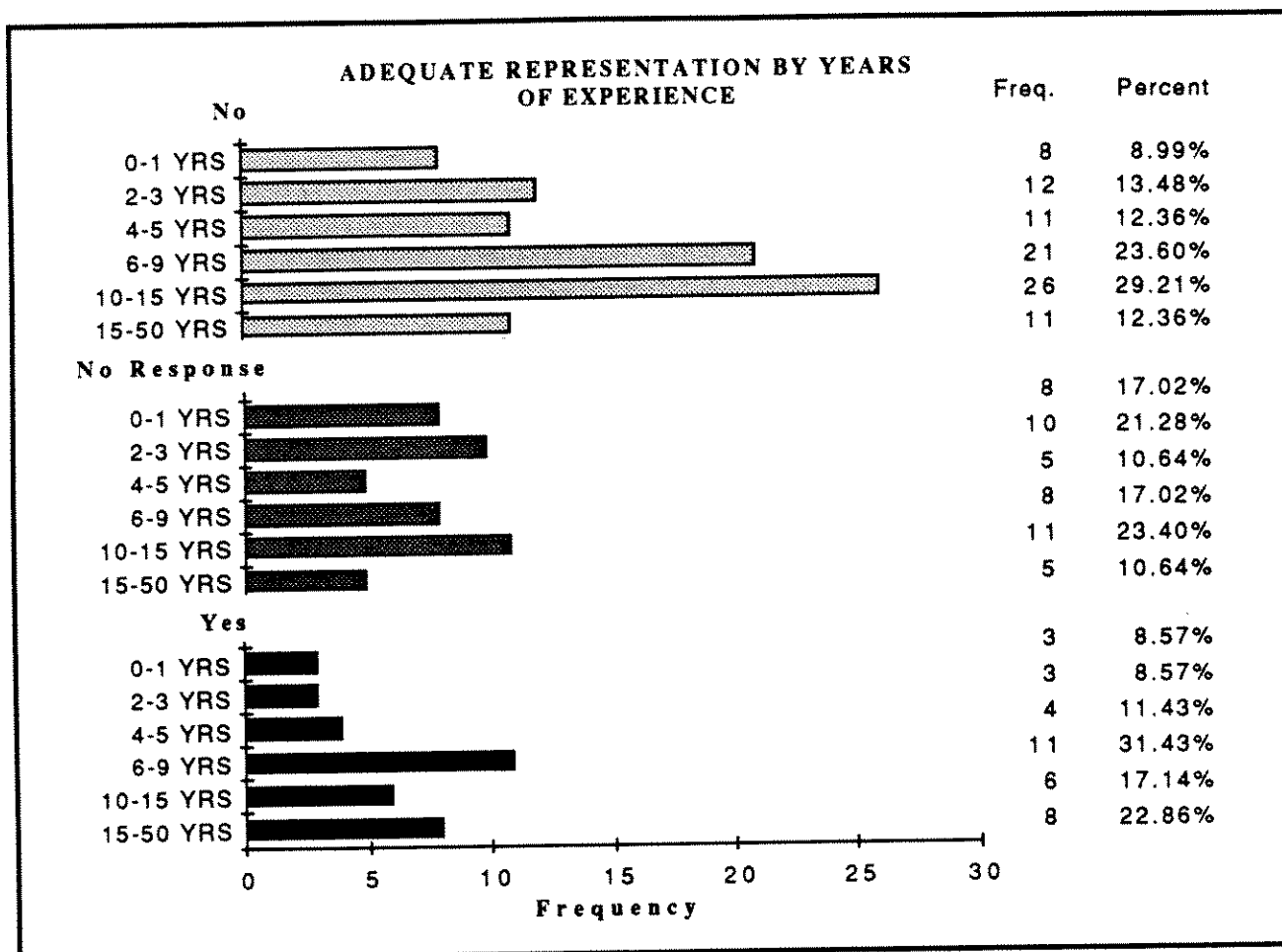


The responses to this question were cross-analyzed by age group and by years of experience producing the following comparisons: Question 18(a): Do you believe that the interests of minority attorneys are being adequately represented by the State Bar of New Mexico, by age group?



Question 18(a): Do you believe that the interests of minority attorneys are adequately represented by the State Bar of New Mexico, by years of experience?

These comparisons reveal that the greatest degree of dissatisfaction exists among minority attorneys age 31 to 45, having from 3 to 15 years of experience.



## Summary

Although there is reason to believe that participation in the activities of the State Bar by minority attorneys is increasing, this group, in general, continues to participate at a lower percentage (71 percent) than public (85 percent) and private (91 percent) practicing attorneys.

Specific areas where minority participation is good or encouraging:

- (1) Annual Convention is at a higher rate ( 32 percent) than either the public (24 percent) or the private (27 percent) practicing attorneys.
- (2) Law Day has a participation rate of 18.1 percent. Comparing that percentage to the 14.35 percent (the active-in state minority population benchmark), minority attorneys are well represented in Law Day activities.
- (3) YLD has a 7.6 percent minority attorney representation as compared to 3 percent for both public and private attorneys. Although better than other groups, the percentage of representation falls much below the desired equating percentage of population representation of 14.35 percent.
- (4) Section membership has a very favorable representation of minority attorneys at 43 percent as compared to 36 percent of public and 34 percent of private attorneys.
- (5) Task forces or special committees reflect a favorable percentage (12.8 percent ); however, the current emphasis on studies dealing with minorities is believed to have directly influenced this percentage.
- (6) Lawyer referral participation is impressive at 11.1 percent as compared to 4 percent for the public and 17 percent for private attorneys, although it is slightly less than the 14.35 percent of the total Bar membership represented by the minority attorney.

Significant underrepresentation by minority attorneys is found in the following areas:

- (1) Section leadership, for population equity, should reflect at least 14.35 percent. The percentage is only 5.3 percent.
- (2) Board of Bar Commissioners representation is showing improvement with two minority attorneys currently serving. For population equity, however, there should be at least three.

On a cumulative basis, minority attorneys are active participants in local bar activities (77 percent), a rate beyond both public (55 percent) and private (71 percent) attorneys.

For those minority attorneys who do not participate in State Bar activities, the key reasons are:

- (1) Too busy (45.6 percent) which is more than the response from the public attorneys (40 percent) and slightly less than private (48 percent) attorneys.
- (2) Need to be asked to actively participate. Indications are that 32 percent would respond positively if asked to participate. In comparison, public attorneys responded positively to the question at a rate of 15 percent ; private at a rate of 12 percent . This is highly suggestive of the need for affirmative outreach by the State Bar.
- (3) One-fourth feel that the activities need to be more orientated toward their practice.
- (4) More than one-third perceived the activities to be too expensive.
- (5) One-fourth say they would participate more if they thought it would make a difference. This percent is somewhat higher than the response given by public and private attorneys.

The following have no influence on participation:

- (6) Section orientation, and
- (7) Tangible rewards.

Importantly, the traditional lack of participation by minority attorneys is **not** being viewed in the context of cultural, social or ethnic reasons or barriers.

As a group, the majority of minority attorneys believe that they are not being adequately represented by the State Bar. When this question is probed by age groups and years of experience, data based on age seemed to indicate more satisfaction with the younger (25-35) and the older (55 plus) attorneys than with the 36-55 age category. Experience level analysis produced similar results.

## **Conclusions**

The following general conclusions can be drawn from the foregoing:

- 1) Minority attorneys as a group participate generally in the State Bar at a rate representative of the population of minority attorneys in the profession at large.
- 2) A major constraint to greater participation appears to be time availability.
- 3) Increased participation would occur if more outreach by the State Bar were present.
- 4) There is a marked absence of minority representation in leadership positions of the Bar, a deficit that requires greater initiative by minority attorneys and the promotion of Bar leadership opportunities for minority attorneys by the State Bar and by minority bar associations.

Over the last ten years, the number of minority attorneys being admitted to practice in New Mexico has increased substantially. Thus, the minority attorney population currently tends to be young and early into their careers. The demands of getting a legal career stabilized is undoubtedly seriously affecting this group's ability to allocate the time necessary to serve in leadership positions of the Bar. However, increased encouragement and support by the majority and minority bar associations in this State would likely facilitate the movement of this group into active participation in the general activities of the Bar, which is an essential step for minority attorneys to move into leadership responsibilities in the Bar.

## **F. The Appointment Of Minority Attorneys To Judicial Positions: The Potential Impact Of The 1988 Judicial Reform Amendment**

### **Ethnicity Of The New Mexico Judiciary**

Traditionally, minority attorneys in New Mexico have been highly successful in obtaining appointments to judicial positions or in being elected to judicial office in partisan elections. By 1988, for example, of the 81 justices and judges comprising the New Mexico Supreme Court, the New Mexico Court of Appeals, the various District Courts, and the Bernalillo County Metropolitan Court, 22 or 27 percent of the justices or judges were of minority descent.<sup>14</sup> Additionally, two of the six federal district court judges in the District of New Mexico are of Hispanic descent.<sup>15</sup>

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<sup>14</sup>New Mexico Supreme Court: Senior Justice Dan Sosa, Jr.; New Mexico Court of Appeals: Judge Lorenzo F. Garcia, Judge Rudy Apodaca, Judge A. Joseph Alarid; First Judicial District: Judge Art Encinas, Judge Petra Jimenez Maes, Judge Patricio M. Serna; Second Judicial District: Judge Michael E. Martinez, Judge Joseph F. Baca, Judge Rozier E. Sanchez, Judge Ross C. Sanchez; Third Judicial District: Judge Joe H. Galvan, Judge Lalo Garza; Fourth Judicial District: Judge Benny E. Flores; Sixth Judicial District: Judge Manuel D. V. Saucedo; Seventh Judicial District: Judge Paul "Pablo" Marshall; Ninth Judicial District: Judge Ruben E. Nieves; Thirteenth Judicial District: Judge Tibo J. Chavez; Bernalillo County Metropolitan Court: Judge Tommy E. Jewell, Judge Maria Caldwell, Judge Theresa M. Baca and Judge Marie E. Baca.

<sup>15</sup>Chief Judge Santiago E. Campos and Judge Juan G. Burciaga.



The number and percentage of Hispanic justices and judges remained precisely the same following the November 1988 elections.<sup>16</sup>

As reported above, minority attorneys comprise approximately 17 percent of the New Mexico Bar. Given the fact that minorities presently hold 27 percent of the appellate, district and metropolitan court seats in New Mexico, it is evident that minority attorneys have, at least in the recent past, fared extremely well in the judicial appointment and electoral process. There are, however, no Native American or Asian judges in the New Mexico State courts. These minorities comprise slightly less than 2.0 percent of the New Mexico Bar.

### **The Impact Of Judicial Reform: Preliminary Observations And Conclusions**

Since the adoption of the 1988 judicial reform amendment, and as of this writing, the Supreme Court and the various District Courts have had ten vacancies which have required implementation of the new judicial selection process. Of those positions, three were vacated by minority judges.<sup>17</sup>

In five of the judicial vacancies, none of the applicants was minorities.<sup>18</sup> In the remaining five instances, a total of seven minority judges and attorneys applied for the judicial positions, some on more than one occasion.<sup>19</sup> While no minority attorney has, as yet, been appointed by the Governor to a judicial position under the new system, in each instance where minorities have applied, the judicial selection commissions have determined that at least one minority attorney or judge was sufficiently qualified to be recommended to the Governor for his consideration.<sup>20</sup>

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<sup>16</sup>Justice Joseph F. Baca was elected to the New Mexico Supreme Court; Judge Benjamin A. Chavez was elected to the New Mexico Court of Appeals; and Judge Steven Herrera and Judge Jose Cruz Castellano, Jr. were elected to the First Judicial District Court. Judge Lorenzo F. Garcia, Judge Pablo Marshall and Judge Ruben E. Nieves retired from the Court of Appeals or District Court in 1988 and 1989.

<sup>17</sup>Second Judicial District: Judge Joseph F. Baca; Seventh Judicial District: Judge Paul "Pablo" Marshall; Ninth Judicial District: Judge Ruben E. Nieves.

<sup>18</sup>Fifth Judicial District, January, 1989; Seventh Judicial District, January, 1989; Ninth Judicial District, January, 1989; Second Judicial District (2 vacancies), January, 1989.

<sup>19</sup>Second Judicial District, March 1989: Metropolitan Court Judge Theresa M. Baca and Floyd W. Lopez; Second Judicial District, July 1989: Metropolitan Court Judge Theresa M. Baca, Metropolitan Court Judge Tommy E. Jewell, Floyd W. Lopez and Presiliano A. Torrez; New Mexico Supreme Court (Stowers vacancy): Court of Appeals Judge Rudy S. Apodaca, District Judge Petra Jimenez Maes, District Judge Rozier Sanchez and Presiliano Torrez; New Mexico Supreme Court (Scarborough vacancy): District Court Judge Petra Jimenez Maes, District Court Judge Rozier Sanchez and Presiliano Torrez; New Mexico Supreme Court (Larrabee vacancy): District Court Judge Rozier Sanchez, District Court Judge Petra Jimenez Maes and Court of Appeals Judge Rudy S. Apodaca.

<sup>20</sup>Second Judicial District, March 1989: Metropolitan Court Judge Theresa M. Baca; Second Judicial District, July 1989: Metropolitan Court Judge Tommy E. Jewell; Supreme Court (Stowers vacancy): District Court Judge Rozier Sanchez; Supreme Court (Scarborough vacancy): District Court Judge Rozier Sanchez; Supreme Court (Larrabee vacancy): District Court Judge Rozier Sanchez.

With respect to the Bernalillo County Metropolitan Court, one vacancy has occurred under the new judicial reform amendment. Five of eleven applicants for this vacancy were Hispanics.<sup>21</sup> Two of these individuals were determined to be sufficiently qualified to be recommended to the Governor for appointment.<sup>22</sup> Neither was appointed to the position.

A pressing issue that has been hotly debated in public forums over the past two years is whether the 1988 judicial reform amendment will adversely affect minority attorneys in their efforts to attain judicial office. The issue is particularly important in light of the relatively high level of success experienced by minority attorneys and judges in securing appointments or winning election to judicial positions under the former system. Considering the fact that the judicial reform amendment is only in its initial year of operation and that much is still to be learned about the long-term effects of the new selection process, the Task Force has formulated only "preliminary" observations and conclusions at this time with respect to this multi-faceted issue. These thoughts, and a discussion thereof, follow.

1. The Task Force has determined that the various nominating commissions which have been created under the judicial reform amendment presently have from 21 percent to 38 percent minority composition. Minority representation on judicial nominating commissions should, in the opinion of the Task Force, reflect a fair and representative cross-section of New Mexico's ethnic and racial population. That ideal has not, as yet, been achieved, particularly with respect to certain district court nominating commissions and the Metropolitan Court Commission. Nonetheless, the Task Force has observed from the significant number of minority judges, attorneys and lay persons currently serving on the commissions that conscientious efforts are being made by appointing authorities to encourage and promote participation by minorities on these critical nominating commissions.

2. With respect to the "evaluative criteria" suggested by the American Judicature Society and adopted uniformly by the various nominating commissions for the selection of judges, the Task Force has observed that the criteria are rationally related to the essential professional qualifications and personal traits required of effective judges. The written guidelines employed by the nominating commissions specifically caution against the rigid application of any particular criteria which might operate to produce a cultural or an institutional bias against women or minorities. It remains to be seen whether the nominating commissions will give proper regard to these precautionary provisions. It does, however, appear to the Task Force that the various criteria, if fairly applied by the various nominating commissions, should not operate to arbitrarily, systematically or implicitly exclude minority or women applicants solely by reason of race, ethnicity or gender.

3. The Task Force believes that the one-time partisan election feature of the new judicial reform amendment will in all likelihood be an important and highly favorable aspect of the judicial selection process for minority attorneys in light of the past success achieved by minority attorneys in attaining judicial office through the electoral process. Minority attorneys must take the initiative to use this limited alternative to the selection process if minorities are to maintain and increase the number of judicial positions that have been attained under the former appointment and election system.

4. The demographics of minority attorneys indicate that in the near term, minority attorneys, in general, may be disadvantaged by lower experience levels in the judicial selection process. Approximately 70 percent of New Mexico's minority attorneys were admitted to the Bar within the last ten years, and 21 percent within the last three.<sup>23</sup> Sixty-six (66) percent of New Mexico's minority attorneys are

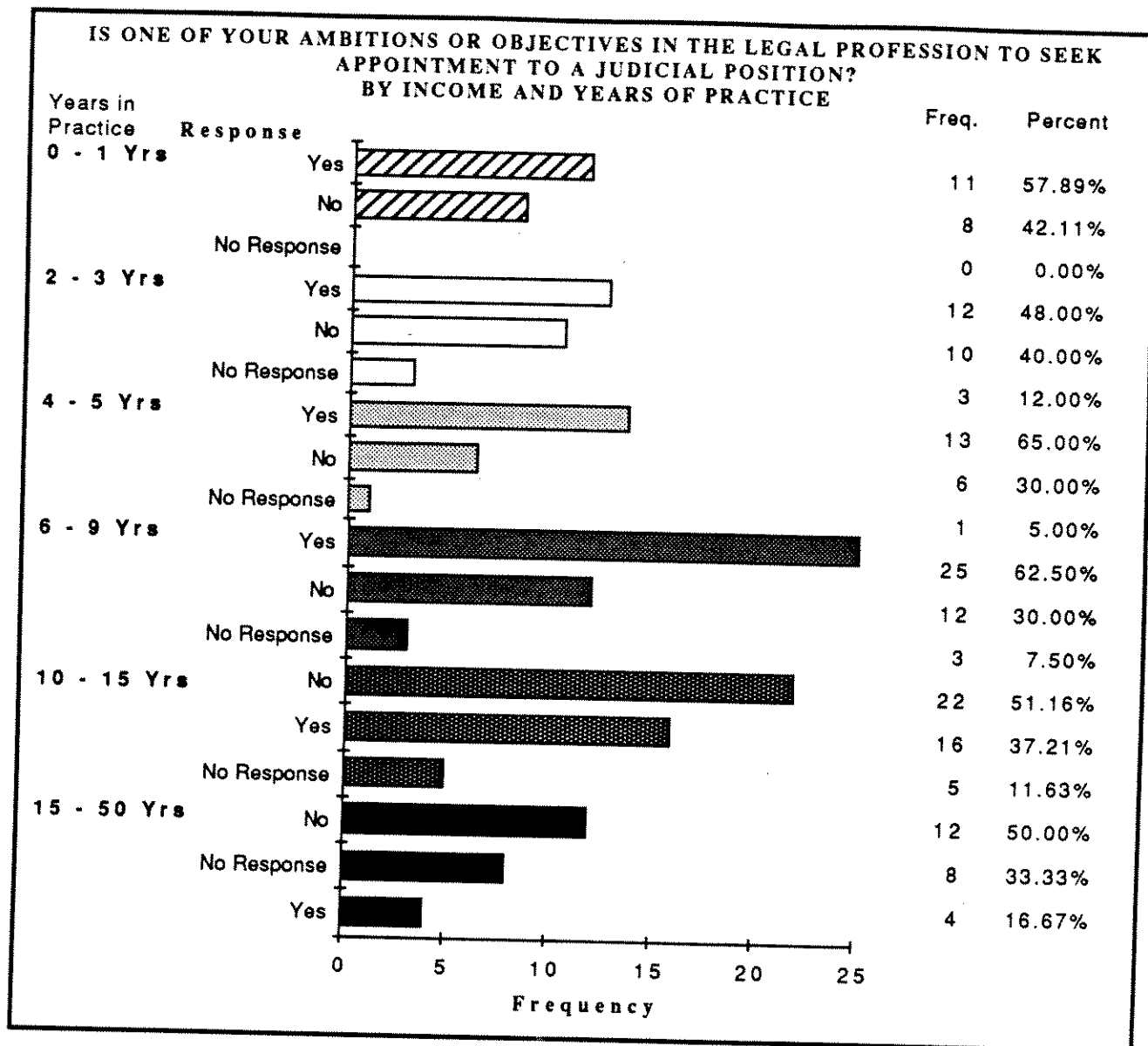
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<sup>21</sup>Tom Griego, Herman Fierro, Victor Lopez, Alfred Sanchez and Joseph M. Kavanaugh.

<sup>22</sup>Joseph M. Kavanaugh and Herman Fierro.

<sup>23</sup>See page 18, *supra*.

under 40 years of age.<sup>24</sup> The Task Force survey results indicate that most of the minority attorneys who have the stated career objective of pursuing a judicial office currently have less than ten years of active professional experience.



Accordingly, this particular group of minority attorneys would, in general, find it difficult at the present time to compete effectively in the judicial selection process with non-minority applicants who, by-and-large, will have proportionately higher experience levels, particularly with respect to vacancies at the appellate and district court levels.

In light of these circumstances, and at least for the next five years while greater numbers of younger minority attorneys reach higher levels of professional experience, the probable effect of this will be that proportionately fewer minorities will apply for selection to appellate and district court judicial positions, with a probable increase in minority applicants thereafter. In the short term, to counter this evolving demographic limitation, the more highly experienced minority attorneys in New Mexico must be encouraged to assume a leadership role and take the initiative to pursue judicial appointments.

<sup>24</sup>See page 19, *supra*.

5. Finally, although no minority judge or attorney has, as of this writing, succeeded under the new judicial reform amendment in obtaining a judicial appointment by the Governor, it is unlikely that minorities would have fared significantly better under the prior appointment system. Both appointment systems, ultimately, are substantially impacted by the level of commitment of the incumbent governor to the appointment of qualified minorities to judicial office. In the past two decades minorities were highly successful in obtaining judicial appointments under gubernatorial administrations that demonstrated a high level of commitment to the appointment of minorities. Of the 22 minority justices or judges holding judicial office in 1988, prior to the adoption of the judicial reform amendment,<sup>25</sup> four were initially appointed to the judicial office by former Governor Bruce King,<sup>26</sup> three by former Governor Jerry Apodaca,<sup>27</sup> and ten by former Governor Toney Anaya.<sup>28</sup> Five of the minority judges were elected to judicial office.<sup>29</sup> While Governor Carruthers is completing the third year of his term, he has not, as of this writing, appointed any minorities to a judicial office.

Nonetheless, the Task Force believes that the new judicial reform amendment can provide effective access and opportunities for minority attorneys to attain judicial positions if sufficient initiative can be generated among minority attorneys and lay persons to actively involve themselves in all of the various aspects of the new judicial selection process. Experience with the new judicial reform amendment to date has shown that when minorities have applied for and actively pursued judicial positions under the new system, at least one minority has made his or her way to the list of qualified nominees presented to the Governor. More involvement by experienced minority attorneys in applying for judicial positions is obviously essential if minority appointments are ultimately to be made and minorities are to maintain the prominent role they have historically played in the State's judiciary.

### **Discussion: The Judicial Reform Amendment In Operation: Minority Composition Of Nominating Commissions**

The judicial reform amendment provides for the creation of several judicial nominating commissions for the appellate, district court and metropolitan court levels. Each commission is composed of certain designated judges, with the majority of the members being appointed, respectively, by the Governor, Speaker of the House of Representatives, the President Pro Tempore of the Senate and the President of the State Bar along with the judges designated to serve on each commission.<sup>30</sup> The amendment provides for diversity of membership, including judges, lawyers (civil and criminal prosecution and defense), non-lawyers and the Dean of the Law School, with the Democratic and Republican political parties being equally represented.

In substance, the purpose of each commission is to actively solicit, accept and evaluate applications from qualified lawyers for the particular judicial position and to submit to the Governor the names of persons qualified for the judicial office who are recommended for appointment to that office by a majority of the commission.

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<sup>25</sup>See footnote 13, *supra*.

<sup>26</sup>District Judge Joseph F. Baca, Judge Rosier E. Sanchez, Judge Tibo Chavez and Judge Petra Jimenez Maes.

<sup>27</sup>Chief Justice Dan Sosa, Jr., Judge Joe H. Galvan and Judge Ruben Nieves.

<sup>28</sup>Court of Appeals Judge Lorenzo F. Garcia, Court of Appeals Judge A. Joseph Alarid, Judge Art Encinias, Judge Patricio Serna, Judge Benny Flores, Judge Ross C. Sanchez, Judge Lalo Garza, Judge Michael E. Martinez, Judge Tommy Jewell and Judge Theresa Baca.

<sup>29</sup>Court of Appeals Judge Rudy Apodaca, Judge Manuel D. V. Saucedo, Judge Paul Pablo Marshall, Judge Maria Caldwell and Judge Marie E. Baca.

<sup>30</sup>New Mexico Constitution, Article VI, Sections 35, 36 and 37.

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As of this writing, five nominating commissions have been established at the appellate and district court levels and one for the Bernalillo County Metropolitan Court. The minority membership on these commissions, including judges, attorneys and non-attorneys, is presently as follows:

	TOTAL MEMBERS	MINORITY MEMBERS	PERCENT
1. APPELLATE NOMINATING COMMISSION	20	6 <sup>31</sup>	30%
2. SECOND JUDICIAL DISTRICT NOMINATING COMMISSION	16	6 <sup>32</sup>	38%
3. FIFTH JUDICIAL DISTRICT NOMINATING COMMISSION	14	3 <sup>33</sup>	21%
4. SEVENTH JUDICIAL DISTRICT NOMINATING COMMISSION	14	3 <sup>34</sup>	21%
5. NINTH JUDICIAL DISTRICT NOMINATING COMMISSION	14	3 <sup>35</sup>	21%
6. METROPOLITAN COURT	14	3 <sup>36</sup>	21%

<sup>31</sup>Chief Justice Dan Sosa, Jr., Judge A. Joseph Alarid, Cristina Armijo, Judith Herrera, Arturo Ortega and Vince Villanueva (replaced by Vince Gallegos). By way of comparison, according to 1980 census data, Hispanics comprise approximately 36.6 percent of the State's population, Native Americans comprise approximately 7.9 percent, and Blacks comprise approximately 1.7 percent of the State's population.

<sup>32</sup>Chief Justice Dan Sosa, Jr., Judge A. Joseph Alarid, Carmen E. Garza, Tim Padilla, Geraldine E. Rivera, and Arnold Melbiness. The combined "minority" population in the Second Judicial District, considering Hispanics, Native Americans and Blacks, is approximately 41.2 percent according to 1984 Census Bureau estimates.

<sup>33</sup>Chief Justice Dan Sosa, Jr., Judge A. Joseph Alarid and Patricia Hutchings. The combined "minority" population in the Fifth Judicial District, considering Hispanics, Native Americans and Blacks, is approximately 31 percent according to 1984 Census Bureau estimates.

<sup>34</sup>Chief Justice Dan Sosa, Jr., Mike Anaya and Pete Padilla. The combined "minority" population in the Seventh Judicial District, considering Hispanics, Native Americans and Blacks, is approximately 38.6 percent according to 1984 Census Bureau estimates.

<sup>35</sup>Chief Justice Dan Sosa, Jr., Judge A. Joseph Alarid, Gilbert Gutierrez and Lucinda Bonney. The combined "minority" population in the Ninth Judicial District, considering Hispanics, Native Americans and Blacks, is approximately 26 percent according to 1984 Census Bureau estimates.

<sup>36</sup>Justice Dan Sosa, Jr., David Archuleta and Ray Padilla. The combined "minority" population in Bernalillo County, considering Hispanics, Native Americans and Blacks, is approximately 41.2 percent according to 1984 Census Bureau estimates.

Minority membership on each of these nominating commissions has been enhanced substantially by the designation of Chief Justice Sosa and Judge Joseph Alarid on all or most of the commissions. Without these designations, which can change from time to time, minority membership on the commissions would range from 7 percent to 25 percent, a substantial decrease.

At 30 percent minority membership, the Appellate Commission reflects a cross-section of minority judges, lawyers and non-lawyers, with a minority composition that at least begins to approach the percentage of minorities in the general population of the State. The same observations can be made about the Second Judicial District Nominating Commission. However, as to the Fifth, Seventh and Ninth Judicial District Commissions, as well as the Metropolitan Court Commission, absent the judicial designees, minority membership must otherwise be considered low, even though most of these judicial districts (excepting the Bernalillo County Metropolitan Court) have a smaller minority attorney population than other areas of the State.

There are no Native Americans and only one Black serving on these nominating commissions. Obviously, much more must be done to interest and appoint members of these minority groups to the State's judicial selection commissions. It will be difficult for the nominating commissions to gain full acceptability and respect from the State's large minority population unless the composition of these commissions more closely reflects the ethnic and racial diversity of the State.

### **Evaluative Criteria**

Each of the nominating commissions has uniformly adopted the evaluative criteria for judicial selection contained in the **Handbook For Judicial Nominating Commissioners**, published by the American Judicature Society. The Task Force has concluded that the various evaluative criteria listed in this publication are rationally related to the professional qualifications and personal traits required of competent judicial officers.<sup>37</sup> Significantly, the **Handbook** recommends that a flexible approach be adopted with respect to the suggested criteria in order to minimize the potential effects of personal, cultural or institutional biases which can result from too rigid an application of the evaluative criteria. In this respect, the **Handbook** at pages 129-130 provides, in pertinent part:

When evaluating the candidates, commissioners will try to be as objective as possible. However, no matter how objective and impartial any commissioner may attempt to be, each individual brings some personal biases to the process. Partiality can take many forms. Inherent in a commission's criteria are certain qualities which will tend to exclude groups of applicants. Some of the criteria found in this **Handbook** implicitly discriminate. For example, a criterion which places a premium on many years of courtroom experience will exclude those who seek to begin a judicial career at a younger age. **Commissioners should be aware of and sensitive to these factors.** (Emphasis supplied.)

\* \* \*

Finally, evaluative criteria may be culturally restrictive. Evaluations that look towards the applicant's personal career advancement, for example, without regard to race or gender may inherently exclude women and minorities. Although a valid criterion, personal career advancement may be biased towards white males who probably have met with fewer obstacles in their career paths than have applicants from groups who have traditionally faced discrimination.

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<sup>37</sup>The core evaluative criteria specified in the **Handbook** are: suitable age, good health, impartiality, industry, integrity, professional skills, community contacts, social awareness, collegiality, writing ability, decisiveness, judicial temperament, speaking ability, administrative ability and interpersonal skills.

\* \* \*

Each of these forms of partiality play a part in every candidate evaluation. Commissioners should be aware of their own points of view, those of fellow commission members, and those inherent in the evaluative criteria they use. By maintaining an awareness of prejudices, commissioners will be able to avoid biased results. (Emphasis supplied.)

After a thorough review of the **Handbook** and two comprehensive interviews with Dean Ted Parnall of the University of New Mexico School of Law, the Task Force believes that the evaluative criteria and standards adopted by the selection commissions are rationally related to the professional and personal qualifications expected of competent and effective jurists. As to whether these criteria are being applied in an unbiased manner, with due consideration being given to the precautionary guidelines quoted above, it is simply too early in the process to fashion an educated judgment. While it does not appear to the Task Force that minority applicants are being implicitly, arbitrarily or systematically excluded from nomination in the selection process by a rigid or biased application of evaluative standards, there are several as yet unanswered questions from the nominations to date as to the consistency with which the criteria are being applied and just **how** "qualified" an applicant must be in order to make the list submitted to the Governor. It seems to the Task Force that the Governor, as the ultimate appointing authority, should not have his prerogatives unreasonably limited by short lists predicated upon a nebulous "best qualified" standard. "Best qualified" is often a relative concept with innumerable variables, and is ultimately resolved only by the relative perception of the appointing authority. There would seem to be no overriding reason for nominating commissioners to apply so fine a measure that obviously qualified applicants are denied the opportunity for appointment.<sup>38</sup>

### **One Time Partisan Elections: A Significant Alternative For Minorities**

There was broad recognition among Task Force members that minority attorneys have achieved a high level of success in partisan elections for statewide and county judicial positions. The November 1988 elections are a recent example. Justice Joseph F. Baca and Judge Benjamin A. Chavez were elected to the Supreme Court and Court of Appeals, respectively, in hotly contested statewide elections. In the First Judicial District, Judges Steven Herrera and Jose Cruz Castellano unseated recent appointees of the Governor, both of whom were appointed prior to the 1988 judicial reform amendment. Both Judges Herrera and Castellano had previously been unsuccessful in obtaining judicial appointments, and the electoral process became an effective alternative for both. The 1988 judicial reform amendment retains, to a limited degree, a partisan election feature.

Each justice of the supreme court, judge of the court of appeals, district judge or metropolitan court judge shall have been elected to that position in a partisan election

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<sup>38</sup>The judicial reform amendment provides in pertinent part as to the Appellate Nominating Commission:

The Commission shall actively solicit, accept and evaluate applications from qualified lawyers for the position of justice of the supreme court or judge of the court of appeals and may require an applicant to submit any information it deems relevant to the consideration of his application.

... [T]he Commission shall meet within thirty days and within that period submit to the governor the names of persons qualified for the judicial office and recommended for appointment to that office by a majority of the Commission.

New Mexico Constitution, Article VI, Section 35. (Emphasis Supplied.)



prior to being eligible for a non-partisan retention election. Thereafter, each such justice or judge shall be subject to retention or rejection on a non-partisan ballot.<sup>39</sup>

While the "one-time" partisan election process limits the number of opportunities previously available to minorities and others to challenge incumbent judges in partisan elections, it was pointed out in discussions at the Bench and Bar Conference in Gallup in September, 1989, that historically it has been very difficult to unseat an incumbent after he or she has won at least one partisan election. Accordingly, the position was stated that it is questionable whether minorities have been significantly disadvantaged by the one-time limitation on partisan elections under the new system.

The Task Force agrees with the proposition that incumbency is a significant advantage that traditionally has been difficult to overcome. But from the perspective of minority attorneys who are qualified and motivated to challenge even long-term incumbents in partisan elections as a viable alternative to the appointment process, any restriction of that opportunity will be perceived by minority attorneys as a significant limitation of the new system.

However, that issue is at present largely academic. The New Mexico electorate has adopted the judicial reform amendment and what is now the central issue is whether minorities will avail themselves of the remaining opportunities that are provided by the one-time partisan election alternative to the appointment process. The Task Force believes that this alternative will be highly important to minorities in maintaining and enhancing the number of minority justices and judges in New Mexico because of the historical success that has been achieved by minorities in the partisan electoral process. This feature of the judicial reform amendment provides a broader forum for minority candidates to demonstrate the relative strengths of their qualifications, personal traits and suitability for judicial office. The partisan election process can also offset, to some degree, any disadvantage that minorities may be subject to by reason of "partisan" appointments.

Thus, while minorities must be encouraged and must continue to take the initiative to seek appointment to judicial office under the new selection system, they must also recognize the advantageous opportunities provided by the electoral alternative and vigorously pursue that avenue as well. As in the past, only through the combination of appointments and success in partisan elections will minorities continue to play the significant role they traditionally have in the State's judiciary.

Finally, we turn to a brief discussion of the relatively low number of minority applicants thus far under the new judicial reform amendment, the reasons for the limited success experienced by minority attorneys and the probable outlook for the future.

### **Factors Affecting Minority Participation In The Judicial Selection Process: Experience Levels And Economics**

The discussion presented above reflects that relatively few minority attorneys have sought appointment to judicial office under the 1988 judicial reform amendment. A variety of reasons have been urged in the press and in public debates to explain this circumstance. For example, newspaper articles in the *Albuquerque Journal* and *Roswell Daily Record* in August of 1989<sup>40</sup> refer to the tendency of the Governor to prefer nominees who are members of his own political party. This factor may not only account for the lack of success of those few minority nominees (all Democrats) who have succeeded in being recommended to the Governor, but may also explain the dearth of minority applicants generally.

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<sup>39</sup>New Mexico Constitution, Article VI, Section 33.

<sup>40</sup>Copies of the articles are attached hereto as Appendices VIII and IX.



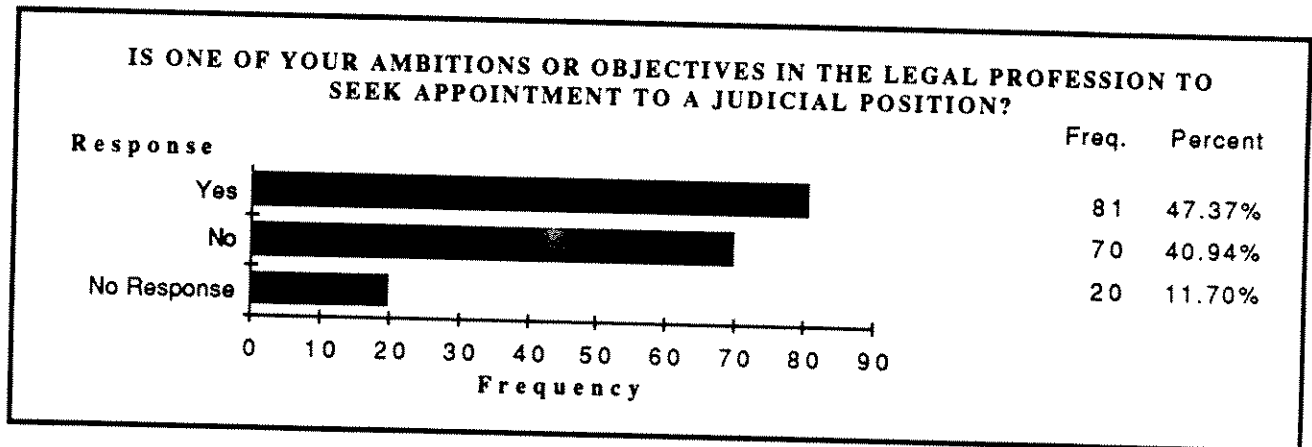
The tendency to prefer Republican nominees would logically create a disincentive for minorities to apply for judicial positions if one assumes, as the Task Force believes, that most minority lawyers in New Mexico are members of the Democratic party. From this perspective the amendment has not succeeded in one of its primary objectives of removing politics from the judicial selection process. Yet, this is not by any means a new phenomenon, and it was equally a reality of the judicial selection process under the former system.

While the effect of this political reality would likely move in a direction more favorable to minorities under a Democratic gubernatorial administration,<sup>41</sup> nonetheless, the fact remains that as long as the appointment process is affected by political considerations of this type, the system can present significant limitations for minorities in pursuing judicial office and, therefore, adversely affect the number of minorities who are willing to apply for judicial vacancies.

A viable response to this situation lies in the one-time partisan election feature of the 1988 amendment. As discussed, *supra*, while not necessarily providing minorities with the full range of opportunities as the prior system, it does permit a broader means of access for minorities to attempt to secure judicial positions which may otherwise be unattainable through the appointment process. To be an effective avenue to judicial office, however, there must be sufficient interest and initiative by qualified and motivated minorities to contest these periodic elections. If opportunities are passed, the retention system that follows will limit severely the number of similar opportunities for minorities in the future. Minorities must recognize the narrow time frame available and they must act, or otherwise forego an aspect of the amendment that historically has been favorable to them.

Low judicial salaries are also frequently mentioned in public debates and in the press as a reason for the low number of minority applicants. However, the Task Force data derived from its Ethnic Minority Survey indicate that low judicial salaries provide only a partial explanation for the problem. Only when the judicial salary factor is considered, together with the years of experience that are likely to be required for nomination by the various judicial commissions, does the salary issue play a significant role.

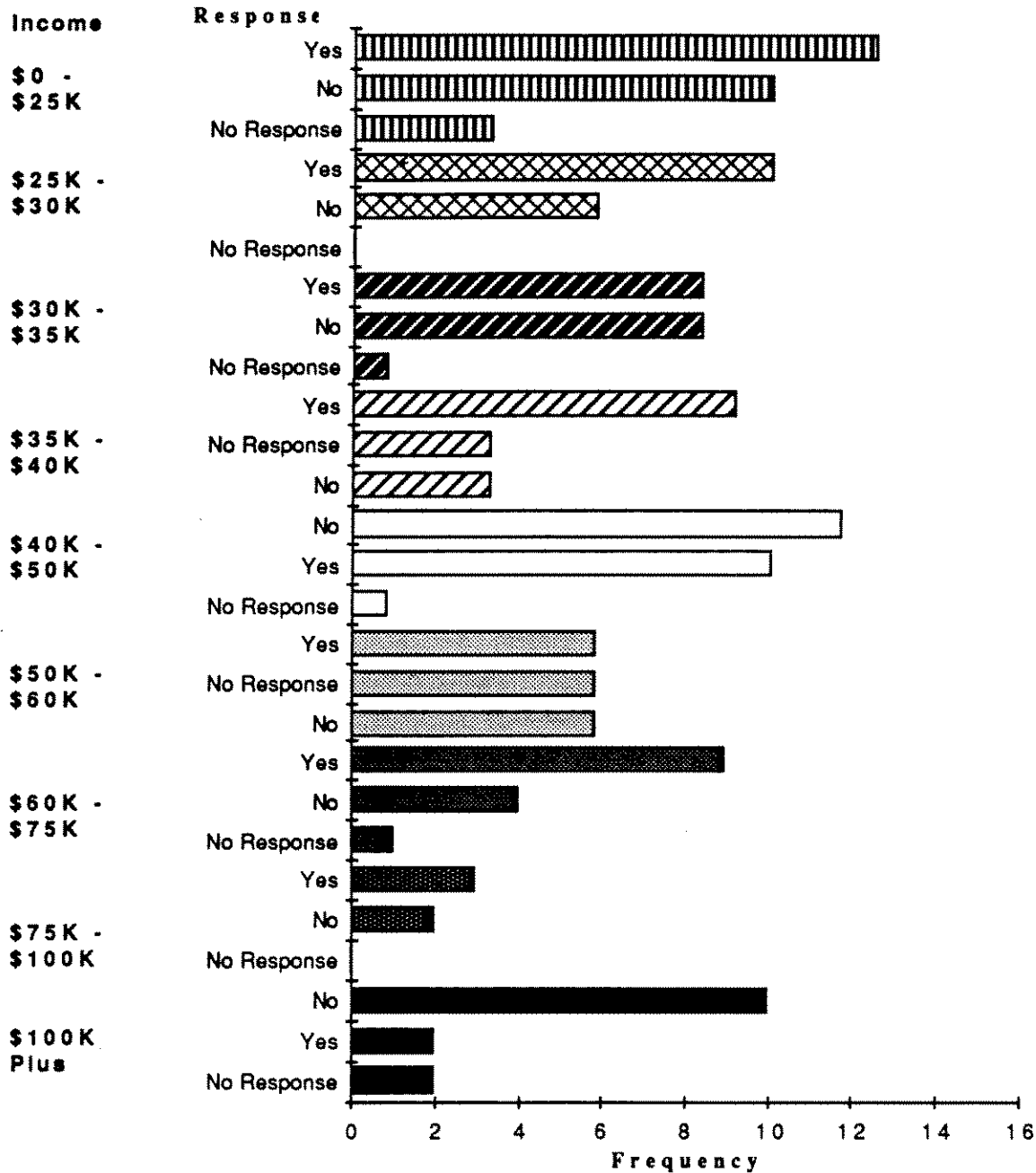
Judicial salaries currently range from \$44,765.00 for Albuquerque's Metropolitan Judges to \$63,268.00 for the Chief Justice of the Supreme Court. The Ethnic Minority Survey results reflect that approximately 47 percent of the minority attorneys surveyed have a career objective of seeking appointment or election to judicial office; 41 percent state that they do not, and 12 percent did not respond to this inquiry.



<sup>41</sup>See footnotes 27 to 29, *supra*.

Of the minority attorneys surveyed who affirmatively responded that they had a career objective of seeking appointment or election to judicial office, 74 percent have net incomes of less than \$50,000.00. Only 26 percent have incomes in excess of \$50,000.00, and of these, only 6 percent have net incomes over \$75,000.00.

IS ONE OF YOUR AMBITIONS OR OBJECTIVES IN THE LEGAL PROFESSION TO SEEK  
APPOINTMENT TO A JUDICIAL POSITION?  
BY INCOME AND YEARS IN PRACTICE



Thus, the overwhelming majority of minority attorneys who are interested in pursuing a judicial position currently have net incomes below or equivalent to those offered by judicial positions. Considered in isolation, this would suggest that judicial salaries would provide an incentive for most minority attorneys to seek judicial appointments. However, the number of years of professional experience is a significant countervailing factor that must also be taken into consideration in analyzing why minorities have not applied for judicial positions in greater numbers under the new judicial selection process.

The **Handbook for Judicial Nominating Commissioners** suggests, as a "general rule," that about ten years of litigation experience would indicate a familiarity with court procedures and legal subjects under the "professional skills" criteria. Of those minority attorneys who affirmatively indicated a career objective to seek judicial office (47 percent of all minority attorneys surveyed), 75 percent have nine or less years of active law practice experience. Twenty (20) percent have from 10 to 15 years of experience, and only 5 percent have more than 15 years of experience.<sup>42</sup>

Accordingly, only 25 percent of those minority attorneys who affirmatively indicated an interest in pursuing a judicial appointment fall into an experience range that is (1) likely to be sufficient to satisfy the selection commissions' evaluative criteria, and (2) likely to be competitive with most non-minority applicants.<sup>43</sup>

While low judicial salaries may partially explain the low number of "more experienced" minority applicants under the new judicial reform amendment,<sup>44</sup> the relatively small number of minority attorneys who are interested in pursuing a judicial position and who have at least ten years of experience (11.7 percent) would appear to play a much larger role in explaining the relatively small number of minority applicants in general.

These statistics point out the importance of encouraging the more experienced minority attorneys in New Mexico to pursue judicial appointments or election to judicial office over the next five years. Without this initiative and leadership, it is not likely that minorities can maintain or improve upon the percentage of the appellate and district court seats that minorities currently hold.

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<sup>42</sup>It is significant to note with respect to the "experience" issue that of the seven minority applicants for the appellate and district court level positions that have been filled under the new judicial selection amendment, two (2) were Metropolitan Court Judges, two (2) were District Court Judges and one (1) was a Judge of the Court of Appeals. See Footnote 18, *supra*.

<sup>43</sup>This group comprises only 11.7 percent of the entire minority attorney population surveyed.

<sup>44</sup>Of those minority attorneys surveyed who have ten or more years of experience and net incomes of at least \$75,000.00, only 4.5 percent indicated that they would be interested in pursuing a judicial position as a career objective.

## **Summary**

### **Minority Initiative And Involvement In The Process: The Key To Future Success**

How will minorities fare in the future under the judicial reform amendment? Partisan appointments are a political reality that will undoubtedly continue to impact the appointment process. The outlook for minorities being appointed to judicial office in the future will therefore depend in part upon changes in the political arena.

The one-time partisan election process will be crucial for minority attorneys in the future. As was true under the prior system, this aspect of the new amendment can provide a viable alternative for qualified minorities who may have been unsuccessful in persuading nominating commissioners or the Governor that they are the best candidate for the particular judicial office. It is an advantageous political feature of the selection process that cannot be left unused if minorities are to maintain and increase their traditional role in the State's judiciary.

Political considerations aside, minorities must take the initiative to fully participate in all aspects of the judicial reform amendment if the State's judiciary is to maintain essential fairness and equality of opportunity in the eyes of the public. Appointing authorities must be sensitive to this ideal and to the diverse nature of our multi-cultural society in New Mexico in selecting nominating commissioners and nominees for judicial positions. Qualified minority attorneys must take the initiative to aggressively seek such appointments, and the more experienced minority attorneys must provide an active leadership role in this process, particularly in the near term. As the number of more experienced minority attorneys increases over the next few years, the outlook, with continued initiative and leadership, can be a positive one for New Mexico's minority attorneys.

## **GENERAL RECOMMENDATIONS OF THE TASK FORCE**

In addition to the various recommendations that have been included in the foregoing discussion, the Task Force recommends that the following matters be considered by the Board of Bar Commissioners in improving minority attorney involvement and interest in the activities and leadership of the State Bar and in promoting equal opportunities in the profession for minorities.

1. The Law School should actively recruit at New Mexico pueblos and New Mexico Indian schools.
2. 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.
3. 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 the State Bar should address a strategy for accomplishing this goal.
4. 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.
5. The State Bar, in cooperation with the Law School, should consider establishing a financial aid program including scholarships and loans.
6. Minority students should be made aware of any available Bar Examination study loans.
7. 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. In addition, greater efforts should be made to move minority professors into administrative positions.
8. The Law School should seek to hire a full-time tenure track Native American professor.
9. 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.
10. 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. Accurate records on applicants' ethnicity and passing rates should be maintained to assist this effort.
11. Additionally, in furtherance of goal 10, alternative methods of testing and licensing should be investigated by the Supreme Court through its Board of Bar Examiners.
12. 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.
13. 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:
  - a. With the assistance of minority bar associations, conduct programs for law students to make them better aware of existing employment opportunities and how better to seize those opportunities.
  - b. 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.
  - c. 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.

14. Law schools should provide introductory 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.

15. Law schools should provide mandatory courses dealing with common ethical issues that arise in the practice of law as well as courses dealing specifically with the Code of Professional Responsibility and disciplinary issues.

16. The State Bar should continue its efforts to provide continuing legal education to lawyers which emphasize the practical aspects of law office management for the small or sole practitioner.

17. The larger firms in New Mexico should be encouraged to actively recruit minority attorneys for summer intern and associate positions.

18. A Joint Standing Committee on Minority Involvement in the Profession should be created, consisting of designated officers or directors of the New Mexico Hispanic Bar Association, the New Mexico Indian Bar Association, the New Mexico Black Lawyers Association, together with designated members of the Board of Bar Commissioners and the Executive Director of the State Bar. This Joint Standing Committee would be responsible for recruiting and recommending minority attorneys for active service and involvement in the activities and leadership of the State Bar and for developing a strategy for increasing the opportunities for meaningful involvement of minorities in the activities and leadership of the Bar.

19. Pursuant to the Resolution passed by the State Bar membership on September 23, 1989, and approved by the Board of Bar Commissioners on November 3, 1989, the Task Force recommends that the State Bar, through a Joint Standing Committee, or otherwise, develop a program for addressing and implementing the stated objective in the Resolution of promoting full and equal educational, professional and judicial opportunities for minorities in New Mexico.

20. The Board of Bar Commissioners should consider recommending to the Disciplinary Board, and ultimately to the New Mexico Supreme Court, that the Rules of Professional Conduct be supplemented to include among the professional and ethical responsibilities of a lawyer that he or she, in the conduct of his or her practice, refrain from the expression or manifestation of bias or prejudice on the basis of race, sex, religion or national origin where such conduct would adversely reflect upon the professionalism of the lawyer or his or her fitness to practice law.

21. The State Bar should investigate and address more fully the needs and professional interest of the sole or small practitioner, and that additional continuing legal education programs be designed and offered to assist small practitioners in such areas as law office organization and management, law office economics, the maintenance of trust accounts and the accounting and reporting of trust account activities.

22. The State Bar should encourage the Young Lawyers Division of the State Bar to actively recruit and promote minority attorney participation in the varied programs sponsored by that progressive organization.

23. The State Bar should consider the adoption of a "mentor program" or alternatively recommend to the New Mexico Bar Foundation that the Bill Kitts Society "mentor program" be expanded to invite increased participation by experienced minority attorneys and that new and recent minority admittees of the State Bar be advised of the availability and benefits of that program.

24. The State Bar, through its Young Lawyers Division, and in cooperation with the University of New Mexico School of Law, should expand its Law Day program activities by increased outreach efforts in the high schools and smaller colleges of New Mexico, with the objective of making minority and other students more aware of educational and career opportunities in the legal profession.

25. The State Bar should study and actively promote and encourage programs designed to enhance employment opportunities for minorities in the larger law firms in New Mexico.