FROM THOUGHT TO ACTION: FOSTERING LEGAL DEPARTMENT DIVERSITY

Selections from the Diversity White Paper
Copies & Copyright

As always, members are welcome to an unlimited number of copies of the materials contained within this handout. Further, members may copy any graphic herein for their own internal purpose. The Corporate Executive Board requests only that members retain the copyright mark on all pages produced. Please call the Library at 202-777-5921 for any help we may provide.

The pages, slides, audio and/or videotapes herein are the property of the Corporate Executive Board. Beyond the membership, no copyrighted materials of the Corporate Executive Board may be reproduced without prior approval.
**Fostering Diversity**

**Goal #1: Serve a Diverse Workforce Emerging from Changing Demographics and Global Expansion**

**Diversity Representation in Jurisprudence**

<table>
<thead>
<tr>
<th>Legal Position</th>
<th>Representation in the Field (Selected Statistics)</th>
</tr>
</thead>
</table>
| **Law Students** | • Since 1980, minority law school enrollment has grown 257 percent; however, minority enrollment from 1995 to 2000 increased by less than 1 percent.  
• In 2001, 49 percent of all law students were women and 20.6 percent were minority students  
• Among the total 26,257 minority students, 9,412 or 36 percent were African American;  
990 or 4 percent were Native American; 8,421 or 32 percent were Asian American; 2,334 or 9 percent were Mexican; 4,411 or 17 percent were Latino. |
| **Law Firms** | • Less than 3 percent of all partners in United States law firms are minorities.  
• 10 percent of the United States’ largest firms have, at most, one minority lawyer. |
| **Law Clerks** | • People of color comprise approximately 15 percent of judicial law clerks. |
| **Judges** | • Three-quarters of the federal circuit courts have either no African American or no Latino jurist.  
• Asian Americans account for only 7 of 748 federal judges.  
• Only one Native American serves as a federal judge. |
| **In-House Counsel** | • 31.5 percent of in-house counsel are women.  
• 79 percent of in-house counsel in the Fortune 500 are African American.  
• 2.6 percent of in-house counsel are Asian American.  
• 2.4 percent of in-house counsel are Latino. |
| **General Counsel** | • 21 of the Fortune 500 General Counsel are people of color, 3 of whom are female.  
• 8.4 percent of Fortune 500 General Counsel are female. |

Source: Minority Corporate Counsel Association, Creating Pathways to Diversity (2000); Lawyers for One America, Bar None (2000); American Corporate Counsel Association, “Census of In-House Bar, ACCA Membership Survey,” 2001; Preis, Elisabeth, and Catherine Aman, “More of a Mosaic,” Corporate Counsel (November 2001); Stewart, Laurie, “No Growth in Number of Women, Minority Law Students,” The Legal Intelligencer (4 April 2002); General Counsel Roundtable, From Thought to Action: Fostering Legal Department Diversity: December 2001.
Is a Business Issue

Goal #2: Decrease the Risk of Discrimination Litigation and Public Relations Problems Generated by Activist Organizations and Consumers

Selected Direct Costs of Discrimination Litigation

- A sampling of data for the period 1991 to 2001 shows that 32 companies were ordered to pay out more than $1.3 billion in damages, ranging from $17,500 to $250 million per case.
- From 1994 to 1999, the likelihood that employees would win discrimination suits increased from 45 percent to 72 percent.
- The average, single plaintiff, single-count employment complaint can cost between $30,000 and $50,000 before trial. The median compensatory award escalated from $128,000 in 1996 to $221,612 in 1999. In June 2001, in a landmark decision, a female former executive for the Massachusetts Bay Transportation Authority (MBTA) was awarded $7.6 million in a sexual discrimination lawsuit.
- EEOC payouts for employment discrimination claims have increased from $117 million in 1991 to $246 million in 2000.

Goal #3: Gain Competitive Advantage from the Creative Design of Strategy and the Physical Presence of Diversity in the Courtroom

Diversity Enables Creative Problem Solving

“Put simply, diverse people generate diverse thinking. When it comes to problem solving, if six people are gathered around a conference table, all with the same background, education and experience, the issues tend to be viewed through a narrow lens. Diverse thinking, on the other hand, can produce a more expansive view of the issue under consideration. More and better questions arise, leading to more and better answers. New perspectives are shared—and creative legal solutions spring forth.”

Thomas Sager
Vice President and Assistant General Counsel
E.I. du Pont de Nemours and Company

Observation #2: Definitions of diversity range from specific terminology based on legally protected classes to broad, all-inclusive definitions. The current trend is to define diversity very broadly. However, the majority of diversity strategies currently at work in legal departments focus on groups with easily identifiable, visible characteristics that are protected by law; specifically gender, race, and ethnicity.

Defining Diversity Is the First Step
Observation #3: The amount of resources dedicated to diversity programs often varies according to department size. Departments with smaller budgets and fewer staff members may confront challenges that are significantly different from those obstacles found in larger departments. Consequently, solution formulation and implementation cannot be generic.

### Diversity Challenges Vary by

#### Challenges to the Establishment of Diversity Initiatives, by Department Size

<table>
<thead>
<tr>
<th>Challenge</th>
<th>Effect on Small Departments</th>
<th>Effect on Large Departments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ascertaining Appropriate Representation</strong></td>
<td>Smaller legal departments may find it difficult to gauge the appropriate level of diversity representation and typically have fewer hiring opportunities to improve legal team diversity.</td>
<td>Large departments should not only be concerned with the number of diverse attorneys, but also with their distribution throughout the department. Even in departments that are statistically diverse, diverse talent is frequently clustered in more junior positions. Large departments have more resources to support diversity initiatives; however, programs are scalable and large department programs may still face resource constraints (particularly attorney time).</td>
</tr>
</tbody>
</table>
| **Securing Adequate Resources**                | Many of the programs outlined in the study require the following resources, which are often limited in smaller departments:  
  - Time  
  - Budget allocation  
  - Staff resources | Coordinating staff members across geographic regions further complicates the implementation and management of diversity programs. |
Observation #4: Geography is another factor that shapes diversity challenges and appropriate solutions within corporate legal departments. Many corporate headquarters are located away from large cities and centers of commercial and cultural activity and, as a result, away from larger, more diverse population groups.

Department Size and Geography

The Impact of Geography on Legal Department Diversity

- **Size of Local Talent Pool**
  Departments in cities with a small racial and ethnic minority population confront more difficulties in attaining diversity because there is already a limited talent pool from which to recruit.

- **Bidding Power of Department**
  Departments in some locations confront difficulties vying for talent because diverse candidates may be unwilling to relocate to an area where the total quality of life is perceived to be less than desirable.

---

Recruiting to the Middle of Nowhere

“The top-notch diverse candidates at Wall Street law firms don’t want to come out here. It’s a suburban area that does not have a large amount of diversity in its population base (although that’s changing) and it’s out in the middle of nowhere. It’s a real challenge.”

General Counsel
Manufacturing Company

Source: General Counsel Roundtable, From Thought to Action: Fostering Legal Department Diversity: December 2001.
Observation #5: Legal departments must seek out new talent pools and overcome barriers to attracting diverse talent in order to achieve diversity in the workplace.

## Recruiting Beyond

### Barriers to Attracting Diverse Talent

<table>
<thead>
<tr>
<th>Barrier</th>
<th>Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Unattractive Location</strong></td>
<td>General counsel in every region of the country have complained that they are handicapped in recruiting efforts because of their particular location. Companies have difficulty persuading recruits to relocate to a given city for countless reasons, including weather, culture, and size. Attorney location preferences vary. In the case of minorities, the ethnic and racial composition of a city and, equally important, its perceived receptiveness to outsiders can be decisive factors in a relocation decision.</td>
</tr>
<tr>
<td><strong>Lack of Critical Mass</strong></td>
<td>The diversity literature and corporate legal staff cite the lack of critical mass of diverse attorneys as the largest obstacle to recruiting. If a minority or female attorney sees few or no similar attorneys within the department or in the management ranks, the recruit will likely perceive limited advancement opportunities in that department. A core of diverse employees at all levels of the legal department is a department’s greatest recruiting advantage. As one general counsel notes, “diversity recruiting builds on itself.”</td>
</tr>
<tr>
<td><strong>Inability to Compete with Law Firm Salaries</strong></td>
<td>The average annual salary of a seventh-year law firm associate is $120,000, and at certain large firms in major metropolitan areas, salaries may go as high as $220,000 (not including bonus). The average starting salary for a legal department attorney with five years of legal practice experience, however, is $104,000, representing a substantial pay cut for moving in-house.</td>
</tr>
</tbody>
</table>

Observation #6: Strategies include using search firms that specialize in minority attorney searches, as well as partnering with law firms or a consortium. Departments can also capitalize on the personal network of their diverse attorneys.

the Traditional Pool

Abbott Laboratories’ legal department uses its bonus program to incent internal recruiters to leverage recruiting resources to foster department diversity.

The Boston Lawyers Group, a nonprofit membership organization, assists local legal organizations attract and retain attorneys of color.

Sears, Roebuck and Co.’s legal department recruits first-year law students into the department for a substantive eight-week internship.

Coors Legal partners with a local law firm to improve its recruiting power and create a pipeline of seasoned legal talent.

DuPont Legal supports a pipeline construction program targeted at middle and high school students and collaborates on the Pipeline Resource Kit with the American Corporate Counsel Association.

Source: General Counsel Roundtable, From Thought to Action: Fostering Legal Department Diversity; December 2001.
Observation #7: Many legal departments focus their attention solely (or to an inappropriate degree) on recruiting, leading to a revolving door of diverse legal talent. Retaining diverse employees (through mentoring, creating affinity groups, and removing obstacles to advancement) keeps departments from wasting recruiting dollars and experiencing productivity losses while new attorneys are onboarded.

Retaining Diverse Talent Is the True Goal

Retention Initiatives

**Women Lawyers’ Network**

DuPont Legal launches and maintains an affinity group to develop women professionals from the department and its service providers.

**The New York Times**

Formal Mentoring Program

The New York Times Company manages a cross-functional mentoring program open to all employees that facilitates attorney onboarding and development.

**Lilly**

Comprehensive Career Development

Eli Lilly and Co.’s legal department maintains a multifaceted career development program that tracks career progression for diverse attorneys.

**Internal Audits**

Proactive auditing enables departments to identify administrative or management practices that may thwart career advancement for diverse talent.

Source: General Counsel Roundtable, From Thought to Action: Fostering Legal Department Diversity: December 2001.
Opportunity Presented by

Drivers of External Diversity Initiatives

- **Existence of Internal Diversity Programs**
  Expansion in the breadth and depth of corporate legal department diversity programs has increased attention on diversity in law firms. Failure to structure outside counsel relationships to support diversity initiatives limits the scope of many in-house diversity programs, especially for small departments that allocate an even greater portion of their legal spending to outside counsel engagement.

- **Increased Collaboration with Outside Counsel**
  Progressive legal departments are interested in forming strategic, long-term relationships with outside counsel. These relationships are characterized by increased collaboration and communication.

- **Perception of Strategic Advantage**
  As corporations face a greater likelihood of discrimination suits and diverse juries, legal departments increasingly recognize the strategic advantage of being represented by diverse attorneys.

- **Internal Pressure from the CEO**
  Numerous CEOs place a high degree of importance on using minority service providers (or fear that a lack of diverse suppliers can expose corporations to additional legal risk). As a result, supplier diversity initiatives are a common component of corporate diversity programs.

- **External Pressure from Organizations**
  In some instances, activist organizations and minority supplier associations exert pressure on legal departments to increase the use of minority- and women-owned law firms.

- **Risk of Legal Action**
  A number of corporations may be subject to statutory or regulatory provisions requiring use of minority service providers. Consequently, they have incorporated certain guidelines to ensure compliance.

---

Observation #8: Departments that have great difficulty fostering greater diversity internally have a tremendous opportunity to encourage diversity in outside counsel through tracking, monitoring, and rewarding law firm efforts.
External Diversity Initiatives

External Initiatives

**Benchmark Survey**
DuPont Legal benchmarks metrics on law firm diversity representation and the number of individual minorities and women assigned to DuPont matters.

**External Diversity Tracking System**
Sears, Roebuck and Co.'s legal department tracks the amount of outsourcing dollars placed with women- and minority-owned firms as well as the hours billed by women and minorities in its primary firms.

**Law Firm Symposium**
Based on principles of partnership and knowledge sharing, Philip Morris Legal develops a symposium to bring department and law firm management together to monitor diversity progress and partner on diversity solutions.

**Lighthouse Award**
International Paper's legal department creates an award program for suppliers that, by example and leadership, distinguishes them in the area of diversity.

Source: General Counsel Roundtable, From Thought to Action: Fostering Legal Department Diversity; December 2001.
Observation #9: Few departments compile diversity metrics beyond those that are required for the purpose of EEOC compliance. However, metrics are critical for determining diversity initiative resource investment and return.

## Metrics Are Key

### Diversity Performance Metrics

<table>
<thead>
<tr>
<th>Metric</th>
<th>Description</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Recruiting</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant Response Rate</td>
<td>Number of resumes received from each recruiting venue (e.g., job fair, employee referral)</td>
<td>Helps determine which recruiting channels are most effective at generating response</td>
</tr>
<tr>
<td>Employment Offers per Recruiting Effort</td>
<td>Number of employment offers extended by recruiting channel</td>
<td>Provides insight into the quantity and quality of applicants received through different recruiting channels</td>
</tr>
<tr>
<td>Number of Diverse New Hires</td>
<td>Number of diverse candidates accepting a job offer</td>
<td>Should be compared to total number of new hires and analyzed over time to determine trends</td>
</tr>
<tr>
<td>Workforce Demographics</td>
<td>Breakdown of legal department staff according to diversity vectors</td>
<td>Vectors will be determined by the department’s particular diversity objectives; numbers on women and minorities must be compiled for EEOC compliance</td>
</tr>
<tr>
<td><strong>Retention</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attrition Rates</td>
<td>Number/percentage of employees leaving the legal department</td>
<td>Rates for diverse staff should be compared to department average</td>
</tr>
<tr>
<td>Training Evaluations</td>
<td>Quantitative (surveys) or qualitative (focus groups) analysis of training effectiveness</td>
<td>Provides feedback on effectiveness of training format, facilitator, content, etc.</td>
</tr>
<tr>
<td>Affinity Group Participation Rates</td>
<td>Level of participation in affinity group meetings or events (number of participants/total possible participants)</td>
<td>Provides insight into usage of affinity group networks and the popularity of particular activities</td>
</tr>
<tr>
<td>Mentoring Program Evaluations</td>
<td>Quantitative and qualitative evaluations of mentoring program effectiveness</td>
<td>Survey or debriefing results provide insight into ways the program can be improved; may also indicate problems with a particular mentor or mentee</td>
</tr>
<tr>
<td>Exit Interviews</td>
<td>Meetings with diverse attorneys leaving the department to solicit targeted information on departure drivers</td>
<td>Gather information on what push and pull factors contribute to diverse attorneys’ departures</td>
</tr>
</tbody>
</table>
## TO PROGRAM SUCCESS

### Diversity Performance Metrics (continued)

<table>
<thead>
<tr>
<th>Metric</th>
<th>Description</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Advancement</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Promotion Tracking</td>
<td>The length of time between promotions versus department average</td>
<td>May indicate performance of individual attorney; however, recognizable trends over time may indicate a bias in the review and promotion process</td>
</tr>
<tr>
<td><strong>Diverse Representation in Senior Ranks</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of diverse attorneys directly reporting to the General Counsel</td>
<td></td>
<td>Measures success at moving diverse attorneys from entry-level positions into senior legal management; important data for succession planning</td>
</tr>
<tr>
<td><strong>Program Performance</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of EEOC Complaints</td>
<td>Number of harassment and discrimination claims received</td>
<td>Decreasing harassment/discrimination claims is indicative of a more inclusive work environment</td>
</tr>
<tr>
<td>Employee Attitude Surveys</td>
<td>Surveys that measure the employees’ perceptions of diversity in the workplace</td>
<td>Attitude surveys should be taken at periodic intervals to measure ongoing diversity progress; using a standardized survey tool allows comparison of results over time</td>
</tr>
</tbody>
</table>

Source: General Counsel Roundtable, *From Thought to Action: Fostering Legal Department Diversity*; December 2001.
Legal Organizations

Hispanic National Bar Association
8201 Greensboro Drive
Suite 300
McLean, VA 22102
Phone: 703-610-9038
Fax: 703-610-9005
www.hnba.org

Minority Corporate Counsel Association
1400 L Street NW
Tenth Floor
Washington, DC 20005
Phone: 202-371-5909
www.mcca.com

National Asian Pacific American Bar Association
1341 G Street, NW
Fifth Floor
Washington, DC 20005
Phone: 202-626-7693
www.napaba.org

National Bar Association
1225 11th Street, NW
Washington, DC 20005
Phone: 202-842-3900
Fax: 202-289-6170
www.nationalbar.org

Native American Bar Association
P.O. Box 167
West Linn, OR 97068
www.nativeamericanbar.org

Web Sites

www.abanet.org
American Bar Association Web site; contains reports on status of diversity in the legal profession and representation statistics.

www.diversecounsel.org
An American Corporate Counsel Association Web site; contains various diversity resources and an online search function to locate diverse counsel.

www.diversityinc.com
A daily online newsletter with the latest diversity news.

www.diversityonline.com
Official Web site of The Institute for Corporate Diversity, a diversity database and research publisher.

www.lfoa.org/diversity
Lawyers for One America Web site; contains electronic version of Bar None Report.
RESOURCES

Search Firms

The Aspen Group
6930 Carroll Avenue
Suite 7222
Takoma Park, MD 20912
Phone: 240-494-2029
Fax: 301-270-0061
Contact: Linda Burke, Managing Director
E-Mail: lburke@aspenpersonnel.com

Carrington & Carrington Ltd.
39 South LaSalle
Suite 700
Chicago, IL 60603
Contact: Willie and Marian Carrington
Phone: 312-606-0015

Catalyst Corporate Board Placement
120 Wall Street
New York, NY 10005
Phone: 212-514-7600
Fax: 212-514-8470
Specializes in female board of directors placement

Continuum Legal
6723 Whittier Avenue
Suite 202
McLean, VA 22101
Contact: Traci Mundy Jenkins
Phone: 703-734-7474
Fax: 703-734-8839
E-Mail: tmjenkins@continuumlegal.com

Diversity Search Partners
(a.k.a. Berkhemer/Clayton)
221 S. Figueroa Street
Suite 240
Los Angeles, CA 90012
Contact: Melba Saunders
Phone: 213-621-2300, ext. 21

Dominguez and Associates
7401 Rosewood Manor Lane
Gaithersburg, MD 20882
Contact: Cari Dominguez
Phone: 301-208-1404
E-Mail: caridom@erols.com

H.C. Smith Limited
20600 Chagrin Boulevard
Suite 200
Shaker Heights, OH 44122
Contact: Dr. Herbert C. Smith
Phone: 800-290-9178

LaMonte Owens, Inc.
P.O. Box 27742
Philadelphia, PA 19119
Phone: 215-836-2700
Fax: 215-836-4167
E-Mail: Lowens@diversityrecruiting.com

LawScout, Inc.
4922 Lake Park Lane
Acworth, GA 30101
Contact: Crystal Banks
Phone: 770-966-8850
Fax: 770-966-8841
E-Mail: lawscout@bellsouth.net

National Association of Legal Search Consultants
11 East Hubbard Street
Suite 5A
Chicago, IL 60611
Phone: 312-755-0635
Fax: 312-431-8697
www.nalsc.org

Richard Clarke Associates
9 West 95th Street
Suite C
New York, NY 10025
Phone: 212-222-5600
Trainers and Consultants

Abt Associates
181 Spring Street
Lexington, MA 02421
Phone: 781-372-6500
Fax: 781-372-6501
www.abtassoc.com

American Institute for Managing Diversity
Dr. R. Roosevelt Thomas, Jr.
50 Hurt Plaza
Suite 1150
Atlanta, GA 30303
Phone: 404-302-9226
Fax: 404-302-9252
www.aimd.com

Cook Ross Inc.
117 East West Highway
Silver Spring, MD 20910
Phone: 301-565-4035
Fax: 301-565-3952
www.cookross.com

The Diversity Training Group
692 Pine Street
Herndon, VA 20170
Phone: 703-478-9191
Fax: 703-709-0591
www.diversitydtg.com

Employment Law Institute
Zang Mansion
709 Clarkson Street
Denver, CO 80218
Phone: 303-813-0033
Fax: 303-894-9518

The Felicity Group Ltd.
Forty East Ninth Street
Suite 1601
Chicago, IL 60605
Phone: 312-663-0202
Fax: 312-663-4680
www.thefelicitygroup.com

Global Lead Management Consulting
Hillcrest Tower
7162 Reading Road
Suite 250
Cincinnati, OH 45237
Phone: 800-762-0882
Fax: 513-731-8702
www.globallead.com

Hubbard and Hubbard Inc.
1302 Holm Road
Petaluma, CA 94954
Phone: 707-763-8380
Fax: 707-763-3640
www.hubbardnhubbardinc.com

J. Howard & Associates
Brighton Landing West
10 Guest Street, Suite 300
Boston, MA 02135-2067
Phone: 617-254-7600
Fax: 617-254-7117
www.jhoward.com

The Kaleel Jamison Consulting Group, Inc.
279 River Street
Suite 401
Troy, NY 12180
Phone: 518-271-7000
Fax: 518-271-4400
www.kjcg.com

K. Iwata Associates Linkage, Inc.
One Forbes Road
Lexington, MA 02421
Phone: 781-862-3157
Fax: 781-862-2355

Orlando-Ward Associates
6634 Winding Creek Drive
San Diego, CA 92119-1144
Phone: 619-286-1132
www.orlandoward.com
RESOURCES (CONTINUED)

Dr. Todd Pittinsky
Harvard Business School
Soldier Fields Road
Boston, MA 02143
Phone: 650-281-6030
E-Mail: todd@hbs.edu

Pope & Associates, Incorporated
1313 East Kemper Road
Suite 350
Cincinnati, OH
Phone: 513-671-1277
Fax: 513-671-1815
www.popeandassociates.com

Prism International, Inc.
First Sanford Tower
312 West First Street
Sanford, FL 32771
Phone: 888-997-7476
Fax: 407-324-0148
www.prism-international.com

Simmons Associates
31 North Sugan Road
New Hope, PA 18938
Phone: 215-862-3020
Fax: 215-862-3077
www.simmonsassociates.com

Tulin DiversiTeam Associates
5 Curtis Park Drive
Wyncote, PA 19095-2211
Phone: 215-886-5515
Fax: 215-886-5515
www.diversiteam.com

The Winters Group
2509 Browncroft Boulevard
Rochester, NY 14625
Phone: 716-218-9820
Fax: 716-218-9816
www.wintersgroup.com