Raising the Bar: Increasing and Sustaining Diversity within the Hennepin County Legal Community

Client: Hennepin County Bar Association (HCBA)

Student Consultant team: Adam McFarlane, Kanwar Sameer Lather, Nan Wu, Scott C. Schumacher

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Executive Summary

The Hennepin County Bar Association (HCBA) presented a research proposal to the Humphrey School of Public Affairs 2014 summer capstone: identify where its diversity pipeline breaks down. The study addresses the education section of the pipeline: specifically, applying to law school, matriculating into law school, graduating from law school, taking and passing the bar exam, and then entering the legal workforce. The project proposal indicates that HCBA is aware of low race/ethnicity and gender diversity in Hennepin County's pool of lawyers.

In order to address the stated issues, this report collects and analyzes diversity data within the law profession at national, state, and county levels. In addition, a literature review and development of a theoretical framework identify socio-economic causes affecting diversity in the county's legal occupation. The deliverables for this project include: a data file including aggregated law school applicant demographics from 2004 through 2013, this report, and a presentation.

The American Bar Association (ABA), National Association for Law Placement (NALP), Law School Admission Council (LSAC), and Minnesota State Bar Association (MSBA) know the value of evidence-based research about diversity in law. The ABAs mission statement includes the elimination of bias and enhance diversity--with the objective of promoting full and equal participation in the association, our profession, and the justice system by all persons. Although these groups make efforts to collect demographic data about law school students and lawyers (the ABA sets the standard by making demographic collection mandatory by all ABA-accredited law schools), voluntary reporting slows collection of such evidence and prevents it from being comprehensive.

Increasingly, Fortune 500 companies and other prominent businesses prefer to employ law firms with more diversity; even if the law firms are geographically distant. The "business case for diversity" provides growing impetus for firms to promote internal diversity.

HCBA provided application data from the four Twin Cities law schools for 2004 to 2013, which student consultants aggregated and analyzed. The aggregated data shows low, decreasing percentages of minorities (gender and race). With the aggregated data and data from public sources, this report discusses in detail stages of diversity loss in the process of becoming a practicing lawyer.

Concerns and qualifications about the data's validity are discussed at length in the report. They include incomplete information, divergent methodologies, and inconsistent definitions over time. These problems expanded and multiplied as the student consultants drew on additional data sets (demographic composition of Minneapolis lawyers, local law school students, Hennepin County in general) for comparisons at the request of HCBA. Given these qualifications, this table summarizes recent proportions of races and ethnicities among different populations related to Hennepin County:

	Hennepin Co.	law school applicants	law school students	Minneapolis lawyers
Black:	12%	9%	7%	less than 1%
Asian:	7%	15%	13%	1%
Latino:	7%	5%	11%	less than 1%
Native:	1%	1%	2%	no data

Comparisons are made at the request of the HCBA. As noted above, however, this table does not employ methodologies that rise to the rigor and integrity normally expected in statistical analysis. Its utility to analyze the extent of diversity loss through the pipeline is limited.

Key Findings:

1. By publishing mandatory Standard 509 Reports, law schools release annual tallies of
    student body characteristics. The data includes total class data for 1L and J.D. awarded,
    also total student body; however, lack individual or class (year of graduation) specificity.
    Also, applicants submit demographic data when applying to law school, but the
    information is maintained inconsistently between schools (preventing valid comparisons).
    Further, the data prevent useful longitudinal analysis. For more rigorous comparisons to
    be made, more reliable data is needed for applicants and law students.

2. Data collection for disability and for lesbian, gay, bisexual, transgender [LGBT]
    identities does not occur systematically nor comprehensively in the U.S. or in Minnesota.

3. Queries to metro bar associations around the U.S. provide useful comparisons. Often, a
    bar association's demographic knowledge of its own lawyer pool is not known. And even
    when data is gathered, it is not always meaningful. Adapting model programs from
    elsewhere, as HCBA desires, the San Diego Bar Association implements a successful
    diversity program to connect minority law students with law firms and corporate legal
    departments. This may be comparable to the HCBA's 1L Minority Clerkship Program,
    which placed eleven first year law students this year.

4. Information reported by private law firms about openly LGBT and disabled lawyers is
    scarce. As a result, national data is very limited about these categories.

5. Lawyers' apprehensions about invasion of privacy and misuse of information inhibit
    voluntary disclosure of demographic information. Multiple licensure formats and
    membership of different legal associations show the varying collection of demographic
    information within the profession.

Next Steps for HCBA and Recommendations:

The first step to improve diversity is to collect reliable evidence about diversity by requiring full disclosure of demographic information by law schools, law firms, and individual lawyers. Expected benefits from an increase in diversity among lawyers outweigh "costs," or concerns about loss of privacy and lowering organizational reputation.

The following recommendations are for future efforts to increase diversity in Hennepin County's legal education pipeline and its lawyer pool:

- For an accurate assessment of the complete educational and professional pipeline from a diversity perspective, subsequent data collection points should cover all applicants, admitted students, graduating students, people who take the bar exam, those who pass the exam, and employed lawyers. Thereafter, for covering retention within the legal profession, employment data could be obtained at three-year intervals when lawyers submit their CLEs to the MN Supreme Court to renew their license.

- The American Bar Association (ABA) should expand Standard 509 Reports to include demographic information about law school applicants, through collaboration with the Law School Admission Council (LSAC) requiring mandatory collection.

- Law school graduates should be required to report their race/ethnicity, gender, (dis)ability, and sexual orientation when applying for the bar exam through the Minnesota Board of Law Examiners (MNBLE).

- The Minnesota Supreme Court (having already received MSBA's 2014 memo on demographic data collection) should order collection about lawyers' race/ethnicity,

gender, sexuality, and (dis)ability. Then, this information should be shared by MSBA

with local state bar associations (with adequate safeguards against unauthorized use).

- Since diversity within the legal occupation can be increased mainly through internal

  efforts, MSBA and HCBA should persuade Minnesota's law firms to consider adopting

  NALP's best practices - with adaptations that suit their organizational culture and goals -

  for promoting diversity in the state's pool of practicing lawyers.

Introduction

Every U.S. state is experiencing a progressive increase in population diversity. The

census released new data that those of us who study demographic trends have seen coming for a

while now: For the first time, the majority of babies (children under one year old) were kids of

color. In many states, that change had already happened — in twelve states and the District of

Columbia, the majority of children under age five are of color. Why should we care about this?

This new demographic reality has broad impacts from education to health care, politics to culture

(Gibbs Léger). Law is a white-collar occupation where minorities and women are

underrepresented.

HCBA presented a proposal to the Humphrey School 2014 summer capstone to identify

where its diversity pipeline breaks down. The project indicates that HCBA is aware of low

race/ethnicity and gender diversity in Hennepin County's pool of lawyers. HCBA attributes this

to a loss of diversity in the local educational pipeline from getting into law school, through law

school, then graduated and practicing in the law field.

To build diversity within the county legal community, HCBA stated, a local pipeline to

the legal profession must exist. Further, to ensure this pipeline is strong, the county's legal

community must know if diversity is represented adequately by local law students. A pipeline that functions properly at every stage should meet needs for attorneys of diverse backgrounds.

The underlying proposition is that the composition of Hennepin County's legal community does not reflect the demographic diversity of the county. There is, according to this proposition, a direct supply link of the local pipeline to the county's legal profession. Along its length, the pipeline "leaks'" students from racial minorities and women, resulting in underrepresentation.

As is true in case of every public problem, in this case too, several stakeholders are perceived to hold both high interest and power in the diversity pipeline. Several transnational law firms and numerous Fortune 500 companies call the Twin Cities home. Their interest in having a diverse Hennepin County lawyer pool is high. Plus, they have the capacity to advocate for and support diversity-oriented policies and reforms.

Minnesota's Supreme Court has interest in increasing diversity in the state and local lawyer pool (more so than mass media or other government organizations), but it prioritizes more immediate issues (court cases appealed to the state's highest court). Smaller law firms, individual minority lawyers and their firms have an interest in this issue but little power. HCBA has more power and the MSBA has even more—but as voluntary associations, they lack enough power to implement policies without risking significant cost (in terms of image and resources). Connecting the HCBA to the MSBA and to the Minnesota Supreme Court in the recommendation for an order for mandatory data collection of the state's lawyers could change diversity policies. This may be an advantageous route for law firms who can institute diversity programs but lack authority to mandate statewide demographic data collection. Additionally, the ABA and LSAC are key to collecting law school applicants' demographic data collection.

Similarly, Minnesota's high court and the state board of law examiners are essential to collecting

data about state bar exam applicants and graduates.

Background

Established in 1919, the HCBA's mission statement is:

"The Hennepin County Bar Association exists to serve the needs of its membership by

advancing professionalism, ethical conduct, diversity, competence, practice development,

and collegiality in the legal profession. The association shall strive to ensure the fairness

and accessibility of the legal system, promote public understanding and confidence in our

system of justice, and work with the courts to improve the administration of justice."

HCBA desires more demographic diversity of its membership; further, it actively takes

steps to increase such diversity. Statistical evidence that Hennepin County's legal community is

inadequately diverse, vis-a-vis its population's demographic makeup, is missing. Standardized

data about the demographic breakdown of its almost 8,200 members has not been collected.

HCBA undertakes activities to promote diversity within the county legal community. It

provided information about them for this report. As per the Memorandum of Agreement signed

by HCBA and student consultants, the deliverables are:

1. aggregation of data (provided by HCBA) on applicants to the four local law schools.

2. a report containing an assessment of the aggregated data

3. collection of new data (to the extent feasible) on the composition of student bodies and

graduating classes of the four law schools, the current composition of Hennepin County's

legal community and the data's analysis

4. recommendations about next steps for additional statistical research or data gathering, also measures that could be taken for increasing and sustaining diversity and an executive summary available for preparing talking points for interaction with various agencies.

Research Design

The research design is meant to produce deliverables within the limited time and resources available. Also, it is meant to suggest a practical approach for undertaking future research and action to increase and sustain diversity in Hennepin County's lawyer pool. The design was comprised of: (1) development of a theoretical framework; (2) aggregation of four law schools' data; (3) search and assessment of publicly available data on: local law school applicants, matriculants, students, and graduates; bar examinees; licensing; and practicing lawyers; (4) and study of data collection methodology used by agencies associated with the legal occupation.

The study's design was developed around these research questions:

- What conclusions can be drawn from aggregated data of applicants to the four law schools? How could subsequent data collection be improved to enable future research on the student bodies' diversity?

- What methodology is followed by other agencies - LSAC, ABA, MNBLE, MNSC, NALP, MSBA, and HCBA - to collect diversity-related data about lawyers?

- Can a standardized data collection methodology be adopted to collect data about diversity among lawyers? Should such data collection be restricted to state bar associations and resulting data made shareable among public and private agencies associated with the legal occupation?

Defining Diversity

"Diversity" broadly denotes several aspects of differences between individuals - some

important aspects are race, religion, ethnicity, national origin, class, gender, sexual orientation,

disability, and age. Diversity is defined many ways by various public and private institutions;

such definitions focus being on the respective institution's core activities and objectives. Hewlett

Packard Development Company (2010) defined 'diversity' thus:

> "Diversity is the existence of many unique individuals in the workplace, marketplace and
>
> community. This includes men and women from different nations, cultures, ethnic
>
> groups, generations, backgrounds, skills, abilities and all the other unique differences that
>
> make each of us who we are."

As a concept, diversity is cherished and the continued focus of many organizations, yet it

might not be understood by all with the same meaning. Since diversity is commonly defined as

heterogeneity in respect to several demographic criteria, this additional meaning contributes to

the lack of clarity. Although diversity is typically defined in demographic terms, it's also defined

in terms of individual personality and thinking patterns, which are cognitive traits. This leads to

the expectation that increasing diversity in an organization or occupation would improve its

ability to meet wide-ranging challenges.

Why Diversity?

Unzueta et al (2012) propose that diversity is a flexible concept. It can strengthen or

weaken inequality on racial grounds. Their research showed that when people get unclear

information about an organization's diversity, they interpret diversity in a manner consistent with

motives related to social dominance. Without identifying what diversity means in specific

contexts, people might identify it in a manner consistent with their social motivations. When an organization's racial heterogeneity is low, individuals disinclined towards racial equality interpret it to include race-unrelated or occupational heterogeneity. On the other hand, racial equality minded individuals expand their interpretation to include race-unrelated (i.e., occupational) diversity when an organization's racial heterogeneity is high.

Hong et al (2004) state that social diversity gives rise to problems and opportunities. Traditionally, social research on diversity focused on issues and proportionate representation. However lately, attention has turned towards diversity's other benefit - a diversity of perspectives leads to improved collective understanding and collective problem-solving capability.

Schultz et al (2008) mention the debate over how should institutions of higher learning in the U.S. make admission decisions is ongoing, how should merit and qualification be defined, how should diversity be defined, how important is achieving a racially and ethnically diverse student body, and should factors of deprivation of economic and educational opportunity be considered. At present, institutions of higher learning struggle to balance excellence and equity.

Law schools are grappling with the same challenge, but their admissions are predominantly based on LSAT and undergraduate grade point average scores. Other criteria are employed on an ad-hoc basis, but these lack the statistical evidence which would show their effectiveness in creating a diverse student body. Thus, law schools place great emphasis on academic skills. This, in turn, determines who enters the legal profession where skills apart from the purely academic are required. At present, the limited resource of legal education with its attendant influence and privilege, is disproportionately utilized by those whose wealth and high class background resulted in their superior academic skills.

Several studies prove that a diverse learning environment (which results from students and faculty who belong to different racial, ethnic and cultural backgrounds) leads to improved learning. Also, it leads to developing a balanced personality which is more tolerant and respectful of alternate viewpoints.

Cornell University Law School's Legal Information Institute (2014) mentions the U. S. Supreme Court's decision in *Grutter v. Bollinger* (2003). *Grutter v. Bollinger* upheld affirmative action admissions policy at the University of Michigan Law School. The Court found the law school's admissions program, designed to attain a "critical mass" of underrepresented minority students by using race as a "plus factor," met the requirements of the Equal Protection Clause. Before this case, the "compelling interest" for affirmative action was to correct historic discrimination against minorities. In this case, the decision was that the compelling interest lay in "obtaining the educational benefits that flow from a diverse student body."

Review of Literature and Public Data

Barriers to Diversity

Bacik et al (2006) mention a study about gender differences in the legal profession. Even though women, it found, were entering legal studies in increasing numbers, they remained concentrated at lower levels of practice. They identify causes that hinder the increase in number of women and their professional growth: the greater difficulty faced by women lawyers in achieving work/life balance (due to a culture of long hours and ingrained hostility towards flexible working time arrangements).

Another factor contributing to women lawyers' disadvantage is the disproportionately larger burden of caring for children and older family members, which they handled in their

private life. Further, a persistent culture of exclusion exists in the profession, an "old boys'

club." Such a culture deprives women lawyers from participating in social networks and events

that could further their careers.

Kay et al (2008) mention that, in the legal profession, gender differences are prominent in

career mobility, especially in respect to partnerships, promotions, and wage earnings. Gender

differences are observed in professional satisfaction. Women are generally less satisfied about

promotional prospects, recognition for work, their salary, job security, and successful

management of work/life balance.

A 2014 report, based on research by the University of Minnesota's Humphrey School of

Public Affairs and Women's Foundation of Minnesota mentions that in May of 2014, Minnesota

became the first state to implement the Women's Economic Security Act. Under this act, a

package of services to ensure women's economic security is now available with legal backing.

The law was based on research that established that gender inequality in Minnesota maintained

barriers to women's economic security. The report cites data collected from the American

Community Survey, 2012. The data shows income gaps among women when compared to the

earnings of White men.

The same 2014 shows that, although women comprised half of the local law schools'

student body for the last three decades, they are underrepresented in the state's courts and law

firms, and exhibit among the highest income gaps (50%). Further, only 29% of Minnesota

Supreme Court justices are women, ranking very low nationally for gender diversity. Gender

diversity is even lower in the state's rural courts.

Legal Profession Diversity

Historically, the U.S. legal profession lacked diversity due to underrepresentation from minorities and women. According to Votel (2011), former president of Minnesota State Bar Association (MSBA), a 2009 study sought to understand the extent of diversity in the U.S. legal profession. After the study's results were published, the American Bar Association (ABA) issued its report and recommendations. These findings were conveyed:

"This nationwide endeavor quickly revealed that we have made some progress, but the lack of genuine diversity remains a disappointment. As America races toward a future where minorities will be the majority and more marginalized groups make their voices heard, the legal profession's next steps towards advancing diversity must produce more viable, sustained outcomes. Despite our efforts thus far, racial and ethnic groups, sexual and gender minorities, and lawyers with disabilities continue to be vastly underrepresented in the legal profession".

The report mentions that the meaning of diversity should not be limited to racial and ethnic groups; it includes women, individuals with disability, and the LGBT community. The report highlights grounds to take steps to increase diversity in the legal profession:

The Democratic Rationale: Lawyers and judges have a unique responsibility for sustaining a political system with broad participation by all its citizens. A diverse bar and bench create greater trust in the mechanisms of government and the rule of law.

The Business Rationale: Business entities are rapidly responding to the needs of global customers, suppliers, and competitors by creating workforces from many different backgrounds, perspectives, skill sets, and tastes. Ever more frequently, clients expect and sometimes demand lawyers who are culturally and linguistically proficient.

The Leadership Rationale: Individuals with law degrees often possess the communication and interpersonal skills and the social networks to rise into civic leadership positions, both in and out of politics. Justice Sandra Day O'Connor recognized this when she noted in *Grutter v. Bollinger* that law schools serve as the training ground for such leadership and, therefore, the profession must be broadly inclusive and accessible to all.

The Demographic Rationale: Our country is becoming diverse in many dimensions and we expect that the profile of LGBT lawyers and lawyers with disabilities will rapidly increase in coming years. With respect to the nation's racial/ethnic populations, the Census Bureau projects that by 2042 the United States will be a "majority minority" country.

Votel (2011) adds that Minnesota already has a substantial framework to increase diversity within its legal profession. Minnesota's active minority bar associations include: Minnesota Women Lawyers; Minnesota Association of Black Lawyers; Minnesota Hispanic Bar Association; Minnesota Lavender Bar Association; and many more. In addition, The Minority Bar Summit consists of over 45 representatives of groups related to the law field with a strong diversity mission.

Even more, the MSBA has a Diversity Committee, Women in the Legal Profession Committee, and the Diversity Implementation Task Force. Both Ramsey and Hennepin Counties bar associations have active diversity committees.

Hawkins (2011) mentions that across the U.S., about 87% of law firm associates belonging to ethnically and racially diverse backgrounds left their jobs within the first five years. She cites a Twin Cities-based nonprofit organization, Twin Cities Diversity in Practice.

Roscigno et al (2012) mention that it would be expected that since middle class minority workers have the required skills and individual identity for availing certain protections and workplace power, also they often work in bureaucratic settings, culturally denounced determinants of status, like race, should not matter at all. On the contrary, in a study of only the documented cases of workplace racial discrimination and vulnerability faced by several hundred African Americans, this minority group displayed significant levels of discrimination in job termination, as also a high level of professional mobility related discrimination and day-to-day racial harassment.

MSBA's SAGE Report (2011) on gender equity and diversity touches on how local organizational culture encourages sparing feelings by not giving honest feedback. This is detrimental in the long run. Also, the report found most attorneys perceived bias in their workplaces. They tend to associate only with friends from high school and college; this creates a local culture which made attorneys from other places feel unwelcome.

The business case for a flourishing diversity pipeline into the legal community is apparent at the nexus of education and law--in *Grutter v. Bollinger*. When Michigan's law school defended its race-sensitive admissions, General Motors, 3M, and other Fortune 500 companies filed amicus briefs (University of Michigan, n.d.). When race and college admissions returned to the U.S. Supreme Court in the 2013-14 session, the Small Business Owners Association and Cargill (along with other Fortune 100 companies) filed briefs in support of the University of Texas, which has a race-sensitive admissions policy (americanbar.org).

In 2004, corporate attorney Rick Palmore authored "A Call to Action: diversity in the legal profession" (Palmore, 2004). He challenged corporations to renew their commitment to diversity in the legal profession. His statement pushes fellow chief legal officers to work with

organizations that distinguish themselves in diversity performance while minimizing work with

those that don't. Palmore received over 100 signatories to the statement (Cocoya, 2010). Looking

back at Palmore's call to action, however, diversity has stagnated or worsened in the legal field

(Baker Donelson, 2011).

Review of Literature and Public Data

Underrepresentation and Lack of Data in Public Information

Evidence of underrepresentation of women and minority lawyers in private law firms

abounds. The National Association for Law Placement (NALP), reported that minorities

comprised 11% of Minneapolis firms' associates last year - far below the national average of

21%. The local proportion of minority partners was 3%; nationally, it's 7%. (NALP, 2013). Most

recently, NALP reported that 1% of Minneapolis lawyers are Asian, while Hispanic and

Black/African-American lawyers makeup less than 1% each. (NALP, 2014). NALP (2014)

mentioned that White men constituted the overwhelming majority of equity partners in multi-tier

law firms; NALP's analysis showed that in 2013, women and minorities comprised only 16.5%

and 5.4% respectively of the equity partners. NALP's Minneapolis findings about women equity

partners are similar to what the National Association of Women Lawyers (NAWL) found

regarding the 200 largest law firms in the U.S., reporting that only 17% of their equity partners

were women. According to Valerie Jensen, executive director of Twin Cities Diversity in

Practice, NALP receives its data only from member firms (personal communication, August 8,

2014). Consequently, NALP statistics are not necessarily a valid representation of the

Minneapolis legal field as a whole.

Information reported by private law firms about openly LGBT and disabled lawyers is scarce. As a result, national data is very limited about these categories. NALP (2014) explains:

"the overall percentage of openly lesbian, gay, bisexual, and transgender (LGBT) lawyers reported in the NALP Directory of Legal Employers (NDLE) in 2013 increased to 2.19% compared with 2.07% in 2012. Percentages for both partners and associates increased. About half of offices reported at least one LGBT lawyer."

Four major U.S. cities accounted for almost 60% of data reported for openly LGBT lawyers: Los Angeles, New York, San Francisco and Washington, DC. NALP (2009) stated, "of the approximately 110,000 lawyers for whom disability information was reported in the 2009-2010 *NALP Directory of Legal Employers* (*NDLE*), just 255, or 0.23%, were identified as having a disability."

Also, unlike data for openly LGBT lawyers, data for lawyers with disability do not vary regularly by firm size or associate-partner status. Few lawyers report a disability, only about 0.25% overall.

Voluntary reporting of sexual orientation and disability propagates the ongoing lack of good data for lawyers belonging to two important demographic criteria. Low numbers give a wrong impression that lawyers in these groups are miniscule in numbers and do not deserve policy makers' attention.

The American Lawyer's annual rankings of diversity and law firms reported the breakdown of minority lawyers among reporting firms as: three percent black, six percent Asian-American, and three percent Hispanic. Their index listed firms with Twin Cities connections, including: Dorsey at #146, Barnes & Thornburg #169, Faegre Baker #172, and Fredrikson & Byron #194. (Alm.com, 2014).

Decades after the Civil Rights Act, the president of the American Bar Association warns, "We're at a precipice." Improvements from diversity programs and affirmative action could be lost. "We could fall backwards very quickly." (Schwartz and Cooper, 2013).

Public data appears also in the *ABA Journal*'s reportage of an experiment by consulting firm Nextion. According to the article (which drew from a Forbes blog post), sixty partners from 22 law firms agreed to review a memo. The memo had spelling, grammatical, and factual errors. Reviewers who were told that it was written by an African American man tended to give a lower score and negative feedback. In contrast, reviewers who were told it were written by a Caucasian man tended to give it a higher score and praise (Weiss, 2014).

Problems Evident across America's Bar Associations

Bar associations elsewhere collect diversity data in different ways. Not all are successful. For example, the legal community of Columbus, Ohio, includes over 8,000 lawyers; over 5,000 belong to the Columbus Bar Association. Although they ask members to voluntarily supply racial information, diversity director Annette Hudson explains why it's insufficient:

> A small percentage of members actually supply that information... Many of these attorney nonmembers are in the public sector which has a greater percentage of ethnic and racial minorities. The end result of both factors makes it impossible to provide meaningful data … (Hudson, personal communication, 2014).

In Houston, Texas, according to Rick Riojas of the Texas Bar membership department, the Houston Bar collects members' information; but, they do not get enough responses for reliable information. Instead, they rely on statistics from the State Bar of Texas Research and Analysis Department. (Ron Riojas, personal communication, July 16, 2014). The department

director of the Texas State Bar, however, states that their data collection is voluntary, too (Corey

Squires, personal communication, August 4, 2014).

Houston's reliance on state records contrasts with Columbus's lack of Ohio state records.

According to Alisa Rife of the Ohio State Bar Association's membership services, Ohio

maintains race/ethnicity membership records based on membership applications (Rife, personal

communication, 2014). Additionally, when the Cincinnati bar was queried, Haley Fritz

(membership administrator) said they kept no information in their database, and she did not

mention state data collection (Fritz, personal communication, 2014).

Arizona's state bar considered collecting diversity data, but Arizona Supreme Court

Rules don't require it. Consequently, it does not request members to voluntarily submit

demographic information. Director John Phelps explains, "[O]ur Board is reluctant to collect any

more information than is required by State Rule" (Phelps, personal communication, 2014).

Diversity-related committees are standard for metropolitan bar associations across the

U.S. New York City's bar association has two: Diversity Pipeline Initiatives Committee (divided

into subcommittees--high school initiatives, undergraduate initiatives, and sponsorship /

partnership) and Enhance Diversity in the Profession Committee (nycbar.org). San Diego has an

Ethnic Relations and Diversity Committee and a Diversity Fellowship Program Committee

(oriented toward cultivating minority law students).

Unlike its other committees, the King County Bar Association (which includes Seattle)

diversity committee is chaired by a state court of appeals judge (kcba.org).

San Francisco's bar association has different committees to target different attorney

groups: disability rights, LGBT, women, etc. Explicit goals of these committees include

measuring success, retention, improving employment opportunities, minimizing barriers, and increasing visibility of individuals' accomplishments (sfbar.org)

Boston's diversity and inclusion section is divided into many committees: diversity and inclusion education, pipeline and recruitment, retention and promotion, etc.

California's San Diego County Bar Association (SDCBA) uses a program to facilitate the diversity pipeline between law school and professional practice. It pairs minority first-year law students with local law firms and corporate legal departments during the summer.

"Success" in a diversity-promoting program is not defined by HCBA. Nor have they offered specific, measurable goals for their own desires for greater diversity. When looking for successful programs elsewhere, the lack of comparable goals created a challenge.

The San Diego County Bar Association (SDCBA) states that several model programs-- including those in Washington state, St. Louis (Missouri), Columbus, Atlanta, etc.--were used in developing their program. Without evaluative objectives or systems, that SDCBA identifies programs as models qualifies those programs as "successful"; therefore, SDCBA's program can be considered successful.

A 2014 report by the MSBA indicates that lawyer race, sexuality, and disability data is collected regularly in Oregon. The bar liaison to the Oregon State Bar Diversity & Inclusion Department, Mariann Hyland, however, states that demographic data is given only voluntarily (personal communication, August 2, 2014).

Clearly, a survey of state and urban bar associations shows that diversity concerns many legal communities. But lack of reliable, valid data plagues policy-level attempts to address these concerns.

MSBA's 2011 SAGE Report Identifies Bias Issues

Although the MSBA's 2014 data collection memo states that at least 48 states collect

demographic data, this was not confirmed. A query to Minnesota Women Lawyers (whom the

MSBA cite for this statistic) was unanswered. Further, e-mail replies from the Georgia (Marian

Dockery, personal communication), Arizona, and Colorado (James Coyle, personal

communication) state bars indicate these states do not collect this data. The Massachusetts Board

of Bar Overseers no longer collects demographic information (Massachusetts Board of Bar

Overseers, personal communication).

Failure to appreciate diversity creates real problems. MSBA's 2011 SAGE Report

identified perceived bias issues. The report contains survey information collected from more than

1,000 lawyers in Minnesota. The results show respondents perceived more race/ethnicity and

gender bias (identification that is "visible") compared to religion, disability or sexuality bias

(identification that could be private by choice). Also, respondents from different diversity-related

categories expressed that they experienced the greatest bias in legal workplaces and during

interaction with the opposing counsel. Lower bias was experienced in courtrooms. Law schools

were described as almost bias-free.

The report revealed that demeaning remarks and jokes, unjustified negative performance

reviews, and comparatively less opportunity for advancement were among concerns related to

race and ethnicity.

LSAC's Online Application Collects Race and Ethnicity Data

The local law schools offer an online application procedure through the Law School

Admission Council (LSAC) website. The LSAC website is how people apply to all 204 ABA-

accredited law schools in the U.S. This system allows applicants to identify themselves using

twenty-one options (from which more than one can be selected). These finely grained identities

include two choices for indigenous Australian (Australian Aboriginal and Torres Strait Islander

Australian) to Pakistani to Inuit.

The complexity of race and ethnicity--combining geography, politics, history, and other

dimensions--is displayed in this system. As discussed in the next section, this complexity is not

evident in the data maintained uniformly by law schools which supply Hennepin County with a

substantial portion of its lawyer population.

Gender and Race/Ethnicity Issues Trend Nationally

Law isn't the only profession with diversity and demography concerns - at least, it

shouldn't be. Overall, Black or African Americans attain a bachelor degree or more at 10% less

than the rate that White Americans do; Hispanic or Latinos at an even lesser rate. This trend hints

at a leak in the pipeline. Data on white collar professions show lack of diversity is worse in law,

but not as disproportionate as dentistry nor among veterinarians (BLS Reports, 2013).

Below is ABA (2014) information about the percentages of J.Ds awarded to minority law

school graduates from 1984 to 2013 and about gender percentages of J.Ds awarded to law school

graduates from 1981 to 2011.

ABA APPROVED TOTAL JD & MINORITY DEGREES AWARDED: FALL 2013

Academic Year	No. of Schools	Total J.D. Awarded	Total J.D. Awarded Minority	% of Total
2012 - 2013	202	46,763	11,951	25.5%
2011 - 2012	201	46,478	11,188	24.1%
2010 - 2011	200	44,495	10,748	24.2%
2009 - 2010	200	44,258	10,121	22.9%
2008 - 2009	200	44,004	9,725	22.1%
2007 - 2008	200	43,588	9,631	22.0%
2006 - 2007	198	43,518	9,820	22.5%
2005 - 2006	195	43,883	9,564	21.8%
2004 - 2005	188	42,673	9,568	22.4%
2003 - 2004	187	40,018	8,367	20.9%
2002 - 2003	186	38,863	8,233	21.2%
2001 - 2002	184	38,576	7,780	20.2%
2000 - 2001	183	37,909	7,443	19.6%
1999 - 2000	182	38,157	7,391	19.4%
1998 - 1999	181	39,071	7,532	19.3%
1997 - 1998	178	39,455	7,754	19.7%
1996 - 1997	179	40,114	7,611	19.0%
1995 - 1996	178	39,920	7,152	17.9%
1994 - 1995	177	39,191	6,802	17.4%
1993 - 1994	176	39,710	6,099	15.4%
1992 - 1993	176	40,213	5,653	14.1%
1991 - 1992	176	39,425	4,976	12.6%
1990 - 1991	175	38,800	4,585	11.8%
1989 - 1990	175	36,385	4,128	11.3%
1988 - 1989	174	35,520	3,809	10.7%
1987 - 1988	175	35,701	3,516	9.8%
1986 - 1987	175	35,478	3,450	9.7%
1985 - 1986	175	36,121	3,348	9.3%
1983 - 1984	173	36,687	3,169	8.6%

Data show steady growth in percent of minority law school students who earned a J.D. since 1983-1984. The overall increase is about 17%, but still has not brought the lawyer pool to match the public's racial composition. U.S. Bureau of Labor Statistics data (discussed later) show minorities comprised 13% of working lawyers in 2012. Consequently, a leak in the pipeline is evident between earning a J.D. and getting a job practicing law.

JD. and LL.B Degrees Awarded
1981 - 2011

Academic Year	Number of Schools	Total J.D. Awarded Male	%	Total J.D. Awarded Female	%	Total J.D. Awarded
2010 - 2011	200	23,452	52.7%	21,043	47.3%	44,495
2009 - 2010	200	23,406	52.8%	20,852	47.1%	44,258
2008 - 2009	200	23,813	54.1%	20,191	45.9%	44,004
2007 - 2008	200	23,051	52.9%	20,537	47.1%	43,588
2006 - 2007	198	22,849	52.5%	20,669	47.5%	43,518
2005 - 2006	195	22,809	51.9%	21,074	48.1%	43,883
2004 - 2005	188	21,867	51.2%	20,804	48.8%	42,672
2003 - 2004	187	20,205	50.5%	19,818	49.5%	40,024
2002 - 2003	186	19,741	50.8%	19,133	49.2%	38,875
2001 - 2002	184	19,961	51.7%	18,644	48.3%	38,606
2000 - 2001	183	19,903	52.5%	18,006	47.5%	37,910
1999 - 2000	182	20,444	53.6%	17,713	46.4%	38,158
1998 - 1999	181	21,555	55.2%	17,516	44.8%	39,072
1997 - 1998	178	21,793	55.2%	17,662	44.8%	39,456
1996 - 1997	179	22,562	54.9%	18,552	45.1%	41,115
1995 - 1996	178	22,554	56.5%	17,366	43.5%	39,921
1994 - 1995	177	22,564	57.3%	16,790	42.7%	39,355
1993 - 1994	176	22,713	57.2%	16,997	42.8%	39,711
1992 - 1993	166	22,942	57.5%	16,972	42.5%	39,915
1991 - 1992	176	22,401	57.3%	16,680	42.7%	39,082
1990 - 1991	175	22,220	57.3%	16,580	42.7%	38,801
1989 - 1990	175	21,040	57.8%	15,345	42.2%	36,386
1988 - 1989	174	20,967	59.0%	14,553	41.0%	35,521
1987 - 1988	175	21,106	59.1%	14,595	40.9%	35,702
1986 - 1987	175	21,272	60.0%	14,206	40.0%	35,479
1985 - 1986	175	22,141	61.3%	13,980	38.7%	36,122
1984 - 1985	174	22,710	61.7%	14,119	38.3%	36,830
1983 - 1984	173	23,101	63.0%	13,586	37.0%	36,688
1982 - 1983	172	23,329	64.1%	13,060	35.9%	36,390
1981 - 1982	172	23,352	67.0%	11,494	33.0%	34,847
1980 - 1981	171	23,910	67.2%	11,693	32.8%	35,604

The data shows an annual increase in percent of female law school graduates who earned a J.D. since 1980-1981. The overall increase is about 14.5%. Although substantial, it does not compare to the current U.S. female population (slightly over 50% of the population, according to the 2010 U.S. Census). Women earn a disproportionately low number of J.Ds.

NALP Offers Best Practices

Over the last several decades, NALP has been actively involved in diversity and inclusion

oriented initiatives for the legal profession. As an organization devoted to legal placement, it is

committed to diversity. It researches diversity within the legal profession, makes this research

publicly available, and it partners with organizations in the law field to further diversity and

inclusion.

In 2014, NALP's Diversity and Inclusion section made two guides, one for law schools

(The 2014 Diversity Best Practices Guide) and one for employers (Diversity Best Practices: Tips

for the Career Services Office). The 2014 Diversity Best Practices Guide contains suggestions

for employers to increase diversity and inclusion. The Guide compiles best practices derived

from research. It is a resource to enable legal employers to develop diversity programs suited to

their organizational culture and goals. The Guide is organized around Leadership; Retention,

Culture, and Inclusion; Professional Development; and Recruitment.

2014 MSBA Report & Recommendation Urges Data Collection

This year, the MSBA submitted "MSBA Report & Recommendation on Demographic

data collection," to the Minnesota State Supreme Court. It recommended that sample

demographic survey questions be included in the online attorney registration. The

recommendation is supported by four affinity bars (Reid Raymond, personal communication,

July 20, 2014). The MSBA lists these reasons why the Minnesota State Supreme Court ought to

collect race, gender, sexual orientation and disability data from attorneys:

- It would assist in identifying and eliminating barriers to fairness within the profession

  and this would improve the attorneys' trust and confidence in the system.

- It would result in leaders within the legal community having access to high quality data which would enable them to appreciate the existence of the problem of disparities within the legal profession; it would also enable them to make evidence based decisions about disparities (within the profession), instead of relying on anecdotal information,

- It would potentially enable identification of where and how big the barriers to enter the legal profession are, how well (or not) different protected classes are progressing and in which law specialties, and if some protected classes are leaving the profession (and, if so, at which stages); such knowledge would be invaluable to law schools and legal employers for effective human and financial resources,

- It would lay the foundation for a continuous and systematic measurement of the effectiveness and magnitude of impact of the existing and future diversity programs/initiatives; this would strengthen future efforts for increasing diversity within the legal profession,

- It would highlight that the legal profession is serious about demographic representation, equality, and eliminating disparities. Being able to attract more candidates would make the legal profession more competitive against other professions, specifically those that are not showing a commitment towards diversifying their workforce.

- It would serve the legal community and individuals who require legal services. Minnesota's population is projected to become "majority-minority" by 2040. If attorneys do not reflect the population they serve, public distrust is likely to develop - a more diverse legal workforce can benefit from the shared intercultural knowledge and serve its diverse clientele better,

- It would enable the state Supreme Court to show itself as progressive about increasing

   diversity in the state's legal community.

   The report also provides justification for criteria/categories on which demographic data

collection is proposed. While the MSBA did not recommend that supplying demographic data be

required, they stipulated that "voluntary" should be stricken from the form. MSBA also added:

   "if voluntariness is a prerequisite for inclusion of the self-identification questions, MSBA

   recommends that the response 'Choose not to answer' be inserted at the end of every

   question, but a response be required. This option would allow those who were not

   comfortable with the questions to opt out, but would still account for every lawyer

   registrant in the state."

The MSBA argued:

   "the Court has a long history of being concerned about issues of race throughout the

   courts and in the State. Since 1990, the Judicial Selection Commission has required the

   collection of age, sex and race demographic data on judicial applicants. Minn. Stat. §

   480B.01, subd. 12. The Court and the Judicial Commission have been looking at race

   and ethnicity issues for over 20 years. The next logical step is also to collect similar

   demographic data of Minnesota lawyers."

As evident by other bar associations' efforts to collect data, voluntary collection is ineffective.

Not enough lawyers volunteer their information. Mandatory demographic identification is the

only reliable way to collect valid statistics on the composition of the state's legal community.

Formats Used to Collect Demographic Data about Lawyers

Formats used by some institutions to collect demographic data about lawyers at the time of

applying for license or membership were analyzed. The formats vary and lack standardized

description of race/ethnicity, gender, sexual orientation and disability. This variation indicates

importance of demographic data about applicants. The table below compares these formats.

Demographic Category: Race/Ethnicity

509 Reports	LSAC	NALP (for lawyers)	MSBA proposal
Hispanics of any race	Hispanic/Latino (with 5 sub-categories)	Hispanic or Latino	Hispanic/Latino
American Indian or Alaska native	American Indian or Alaska native	American Indian or Alaska native	Native American/Alaska native
Asian	Asian (with 11 sub-categories)	Asian	Asian/Pacific Islander
Black or African American	Black or African American	Black or African American	Black/African American
Native Hawaiian or other Pacific Islander	Native Hawaiian or other Pacific Islander	Native Hawaiian or other Pacific Islander	White/Caucasian
Two or more races	Aboriginal or Torres Strait Islander Australian	Two or more races	
White	Caucasian/White (with 4 sub-categories)	White	
Race and ethnicity unknown	Canadian Aboriginal (with 4 sub-categories)		

	Puerto Rican		
	Decline to Respond		

The U.S. Supreme Court admission application has no option to report race or ethnicity, Minnesota's Supreme Court application, nor does the Minnesota State Board of Law Examiners' application.

Demographic Categories: Disability, Gender and Sexual Orientation

	509 Reports	**LSAC**	**NALP (for lawyers)**	**MSBA proposal**
Disability	-	-	Yes/No	Yes/No
Gender	Male/Female	Male/Female/Decline to Respond	Male/Female/ Transgender	Male/Female/ Transgender/Gender Non-conforming
Sexual Orientation	-	-	Whether openly LGBT	Heterosexual or Straight/Gay or lesbian/Bisexual

For indicating disability on the Minnesota Supreme Court's bar admission application, the only option is "permanent disabled status." Gender options are male, female and prefer not to answer. There is no option for reporting sexual orientation.

The Minnesota State Board of Law Examiners' admission application form has no option to report disability or sexual orientation. Gender options are "Mr." or "Ms." in name boxes.

Data and Analysis

Aggregation and analysis of data provided by HCBA

HCBA provided data about applicants to Twin Cities law schools from 2004 to 2013. Different

formats were used in this data, as were descriptions of race/ethnicity. Such discrepancies

between databases hindered proper aggregation and limited analysis. HCBA provided no

diversity data about admitted students or graduates, but 509 Reports provide it. HCBA asserted

that it has a membership of about 8,200 practicing lawyers; it has no diversity data for its

members. The HCBA's interpretation of its "pipeline" covers the four law schools and the

community of lawyers who practice in Hennepin County. Thus for the research project, "legal

community" means only lawyers registered with HCBA.

A study of the pipeline's racial and gender composition (and trends regarding how

diversity changes at sections of the pipeline), is impossible without race and gender data being

collected at several different points along the pipeline. As noted by Bardach, data translates into

information; information can serve as evidence. Applicants to the law schools comprise only the

pipeline entry point. Aggregation of applicants' data (provided by HCBA) is shown as Appendix

II.

Applicant data provide only a standalone 'snapshot' about diversity at the start of the

pipeline. Shortcomings in the flaw schools data made aggregation difficult and reduced the

validity of the aggregated information. These shortcomings concern race and ethnicity:

- Hispanic/Latino identity wasn't uniformly recorded. One separates it from race as another

  variable, like the U.S. Census does. Three others use Hispanic/Latino as a race.

- Biracial categories lacked descriptions or definitions. Is this an exclusive category itself? Can applicants choose it in addition to two races? Can only one race be selected along with biracial? More than three races? Is it administratively calculated?

- Changes of categories over time--addition of Native Hawaiian or Other Pacific Islander and removal of Puerto Rican--hinder yearly comparisons

- Blank cells were found in spreadsheets, despite "Did not Indicate" for the same criterion in other cells.

- Only one school used Native Hawaiian or Other Pacific Islander as its own category. Applicants at other schools may have used native American, Caucasian, and/or Asian categories to approximate. (One school categorizes Asians and Pacific Islanders together)

- One school has an "Unknown" category; it's not clear if applicants refrained from any answer or if their answer didn't fit other provided information. It's not clear if "Unknown" equates to "Did not indicate" from another school. Yet another school had no applicant data that indicated a blank, unknown, other, or similar category; it's unclear if that data was excluded or if every applicant provided information that fit all categories.

These shortcomings were found in data beyond race and ethnicity:

- Different schools record origin differently. One records down to the applicant's hometown, one records home state, one tracks if the applicant is a resident or a non-resident, and one provided no origin information

- Not all schools provided gender data

- Not all schools provided (dis)ability data

- Not all schools provided sexuality data

- Not all schools record data at the same level. For example, one provided data on the

  whole applicant pool (e.g., 31 black females, 25 Asian males) while others recorded at

  the individual level (student #2 is male and Black or African American). Although data

  can be aggregated "up", data can't be dis-aggregated to the individual level. Without

  individual level data, data points of individuals can't be statistically analyzed.

For an accurate assessment of the complete educational and professional pipeline from a

diversity perspective, subsequent data collection points should cover all applicants, admitted

students, graduating students, people who take the bar exam, those who pass the exam, and

employed lawyers. Thereafter, for covering retention within the legal profession, employment

data could be obtained at three-year intervals when lawyers submit their CLEs to the MN

Supreme Court to renew their license.

Graduates of local law schools are the presumed labor pool for Hennepin County's legal

arena. Good demographic data of applicants, matriculants, and graduates is required to assess if

the "law school section of the legal pipeline" mirrors an increasingly diverse Hennepin County.

Analysis of ABA data

The American Bar Association (ABA) mandates that any law school it accredits must

make publicly available Standard 509 Information Reports detailing J.D. enrollment and

ethnicity. The schools' report data is aggregated in Appendix IV. Although quality data about

student body composition, degrees awarded, and other information was available from the local

law schools, no other portions of the legal pipeline follow this.

The Standard 509 lacks a detailed demographic breakdown of applicants. The lack of

reliable data about entry to law school prevents detailed analysis of diversity loss. Once reliable

demographic data for applicants is available, it could be compared with actual students. Also, a

comparison of applicants and high school graduates in Hennepin County could show if pipeline

leaks start between graduating from high school and applying for law school.

Little demographic data is collected, and none is shared by the MSBA or the Minnesota

Supreme Court. Votel (2011) mentions that MSBA collected information about the genders of its

members (i.e. how many men, how many women), but more information would enable MSBA to

assess diversity on other criteria. HCBA stated that no standardized data collection methodology

is followed by various agencies in Minnesota for collecting diversity-related data about lawyers.

Gender inequities in law practice persist; however, the male-female balance is improving.

The following lawyer demographic data about licensed lawyers is from *The Lawyer Statistical*

Report, American Bar Foundation, 1985, 1994, 2004, 2012:

GENDER COMPOSITION OF U.S. LAWYERS

	1980	1991	2000	2005
% Male	92	80	73	70
% Female	8	20	27	30

Analysis of U.S. Census Bureau data

According to the U. S. Census Bureau, racial composition estimates of the nation, state, and

Hennepin County population for 2012 were:

	USA	Minnesota	Hennepin Co.
Population	313,873,685	5,379,646	1,184,332
% White alone (a)	77.9	86.5	76.7
% Black or African American alone (a)	13.1	5.5	12.3
% American Indian and Alaska Native alone, (a)	1.2	1.3	1.2
% Asian alone, (a)	5.1	4.4	6.7
% Native Hawaiian and Other Pacific Islander alone, (a)	0.2	0.1	0.1
% Two or More Races	2.4	2.2	3.0
% Hispanic or Latino, (b)	16.9	4.9	6.9
% White alone, not Hispanic or Latino	63.0	82.4	71.1
% Female persons	50.8	50.3	50.8

(a) Includes persons reporting only one race.
(b) Hispanics may be of any race, so also are included in applicable race categories.

Demographic data above show greater diversity in Hennepin County than Minnesota. The

county's demographic makeup is similar to the country at large. In December 2012, the census

released its projection of the national population for 2012-2060. Its press release stated:

The U.S. is projected to become a majority-minority nation for the first time in 2043.

While the non-Hispanic White population will remain the largest single group, no group

will make up a majority. All in all, minorities, now 37 percent of the U.S. population, are

projected to comprise 57 percent of the population in 2060. (Minorities consist of all but

the single-race, non-Hispanic White population.)

It would be appropriate for both MSBA and HCBA to collect standardized data about the state

and counties' legal community to know the extent of its diversity.

U.S. Bureau of Labor Statistics data

EMPLOYED U.S. LAWYERS AND RACIAL MINORITY COMPOSITION

(Estimations from U.S. Bureau of Labor Statistics, 2013)

	2012	2013	
Total lawyers (approximately)		1,061,000	1,092,000
Black or African American	4.4%	4.2%	
Asian	4.3%	5.1%	
Hispanic or Latino ethnicity	4%.	5.1%	

Note. Women comprised 33% in 2013. Persons identified as Hispanic or Latino may be of any

race.

The U.S. Bureau of Labor Statistics' profile for annual mean wage of lawyers by state

shows figures from $64,160 to $162,800. Minnesota's range is $110,760 to $127,040. Minnesota

pay range is above the low end of the spectrum. If the legal field is receptive to job-seeking

minority and women lawyers, then pay ought to be an incentive in attracting them.

Analysis of Law School Admission Council data

The nonprofit Law School Admission Council (LSAC) has over two hundred law schools

in the U.S., Canada and Australia. All ABA-approved law schools are members. LSAC

administers the Law School Admission Test (LSAT) worldwide and provides LSAT-related

resources for institutions and individuals. LSAC (2014) provided data about LSAT applicants'

and admitted applicants' race/ethnicity and gender diversity for 2010 to 2013. This data is

presented in Appendix VIII.

LSAC follows the principle of maximum reporting, under which the LSAT applicants

can select multiple ethnicities. All selections count in each of the ethnic groups. Due to such

overlap, the category totals are larger than figures under the heading "All" any given year. "No

ethnic ID" and "No Gender ID" categories exist in LSAC's database from 2000 to 2009. These

categories are not in the database from 2010 to 2013. Graphs of LSAT applicant data for 2010 to

2013 are in Appendix IX.

The data conforms to historical patterns of low numbers of minority applicants. It also

shows the overall number of LSAT applicants dropped about 32% over these years. The number

of admitted applicants dropped by 24%. See Appendix VIII for a statistical snapshot about the

U.S. law field pipeline prepared by LSAC (2014)

Compared to the percent of minorities and women who earned J.D.s, the data show

reduced percentages of minority and women lawyers. On the other hand, the percent of White

lawyers was higher than the percent of White J.D holders. These trends indicate loss in

race/ethnicity and gender diversity after law graduates start practicing law. Such loss is more

than the loss in diversity when law students travel through the education pipeline.

Discussion

   **Law schools overemphasize the importance of LSAT and GPA scores for selecting

new students**. This is evident from descriptions accompanying Standard 509 Reports. They omit

factors other than the LSAT and GPA scores, individual aptitudes like problem solving ability,

intercultural competence, team work related skills, etc., that might be considered for selecting

students to increase student body diversity.

   Limiting selection by LSAT and GPA scores leading to diversity loss in law school due

to the exclusion of minorities who might otherwise possess attributes and aptitudes which would

enable them to succeed as lawyers.

   **Law schools do not collect demographic data about applicants in a standardized

manner**. All ABA-accredited law schools are mandated to collect and report data on admitted

students and graduates in a standardized manner (i.e., the Standard 509 Report). But, this

reporting does not require schools to furnish information about demographics of applicants.

Applicant data is maintained inconsistently between schools, preventing valid comparisons.

   The 509 reports tally student body characteristics rather than individual or class specifics.

No data is collected about disability or sexual orientation. For more rigorous comparisons, more

(and reliable) data is needed for applicants and law students. Due to this reporting gap, it is not

possible to analyze loss of diversity during admission to law school.

   **No standardized system measures present demographic composition of lawyers nor

the loss of diversity in the profession.** Presently, collecting demographic data (by various

entities) voluntary by firms and individual lawyers. The state's high court has not prescribed any data collection standards. This results in a lack of reliable data about lawyers within Hennepin County and across Minnesota.

Currently, the only information which the state Supreme Court collects when lawyers register, is an "optional" gender self-identification. Data collection for disability and for lesbian, gay, bisexual, transgender (LGBT) identities does not occur systematically nor comprehensively in the U.S. or in Minnesota. National data shows a loss of minority lawyers after they join the profession, but no system records the extent nor causes of this loss. Gender inequality worsens the prospects of professional success for women, especially women of color.

Apprehensions about invasion of privacy and misuse of information inhibit voluntary disclosure of demographic information. The Standard 509 Reporting requires law schools to furnish demographic information about student bodies. This prevents any reservations law schools might hold against sharing diversity information.

Such reservations, however, might linger. Moreover, law schools don't share this information voluntarily. This could be due to apprehensions about being highlighted for admissions systems which aren't diversity oriented.

The situation is different for lawyers--they face the challenges of earning a livelihood and rising in the profession. Minority lawyers might already experience workplace bias and stereotypical mindsets about 'visible identity traits' (racial/ethnic background, gender and disability). Such an environment might reinforcing their apprehension that further disclosure of "non-visible" identity traits (sexual orientation and disability of certain types) might increase their disadvantage from the context of increase in earning and promotion. High attrition rates among minority and female lawyers lend credence to this assumption.

Multiple licensure formats and membership of different legal associations show the varying collection of demographic information within the profession. Multiple formats makes it clear that different institutions accord different levels of importance on collecting demographic information. An institution's place in the law field hierarchy does not relate to its efforts in maintaining complete information about member diversity. Higher-placed institutions might make lesser efforts compared to lower institutions. The prevailing mindset is not about compelling lawyers to furnish demographic information which they're unwilling to volunteer.

Non-standardized and optional reporting results in limited, poor-quality data and poor quality. This seemingly disorganized situation could be helped by statewide mandatory disclosure of demographic information. Mandatory reporting already enjoys wide public acceptance state ID cards and driver's licenses.

Possible Policy Options

Based on a public policy perspective and the project's data analysis, two policy options to change the status quo situation were developed. These focus on the defined problem (i.e., lack of demographic diversity among HCBA membership compared to the county's general population); specifically, a focus on the issue of lack of statistical evidence. These options are:

- Develop and implement mandatory reporting of race, ethnicity, (dis)ability, sexual orientation, and gender by law students and lawyers in Minnesota.
- Develop and implement voluntary reporting of race, ethnicity, (dis)ability, sexual orientation, and gender by law students and lawyers in Minnesota.

In terms of equity - or what is just and fair - the best option is one that provides for a reliable assessment of HCBA's demography provides the best option. On its face, each option is

good. Only mandatory reporting, however, guarantees enough data for reporting to be useful. In fact, experience from other bar associations indicate that volunteer reporting may be insufficient.

Through the lens of efficiency, or maximizing the public interest, mandatory reporting is more comprehensive than voluntary reporting. Consequently, it is more authoritative. Mandatory reporting would more likely ensure fairness to all sections of society.

Mandatory reporting would not be more politically acceptable. In fact, it is likely more unacceptable. Despite common requests for demographic information (among other personal information) as a part of modern life, mandatory reporting risks negative consequences.

Considering robustness, even if a policy option's implementation does not go smoothly, one option's outcome would be more satisfactory than the other's. For this issue, mandatory reporting is considered to be the best. Even if it were not fully implemented, strides would be made in the forum of public opinion and battles would be fought in the arenas of policy making.

The only tradeoffs to confront are those of inaction. Voluntary reporting opens the door to inaction by lawyers refraining from providing demographic data. By pushing for mandatory reporting, the HCBA has the prerogative of challenging any opponent(s) rather than allow the opponent to respond unopposed.

In both voluntary and mandatory reporting, tradeoffs involve manpower, financial, and infrastructure costs of state- and county-level data collection on law students and lawyers. Ease of implementation would be determined by the state high court's inclination toward assessing the race and gender diversity in the legal community.

Recommendations and Conclusion

The Hennepin County Bar Association, along with the Minnesota Supreme Court, have a golden opportunity to initiate a legal community diversity checkup--and plan for continuous monitoring. Without establishing the current state of diversity in the legal profession, there is no way to diagnose effectiveness of diversity programs along the pipeline.

To be reliable, a study about the extent of diversity of the bar association's membership, the county and state lawyer pools must be evidence-based. Articulation of diversity improvement oriented objectives is essential to fulfilling HCBA's desires. In other words, what percentage increases in minority and female lawyers are sought for the county lawyer pool? The student consultants consider a logical objective could be to strive for a number of minority and female lawyers proportionate to these groups' demographic percentages in the county.

The following suggestions are recommended to improve data collection:

- For an accurate assessment of the complete educational and professional pipeline from a diversity perspective, subsequent data collection points should cover all applicants, admitted students, graduating students, people who take the bar exam, those who pass the exam, and employed lawyers. Thereafter, for covering retention within the legal profession, employment data could be obtained at three-year intervals when lawyers submit their CLEs to the MN Supreme Court to renew their license.

- The Minnesota Supreme Court should order uniform (standardized) data collection mandatorily for every law graduate who applies to the state's bar exam. Results could be shared among Minnesota's courts, the ABA, NALP and state bar associations through authorized access.

- MSBA and HCBA should implement standardized data collection as proposed.

- The ABA should expand data collection within their Standard 509 Information Report to include demographic data on applicants, offers, attrition, and transfers.

- HCBA should formulate a measurable objective for your desire to improve diversity. If the desire is not to achieve perfect proportionality for every minority group with per capita representation by lawyers, then specific expectations should be articulated.

Local law schools may see advantages to expanded student data collection. Long-term benefits of standardized data collection and analyses to promote diversity within the legal occupation outweigh individual apprehensions about misuse of private information. Resulting data could be shared with Minnesota Supreme Court, ABA, NALP, and state bar associations through authorized access.

The time to act is now. For the common good of all residents of Hennepin County, quality diversity data must collected so that the legal profession has proof necessary to convince the public that Hennepin County is a place of equal opportunity.

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Appendix I: Standard 509 Report (sample)

Hamline University
1536 Hewitt Avenue
St. Paul, MN 55104
Phone : 651-523-2941 Fax : 651-523-2435
Website : http://www.hamline.edu/law

ABA
Approved
Since
1975

The Basics

Type of school	PRIVATE
Term	Semester
Application deadline	4/1/2012
Application fee	$ 35
Financial aid deadline	4/10/2012
Can first year start other than fall?	No
Student faculty ratio	13.69 to 1
# of housing spaces available	
Restricted to law students	0
Graduate housing for which Law students are eligible	60

Faculty and Administrators

	Total		Men		Women		Minorities	
	Spr	Fall	Spr	Fall	Spr	Fall	Spr	Fall
Full-Time	35	34	21	19	14	15	2	2
Other Full-Time		2		2				
Deans, librarians & others who teach	7	7	2	2	5	5	3	3
Part-Time	52	43	25	23	27	20	3	1
	94	86	48	46	46	40	8	6

Curriculum

	Full-Time	Part-Time
Typical first-year section size	60	45
Is there typically a "small section" of the first-year class, other than Legal writing, taught by full-time faculty	No	No
If yes,typical size offered last year	0	0
# of class room course titles beyond 1st year curriculum		192
Number of upper division classroom course sections	Under 25	132
	25 - 49	45
	50 - 74	14
	75 - 99	1
	100+	
# of seminars		15
# of seminar positions available		248
# of seminar positions filled	158	34
# of positions available in simulation courses		182
# of simulation position filled	127	17
# of positions available in faculty supervised clinical courses		104
# of faculty supervised clinical positions filled		86
# involved in field placements	83	9
# involved in law journals	78	12
# involved in moot court or trial competitions	62	8
# of credit hours required to graduate		88

J.D. Enrollment and Ethnicity

	Men		Women		Full-Time		Part-Time		First - Year		Total		J.D. Deg
	#	%	#	%	#	%	#	%	#	%	#	%	Awrd
Hispanics of any race	7	2.5	22	6.5	21	4.4	8	5.8	12	5.9	29	4.7	13
American Indian or Alaska Native	2	0.7	2	0.6	2	0.4	2	1.5	1	0.5	4	0.6	1
Asian	12	4.3	21	6.2	26	5.4	7	5.1	12	5.9	33	5.3	15
Black or African American	7	2.5	18	5.4	20	4.2	5	3.6	8	4	25	4.1	3
Native Hawaiian or Other Pacific Islander	0	0	0	0	0	0	0	0	0	0	0	0	0
Two or more races	5	1.8	6	1.8	9	1.9	2	1.5	4	2	11	1.8	0
Total Minority	33	11.7	69	20.5	78	16.2	24	17.5	37	18.3	102	16.5	32
White	241	85.8	257	76.5	389	81	109	79.6	161	79.7	498	80.7	149
Nonresident Alien	0	0	0	0	0	0	0	0	0	0	0	0	0
Race and Ethnicity Unknown	7	2.5	10	3	13	2.7	4	2.9	4	2	17	2.8	31
Total	281	45.5	336	54.5	480	77.8	137	22.2	202	32.7	617	100	212

Transfers

Transfers In	3
Transfers Out	8

Tuition and Fees

	Resident	Non-Resident
Full-Time	$ 34,555	$ 34,555
Part-Time	$ 25,040	$ 25,040
Tuition Guarantee Program		No

Living Expenses

Estimated Living Expenses for singles

Living on Campus	Living Off Campus	Living at Home
$ 12,551	$ 18,799	$ 18,799

I Hamline University

Appendix II: Twin Cities Law Schools' Aggregated Applicant Data, 2007-13

	2007	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Black - Male	210	273	345	296	310	247	203
Female	276	299	324	326	300	245	173
Black - Total	486	572	669	622	610	492	376
American Indian - Male	34	40	47	35	30	30	17
Female	30	34	33	13	22	23	20
American Indian - Total	64	74	80	48	52	53	37
Asian - Male	333	331	392	442	418	368	329
Female	343	340	389	465	438	368	326
Asian - Total	676	671	781	907	856	736	655
Hispanic of any race - Male	224	226	301	226	194	191	148
Female	122	191	223	153	142	131	128
Hispanic of any race - Total	346	417	524	379	336	322	276
Two or more races - Male	6	4	6	262	329	179	237
Female	2	4	5	191	237	153	173
Two or more races - Total	8	8	11	453	566	332	410
Caucasian/White - Male	2547	2616	2811	3075	2510	2381	1924
Female	1993	2027	2020	2122	1796	1579	1251
Caucasian/White - Total	4540	4643	4831	5197	4306	3960	3175
Unknown - Male	568	542	602	554	403	207	193
Female	407	327	404	322	297	118	124
Unknown - Total	975	869	1006	876	700	325	317
Total - Male	3922	4032	4504	4890	4194	3603	3051
Total - Female	3173	3222	3398	3592	3232	2617	2195
Total	7095	7254	7902	8482	7426	6220	5246

Appendix III: Graph Representation of Aggregated Application Data, 2007-11=3

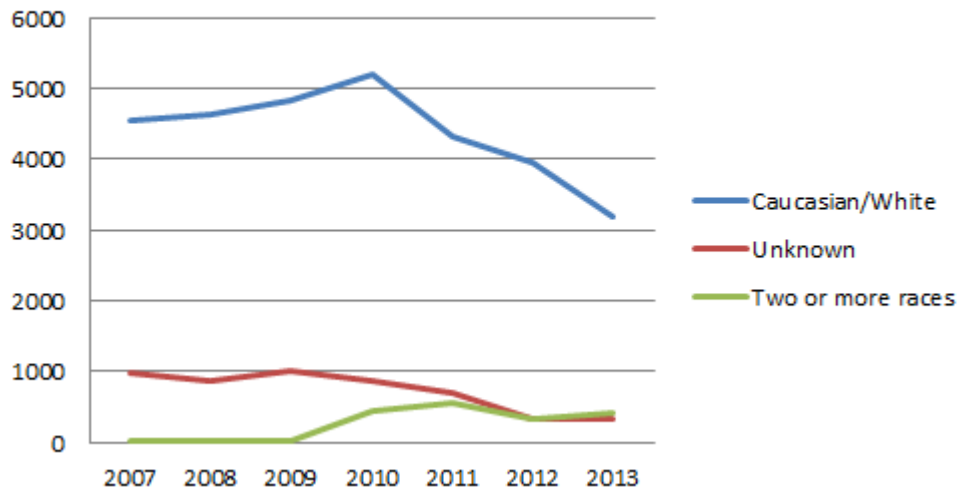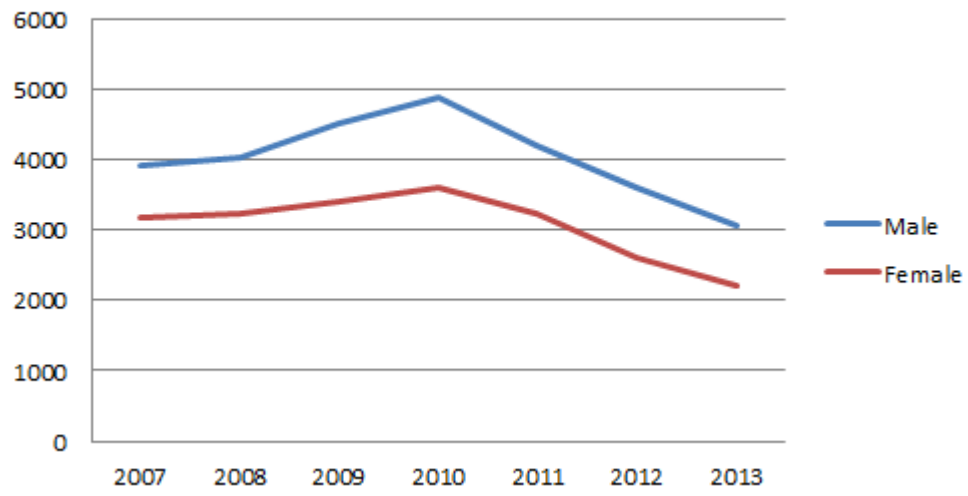X axes show year

Y axes show total student numbers

Local Law School Applicants by Race I
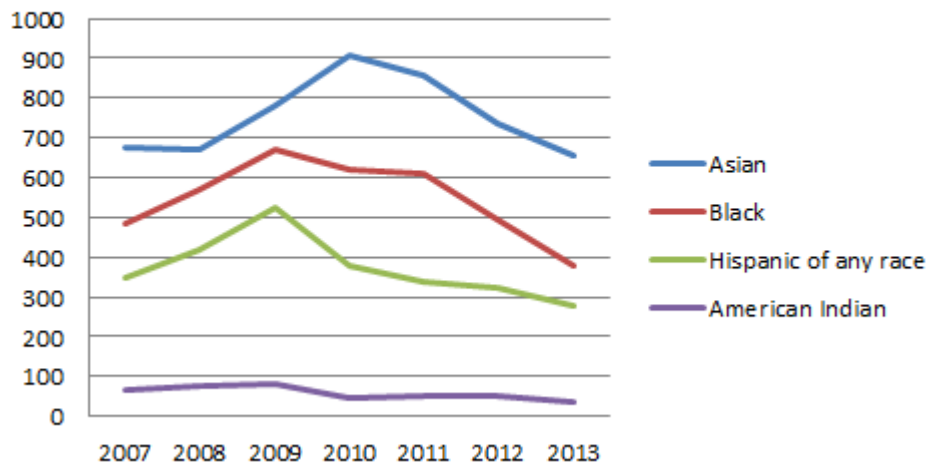
Local Law School Applicants by Race II

Local Law School Applicants by Gender

Appendix IV: Aggregated Data from Student Bodies of Twin Cities' Law Schools, 2007-11

DATA AGGREGATION OF STUDENTS AT FOUR LOCAL LAW SCHOOLS

	2007	2008	2009	2010	2011	2012	2013
Black - Male	63	55	47	40	35	36	30
Female	80	78	73	44	52	49	39
Total	143	133	120	84	87	85	69
Black - J.D.	37	42	53	22	21	28	31
American Indian - Male	6	5	6	9	14	14	11
Female	11	12	15	18	9	12	9
Total	17	17	21	27	23	26	20
American Indian - J.D.	8	4	5	7	11	6	8
Asian - Male	99	92	88	71	73	67	48
Female	98	104	92	102	97	103	87
Total	197	196	180	173	170	170	135
Asian - J.D.	50	57	70	57	53	48	64
Hispanic of any race - Male	139	110	119	46	35	41	39
Female	170	160	158	41	59	49	38
Total	309	270	277	87	94	90	77
Hispanic of any race - J.D.	87	113	68	47	30	28	29
Two or more races - Male	0	0	0	0	30	34	47
Female	0	0	0	0	41	38	38
Total	0	0	0	0	71	72	85
Two or more races - J.D.	0	0	0	0	1	3	13
Caucasian/White - Male	1328	1247	1175	1151	1153	1078	952

|							
Female	1188	1103	1025	1057	977	905	825
Total	2516	2350	2200	2208	2130	1983	1777
Caucasian/White - J.D.	722	789	787	686	646	687	686
Unknown - Male	121	159	187	212	133	105	74
Female	104	141	171	168	114	86	62
Total	225	300	358	380	247	191	136
Unknown - J.D.	19	50	64	92	113	75	99
Total - J.D. Degree Awarded	923	1055	1047	911	875	875	930
Total - Male	1756	1668	1622	1529	1473	1375	1201
Total - Female	1651	1598	1534	1430	1349	1242	1098
Total	3407	3266	3156	2959	2822	2617	2299

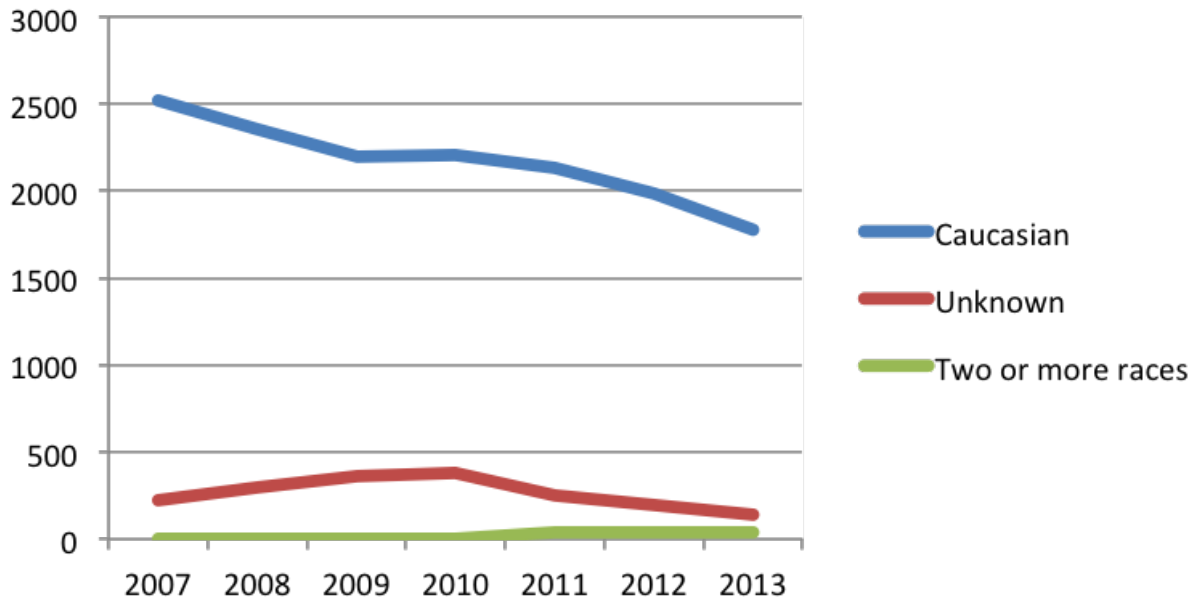**Appendix V:** Graph Representations of Aggregated Law School Student Data

X axes show year

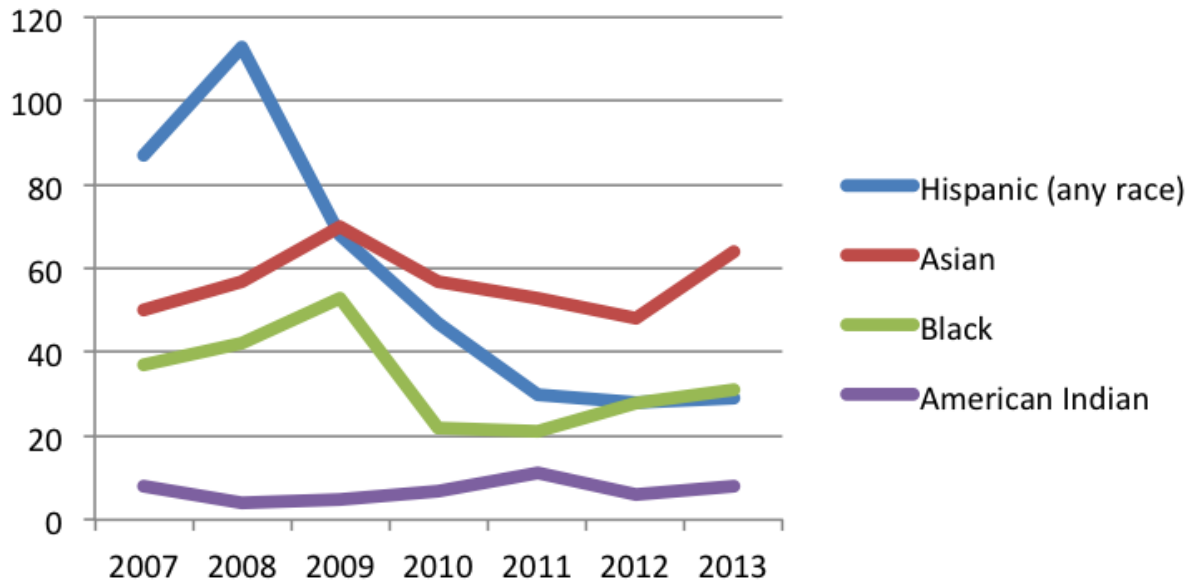Y axes show total student numbers

Local Law School Enrollment by Gender
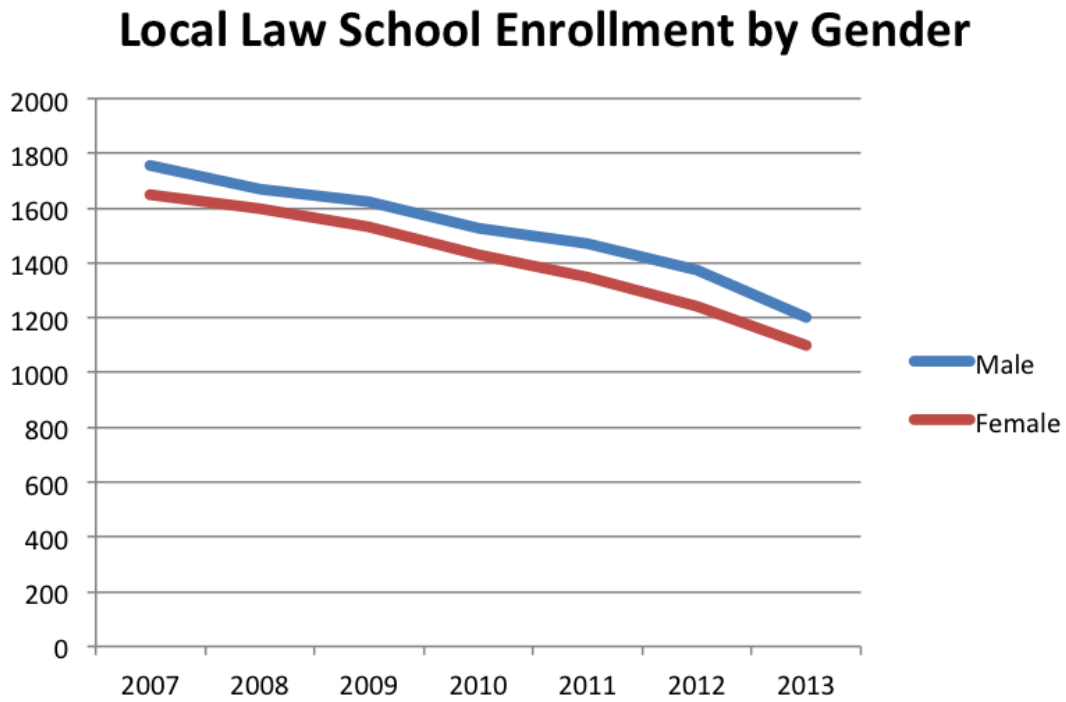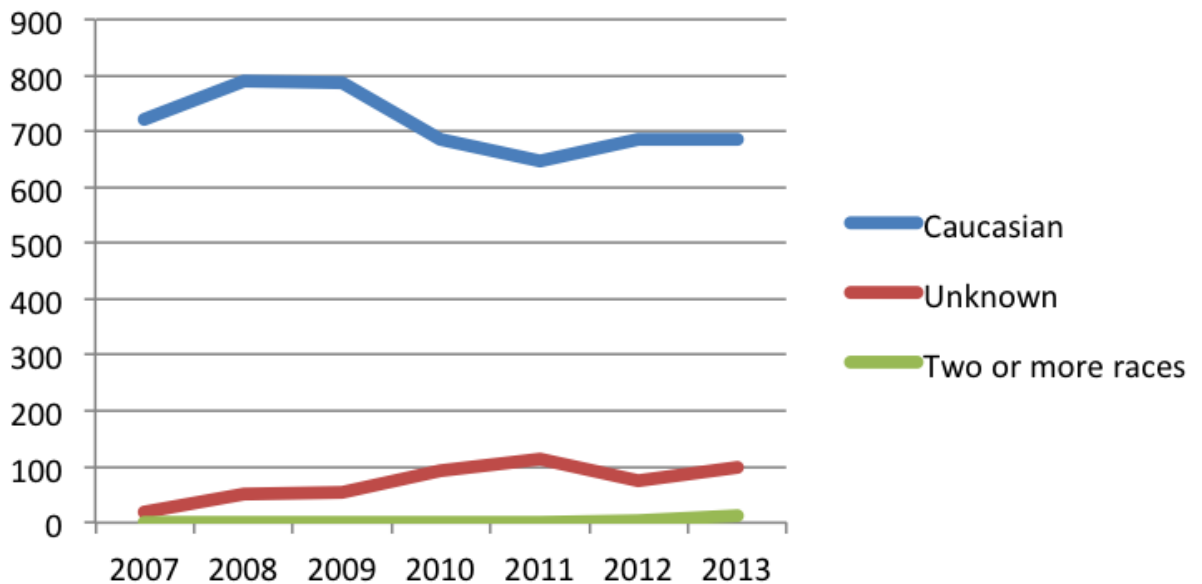
Local Law School Enrollment by Race I
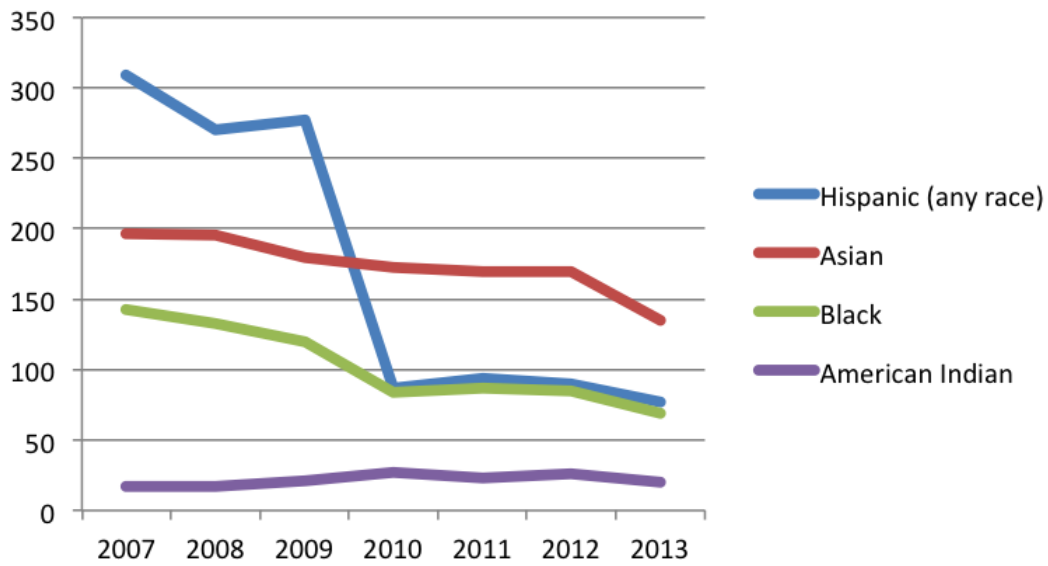
Local Law School enrollment by Race II
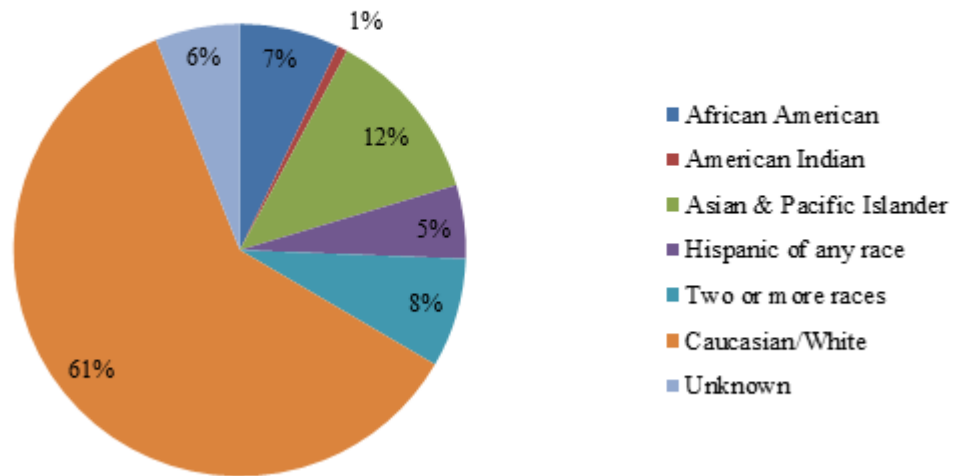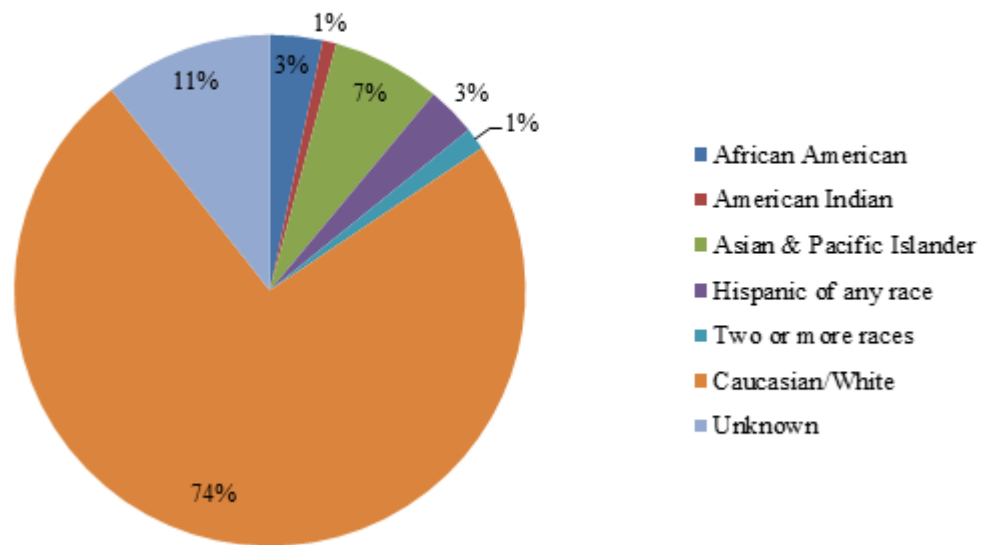
Local Law School JDs by Race

Local Law School JDs by Race II

Racial Composition of Total Law School Applicants, 2013

Legend:
- African American
- American Indian
- Asian & Pacific Islander
- Hispanic of any race
- Two or more races
- Caucasian/White
- Unknown

(1%, 7%, 6%, 12%, 5%, 8%, 61%)

Total J.D. Degree Awarded by Race, 2013

Legend:
- African American
- American Indian
- Asian & Pacific Islander
- Hispanic of any race
- Two or more races
- Caucasian/White
- Unknown

(1%, 3%, 11%, 7%, 3%, 1%, 74%)

Appendix VII: Statistical Snapshot of the Pipeline (LSAC, 2014)

Gender/ Ethnicity	U.S. Population 2013*	Bachelor's Degree Conferred 2011-2012**	ABA Applicants Fall 2013***	ABA Matriculants Fall 2013	JD Degrees 2011 - 2012	Lawyers 2012
Male	49.2	42.7	50.3	51.3	52.7	68.1
Female	50.8	57.3	49.5	48.4	47.3	31.9
White	63.0	67.6	63.8	70.5	68.6	89.6
Black	12.3	10.4	14.3	9.7	8.2	4.4
Hispanic	16.9	9.5	10.9	12.7	8.3	4.0
Asian/Pacific Islander	5.1	7.0	10.8	10.1	7.4	4.3
American Indian/ Alaska Native	0.7	0.6	2.2	2.0	1.0	-
Source	1	2	3	3	4	5

Note. All above figures shown are percentages.

* White, Black, Asian/Pacific Islander, and American Indian/Alaska Native counts are of non-Hispanics, indicating only one race/ethnicity

** Bachelor's degrees conferred by degree-granting institutions

*** Data use maximum reporting for race/ethnicity

1 - U.S. Census Bureau, Population Division, 2013

2 - National Center for Education Statistics' Digest of Education Statistics: 2013

3 - Law School Admission Council, National Decision Profile

4 - ABA-LSAC Official Guide to ABA-Approved Law Schools, 2013 Edition

5 - U.S. Census Bureau: 2012 Current Population Survey (Note: Persons whose ethnicity is identified as Hispanic or Latino may be of any race)

Appendix VIII: LSAC RACE/ETHNICITY DATA ABOUT LAW SCHOOL STUDENTS

Race/Ethnicity	**Fall 2010**		**Fall 2011**		**Fall 2012**		**Fall 2013**	
	Applied	**Admitted**	**Applied**	**Admitted**	**Applied**	**Admitted**	**Applied**	**Admitted**
All	87,900	60,400	78,500	55,800	67,900	50,600	59,400	45,700
American Indian/ Alaska Native	1,190	780	1,410	900	1,360	900	1,280	930
Asian	7,810	5,310	7,580	5,450	6,810	5,050	6,110	4,620
Black/ African American	10,330	4,680	10,040	4,610	9,390	4,860	8,510	4,670
Caucasian/ White	54,540	41,410	46,180	35,920	42,800	35,620	37,850	31,790
Hispanic/ Latino	7,210	4,430	7,280	4,560	6,990	4,700	6,450	4,630
Native Hawaiian/ Other Pacific Islander	290	160	290	180	260	160	280	200
Puerto Rican	1,950	1,140	2,020	1,220	1,820	1,060	1,860	1,130
Gender								
Male	45,900	32,560	40,400	29,700	34,440	26,520	29,870	23,580
Female	41,520	27,610	37,500	25,730	33,200	24,980	29,370	21,990

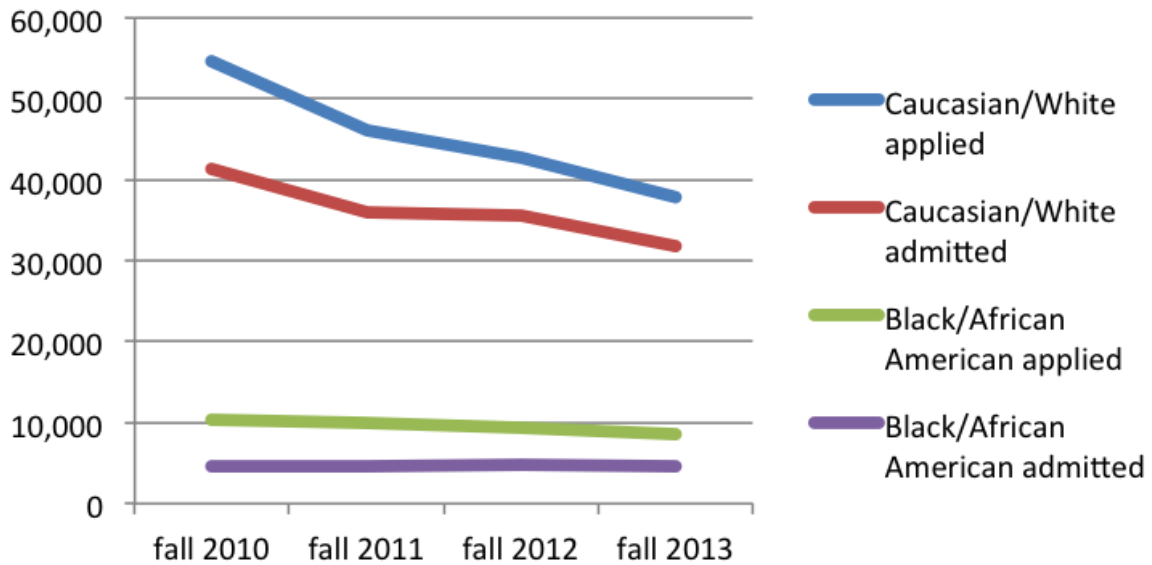*Note*. Final end-of-year counts of admitted applicants to ABA-approved law schools

Note. Totals rounded to nearest ten (all admitted applicants rounded to nearest hundred)

Appendix IX: GRAPHS OF SELECT LSAC RACE / ETHNICITY DATA

X axes show year
Y axes show total student numbers

LSAC Race/Ethnicity Data I

LSAC Race/Ethnicity Data II