

REPORT OF THE NEW YORK STATE BAR ASSOCIATION  
COMMITTEE ON MINORITIES IN THE PROFESSION

“Miles to Go in New York: Measuring Racial and Ethnic Diversity Among  
New York Lawyers”

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## EXECUTIVE SUMMARY OF THE COMMITTEE'S REPORT

By:  
John E. Higgins, Co-Chair  
Dolly Caraballo, Co-Chair

### BACKGROUND

In the Spring of 2005, the New York State Bar Association's Committee on Minorities in the Profession (the "Committee") embarked upon an important and ambitious research project designed to review and assess existing and available data on the number, status and careers of minority attorneys in New York State. The goals of the project were to provide a current, comprehensive picture of the status of minorities in the profession across New York, to measure racial and ethnic diversity among New York lawyers, and to determine where there are gaps and holes in the available statistical data and how best and most effectively to fill them.

The genesis of this undertaking were certain deeply troubling findings contained in the December 2004 report of the American Bar Association's Commission on Racial and Ethnic Diversity in the Legal Profession, entitled *Miles to Go: Progress of Minorities in the Legal Profession* (hereinafter the "ABA's *Miles to Go* Report"). That report, the third in a series of similar reports written by Professor Elizabeth Chambliss of New York Law School, found that:

- ❖ Minority representation in the legal profession is significantly lower than in most other professions (9.7 % among lawyers, compared to 20.8 % for auditors and accountants, 24.6 % for physicians and surgeons, and 18.2 % for college and university teachers);
- ❖ Minority entry into the profession has slowed considerably since the 1980s and mid 1990s;
- ❖ The initial employment of minority lawyers still differs significantly from that of Whites;
- ❖ Minorities remain grossly underrepresented in top-level private sector jobs, such as law partner and corporate general counsel; and
- ❖ Progress has been especially slow for minority women in the profession (especially in the areas of attrition from private law firms, where minority women outnumber all other groups, and exclusion from top private sector jobs).

In recognition of these deeply-rooted problems, affecting not only minorities and women in the profession, but the entire legal profession in New York and elsewhere, the Committee revised and updated its mission statement to make it more relevant to the

nation's changing demographics and the need for greater diversity at all levels of the profession and in the Association. As approved by the NYSBA Executive Committee and the House of Delegates in November 2005, the Committee's updated mission statement makes it clearer that the objectives of the Committee "are to promote and advance the full and equal participation of minorities in all sectors and at every level of the Association and in the legal profession through research, education, involvement in bar association and other professional activities, and by providing legal assistance, guidance and support to the minority community that will promote knowledge of and respect for the law, the judiciary, the roles of minorities in the profession and the legal community generally."

In further recognition of certain serious gaps in the available data on minorities and women in the profession also pointed out in the ABA's *Miles to Go* Report, the Committee also took steps beginning in the Spring of 2005 to answer the ABA's call to action for bar associations, including state and local as well as minority bar associations, to "take the lead in promoting research on minority lawyers and improving the reporting of such data," to assist in "formulating a systematic agenda for national and regional research on minority and women lawyers," to coordinate national and regional efforts to gather information on minority lawyers, and to engage in systematic self-study and examination of the racial and ethnic composition of bar association members, as well as in an evaluation of existing diversity initiatives.

This Report and Recommendations, and Professor Chambliss's new research study and report, entitled "***Miles to Go in New York: Measuring Racial and Ethnic Diversity Among New York Lawyers***," represent the Committee's response to this clarion call and are themselves a "call to action" to the Association's Executive Committee and leadership, the various sections and committees of the Association, local, regional and minority bar associations in New York, state regulatory and licensing agencies, including but not limited to the Office of Court Administration ("OCA"), and to leaders of the bench and bar both within and outside of the Association for increased and greater efforts, coordination and collaboration in the collection, analysis and reporting of state-wide data on the demographic characteristics and careers of all lawyers in New York, minorities and non-minorities alike.

## SUMMARY OF KEY FINDINGS AND RECOMMENDATIONS

As observed by Professor Chambliss at the outset of this report, "New York dominates the market for private legal services in the United States and arguably the world." "Unfortunately," however, "like most states, New York keeps no statistics about the demographic characteristics of its lawyers or the distribution of New York lawyers among different types of jobs." In fact, "[t]he only state bar association that routinely collects and publishes information about its members is the State Bar of Texas, through its Department of Research and Analysis. Thus, while New York dominates the market for private legal services, we know very little about the characteristics or careers of New York lawyers."

For minority lawyers in particular, as well as for women attorneys, disabled attorneys, older or “graying” attorneys, and others of a diverse background in the profession, the more systematic and routine collection, analysis and reporting of statistical data, on both a state-wide and more consistent and transparent Association-wide basis, are critically important steps which are long overdue in New York. As explained in greater detail in this report, the routine collection, publication and analysis of such “state-level statistics on lawyers are important for a variety of reasons” and “state-level statistics are vital for measuring the progress of racial integration in the profession.” Regrettably, however, “there is little national data on minority lawyers and what sources exist are incomplete.” And, “[w]ithout the routine collection of basic demographic and employment data, it is impossible to track changes in minority lawyers’ employment, or changes in legal markets that will affect the future of lawyers’ careers. Such information is important not only for minority lawyers but for the profession as a whole.”

As Professor Chambliss explains, and as has been explained elsewhere in a slightly different but related context, this is because “[m]inority lawyers are like ‘birds on a branch,’ whose employment patterns dramatically register winds of change that affect all lawyers.”<sup>1</sup> As further explained in the ABA’s *Miles to Go* Report, it cannot be denied that “[r]esearch plays a critical role in promoting the progress of minorities in the profession” and that “[s]ystematically measuring progress (and its absence) increases awareness of the obstacles that confront minority lawyers and promotes accountability by individual and institutional leaders.”

Part I of this report looks at the demographic characteristics of New York lawyers, judges and law students based on the most recent data available. Part II looks at the distribution of New York lawyers by employment type, including not only attorneys employed in private practice, but also in the federal government and in other practice settings, public and private. Part III sets forth the author’s and the Committee’s specific recommendations for state-wide data collection, greater and better data analysis and reporting, and increased self-study of diversity within the Association and among attorneys in the state.

In short, the report concludes, among other things, that New York State is no exception to the generally troubling findings in the ABA’s *Miles to Go* Report, but without more complete and consistent measurement, analysis, and reporting of demographic data on the racial, ethnic, and gender diversity of attorneys registered to practice in New York, it is difficult if not impossible to find out what has gone wrong and why and where the roadblocks to true diversity in the profession exist and how to dismantle them.

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<sup>1</sup> See David B. Wilkins, *Book Review: The Good Black: A True Story of Race in America*, 112 HARV. L. REV. 1924, 1972 (1999) (“Black lawyers in corporate firms are like birds on the edge of a very long tree branch that is blowing in a storm: although they may be the first ones to fall, if the wind keeps blowing, many others will fall as well.”).

In the end, this report offers three cost-effective and comprehensive recommendations for dramatically improving the collection and reporting of such data on New York attorneys. These recommendations, particularly the first and most important of them (calling for the collection of such data, on a voluntary and/or anonymous basis, as part of the biennial attorney registration process), are modeled in many ways on the data collection and reporting activities underway within the State Bar of Texas.<sup>2</sup>

## SUMMARY CONCLUSIONS

The Committee's recommendations, and the conclusions reached by Professor Chambliss in this report, as well as the Committee's long-range objectives in embarking upon this project, are similar in purpose and scope to previous calls to action which the Association's leaders have embraced and responded to in a very positive fashion, but which have unfortunately not come to fruition. For example, a similar information gathering and state-wide data collection project was recommended in 2001 by the Special Committee on Public Trust and Confidence in the Legal System, and was approved by the House of Delegates on January 26, 2001. As candidly explained in that Special Committee's report, in a section on diversity in the profession:

**... data about employment [of minorities] in various fields of law and work settings in New York State is only available in bits and pieces. The lack of a complete statewide picture hinders discussions and the development of initiatives tailored to advancing diversity in particular areas. The availability of this resource also would enable us to measure progress.**

Of course, this remains the case today, more than five years later. Indeed, in terms of measuring real diversity in the legal profession here in New York, the statewide picture (like that of the Association and its membership) is still woefully incomplete and blurred at the edges. As this report makes plain, the need for greater and more routine data collection, analysis and reporting is more compelling and urgent today than it has perhaps ever been.

Finally, this report highlights the importance of and need for additional funding and creative fundraising strategies which have been, and which will continue to be, indispensable for the long-term success of ambitious projects like this one. The Committee is indebted and tremendously grateful in this regard for a generous grant provided by the New York State Bar Foundation for this project, as well as to the law firms whose commitment to diversity and sponsorship of the NYSBA's 2007 Celebrating Diversity Reception also provided support for the first phase of this important research project and the work of the Committee.<sup>3</sup>

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<sup>2</sup>To a far lesser (and unpublished) extent, such data is also now being periodically collected by the NYSBA, as discussed in Part III of this report, but the information collected is incomplete and not truly representative.

<sup>3</sup>Law firm sponsors of the Committee's Miles to Go research study and of the NYSBA 2007 Celebrating Diversity Reception include Sidley Austin, LLP, Nixon Peabody, LLP, Proskauer Rose LLP, Latham &

Without much needed support of this kind, the comprehensive *Miles to Go in New York* research study that forms the basis for the Committee's report and recommendations would not have been possible. And, without continued and additional funding from these and other sources to assist in the implementation of such long-range projects, and the creation of a permanent, full-time position by and within the Association dedicated to this purpose, additional efforts to assess the progress of minorities in the profession and to determine the true measure of diversity on the bench and at the bar in New York will be stifled, as will the further development of effective statewide initiatives tailored to advancing diversity in particular areas of the state and the profession.



**“Miles to Go in New York: Measuring Racial and Ethnic Diversity  
Among New York Lawyers”**

Written by:

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## INTRODUCTION

New York dominates the market for private legal services in the United States and arguably the world. In 2006, there were over one million active lawyers in the United States and 13 percent of them lived in New York (see Table 1). In 2003, among inactive lawyers, 43 percent lived in New York.<sup>1</sup> Eight percent of United States law offices are located in New York state, including 33 percent of all offices with 500 employees or more (see Table 2).

Unfortunately, like most states, New York keeps no statistics about the demographic characteristics of its lawyers or the distribution of New York lawyers among different types of jobs. The only state bar association that routinely collects and publishes information about its members is the State Bar of Texas, through its Department of Research and Analysis.<sup>2</sup> Thus, while New York dominates the market for private legal services, we know very little about the characteristics or careers of New York lawyers.

TABLE 1 – Lawyer Population in Selected States (2006)<sup>3</sup>

State and Rank	Number of Lawyers	Percent of US Total
1. New York	144,599	12.95
2. California	141,030	12.63
3. Texas	69,762	6.25
4. Illinois	61,130	5.47
5. Massachusetts	49,837	4.46
6. Florida	46,475	4.16
7. Pennsylvania	45,415	4.07
8. District of Columbia	43,445	3.89
9. New Jersey	38,466	3.44
10. Ohio	34,421	3.08
Combined Total	674,580	60.39
U.S. Total	1,116,967	100.00

<sup>1</sup> American Bar Association, Market Research Department Memorandum, April 22, 2003, at 3 (National Lawyer Population Survey Statistics) (on file with author). The ABA reports that there were 138,541 inactive lawyers in the U.S. in 2003, including 60,049 in New York.

<sup>2</sup> State Bar of Texas, Department of Research and Analysis, [http://www.texasbar.com/template.cfm?section=research\\_and\\_analysis](http://www.texasbar.com/template.cfm?section=research_and_analysis) (last visited Dec. 21, 2006).

<sup>3</sup> American Bar Association, National Lawyer Population by State (2006), [http://www.abanet.org/marketresearch/2006\\_national%20\\_lawyer\\_population\\_survey.pdf](http://www.abanet.org/marketresearch/2006_national%20_lawyer_population_survey.pdf). Figures represent the number of resident active attorneys as of December 31, 2005. *Id.*

TABLE 2 – Law Office Population in Selected States (2004)<sup>4</sup>

State and Rank	Number of Offices	Percent of US Total	500 + Employees	Percent of US Total
1. California	21,140	12.22	6	7.41
2. Florida	14,822	8.57	1	1.23
3. New York	13,407	7.75	27	33.33
4. Texas	12,605	7.28	4	4.94
5. Illinois	7,681	4.45	7	8.64
6. Pennsylvania	6,429	3.72	5	6.17
7. New Jersey	6,363	3.68	0	0.00
8. Ohio	5,434	3.14	1	1.23
9. Massachusetts	5,076	2.93	6	7.41
10. Georgia	4,960	2.87	2	2.47
Combined Total	97,917	56.59	59	72.84
U.S. Total	173,044	100.00	81	100.00

<sup>4</sup> U.S. Census Bureau, 2004 County Business Patterns (NAICS), Industry Code 54, <http://censtats.census.gov/cgi-bin/cbpnaic/cbpsel.pl> (last visited Oct. 5, 2006).

State-level statistics on lawyers are important for a variety of reasons. First, the profession is regulated on a state-by-state basis, such that the rules governing admission to practice and the standards of professional conduct are written and enforced primarily at the state level. Thus, state-level data are essential for informing professional regulation. In New York, for instance, lawyers are examined by the New York State Board of Law Examiners,<sup>5</sup> licensed by the Appellate Divisions of the State Supreme Court, registered by the New York State Office of Court Administration,<sup>6</sup> and subject to professional discipline under the New York Code of Professional Responsibility.<sup>7</sup> Ideally, these bodies would be apprised of basic facts about the profession and professional markets in the state.

Second, state and local governments employ a significant number of lawyers and play an obvious role in shaping the norms and conditions of practice in public settings.<sup>8</sup> New York State employs 2,484 attorneys in 114 different job titles.<sup>9</sup> Most markets for private legal services also are regional or have significant regional components, as recognized by bar associations and insurers<sup>10</sup> as well as researchers.<sup>11</sup> Thus, national data may mask significant state and regional differences in lawyers' employment,<sup>12</sup> compensation,<sup>13</sup> and advancement.<sup>14</sup>

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<sup>5</sup> New York State Board of Law Examiners, The Bar Examination, <http://www.nybarexam.org/barexam.htm> (last visited Dec. 28, 2006).

<sup>6</sup> New York State Unified Court System, Attorney Registration, <http://www.courts.state.ny.us/attorneys/registration/index.shtml> (last visited Dec. 28, 2006).

<sup>7</sup> See ROY SIMON, SIMON'S NEW YORK CODE OF PROFESSIONAL RESPONSIBILITY ANNOTATED xv (2004) (calling the New York Code of Professional Responsibility "the most important source of regulation for New York lawyers").

<sup>8</sup> See, e.g., Adam M. Gershowitz, *The Invisible Pillar of Gideon*, 80 IND. L.J. 571, 592 (2005) (effects of state funding limitations on criminal defense for the indigent); *Internal Report Highlights Significant Problems at Justice*, FEDERAL EEO ADVISOR, Dec. 18, 2003 (reporting on working conditions for lawyers at the Department of Justice).

<sup>9</sup> Email from Erin Barlow, Director, Public Information Office, NYS Department of Civil Service (Jan. 9, 2007) (on file with author). See also New York State Career Mobility Office, Occupation Interest Directory, "Legal Specialties," <http://careermobilityoffice.cs.state.ny.us/cmo/rguide/occupationsrch.cfm> (last visited Dec. 28, 2006).

<sup>10</sup> See, e.g., *Why Professional Liability Insurance Is Again a Major Cost & Concern for Partners*, PARTNER'S REPORT FOR LAW FIRM OWNERS, Apr., 2003, at 1 (noting that the market for professional liability insurance varies by state, with California considered by underwriters to be one of the highest-risk states).

<sup>11</sup> See, e.g., AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS 89 (2004) [hereinafter AFTER THE JD] (explaining the methodology of the study). This ambitious national study of new lawyers' careers divides the country into four "major" markets (Chicago, Los Angeles, New York, and Washington D.C.), nine "large" markets, and a variety of "smaller" markets, based on the number of new lawyers who entered the market in 2000. *Id.*

<sup>12</sup> See CLARA N. CARSON, THE LAWYER STATISTICAL REPORT: THE U.S. LEGAL PROFESSION IN 2000 33-236 (2004) [hereinafter LAWYER STATISTICAL REPORT] (providing state-level data on the distribution of lawyers by type of employment); AFTER THE JD, *supra* note --, at 63 (stating that "location is ... central to the careers of lawyers").

<sup>13</sup> See NATIONAL ASSOCIATION FOR LAW PLACEMENT, JOBS & JDS: EMPLOYMENT AND SALARIES OF NEW LAW GRADUATES, CLASS OF 2005 78 (2006) [hereinafter JOBS & JDS] (reporting significant regional differences in new lawyers' salaries); ASSOCIATION OF CORPORATE COUNSEL, CENSUS OF U.S. IN-HOUSE COUNSEL 11-63 (2001) (reporting regional differences in in-house counsel compensation).

Finally, state-level statistics are vital for measuring the progress of racial integration in the profession. To date, there is little national data on minority lawyers and what sources exist are incomplete. For instance, data on lawyers' race/ethnicity are available from the decennial United States Census.<sup>15</sup> However, the Census does not track the distribution of lawyers by employment type or position, and ten years is a long time to wait between measurements. The American Bar Foundation (ABF) periodically publishes employment data on lawyers, including breakdowns by gender and age,<sup>16</sup> but not by race or ethnicity.<sup>17</sup> And the National Association for Law Placement (NALP) provides a wealth of demographic data on new law graduates, but focuses primarily on initial employment<sup>18</sup> and careers in the large firm setting.<sup>19</sup>

Without the routine collection of basic demographic and employment data, it is impossible to track changes in minority lawyers' employment, or changes in legal markets that will affect the future of lawyers' careers. Such information is important not only for minority lawyers but for the profession as a whole. Minority lawyers are like 'birds on a branch,' whose employment patterns dramatically register winds of change that affect all lawyers.<sup>20</sup>

In 1998, the American Bar Association (ABA) Commission on Racial and Ethnic Diversity in the Profession began to publish periodic reports about the progress of minority lawyers and to make recommendations for speeding the pace of integration in the profession.<sup>21</sup> These *Miles to Go* reports emphasize the need for routine data collection on lawyers' employment and careers.<sup>22</sup>

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<sup>14</sup> The ratio of law firm associates to partners historically has been higher in New York City than elsewhere and the probability of promotion lower. See Marc Galanter & Thomas Palay, *The Transformation of the Big Law Firm*, in ROBERT L. NELSON, ET AL., EDS., *LAWYERS' IDEALS/LAWYERS' PRACTICES: TRANSFORMATIONS IN THE AMERICAN LEGAL PROFESSION* 55-56 (1992).

<sup>15</sup> See Appendix A (providing instructions for obtaining data on lawyers from the U.S. Census web site).

<sup>16</sup> See *LAWYER STATISTICAL REPORT*, *supra* note --. The 2004 Report is the twelfth *Lawyer Statistical Report* published by the American Bar Foundation since 1956.

<sup>17</sup> *Id.* The Report is based on *Martindale-Hubbell Law Directory* listings which do not include race or ethnic identifiers.

<sup>18</sup> See *JOBS & JDS*, *supra* note -- (for initial employment data).

<sup>19</sup> NALP routinely reports demographic data on lawyers working in firms listed in the *NALP Directory of Legal Employers*. For a list of NALP publications on demographics and diversity, see National Association for Law Placement, Diversity and Demographics, <http://www.nalp.org/content/index.php?pid=143> (last visited Jan. 7, 2007). For a list of other NALP research, see National Association for Law Placement, Research and Directories, <http://www.nalp.org/research/index.php> (last visited Jan. 7, 2007).

<sup>20</sup> See David B. Wilkins, *Book Review: The Good Black: A True Story of Race in America*, 112 HARV. L. REV. 1924, 1972 (1999) ("Black lawyers in corporate firms are like birds on the edge of a very long tree branch that is blowing in a storm: although they may be the first ones to fall, if the wind keeps blowing, many others will fall as well.").

<sup>21</sup> See ELIZABETH CHAMBLISS, *MILES TO GO: PROGRESS OF MINORITIES IN THE LEGAL PROFESSION* (1998), *MILES TO GO 2000: PROGRESS OF MINORITIES IN THE LEGAL PROFESSION* (2000), and *MILES TO GO: PROGRESS OF MINORITIES IN THE LEGAL PROFESSION* (2004) (hereinafter *MILES TO GO 2004*).

<sup>22</sup> *MILES TO GO 2004*, *supra* note --, at 90-98.

According to the most recent report:

Research plays a critical role in promoting the progress of minorities in the profession. Systematically measuring progress (and its absence) increases awareness of the obstacles that confront minority lawyers and promotes accountability by individual and institutional leaders.<sup>23</sup>

The report calls upon state bar associations to “take the lead in promoting research on minority lawyers and improving the reporting of such data.”<sup>24</sup>

State bar associations should step up their efforts to monitor the diversity of their membership. The State Bar of Texas, for example, produces a comprehensive annual report on the status of minority lawyers in Texas, including their distribution among different employment settings.... Other state bar associations should emulate these efforts.<sup>25</sup>

This Report is intended as a response to that call. The goals of the Report are to analyze existing demographic and employment data on New York lawyers and to identify strategies for improving routine data collection within the state. Part I examines the demographic characteristics of New York lawyers and compares them to lawyers in other states and in the nation as a whole. Part II assesses what we know about the distribution and representation of minority lawyers by employment type, and identifies the many areas where more information is needed. Part III outlines a low-cost strategy for collecting basic demographic and employment data on New York lawyers.

This Report is sponsored by the New York State Bar Association (NYSBA) Committee on Minorities in the Profession and focuses primarily on the availability of data on racial and ethnic minorities.<sup>26</sup> As Part III makes clear, however, routine data collection would benefit other traditionally underrepresented and/or uncounted groups (such as women, LGBT attorneys, and attorneys with disabilities) and the profession more generally, by providing basic information about lawyers’ employment in the state. The Report concludes by inviting all bar groups committed to promoting “full and equal participation”<sup>27</sup> in the profession to join in making the NYSBA a model for state bar research and reporting.

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<sup>23</sup> *Id.* at 90.

<sup>24</sup> *Id.* at 91.

<sup>25</sup> *Id.* at 93.

<sup>26</sup> The Report focuses primarily on four minority groups: African American, Hispanic, Asian American and Native American. *See* MILES TO GO 2004, *supra* note --, at 1 n.1. The Report also covers gender differences within groups, to the extent that such data are available.

<sup>27</sup> Mission Statement, New York State Bar Association Committee on Minorities in the Profession, <http://www.nysba.org/MSTemplate.cfm?MicrositeID=90>.

# I. DEMOGRAPHIC CHARACTERISTICS OF NEW YORK LAWYERS

## A. Lawyers

Minority representation among United States lawyers “lag(s) well behind that of most other professions,” including accounting, computer science, and medicine.<sup>28</sup> In the 2000 Census, minorities made up only 9.7 percent of all lawyers in the United States (see Table 3), compared to 20.8 percent of accountants, 23.1 percent of computer scientists, and 24.6 percent of physicians.<sup>29</sup> Minority representation in the civilian labor force was 25.5 percent.<sup>30</sup>

Minority representation is somewhat higher among New York lawyers and, not surprisingly, higher still among lawyers in New York City. In 2000, minority representation among New York lawyers was 11.0 percent and minority representation among New York City lawyers was 13.7 percent (see Table 3). Minority women, in particular, are better represented among New York lawyers than in the national lawyer population. In 2000, minority women made up 5.7 percent of New York lawyers and 6.9 percent of New York City lawyers, compared to 4.3 percent of lawyers nationally. African Americans and Asian Americans also are better represented among New York lawyers than in the national lawyer population. Hispanic representation among lawyers is the same in New York as in the nation as a whole (3.3 percent) and Native American representation is lower.

TABLE 3 – New York Lawyers by Race/Ethnicity and Gender (2000)<sup>31</sup>

US	Lawyers (%)	Af.Am. (%)	Hisp. (%)	As.Am. (%)	Na.Am. (%)	Minority (%)
Total	871,120 (100.0)	33,865 (3.9)	28,630 (3.3)	20,160 (2.3)	1,730 (0.2)	84,385 (9.7)
M	621,315 (71.3)	17,450 (2.0)	17,835 (2.0)	11,020 (1.3)	975 (0.1)	47,280 (5.4)
F	249,805 (28.7)	16,415 (1.9)	10,795 (1.2)	9,140 (1.0)	755 (0.1)	37,105 (4.3)
NY						
Total	94,325 (100.0)	3,960 (4.2)	3,100 (3.3)	3,190 (3.4)	85 (0.1)	10,335 (11.0)
M	63,385 (67.2)	1,785 (1.9)	1,520 (1.6)	1,560 (1.7)	50 (0.1)	4,915 (5.2)
F	30,940 (32.8)	2,175 (2.3)	1,580 (1.7)	1,630 (1.7)	35 (<0.1)	5,420 (5.7)
NYC						
Total	65,251 (100.0)	3,354 (5.1)	2,378 (3.6)	3,132 (4.8)	54 (0.1)	8,918 (13.7)
M	43,185 (67.2)	1,550 (2.4)	1,189 (1.8)	1,639 (2.5)	39 (0.1)	4,417 (6.8)
F	22,066 (32.8)	1,804 (2.8)	1,189 (1.8)	1,493 (2.3)	15 (<0.1)	4,501 (6.9)

<sup>28</sup> *Id.* at 6.

<sup>29</sup> *Id.* at 7 (Table 2).

<sup>30</sup> *Id.*

<sup>31</sup> U.S. Census Bureau, Census 2000 EEO Data Tool, <http://www.census.gov/eo2000/index.html>. Figures for “minority” represent the total for the four groups listed and do not include multiracial categories.

To some extent, the racial composition of New York lawyers tracks the racial composition of the New York population. African Americans are better represented in New York than in the nation as a whole, as are Asian Americans; whereas Native Americans are represented at half their national level (see Table 4, American Indian/Alaskan Native). Likewise, African American and Asian American representation is significantly higher in New York City than in New York State (see Table 5).

Hispanic representation among lawyers, on the other hand, does not appear to track Hispanic representation within the population. Hispanics comprise 27.9 percent of the New York City population (see Table 5), which is nearly twice their representation in the United States as a whole (14.5 percent) (see Table 4). However, Hispanics comprise only 3.6 percent of New York City lawyers, which is only slightly higher than their representation among lawyers nationally (3.3 percent) (see Table 3).

TABLE 4 – United States and New York Populations Compared (2005)<sup>32</sup>

	United States	%	New York	%
Total Population	288,378,137		18,655,275	
Male	141,274,964	49.0	8,993,239	48.2
Female	147,103,173	51.0	9,662,036	51.8
Median age	36.4		37.5	
One Race	282,820,953	98.1	18,371,417	98.5
White	215,333,394	74.7	12,508,643	67.1
Black/African American	34,962,569	12.1	2,858,062	15.3
American Indian/Alaskan Native	2,357,544	0.8	67,460	0.4
Asian	12,471,815	4.3	1,246,567	6.7
Native Hawaiian/Pacific Islander	397,030	0.1	6,123	0.0
Some other race	17,298,601	6.0	1,684,562	9.0
Two or more races	5,557,184	1.9	283,858	1.5
Hispanic or Latino (any race)	41,870,703	14.5	3,028,658	16.2
High school graduate or higher	Xx	84.2		84.3
Bachelor's degree or higher	Xx	27.2		31.3
Foreign born	35,689,842	12.4	3,997,268	21.4
In labor force	147,299,391	65.9	9,368,168	63.9

<sup>32</sup> U.S. Census Bureau, 2005 American Community Survey, Fact Sheet, [http://factfinder.census.gov/home/saff/main.html?\\_lang=en](http://factfinder.census.gov/home/saff/main.html?_lang=en).



TABLE 5 – New York State and New York City Populations Compared<sup>33</sup>

	New York	%	New York City	%
Total Population	18,655,275		7,956,113	
Male	8,993,239	48.2	3,778,081	47.5
Female	9,662,036	51.8	4,178,032	52.5
Median age	37.5		35.8	
One Race	18,371,417	98.5	7,825,611	98.9
White	12,508,643	67.1	3,499,212	44.0
Black/African American	2,858,062	15.3	2,011,962	25.3
American Indian/Alaskan Native	67,460	0.4	33,088	0.4
Asian	1,246,567	6.7	922,978	11.6
Native Hawaiian/Pacific Islander	6,123	0.0	3,105	0.0
Some other race	1,684,562	9.0	1,355,266	17.0
Two or more races	283,858	1.5	130,502	1.6
Hispanic or Latino (any race)	3,028,658	16.2	2,221,906	27.9
High school graduate or higher		84.3		79.0
Bachelor's degree or higher		31.3		32.2
Foreign born	3,997,268	21.4	2,915,722	36.6
In labor force	9,368,168	63.9	3,869,575	62.0

<sup>33</sup> *Id.*

## B. Judges

Minority representation among state and federal judges in New York was 18.1 percent in 2000, compared to 15.9 percent in the nation as a whole (see Table 6). Over three quarters of minority judges in New York are located in New York City, where total minority representation among judges is 28.2 percent.

African Americans are the most highly represented minority group among judges nationally and at the state and city levels. African American women, in particular, are well represented. In 2000, African American women made up 5.9 percent of judges in New York and 11.2 percent of judges in New York City (see Table 6), which is significantly higher than their representation among lawyers (2 to 3 percent) (see Table 3). Hispanics, too, are more highly represented among judges (8.3 percent) than lawyers (3.6 percent) in New York City.

Asian Americans, on the other hand, are underrepresented among judges compared to their representation among lawyers and other professionals. In 2000, Asian Americans made up only 2.8 percent of judges in New York City (see Table 6), compared to 4.8 percent of lawyers (see Table 3). As of 2000, there were no Native American judges in New York (see Table 6).

TABLE 6 – New York Judges by Race/Ethnicity and Gender (2000)<sup>34</sup>

US	Judges (%)	Af.Am. (%)	Hisp. (%)	As.Am. (%)	Na.Am. (%)	Minority (%)
Total	58,360 (100.0)	5,155 (8.8)	2,650 (4.5)	1,000 (1.7)	465 (0.8)	9,270 (15.9)
M	36,565 (62.7)	2,285 (3.9)	1,440 (2.5)	605 (1.0)	260 (0.4)	4,590 (7.9)
F	21,795 (37.3)	2,870 (4.9)	1,210 (2.1)	395 (0.7)	205 (0.4)	4,680 (8.0)
NY						
Total	4,608 (100.0)	475 (10.3)	260 (5.6)	100 (2.2)	0 (0.0)	835 (18.1)
M	3,038 (65.9)	205 (4.4)	140 (3.0)	70 (1.5)	0 (0.0)	415 (9.0)
F	1,570 (34.1)	270 (5.9)	120 (2.6)	30 (0.7)	0 (0.0)	420 (9.1)
NYC						
Total	2,315 (100.0)	394 (17.0)	193 (8.3)	65 (2.8)	0 (0.0)	652 (28.2)
M	1,357 (58.6)	135 (5.8)	108 (4.7)	40 (1.7)	0 (0.0)	283 (12.2)
F	958 (41.4)	259 (11.2)	85 (3.7)	25 (1.1)	0 (0.0)	369 (15.9)

<sup>34</sup> U.S. Census Bureau, Census 2000 EEO Data Tool, <http://www.census.gov/eo2000/index.html>. Figures for “minority” represent the total for the four groups listed and do not include multiracial categories.

### C. Law Students

Minority representation among New York law students (22.8 percent) is slightly higher than minority representation among law students nationally (21.2 percent), due to the higher representation of Asian American students. In 2005-06, Asian Americans made up 10.2 percent of law students in New York State, compared to 8.0 percent of law students nationally (see Table 7).

Individual law schools varied substantially in the race and ethnic composition of their students, with CUNY, Columbia, and Cornell enrolling 30 percent or more minority students in 2005-06 and Albany, Buffalo, Pace and Syracuse enrolling significantly lower percentages (see Table 7). The representation of different race and ethnic groups also varied significantly by school.

TABLE 7 – New York Law School Enrollment by Race/Ethnicity (2005-06)<sup>35</sup>

School	Total FT/PT	Af.Am. (%)	Hisp. (%)	As.Am. (%)	Na.Am. (%)	Minority (%)
Albany	739	33 (4.5)	32 (4.3)	46 (6.2)	0 (0.0)	111 (15.0)
Brooklyn	1,490	72 (4.8)	75 (5.1)	219 (14.7)	1 (0.1)	367 (24.7)
Buffalo	731	35 (4.8)	26 (3.6)	56 (7.7)	4 (0.5)	121 (16.6)
Cardozo	1,046	32 (3.1)	65 (6.3)	100 (9.6)	1 (0.1)	198 (19.1)
CUNY	437	38 (8.7)	44 (10.0)	62 (14.2)	1 (0.2)	145 (33.1)
Columbia	1,242	107 (8.6)	76 (6.1)	182 (14.7)	8 (0.6)	373 (30.0)
Cornell	581	45 (7.7)	31 (5.3)	97 (16.7)	4 (0.7)	177 (30.4)
Fordham	1,516	84 (5.5)	122 (8.1)	163 (10.8)	10 (0.7)	379 (25.1)
Hofstra	1,038	77 (7.4)	60 (5.8)	66 (6.4)	4 (0.4)	207 (20.0)
NYLS	1,480	89 (6.0)	102 (6.9)	114 (7.7)	6 (0.4)	311 (21.0)
NYU	1,424	122 (8.6)	80 (5.6)	147 (10.3)	0 (0.0)	349 (24.5)
Pace	743	21 (2.8)	35 (4.7)	59 (7.9)	1 (0.1)	116 (15.5)
St. Johns	952	68 (7.1)	73 (7.6)	88 (9.2)	1 (0.1)	230 (24.0)
Syracuse	756	37 (4.9)	32 (4.2)	59 (7.8)	8 (1.1)	136 (18.0)
Touro	761	71 (9.3)	47 (6.2)	68 (8.9)	4 (0.5)	190 (24.9)
NY Total	14,936	931 (6.2)	900 (6.0)	1,526 (10.2)	53 (0.4)	3,410 (22.8)
US Total	140,298	9,126 (6.5)	8,248 (5.9)	11,252 (8.0)	1,142 (0.8)	29,768 (21.2)

<sup>35</sup> AMERICAN BAR ASSOCIATION: GUIDE TO LAW SCHOOLS 27 (2006) (hereinafter ABA GUIDE TO LAW SCHOOLS) (for New York schools); ABA Section of Legal Education & Admissions to the Bar, Legal Education Statistics, available at <http://www.abanet.org/legaled/statistics/stats.html> (last visited Dec. 28, 2006) (for U.S. totals).

Minority representation among New York law students is significantly lower than minority representation among law students in other jurisdictions with a large number of lawyers, such as California, Texas, Florida, and Washington, D.C. (see Table 8). Some of the difference may reflect underlying population differences. However, most law schools draw some proportion of their students from out of state. Rutgers-Newark is the most diverse law school in the tri-state area, with nearly 40 percent minority students in 2005-06 (see Table 9).

TABLE 8 – Law School Enrollment in Selected States (2005-06)<sup>36</sup>

State	Total FT/PT	Af.Am (%)	Hisp. (%)	As.Am (%)	Na.Am. (%)	Minority
New York	14,936	931 (6.2)	900 (6.0)	1,526 (10.2)	53 (0.4)	3,410 (22.8)
California	15,996	595 (3.7)	1,398 (8.7)	2,856 (17.6)	119 (0.7)	4,968 (31.1)
Texas	7,740	596 (7.7)	972 (12.6)	576 (7.4)	66 (0.9)	2,144 (27.1)
Illinois	7,258	408 (5.6)	433 (6.0)	679 (9.4)	32 (0.4)	1,552 (21.3)
Massachusetts	7,342	375 (5.1)	320 (4.4)	653 (8.8)	28 (0.4)	1,376 (18.7)
Florida	8,117	668 (8.2)	1,108 (13.7)	286 (3.5)	57 (0.7)	2,119 (26.1)
Pennsylvania	4,927	297 (6.0)	201 (4.1)	381 (7.7)	16 (0.3)	895 (18.2)
D.C.	6,612	898 (13.6)	458 (6.9)	630 (9.5)	33 (0.5)	2,019 (30.5)
New Jersey	2,733	209 (7.6)	222 (8.1)	266 (9.7)	7 (0.3)	704 (25.8)
Ohio	5,094	291 (5.7)	104 (2.0)	267 (5.2)	21 (0.4)	683 (13.4)
U.S. Total	140,298	9,126 (6.5)	8,248 (5.9)	11,252 (8.0)	1,142 (0.8)	29,768 (21.2)

TABLE 9 – Law School Enrollment in Neighboring States (2005-06)<sup>37</sup>

School	Total FT/PT	Af.Am (%)	Hisp. (%)	As.Am. (%)	Na.Am. (%)	Minority (%)
Connecticut	671	40 (6.0)	58 (8.6)	39 (5.8)	4 (0.6)	141 (21.0)
Quinnipiac	548	10 (1.8)	12 (2.2)	26 (4.7)	2 (0.4)	50 (9.1)
Yale	586	52 (8.9)	56 (9.6)	77 (13.1)	0 (0.0)	185 (31.6)
CT Total	1,805	102 (5.7)	126 (7.0)	142 (7.9)	6 (0.3)	376 (20.8)
R-Camden	787	50 (6.4)	56 (7.1)	64 (8.1)	1 (0.1)	171 (21.7)
R-Newark	804	113 (14.1)	95 (11.8)	105 (13.1)	3 (0.4)	316 (39.3)
Seton Hall	1,142	46 (4.0)	71 (6.2)	97 (8.5)	3 (0.3)	217 (19.0)
NJ Total	2,733	209 (7.6)	222 (8.1)	266 (9.7)	7 (0.3)	704 (25.8)

<sup>36</sup> ABA GUIDE TO LAW SCHOOLS, *supra* note, at 22-30 (for state totals); ABA Section of Legal Education & Admissions to the Bar, Legal Education Statistics, available at <http://www.abanet.org/legaled/statistics/stats.html> (last visited Dec. 28, 2006) (for U.S. totals).

<sup>37</sup> ABA GUIDE TO LAW SCHOOLS, *supra* note --, at 23, 26.

## II. DISTRIBUTION OF NEW YORK LAWYERS BY EMPLOYMENT TYPE

United States lawyers generally are concentrated in the for-profit sector, with 74.0 percent in private practice and another nine percent in business (private industry/association) (see Table 10). Historically, women have been less likely than men to be engaged in private practice, and more likely to work for government or not-for-profit firms,<sup>38</sup> but gender differences in lawyers' careers have diminished significantly over time. In 2000, 81.2 percent of female lawyers worked in the for-profit sector, compared to 83.6 percent of male lawyers (see Table 11).

TABLE 10 – United States Lawyers by Type of Employment<sup>39</sup>

	1980	1991	2000
Private Practice	68.3 %	72.9	74.0
Private Industry/Association	10.9	9.5	9.0
Federal Government	3.7	3.5	3.1
State/Local Government	5.6	4.7	4.4
Federal Judiciary	0.5	0.4	0.3
State/Local Judiciary	3.1	2.3	2.3
Legal Aid/Public Defender	1.5	1.1	1.0
Education	1.2	1.0	1.0
Retired/Inactive	5.3	4.6	4.8

TABLE 11 – United States Lawyers by Type of Employment and Gender (2000)<sup>40</sup>

	Male	Female	Total
Private Practice	75.0 %	71.2	74.0
Private Industry/Association	8.6	10.0	9.0
Federal Government	2.7	4.3	3.1
State/Local Government	2.4	6.2	4.4
Federal Judiciary	0.3	0.4	0.3
State/Local Judiciary	2.4	1.9	2.3
Legal Aid/Public Defender	0.7	1.7	1.0
Education	0.9	1.3	1.0
Retired/Inactive	5.5	2.9	4.8

<sup>38</sup> See MILES TO GO 2004, *supra* note --, at 21 (Table 13) (reporting the distribution of lawyers by employment type and gender in 1980 and 1991).

<sup>39</sup> LAWYER STATISTICAL REPORT, *supra* note --, at 6 (Table 6). Figures are based on information provided by the publishers of the Martindale-Hubbell Law Directory. *Id.* at vii.

<sup>40</sup> *Id.* at 9 (Table 11). Figures for private practice include “solo practice” plus “firm practice.” *Id.*

New York lawyers are more likely than lawyers generally to work in the private sector, with fully 80 percent of all New York lawyers engaged in private practice and another 9.6 percent engaged in business (see Table 12). New York lawyers are less likely to work for federal, state, or local government: only 4.5 percent work in those settings (see Table 12), compared to 7.5 percent nationally (see Table 10). New York lawyers also tend to be younger than lawyers nationally and less likely to be retired. The median age of New York lawyers was 43 in 2000, compared to 45 for lawyers nationally.<sup>41</sup>

TABLE 12 – New York Lawyers by Type of Employment and Gender (2000)<sup>42</sup>

	Male	Female	Total
Private Practice	81.0 %	77.7	80.0
Private Industry/Association	9.2	10.7	9.6
Federal Government	0.7	1.0	0.8
State/Local Government	3.2	5.1	3.7
Federal Judiciary	0.2	0.2	0.2
State/Local Judiciary	1.5	1.4	1.4
Legal Aid/Public Defender	0.7	1.6	1.0
Education	0.7	1.0	0.8
Retired/Inactive	2.9	1.2	2.5

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<sup>41</sup> *Id.* at 27, 161.

<sup>42</sup> *Id.* at 162.

We know very little about the distribution of practicing lawyers by race or ethnicity, at the national or state level (hence, the need for more research). At the national level, lawyers' initial employment still differs significantly by race, with African Americans and Native Americans being significantly less likely than other groups to start off in private practice, and more likely to start off in government or public interest jobs. In 2005, only 43.5 percent of African American law graduates went into private practice, and only 43.6 percent of Native Americans, compared to 55 to 58 percent of graduates from other groups (see Table 13).

TABLE 13 – Initial Employment of Law Graduates by Race/Ethnicity<sup>43</sup>

Class of 1996	White	Af.Am.	Hisp.		As.Am.	Na.Am.
Clerkships	12.7%	11.9	8.3		11.1	6.2
Private Practice	57.3	42.1	55.2		55.2	44.1
Business/Industry	13.2	16.4	11.2		17.0	14.3
Government	12.1	20.1	16.7		12.0	24.2
Public Interest	2.1	4.3	4.6		3.0	6.7
Academic	1.0	2.1	1.3		0.8	1.9
Unknown	1.5	3.1	2.6		0.9	0.6
Class of 2005			Oth. Hisp	Latino		
Clerkships	11.9%	11.2	10.5	5.9	9.5	7.5
Private Practice	58.0	43.5	55.8	57.2	57.6	43.6
Business/Industry	12.0	15.5	12.3	10.8	13.9	11.2
Government	11.6	17.6	12.6	15.0	11.2	23.9
Public Interest	4.4	7.9	6.6	8.0	5.8	8.5
Academic	1.2	2.1	1.1	2.0	0.8	4.3
Unknown	0.9	2.2	1.1	1.1	1.2	1.1

<sup>43</sup> NATIONAL ASSOCIATION FOR LAW PLACEMENT, SELECTED CLASS OF 1996 ERSS FINDINGS 71 (1997) (hereinafter NALP 1996) (for 1996 figures); JOBS & JDS, *supra* note --, at 53 (for 2005 figures). The 2005 report breaks down "Hispanics" into two categories, as shown above, and thus is not directly comparable to the 1996 report.

Minority women, too, are less likely than other groups to start off in private practice, and more likely to start off in public interest jobs. In 2005, only 51.5 percent of minority female law graduates went into private practice, compared to 54.0 percent of minority men and 58.0 percent of whites (see Table 14).

National data on lawyers' initial employment do not include gender breakdowns for specific racial and ethnic groups. Thus, it is difficult to untangle the effects of gender versus race (again illustrating the need for more research). A comparison between 1996 and 2005 data suggests that gender differences among minority law graduates are diminishing; however, these changes also may reflect changes in the composition of the minority group. Asian Americans make up a growing proportion of minority law graduates,<sup>44</sup> and Asian Americans' initial employment tends to closely resemble whites' (see Table 13). Thus, while minority women are increasingly likely to start off in private practice, it is not clear to what extent this reflects changes in women's initial employment, or changes in the composition of "minority" graduates.

TABLE 14 – Initial Employment of Law Graduates by Minority Status and Gender<sup>45</sup>

Class of 1996	White Male	White Female	Total	Minority Male	Minority Female	Total
Clerkships	11.1%	15.1	12.7	8.2	12.5	10.4
Private Practice	59.5	54.2	57.3	52.8	47.0	49.8
Business/Industry	13.9	12.2	13.2	16.9	13.3	15.1
Government	11.7	12.6	12.1	16.5	17.2	16.8
Public Interest	1.4	3.1	2.1	2.2	6.0	4.2
Academic	0.8	1.4	1.0	1.4	1.6	1.5
Unknown	1.6	1.5	1.5	2.0	2.4	2.2
Class of 2005						
Clerkships	10.1%	14.0	11.9	9.2	10.0	9.7
Private Practice	60.0	55.6	58.0	54.0	51.5	52.5
Business/Industry	12.9	10.9	12.0	14.5	12.9	13.5
Government	11.9	11.3	11.6	14.9	13.9	14.3
Public Interest	3.1	6.0	4.4	4.7	8.5	7.0
Academic	1.0	1.3	1.2	1.5	1.7	1.6
Unknown	1.0	0.8	0.9	1.4	1.5	1.5

<sup>44</sup> See MILES TO GO 2004, *supra* note --, at 10 (Table 5) (showing law school enrollment by race/ethnicity from 1976-2003).

<sup>45</sup> NALP 1996, *supra* note --, at 69 (for 1996 figures); JOBS & JDS, *supra* note --, at 52 (for 2005 figures).



The gaps in the data grow even larger once we move beyond the first job. Currently, there are no national data on the distribution of minority lawyers by employment type and, outside of Texas, no state data on lawyers' employment or careers. There also are no systematic data on the legal careers of minority women versus men, or women versus men within particular race and ethnic groups. Instead what we have is an assortment of snapshots of different employers at different time points, using different categories, with varying degrees of rigor.

#### A. Law Firms

By far the most studied type of legal employer is the private law firm and there is no doubt that minorities continue to be significantly underrepresented in that setting, especially at the partnership level. In 2006, minorities as a group made up only 5.0 percent of all law partners in the nation, and minority women made up less than 1.5 percent (see Table 15). Moreover, minority representation among New York law partners was lower than that in most other big markets, including Atlanta, Houston, Los Angeles, San Francisco and Washington, D.C.

TABLE 15 – Gender and Minority Status of Law Partners by City (2006)<sup>46</sup>

	Total Partners	% Women	% Minority	% Minority Women
Atlanta	1,754	17.62 %	5.82	1.60
Boston	1,979	18.80	2.93	0.86
Chicago	4,277	19.08	4.56	1.29
Houston	1,426	16.90	5.40	1.26
Los Angeles	2,810	19.15	9.29	3.13
Minneapolis/St Paul	1,363	19.96	2.13	0.88
New York City	7,277	15.67	5.13	1.39
Philadelphia	1,312	18.52	2.67	1.07
San Francisco	1,794	22.19	8.36	2.84
Washington, DC	5,776	19.25	6.15	2.18
US	60,394	17.90 %	5.01	1.48

<sup>46</sup> National Association for Law Placement, Press Release, Partnership at Law Firms Elusive for Minority Women – Overall, Women and Minorities Continue to Make Small Gains (Nov. 8, 2006), <http://www.nalp.org/content/index.php?pid=143> (last visited Jan. 13, 2007).

There are no published data providing a breakdown of law partners by both gender and race. It was only last year that NALP began to cross-reference gender and minority status (as in Table 15, above). It is possible, however, to compile such data by counting the number of lawyers in each firm listed in the *NALP Directory of Legal Employers*. Table 16 shows the results of this effort for New York and New York City firms. Although the total number of partners is slightly higher than that reported in Table 15, above, and the percentage of minority partners slightly lower, the two sets of statistics are relatively consistent.

Table 16 shows that Asian Americans are the best represented minority group among law partners in New York City, at 2.2 percent, followed by Hispanics and African Americans. Women make up 15.6 percent of all partners in the city, and 27.6 percent of minority partners; but minority women make up only 1.3 percent of law partners as a group.

TABLE 16 – New York Partners by Race/Ethnicity and Gender (2006)<sup>47</sup>

NY	Partners	Af.Am. (%)	Hisp. (%)	As.Am. (%)	Na.Am. (%)	Minority (%)
Total	9,181	108 (1.2)	120 (1.3)	189 (2.1)	6 (0.1)	423 (4.6)
M	7,743	74 (0.8)	99 (1.1)	131 (1.4)	4 (<0.1)	308 (3.4)
F	1,438	34 (0.4)	21 (0.2)	58 (0.6)	2 (<0.1)	115 (1.3)
NYC						
Total	8,261	103 (1.3)	112 (1.4)	178 (2.2)	6 (0.1)	399 (4.8)
M	6,973	69 (0.8)	91 (1.1)	125 (1.5)	4 (0.1)	289 (3.5)
F	1,288	34 (0.4)	21 (0.3)	53 (0.6)	2 (<0.1)	110 (1.3)

<sup>47</sup> Figures are based on all New York law offices listed in the 2006 NALP *Directory of Legal Employers*. See [http://www.nalpdirectory.com/dledir\\_search\\_quick.asp](http://www.nalpdirectory.com/dledir_search_quick.asp) (last visited Oct. 8, 2006).

The numbers are better at the associate level, where minorities make up about 17 percent of associates nationwide and 20 percent of associates in New York City (see Table 17). Nevertheless, minority representation among associates is lower than minority representation among law students nationally (21.1 percent, see Table 8) and in the tri-state area (see Tables 8 and 9). And New York City firms are less diverse than Los Angeles and San Francisco firms (see Table 17).

TABLE 17 – Gender and Minority Status of Associates by City (2006)

	Total Associates	% Women	% Minority	% Minority Women
Atlanta	1,782	45.12	16.22	9.71
Boston	2,241	46.63	11.83	6.38
Chicago	3,546	44.25	15.12	8.46
Dallas	1,680	40.42	11.67	6.73
Houston	1,335	42.55	15.88	8.16
Los Angeles	3,408	45.13	25.62	13.56
Minneapolis St Paul	807	43.62	10.29	5.20
New York City	13,549	44.56	20.46	11.38
Philadelphia	1,456	45.74	10.16	5.77
San Francisco	1,997	51.03	24.64	15.07
Washington DC	6,230	45.47	17.96	9.63
US	59,684	44.33	16.72	9.16

The representation of African Americans and Hispanics, in particular, is low among New York City associates. African Americans make up 6.5 percent of law students nationally, and 6.2 percent of law students enrolled in law schools in New York (see Table 8), yet they comprise only 4.4 percent of New York City associates (see Table 18). Hispanics also are underrepresented among New York City associates (3.6 percent) relative to their representation among law students nationally (5.9 percent) and in area schools (see Tables 8 and 9).

The best represented minority groups among New York City associates are Asian American men and women and African American women. Indeed, women outnumber men among associates in all four minority groups (see Table 18). The gender breakdown changes dramatically at the partnership level, however, as over 80 percent of minority women leave their firms within the first five years of practice.<sup>48</sup> Among partners, men outnumber women by a ratio of 2 to 1 or more (see Table 16). These data highlight the importance of tracking minority lawyers' careers by gender as well as race.<sup>49</sup>

TABLE 18 – New York Associates by Race/Ethnicity and Gender (2006)<sup>50</sup>

NY	Assoc.	Af.Am. (%)	Hisp.(%)	As.Am. (%)	Na.Am. (%)	Minority (%)
Total	15,901	689 (4.3)	559 (3.5)	1,789 (11.3)	20 (0.1)	3,057 (19.2)
M	8,843	258 (1.6)	280 (1.8)	816 (5.1)	7 (<0.1)	1,361 (8.6)
F	7,058	431 (2.7)	279 (1.8)	973 (6.1)	13 (0.1)	1,696 (10.7)
NYC						
Total	15,273	668 (4.4)	548 (3.6)	1,764 (11.6)	19 (0.1)	2,999 (19.6)
Male	8,489	250 (1.6)	273 (1.8)	807 (5.3)	6 (<0.1)	1,336 (8.8)
Female	6,784	418 (2.7)	275 (1.8)	957 (6.3)	13 (0.1)	1,663 (10.9)

<sup>48</sup> See AMERICAN BAR ASSOCIATION COMMISSION ON WOMEN IN THE PROFESSION, *VISIBLE INVISIBILITY: WOMEN OF COLOR IN LAW FIRMS* (2006) [hereinafter *VISIBLE INVISIBILITY*], Executive Summary at 9 (discussing attrition statistics).

<sup>49</sup> *Id.* at 7.

<sup>50</sup> Figures are based on all New York law offices listed in the 2006 NALP *Directory of Legal Employers*. See [http://www.nalpdirectory.com/dledir\\_search\\_quick.asp](http://www.nalpdirectory.com/dledir_search_quick.asp) (last visited Oct. 8, 2006).

## B. Federal Government

Outside of law firms, the only legal employer that systematically reports demographic data is the federal government. These data show that the representation of minority lawyers in the federal government is increasing, and tends to be higher than the representation of lawyers in private law firms. Minority representation among federal law clerks (the entry level position), for instance, was 30.6 percent in 2000 (see Table 19), which is significantly higher than minority representation among law firm associates (about 12 percent in 1999).<sup>51</sup> And minority representation among federal lawyers in all four job titles was higher in 2000 than minority representation among law partners in 2006 (see Table 15).

Because the federal government reports employment data by gender as well as race, it is possible to track employment patterns for minority women versus men. These data show that minority women tend to outnumber minority men among law clerks and general attorneys, whereas men outnumber women among administrative law judges or patent attorneys. In 2002, minority women made up 9.5 percent of federal general attorneys, compared to 7.4 percent for minority men.<sup>52</sup> African American women were the best represented group, comprising 31.2 percent of all minority general attorneys in 2002.<sup>53</sup>

TABLE 19 – Federal Government Lawyers by Race/Ethnicity<sup>54</sup>

1990	Af.Am.	Hisp.	As.Am.	Na.Am.	Minority
Law Clerks	11.3%	5.3	3.1	0.0	19.7
General Attorneys	6.4	2.6	1.2	0.2	10.5
Administrative Law Judges	2.6	3.0	0.3	0.3	6.1
Patent Attorneys	2.2	0.4	0.9	0.4	4.0
2000					
Law Clerks	12.8	6.9	9.4	1.6	30.6
General Attorneys	8.8	3.9	3.3	0.5	16.5
Administrative Law Judges	3.7	3.8	0.8	1.2	9.4
Patent Attorneys	3.1	0.9	3.6	0.0	7.6

<sup>51</sup> See MILES TO GO 2004, *supra* note --, at 30 (Table 18) (reporting law firm data for 1999).

<sup>52</sup> *Id.* at 45 (Table 27).

<sup>53</sup> *Id.*

<sup>54</sup> U.S. Office of Personnel Management, *Demographic Profile of the Federal Workforce* (1990) (for 1990 figures); U.S. Office of Personnel Management, *Demographic Profile of the Federal Workforce* (2001) (for 2000 figures).

### C. Other Employment Settings

There are virtually no systematic data on minority lawyers in other employment settings. The Association of Corporate Counsel (ACC) periodically surveys its members and reports the results, including breakdowns by race and gender, respectively; thus, we do have some figures on minority representation among corporate counsel (see Table 20). It is not clear, however, how representative these figures are of ACC's membership or corporate counsel more broadly. The response rate for the 2004 survey was only 5.4 percent.<sup>55</sup>

In 2006, the Association of the Bar of the City of New York also began to collect data on corporate law departments as part of its annual benchmarking survey. In the 15 law departments that responded, 15 percent of lawyers were minorities.<sup>56</sup> Minority representation was highest among the most junior attorneys (19.7 percent), and lower among managing attorneys (11 percent) and deputy general counsel (9.5 percent). Notably, however, three out of 16 general counsel were minorities (18.8 percent).<sup>57</sup> The City Bar did not report the gender or race/ethnicity of minority lawyers. Its categories are minorities (15.5 percent), women (44.2 percent), openly gay (0.6 percent), and attorneys with disabilities (0.0 percent).<sup>58</sup>

Table 20 – Corporate Counsel by Race/Ethnicity, Gender (2004)<sup>59</sup>

	Percent of Total
Race/Ethnicity (n=1,757)	
Caucasian/White	90.0
Black/African American	3.0
Hispanic/Latino	2.0
Asian/Pacific Islander	3.0
Native American	0.0
Mixed Heritage	1.0
Other	1.0
Gender (n=1,759)	
Male	63.0
Female	37.0

<sup>55</sup> See Association of Corporate Counsel, *2004 Census of In-House Counsel* 67 (2006), <http://www.acca.com/php/cms/index.php?id=222> (last visited Dec. 28, 2006) at 4.

<sup>56</sup> New York City Bar, *2006 Diversity Benchmarking Study Key Findings for Signatory Law Departments* 1 (2007). Figures are based on a survey of 18 law departments with 15 (83 percent) responding. *Id.*

<sup>57</sup> *Id.* at 2.

<sup>58</sup> *Id.* at 1.

<sup>59</sup> Association of Corporate Counsel, *2004 Census of In-House Counsel* 67 (2006), <http://www.acca.com/php/cms/index.php?id=222> (last visited Dec. 28, 2006) at 4. Figures are based on a national survey of 33,468 in-house lawyers, with 1,814 (5.4 percent) responding.

The ABA Section of Legal Education also reports the level of minority representation among law faculty; thus it is possible to track those numbers and compile state-specific results. Table 21 shows the figures for New York law schools in academic year 2005-06. These figures suggest that law faculty in New York are less diverse than law faculty nationally; however, national figures must be interpreted with caution. National figures for faculty diversity include faculty at historically black law schools – over 100 professors in 2005-06<sup>60</sup> -- which could significantly skew the data. A breakdown of “minority” faculty by race/ethnicity and gender would be very helpful in this context.

TABLE 21 – Law School Faculty by Minority Status (2005-06)<sup>61</sup>

	Total FT Fall	Total FT Spring	Minority FT Fall (%)	Minority FT Spring (%)
Albany	41	40	5 (11.9)	3 (7.3)
Brooklyn	57	55	5 (8.1)	5 (8.5)
Buffalo	43	49	5 (9.6)	6 (10.3)
Cardozo	51	55	3 (5.7)	4 (7.0)
CUNY	27	29	10 (34.5)	13 (39.4)
Columbia	95	79	14 (14.3)	10 (12.0)
Cornell	44	47	3 (6.8)	3 (6.4)
Fordham	73	71	12 (16.0)	16 (21.9)
Hofstra	44	46	4 (9.1)	4 (8.7)
NYLS	57	54	9 (14.8)	7 (11.9)
NYU	107	101	16 (12.3)	15 (12.0)
Pace	35	36	3 (7.9)	4 (10.3)
St. Johns	42	44	8 (19.0)	8 (17.4)
Syracuse	42	40	8 (14.0)	9 (16.4)
Touro	31	31	4 (11.8)	4 (11.8)
NY Total	789	777	109 (13.8)	111 (14.3)
US Total	7,112	7,094	1,213 (17.1)	1,221 (17.2)

<sup>60</sup> See AMERICAN ASSOCIATION OF LAW SCHOOLS, AALS DIRECTORY OF LAW TEACHERS 2005-06.

<sup>61</sup> ABA GUIDE TO LAW SCHOOLS, *supra* note --, at 22-31 (2006); American Bar Association, *Law School Staff by Gender and Ethnicity* <http://www.abanet.org/legaled/statistics/charts/facultyinformationbygender.pdf> (last visited Oct. 13, 2006).

### III. RECOMMENDATIONS

Readers who are unfamiliar with research on the profession may reach this point of the Report and wonder whether more data are really needed. After all, we have the Census and various national organizations that collect and publish data on lawyers. Why should state bar associations contribute to this effort?

Yet, as the preceding discussion has shown, we still lack basic facts about the demographics of the profession and the patterns of lawyers' careers. For instance, what is the distribution of practicing lawyers by employment type, gender and race? What are the demographics of the profession in employment settings other than law firms and the federal government? What are the distinct and combined effects of race and gender on lawyers' careers?

Even where we do have data, the data tend to be reported in aggregate categories (such as "minority") that do not allow for group-specific analysis. And these are just the "race" questions. We know even less about the representation of other types of minorities, such as openly gay lawyers and lawyers with disabilities.

Most bar leaders would be quick to acknowledge that the lack of racial diversity in the profession is an important and vexing problem. As Part I explained, the legal profession is less racially diverse than most comparable professions. Despite three decades of progress in entry-level positions, the pace of integration in upper-level jobs remains frustratingly, glacially slow.

Progress is especially slow for minority women in the profession. A recent study of women of color in large law firms found that women of color fare worse "across the board" than white women or men.<sup>62</sup> In 2006, minority women comprised less than 1.5 percent of law partners nationwide.<sup>63</sup> And this figure does not even distinguish between equity and non-equity partnerships. Presumably, the representation of minority women in equity partnerships is even lower.

Such stark findings demand our attention and should promote renewed efforts by bar leaders and employers to address the problem. Sustained attention and a system for routinely measuring progress are critical if we hope to combat the obstacles to full and equal participation in the profession.<sup>64</sup> Routine measurement also helps to depoliticize the measurement process and separate research from policy debates on sensitive and contested issues. Thus, rather than viewing the efforts of the ABA, NALP, and other national organizations as an excuse for inaction, state bar associations should contribute to research on the profession and use such research to promote attention and accountability within the state.

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<sup>62</sup> See VISIBLE INVISIBILITY, *supra* note --, Executive Summary at 7.

<sup>63</sup> National Association for Law Placement, Press Release, Partnership at Law Firms Elusive for Minority Women – Overall, Women and Minorities Continue to Make Small Gains (Nov. 8, 2006), <http://www.nalp.org/content/index.php?pid=143> (last visited Jan. 13, 2007).

<sup>64</sup> See Association of the Bar of the City of New York, *Diversity Benchmarking Study: A Report to Signatory Law Firms* 3, 2005 (discussing the powerful effect of "gathering demographic data" or "benchmarking").



Such efforts need not be expensive. Basic demographic and employment data can be collected and reported at a relatively low cost. This section makes three recommendations for action by the New York State Bar Association (NYSBA) that together would contribute dramatically to our understanding of lawyers' careers in the most important market for legal services in the United States.

#### A. Statewide Data Collection

The first recommendation is that the NYSBA commit to creating a system for statewide data collection and assist in funding this effort, perhaps by inviting contributions from employers. The most cost-effective strategy would be to add a few questions to the attorney registration form that already is collected from New York attorneys as part of the biannual registration process.<sup>65</sup> This approach would require the support of the Office of Court Administration (OCA) and minor amendments to the rules governing attorney registration.<sup>66</sup>

Currently, attorneys are asked their name, address, social security number, law school attended, date of birth, year admitted to practice, and judicial department of admission (see Appendix A).<sup>67</sup> The recommendation is to ask attorneys also to indicate their gender, race/ethnicity, and perhaps other statuses, on a voluntary basis; and to ask as well for attorneys to indicate their type of employment using standardized categories (for example, law firm, corporate law department, government, etc...). Currently the form asks for office address, which is too specific for routine summary and analysis.

The model for this effort is the annual registration and attorney profile card used by the State Bar of Texas (see Appendix B). That card asks attorneys to indicate their gender and race/ethnicity (on an anonymous basis, if desired), and has a high response rate on both items.

#### B. Data Analysis and Reporting

The second recommendation is that the NYSBA commit to funding the routine analysis and reporting of these statewide data. Such analysis should include, at a minimum, a summary of the demographic characteristics of New York lawyers and their type of employment, ideally with some framework for historic and national comparison. Obviously, the reports also could be more ambitious, depending on the interests of attorneys in the state. Again, the model for this effort is the State Bar of Texas, which issues a variety of reports of interest to Texas lawyers.<sup>68</sup> (Several recent reports are included as Appendix C.)

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<sup>65</sup> Rules of the Chief Administrator of the Courts, Part 118, Registration of Attorneys: § 118.1 (filing requirement), available at <http://www.courts.state.ny.us/attorneys/registration/part118.pdf>.

<sup>66</sup> See, e.g., §118.1(e) (defining the information required) and §118.2 (governing access to registration information).

<sup>67</sup> *Id.* at § 118.1 (e).

<sup>68</sup> State Bar of Texas, Department of Research and Analysis  
[http://www.texasbar.com/Content/NavigationMenu/Other\\_Services/Research\\_and\\_Analysis/Research\\_and\\_Analysis\\_Department.htm](http://www.texasbar.com/Content/NavigationMenu/Other_Services/Research_and_Analysis/Research_and_Analysis_Department.htm) (listing various reports and publications).

Realistically, systematic reporting requires systematic staffing; that is, a full-time, specialized position in the NYSBA administration. Texas, which has a mandatory bar, funds an entire department, the Department of Research and Analysis, that has tracked demographic and economic trends in the state since 1987.<sup>69</sup> The New York City Bar created an Office for Diversity in 2004.<sup>70</sup> Some law firms, too, have begun to include diversity officers on their management teams.<sup>71</sup> Creating a specialized position insures that the bar will sustain the effort to collect and analyze basic data, independent of any particular constituency and the shifting priorities of bar leaders.

### C. Self-Study

The third recommendation is that the state bar collect and routinely report demographic and employment data on its members, and make such reports accessible through the NYSBA web site. Initial data collection could be accomplished simply by amending the current online application form, to include gender and race/ethnicity as optional fields in the “demographic characteristics” section of the form.<sup>72</sup> The form already includes “date of birth” as an optional field. The form also should be amended to elicit the applicant’s type of employment, using standardized categories.

Updated information could be collected through annual or biannual membership surveys. The NYSBA Membership Services Department already surveys selected groups of attorneys on a periodic basis to obtain updated contact information, as well as demographic and employment data. Moreover, the Department uses these data to generate periodic in-house reports. These efforts should be expanded and made more systematic and more public.

For instance, the NYSBA should report these data on a routine basis, perhaps annually or biannually. It also should report and evaluate its own efforts to promote diversity. Routine reports would have a number of benefits. They would signal (and help sustain) the bar’s attention to diversity issues; promote bar leaders’ awareness of progress (or the lack of it); promote additional efforts to diversify bar membership; and identify which employment settings might be better served by the bar.

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<sup>69</sup> *Id.*

<sup>70</sup> Diversity, New York City Bar, <http://www.nycbar.org/Diversity/index.htm>.

<sup>71</sup> See Carl G. Cooper, *Diversity As A Senior Executive's Mission: Kirkpatrick & Lockhart LLP*, METROPOLITAN CORP. COUNSEL, Feb., 2004, at 33 (identifying Kirkpatrick & Lockhart LLP as “the first major law firm to appoint a Management Committee-level Chief Diversity Officer (CDO)”).

<sup>72</sup> See Join NYSBA, [https://www.nysba.org/Template.cfm?Section=Join\\_NYSBA&Template=/MemberManagement/Register.cfm&Type=Join](https://www.nysba.org/Template.cfm?Section=Join_NYSBA&Template=/MemberManagement/Register.cfm&Type=Join) (last visited May 15, 2007).

The NYSBA also should collect and report demographic and employment data on its leaders; that is, the members of standing committees, the House of Delegates, and the Executive Committee. Some information about Executive Committee members already is available via individual profiles on the NYSBA website.<sup>73</sup> To promote awareness and accountability, however, the NYSBA should routinely report minority representation among bar leaders in summary form. One ambitious example of this type of report is a recent report on racial and ethnic diversity in the ABA.<sup>74</sup>

## CONCLUSION

Implementing these three, relatively modest recommendations would make the NYSBA a model for state bar association research on the profession, and provide invaluable information to lawyers, bar leaders and educators nationwide. It also would help to fulfill a central responsibility of the profession, which is to regulate and guide its own members, and to be accountable to them and to the public.<sup>75</sup>

The first black lawyer admitted to practice in New York was George Boyer Vashon in 1848.<sup>76</sup> Anna Jones Robinson, the first black woman, was admitted in 1923.<sup>77</sup> We know these names and dates because bar officials and researchers have made the effort to record and report them and because various individuals and groups have continued to hold the profession accountable for the progress of minority lawyers. However, many groups' "firsts" – and their subsequent progress – remain undocumented. This Report urges the NYSBA to act now to remedy this problem and start making a record of the changing demographics and employment of lawyers in the state.

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<sup>73</sup> See Executive Committee Profiles, [http://www.nysba.org/Content/NavigationMenu/News/Biographies\\_Photos/Executive\\_Committee\\_Profiles/Executive\\_Committee\\_Profiles.htm](http://www.nysba.org/Content/NavigationMenu/News/Biographies_Photos/Executive_Committee_Profiles/Executive_Committee_Profiles.htm) (last visited May 15, 2007).

<sup>74</sup> ABA COMMISSION ON RACIAL AND ETHNIC DIVERSITY IN THE PROFESSION, GOAL IX REPORT 2006-2007: THE STATUS OF RACIAL AND ETHNIC DIVERSITY IN THE AMERICAN BAR ASSOCIATION (2007) (reporting on minority representation within ABA membership and leadership).

<sup>75</sup> See The Bylaws of the New York State Bar Association (2006), at 3, available at [http://www.nysba.org/Content/ContentGroups/Bylaws\\_amendments/HOUSEBYLAWSJanuary2006.pdf](http://www.nysba.org/Content/ContentGroups/Bylaws_amendments/HOUSEBYLAWSJanuary2006.pdf) (defining the purposes of the NYSBA).

<sup>76</sup> J. CLAY SMITH, JR., EMANCIPATION: THE MAKING OF THE BLACK LAWYER 1844-1944 (1993) at 392.

<sup>77</sup> *Id.* at 404.