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2011–2012

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Seen outside many courthouses and courtrooms as the symbol of a fair and unbiased judicial system, Lady Justice is often depicted holding scales and wearing a blindfold that symbolizes objectivity and impartiality. However, when it comes to the careers of its female advocates, justice is neither blind nor weighted equally. Though women currently make up 33 percent* of those in the legal profession, they make up barely 15 percent† of equity partners, and when they reach that rank, they are not compensated at the same level as their male peers. Often their career paths are littered with instances of unfair treatment and implicit bias that are anything but impartial. Women attorneys of color face even more challenges due to the dual burdens of gender and minority status.

The American Bar Association’s Commission on Women in the Profession has long been bringing to the attention of the legal community the unique challenges faced by women, particularly women of color, beginning with its groundbreaking study, Visible Invisibility: Women of Color in Law Firms released in 2006, as well as its companion report From Visible Invisibility to Visibly Successful: Success Strategies for Law Firms and Women of Color in Law Firms released in 2008. This report, Visible Invisibility: Women of Color in Fortune 500 Legal Departments, looks at the diversity dynamics of those in corporate legal departments, comparing their experiences against those in law firms.

As you review the candid comments submitted by the over 1,000 individuals who responded to the survey, you will see that while women of color in corporate legal departments indicate a greater overall satisfaction with their career choice than those at law firms, racial, ethnic, and gender biases are still widespread. These biases become particularly ubiquitous in the middle and latter stages of their careers as women attorneys of color seek advancement opportunities.

To help ensure that all lawyers in corporate legal departments, regardless of gender, ethnicity, or race, have the opportunity to reach their full potential, we have included within this report recommendations on how bias can be reduced and hopefully ultimately eliminated. Extremely influential, Fortune 500 corporations are in a unique position to serve as role models for the legal community but first must take a close look at the dynamic present in their own legal departments. It is time that the legal community lives up to one of its most enduring symbols; Lady Justice is watching.

Mary B. Cranston
Chair
ABA Commission on Women in the Profession

*A American Bar Association Market Research Department (April 2011).
While all women attorneys continue to confront obstacles in their effort to advance and succeed in the profession, this is particularly true for women attorneys of color, who face the “double bind” of both race and gender. The American Bar Association’s Commission on Women in the Profession has focused much-needed attention on the unique challenges faced by women attorneys of color through its Visible Invisibility research initiative, which was launched in 2003. Its groundbreaking 2006 study examined the experiences of women attorneys of color in law firms, focusing on four critical aspects of their careers: recruitment, hiring, retention, and promotion.

During my tenure as chair of the Commission, I was extremely proud that we continued this important initiative by turning the spotlight to women of color in corporate law departments. The extensive statistical data and anecdotal information obtained from our more than 1,000 survey respondents, who included men and women of all races, show that, just as was the case with law firms, women attorneys of color in corporate law departments are not faring nearly as well as their white male and female and black male counterparts. They are not afforded equal access to significant assignments, mentoring, and sponsorship opportunities; receive less compensation and fewer promotions; and have the highest rate of attrition. Indeed, this study confirms that many of the same significant inequalities and barriers that exist for women attorneys of color in law firms are also present in the corporate sector. However, the study also provides cause for optimism for women attorneys of color presently working or contemplating employment in corporate law departments, as survey respondents reported greater overall job satisfaction and work-life balance than the respondents in our 2006 survey of lawyers working in law firms.

This study is must-reading for corporations and everyone interested in promoting diversity, as it sets forth concrete and specific recommendations and strategies that should be implemented in order to ensure that women attorneys of color are provided greater opportunities to succeed. Given the tremendous influence that corporations have over law firms, corporations can and should lead the way in championing diversity not only within their own legal departments, but also in the law firms that represent or seek to represent them. The Commission is determined to continue working tirelessly to keep the goal of increased gender equality and diversity on the front burner, as it represents a paramount objective that simply must be achieved.

Roberta D. Liebenberg
Chair
ABA Commission on Women in the Profession
September 2008- August 2011
A Note from the Committee Co-Chairs

Women of color have been the focus of the American Bar Association Commission on Women in the Profession since 2003, when the first research initiative was launched to explore the unique experiences and concerns of attorneys who are women of color. The goal was, and continues to be, the development of educational materials and programs that would help improve the retention and advancement of all women of color in the legal profession.

Starting with Visible Invisibility: Women of Color in Law Firms, then moving to document the experiences of 28 women of color partners in law firms in From Visible Invisibility to Visibly Successful: Success Strategies for Law Firms and Women of Color in Law Firms, the Commission looked at key findings and pathways to success for women of color in law firms.

This year, after more than two years of work, we are excited to roll out the Commission’s research on women of color in a corporate setting—Visible Invisibility: Women of Color in Fortune 500 Legal Departments. This study builds on results of previous studies on women of color in corporate law departments and, unlike prior studies, compares experiences across all demographic groups. Of course, we also compared and contrasted results against previous Commission studies on the experiences of women of color. Not surprisingly, the research tracked our previous findings in retention and advancement.

As co-chairs of this study, we have hope that this study will shine a new and determined light on issues and concerns of women of color in corporate law departments and renew all of our commitment to continue on the journey to an equal playing field for all. Women of color bear the brunt of many inequalities but also have a great opportunity to lead and be trailblazers in so many arenas. Each of you reading this study can be an important player in our quest for a diverse legal profession that represents the people we serve.

Many thanks go to our tireless researcher and friend, Arin Reeves of Nextions; our indomitable staffer who ensured that we were always on top of things, Melissa Wood; our Research Advisory Board for their continued support and wise analysis and comments; the Commission for its vision and commitment to inclusion; and the hundreds of male and female attorneys who took the time to answer the questions and be part of this important research.

Ruthe Catolico
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The story of women of color in the legal profession is multi-layered and deeply rooted in the broader societal issues related to racial, ethnic, and gender inequality that have existed in the United States since this country’s inception. Their story has been no fairy tale, and, so far, female attorneys of color are not living happily ever after. To the contrary, theirs has been and continues to be a narrative of struggle against marginalization, low expectations, and gross inequity, which, arguably, has rendered them second-class citizens in their chosen profession. Women of color stand as a visible and living embodiment of not only the natural ethnic and gender differences that exist between human beings but also of the artificial racial constructs that divide and separate. Their double minority status shades their experiences. The story of female attorneys of color has been told from a variety of perspectives, but its ending has yet to be written.

Female attorneys of color have made undeniable inroads into the leadership ranks of a number of Fortune 500 law departments. A small group of diverse female attorneys have reached the upper echelons of corporate legal practice. In 2005, there were only five women of color general counsel. In 2010, there were 17 (approximately 3.41 percent of all Fortune 500 general counsels and 18.1 percent of the total number of women holding such positions). Despite these positive signs of forward movement, the majority of female attorneys of color continue to face barriers that thwart their ability to achieve their full potential. Unfortunately, female attorneys of color are more likely than other groups to be sidetracked by obstacles that limit their opportunities for success early on in their careers. For example, female attorneys of color:

- Have the highest attrition rate of any group of attorneys;¹
- Are more likely than any other group to experience exclusion from other employees based on racial and gender stereotyping;²
- Are most likely to feel the need to make adjustments to fit into the workplace;³ and
- Are more likely to cite dissatisfaction with current levels of work and access to high-profile client assignments relative to experience.⁴

Overview

The American Bar Association (ABA) and its constituent entities continue to work tirelessly to effect the change that will eventually eradicate the inequities that disproportionately impact diverse and underrepresented groups in society at large. The ABA Commission on Women in the Profession, through its Women of Color Research Initiative, is contributing to this effort by giving female attorneys of color a platform from which to tell their unique stories, in their own words. This groundbreaking project was designed to:

- Shine an unforgiving light on the inequities affecting female attorneys of color, particularly in the areas of compensation and career advancement;
- Identify the root causes of these inequities;
- Develop replicable strategies that women of color in all areas of the legal profession can use to advance their careers; and
- Offer practical suggestions and recommendations to legal employers across all sectors that will enable them to better address the needs of the diverse female attorneys they employ, which, ultimately, will enhance their retention of these attorneys.

In phase I of the Women of Color Research Initiative, the Commission examined the diversity dynamics of female attorneys of color in law firm settings. The findings of this study are detailed in the 2006 report entitled, Visible Invisibility: Women of Color in Law Firms.⁵ This phase focuses on the experiences of women of color in corporate law departments.

Women of color bear what some describe as “dual burdens” of minority status. The goal of this and the Commission’s 2006 study is to elicit data specific to the impact that race/ethnicity and gender have on the career mobility of female attorneys of color, particularly in relation to recruitment, hiring, retention, and advancement. In fact, it is the cyclical and interdependent relationships among these four major aspects of an attorney’s career that are the central focus of this report. Female attorneys
of color are caught in a Catch-22 of sorts: they have to be recruited, hired, and retained to advance to leadership positions. Yet, without significant female attorneys of color already in leadership to help pave the way, organizations are not always ready to facilitate such advancement. Therein lies the challenge before us—growing and developing the number of female attorneys of color from entry-level to leadership positions.

This phase of the ABA Commission on Women in the Profession’s initiative takes an in-depth look at the career experiences of women of color in relation to the experiences of their white male, white female, and men of color counterparts in corporate legal settings. The Commission’s study of the combined impact of race, ethnicity, and gender on the career mobility of women of color in law firm and law department settings has produced a plethora of data on the subject. Building on the work of other organizations, the Commission’s Women of Color Research Initiative has worked to develop a comparative study that will be the most comprehensive, systematic, and authoritative research conducted on the subject to date. The goal is to examine the underlying systemic and cultural factors that continue to prevent female attorneys of color from achieving their full potential, and to identify practical and accessible solutions that can be applied across all legal practice sectors.

How does the Commission accomplish this? For starters the right questions must be asked: Is there a difference in success for women of color in corporate law departments measured both quantitatively and qualitatively, compared to white men, white women, and men of color? How do women of color compare their experiences in corporate law departments to those of white men, white women, and men of color? How much of their experience can be attributed to race, ethnicity, gender, or a combination thereof? What are the retention and attrition rates for women of color in corporate law departments, and what are the factors that cause women of color to leave? Are the reasons that cause women of color to leave different from those of white men, white women, or men of color? What strategies do women of color in corporate law departments use that lead to career success? Do these strategies differ from those of white men, white women, and men of color? And finally, how do the answers to these questions compare to those of female attorneys of color in law firms, as explored in our previous study?

Methodology

The current phase of the Commission’s Research Initiative explores the diversity dynamics of female attorneys of color in Fortune 500 law departments. It is based on the results of a national online survey of more than 1,000 respondents conducted from October 2010 through February 2011. The survey targeted a broad cross-section of both current and former Fortune 500 in-house attorneys of both genders and all racial and ethnic backgrounds, which enabled the Commission to draw out a range of perspectives and experiences. The survey responses provided both quantitative and qualitative information on how the confluence of gender, race, and ethnicity affects the work lives of female attorneys of color in corporate law departments. The final version of the survey consisted of 52 questions that were designed to elicit responses on a variety of topics. The Commission on Women engaged the services of Nextions (formerly The Athens Group), a nationally-recognized, Chicago-based firm specializing in diversity and inclusion strategic consulting, leadership development, and executive coaching, to conduct the underlying research for this study.

The survey sample was self-selected; thus, the respondents were not randomly chosen to participate. The total number of respondents in the survey sample who identified their gender was 784: 577 (74 percent) women and 207 (26 percent) men. Many of the survey respondents disclosed their race or ethnicity but some did not, making it impossible to determine exact percentage breakdowns of these subsets within the broad gender categories noted above. However, based on the demographic information obtained from those respondents who chose to self-identify, it is known that at least 386 were white women, 186 were women of color, 155 were white men, and 50 were men of color. In short, 541 were white attorneys and 236 were attorneys of color.
Summary of Findings

The survey responses, in many ways, confirmed what the Commission, from its previous work on these issues, already suspected—that female attorneys of color in the corporate sector face many of the same issues and obstacles as their women of color counterparts in law firms, including the negative impact of bias and stereotypes on their careers. Survey responses were varied and often fell along racial, ethnic, and/or gender lines. However, in a few instances, no discernible experiential difference between groups was found.

Relative to the issue of mentoring, for example, 18 percent of women of color and 19 percent of white males reported that they had no formal mentors. The underlying reasons for their lack of mentors varied. Women of color were more likely to be without a mentor due to an inability to establish relationships with senior attorneys, who are overwhelmingly white males. White men were more likely to be without a mentor due to a belief that they could succeed on their own and did not need a mentor to advance.

However, the survey responses also highlighted some distinctions between the experiences of female attorneys of color in law firms and those in the corporate arena, including greater overall job satisfaction and improved (though not perfect) work-life balance and integration policies for women of color in-house. The majority of the women of color surveyed in the law department study believed that their experiences of career-related bias are based on a combination of racial, ethnic, and gender factors. Of all of the groups surveyed, women of color reported the most consistent levels of discrimination across race, ethnicity, and gender. They were more likely to report higher levels of discrimination based on race and/or ethnicity than their white counterparts and greater levels of gender bias than their male colleagues.

Recruitment and Hiring

As was the case in the Commission’s law firm study, the majority of the women of color participating in the law department survey reported a negligible influence of overt bias at the recruitment and hiring stages. Respondents in both studies reported a more insidious influence of bias during the mid- to later stages of their careers. This is particularly true for women of color, who have the highest attrition rate of all groups surveyed.

Recruitment is the first step in developing a strong talent pool of attorneys of color. As a threshold issue, unfortunately, the pipeline into the profession has become increasingly less diverse in the last 10 years. The number of women and minorities entering law school has dwindled significantly, resulting in a diminished pool of diverse candidates eligible for recruitment into the profession. The tepid economy has further debilitated what was already a weak stream of minorities and women primed and ready to move into entry-level legal positions.

Minority attorneys currently comprise only 10 percent of the legal profession. What is turning diverse attorneys, particularly women of color, away from the profession? Some argue that women’s slow rate of progress in reaching leadership levels may deter young women of color from enrolling in law school. Others argue that disparities in compensation between male and female attorneys—which can result in a cumulative difference of $2 million over the course of a lawyer’s career—have discouraged women of color from choosing law as a career.

Women of color in corporate law departments are the least likely of all groups to be hired at top executive or senior management levels and the most likely to be hired at junior levels. Commensurately, women of color are most likely to be hired at salary scales lower than their white female and all male counterparts, across almost all pay categories.
Retention

Law firms especially struggle with retaining diverse attorneys. In fact, retention of talented minorities has proven to be the most problematic phase of the career continuum for women of color, as evidenced by their extraordinarily high attrition rate from law firms. Women of color make up 17 percent of associates who leave their firms in their third year. Aside from not feeling valued and appreciated, women of color leave law firms for a variety of reasons, including not feeling supported (22 percent), the inability to establish mentorship relationships (21 percent), feeling isolated and marginalized (16 percent), and being subjected to stereotypes and discrimination (11 percent). Corporate law departments have been able to capitalize on this dissatisfaction and have successfully lured away record numbers of women of color who are looking for opportunities to advance their careers in more welcoming environments than those law firms have been able to offer.

The women of color surveyed highlighted some positive distinctions between their experiences in law firms and in corporate law departments, including the:

- Opportunity offered by their corporate law departments to broaden their expertise beyond the law into the business side of their companies;
- Ability to develop more intimate, meaningful relationships with clients; and
- Opportunity to escape the pressures of stringent billable hours requirements and establish a better work-life balance.

Although most were pleased with their decision to leave law firms for in-house practice, women of color reported being less satisfied with their decision than their white counterparts. Seventeen percent of female attorneys of color reported that they were extremely satisfied with their decision to work for a Fortune 500 company, compared to 48 percent of white males. Fourteen percent of women of color reported that they were satisfied with their decision to work for a Fortune 500 company, compared to 37 percent of white males. Eleven percent of women of color reported being dissatisfied with their decision to move in-house, compared to just 7 percent of white males.

According to survey responses, female attorneys of color were more likely than white male attorneys to leave their Fortune 500 law departments to gain greater experience and to obtain better work-life integration. The disparity in these statistics points to a fundamental difference in the experience of female attorneys of color and their white counterparts.

Respondents in both the Commission’s law firm and law department studies noted the difficult choices and trade-offs that attorneys have to make to achieve a reasonable balance between their professional and personal lives. Concerns about, and dissatisfaction with, quality of life issues drove many of the respondents in the current study to leave their law firms for in-house jobs. The flexibility in scheduling and reduced pressure to meet billable hours requirements offered by in-house work enable women, particularly female attorneys of color, to better manage child care and other family-related obligations. Women of color have long had to deal with the misperception that they leave law firms because they want to avoid hard work. On the contrary, they are seeking ways to work smarter—ways that will enable them to have fulfilling careers without neglecting their families. Legal employers that offer female attorneys of color greater options in developing and advancing their careers without shortchanging their familial obligations will ultimately have greater success in retaining these employees (and others as well).

Survey respondents identified several factors that they believe would have a positive effect on their careers. Thirty-seven percent indicated that increased gender diversity would improve their career satisfaction. Twenty-three percent stated that more consistency in the implementation of alternative work policies would have a positive impact.

The respondents in our current study identified several problematic areas in corporate law departments, including limited or no access to networks (internal and external), unfair performance reviews, less-than-transparent promotion policies and procedures, disparity in pay, and the lack of mentors and sponsors willing to advocate on their behalf. The latter issues, compensation and mentoring and sponsorship, are issues that thread throughout a woman of color’s career, from beginning to end. As can be expected, all play a significant role in determining career success and affecting lawyers’ decisions to stay in—or leave—their jobs.
Executive Summary

Mentoring

The difficulty that women of color encounter in building professional relationships affects their careers in profoundly negative ways the further removed they are from law school. Women of color are often perceived as “flight risks”—not worth the investment of time and resources for career development. Ironically, it is this very type of investment that would most likely stem the tide of attrition among this group of attorneys. Moreover, women of color are more likely to come from less privileged and less moneyed backgrounds and are also more likely to be the first in their families to graduate college and law school. As a result, they often lack access to connections, support, and guidance from influential friends, family members, and business associates. Lack of access to these crucial career-enhancing relationships can mean the difference between career success and career stagnation.

Further, mentoring (or the lack thereof) can affect a lawyer’s ability to navigate successfully other notable trouble spots that arise at the retention stage for female attorneys of color, including limited or no access to important networks, unfair performance evaluations, access to quality assignments, and denial of promotion opportunities. As was noted in the Commission’s study of women of color in law firms, lack of access to networks, the inability to obtain quality work assignments, and limited opportunities for advancement may be the “critical differentiating factors in the careers of men and women, and especially women of color.”

The women of color respondents in the Fortune 500 study were hungry for mentors who often did not materialize. Many respondents in the law department survey found formal mentoring programs to be ineffective. Twenty-five percent of female attorneys of color surveyed had formal mentors. Those who had formal mentors were less likely to have white male mentors, which, in effect, limited their access to the influential powerbrokers in their departments.

Most of the survey respondents regardless of race, ethnicity, or gender believed that they received the most beneficial mentoring through informal channels. Many indicated a preference for mentoring relationships that developed “naturally” over time rather than more “forced” relationships established via formal mentoring programs. Twenty-two percent of female attorneys of color reported having informal mentors. As was the case with formal mentoring, female attorneys of color were less likely to be informally mentored by white male attorneys.

Fortune 500 companies offer mentoring options that law firms do not, namely, the opportunity to develop relationships and form alliances with mentors on the business side of the company. These mentors can serve as outside advisors who can help protégés navigate politically sensitive situations. They can also assist protégés in broadening their knowledge about the non-legal, business end of the company, thus grooming them for corporate advancement. Women of color generally reported access to mentors but less ultimate career success, a finding indicating that, while women often have many mentors, they have few sponsors—the influential leaders who can help ensure promotion and maximum career success.

Compensation

Complicating this scenario even more is the issue of compensation, which negatively impacts female attorneys of color at every juncture of their careers, in a variety of ways. The disparity between the salaries of male and female attorneys, particularly female attorneys of color, is compounded over time and affects not only base salary but bonuses, benefits, and retirement as well.

Fair and equitable pay is the clearest, strongest measurement of the value that an employer places on an attorney and her abilities. Thus, compensation is the prism through which bias—both overt and subtle—against female attorneys of color can be measured. Furthermore, it is the most obvious metric by which to effectively judge the progress being made toward the achievement of parity between female attorneys of color and their white male counterparts.

Disparities in compensation related to salary, bonuses, benefits, and retirement have a ripple effect on the recruitment, hiring, retention, and ultimate advancement of women and women of color attorneys, and contribute
significantly to the high attrition rate among these groups. Female attorneys of color are at a distinct salary disadvantage from the day they accept their first job. This income disparity (typically a 25 percent difference between women of color and white men) grows disproportionately over the course of a lawyer's career. One commentary noted that “what starts as a $2,000 annual gap between male and female associates accelerates to a $66,000 annual gap between male and female equity partners.” Fairness issues related to pay can also have a negative impact on hiring, causing women of color to choose alternative employment where they feel more valued. Finally, the negative relationship between money and maternity cannot be dismissed, as having children does not disadvantage men; in addition, women of color are more likely than white women to be sole breadwinners and typically come from less affluent backgrounds, have fewer resources, and face more demands on their finances and time.

As female attorneys of color move through their careers, compensation becomes a more critical issue. Further exacerbating the situation is the documented fact that women are less likely than men to negotiate salary. Women are often reluctant to ask for what they are worth for fear of being labeled “pushy,” “demanding,” or “aggressive.” This reluctance puts them at a disadvantage relative to compensation. Female attorneys of color, who are generally the least supported of any group, are even more handicapped when it comes to salary negotiation. They are consistently at the bottom of the salary totem pole, despite the fact that they are disproportionately the sole breadwinners in their households, with more demands placed on their limited resources.

Unlike their white male counterparts, who also tend to be the sole breadwinners, female attorneys of color do not typically have the same level of spousal support to fall back on, particularly as it relates to child and elder care. Because they are often the sole or primary provider in their families, salary negotiation is a trickier, more delicate proposition for them. In addition to being saddled with negative labels, they often fear that, if they ask for “too much,” they risk losing job opportunities that are essential to the support of their families. Likewise, they often have the fewest options to quit a professionally unrewarding job. This is an area where effective mentoring can make a meaningful difference but, unfortunately, is often lacking.

A good mentor will give his or her woman of color protégé the push needed to get to the next level through high-priority assignments and entrée into influential networks, which will, in turn, position her to receive positive performance reviews and promotions. A sponsor will help drive his or her protégé up the ladder of career success. Ultimately, this type of career development will help the protégé establish the necessary credentials to increase her value to potential employers. Moreover, female attorneys of color with these advantages will be better able to showcase themselves successfully during job interviews and performance evaluations. Unfortunately, female attorneys of color rarely receive this type of guidance, significantly diminishing their chances for career and salary growth, and further sowing the seeds of discontent, which often lead to attrition.

Advancement

The high levels of attrition and entrenched problems with retention (including issues of tokenism, stereotypes, double standards, and perceptions of incompetence) have placed a stranglehold on the pipeline of diverse female attorneys feeding into the leadership ranks of the profession. Therefore, it should come as no surprise that the pool of female attorneys of color groomed to ascend to leadership is severely limited. This fact, coupled with historical problems with bias in the promotion process, has resulted in a dearth of female attorneys of color in positions of authority. Four percent of female attorneys of color reported being denied promotion or advancement due to race or ethnicity, compared to 1 percent of white male attorneys and male attorneys of color, and 0.6 percent of white female attorneys. Likewise, 4 percent of female attorneys of color reported being denied promotion or advancement based on gender, compared to 2 percent of white male attorneys, 0.1 percent of male attorneys of color, and 13 percent of white female attorneys.

Female attorneys of color reported more consistent levels of negative bias across racial, ethnic, and gender categories, further demonstrating the impact of these factors on their careers. The majority of respondents surveyed indicated that they would leave their employment with a Fortune 500 law department to obtain a salary increase and to take
advantage of an advancement opportunity. Women of color reported a significant likelihood of leaving to avoid barriers to advancement (23 percent), obtain experience not otherwise available to them (19 percent), and take advantage of an advancement opportunity (18 percent).

Finally, as women of color seek promotion to leadership levels, the inextricable connection between compensation and advancement becomes even more evident. Compensation disparities at this level manifest themselves in the form of disputes over salary negotiation, transparency, and client succession. Women of color must be able to master the art of salary negotiation; otherwise, they stand to lose more than half a million dollars by the end of their professional careers.

**Bias and Inequity in the Workplace**

Workplace bias manifests itself in various ways. Respondents were asked to rate the level of bias they experienced in the following categories:

**Table I Categories of Bias Reported**

<table>
<thead>
<tr>
<th>Category of Bias</th>
<th>Race/Ethnicity</th>
<th>Gender</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experienced demeaning comments or other types of harassment</td>
<td>9%</td>
<td>26%</td>
</tr>
<tr>
<td>Missed out on desirable assignments</td>
<td>6%</td>
<td>19%</td>
</tr>
<tr>
<td>Experienced one or more forms of discrimination</td>
<td>10%</td>
<td>26%</td>
</tr>
<tr>
<td>Lacked access to informal/formal networking opportunities</td>
<td>9%</td>
<td>27%</td>
</tr>
<tr>
<td>Received unfair performance evaluations</td>
<td>5%</td>
<td>11%</td>
</tr>
<tr>
<td>Denied promotion or advancement</td>
<td>7%</td>
<td>19%</td>
</tr>
<tr>
<td>Treated differently than peers</td>
<td>9%</td>
<td>24%</td>
</tr>
<tr>
<td>Lacked access to information negatively affecting ability to perform</td>
<td>4%</td>
<td>13%</td>
</tr>
<tr>
<td>Lacked access to resources negatively affecting ability to perform</td>
<td>17%</td>
<td>9%</td>
</tr>
</tbody>
</table>

**Table II Amount of Racial and Ethnic Bias Reported by Category and Demographic Group**

<table>
<thead>
<tr>
<th>Racial/Ethnic Bias</th>
<th>Women of color</th>
<th>White women</th>
<th>White men</th>
<th>Men of color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experienced demeaning comments or other types of harassment</td>
<td>6%</td>
<td>0.8%</td>
<td>0.5%</td>
<td>0.9%</td>
</tr>
<tr>
<td>Missed out on desirable assignments</td>
<td>3%</td>
<td>0.7%</td>
<td>0.6%</td>
<td>0.1%</td>
</tr>
<tr>
<td>Experienced one or more forms of discrimination</td>
<td>6%</td>
<td>0.5%</td>
<td>1%</td>
<td>2%</td>
</tr>
<tr>
<td>Lacked access to informal/formal networking opportunities</td>
<td>6%</td>
<td>0.6%</td>
<td>0.7%</td>
<td>2%</td>
</tr>
<tr>
<td>Received unfair performance evaluations</td>
<td>3%</td>
<td>0.2%</td>
<td>0.2%</td>
<td>1%</td>
</tr>
<tr>
<td>Denied promotion or advancement</td>
<td>4%</td>
<td>0.6%</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>Treated differently than peers</td>
<td>5%</td>
<td>0.5%</td>
<td>0.7%</td>
<td>2%</td>
</tr>
<tr>
<td>Lacked access to information negatively affecting ability to perform</td>
<td>3%</td>
<td>0.7%</td>
<td>0.2%</td>
<td>0.7%</td>
</tr>
<tr>
<td>Lacked access to resources negatively affecting ability to perform</td>
<td>2%</td>
<td>0.3%</td>
<td>0.2%</td>
<td>0.4%</td>
</tr>
</tbody>
</table>

**Table III Amount of Gender Bias Reported by Category and Demographic Group**

<table>
<thead>
<tr>
<th>Gender Bias</th>
<th>Women of color</th>
<th>White women</th>
<th>White men</th>
<th>Men of color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experienced demeaning comments or other types of harassment</td>
<td>6%</td>
<td>18%</td>
<td>0.7%</td>
<td>0.2%</td>
</tr>
<tr>
<td>Missed out on desirable assignments</td>
<td>4%</td>
<td>13%</td>
<td>1%</td>
<td>0.2%</td>
</tr>
<tr>
<td>Experienced one or more forms of discrimination</td>
<td>7%</td>
<td>17%</td>
<td>2%</td>
<td>0.2%</td>
</tr>
<tr>
<td>Lacked access to informal/formal networking opportunities</td>
<td>7%</td>
<td>18%</td>
<td>1%</td>
<td>0.2%</td>
</tr>
<tr>
<td>Received unfair performance evaluations</td>
<td>3%</td>
<td>7%</td>
<td>0.6%</td>
<td>0.1%</td>
</tr>
<tr>
<td>Denied promotion or advancement</td>
<td>4%</td>
<td>13%</td>
<td>2%</td>
<td>0.1%</td>
</tr>
<tr>
<td>Treated differently than peers</td>
<td>6%</td>
<td>16%</td>
<td>1%</td>
<td>0.2%</td>
</tr>
<tr>
<td>Lacked access to information negatively affecting ability to perform</td>
<td>3%</td>
<td>9%</td>
<td>0.4%</td>
<td>0.1%</td>
</tr>
<tr>
<td>Lacked access to resources negatively affecting ability to perform</td>
<td>3%</td>
<td>6%</td>
<td>0.3%</td>
<td>0.2%</td>
</tr>
</tbody>
</table>
Respondents indicated gender bias as the primary form of bias that affects their professional careers in all but one category. Women, more than their male counterparts, identified gender as having the greater negative influence on their careers in these categories. As one woman stated, “I have to work harder to make up for being a female.” White women were more likely to indicate gender as the most prevalent form of bias affecting their careers in these categories. However, attorneys of color cited race and ethnicity as having greater negative effects on their careers than did non-minority respondents. Moreover, women of color were more likely to consistently report the negative effects of racial, ethnic, and gender bias combined across all bias categories. White male attorneys were most likely to report low levels of bias in these categories. For the most part, the respondents’ perceptions of bias and the impact of bias on their careers cut across racial, ethnic, and gender lines.

### Special Note on Bias: Reverse Discrimination

The report includes a Special Note on Bias addressing the topic of “reverse discrimination.” A small number of respondents in the Commission’s law department study raised the issue of diversity-based hiring practices as a form of reverse discrimination. This notion is based on the false assumption that diverse candidates are inherently less qualified and, conversely, that white males are inherently qualified. The data derived from both the Commission’s law firm and law department studies, as well as other well-respected studies conducted on the topic, tell the story of the real and significant inequities that persist between minorities and non-minorities. These inequities belie the claims that women of color are reaping undeserved advantages at the expense of their white male counterparts.

The truth is that women of color face less fulfilling careers, with consistently lower compensation, bonuses, and benefits, and also direct and indirect racial, ethnic, and gender bias and stereotyping on a daily basis. The statistics do not lie:

- Women of color attorneys have the highest attrition rate of any group;
- Women of color attorneys lag well behind other groups in compensation from the beginning to the end of their careers; and
- Women of color attorneys have the least access to mentors and important networks that facilitate career development.

Corporate legal employers must be prepared to respond to claims of reverse discrimination in intelligent ways if they seek to prevent such claims from derailing diversity initiatives in their companies.

### Conclusion

The Commission believes that this phase of the Women of Color Research Initiative will play a role in leveling the playing field for women of color working in-house. Given the influence that in-house counsel can have on law firms, the Commission also believes that the work of its Research Initiative can have a critical influence on improving retention and advancement of women of color in law firms.

The findings of this report indicate that many respondents left law firm practice for greater career satisfaction in-house. In-house lawyers hire outside law firms, thus providing corporate law departments with the opportunity to improve diversity not only within their own ranks but also among the law firms, and outside lawyers, they hire. Corporate law departments are in a unique position to insist that their outside counsel be represented by diverse teams of lawyers that include women of color and that these diverse lawyers receive the training, visibility, and origination and billing credit that will ensure their career success.

The substantial statistical and anecdotal data derived from the survey responses enable the Commission to compare and contrast the wide-ranging experiences of women of color. It is through these comparisons that the Commission is able to identify and isolate the hot-button issues affecting diverse women throughout the profession and, ultimately, to suggest strategies to ameliorate the disparities that continue to exist between women of color and their non-minority counterparts. The suggestions and recommendations that are offered here are intended...
as a jumping-off point for corporate legal employers who are serious about creating and maintaining a diverse and fully inclusive work environment that supports the unique needs of female attorneys of color. The strategies highlighted in this report are meant to elicit thoughtful, creative, and meaningful solutions to problems that have their roots in this nation’s historical struggle with racism, sexism, and discrimination.

Women of color bear the brunt of dual minority status in significant ways. They are the repository for every stereotype, negative bias, and low expectation associated with race, ethnicity, and gender. More than any other group, their intellect, abilities, and professionalism are routinely questioned and second-guessed, often in the subtle and poorly understood ways that stereotyping, unexamined bias, and unearned privilege are expressed. Women of color are underdogs who, as the Commission’s work has shown, are consistently underpaid, underesti-mated, and undervalued. Sadly, female attorneys of color often are treated as second-class citizens in a profession that ironically is charged with the responsibility of ensuring justice and equality for all.

Women of color are disproportionately more likely to be single parents, sole providers, with little or no back-up financial support and limited options for the significant demands arising from care of children and elderly par-ents. Due to these constraints, many feel that they have no choice but to suffer in silence in work environments that do not embrace their diversity. They are, in essence, trapped in dead-end positions that are essential to their livelihood but do not nourish their intellect or career as-pirations. Moreover, female attorneys of color are at once visible and invisible. Their visibility breeds both contempt and subtle (and not so subtle) acts of discrimination, while their invisibility breeds neglect. Further, they must often contend with these issues alone, with no one to mentor them and advocate on their behalf. The ABA Commission on Women in the Profession joins those other organizations that have been working to champion the cause of female attorneys of color—to be their voice. The Commission’s goal is to bring about the change in the profession that will finally level the playing field for women of color, putting them on a par with their non-diverse colleagues, both professionally and financially.

It is the Commission’s hope that Fortune 500 law depart-ments will use the information and comments provided throughout this comparative study as a guide to aid them in supporting female attorneys of color as they strive to reach their full potential. With thoughtful policies and commitment, corporate law departments can avoid the missteps of their law firm brethren, which have resulted in the attrition of significant numbers of disenchanted women of color. Instead, law departments must con-tinue to maintain those areas that make them attractive to attorneys seeking an alternative to law firm life and strengthen those areas that the respondents in the study have identified as problematic. Furthermore, because of their unique relationship with outside counsel, law depart-ments have an opportunity to positively influence law firms in their struggle to retain talented women and minorities. If law departments are able to do this, growing numbers of female attorneys of color will be seen in the partnership ranks of law firms and the general counsel suites of major Fortune 500 law departments in the very near future.

In 1994, the chief legal officers of approximately 500 major corporations signed their commitment to a docu-ment entitled, Diversity in the Workplace—A Statement of Principle. Roderick Palmore, then Executive Vice President, General Counsel, and Secretary of Sara Lee, created the “Call to Action” initiative. In it, he asked the corporate signatories to commit to increasing diversity in their own law departments as well as in the law firms that they engaged as outside counsel. “Call to Action” was a highly visible catalyst for change in corporate law depart-ments throughout the country for many years. However, the commitment to diversity appears to be leveling off, as evidenced by some of the findings of our current study.

Studies demonstrate that organizations that embrace diversity achieve greater success and better performance. To attract and retain the best and the brightest legal talent, and enhance opportunities for the greatest success, corporate law departments (and law firms) must work to reduce attrition and promote the career satisfaction of all lawyers. The recommendations that follow address the concerns respondents raised in the Commission’s study on women of color in Fortune 500 law departments and provide strategies that will help ensure the success of this group of attorneys well into the future.
Recommendations

In *Visible Invisibility*, its study of women of color in law firms, the Commission proffered the following solutions to assist law firms in integrating women of color into existing diversity, retention, and professional development efforts:

- Address the success of women of color as a firm issue.
- Integrate women of color into existing measurement efforts.
- Integrate women of color into the firm’s professional fabric.
- Integrate women of color into the firm’s social fabric.
- Increase awareness of issues of women of color through dialogue.

- Support women of color’s efforts to build internal and external support systems.
- Comply with anti-discrimination and anti-harassment policies and hold people accountable for noncompliance.\(^{12}\)

These suggested strategies are just as relevant now as they were then and apply equally to corporate law departments. Fortune 500 companies are encouraged to review and incorporate these suggestions into their existing diversity programming. In addition to these strategies, the Commission offers the following recommendations to the leadership of corporate legal departments as a result of its work on this phase of its Women of Color Research Initiative.

Overall

Formulate and implement a comprehensive diversity and retention plan.

- Involve leaders at top levels of the company in developing a comprehensive plan that integrates diversity and inclusion into all aspects of the department’s functions by using metrics to create a baseline and implement programs designed to stem attrition and foster teamwork and inclusion.
- Integrate the ability to develop and advance all groups of people as a leadership competency.
- Task department leaders with developing a plan for creation of affinity groups, a key to a comprehensive diversity and retention plan. Such affinity groups can include women of color from both the legal and business sides of the organization. The support and camaraderie that affinity groups offer can help to counter the feelings of isolation and marginalization reported by many women in both law firms and corporate law departments.
- Use affinity groups to foster networking, and provide a forum for professional development, educational services and training, community outreach, and mentoring to its members, as well as to identify challenges in the culture of the organization.
- Actively communicate the notion that diversity breeds excellence and that the two are not mutually exclusive concepts.
- Communicate to all members of the legal department through its mission statements and formal diversity policies that diversity, done right, breeds excellence by bringing together the best and brightest from all demographic groups.
- Nip concerns about reverse discrimination in the bud. Underlying such concerns is the assumption that the women and minorities are inherently unqualified—and that every white male is qualified. Through consistent messaging about the value of diversity and visible action in furtherance of inclusive policies, law departments can move the reverse discrimination issue from a discussion of exclusion to one of inclusion.
- Hold department leaders accountable for ensuring diversity of their legal teams, as well as for their outside counsel.
- Identify ways to integrate diversity into ongoing discussions of departmental excellence and employee engagement.
Executive Summary

Hiring and Recruitment

Develop a comprehensive plan for recruiting and hiring a diverse staff to make maximum use of the talent pool.

- Leverage women's and minority-based affinity groups and bar associations to recruit diverse candidates.
- Strengthen ties with law school administration, faculty, and student organizations, and increase the amount of time and resources allotted to on-campus interviews, given that female attorneys of color appear to rely more heavily on law school-related resources than other groups to secure their first in-house job.
- Broaden the pipeline to include high potential applicants from law schools with a high proportion of minorities and women.
- Use minority student organizations, such as the Black Law Student Association, Hispanic Law Student Association, and the Asian/Pacific American Law Student Association, as on-campus resources of diverse talent.
- Increase outreach through job-posting and other opportunities on national and local bars with a focus on diverse attorneys.
- Conduct outreach at specialty bar associations and diversity-focused events.

Retention

Offer regular and meaningful opportunities for law department members to work and socialize across racial, ethnic, gender, and generational boundaries.

- Encourage development of informal relationships and mentorship opportunities by providing regular and ongoing opportunities for law department members to interact both on a department-wide basis and in smaller practice-based groups and to interact with clients on the business side of the company. Social interaction can take a variety of forms, ranging from formal breakfasts, luncheons, and dinners to informal “meet-and-greets,” team-building activities, and law department gatherings for members’ families.
- Encourage senior law department members to drop by the offices of their women of color colleagues to ask how they are doing and to offer assistance, if needed.
- Establish and use affinity groups to help train and educate existing staff on diversity issues and cultural sensitivity.
- Identify ways in which leaders can be held accountable for giving adequate and effective feedback to women of color.

Develop a consistent, top-down, zero-tolerance policy toward acts of workplace bias against women of color, both subtle and overt, and be prepared to have hard conversations with staff regarding expectations of fairness and accountability.

- Develop an accessible, yet confidential, reporting structure through which violations of anti-bias policies can be communicated and investigated. Women of color must feel comfortable in reporting acts of bias without fear of retaliation or negative repercussion on their careers.
- Identify clearly defined consequences for the violations of these policies that are applicable to every member of the law department regardless of where they fall in the hierarchy. An anti-bias policy is only as strong as its enforcement.

Develop effective work-life balance and integration programs.

- There is often a stigma associated with the use of work-life balance/integration programs, especially for female attorneys. For such programs to be utilized and effective, legal employers must ensure that these programs are stigma-free and gender neutral, and available to all.

Develop policies that ensure that all members of the legal department have equal access to information and resources.

- Female attorneys of color often lack access to informal mentors and networks that provide valuable information and opportunities for advancement, including good work assignments, which can make a tremendous difference in whether the attorney ultimately achieves success. As such, it is imperative that deliberate measures be taken to ensure that all legal department members are included and involved in activities that are valued and accessible by all.
• All female attorneys should have equal access to the tools and information necessary to perform her job and thus achieve success.

**Develop systems that review assignments and ensure that all attorneys are receiving access to high quality assignments and training.**

• Access to high quality work assignments is the lifeblood for a successful career as a lawyer. However, due in large part to unintentional bias, access is often based on whom the assigner knows or is comfortable with—usually another male attorney. In this way, it is imperative that department leaders develop more equitable and objective mechanisms for disseminating and reviewing work assignments across their legal teams.

• The source of work assignments is also important. Assignments from influential individuals often provide higher visibility and the most gains.

• Efforts should be made to ensure that all attorneys receive similar training opportunities on legal, business, and other issues important to the company.

**Provide ongoing education and training on cultural disparities and sensitivities, particularly those affecting women of color.**

• Engage in ongoing education and training on issues of bias, especially unconscious bias. The goal is to create a common ground of understanding through dialogue and shared experience.

• Provide training to all employees on subconscious bias and stereotyping and the importance of an inclusive workplace to the success of the company.

**Advancement**

**Develop transparent, bias-free performance evaluation systems, and clearly communicate benchmarks and performance standards to all members of the legal department.**

• Develop and monitor metrics to measure success in improving retention and diversity.

• Appoint a representative team to design and implement a bias-free evaluation process.
  
  • Develop job descriptions and objectives that identify the knowledge, skills, and abilities necessary for each class or job level.
  
  • Develop job-related competencies.
  
  • Implement an attorney self-evaluation process.
  
  • Implement an upward review process to help identify possible biases or tendencies that might indicate unconscious bias or exclusion. For example, does a senior lawyer have lunch only with people of his or her gender or race?
  
  • Establish and publish a bias-free performance evaluation policy and process.
    
    • Establish how often the formal evaluation process will be conducted.
    
    • Educate the department about the policy and process through department-wide meetings.
  
• Observe buy-in by assisting the benefits of this policy and connecting it to department or company objectives and its cost savings as a result of lower attrition and greater employee satisfaction.

• Work with mentors to implement the policy and evaluation process.

• Train personnel about how to conduct bias-free evaluations.

• Review evaluation forms to identify unconscious bias. For example, do comments reflect gender bias or leniency bias, which rates certain lawyers higher than their performance would indicate is appropriate or that assumes that a man’s mistakes are evidence of potential but a woman’s errors of the same type mean that she is not capable?

• Encourage informal feedback on a regular basis, outside of the formal evaluation process.

• Provide constructive feedback on performance and training and advice on how to improve performance and bolster areas where additional expertise is warranted.

**Develop transparent strategies for equitable succession planning.**

• Develop criteria for making decisions about who will succeed retiring attorneys or upper level attorneys who leave the law department to help ensure that such
decisions are made fairly, that all qualified candidates are given equal consideration, and that decisions are not made based on personal relationships or without consideration of diversity and objective factors.

- Develop a process and objective factors to ensure that female attorneys of color are afforded the same critical developmental opportunities as lawyers in other groups that will groom them for leadership. This requires a more strategic approach of viewing their career progression as a series of incremental steps toward a particular career-related goal (i.e., general counsel) to ensure that each step or rung of the ladder prepares them adequately for the next phase.

Compensation

Implement processes that ensure that compensation decisions are made fairly and with transparency.

- Appoint compensation committees that reflect the diversity of the department and its commitment to diversity.
- Compare compensation, including salary, bonuses, options, and benefits, across all demographic groups in the department. Use these statistics to create a baseline and measure progress toward equalizing pay for comparable work year on year.
- Use objective metrics to help ensure that all attorneys in a certain class or level are paid equally for comparable work, regardless of race, ethnicity, or gender.
- Eliminate organizational structures and policies that may unintentionally disadvantage female attorneys of color (e.g., focus on actual performance, not how and where the work is performed, etc.).

Endnotes


3 Visible Invisibility, supra note 2, at 9. See also Pathways to Success for All, supra note 2, at 9-11.

4 Visible Invisibility, supra note 2, at 9. See also Women in Law, supra note 2, at 4; Pathways to Success for All, supra note 2, at 11.


6 The sample size of the men of color participating in the Fortune 500 law department study is small relative to the number of women of color, white women, and white men surveyed. Given the self-selected nature of the survey, this type of statistical anomaly can be expected. Notwithstanding the limited representation of men of color in the research sample, the overall methodology of the study is reliable, and the quantitative and qualitative data derived from the survey offers valuable insight into the experiences of the representative groups surveyed, including men of color.


11 Visible Invisibility, supra note 2, at 37-40.
Marie Oh-Huber, Michele Coleman Mayes, Kim Rucker, Sheri Edison, Sandra Leung, Nicole Jones, Elizabeth Moore, Teresa Sebastian, Kim Rivera, Teresa Roseborough, Elizabeth Abdoo, Maria Green, Gloria Santona, Elisa Garcia, Paulette Dodson, Paula Boggs, and Teri Plummer-McClure—as of October 2011, these 17 women of color were members of a small, exclusive club that has not always been accessible or welcoming to women or minorities. They led the law departments of Fortune 500 companies—Agilent Technologies, Allstate Insurance, Avon Products, Bemis, Bristol-Myers Squibb, Cigna, Consolidated Edison, Darden Restaurants, D-ite, Home Depot, Host Hotels & Resorts, Illinois Tool Works, McDonald’s, Office Depot, Sara Lee, Starbucks, and United Parcel Service, respectively. The success of these women is even more remarkable given the fact that they carry the yoke of double minority status in a profession that historically has lagged behind other professions in embracing diversity. Female attorneys of color have made undeniable inroads into the upper echelons of corporate legal practice; however, these inroads have not come easily. The 17 women of color mentioned here have beaten the odds and broken through what some now refer to as the “concrete ceiling” in the legal profession. Their achievements notwithstanding, the path to success in corporate legal departments is littered with the disappointments and frustrations of many talented women of color whose race, ethnicity, and gender make them highly visible in some ways but invisible in ways that can lead to the greatest career success.

Historical Data

- In 2000, 15 (2.8 percent) of the general counsel of Fortune 500 corporate law departments were minorities.
- In the early 2000s, attorneys of color represented less than 10 percent of the corporate counsel legal staff in the United States.
- In 2005, 28 (5.6 percent) general counsel of color ran Fortune 500 corporate law departments; this number was up from 26 (5.2 percent) in 2004.
- Seventy-six (15 percent) of Fortune 500 companies had a female general counsel in 2005. Five (1 percent) of those general counsels were women of color (Paula Boggs, Michele Coleman Mayes, Gloria Santona, Kellye Walker, and Andrea Zopp). Three of those women continued to lead Fortune 500 corporate law departments in early 2012.
- As of 2010, 43 (8.6 percent) of the companies listed on the Fortune 500 had a minority general counsel.
- In 2010, women represented 18.8 percent of general counsel at Fortune 500 companies. Women of color accounted for 3.4 percent of all Fortune 500 general counsels, or 18.1 percent of the women general counsels at Fortune 500 companies in 2010.
- Eleven of the 17 women of color heading Fortune 500 legal departments as of October 2011 were African American (an increase of four from 2010), three were Hispanic American (no change from 2010), and two are Asian American (an increase of one from 2010).

Exhibit A: Progression of Women of Color General Counsel in Fortune 500 Companies – Data Compiled by MCCA

As Exhibit A demonstrates, although these statistics represent promising improvement from prior years, the majority of female attorneys of color continue to face impediments and barriers that prevent them from achieving their full potential. Sadly, women of color are more likely than lawyers in other groups to be sidetracked by obstacles they cannot control—obstacles that conspire to derail their success.
Women of color attorneys have the highest attrition rate of any group of attorneys working in-house.14 Women of color are more likely than any other group to experience exclusion from other employees based on racial and gender stereotyping.15 Women of color are most likely to feel it necessary to make adjustments to fit in.16 Women of color attorneys more than other groups cited dissatisfaction with current levels of work relative to work experience, and with the level of access to high-profile client assignments.17

Concerned about the overwhelming challenges facing female attorneys of color, the American Bar Association’s (ABA) Commission on Women in the Profession (Commission) established its Women of Color Research Initiative in 2003. After analyzing the experiences of female attorneys of color in law firms in its widely heralded 2006 report, Visible Invisibility: Women of Color in Law Firms,18 the Commission’s Women of Color Research Initiative embarked on another groundbreaking study. The purpose of this study was to shine a light on the inequities confronting female attorneys of color in-house, particularly as they relate to retention, compensation, and opportunities for advancement. In pursuing this phase of its work on female attorneys of color, the Commission thus sought:

- To identify the root causes of these inequities;
- To develop replicable strategies that women of color in all areas of the law can use to propel their careers forward; and
- To offer practical suggestions and recommendations to legal employers across all sectors that will enable them to better address the unique needs of the diverse female attorneys in their employ.

This study is based on the results of a national online survey of more than 1,000 respondents conducted from October 15, 2010, through February 4, 2011. This phase of the Commission’s initiative takes a comparative approach in its examination of the career experiences of women of color in relation to the experiences of their white female, white male, and minority male counterparts in corporate legal settings.

Women of color bear what some describe as dual burdens of minority status. The Commission has sought, in both this study and its 2006 study on women of color, to elicit data on the impact that race, ethnicity, and gender have on the career mobility of female attorneys of color, particularly in relation to recruitment, hiring, retention, and advancement. Much of this report focuses on the cyclical and interdependent relationship among these four major aspects of an attorney’s career (see Exhibit B below.) Female attorneys of color are caught in a Catch-22 of sorts: they have to be recruited, hired, and retained to advance to leadership positions. Yet, without significant numbers of female attorneys of color already in leadership to pave the way and lead by example, organizations are not always ready to facilitate such recruitment, hiring, retention, and advancement.

Exhibit B  Attorney Career Phases

Further compounding this scenario is the issue of compensation, which negatively affects women and female attorneys of color, in particular, at every juncture of their careers—from hiring to retirement; from associate to partner; and, in this phase of work, from staff counsel to general counsel.

In 2010, women earned 77 percent of what men earned.19 Women attorneys fare little better. This disparity often begins at the outset of a woman’s career, and, because bonuses, raises, and benefits typically are calculated based on base compensation, it is compounded over time.20 It is estimated that, at the current rate, it will take women until at least 2050 to reach parity with men.21 When factoring in race and ethnicity, the wage gap increases between demographic groups. African American women earn 71 cents for every dollar men earn.22 Latinas
earn 62 cents for every dollar men earn. Asian American women earn 95 cents for every dollar men earn, putting them closer to parity with men but still behind. Disparities in compensation related to salary, bonuses, benefits, and retirement have a ripple effect on the recruitment, hiring, retention, and ultimate advancement of women and women of color attorneys, and contribute significantly to their higher attrition rate.

In its 2011 study entitled, *The Perspectives of Women of Color in Corporate Law Departments*, the Corporate Counsel Women of Color (CCWC) found that the majority of women of color (59 percent) ranked "being valued" as the most important element of their job satisfaction, followed by compensation. Arguably, however, fair and equitable pay is the clearest and strongest measurement of the value that an employer places on an attorney and her educational background, work experience, and job performance. Compensation is the prism through which bias or stereotyping—both overt and subtle—against female attorneys of color can be measured. Moreover, compensation is the objective constant that will enable employers and the profession to judge effectively the progress being made toward the achievement of parity between female attorneys of color and their white male counterparts.

The Commission’s 2006 study, *Visible Invisibility: Women of Color in Law Firms*, yielded a wealth of data on the impact of gender, race, and ethnicity on female attorneys of color in law firms of 25 or more lawyers. The Commission’s 2008 follow-up report, *From Visible Invisibility to Visibly Successful: Success Strategies for Law Firms and Women of Color in Law Firms*, highlighted 28 female attorneys of color who had achieved partnership status in their law firms. In that companion publication, these accomplished women shared their secrets of success and offered strategies for others to emulate as they strive to reach their full potential. Although the Commission’s current study focuses on the discrete category of Fortune 500 legal departments, the findings of this study provide a vehicle for comparison and contrast to the findings of the Commission’s law firm study, as well as any future studies analyzing the success and retention of women of color in other practice settings. The information derived from these research endeavors will enable the Commission to develop a comparative analysis across practice sectors, which, ultimately, will produce the most comprehensive, systematic, and authoritative research conducted on the subject. Although some very clear distinctions exist between law firms and corporate legal departments relative to hierarchy and paths toward advancement, similarities between the two enable the Commission to make direct comparisons of the experiences of female attorneys of color. In that comparison and the Commission’s law firm study, the subject of the research involves the diversity-related practices of private legal entities. Furthermore, the relationship between corporate law departments and private law firms acting as outside counsel makes a comparative study of the two both natural and obvious.

Promoting diversity in the profession has long been a focus of the ABA and its constituent groups, including the Presidential Commission Initiative on Diversity; the Center for Racial and Ethnic Diversity (which includes the Commission on Racial and Ethnic Diversity in the Profession, the Council on Racial and Ethnic Diversity in the Educational Pipeline, and the Council on Racial and Ethnic Justice); the Commission on Sexual Orientation and Gender Identity; the Commission on Disability Rights; and, of course, the ABA Commission on Women in the Profession, which has most recently directed its attention to the unique circumstances of female attorneys of color. Additionally, the individual divisions and sections comprising the ABA support their own diversity programming, thus promoting diversity and inclusion within their practice areas.

The Commission also recognizes and acknowledges the important contributions of the many regional and national organizations that have published studies raising awareness about the disparities between minorities and non-minorities in the profession, including the CCWC, Minority Corporate Counsel Association (MCCA), the Association of Corporate Counsel (ACC), Catalyst, the National Association of Women Lawyers, the Hispanic National Bar Association, the Women’s Bar Association of the District of Columbia (WBADC), and the Minnesota State Bar Association, to name a few. The Commission specifically acknowledges their work in identifying the factors limiting the progress of diverse groups working in-house and developing best practices for corporate entities to follow as they look for ways to break down the disparities that negatively impact women and women of color.
Before the publication of this study, reports by the CCWC and MCCA provided the most recent research conducted on the subject of female attorneys of color in corporate legal settings. However, the Commission’s study differs from the CCWC study, as the CCWC’s sample comprised only women of color, and from the MCCA study as it focused on the organizational perspective, not individual experiences. The Commission’s sample included diverse and non-diverse women and men, thus providing a wider range of responses from which to draw meaningful data. Furthermore, the Commission’s research on the status of women of color in law firms and Fortune 500 companies is intended to be a comparative study of the issues confronting, and progress made by, women of color in these two practice settings. The Women of Color Research Initiative does not seek to duplicate the efforts of these organizations or any other groups or associations. On the contrary, the purpose is to extend the conversation that others have so ably begun.

The intent of the Commission’s Women of Color Research Initiative is to examine the underlying systemic and cultural factors that continue to prevent female attorneys of color from achieving their career goals, and to identify practical and accessible solutions that can be applied across all legal sectors. Furthermore, qualitative considerations will be examined, such as personal experience, perspective, and expectations that naturally inform the culture of any entity and can either support or inhibit diversity.

**Methodology**

The Commission’s research study on women of color in corporate law departments relied on surveys with quantitative and qualitative components to elicit substantive data. Focus groups of women in corporate legal departments contributed to the overall design of the survey. The Commission's Women of Color Research Initiative Committee, Research Advisory Board members, and focus group participants also forwarded the survey to their contacts to obtain input on the survey’s composition. The final survey was specifically designed to identify issues and concerns that are of particular concern to women of color. It targeted a broad cross-section of both current and former Fortune 500 in-house attorneys, enabling a range of perspectives and experiences to be drawn out. The survey responses provided both quantitative and qualitative information on how the confluence of gender, race, and ethnicity affects the work lives of female attorneys of color in corporate law departments.

The final version of the survey consisted of 52 questions designed to garner responses on a variety of topics. Respondents were asked to provide general background information about their employment as attorneys in Fortune 500 companies; part-time and flex-time scheduling; income, recruiting, and hiring matters; law school and post-law school experiences; professional development; career satisfaction; workplace environment; compensation and advancement; and demographic information relative to gender, race, ethnicity, sexual orientation, and marital status. For additional information about survey respondents, please refer to Appendix A of this report.

The survey, which was distributed online via e-mail, sought confidential input from current and former in-house attorneys employed at Fortune 500 companies since January 1, 2005. Only attorneys who were currently employed at the time of the survey or formerly employed with Fortune 500 companies were eligible to participate in the survey. The solicitation for survey respondents was also posted on the Commission’s website. Respondents received the survey from the ABA and various external organizations including the California Minority Counsel Program (CMCP), MCCA, Washington Metropolitan Area Corporate Counsel Association, Midwest Minority In-House Counsel Group, and ACC.

The survey sample was self-selected, meaning that respondents were not randomly chosen to participate. In some cases, survey respondents did not answer every survey question. In other cases, respondents included multiple responses to survey questions, particularly demographic-related queries. This survey response rate is consistent with the response rates identified in the Commission’s 2006 Visible Invisibility study and is consistent with survey response rates, in general.

The total number of respondents in the survey sample was 1,058. However, only 784 of these respondents disclosed their gender. Of the respondents who disclosed their gender, 577 (74 percent) were women and 207 (26 percent) were men. (See Exhibit C.)
Research Questions

In this study, the following research questions were explored:

1. Is there a difference in success for women of color in corporate law departments measured both quantitatively and qualitatively, compared to white men, white women, and men of color?

2. How do women of color compare their experiences in corporate law departments to those of white men, white women, and men of color? How much of their experience can be attributed to race, ethnicity, and/or gender?

3. What trends are detectable in the retention and attrition rates for women of color in corporate law departments, and what are the factors that cause women of color to leave employment? Are their reasons for leaving different from those of white men, white women, or men of color?

4. Where do female attorneys of color go when they leave corporate law departments, and why are these destinations more attractive to them?

5. What strategies do women of color in corporate law departments use that lead to career success? Do these strategies differ from those of white men, white women, and men of color?

Although the sample size of the men of color participating in the Fortune 500 law department study is small relative to the number of women of color, white women, and white men surveyed, this type of statistical anomaly can be expected given the self-selected nature of the survey. Notwithstanding the limited representation of men of color in the research sample, there are a sufficient number of responses from all four demographic groups to offer valuable insight into the experiences of the representative groups surveyed, including men of color.

The Commission engaged the services of Nextions (formerly The Athens Group), a nationally recognized, Chicago-based firm specializing in diversity and inclusion strategic consulting, leadership development, and executive coaching, to conduct the underlying research for this study. Nextions worked closely with the Commission’s Women of Color Research Initiative in designing the survey and provided analysis of the raw data derived from the survey responses. The Commission has had a long-standing, working relationship with Nextions throughout its work on the Women of Color Research Initiative.

To ensure the anonymity of the respondents and the confidentiality of their responses, survey participants were asked not to disclose their identity. Further, there were no links between respondents’ names and identification numbers. Once analyzed by Nextions, the survey responses were identified only by IP addresses. Each set of survey responses was examined for statistically significant differences between male and female responses and white and non-white attorneys’ responses.

Exhibit C Gender of Respondents

Not all of the respondents disclosed their race or ethnicity. Only 777 participants disclosed their race and/or ethnicity. Based on the demographic information obtained from those respondents who chose to self-identify, 386 were white women, 186 were women of color, 155 were white men, and 50 were men of color. (See Table 1 and Exhibit D.)

Table 1 Demographic Breakdown of Respondents Who Self-Identified (Numerical)

<table>
<thead>
<tr>
<th>Women of color</th>
<th>White women</th>
<th>White men</th>
<th>Men of color</th>
</tr>
</thead>
<tbody>
<tr>
<td>186</td>
<td>386</td>
<td>155</td>
<td>50</td>
</tr>
</tbody>
</table>

Exhibit D Race/Ethnicity of Respondents Who Self-Identified

Although the sample size of the men of color participating in the Fortune 500 law department study is small relative to the number of women of color, white women, and white men surveyed, this type of statistical anomaly can be expected given the self-selected nature of the survey. Notwithstanding the limited representation of men of color in the research sample, there are a sufficient number of responses from all four demographic groups to offer valuable insight into the experiences of the representative groups surveyed, including men of color.

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Overview

The report is organized into several distinct sections, beginning with an “Introduction” that includes historical background information about the status of women of color in corporate legal departments. “Methodology” describes the research process, survey design, research questions, and general demographics of those who responded to the survey. Definitions are also given for the terms used within the report and background information on the educational pipeline. The next section, “Career Phases,” breaks down the experiences of the survey respondents into four areas: recruitment, hiring, retention, and advancement. “Career Phases” features statistical as well as anecdotal information survey respondents provided relative to mentoring, access to internal and external networks, opportunities for advancement, work-life balance and integration, and compensation. Comparisons are made between the experiences of women of color in corporate law departments versus those of women of color in law firms. “Bias and Inequity in the Workplace” captures the perspectives, observations, and experiences with particular forms of bias, i.e., unfair performance evaluations, demeaning comments, that survey respondents experienced while working at a Fortune 500 company. The report’s “Conclusion” includes a set of recommendations on how corporate legal departments can help all of its attorneys prosper. A set of “Appendices” offers a more detailed description of the survey respondents, including age, years of legal practice, educational background, and Fortune 500 corporate legal experience, as well as the survey itself and a selected bibliography.

Survey respondents were asked to answer questions on a variety of topics to gauge their individual experiences and to identify patterns of treatment. The questions spanned the following four broad categories: recruitment, hiring, retention, and advancement. Questions related to compensation elicited responses that apply across all four categories; for that reason, the critical issue of compensation is not treated as a separate category in this report but as a lens through which to examine how female attorneys are negatively and materially affected in every phase of their career trajectory. The survey responses, in many ways, confirmed what the Commission, from its work throughout its Women of Color Research Initiative and more generally, already suspected—that female attorneys of color in the corporate sector face many of the same issues and obstacles as their counterparts in law firms. However, the survey responses also highlighted distinctions between the experiences of female attorneys of color in law firms and of those in the corporate arena.

In structuring its Women of Color Research Initiative, the Commission sought to bring focus to and compare the barriers facing women of color attorneys in different practice settings. This phase, highlighting on the experiences of women of color in-house, is intended to help level the playing field. It will have an additional, crucial influence on improving retention and advancement of women of color in law firms.

Although work remains to be done to improve the retention and advancement of women of color in corporate law departments, the findings in this report show that many respondents to this survey had left law firms and reported greater career satisfaction as a result of their move in-house. Because in-house lawyers hire outside lawyers and law firms, in-house counsel and their corporate law departments have unique power not only to improve diversity within their own ranks, but also to influence—and hopefully to change—the law firms that they hire.

Corporate law departments can use their market power to insist that diverse teams work on their matters and insist that all attorneys on their teams, including women of color, get the training, visibility, and origination and billing credits that will help ensure their career success. In this respect, law departments can be a major catalyst for change in the legal profession.

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Terms Used in This Report

The phrases “of color” and “racial/ethnic minorities” used throughout this report are umbrella phrases used to refer to persons who are Hispanic/Latina, African American, Native American, Asian Pacific American, and those from multiracial backgrounds.

“African American” and “black” are used interchangeably to describe persons who identify themselves as having origins in the non-white racial groups of Africa.

“Asian Pacific American” refers to persons who identify themselves as having origins in East Asia (e.g., Japan, China, Korea), South Asia (e.g., India), Southeast Asia (e.g., Vietnam, Philippines), or as Pacific Islanders.

“Hispanic/Latina/o” refers to persons of Latin American descent, including but not limited to persons from Mexico, Central America, South America, Cuba, Puerto Rico, and the Dominican Republic.

“Native American,” “American Indian,” and “Alaska Native” refer to persons who identify themselves as coming from this background. Because of the small number of Native American women in legal practice and to protect their identity, this report does not distinguish between American Indian and Alaska Native attorneys or those from Indian reservations or Alaska Native villages.

“Indian law” refers to the specific practice of law relating to the legal documents and policies governing tribes having a unique relationship with the United States through treaties and other specific legislation. Alaska Native legal practice, in this report, is subsumed under the term “Indian law” to protect the confidentiality of participants.

“Retention rate” refers to the decision to pursue a career in a corporate law department; it does not necessarily imply retention in the same corporate law department.

“Attrition rate” refers to the decision to leave a corporate law department for an entirely different work environment, such as solo practice, work in a non-legal capacity in a corporation, a non-profit organization, academia, etc.

Respondent’s comments. Twenty of the survey questions included opportunities for respondents to elaborate with additional written comments. These anecdotal comments are peppered throughout the report to provide a sampling of the real-life experiences of the respondents.

The Educational Pipeline

The educational pipeline to the legal profession has become increasingly less diverse in the last decade. The number of women entering law school has declined in the last seven years. Fewer minorities enrolled in law school during this period, resulting in a greatly reduced pool of diverse candidates eligible for recruitment by legal employers.

The recent economic downturn, until very recently, has further reduced the number of minority students attending law school and the number of associates being hired by law firms overall. The result from all of these factors is significantly lower minority recruitment levels. In fact, minority recruitment is down at all levels according to a 2010 Vault/MCCA survey that suggests that minorities have been disproportionately affected by the recent recession. That survey found that the second-year summer associate class of 2009 had the lowest percentage of diverse students of the last three years. Clearly, the weak economy has further debilitated what was already a leaky pipeline of minorities into the legal profession. This leaky pipeline does not bode well for corporate law departments desiring to work with outside law firms that are diverse. It also does not bode well for corporate law departments’ efforts to hire diverse teams, given the Commission’s finding, discussed infra, that law departments hire many attorneys from law firms. The Vault/MCCA survey reports gains for female attorneys, particularly with regard to their representation at higher management levels although these relative gains still fall far short of creating parity between male and female law students and men and women at all levels in legal departments. Further, these gains do not even extend to women of color, who, like their men of color counterparts, appear to be bearing the brunt of recessionary backlash.
The study here focuses on women of color given the dual burdens they bear. While white women, according to the study's findings, fare better than women of color, white women encounter greater difficulty achieving their career goals, and are more likely to leave to find better opportunities, than are men. It is the Commission's strong belief that in working to achieve a more level playing field for women of color, all will benefit. At the same time, it is clear the educational pipeline must start at a much younger age. Studies show that a gap in academic achievement is evident by the fourth grade and the pipeline continues to leak drastically through entrance into college. One study found that, out of 100 African American children entering kindergarten, only 15 attained a bachelor's degree. The numbers are even worse for Latino and Native American children. If the legal profession is to succeed in reflecting the many demographic groups that it serves and that will form the marketplace of the future, the educational pipeline must extend to elementary school.

Pipeline programs specifically targeting underrepresented groups such as women and minorities—including the National Bar Association, Crump Law Camp, Legal Outreach, the Council on Legal Education Opportunity (CLEO), Street Law, the ABA Section of Litigation's Judicial Intern Opportunity Program, and the Just the Beginning Foundation—have been in place for many years. The overriding goal of these programs has been to encourage diverse students to consider careers in law and to prepare them for the rigors of law school and eventual law practice. Despite a proliferation of such programs, minority attorneys currently comprise only 10 percent of the legal profession. Women of color comprise only 6 percent of attorneys in law firms.

Each of the primary phases of an attorney's career—recruitment, hiring, retention, and advancement—as noted previously, affects, and is affected by the other. Recruitment and hiring are vitally important in both corporate legal departments and law firms. It is during these phases that the pipeline to advancement of diverse attorneys and women of color is established and nurtured. It is also true that an employer's failure to retain and advance women of color can become a major barrier to that employer's ability to recruit and retain diverse attorneys effectively.
Career Phases

Recruitment

Table 2 Percentage of Each Demographic Group Reporting the Source of Recruitment for First Fortune 500 Job

<table>
<thead>
<tr>
<th>Recruitment Source</th>
<th>Women of Color</th>
<th>White Women</th>
<th>White Men</th>
<th>Men of Color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recruited from firm where lawyer worked on company matters</td>
<td>15%</td>
<td>46%</td>
<td>19%</td>
<td>3%</td>
</tr>
<tr>
<td>Recruited from firm where lawyer did not work on company matters</td>
<td>20%</td>
<td>40%</td>
<td>17%</td>
<td>6%</td>
</tr>
<tr>
<td>Executive recruiter</td>
<td>22%</td>
<td>48%</td>
<td>22%</td>
<td>7%</td>
</tr>
<tr>
<td>Personal contacts/references</td>
<td>20%</td>
<td>41%</td>
<td>15%</td>
<td>5%</td>
</tr>
<tr>
<td>Recruited directly from law school</td>
<td>18%</td>
<td>43%</td>
<td>13%</td>
<td>3%</td>
</tr>
<tr>
<td>On-campus interviews</td>
<td>27%</td>
<td>23%</td>
<td>14%</td>
<td>4.5%</td>
</tr>
<tr>
<td>Recommendation of senior lawyer</td>
<td>19%</td>
<td>50%</td>
<td>11%</td>
<td>7%</td>
</tr>
<tr>
<td>Law school connections</td>
<td>—*</td>
<td>29%</td>
<td>20%</td>
<td>2%</td>
</tr>
<tr>
<td>Submitted unsolicited résumé</td>
<td>27%</td>
<td>—*</td>
<td>16%</td>
<td>5%</td>
</tr>
<tr>
<td>Recommendation of law school professor</td>
<td>22%</td>
<td>—*</td>
<td>—*</td>
<td>—*</td>
</tr>
<tr>
<td>Ad/website listing</td>
<td>21%</td>
<td>—*</td>
<td>16%</td>
<td>5%</td>
</tr>
<tr>
<td>Summer clerkship</td>
<td>20%</td>
<td>—*</td>
<td>17%</td>
<td>0%</td>
</tr>
<tr>
<td>Law school placement office</td>
<td>19%</td>
<td>—*</td>
<td>9%</td>
<td>3%</td>
</tr>
</tbody>
</table>

Recruitment Sources

Law firm experience  White attorneys were more likely than attorneys of color to be hired directly from a law firm where they worked on the company’s matters. White female attorneys were most likely to be hired directly from a law firm where they worked on the company’s matters, followed by white men, women of color, and men of color. Women of color attorneys were second most likely behind white female attorneys to be hired directly from a law firm where they did not work on the company’s matters. White male attorneys and men of color attorneys were less likely to be hired directly from a law firm where they did not work on the company’s matters.

These statistics are particularly interesting given the opportunities that law departments have to groom and train outside counsel for future corporate employment. This underutilized “farm system” has the potential to serve as an important source of diverse candidates, if used as a training ground for recruitment and hiring purposes.

Executive recruiter  Of the respondents who indicated that they were hired through an executive recruiter, most were white female attorneys, followed by women of color attorneys and white male attorneys. Men of color attorneys were least likely to be hired through an executive recruiter. However, compared to other categories of recruitment (i.e., hired directly from a law firm, hired through a personal referral, etc.), overall men were more likely to be influenced by, and hired through, the use of an executive recruiter.

Résumé  Of those who responded, non-white attorneys were more likely than their white counterparts to have been hired as a result of submitting a résumé in response to a job posting or specific outreach. When compared across all recruitment categories, women of color were most likely to be hired for their first Fortune 500 job as a result of submitting a résumé. This statistic is even more interesting when viewed within the context of a recent study conducted by the National Bureau of Economics, which found that the résumés of applicants with “white sounding” names were 50 percent more likely to be selected for job interviews than those of applicants with
“ethnic sounding” names. Further, that study found that employers downloaded the résumés of applicants with “white names” 17 percent more often than they downloaded those of applicants with “ethnic names.”48 One African American female survey respondent spoke to this issue in commenting about her company’s hiring process: “Some candidates were eliminated simply based on their unusual first or last names.”

**Personal contacts** Women were more likely than men to rely on personal contacts or connections when seeking employment with a Fortune 500 company. They were also more likely to have been hired as a result of these personal connections. White female attorneys and women of color attorneys relied more heavily on personal referrals for their first job with a Fortune 500 company than did white male attorneys and men of color attorneys.

**Law school** Corporate law departments do not tend to hire their attorneys right out of law school. This correlates with the low number of respondents who indicated that they were hired immediately after law school. Of this small number, white female attorneys were most likely to have been hired directly out of law school, followed by women of color. White male attorneys and men of color attorneys were least likely to be hired through this route. The experience of one Asian Pacific American woman attorney respondent appears to support this statistic:

*My former employer was recruiting for minority attorneys at the time, and it was actively attending minority bar events in order to obtain résumés. That is how I was recruited.*

**Other influences** When identifying the factors that led them to apply for their first attorney position with a Fortune 500 company, 15 percent of respondents reported business associates as a major influence; 13 percent reported connections made by family members or friends as a major influence; and 11 percent reported an advertisement/website listing or recommendation of an executive recruiter as a major influence. Overall, respondents were least influenced by the recommendations of a law professor or a judge following a judicial clerkship, the on-campus interview process, their law school placement office, a summer internship, law school classmates/alumni networks, or unsolicited résumé submissions.

Broken down by race, ethnicity, and gender, the factors that led respondents to apply for their first attorney position with a Fortune 500 company remain constant in some instances but vary in others. For instance, more white female attorneys and women of color attorneys reported business associates as a major influence than did white male attorneys or men of color attorneys in securing their first corporate job. More white female attorneys and women of color attorneys pointed to the connections of family and friends as an influence than did white male attorneys or men of color attorneys.

Participants who responded to this survey gave responses similar to those by respondents who participated in the Commission’s *Visible Invisibility* law firm study on recruitment-related queries. Comparatively, 46 percent of women of color attorneys in the Commission’s law firm study also relied heavily on on-campus interviews. Thirty-three percent of them relied on summer clerkships to secure a position. Likewise, 29 percent relied on their law school placement office for help in getting their first job.

Our study uncovered no clear explanation for the difference in recruitment strategies used for men and women. However, where bias or stereotyping exists (whether conscious or unconscious), traditional routes of entrée are often closed to certain groups.49 Perhaps women have to rely more on someone putting in a good word for them to get noticed in a traditionally male-dominated field. Moreover, the greater difficulty that women of color experience in working to build professional relationships affects their careers more negatively the further removed they are from law school. Compared to other groups, women of color attorneys are more likely to come from less privileged backgrounds and are more likely to be the first in their families to graduate from college and law school. As a result, they often lack the relationships, connections, advice, and support from family members necessary to aid and guide them in securing meaningful employment and promotions. This issue significantly affects women of color through all of the four phases of their careers—from recruitment through advancement.

Recruitment of minorities and women was once the primary focus for law firms and corporate law departments interested in developing a more diverse staff. Entry-level recruitment is just one of the components...
necessary to establish meaningful and lasting diversity. Based on the survey responses, recruitment appears to be the area of least concern to respondents relative to the negative impact of bias on their careers. Some respondents commented that their race, ethnicity, and/or gender were an advantage as they sought employment. For example, one respondent wrote, “If anything I experienced a positive bias based on our company’s recruiting and hiring process.” Similarly, a woman of color attorney noted, “I felt that my race/ethnicity and gender did not play a factor in the recruiting and hiring process, and if anything, it served as a positive component because it brought additional diversity within the legal department . . . .”

**Relationship to Compensation**

Some argue that the high attrition rate of female attorneys, in general, and female attorneys of color, in particular, coupled with the slow rate of progress in expanding the number of women in leadership levels in the profession, may actually deter young women from entering law school. This problem is further impacted by the widely reported disparity in compensation experienced by women and women of color at all levels of the career continuum as compared to men—a disparity that can result in a cumulative difference of as much as $2 million in male and female attorneys’ career earnings. Young women, reportedly discouraged by these trends, have become less likely to choose law as a career, further depleting the already strained pipeline of talented women and women of color.

Bias and historical disparities, and the assumptions they perpetuate, contribute to the inequity in compensation between the sexes. They also contribute to another seeming anomaly—that women are less likely to negotiate salary than their male counterparts. However, what at first seems anomalous, on examination, is seen as another result of stereotyping and gender or societal norms. Women are often reluctant to ask for what they are worth for fear of being labeled as “pushy” or “aggressive,” a reluctance that puts them at a distinct disadvantage relative to compensation.

Women of color, who are generally the least supported of any group, are even more handicapped when it comes to salary negotiation. They are often the sole or primary providers in their families, which can make salary negotiation a particularly delicate proposition. In addition to being saddled with negative labels, women, and women of color, fear that, if they ask for too much, they risk losing job opportunities that are essential to the support of their families or risk being perceived as aggressive, a conclusion that can impede women’s opportunities to advance.

However, women need to overcome these often unexpressed and seemingly irrational fears. As noted by Leslie Whitaker, co-author of *The Good Girl’s Guide to Negotiating*, “The goal isn’t always to be liked. It’s about being valued.”

Other respondents, however, offered less positive comments. A female respondent stated, “My company does not recruit with diversity in mind, and there is not a diverse pool of candidates to select from.” Another survey respondent concurred, stating, “I have worked for five major banks, and all hire from the government or from major law firms. As a result, the pool has traditionally had few minority participants.” These latter comments align with broader concerns about the weakened pipeline of diverse attorneys.
Racial and Ethnic Bias

In the words of one survey respondent, “Hiring at the entry level wasn’t the problem, hiring at the mid- and senior levels and promotion into senior positions was the issue.” This sentiment parallels the findings of the Commission’s law firm study, in which many respondents remarked that they did not witness or experience bias at the hiring stage but that the bias and disparate treatment came into play at later stages, in retention, advancement, and compensation. A respondent in the Commission’s current study wrote, “The racial and gender bias was not the issue during the hiring process, but was an issue once an employee.” Another respondent stated, “While hiring was okay, promotion of ethnic and racial minorities is moderately bad.” Yet another respondent commented, “There’s no bias in terms of hiring. The difficulty comes with promotion to senior, executive positions after one is hired.”

Although racial and ethnic bias appears to have had minimal impact on the hiring of women of color, overall, several respondents did report a negative hiring experience. One respondent wrote, “As a hiring manager at my first in-house job … the general counsel was racially biased. He made comments about being careful about hiring African American candidates because they were hard to discharge.” Another respondent noted, “There was a clear and obvious bias by my general counsel against women of color… There were constant negative comments directed at people of color in the public eye… and any policy that addressed minority women and men….”

Further, variances in the survey responses attributable to race, ethnicity, and gender highlight the role that personal experience and perspective play in perceptions of fairness and disparate treatment. For instance, overall, more women than men indicated either witnessing or experiencing negative racial or ethnic bias in their law department hiring process. Of those in the survey either witnessing or experiencing high levels of negative bias in the hiring process, most were women.

White attorneys were more likely to indicate witnessing or experiencing no negative racial or ethnic bias in the hiring process than were the non-white attorneys surveyed. Several respondents reported that their law departments’ hiring policies require that a diverse slate of candidates be presented for each available position. Certainly, many of these no-bias responses are based on respondents’ positive experiences of working in corporate legal settings that truly embrace the value of diversity.

However, a lack of appreciation for the role that subtle bias plays in stunting career development and diversity may account for the variance between white and non-white responses in this category. Some respondents were keenly aware of the possible influence of subtle bias in the hiring process and the workplace environment. One
white attorney respondent wrote, “[I] didn’t see any ethnic or racial bias. However, as I am a WASP, I am not the best person to ask.” Another respondent commented, “Insofar as there were few people of color in the company as a whole, it would be difficult to assess any actual bias, although one can certainly deduce [it] from the lack of diverse representation.” Another attorney respondent stated, “We don’t have much ethnic diversity here, but I haven’t seen anything that suggests racial or ethnic bias. So it’s either subtle, or there are other factors at play.” An Asian Pacific American attorney observed:

The company gravitated towards charming, good looking, tall men that went to similar universities for most positions. [It is] very much a ‘good old boys’ club, within the ranks. [I] saw no bias, but the management is practically all white male. I did not see overt racial bias, but in a team of 150+ lawyers, there were, at most, at any one time, two African American attorneys and one Asian attorney on staff.

A woman of color attorney wrote, “The men in the department do not seem to think that women or people of color are natural fits for attorney positions. I don’t think they are necessarily opposed, but they do not seek out any candidates that do not look like them.” Another attorney respondent stated:

*I didn’t see any bias, but I also didn’t see a lot of diversity. I don’t think that was intentional though. I do think people hire people who are most like them, because they feel like they’ll be a good fit—and most senior executives at Fortune 500 companies are still white males. I don’t think it’s intentional but purely subconscious.*

Unlike the respondents identified above, a few survey respondents did not appear to recognize the effects of subtle bias in the workplace. One survey respondent wrote, “While I think there is a diversity issue in our law department, I don’t feel there is a bias.” Another respondent stated, “I never felt any bias against any race or ethnic[ity]. I did not see many minorities employed, but I did not attribute [it] to bias.”

### Gender Bias

#### Table 4 Percentage of Each Demographic Group Who Reported Experiencing Gender Bias in the Law Department Hiring Process

<table>
<thead>
<tr>
<th>Witnessed/Experienced Moderate Levels of Bias</th>
<th>Women of color</th>
<th>White women</th>
<th>White men</th>
<th>Men of color</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>23%</td>
<td>66%</td>
<td>10%</td>
<td>3%</td>
</tr>
<tr>
<td>Witnessed/Experienced Low Levels of Bias</td>
<td>30%</td>
<td>65%</td>
<td>8%</td>
<td>4%</td>
</tr>
</tbody>
</table>

Overall, more women than men indicated either witnessing or experiencing negative gender bias in their law department hiring process. Most of the respondents reporting high levels of negative bias in the hiring process were women. More white female attorneys and women of color attorneys described seeing or experiencing high levels of negative gender bias in their law department hiring process, compared to white male attorneys and men of color attorneys. Likewise, most of the respondents reporting moderate levels of bias in the hiring process were also women. Most of the respondents reporting low levels of negative gender bias in the hiring process were women.

In comparing the responses to the negative racial/ethnic bias and negative gender bias questions based on racial and gender lines, female attorneys of color and male attorneys of color were more likely to report high levels of racial or ethnic bias than high levels of gender bias. White female attorneys were more likely to report high levels of gender bias than high levels of racial or ethnic bias. Likewise, female attorneys of color and male attorneys of color were more likely to report moderate levels of racial or ethnic bias than moderate levels of gender bias. White female attorneys were more likely to report moderate levels of gender bias than moderate levels of racial or ethnic bias. Female attorneys of color were equally as likely to report no racial or ethnic bias and no gender bias. White female attorneys were more likely to report no racial or ethnic bias than they were to report no gender bias.

Some female attorneys of color stated that they had been more negatively affected by gender bias than racial or ethnic bias. One female attorney of color remarked, “[I] have not felt or experienced bias for ethnicity, but have as [a] woman.” In another instance, a woman of color attorney commented:
I think that racial bias is more evident once some sort of negative incident has reared its head. Without such an incident, it is difficult to know what someone’s personal bias might be. I do think that I have experienced gender bias in both Fortune 500 companies . . . .

These comments align with the CCWC’s findings in its 2011 report on women of color in corporate law departments. Fifty-two percent of the women of color surveyed in that study perceived gender as more of a barrier to advancement than race and/or ethnicity.54

Like racial and ethnic bias, gender bias in the hiring process appears to have been minimal based on survey responses. However, when it did surface, it manifested itself in a variety of ways, ranging from inappropriate questions about childcare and family obligations to paternalism and outright sexual harassment.

Questions and stereotypic comments about female attorneys’ commitment to the job relative to family obligations characterized many of the responses. One female attorney wrote, “[The] general counsel was concerned about hiring me because I would get married then get pregnant.” Another respondent reported, “It was made clear that there was no ‘part-time’ work, meaning women with young children would not be considered for positions because invariably they would need flexible schedules to meet parental obligations.” A female attorney wrote, “[My] direct manager told me within a few months of my hire [that] he was very hesitant to have too many women on his team for fear of excessive maternity leaves.” Another respondent remarked, “[There was] no effort to recruit women; [there] seemed to be a bias against hiring women due to concerns about maternity leave, childcare, etc.” Finally, one female attorney stated, “There were questions raised about my former part-time schedule, although I had returned to full-time status by the time I was applying to the Fortune 500 company.” One female respondent commented, “One interviewer (uncomfortably for me) stared at my legs . . . .”

Many of the attorney respondents described a flat reporting structure or hierarchy in their Fortune 500 law department. Accordingly, their position titles, responsibilities, and proximity to the general counsel level varied from company to company, oftentimes based on the size of the law department. For instance, a counsel position in one company could be one or two levels from the general counsel, whereas a director level position in another company might report three to five levels below the general counsel. Clearly, the structure of corporate law department positions can vary greatly, making it difficult to make direct comparisons based on titles and positions. Regardless of these variances, across all of these categories, the data suggest that women of color were still least likely of all groups to be hired at top executive or senior management levels, and the most likely to be hired at a junior level.

## Relationship to Compensation

An attorney’s entry-level compensation is determined during the hiring process, and this initial salary level can be of critical importance in determining an attorney’s career earnings and retirement given that stock options, bonuses, and benefits including contributions to retirement plans are calculated based on the attorney’s salary level. Consistent with surveys conducted by other organizations,55 the Commission’s data indicate that female attorneys of color are hired at lower salary levels than attorneys in other groups.

### Exhibit F Percentage of Respondents Earning Between $75,000 and $149,000 in First Job at Fortune 500 Company

![Chart showing percentage of respondents earning between $75,000 and $149,000 in first job at Fortune 500 company.](chart.png)
Overall, the majority of the respondents in the current survey reported earning between $75,000 and $149,000 when they first started as attorneys in a Fortune 500 company. (See Exhibit F.) However, in law departments of 1–50 attorneys, the women of color surveyed were less likely to earn this range of income than were the white women and white males surveyed. (See Exhibit G.)

Exhibit G: Demographic Breakdown of Respondents Earning Between $75,000 and $149,000 in First Job at Fortune 500 Company

Further, in law departments of 51–100 attorneys, the women of color surveyed were less likely to earn this range of income than were the white women and white males surveyed. (See Exhibit G.)

Respondents were next most likely to earn under $75,000 when first hired by a Fortune 500 company. (See Exhibit H.)

Exhibit H: Percentage of Respondents Earning Under $75,000 in First Job at Fortune 500 Company

In law departments of 1–50 attorneys, the women of color surveyed reported earning less than the white women surveyed but negligibly more than the white men surveyed. (See Exhibit I.)

Exhibit I: Demographic Breakdown of Respondents Earning Under $75,000 in First Job at Fortune 500 Company

However, in law departments of 51–100, the women of color surveyed earned less than the white women and the white men surveyed. (See Exhibit I.) Interestingly, female attorneys of color and white male attorneys working in law departments of 51–100 members reported being relatively on par in terms of salary within the $150,000–$224,000 salary range. The responses of the different demographic groups to this question differ from their responses to other questions. The Commission does not have the data to explain this difference. It is an issue that warrants further study.

According to the Commission’s Women of Color Research Initiative’s reports, female attorneys of color, both in-house and in law firms, are generally at a salary disadvantage from the day they accept their first jobs. This disparity grows dramatically over the course of their careers. In-house female attorneys of color tend to be hired for lower levels and, thus, for lower-paying in-house positions. In the preface to *New Millennium, Same Glass Ceiling? The Impact of Law Firm Compensation Systems on Women*, the 2010 collaborative study conducted by the ABA, MCCA, and the Project for Attorney Retention,
Robert Liebenberg, former chair of the Commission on Women in the Profession, and Catherine Lamboley, a former member of the Commission, disclose a telling statistic relative to the salary disparity between male and female associates in law firms. They note that, “What starts as a $2,000 annual gap between male and female associates accelerates to a $66,000 annual gap between male and female equity partners.” Statistics also indicate that female attorneys typically earn 25 percent less than male attorneys.

Fairness issues related to compensation can have a chilling effect on a legal employer’s ability to hire. Potential candidates will go where they feel most valued, and at the hiring stage, that place tends to be where the money is. That said, the impact that failing to negotiate salary has on compensation inequities at this stage (and later stages) in a woman of color’s career cannot be discounted. Researchers at Carnegie Mellon University in a study of 2002 and 2003 MBA graduates found that male graduate students were four times more likely to negotiate a higher starting salary than female students. The researchers found that 52 percent of the men compared to only 12 percent of the women negotiated their starting salaries. Men who negotiated saw an increase in their starting salaries by an average of 7.4 percent, or about $4,000, which is the average difference between male and female starting salaries. This suggests that women could play a role in closing the gender gap by negotiating their starting salaries—and those employers should act to negate the stereotypes and concerns by women surrounding negotiations about salary, bonuses, and benefits.

By failing to negotiate her starting salary, an individual is likely to lose at least $500,000 by age 60. Thus, failure to level this playing field haunts women throughout their careers. The loss represented by an initially lower salary is compounded in that every raise or bonus a woman receives, and even the number of stock options and benefits she is awarded, will be smaller because these amounts are calculated based on a percentage of an already lower base salary. In addition, women and women of color, and their employers, must understand and appreciate the market value of women’s work and worth. In their book, Women Don’t Ask: Negotiation and the Gender Divide, authors Linda Babcock and Sara Laschever found that women report salary expectations between 3 percent and 32 percent lower than those of men vying for the same jobs. Men expect 13 percent more than women during their first year of full-time work and 32 percent more at their career peaks. Women’s knowledge of their worth and implementation of systems that equalize the salary-negotiation playing field are key to solving this component of the salary disparity that persists between male and female attorneys.

Retention

Historically, the retention of talented minorities has proven to be the most problematic phase of the recruitment/advancement continuum. This is particularly true for women of color, who have the highest attrition rate of all groups. Law firms especially struggle with retaining women and diverse attorneys. Almost all minority associates have left their firms by eight years out of law school. According to research conducted by Vault/MCCA, 21 percent of the attorneys who left their firms in 2009 were minority. This is particularly disturbing as minorities represented only 13 percent of the total law-firm population. Women of color comprised 17 percent of the associates who left their firms in their third year. Aside from not feeling valued and appreciated, women of color reported leaving law firms for a variety of reasons, including not feeling supported, inability to establish mentorship relationships, feeling isolated and marginalized, and being subjected to stereotypes and discrimination. (See Table 5.)

Table 5 Reasons Reported by Women of Color for Leaving Their Law Firms (Table Excerpted from Black Enterprise)

<table>
<thead>
<tr>
<th>Reason</th>
<th>Women of color in law firms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not feeling supported</td>
<td>22%</td>
</tr>
<tr>
<td>Lack of mentors</td>
<td>21%</td>
</tr>
<tr>
<td>Isolation/marginalization</td>
<td>16%</td>
</tr>
<tr>
<td>Discrimination</td>
<td>11%</td>
</tr>
</tbody>
</table>

Likewise, women of color respondents in this phase of the Commission’s Women of Color Research Initiative were more likely than white male attorneys to leave their Fortune 500 law departments to gain greater experience and to obtain better work-life integration. (See Table 6.)
Corporate law departments have been able to lure away from law firms record numbers of women of color who are looking for opportunities to advance their careers in a more welcoming environment than that historically offered by law firms. Seventy-seven percent of the respondents in the CCWC’s 2011 study, The Perspective of Women of Color Attorneys in Corporate Legal Departments, began their legal careers in law firms before moving to corporate law departments.71 In addition to feeling less valued in the law firm setting, respondents in CCWC’s study cited having a “greater sense of ownership and of project diversification” in the corporate setting as a reason for switching to corporate practice.72 They also noted that corporations offered “a more cohesive and inclusive work environment, with greater opportunities for training and upward mobility.”73 The WBADC’s informal survey of female corporate counsel in 2010 provided similar data.74

Mentoring

Just as it is with being recruited and hired, who a lawyer knows is, arguably, just as important, if not more important, than her educational background and experience when it comes to career advancement and success. The push to create more formal mentoring programs in law firms and corporate law departments is based on this belief. According to conventional wisdom, to ascend to the highest echelons of the profession, an attorney needs a mentor, whether formal or informal, to provide support, guidance, advice, and constructive feedback. The underlying assumption is that attorneys who do not have mentors will have a much more difficult time advancing in their careers.79 As one survey respondent put it, “Mentors have an impact on high potentials’ career advancement from day one and continue to have an impact as careers progress—but that men reaped greater benefits from mentoring than women.” In the words of another respondent, “lacking a mentor or ‘godfather,’ the opportunities did not line up [and] I did not receive recognition for my efforts and achievements.”

Conventional wisdom aside, experience supports the conclusion that mentoring is needed but falls short in providing women with the tools necessary for advancement.80 In its 2010 study of high-potential women in business, Mentoring: Necessary But Insufficient for Advancement, Catalyst reported the reaction of one general counsel who stated, “It would have been helpful to have had a mentor, in gaining a better sense of employer expectations for employee behavior and development. I learned on my own and rose to GC, but it could have been much less stressful and faster with a good mentor.” That study also found that “even women who had senior-level support failed to get compensated the same as men.”81

Based on its findings, Catalyst posits that mentoring will not magically put the sexes on a par professionally. Many analyses now point to the difference between mentorship, which provides support and advice, and sponsorship, which comes from “high fliers who have the influence to pull people up.”82 As the Harvard Business Review (HBR)
put it, “Women are over-mentored and under-sponsored relative to their male peers,” and, as a result, “are not advancing in their organizations.” As at least one reason for this disparity, HBR observed, “women’s mentors have less organizational clout” than those for men.

Sufficient or not, mentoring has become an established part of the legal profession. Many law firms and corporate law departments sponsor formal mentoring programs. However, as the Commission discovered in its study of women of color in law firms, these programs have not always succeeded in developing effective mentor-protégé relationships. Historically, female attorneys, particularly those of color, have had a much more difficult time than their white and male counterparts in securing mentors and establishing quality mentor-protégé relationships that succeed in grooming and advancing the protégé. A 2009 Catalyst report on women of color found that women of color were the least likely of all groups to feel that their mentors positively influenced their careers. Sixty-seven percent of the women of color respondents in the Commission’s Visible Invisibility law firm study stated that they wanted more, or more effective, mentoring by senior attorneys and partners. Moreover, many women of color attorneys indicated that they welcomed an opportunity to be mentored by white male attorneys.

Not all mentoring programs are created equal. Some are more effective than others in supporting young attorneys, particularly female attorneys of color. Some are not mentoring programs at all, but, as women surveyed have reported, are instead glorified meet-and-greets that facilitate basic introductions and little more.

The Commission asked the survey respondents about their experiences with formal and informal mentors and whether these relationships had benefitted their careers. In describing what she had gained from her formal mentorship, one African American woman stated, “[N]othing—we had lunch once.” Another respondent wrote, “The ‘formal’ mentor program was almost a joke—a new entrant ‘buddy system’ guaranteed to produce the sharing of coffee once in a while.” Yet another respondent commented, “I would consider my mentoring program as ‘formal-light,’ as it was intended more to facilitate integration into the company culture rather than [the] development of legal skills....” For some respondents, interpersonal factors and mismatched placements derailed the formal mentor relationship. One respondent noted, “Nothing was gained. It was a disaster because I was not like her and wasn’t accepted.” Another respondent reported, “[As] a working mom, [I] was assigned to a working mom whose ability to juggle kids and work was dramatically different than mine. I somewhat resented this ‘placement’ from the beginning.”

**Formal Mentoring**

<table>
<thead>
<tr>
<th>Exhibit J Percentage of Each Demographic Group Reporting the Availability of Formal Mentoring Between Attorneys in Fortune 500 Companies and Law Firms</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fortune 500</strong></td>
</tr>
<tr>
<td><strong>Women of color</strong></td>
</tr>
<tr>
<td><strong>Law Department</strong></td>
</tr>
<tr>
<td><strong>Law Firm</strong></td>
</tr>
</tbody>
</table>

Only 38 percent of the respondents in the Commission’s study had one or more formal mentors during their stint with a Fortune 500 company. Twenty-five percent of female attorneys of color and 39 percent of white female attorneys reported having formal mentors. Sixteen percent of white male attorneys and 6 percent of men of color attorneys reported having formal mentors. In comparing these percentages to those indicated in the Commission’s law firm study, some clear distinctions emerge, as noted in Exhibit J.
Comparison of the use of formal mentors among attorneys in corporate law departments and law firms by race, ethnicity, and gender reveals some similarities and, again, some differences. Female attorneys of color in law firms are more likely than any other group (including white women) to have formal mentors who are women of color. Female attorneys of color in law departments are more likely than male attorneys of color and white male attorneys to have formal mentors who are women of color. However, female attorneys of color and white female attorneys in law departments are almost equally as likely to have formal mentors who are women of color. Female attorneys of color in corporate law departments are less likely to have formal mentors who are white males; they are more likely to have formal mentors who are male attorneys of color. This is a stark contrast from female attorneys of color in law firms who are more likely to have formal mentors who are white males and less likely to have formal mentors who are male attorneys of color.

The majority of study respondents, 62 percent, indicated that they had no formal mentors. Eighteen percent of these were women of color attorneys. Forty-six percent of white female attorneys, 19 percent of white male attorneys, and 6 percent of men of color attorneys reported having no mentors. Of these respondents, more female attorneys without mentors than male attorneys without mentors felt that having mentors would have been beneficial to their Fortune 500 careers. An overwhelming number of female attorneys who were surveyed, particularly those of color, were hungry for mentors who never materialized. One woman attorney stated, “I looked for mentors and have never ha[d] such good fortune.” An African American female attorney wrote, “I have not had a formal mentor, and it has been a[n] impediment to career development. I advise all young attorneys to identify and form a relationship with a mentor.” A female attorney of Middle Eastern descent commented, “[I] ended up going outside … for mentoring.” Another female attorney respondent summed it up succinctly, “I would have killed for a mentor . . . .” In some cases, survey respondents were able to make up for the lack of a formal mentoring program by establishing less formal relationships with senior counsel or other female colleagues who provided advice. One Latina attorney noted, “[There were] no formal mentors, but it has been extremely useful to share thoughts with other women my age at the company [and] discuss how to navigate our way through the corporation, especially other women with significant responsibility.”

A few, primarily male, attorneys of color respondents reported having no need for a mentor. These respondents either joined a Fortune 500 company at a senior level or had been employed with a Fortune 500 company for several years before a mentoring program became available. They may have had a sponsor who was helping to advance the lawyers’ careers, or felt no need for mentoring. It is possible they felt that they were already navigating the advancement process successfully on their own and thus,
Informal Mentoring

As was the case in the Commission’s law firm study, many respondents in this study felt that they received the most beneficial mentoring via informal channels. In fact, 87 percent of respondents stated that they had informal mentors during their tenure at Fortune 500 companies (compared to just 38 percent of the respondents reporting formal mentoring relationships). A mere 13 percent of respondents reported having no informal mentor, which is significantly fewer than the 62 percent who reported having no formal mentor.

As noted in Table 7, of those responding, more women than men reported having either a formal or informal mentoring relationship during their employment with a Fortune 500 corporate law department. Non-white attorneys were less likely to have a mentor (formal or informal) than white attorneys. Twenty-two percent of female attorneys of color reported having informal mentors, slightly less than the 25 percent of female attorneys of color who reported having formal mentors. More white women reported having a mentor (formal or informal) than any other group. Men of color were least likely to have a mentor, whether formal or informal.
Many respondents indicated a preference for mentoring relationships that developed naturally over time as opposed to the more forced relationships established through formal mentorship programs. One respondent stated, “[M]y informal mentors were more helpful because they were doing so voluntarily because of an interest in my career, rather than a tick mark off their list of responsibilities.” In some cases, long-term mentor-protégé relationships continue well into the future. One respondent commented:

Slowly I developed an extremely strong mentoring relationship with my direct supervisor, a white male. I feel he helped look out for my career, gave me stretch assignments while also giving me support for those assignments, and was candid, yet supportive in his reviews of my work performance. To this day, I consider him a mentor.

Most of the protégés surveyed in this study held their informal mentoring relationships in high esteem. Many felt that these less formal relationships provided “safe space for discussion,” “cheerleaders,” “someone to vent to,” “inside information about law department politics,” “unwritten rules about how things work,” “assistance in getting things through roadblocks,” and “coaching and development of skills ….”

Broken down by race, ethnicity, and gender, female attorneys of color in law firms were more likely than female attorneys of color in law departments to have informal mentors. As shown in Table 8, only 22 percent of female attorneys of color reported having informal mentors compared to 83 percent of those surveyed in law firms. Overall, more attorneys in law firms reported that they had informal mentors than did attorneys in law departments.

As shown in Table 9, female attorneys of color in both law departments and law firms reported having one or more informal mentors who were also women of color, more so than attorneys from any other group. In the Commission’s study of law firms, male attorneys of color were the second most likely group to report having an informal mentor who was a woman of color. In the law department study, male attorneys of color were the least likely to have an informal mentor who was a woman of color. Further, more white attorneys in corporate law departments reported having informal mentors who are women of color than did white attorneys in law firms. Female attorneys of color in law firms were the least likely to be informally mentored by white male attorneys, who are typically more senior in position and better connected, with more power and ability to influence another lawyer’s career. However, male attorneys of color in law departments were the ones least likely to be informally mentored by white male attorneys. Female attorneys of color in law departments were third most likely to be mentored informally by white male attorneys. In both practice settings, minority attorneys are the least likely to be informally mentored by white male attorneys, who are also the most likely to have the biggest books of business and most influence in a firm.

Because white male attorneys hold the top rungs of law firms and corporate law departments, this means that minority attorneys are least likely to have access to important networks, receive quality assignments, or be presented with opportunities for advancement. The Commission’s Visible Invisibility report on women of color in law firms noted that “[t]his difference may be the critical differentiating factor in the careers of men and women, and especially women of color.”

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Table 7 Percentage of Each Demographic Group Reporting Formal and Informal Mentoring in Fortune 500 Law Departments

<table>
<thead>
<tr>
<th>Protégé</th>
<th>Formal</th>
<th>Informal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women of color</td>
<td>25%</td>
<td>22%</td>
</tr>
<tr>
<td>White women</td>
<td>39%</td>
<td>43%</td>
</tr>
<tr>
<td>White men</td>
<td>16%</td>
<td>18%</td>
</tr>
<tr>
<td>Men of color</td>
<td>6%</td>
<td>4%</td>
</tr>
</tbody>
</table>

Table 8 Percentage of Each Demographic Group in Fortune 500 Law Departments and in Law Firms Reporting Informal Mentoring

<table>
<thead>
<tr>
<th>Protégé</th>
<th>Fortune 500 Law Department</th>
<th>Law Firm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women of color</td>
<td>22%</td>
<td>83%</td>
</tr>
<tr>
<td>White women</td>
<td>43%</td>
<td>81%</td>
</tr>
<tr>
<td>White men</td>
<td>18%</td>
<td>78%</td>
</tr>
<tr>
<td>Men of color</td>
<td>4%</td>
<td>77%</td>
</tr>
</tbody>
</table>
Table 9  Percentage of Each Demographic Group in Fortune 500 Law Departments and in Law Firms Reporting Informal Mentoring by Race, Ethnicity, and Gender

<table>
<thead>
<tr>
<th>Informal Mentor(s)</th>
<th>Protégés in Fortune 500 Law Departments</th>
<th>Protégés in Law Firms</th>
</tr>
</thead>
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<td></td>
<td>Women of color</td>
<td>Men of color</td>
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<tr>
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<td>7%</td>
</tr>
<tr>
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<td>10%</td>
</tr>
<tr>
<td>One or more white women</td>
<td>19%</td>
<td>3%</td>
</tr>
<tr>
<td>One or more white men</td>
<td>17%</td>
<td>4%</td>
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The comments of several survey respondents demonstrate the value that in-house attorneys place on mentoring. No two mentor-protégé relationships are the same. Informal mentoring gives potential mentors and protégés an opportunity to evolve naturally into comfortable relationships with others who may or may not share common backgrounds and experiences. The Commission’s current study found that some protégés sought out mentors of like gender and race. One African American female attorney wrote:

I sought out my direct peers who are people of color for advice that was willingly given. We had a sense of needing to take care of each other. My mentoring with an executive African American started when my white male manager tried to make himself look good by pointing to me as an example of multicultural success. After a diversity event, I was taken to an executive level meeting with my white male manager because I was the only one who could take notes. The introduction allowed me into the inside world of legal management in the company, which was vital to my survival at the company.

Some protégés resisted establishing relationships with mentors of the same gender, but found patrons in the people they least expected. One female respondent noted:

My direct supervisor was incredibly helpful in helping me get hired, teaching me and leading me to the business side of the law. I really enjoy being part of a business. I just did not expect all the gender issues that would go with it. My direct supervisor was the exception to the rule of women not helping women.

Several female attorneys of color recounted the benefits they reaped from their mentor-protégé relationships. An African American female attorney wrote:

My informal mentors provided helpful feedback on how I was perceived within the company and things I should focus on improving. Probably of most value, however, was the information sharing as to what was going on and being able to turn to them for off-the-cuff advice on day to day legal and other issues.

Some survey respondents were fortunate to have sponsors—highly placed individuals who advocated for their protégés to receive promotions and other career-advancing opportunities. An African American female attorney commented on her sponsorship experience:

My mentors took me under their wing … checking in to make sure I had interesting and challenging work. They took active interest in my career development, arranging for firsthand shadowing opportunities so I would know the business better. They also included me in meetings just for the experience but then would ask my opinions as if they mattered or were important. I would hear after the fact that they spoke highly of me in meetings when I wasn’t present. They took the time to pull me aside or give me the heads up about political undertones and things to pay attention to that were not necessarily obvious. Most of all, they gave me critical feedback about what I needed to work on in order to be a “superstar” or “high potential.” And finally, they were privately supportive in my down moments and never shared my self-doubts or even remembered I had them to begin with. They had confidence in me when I didn’t.

Respondents to the Commission’s law department study emphasized the importance of an in-house lawyer understanding both the legal side and the business side of the job. Fortune 500 companies thus, by the nature of the environment, offer certain mentoring options that law firms do not, namely the opportunity to form alliances.
with non-lawyer mentors who understand the business side of the company. Such mentors can sometimes provide objective outsider advice on how to navigate potentially difficult political situations. They can also help protégés broaden their knowledge of the non-legal, business end of the company, which can be particularly helpful to female attorneys of color who typically have more difficulty tapping into networks of influence. One respondent commented, “There were two women, one attorney and one business executive [who] continually taught me about the corporation, its culture and how to politically position [myself] for advancement.” Another respondent wrote, “There was really no one who served as a mentor to me in the legal department. If I wanted guidance, had questions, etc., about the company, company politics, personalities, etc., I would talk to my clients who had executive experience with the company.” An African American female attorney commented, “I had white male and minority male attorney mentors. I had white female and minority female mentors who were outside of my department.”

Despite progress, female attorneys of color (and male attorneys of color) in Fortune 500 law departments still lag behind white males and females when it comes to securing white male mentors or sponsors who typically possess the power and stature to propel protégés toward career advancement. The combination of race, ethnicity, and gender continues to be a negative for many female attorneys of color, particularly when it comes to securing champions for their advancement.

**Work-Life Balance and Integration, and Career Satisfaction**

Juggling work life and personal life continues to be a significant challenge for women, in general, and women of color, in particular. Many of the female respondents in the Commission’s *Visible Invisibility* survey on law firms lamented their problems in trying to satisfy the demands of two jealous mistresses—law firm practice and family. The female survey respondents in the current study share these frustrations. Respondents in both studies spoke of the difficult choices and trade-offs they have had to make to achieve a modicum of balance between their professional and personal lives. It is those very work-life balance considerations that prompt many attorneys in private practice to choose careers in corporate law departments in the first place and keep them from leaving once they get there.

When respondents elaborated on the factors that influenced their decision to apply for work with a Fortune 500 corporate law department, several themes emerged, including job satisfaction and quality of life concerns. One respondent expressed a desire to have a “lifestyle position” where he could work during the day and come home to his family at night. Another respondent stated, “I was looking for work-life balance and was not interested in the pressures of billable hours within the law firm setting.” A working mother wrote:

> I felt that I could succeed better in a corporation. I work more than I did at a firm, but there is no ‘face time’ pressure. In a law firm, I was instantly marginalized the minute I had a child. They were convinced that women with children cannot be committed to a career.

Another respondent stated:

> I was tired of the law firm model that valued me based only on my inventory of billable hours rather than my unique skills in the area of law that had tremendous potential to attract larger clients. The Fortune 500 that found me has shown its appreciation nicely, and my quality of life has benefitted tremendously.

A working mother attorney explained:

> I left law firm life when my first child was a year old. I couldn’t manage being a mom with my law firm work and manage [my schedule]. [It] was the best decision I ever made. I have more control over my time in-house.

Another respondent noted, “[There is] less travel than in private practice and an ability to better control when I needed to be away. [I have] greater ability to make room in my schedule for a personal life.” An Asian American attorney commented, “I didn’t want to work the ridiculous law firm hours anymore. This has at least provided me with a steady paycheck and the ability to see my children at reasonable hours.”
Female attorneys of color are more likely than any other group to be single heads of households; as such, they often have fewer back-up support systems in place to help with child care, elder care, and other family-related matters. The flexibility in scheduling and reduced pressure to meet stringent billable hours requirements that in-house work offers better support their lifestyle needs. There has long been a misconception that women of color leave law firms because they do not want to work hard. White female and female attorneys of color seeking greater balance between work and home are not looking for ways to avoid hard work. On the contrary, they are looking for ways to work smarter—ways that will enable them to have substantial, successful careers without shortchanging their families.

Not all companies have adopted policies that allow employees, both women and men, to pursue work-life integration, particularly with regard to securing flextime to accommodate family needs. As one respondent noted, this is sometimes seen as the “corporate equivalent of the so-called ‘mommy track.’” Some respondents reported pressure to avoid taking leave in accordance with the Family Medical Leave Act. One female respondent wrote:

I am preparing to have my first child in about a month. Although my supervisors (a female that never had children and a male that had a stay-at-home wife) say they will support me in any way necessary, I am constantly made to feel guilty for my decision to take all 12 weeks of unpaid leave available to me under the Family Medical Leave Act. In fact, I will likely be passed over for a promotion while I am on leave that I was previously told would be pursued at about this point in the year. In comparison to the law firm for which I worked before I came to this company that had excellent maternity and childcare benefits, I feel as if starting a family has a negative connotation here with no support from the company other than what is minimally required under federal law. It is almost a mentality of “if you can’t work like a man, then you shouldn’t be doing it.”

Another female respondent stated:

I love the work! I love being a business attorney, and I really enjoy being part of a business. But, what I do not like is the complete inflexibility of the workplace to accommodate women and their families. Perhaps this is just being naive on my part; having significant international experience I know what Europe does for its employees. One of the reasons I chose to go in-house was because I thought that it would be more flexible than a law firm. I delayed having children until my late 30s because I thought this would allow me to get my career started and on solid ground so I could take some flex time for a few years. How wrong I was!

Like men, women, and women of color, do not want to sacrifice having a fulfilling career to have a family. Unfortunately, many women of color find themselves in situations where they are forced to choose between the two. Legal employers that offer women of color greater options in developing and advancing their careers and satisfying familial obligations will likely have more success in retaining these employees in the long run. Studies also show that having more diversity in leadership positions leads to greater retention of talent, lower expenditure in recruiting and training, as well as more profits and better outcomes. 

Several respondents extolled the virtues of in-house work over law firm practice. A Latina respondent wrote, “Even on frustrating days, I feel closer to my clients and their goals as in-house counsel.”

An African American woman stated:

I never wanted to be a law firm lawyer, and they were never welcoming to me whether due to class rank, my low socioeconomic background or race or a combination of all of it. I have found corporations to be far more diverse and a more welcoming place to work. And unlike firms, you have other professionals of color in other departments at corporations to network and create relationships with. Companies also offer more flexible work environments.

A Middle Eastern woman of color wrote of her preference for in-house work:

The collaborativeness of the business environment, the shared goals and objectives, the ability to influence strategy and people as a member of senior management and also to practice law using a skill set that must always adapt and grow makes it extremely satisfying.
Respondents to the current survey identified other factors that influenced their decision to move in-house, including having a connection with the company’s vision or mission, the opportunity to gain business experience, and the ability to have more direct client contact. Some survey respondents were drawn to the company’s reputation, vision, or mission. One respondent stated, “[The] company had a longstanding reputation and good will within [my] area of legal practice.” Another respondent was attracted to the company’s “reputation on diversity issues.” Other respondents noted their company’s “mission” and shared value system as motivating factors.

Respondents also expressed a desire to gain more business experience and expertise. A respondent stated that moving to a corporate law department setting provided a “chance to expand my area of expertise.” Another respondent explained, “I wanted the opportunity to contribute more on the business side and truly understand the needs of the organization.” Yet another respondent noted, “I believed there would be opportunities for advancement within the law department and on the business side.” One respondent emphasized, “I was given an opportunity to lead and grow a unit within the company, which was something I could not do in a law firm setting.” A Latina attorney commented, “I enjoy working in-house and drawing upon other skill sets, not just the legal background.”

For some participants, the ability to have more meaningful client contact motivated them to move in-house. “I wanted to become more closely integrated with clients,” noted one respondent. Another respondent wrote, “I wanted to work directly on client matters and not be in the background.” Another respondent stated, “[I wanted the] ability to work directly with clients and to be the lawyer conveying advice.” Similarly, another respondent commented, “I wanted to experience having one client and the opportunity to help that client build its business.” Yet another respondent remarked, “I wanted to get integrated into a client rather than remain separate as outside counsel to assist more with the client’s issues.”

Although most were pleased with their decision to leave law firms for in-house practice, women of color reported being less satisfied with their decision than their white counterparts, and the greatest differential was between women of color and white men. Seventeen percent of female attorneys of color reported that they were extremely satisfied with their decision to work for a Fortune 500 company, compared to 48 percent of white males. Fourteen percent of women of color reported that they were satisfied with their decision to work for a Fortune 500 company, compared to 37 percent of white males. Eleven percent of women of color reported being dissatisfied with their decision to move in-house, compared to just 7 percent of white males.

The disparity in these statistics exposed fundamental differences in the experiences of women of color and their white colleagues, particularly their white male colleagues, and further illustrates the difficulties resulting from multiple minority status. Corporate law departments should direct their retention efforts to this gap in satisfaction women of color experienced.

The survey asked respondents to comment on various factors that they perceived would have a positive impact on their careers. Thirty-seven percent of women of color indicated that more gender diversity would have a very positive impact on their careers, compared to 25 percent of white females. Twenty-three percent of women of color indicated that more consistent implementation of formal policies for alternative work arrangements would have a very positive impact, compared to just 9 percent of white males. A sizeable proportion of the women of color surveyed are mothers, and in some cases, single mothers; therefore, it is expected that they would rank this factor very highly. Given that many of the male respondents reported having wives at home to take care of the household and the children, it should be no surprise that they would rank this factor as having less impact than women of color. Law department management should be mindful of these statistics when considering issues related to retention.
**Relationship to Compensation**

Compensation becomes even more of a hot-button issue for female attorneys of color as they begin to advance through their careers. Feeling valued, with compensation being one of the indicators used as feedback for being valued, figures heavily in an attorney’s decision to remain with her employer. Compensation, and other factors affecting an attorney’s success—including access to networks, information and resources; performance reviews, assignments, promotion opportunities, and work-life integration—become inextricably intertwined at this pivotal phase in a female attorney of color’s career. Mentorship and sponsorship play a particularly crucial role at this stage by providing protégés with advice, navigational guidance, protection, and other support needed for advancement and promotion. This mentorship and sponsorship secure a lawyer’s assignment on high priority matters and entrée into influential networks, which, in turn, position protégés to receive positive performance reviews and promotions. This type of sponsorship supports retention and, ultimately, helps less experienced female attorneys of color establish credentials necessary to increase their value to potential employers and demand their worth in the marketplace. With such support, female attorneys of color have the tools to advocate appropriately for themselves during job interviews and performance evaluations. Unfortunately, as noted above, women of color receive this type of quality mentorship and sponsorship less frequently than other groups, a fact that diminishes their opportunities for career and salary growth and sows the seeds of dissatisfaction that lead to unnecessary attrition.

Further, employers often expect to have to negotiate salary with prospective candidates. Women of color who fail to overcome the cultural factors and fears that can impede effective negotiation of salary, bonus, and benefits may diminish their prospects for fulfilling their full potential in the company. However, as discussed elsewhere in this report, employers interested in increasing diversity and retention should review performance-evaluation and compensation systems to ensure that all attorneys have equal opportunity to advance and to obtain equitable pay.

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**Advancement**

**Exhibit L** Percentage of Respondents Who Would Leave Their Law Departments Because of Barriers to Advancement

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<tr>
<th></th>
<th>Women of color</th>
<th>White women</th>
<th>White men</th>
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<td>Would leave</td>
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<td>departments</td>
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<td>advancement</td>
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**Exhibit M** Percentage of Respondents Who Would Leave Their Law Departments to Take Advantage of an Advancement Opportunity in Another Organization

<table>
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<tr>
<th></th>
<th>Women of color</th>
<th>White women</th>
<th>White men</th>
</tr>
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<tbody>
<tr>
<td>Would leave</td>
<td>23%</td>
<td>18%</td>
<td>16%</td>
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<tr>
<td>their law</td>
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<tr>
<td>departments</td>
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<td>to take advantage</td>
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<td>advancement</td>
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<td>opportunity in</td>
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<td>another organization</td>
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The numbers speak volumes—women of color comprise just over 2 percent of partners in major law firms in the nation. Only 3 percent of non-equity partners are women of color and only 1.4 percent are equity partners. Just 10.96 percent of law firm associates are women of color. As noted above, 86 percent of women of color attorneys leave their law firms before their eighth year. In 2009, the percentage of diverse equity partners stagnated at 6.06 percent (up imperceptibly from 6.05 percent in 2008).

In the Commission’s law firm study, 20 percent of women of color reported being denied advancement or promotion, as did 27 percent of white women and 19 percent of men of color. Just 1 percent of white males reported being denied advancement or promotional opportunities. In the Commission’s current study, 7 percent of all respondents reported that they had been denied promotion or advancement based on race or ethnicity. Nineteen percent of all respondents reported that they had been denied promotion or advancement based on race or ethnicity. Four percent of female attorneys of color, 1 percent of male attorneys of color and white male attorneys, and 0.6 percent of white female attorneys reported being denied promotion or advancement based on race or ethnicity. Four percent of female attorneys of color, 13 percent of white women, 2 percent of white males, and 0.1 percent of male attorneys of color reported having been denied promotion or advancement based on gender. White women cited gender bias as a greater impediment to advancement than women of color. However, women of color, once again, reported more consistent levels of negative bias relative to race, ethnicity, and gender across categories, further demonstrating their perception of how race, ethnicity, and gender affect their careers. White men, once again, reported experiencing nominal levels of bias relative to race, ethnicity, or gender.

Respondents pointed to subjectivity in the evaluation and promotion process predicated on personal relationships. An African American female attorney reported:

_The general counsel of my business clearly hires and promotes based on personal relationships. One of the people he brought on lives in another city, nowhere near the client, and will be the first lawyer promoted to a Senior Executive position. This person was in his wedding and stays at his home when we have functions at HQ. What more needs be said about this?
Another African American female attorney explained:

If enough people at the right level like you or your supervisor will stand up for you, you will be promoted. Pretty much the same as in a law firm except that there isn’t a book of business involved.

Many respondents lamented the negative impact of racial, ethnic, and gender bias on the evaluation and promotion process. One female respondent wrote, “When I announced that I was pregnant in 1998, my supervising attorney responded, “There goes your promotion!”” Another female respondent referred to the effect of gender on both promotions and demotions—and the effect business executives can have on a lawyer’s success: “I believe that promotions were more likely to be given to men than to women, although some women certainly were promoted. Also, some demotions I believe were based in part on the business client’s preference to deal with men, not women.”

An African American respondent reported similar experiences due to assumptions about race and gender:

I was denied a promotional opportunity that was partially based on race and gender because the person making the decision felt completely uncomfortable with both women and people of color. They decided to hire someone to do my job and make that job a higher-level position and tell me I was going to now report to this person. This was clearly not based on my performance, which everyone acknowledged was great. This was solely based on factors of race and gender.

An Asian Pacific American female attorney wrote of her feelings of not being valued:

I think being a woman of color has held me back. I am a positive person so for me to admit this is a huge deal. I have received huge promotional opportunities outside my employment, and have received numerous awards. My internal line of business clients are wonderful and appreciate me. My workplace, however, doesn’t value me. I have not been promoted, and serve as a work horse even though my best strength is management while also contributing as a worker.

An African American female attorney discussed how style can affect a lawyer’s success:

The only black female vice president within the entire company was fired because her new boss did not like her style. No performance issues were raised as the reason for the person being terminated. The person’s position was then separated into four separate positions that were filled by white people three to four levels below that of Vice President.

Another African American female attorney made similar observations:

I see the people who work hard and take initiative constantly being passed over for promotions. When you add race and gender to the mix it becomes an unfortunate constant, regardless of department. It’s depressing.

Yet another African American female attorney discussed the struggle she felt that she faced in her company:

I am an African American woman in a company whose upper layers are all white men. There are few minorities, let alone women of color, in middle to senior management. I feel that I have to fight to get what I deserve in terms of salary, promotion, and perks. And it’s a constant struggle to battle against the status quo, which, of course, prides itself on being fair and merit based … when in reality, it is not.

When asked to comment on whether the promotion process in their law department was transparent, only 13 percent of women of color strongly agreed that it was, compared to 29 percent of white males. However, 21 percent of women of color strongly disagreed that the process was transparent, compared to only 9 percent of white males. Several respondents expressed concern about the lack of transparency in the promotion process. One respondent wrote, “I don’t even know what the promotion process is. The process or options have never been disclosed and never been discussed.” Other respondents described the promotion process as “opaque.” One minority respondent likened the process to a “black box.” A female respondent commented:

It was “transparent” insofar as everyone admitted very openly that there was no real formal process and that transparency was needed. In actuality, I think people
understood that if they received consistently good annual performance reviews that with the passage of time they would be promoted, but this ‘process’ did not particularly inspire people to perform outstanding work.

Another female respondent stated:

_The only thing that was transparent was that they had certain people chosen for promotions before letting anyone know that a promotion was being offered. People were often promoted and nobody else knew the position was open._

An Asian Pacific American female respondent noted:

_Everyone (regardless of race or gender) within the legal department at every company I’ve worked at complains that the promotion process is not transparent. In the rare instances when someone is promoted, everyone is baffled as to why that person and not someone else who appears to be more deserving._

A man of color respondent commented, “Because of a lack of objective criteria and non-transparency of the process, the promotions are highly subjective, i.e., dependent on the strength of your relationship with decision-makers.” An African American female attorney commented, “During my tenure at my prior Fortune 500 employer, the promotion process was very arbitrary and did not appear to be merit based.”

A female respondent of East Indian descent wrote:

_It is not at all clear what one must do to receive a promotion. Comp is directly tied to grade levels, etc., and therefore, there is no clear path to greater comp. In addition, promotions seem completely subjective and closely tied to a champion versus merit or performance. I am increasingly frustrated by the company’s inability to tell me what I have to do to get to the next level, though I have received 3–4 promotions. I am goal oriented, but no road map is available._

While many law firms have added an initial, non-equity layer of partnership, the traditional, linear path to equity partnership remains clear. However, corporate law departments offer a non-linear path of advancement that provides varied options to attorneys seeking advancement. In addition to practicing law, in-house attorneys have opportunities to acquire business skills and industry knowledge, which broaden their expertise and makes them more valuable to the department and the company at-large. Corporate attorneys have the option of moving to the business side of the company and taking on non-legal, executive responsibilities. This not only expands their career opportunities but also gives them access to a wider pool of potential mentors, which often is essential to professional success. Further, the nature of corporate legal work is centered on the support of a single client—the corporation itself. This provides opportunities for attorneys to have more direct client contact and to work on a variety of substantive areas in support of the client’s needs. As the Commission reported in its _Visible Invisibility_ law firm study, this is not necessarily the case in law firm settings where attorneys, particularly those junior in status, often are relegated to assignments on the periphery of a client’s case with limited or no ability to establish a relationship with the client.

Seventy-five percent of women of color surveyed in the CWCC study believe that their corporate legal department is flat and has no room for growth.\textsuperscript{106} The respondents to the WBADC informal survey of women in-house made similar reports.\textsuperscript{107} Several of the respondents in the Commission’s current study complained of the flat nature of the corporate law department structure and the limitations it places on advancement. One respondent wrote, “There is little glory in the in-house world, at least in my organization. It is a flat hierarchy. That’s good and bad. There are limited promotional opportunities but there is unlimited collegiality (nobody is trying to step over the other, as there is nowhere to step at the moment).” A Latina attorney commented, “Our department organizational chart is very flat; there is one GC, one VP Corporate Legal and one VP Real Estate Legal, the rest of us are Senior Corporate Counsel no matter how long we have been with the company or what we do.” Another respondent stated, “[T]he only way to be promoted, no matter how well I performed was for someone to die or retire.”

As minorities seeking advancement in a traditionally white, male-oriented profession, female attorneys of color often face the prospect of being seen as token representatives of their race, ethnicity, and gender. Being “the only” or “the first” may appear to have its benefits. One Asian
Pacific American woman stated, “Being a diverse female in a predominately white workplace has made it easy for people to remember me, which ultimately has been positive.” Another female respondent explained, “I always viewed being one of only a few females … as a positive. I think you stand out and if you have the capabilities to succeed in that spotlight, it could be viewed as helpful.”

However, being the token minority is, ultimately, another burden that women of color must shoulder. Most troubling is that women of color in this position are often trotted out as show horses or as the poster children for diversity. One female respondent wrote, “My success was continually pointed to as a way to show promotions were fair. I would argue that I was the only senior woman for way too long, and that alone showed the process was not fair.”

As women of color navigate the advancement process, they battle stereotypes on two, sometimes three, fronts—gender, race, and ethnicity. They are forced to do double duty in countering these stereotypes, whether positive or negative. An Asian Pacific American female attorney stated, “People perceive me as a worker bee and not as a ‘leader’ because I am an Asian female.” Another respondent commented, “As an Asian Pacific American male attorney, perceptions of me are very much influenced by stereotypes, i.e., I am instantly viewed as non-assertive and submissive, and it takes a while, if at all, to demonstrate that I am not.” An African American female attorney identified some of the stereotypes associated with these double or triple burdens:

Women of color seem to suffer from the “Mammy Complex”—we cannot be angry or less nurturing. I cannot name the number of instances where I have been counseled to smile more often. Aggressive and/or assertive women are “bi#*es,” while men who exhibit the same attributes are merely “assertive” or “aggressive.”

Then there is the issue of double standards. As one female respondent referred to presumptions that continue to favor men: “Men get a presumption of being correct when they are stating their opinion, even if they are dead wrong. Women have to work harder to ‘prove their case,’ or show what they are saying is correct.”

Similarly, an African American female attorney wrote:

I have had to work to have clients accept my legal advice in a way that I don’t think is an issue for men. For example, in a conversation with three long-term clients, all men, I made a suggestion to which no one responded, but later in the conversation when one of the men made the same suggestion, it was discussed and accepted.

Perceptions of incompetence are a challenge for women of color throughout their careers, but never more so than when they move into positions of authority. White men are assumed to be competent and knowledgeable. Moreover, they often have numerous chances to succeed. When they make mistakes, they are given opportunities to remedy those mistakes and learn from them. Women and minorities, on the other hand, are often presumed to be less qualified and less competent and, rather than being given second chances, must prove otherwise. Unfortunately, women and minorities do not get multiple opportunities to demonstrate their abilities. Because they are held to a higher standard, a single mistake can damage a woman’s career. And those women and women of color who do attain positions of authority are often assumed to have been promoted solely to fulfill affirmative action quotas or as a result of having used their feminine wiles.

An African American female attorney wrote:

As a minority I know that my competency has been questioned repeatedly solely because of my race and my apparent successes have been deemed “impossible” and something that has been “given” to me rather than earned. I was actually told that by internal managers, clearly implying that I have not earned the right to be here, which under the circumstances could only be based on my race given the accomplishments and experience I have had and bring to my job.

A Latina respondent commented:

Being Hispanic has affected my career in two general ways. The most overt is that occasionally people assume that you are less experienced, less intelligent, or don’t know what you are talking about … The less obvious but more important way that it has affected my career is that while people who I work with are generally kind and inclusive, they are almost exclusively middle-aged white men and women from upper class backgrounds.
**Relationship to Compensation**

Compensation and advancement are inextricably connected. The pay disparity between women, particularly women of color, on the one hand, and white male attorneys, on the other, is substantial and continues to grow over the course of attorneys’ careers. In law firms, the salary gap is greatest between male equity partners and female equity partners, who earn 85 percent of the compensation earned by their male counterparts,\(^{109}\) a gap that translates into a $66,000 difference per year between the earnings of male and female attorneys at this level.\(^ {110}\) Overall, women in the current survey (39 percent of white women and 15 percent of women of color) cited salary as one of the reasons they would leave their Fortune 500 law departments, compared to 2 percent of men of color. Interestingly, women of color (15%) and white male respondents (13%) reported being almost equally as likely to leave their law departments for higher salaries.

In the Commission’s *Visible Invisibility* law firm report, respondents reported that developing a book of clients had the greatest impact on their compensation.\(^ {111}\) Those attorneys who were able to bring in the most business earned the most lucrative salaries. In corporate law department settings, there is no such thing as building a book of business or billable hours. There is only one client—the company. Therefore, it is critical that in-house attorneys develop strong mentor-protégé relationships and leverage networks (internal and external, formal and informal) to gain the visibility necessary to secure the most highly valued assignments. Further, they must attract the attention of well-connected sponsors who will actively advocate on their behalf for promotions and more significant involvement on important client matters, which, ultimately, will enable female attorneys of color to position themselves for ascension to positions of authority within their law departments.

In 2010, MCCA, the Project for Attorney Retention (PAR), and the ABA partnered on a study to identify the factors that contributed to the salary disparity between male and female attorneys. In that study, 55 percent of the 700 women partners surveyed “had been denied their share of client origination credit”;\(^ {112}\) one-third of these respondents stated that they were uncomfortable fighting compensation decisions.\(^ {113}\) Most disturbingly, 30 percent of respondents reported being intimidated, bullied, and threatened to back down from disputes over origination credit.\(^ {114}\) Moreover, typically compensation decisions are determined by compensation committees, which historically lack diversity and include few, if any, women.\(^ {115}\) Furthermore, women and correspondingly, women of color often lose out in the client succession process, the process through which retiring attorneys or firms bequeath clients to protégés—in most cases, male protégés.\(^ {116}\)

While some women of color secured higher salaries in the corporate arena, other female attorneys of color working in corporate law departments suffered salary inequities, as several of the respondents in the law department survey attest. Some respondents point to lack of experience as the reason for the disparity. A multiracial female respondent stated:

> My company is very inclusive, especially in the law department. We are 28 percent minority and 50 percent female among the attorneys. Women hold 50 percent and minorities hold 25 percent of the senior leadership positions in the law department. The only area that I

Another female respondent stated:

> I still had to work harder to get promotions, although once promoted to management I moved ahead of my white male counterparts in authority and pay. But I lived with comments such as “she got promoted because she slept with the GC” (not true) and a clear expectation from my GC that I would be better than my white male colleagues.
think can be improved upon is the area of compensation. I believe the differences in pay have more to do with experience level than bias.

However, others believe bias is to blame. Another female respondent commented, “My sense is the bias is in salary and compensation, with male colleagues receiving more in terms of salary.” Yet, another female respondent noted, “I experienced gender bias in regards to salary/compensation. I found that my male counterparts received higher compensation for the same work.” Similar to the respondents surveyed in the CCWC study, some of the female respondents in the Commission’s survey also cited the importance of being valued for their contributions. One female respondent stated:

I believe that there are continuing barriers to women in the legal profession which will continue as long as the ‘norm’ is the male gender and the power remains in male hands. Women need to get out in front of clients and to shoulder big responsibilities with commensurate top compensation. We need to be able to thrive and survive and be valued, not just to get into the front door.

Another female respondent wrote:

I am of the general opinion, based upon my experiences in a large organization, that women are not treated equally to men; sometimes the inequality is in pay and sometimes the inequality is in how women are treated or respected for the work that they perform. The degree of inequality varies and is not always constant, but it is prevalent.

Women of color who are able to demonstrate the value they bring to the law department may be able to ameliorate salary disparities, particularly in tough economic times. In a 2011 article published by InsideCounsel magazine, attorneys who take on more work in-house, thus helping the company save money by reducing outside counsel fees, are more likely to earn a cash bonus or salary increase. Further, attorneys who become experts in a particular field are better positioned for advancement, and are more likely to garner a salary commensurate with that expertise.

In-house female attorneys of color do not have to contend with issues related to origination credit and rain-making. However, exclusion from positions of authority and influence over compensation decisions is as significant a problem for women of color working in-house as it is for those working in law firms. Succession planning is a compensation-related area where the concerns of women of color seeking to advance in law firms and law departments overlap. Decisions relative to who will succeed retiring attorneys or upper-level attorneys who leave the law department are often made without consideration of diversity, which tends to disadvantage women of color. As noted earlier in this report, women, particularly women of color, are less likely to establish effective mentor-protégé relationships, which hurts them in succession situations. To fully benefit when it comes to succession planning, women of color must gain access to highly visible positions that put them in line for promotions. As one woman of color attorney wrote:

A large number of the executives in my company are women. I’ve noted that a large number of candidates being ‘fast-tracked’ up the legal management ladder are women as well. However, at the very top levels within the legal department, there are still no women and it doesn’t look like the succession plan calls for any women to join that echelon soon.

Salary negotiation is critical to the advancement of women of color. Given the lack of transparency and subjectivity in the compensation process and women’s perceptions of downsides to negotiating salary, bonus, and benefits as a man would, women lose more than $500,000 by the end of their professional lives. In mid-career, a woman of color has accrued a wealth of experience, honed a highly developed skill set, and garnered a substantial number of professional contacts and successes. That phase is the time to highlight these accomplishments. Key to the success of women of color at this stage in their careers is, and will be, their ability to master the art of negotiation. Employers that seek to increase retention and related career satisfaction and productivity should evaluate their performance review and compensation systems to ensure that they are as fair and transparent as possible.
Survey respondents answered several questions designed to elicit information about their perspectives, observations, and experiences with particular forms of bias while working at a Fortune 500 company. Respondents were asked to indicate whether they felt such encounters were based on race, ethnicity, gender, or other traits. Overall, of those who responded that they had experienced bias, the majority indicated gender as the primary basis for the bias, in all categories except one—lack of access to resources negatively impacting performance. In this single category, respondents, overall, identified racial/ethnic bias as having the greater impact on their careers. (See Table 14.) Female attorneys identified gender as having a greater negative effect on their careers than did male attorneys. One female respondent summed it up when she stated, “I have to work harder to ‘make up’ for being female.”

Female attorneys of color consistently reported the highest negative effects of race, ethnicity, and gender combined, across all categories of bias, which, in comparison with the other demographic groups, illustrates the multiple burdens that women of color have to shoulder. White males consistently reported the lowest levels of bias in every category, further illustrating the ease with which they are able to propel their careers forward without having to navigate the barriers that women and attorneys of color face and must overcome.

Although female respondents, overall, reported gender bias as having the most negative influence on their careers, a comparison of the responses of white and non-white attorneys tells a different story. Attorneys of color, both male and female, indicated a greater negative effect of race on their careers than did white attorneys in every category of bias. White female attorneys reported a greater negative effect of gender on their careers than did any other group. Tables 15 through 22 summarize the responses of survey participants to questions about different categories of racial/ethnic and gender bias. Minority attorney respondents reported a higher incidence of such bias uniformly across all categories. Female attorneys of color reported fairly consistent levels of negative bias. This aligns with the findings of the Commission’s study of women of color in law firms, in which “[m]ost women of color … found that being a woman and a member of a racial minority group made it more difficult to become integrated into the law firm, created career hurdles that white men did not experience, and proved to be emotionally draining.”

As discussed earlier in this report and in the Commission’s law firm study, stereotyping and bias, and perceptions that unfounded assumptions and lack of transparency in evaluation, promotion, and compensation decisions unfairly hinder success, have led to the disproportionate attrition of women of color from both law departments and law firms. The following sections of this report discuss the manifestations of such stereotyping, bias, misperception, and lack of transparency.

### Table 10 Percentage of Respondents in Fortune 500 Law Departments Reporting Racial/Ethnic and Gender Bias

<table>
<thead>
<tr>
<th>Category of Bias</th>
<th>Race/Ethnicity</th>
<th>Gender</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experienced demeaning comments or other types of harassment</td>
<td>9%</td>
<td>26%</td>
</tr>
<tr>
<td>Missed out on desirable assignments</td>
<td>6%</td>
<td>19%</td>
</tr>
<tr>
<td>Experienced one or more forms of discrimination</td>
<td>10%</td>
<td>26%</td>
</tr>
<tr>
<td>Lacked access to informal/formal networking opportunities</td>
<td>9%</td>
<td>27%</td>
</tr>
<tr>
<td>Received unfair performance evaluations</td>
<td>5%</td>
<td>11%</td>
</tr>
<tr>
<td>Denied promotion or advancement</td>
<td>7%</td>
<td>19%</td>
</tr>
<tr>
<td>Treated differently than peers</td>
<td>9%</td>
<td>24%</td>
</tr>
<tr>
<td>Lacked access to information negatively affected ability to perform</td>
<td>4%</td>
<td>13%</td>
</tr>
<tr>
<td>Lacked access to resources negatively affected ability to perform</td>
<td>17%</td>
<td>9%</td>
</tr>
</tbody>
</table>
Table 11 Respondents Who Reported They Experienced Demeaning Comments or Other Types of Harassment

<table>
<thead>
<tr>
<th>Category of bias</th>
<th>Women of color</th>
<th>White women</th>
<th>White men</th>
<th>Men of color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Racial/Ethnic</td>
<td>6%</td>
<td>0.8%</td>
<td>0.5%</td>
<td>0.9%</td>
</tr>
<tr>
<td>Gender</td>
<td>6%</td>
<td>18%</td>
<td>0.7%</td>
<td>0.2%</td>
</tr>
</tbody>
</table>

Approximately half of the respondents (49 percent) reported that they had not been subjected to demeaning comments or other types of harassment in their Fortune 500 law departments. Of those respondents who did report offensive comments or harassment, 40 percent were women. Female attorneys of color in the Commission’s current study were more likely to report experiencing demeaning comments or harassment based on race, ethnicity, and gender than any other group. Their responses were evenly matched at 6 percent in racial/ethnic and gender categories.

Many female survey respondents recounted demeaning comments that were made to or about them in their workplace. These comments ranged from paternalistic to those outright harassing in nature. One female respondent wrote, “I was told that women should settle down and get married.” Another female respondent stated that she “had to put up with the occasional stupid remark” from older men, including, “You’re my favorite lawyerette,” “You are the prettiest attorney we have,” and “Who watches your children when you are working?” Another female respondent commented, “Demeaning comments might be a strong way to refer to the paternalism that permeated this department under the old GC, but he occasionally said things to me that made me laugh out loud as an alternative to screaming.” Yet another female respondent, who was seven months pregnant at the time, commented to a white male attorney, “As you can probably tell, I like to eat,” to which he replied, “From where I’m standing, it looks like you like to do something else.”

An African American female attorney of color wrote:

_I was sexually harassed on the job. I reported it. The harasser was reprimanded by a division president and financially penalized. A generic presentation was made at the annual legal conference to underscore zero tolerance of the offending behavior._

Another female respondent stated:

_[I] have had male attorneys sexually assault me on at least two occasions—not a rape but assault in the sense of a totally unwanted sexual advance that involved trying to rip off my blouse and unwanted touching in my breast area … [I] have had male supervisors make passes at me and try to seduce me [into] taking advantage of their position as the boss._

In many cases, male colleagues were the source of the demeaning remarks. However, in some cases, female colleagues made the offending comments. An African American female respondent wrote of remarks made by her female supervisor:

_I’ve had two maternity leaves while here. On a daily basis, I would hear comments such as “you work on this EEOC charge—it’s pregnancy discrimination—you’re pregnant. That will work in our favor” or “You’re having another baby? Dang, you remind me of that woman having 19 kids in Arkansas.”_

In some cases, biased treatment was the result of pressure exerted by forces outside of the law department. One female respondent wrote, “I was told I could not go on a business trip because the male attorney’s wife would not understand ….”
Another female respondent noted:

> [W]hen I was on a trip to a plant location, [I] was told that I could not enter the plant because my gender would alarm the plant workers, who would wonder who I was. I waited outside the plant, where a very kind manager took me on a tour of the area. Another time, I was told that I could not make an appearance before a county board of supervisors on requesting a tax exemption because they would not receive a female attorney well.

A Latina attorney recounted:

> The demeaning comments came from a client as a reaction to my involvement in revising internal company processes that affected his job. My sense is that he felt threatened and thought I was “telling him what to do.” I am much younger than him; I could be younger than his daughter, and I am Latino, an ethnic group that has experienced a lot of backlash in California, where I live and work. He only said the comment once. Our work relationship is strained. My strategy is to document everything with this client.

In comparing the experiences of respondents in the current study to the experiences of respondents in the Commission’s *Visible Invisibility* study of law firms, several interesting distinctions emerge. In both studies, more women than men reported experiencing demeaning comments or other harassment. Male attorneys of color in law firms reported experiencing demeaning comments or harassment in greater numbers than male attorneys of color in corporate law departments. White male attorneys in both studies were the least likely to experience demeaning comments or harassment. Female attorneys of color in both studies reported having experienced demeaning comments or other types of harassment on the job. However, more female attorneys of color in law firm settings (49 percent) reported these negative experiences than female attorneys of color in Fortune 500 legal department settings (12 percent).² Exhibit N illustrates the differences in the respondents’ experiences between the two studies.

Exhibit N  Percentage of Respondents in Fortune 500 Law Departments and Law Firms Reporting Demeaning Comments and Harassment (Race, Ethnicity, and Gender)

> It is not clear what accounts for the distinction between the law department and law firm responses to this question. Is offensive behavior less tolerated in corporate legal environments? Are there more stringent policies regulating behavior in place in corporate law departments? Do companies and parent companies exert pressures on corporate law departments that are not exerted on law firms? What is clear is that white males, whether in law departments or law firms, do not have to contend with the significant levels of offensive and debasing treatment that women, particularly women of color, often face. White males have fewer hurdles to jump in order to advance in their careers. Demeaning remarks and harassing behavior create a work environment that impedes the ability of women of color to perform effectively and hinders their efforts to succeed. Their time and energy, which should be focused on substantive endeavors that will advance the company’s business, must instead be redirected toward fending off biased attacks on two, sometimes three, fronts.
Meaty, substantive assignments that provide an attorney with increasingly more responsibility and visibility or that regularly put her in front of judges and important clients are the stuff of which successful careers are made. Unfortunately, women, particularly women of color, often find themselves relegated to low-end assignments that lead nowhere and put them on the periphery of client matters. The cumulative effect is diminished opportunities for success for both the lawyer—and the company.

In its study of women of color in law firms, the Commission found that there was an extremely significant differential between women of color and white men—44 percent of women of color reported being passed over for desirable assignments compared to just 2 percent of white males. Additionally, 44 percent of female attorneys of color in that study wanted greater influence over their assignments. As was the case in the law firm study, female attorneys of color in Fortune 500 law departments reported missing out on desirable work assignments based on race or ethnicity, more than any other group. White female attorneys in the Commission’s previous and current women of color studies reported missing out on plum assignments based on gender, more than any other group. Once again, female attorneys of color indicated more consistent bias across racial, ethnic, and gender lines than any other group. Fewer than 5 percent of white men in the Commission’s law firm study and fewer than 2 percent of white men in the current study reported having career-damaging experiences (such as missing out on quality assignments) based on race or ethnicity. Fewer than 3 percent of white men in the previous study and fewer than 2 percent of white men in the current study indicated having career-damaging experiences based on gender.

In elaborating on her experience, an African American female attorney wrote: “I am only called on to work on special projects related to diversity and not on substantive areas of the law.” A female attorney of Middle Eastern descent noted that, with regard to “assignments and networking, there is a soft gender bias. I am treated differently, but usually in a positive way.”

One female respondent stated: “Early in my career, I was discriminated against because I was a woman and passed over for an assignment. I was told women should settle down and get married.” Another female respondent commented: “[I believe my manager] sometimes gives prime assignments to a male lawyer believing he will get along with the male clients better.”

Some respondents pointed to traits other than race, ethnicity, or gender as the reason for missing out on quality assignments. One African American female attorney wrote: “Other traits for me meant that because I have family, assignments may have been given to others without me having an opportunity to vie for them.”

### Table 12: Respondents Who Reported They Missed Out on Desirable Assignments

<table>
<thead>
<tr>
<th>Category of bias</th>
<th>Women of color</th>
<th>White women</th>
<th>White men</th>
<th>Men of color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Racial/Ethnic</td>
<td>3%</td>
<td>0.7%</td>
<td>0.6%</td>
<td>0.1%</td>
</tr>
<tr>
<td>Gender</td>
<td>4%</td>
<td>13%</td>
<td>1%</td>
<td>0.2%</td>
</tr>
</tbody>
</table>

Experienced One or More Forms of Discrimination

Again, women of color reported the most consistent levels of discrimination across race, ethnicity, and gender, of any group surveyed, further evidencing the impact of race, ethnicity, and gender on their careers. Overall, 10 percent of respondents working in Fortune 500 law departments indicated that they experienced one or more forms of discrimination based on race. Twenty-six percent reported that they had experienced one or more forms of discrimination based on gender. Attorneys of color reported experiencing discrimination based on race or ethnicity by a higher percentage than did white attorneys. Likewise, white attorneys reported experiencing discrimination based on gender to a higher degree than did non-

### Table 13: Respondents Who Reported They Experienced One or More Forms of Discrimination

<table>
<thead>
<tr>
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<th>White men</th>
<th>Men of color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Racial/Ethnic</td>
<td>6%</td>
<td>0.5%</td>
<td>1%</td>
<td>2%</td>
</tr>
<tr>
<td>Gender</td>
<td>7%</td>
<td>17%</td>
<td>2%</td>
<td>0.2%</td>
</tr>
</tbody>
</table>
white attorneys. Just 1 percent of white male attorneys reported experiencing racial or ethnic discrimination. Only 2 percent of white male attorneys indicated experiencing gender discrimination.

In addition to race, ethnicity, and gender, respondents reported experiencing discrimination in the workplace based on age, religion, sexual orientation, and other immutable traits. A woman of color wrote: “I think age discrimination has played into my perception of disparate treatment. I also think there is a bias against lawyers in my corporate culture.” Another female respondent stated:

Perhaps, more important than gender is age. Ageism is rampant throughout all of my corporate experience. Younger attorneys were seen as “development candidates” and were given prime opportunities repeatedly to take on new assignments and special/highly visible projects. Older female attorneys [are] seen as a “drag” [and] not “team players.” Male attorneys are allowed to go grey and gain weight; [it’s] deemed “distinguished” and experienced, while female attorneys [are] seen as past prime, dumpy, and less intelligent and experienced. The best opportunities are given to the 30-somethings. New hires who are younger females and do not have [the] same experience, are given better salaries and vacation, and more opportunities to excel in highly visible roles and projects. Companies do not treat persons who are similarly situated the same—there is a difference in salary, vacations, and rankings.

Another female respondent stated: “I have experienced bias on the basis of sexual orientation ….” “Religious discrimination resulted in a lack of promotion,” noted another respondent. One female respondent stated: “Discrimination is subtle. [It is] most noticeable in pay and the glass ceiling at the top of the house.”

In some cases, the discrimination was not based on any personal trait, but instead on physical location. A female respondent commented:

The issue was geographic rather than racial or gender bias. Virtually all of my colleagues were located in two offices in the Midwest, whereas I was the sole person on the West Coast, supporting a different internal client than most of my colleagues. The issues of “discrimination” and “unfairness” arose out of the geographic separation.

For some, discrimination is a matter of perspective. In the case of at least one female respondent, time, age, and experience tempered her opinion of what constitutes discrimination:

I have been practicing over 30 years. There is much improvement in the work place today, although the characteristics that are sought and rewarded are still predominantly male. Nonetheless, much of the intolerable discrimination that I experienced especially during the first 10 years of my career, has disappeared, at least in the industry in which I currently work.

Networks, whether informal or formal, internal or external, serve as support systems, sources of valuable information and quality assignments, and vehicles of introduction to important clients. An attorney’s ability to connect and become integrated with the formal or informal systems in place in law departments and law firms can mean the difference between career advancement and career stagnation. Thirty-six percent of respondents in the Commission’s law department survey reported an inability to access networking opportunities that negatively impacted their careers. Nine percent of these respondents, overall, attributed their lack of access to networking opportunities to their race or ethnicity. Twenty-seven percent of respondents, overall, attributed their lack of access to gender. As has been the case with the other categories of bias that the Commission has explored, attorneys of color reported the negative influence of racial and ethnic bias on their ability to access networks more often than any other group. White attorneys cited gender bias as

### Table 14 Respondents Who Reported They Lacked Access to Informal/Formal Networking Opportunities

<table>
<thead>
<tr>
<th>Category of bias</th>
<th>Women of color</th>
<th>White women</th>
<th>White men</th>
<th>Men of color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Racial/Ethnic</td>
<td>6%</td>
<td>0.6%</td>
<td>0.7%</td>
<td>2%</td>
</tr>
<tr>
<td>Gender</td>
<td>7%</td>
<td>18%</td>
<td>1%</td>
<td>0.2%</td>
</tr>
</tbody>
</table>
the predominant cause for their lack of access to these networks. Six percent of women of color reported lack of access to informal or formal networks based on race or ethnicity; 7 percent of women of color indicated lack of access to these networks based on gender. Once again, the burdens of race, ethnicity, and gender borne by women of color are clearly evidenced.

In Visible Invisibility, the Commission's study of women of color in law firms, 62 percent of female attorneys of color, 60 percent of white female attorneys, 31 percent of male attorneys of color, and 4 percent of white male attorneys reported being excluded from informal or formal networks, undermining their potential for career advancement. In that report, women of color indicated that they often felt an "otherness" that precluded their participation in vital internal "old-boys" networks. The women of color in that study expressed feelings of isolation, marginalization, and "ghettoization." These women of color also expressed frustration with their inability to develop external networks, via participation in bar associations, country clubs, and other community organizations, that would enable them to develop relationships with clients and build a book of business.6

An attorney's exclusion from vital networks can sometimes result from benign causes such as geographic limitation or can be self-inflicted through an unwillingness to move beyond one's comfort zone. One female respondent noted, "I worked in a location distant from headquarters, where I was the only attorney. The distance prevented me from participating in and developing networking opportunities." Another female respondent wrote:

I can now see in looking back on my career that I missed out on opportunities and access to networks, in part, due to the way I approached my career. Typical of many women, I worked very hard and waited to be noticed, which works up to a point, but grows less effective as you rise in the workplace. I do think that it is difficult for women to break into networks that are largely male. I have focused my core networking in women's organizations as it is much easier for me to make connections with other women, although I am aware that such a strategy also has limitations.

However, many of the respondents in both the Commission's law firm and law department studies reported a lack of access to crucial networks resulting from more malicious, thoughtless, and purposeful acts of exclusion based on racial, ethnic, and gender bias. An Asian Pacific American female attorney noted, “There was still an old boys club that excludes women—both subtly and sometimes not so subtly.” Another female respondent stated that she was excluded from company functions that were held in male-only private clubs.

A Latina attorney wrote:

[T]here are informal networks that can be hard to access, in part, because they are informal and tend to be populated by white men. Therefore, there have been times when it seemed like a lot of other people in the department knew of upcoming news when I did not. When the conversations came up and I was present, people shared the information (about hiring and firing of key executives), but I did not know about these things until after many others did. Therefore, I would attribute that to informal networks.

An Asian Pacific American female attorney stated:

In several instances, combined race and gender as well as combined race, gender, and age traits played a part in inhibiting access to networks and opportunities. Having children likewise had a detrimental impact. [I] was told during an interview (where my spouse and I intended to have two households in two states) that since I had children I would regret making such a decision and the opportunity (a promotion) was not the right decision for me. This was despite the fact that all three of the men who interviewed me for the job separately had made the exact same choice during their careers (all three used the reasoning that because they regretted the choice … I too, should be prevented from being free to make my own decision on the issue).

An African American female attorney commented:

Being different than those you work with who are in a position to assign you work and promote you, makes it more challenging to succeed than for a lawyer who isn’t deemed as different. As a minority lawyer you carry an additional burden of having to disarm and disabuse colleagues of what may be preconceived notions as to how you came to be where you are. I refer to it as get-
Another respondent of color wrote:

In short, my race has affected access to information regarding the organization, primarily because I am not ‘on the inside’ in the way that other peers are afforded such opportunities. That “lack of access,” in turn, leads to different treatment because of lack of access to important informal networks, which leads to different treatment or feedback.

A female respondent noted:

The men in the office tend to lunch, golf, and otherwise socialize together so that I was left out of many networking events. My current boss is not so much like this ‘old school,’ so I anticipate this improving in the future, but the past nearly 12 years have been difficult to endure because of it, especially as a single mom solely responsible for both raising my children and supporting the family with a paycheck. More than what the men or single women in the office had to deal with, and yet, I got paid less and was not viewed as someone to promote or give the primo assignments to even though I put in as much or more time and effort than either group.

When networking events are tied to locales that are unwelcoming or offensive to particular groups, there can be a chilling effect on the networking opportunities for members of those groups. One female respondent commented:

Based on my gender, I was not included in many networking opportunities with the men in my businesses, sometimes for the reason that they were going to a strip club. I kid you not. It was that kind of lack of access that had the biggest effect on my career from the business side. The business preferred working with male attorneys that looked and acted like them. I was frequently the only woman at meetings and dinners.

In some cases, an attorney’s exile from important internal or external networks can be the result of retaliatory acts on behalf of upper management, as was the case for one Native American female attorney who wrote, “I have had supervisor advancements that were unwanted. I have been demoted and a person who reported to me promoted because of a relationship with my boss. I was denied networking opportunities because of this relationship.”

**Received Unfair Performance Evaluations/Denied Promotion or Advancement**

<table>
<thead>
<tr>
<th>Category of bias</th>
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<th>White women</th>
<th>White men</th>
<th>Men of color</th>
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</thead>
<tbody>
<tr>
<td>Racial/Ethnic</td>
<td>3%</td>
<td>0.2%</td>
<td>0.2%</td>
<td>1%</td>
</tr>
<tr>
<td>Gender</td>
<td>3%</td>
<td>7%</td>
<td>0.6%</td>
<td>0.1%</td>
</tr>
</tbody>
</table>

As was noted by one of the respondents quoted earlier in this report, “Hiring at the entry level wasn’t the problem, hiring at the mid- and senior levels and promotion into senior positions was the issue.” Indeed, favoritism for or bias against certain employees is never more evident than during the annual evaluation and promotion process.

In the Commission’s law firm study, approximately one-third (31 percent) of women of color stated that they had had at least one unfair performance evaluation, as did 25 percent of white women and 21 percent of men of color. Less than 1 percent of white males reported having received an unfair performance evaluation. In the Commission’s current report, 5 percent of respondents, overall, reported having received an unfair performance evaluation based on race or ethnicity. Eleven percent of respondents, overall, reported receiving an unfair performance evaluation based on gender. Attorneys of color reported having received an unfair performance evaluation based on race at a higher percentage than white attorneys. Likewise, white attorneys reported having received an unfair performance evaluation based on gender at a higher percentage than non-white attorneys. Three percent of women of color responded that they had received an unfair performance evaluation based on race or ethnicity compared to 1 percent of men of color and just 0.2 percent of white women and white men. Three percent of women of color reported having received an
unfair performance evaluation based on gender compared to 7 percent of white women, 0.6 percent of white men, and 0.1 percent of men of color.

In the Commission’s previous study, several respondents commented that they had received soft evaluations from managers who were overly concerned with hurting their feelings or appearing biased. These evaluations provided no constructive feedback on their performance or advice on how to remediate deficiencies, which, ultimately, proved to be a career liability for these respondents.7 Others commented that their achievements were de-valued compared to their peers.8 Forty-seven percent of women of color in the law firm study wanted less subjective evaluations, and 38 percent wanted a less subjective promotion process.9 Respondents in the current study echoed many of the same concerns voiced by their law firm counterparts with regard to the quality of their evaluations and subjectivity in evaluation and promotion proceedings. Additionally, they reported a need for more effective feedback from their supervisors. Twenty-seven percent of women of color strongly agreed that they had received effective feedback from their supervisors. However, a sizeable 23 percent strongly disagreed. When asked to rate the fairness of the promotion process, only 8 percent of female attorneys of color rated it as “completely fair.” Twenty-one percent rated the process as “not fair at all.”

With regard to the substance and subjectivity of performance reviews and promotions, a Latina attorney wrote, “Performance reviews were short and not particularly helpful.” An African American female respondent wrote, “My manager does not provide feedback. We do performance reviews once a year, and that is the only time that he gives feedback, and he generally just reiterates what I’ve already written.” Another female respondent stated, “I don’t consider much of the feedback to have been very substantive, it’s just the general ‘atta girl’ when I would really like to have feedback on a more specific, detailed level.” Yet another respondent commented, “At evaluation time, I had supervisors confess that they had no idea what I had been doing for the last year, so obviously [they] could not provide meaningful feedback.”

A female respondent commented:

At my current employer and former employer, I have received some comments from my supervisor as to my performance based on gossip from colleagues. I find this shocking and believe that it is due to the fact that little training is provided by the employers as to how to conduct a review and measure a person’s performance based on facts and actual output versus gossip. At my former employer, comments from HR representatives were incorporated into an annual review, which was also questionable, since the HR representative would have no idea as to how I was performing. I find the review process questionable at best, highly subjective, and not based on quantifiable or qualitative analysis.

A female respondent of Asian Pacific Islander descent commented:

During my first review I literally thought a mistake had been made and my supervisor might have been reading someone else’s review. It had literally no connection to the work I had actually been doing and the things I had accomplished. I get next to no feedback from my supervisor at all.

A female respondent wrote:

Certain attorneys in our group are selected for coaching and other professional development resources, but only on the basis of subjective criteria indicating their “likelihood of success.” White attorneys are selected for these advantages, black attorneys are not. Black attorneys seem to be reviewed more harshly and tend to leave the group, if not the company, because they are not supported.

Respondents also expressed uneasiness about what they considered to be the punitive nature of the process. This uneasiness is heightened for attorneys of color because they typically do not have the support of mentors, sponsors, or other professional relationships to provide coverage and help them negotiate the process. As a result, they have less room for error. Mistakes, regardless of how few or how small, are exacerbated in such a flawed system, and can stymie a career. One female respondent wrote:
Performance evaluations in this company are designed to be punitive. For example, one-year supervisors were forced to rank order all supervisees, and denote the bottom 20 percent as ‘poor performers’ regardless of whether those employees had met their goals and were satisfactory, or even excellent performers. Suggestions for development are encouraged, but, if received, are seen as negative comments on performance. These flawed systems do not appear to me to be biased against race or gender.

Another female respondent noted:

Our performance management system requires forced ranking, which means during each rating period...

Treated Differently Than Peers

Table 16 Respondents Who Reported They Were Treated Differently Than Peers

<table>
<thead>
<tr>
<th>Category of bias</th>
<th>Women of color</th>
<th>White women</th>
<th>White men</th>
<th>Men of color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Racial/Ethnic</td>
<td>5%</td>
<td>0.5%</td>
<td>0.7%</td>
<td>2%</td>
</tr>
<tr>
<td>Gender</td>
<td>6%</td>
<td>16%</td>
<td>1%</td>
<td>0.2%</td>
</tr>
</tbody>
</table>

Five percent of female attorneys of color in Fortune 500 law departments reported that they had been treated differently than their peers because of their race or ethnicity, compared to 2 percent of men of color, 0.5 percent of white women, and 0.7 percent of white men. Likewise, 6 percent of female attorneys of color reported that they had been treated differently than their peers because of gender, compared to 16 percent of white female attorneys, 1 percent of white men, and 0.2 percent of men of color. Again, women of color reported bias that is consistent across race, ethnicity, and gender. Respondents voiced concern about disparity in treatment compared to their peers in several areas including the distribution of work assignments, access to senior management, salary, and performance evaluations. One female respondent noted, “A number of times, assignments and access to senior management were available to male peers but not to female peers or me.” Another female respondent stated: "I have had to work twice as hard to prove that I am entitled to a seat at the table on an equal basis with male colleagues. I also feel my performance is judged by a higher standard than applied to men. When I speak at meetings … my points are ignored. When a male colleague makes the same point, he is heard." Yet another female respondent commented, “Almost all the men were given Blackberrys to facilitate and help their work environment and response times to their work; however, none of the women in our department were given the right to have Blackberrys, despite several requests for same.” An African American female attorney noted, “Men have leapfrogged; women have to work twice as hard for the same promotions.”

Some respondents felt they were treated differently because of factors other than race, ethnicity, or gender. One white female respondent commented:

During the majority of my time at a Fortune 500 company, I was severely overweight. I think that had more of an impact than my gender but, combined, resulted in disparate treatment from the majority of my white, male, non-obese peers. I think my race helped offset a little bit. Since [weight loss], I’ve noticed a very significant difference in the way I am treated as a white, female attorney who is not obese.
In some cases, it was the peers themselves who treated each other differently. An African American female attorney wrote:

Comments were made that indicated that members of my team would “show this Harvard educated lawyer that she wasn’t all that.” My direct report would demean me in meetings with her team (and those team members didn’t let me know until over a year later). In developing deeper personal/professional relationships, I had to make all the overtures—if I lunched with my peers then I was the one who asked (and lunching together was an established way to pass along information and deepen relationships).

Another female respondent commented:

As the first female manager in our group, I found that my peers were less than helpful to me than they were to each other; one of them actively undermined me both with my clients and with our boss. I find that my male colleagues are much more likely to socialize with our clients than me and my female colleagues do, and that this has a negative impact on our promotional opportunities.

One female respondent made a comment that suggests that disparities between peers might ease with time and experience:

Early in my career, I did not think I was provided as much opportunity as my peers to work on the best assignments and attributed this to gender bias. Over the longer term, however, I believe this changed, and I was eventually provided ample opportunity to develop and lead projects.

Lack of Access to Information/Resources

Women of color (more than any other group) reported that they were not given access to information or resources due to their race or ethnicity, and that this lack of access negatively affected their ability to perform. Although white women (more than any other group) reported that they lacked access to information and resources based on gender, women of color once again reported a consistent level of bias across race, ethnicity, and gender categories. Interestingly, the survey responses seem to be a mixed bag of comments with respondents generally acknowledging lack of access but not always attributing that lack of access to race or gender. A male attorney of color wrote:

In short, my race has affected access to information regarding the organization, primarily because I am not “on the inside” in the way that other peers are afforded such opportunities. That “lack of access,” in turn, leads to different treatment because of lack of access to important informal networks, which leads to different treatment or feedback.

A female respondent noted:

[There was] very poor communication of relevant information and lack of access to relevant information. [There was a] lack of respect and unequal treatment as a woman in regards to my counterparts—from skill training to compensation.

Another female respondent stated:

All my answers relate to the lack of access to information/opportunity for relationship building because of being a female in a male-dominated industry—all my clients are male and, since I do not play golf and don’t sit in front of the TV watching basketball in March, I have a harder time developing relationships with my clients on a more informal basis, when a lot of information sharing, relationship building takes place …. 

A multiracial woman attorney stated:

… I may have missed out on desirable assignments in the beginning of my career for not being assertive or in the right place. Some of that was just ‘luck’ but some of...
Mentoring

Mentors and other professional advocates can provide invaluable assistance to female attorneys of color in avoiding many of the pitfalls noted above. Unfortunately, women of color are often seen as flight risks, and as such, senior management has not always been willing to invest time, energy, or resources in developing their careers. Ironically, it is just this type of career investment that could prevent the high level of attrition among women of color. Moreover, there is often a lack of comfort (in many cases predicated on false notions based on race, ethnicity and/or gender) on the part of white attorneys, particularly senior white male attorneys, in establishing these types of relationships with women of color. An African American respondent in the Commission’s current study spoke to this issue:

Race travels in tandem with familiarity. Often the opportunity to be involved in a high profile project is tied to comfort levels with attorneys—and the level of discomfort, no matter how slight or subtle, is increased somewhat across racial boundaries. The gap can be breached, but it takes longer for the comfort level to increase.

Relationship to Compensation

Bias has a significant impact on compensation for female attorneys of color. These women are consistently at the bottom rung of the compensation ladder, despite the fact that they are disproportionately the sole breadwinner in their households (27 percent of the women of color surveyed were single parents, compared to just 10 percent of the total number of white males responding). As a result, these women tend to have greater demands placed on their resources (e.g., child-care expenses) than any other group. However, due to their limited resources and lack of other support, women of color often do not have the option to leave in search of more rewarding or lucrative positions or more bias-free environments.

What does this mean within the context of compensation? It means that women of color have to do more with less. They are more likely to have to support a household with children without any assistance from a spouse or partner, on less income. Women of color are in a “double bind” of sorts. They often feel that they have less of an option to quit than other groups, which often puts them in the position of having to survive in professional environments that may be rife with unfairness and inequity, and where their contributions are undervalued.

Overall, the majority of respondents reported earning between $150,000 and $224,999 in their current position (or last position) with a Fortune 500 company. Women of color reported earning less than other groups in this salary category. Furthermore, women of color were less likely to earn this range of income than white males. According to survey respondents, of attorneys earning between $75,000 and $149,000 (in law departments of fewer than 51 attorneys), women of color at 24 percent are relatively on par with white males at 23 percent. In law departments with 51 to 101 attorneys, in the $75,000–$149,000 salary range, 18 percent of women of color, but only 9 percent of white males, reported earnings in this range. However, as the salary range and the size of the law department increase, women of color reported earning proportionately less than their white male counterparts. Of attorneys earning between $150,000 and $250,000 (in law departments of fewer than 51 attorneys), only 11 percent are women of color; 21 percent are white males. In law departments of 51 to 101 attorneys, in the $150,000–$250,000 salary range, 25 percent of women of color earn in this range compared to 41 percent of white males.

Female respondents reported scenarios in which they were compensated at a lesser rate than their male counterparts. On average, the women of color reporting have been practicing law for fewer years than their white male counterparts. This experience differential most certainly affects compensation comparisons between these two groups.
However, in many of these instances, there also appears to be a negative relationship between money and motherhood. One female respondent stated:

With my second child I was denied a higher rating on my annual review and my supervisor explicitly told me it was because I took maternity leave. When I challenged the rating the higher one was reinstated. But the salary differential and bonus that year was less, which was then compounded since each year was a percentage up or down from the prior year. They never made an adjustment for that and I ended up being paid much less than my counterparts after a number of years.

An African American woman attorney wrote:

During a maternity leave, I was removed from the more lucrative commercial unit group because they needed more attention. The office was also top heavy with older white men in the group, and I was told there was not enough room for me right before I gave birth. The demotion limited my salary and bonus increases. The group was re-adjusted with layoffs and four years later, I was promoted back into the group at a much lower salary than my peers.

**A Special Note on Bias: Perceptions of Reverse Discrimination**

The existence of negative bias is clearly in the eye of the beholder, and is based on background and personal experience. Pro-diversity hiring policies may be seen by some as a positive and necessary step in rectifying the wrongs of the past, in creating a level playing field for historically under-represented groups, and in establishing a workplace that reflects the diversity of society at large. However, some see such policies as just another form of impermissible discrimination. A small but vocal number of survey respondents raised the issue of diversity-based hiring policies as a form of reverse discrimination. One respondent commented, “The over-emphasis on ‘diversity’ programs made it very clear that there was a bias in favor of women and minorities, and a bias against white males.” Another respondent commented, “In some cases, I saw what appeared to be ‘reverse bias,’ i.e., deliberate promotion of women or people of color (and especially women of color) who were certainly qualified for the promotion. I understand this may have been for a good reason, such as increasing diversity, but bias is bias.” Yet another respondent commented, “The moderate level of gender bias I refer to … was in favor of females. The diversity programs and emphasis on recruiting … made very clear that there was a bias in favor of women and minorities and a bias against white males.”

It is clear from the data mined from the Commission’s law firm and law department studies, as well as from other well-respected studies, that real and significant inequities continue to exist between minorities and non-minorities, and between men and women.\(^\text{10}\) These inequities belie claims that women of color are being advantaged to the detriment of their white male counterparts. The facts speak for themselves: women of color have the highest attrition rate of any group.

Significantly, as discussed earlier, women of color lag well behind white males in compensation at every phase of their careers. Compensation provides a measurable metric and one that can be used to assess the existence of bias—and, over time, as a yardstick by which to measure success in combating bias. In addition to compensation, women of color also lag behind other groups in their ascension to leadership and in their ability to access powerful, well-connected mentors and sponsors. In the Commission’s law department study, 44 percent of white female attorneys and 21 percent of white male attorneys perceived no bias in the law department hiring process, compared to 15 percent of female attorneys of color and 4 percent of male attorneys of color. More white female attorneys (59 percent) and female attorneys of color (19 percent) described seeing or experiencing high levels of negative gender bias in their law department hiring process, compared to white male attorneys (5 percent) and male attorneys of color (2 percent). These statistics provide an additional counterweight to the reverse discrimination claims voiced by a few of the respondents.

Underlying the reverse discrimination argument is a false assumption that diverse equals less qualified or less competent. This is made plain by the comments of several of the survey respondents. One respondent stated, “At one Fortune 500 company where I worked … there was a strong bias for hiring persons of color, even when demonstrably less competent than other candidates. Does this qualify as
a negative bias.” Another respondent commented, “In a recent hire, ethnicity appears to have been the main criteria—meaning qualifications were overlooked in order to hire a diverse candidate.” A third respondent stated, “The company rewarded leaders for hiring diverse or female employees … it was a reverse bias.”

Comments regarding reverse bias against white males surfaced relative to the promotion process. “I have been passed over for promotions that were given to less qualified women, minorities, and minority women,” noted one white male attorney. A respondent wrote, “A highly disproportionate number of promotional opportunities have been awarded to women whether or not they have been the most qualified candidate.” A woman attorney wrote, “[I was] constantly told and heard people talk publicly in front of me that the only reason I advanced so quickly is because I am a woman.” Another respondent wrote, “Some in the company feel that minorities and women get promotions because they are minorities or women, not because of their abilities.” Another white male stated, “Both companies had such an emphasis on ‘diversity,’ that it simply became a program to advantage women and minorities to the detriment of white males. It was clear that being a white male was a negative factor and was a fact that needed to be overcome in any hiring or promotion decisions.” Similarly, another white male attorney stated:

_There was some hostility to white men. Minority women and minorities in general received promotions before white men. The General Counsel made her intentions very clear. While I was too junior to be affected by this (I was not eligible for a promotion) the impact on morale was incredibly negative, and it made me wonder about my future there._

Overcoming the presumption that they were hired merely to meet a diversity quota continues to be an ongoing challenge for women of color. One white male respondent wrote:

_I was advised by a superior following his retirement that another person was promoted to succeed him instead of me because that person was Hispanic, and helped the legal staff achieve its diversity goals. There were two subsequent occasions where women were promoted over me despite having few qualifications for the specific position. (One subsequently was separated from the company for performance issues.) Women were also considered a “minority” class for affirmative action purposes within the company._

Another white male respondent stated:

_Human Resources employed an affirmative action approach. I was once instructed to hire a minority candidate who minimally met the position qualifications even though there existed more qualified non-minority candidates, using objective standards._

As legal employers continue to promote diversity in the workplace and implement policies to increase the number of women and minorities in the pipeline to leadership, claims of reverse bias will continue to surface. Employers must be prepared to answer those critics with thoughtful and rational responses based in fact. In his 1994 article entitled, _On Hiring Women and Minority Attorneys: One General Counsel’s Perspective_, Raymond Ocampo, former general counsel for Oracle Corporation, debunks some of the most commonly espoused excuses for not hiring and promoting diverse attorneys within the context of Oracle’s own hiring and retention policies. In response to a claim that preferential treatment of women and minorities constitutes reverse discrimination, Ocampo writes:

_I am confident that the policy as written does not constitute reverse discrimination. In practice, white males have been routinely hired by our department. I find most instructive the response of those informally polled about their belief that policies like our retention policy constitute reverse discrimination. When asked whether they would change positions with women or minorities to obtain so-called preferences resulting from this purported reverse discrimination, the unanimous response has been “No.” The “reverse discrimination” argument assumes that the status quo of existing discrimination is a preferable course to our policy, an assumption with which I disagree._

Two themes dominate the reverse discrimination argument: (1) the false notion that “diverse” necessarily means subpar; and (2) the misguided idea that promotion of one group necessarily requires the demotion of another. Legal employers interested in advancing women and minorities within their own law departments and among the ranks of their outside counsel should follow Ocampo’s lead when confronted with resistance to their diversity efforts. Claims of reverse bias can seriously impact diversity progress if not taken seriously and addressed directly.
Conclusion

In this phase of the Women of Color Research Initiative, the Commission sought to achieve several goals:

i. To research and examine the diversity dynamics of women of color in Fortune 500 law departments,

ii. To compare those findings to those of the Commission’s 2006 Visible Invisibility study of women of color in law firms, and

iii. To compare responses to our survey questions from women of color, white women, white men, and men of color.

This comparative study has made it clear that women of color in both law firms and corporate law departments continue to face an uphill battle with regard to race, ethnicity, and gender. Women of color in both practice settings face obstacles that their white and male counterparts do not, including the inability to tap into important professional networks, develop quality mentor/protége relationships, attract well-connected sponsors, and navigate the evaluation and promotion processes successfully. However, despite these ongoing challenges, women of color in Fortune 500 law departments indicate a greater overall satisfaction with their career choice than do women of color in law firms. Improved quality of life issues, the opportunity to expand their expertise and career options beyond the law into the business arena, and the ability to develop strong relationships with clients have led many female attorneys of color to leave law firm practice.

Corporate legal practice has long been perceived—accurately or inaccurately—as a more family-friendly professional alternative for female attorneys of color who do not want to be responsible for meeting the excessive demands of law firm life for little or no return on their investment of time and energy. However, as pressures mount to increase corporate profits, particularly in a period of economic downturn, some Fortune 500 attorneys are finding that the distinctions between law firms and law departments are becoming increasingly more blurred. Attorneys in corporate law departments are often expected to work longer hours, and their path toward advancement often is not clear-cut.

For female attorneys of color, aspects of their race, ethnicity, and gender may be a disadvantage to varying degrees at the recruitment, hiring, retention, and advancement stages of their careers. Many of the women of color respondents surveyed reported minimal racial, ethnic and/or gender bias at the recruitment and hiring stages of their careers. The vast majority of these respondents found that the bias came into play at the more crucial middle and later stages of their careers as they sought promotion to the next level. Further, women of color reported experiencing more consistent levels of bias across categories (i.e., demeaning comments, lack of access to desirable assignments, unfair performance evaluations, tokenism, and attacks on their competence) compared to their colleagues.

The cyclical and interdependent nature of the four major aspects of an attorney’s career traps female attorneys of color in a Catch-22 of sorts. The ultimate goal is to advance increasing numbers of female attorneys of color into professional leadership positions. In order to accomplish this, women of color have to be recruited, hired, and retained. However, there must be female attorneys of color already in positions of authority to help facilitate such recruitment, hiring, retention, and advancement. In addition, to achieve optimum inclusion, leaders at all levels of the organization must be committed to achieving a level playing field for all lawyers and employees and counteracting stereotypes and unrecognized bias, and to sponsoring the most talented individuals regardless of gender, race, or ethnicity.

Further complicating the matter is the issue of compensation, which negatively affects women and female attorneys of color, in particular, at every juncture of their career—from hiring to retirement, from the associate to partnership and counsel to general counsel levels. Salary disparities have a ripple effect on the recruitment, hiring, retention, and ultimate advancement of women and female attorneys of color, and contribute significantly to the high attrition rate among these groups. The inequality in compensation may have a chilling effect on the number of young women of color entering law school. Over the course of a lawyer’s career, salary disparities can amount to a $2 million dollar difference between male and female earnings. Reports of these disparities may discourage women of color from choosing law as a career.
This income disparity (typically, a 25 percent discrepancy) grows disproportionately over the course of women’s careers. Fairness issues related to starting salary may cause women of color to choose employment in places where compensation is more equal and where, as a result, they feel more valued.

As women of color begin to move through their careers, compensation becomes an even more critical issue. Data show that women of color are consistently at the lowest end of the pay scale. This is particularly problematic as they are disproportionately the sole breadwinners in their households, with more demands placed on their limited resources. Female attorneys of color typically have greater demands from both children and parents, and often do not have the same level of spousal or other family support to rely on, particularly as it relates to child and elder care. These and other related pressures contribute significantly to the attrition issues that plague the profession.

Finally, as women of color seek promotion to leadership levels, the strong connection between compensation and advancement becomes even more evident. Transparency in the salary negotiation, promotion, and succession processes is most problematic at this stage. Issues relating to salary negotiation also cause some of the compensation disparity. Women, particularly women of color, must become more adept at demanding their worth in the marketplace relative to salary. Their historical failure to do so has, in part, contributed to the inequities that plague the compensation system.

Notably, 23 percent of women of color reported a greater likelihood than any other group that they would leave their corporate law position in order to avoid barriers to advancement, 19 percent reported a greater likelihood of leaving to obtain experience not otherwise available to them, 18 percent reported a greater likelihood of leaving to take advantage of an advancement opportunity, and 15 percent reported a greater likelihood of leaving to obtain better work-life integration.

Women of color bear the brunt of dual minority status in significant ways. They are the repository for various stereotypes, negative biases, and low expectations associated with race, ethnicity, and gender. More than any other group, their intellect, abilities and professionalism are routinely questioned and second-guessed. They are underdogs, consistently underpaid, underestimated, and undervalued. Sadly, female attorneys of color are often treated as second-class citizens in a profession that is charged with the responsibility of ensuring justice and equality for all.

Female attorneys of color are at once, visible and invisible. Their visibility breeds both subtle and not so subtle acts of discrimination, while their invisibility breeds neglect. Further, they must often contend with these issues alone, with no one to mentor them and advocate on their behalf.

In 2003, the ABA Commission on Women in the Profession committed to champion the cause of female attorneys of color—to be the voice for these women, and it continues at the forefront of the efforts to do so. The Commission’s goal is to effect change in the profession that will finally level the playing field for women of color, bringing them on a par with all colleagues, both professionally and financially. It is the Commission’s hope that Fortune 500 law departments will use the information and comments provided throughout this comparative study as a guide to aid them in supporting female attorneys of color as they strive for greater career success that will put them on par with their majority colleagues. Law departments must be careful not to duplicate the missteps of law firms, which have led to the attrition of significant numbers of dissatisfied women of color. Instead, they must continue to maintain those areas that make them attractive to attorneys seeking an alternative to law firm practice and strengthen those areas that the respondents in the study have identified as problematic.

Further, because of their unique relationship with outside counsel, law departments have an opportunity to positively influence law firms in their struggle to retain talented women and minorities. If they are able to do this, female attorneys of color will see growth both in the partnership ranks of law firms—and in the general counsel suites of major Fortune 500 law departments in the future.

The legal profession is in the talent business. Studies show that organizations that embrace diversity and welcome input from people from a wide variety of backgrounds achieve greater success. To attract and retain the best talent, and enhance the opportunities to achieve optimal success, corporate law departments (and
law firms) should work to reduce attrition and enhance the career satisfaction and success of all their lawyers. Like law firms, corporate legal departments make significant investments of time and money to recruit and train the lawyers they hire. The recommendations that follow will address the concerns women of color raised in response to the Commission’s survey and the intent is to help ensure that all lawyers in a company’s legal department have equal opportunities to succeed and help the company they serve prosper to the maximum extent possible.

**Recommendations**

Unique problems require creative solutions. In *Visible Invisibility*, our study of women of color in law firms, the ABA Commission on Women proffered several such solutions to help law firms integrate women of color into existing diversity, retention, and professional development efforts:14

- Address the success of women of color as a firm issue.
- Integrate women of color into existing measurement efforts.
- Integrate women of color into the firm’s professional fabric.
- Integrate women of color into the firm’s social fabric.

- Increase awareness of issues of women of color through dialogue.
- Support women of color’s efforts to build internal and external support systems.
- Comply with anti-discrimination and anti-harassment policies and hold people accountable for noncompliance.

These suggested strategies apply equally to corporate law departments, and Fortune 500 companies are encouraged to review and incorporate them into their existing diversity programming. In addition, the Commission offers the following recommendations to the leadership of corporate legal departments.

**Overall**

**Formulate and implement a comprehensive diversity and retention plan.**

- Involve leaders at top levels of the company in developing a comprehensive plan that integrates diversity and inclusion into all aspects of the department’s functions by using metrics to create a baseline, and implement programs designed to stem attrition and foster teamwork and inclusion.
- Integrate the ability to develop and advance all groups of people as a leadership competency.
- Task department leaders with developing a plan for creation of affinity groups, a key to a comprehensive diversity and retention plan. Such affinity groups can include women of color from both the legal and business sides of the organization. The support and camaraderie that affinity groups offer can help to counter the feelings of isolation and marginalization reported by many women in both law firms and corporate law departments.
- Use affinity groups to foster networking, and provide a forum for professional development, educational services and training, community outreach, and mentoring to its members, as well as to identify challenges in the culture of the organization.

**Actively communicate the notion that diversity breeds excellence and that the two are not mutually exclusive concepts.**

- Communicate to all members of the legal department through its mission statements and formal diversity policies that diversity, done right, breeds excellence by bringing together the best and brightest from all demographic groups.
- Nip concerns about reverse discrimination in the bud. Underlying such concerns is the assumption that women and minorities are inherently unqualified—but that every white male is qualified. Through consistent messaging about the value of diversity and visible action in furtherance of inclusive policies, law departments can move the reverse discrimination issue from a discussion of exclusion to one of inclusion.
- Hold department leaders accountable for ensuring diversity of their legal teams, as well as for their outside counsel.
- Find ways to integrate diversity into ongoing discussions of departmental excellence and employee engagement.
Hiring and Recruitment

Develop a comprehensive plan for recruiting and hiring a diverse staff, to make maximum use of the talent pool.

- Leverage women and minority-based affinity groups and bar associations to recruit diverse candidates.
- Strengthen ties with law school administration, faculty, and student organizations and increase the amount of time and resources allotted to on-campus interviews, given that female attorneys of color appear to rely more heavily on law school-related resources than other groups to secure their first in-house job.
- Broaden pipeline to include high potential applicants from law schools with high proportion of minorities and women.

Retention

Offer regular and meaningful opportunities for law department members to work and socialize together across racial, ethnic, gender, and generational boundaries.

- Encourage development of informal relationships and mentorship opportunities by providing regular and ongoing opportunities for law department members to interact both on a department-wide basis and in smaller practice-based groups and to interact with clients on the business side of the company. Social interaction can take a variety of forms, ranging from formal breakfasts, luncheons, and dinners to informal meet and greets, team building activities, and law department gatherings for members’ families.
- Encourage senior law department members to drop by the offices of their women of color colleagues to ask how they are doing and to offer assistance, as needed.
- Establish and use affinity groups to help train and educate existing staff on diversity issues and cultural sensitivity.
- Identify ways in which leaders can be held accountable for giving adequate and effective feedback to women of color.

Develop a consistent, top-down, zero-tolerance policy toward acts of workplace bias against women of color, both subtle and overt, and be prepared to have hard conversations with staff regarding expectations of fairness and accountability.

- Develop an accessible, yet confidential reporting structure through which violations of anti-bias policies can be communicated and investigated. Women of color must feel comfortable in reporting acts of bias without fear of retaliation or negative repercussion on their careers.
- Identify clearly defined consequences for the violations of these policies that are applicable to every member of the law department regardless of where they fall in the hierarchy. An anti-bias policy is only as strong as its enforcement.

Develop effective work-life balance and integration programs.

- There is often a negative stigma associated with the use of work-life balance/integration programs, especially for female attorneys. In order for such programs to be utilized and effective, legal employers must ensure that these programs are stigma-free and gender-neutral.

Develop policies that ensure that all members of the legal department have equal access to information and resources.

- Female attorneys of color often lack access to informal mentors and networks that provide valuable information and opportunities for advancement, including good work assignments, which can make a tremendous difference in whether the attorney ultimately achieves success. As such, it is imperative that deliberate measures be taken to ensure that all legal department members are included and involved in activities that are valued and accessible by all.
- All attorneys should have equal access to the tools and information necessary to perform their job and thus achieve success.
Develop systems that review assignments and ensure that all attorneys are receiving access to high-quality assignments and training.

- Access to high-quality work assignments is the lifeblood for a successful career as a lawyer. However, due in large part to unintentional bias, access is often based on who the assignor knows or is comfortable with—usually another male attorney. In this way, it is imperative that department leaders develop more equitable and objective mechanisms for disseminating and reviewing work assignments across their legal teams.
- The source of work assignments is also important. Assignments from influential individuals often provide higher visibility and the most gains.

**Advancement**

Develop transparent, bias-free performance evaluation systems, and clearly communicate benchmarks and performance standards to all members of the legal department.

- Develop and monitor metrics to measure success in improving retention and diversity.
- Appoint a representative team to design and implement a bias-free evaluation process.
- Develop job descriptions and objectives that identify the knowledge, skills, and abilities necessary for each class or job level.
- Develop job-related competencies.
- Implement an attorney self-evaluation process.
- Implement an upward review process to help identify possible biases or tendencies that might indicate unconscious bias or exclusion. For example, does a senior lawyer have lunch only with people of his or her gender or race?
- Establish and publish a bias-free performance evaluation process.
- Establish how often the formal evaluation process will be conducted.
- Educate the department about the policy through department-wide meetings.
- Obtain buy-in by stressing the benefits of this policy and connecting it to department or company objectives and its cost savings as a result of lower attrition and greater employee satisfaction.
- Work with mentors to implement the policy.
- Train personnel on how to conduct bias-free evaluations.
- Review evaluation forms to identify unconscious bias. For example, do comments reflect gender bias or “leniency bias,” which rates certain lawyers higher than their performance would indicate is appropriate or which assumes that a man’s mistakes are evidence of potential but a woman’s errors of the same type mean that she is not capable?
- Encourage informal feedback on a regular basis, outside of the formal evaluation process.
- Provide constructive feedback on performance and training and advice on how to improve performance and bolster areas where additional expertise is warranted.

Develop transparent strategies for equitable succession planning.

- Develop a criteria for making decisions about who will succeed retiring attorneys or upper level attorneys who leave the law department to help ensure that such decisions are made fairly, that all qualified candidates are given equal consideration, and that decisions are not made based on personal relationships or without consideration of diversity.
- Develop process to ensure that female attorneys of color are afforded the same critical developmental opportunities as lawyers in other groups that will groom them for leadership. This requires a more strategic approach of viewing their career progression as a series of incremental steps toward a particular career-related goal (i.e., general counsel) to ensure that each step or rung of the ladder prepares them adequately for the next phase.

Provide ongoing education and training on cultural disparities and sensitivities, particularly those affecting women of color.

- Engage in ongoing education and training on issues of bias, especially unconscious bias. The goal is to create a common ground of understanding through dialogue and shared experience.
- Provide training to all employees on subconscious bias and stereotyping and the importance of an inclusive workplace to the success of the company.
Compensation

Implement processes that ensure that compensation decisions are made fairly and with transparency.

- Appoint compensation committees that reflect the diversity of the department and its commitment to diversity.
- Compare compensation, including salary, bonuses, options, and benefits, across all demographic groups in the department. Use these statistics to create a baseline and measure progress toward equalizing pay for comparable work year on year.
- Use objective metrics to help ensure that all attorneys in a certain class or level are paid equally for comparable work, regardless of race, ethnicity, or gender.
- Eliminate organizational structures and policies that may unintentionally disadvantage female attorneys of color (e.g., focus on actual performance, not how and where the work is performed, etc.).

Endnotes

2 Id. at 24-26; see id. at 26-27.
3 Id. at 26-27.
4 Id. at 9, 30.
5 Id. at 21-23.
6 Id. at 17-21.
7 Id. at 26-27.
8 Id.
9 Id.
12 Some have referred to this as a commitment to overcoming “unearned privileges” traditionally accorded “in groups.”
14 Visible Invisibility, supra note 1, at 37-40.
Profile of Survey Respondents

The total number of respondents to the survey was 1,058. However, not all respondents answered all questions. To participate in the survey, a respondent needed to be employed as an attorney at a Fortune 500 company at any time since January 1, 2005.

In some cases, percentages may not add up to 100 percent due to errors caused by rounding. In charts where race and gender are not articulated, any differences found were not statistically significant.

Gender

Table 1 Gender

<table>
<thead>
<tr>
<th>Gender</th>
<th>Number of Responses</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women</td>
<td>577</td>
<td>74%</td>
</tr>
<tr>
<td>Men</td>
<td>207</td>
<td>26%</td>
</tr>
</tbody>
</table>

Race/Ethnicity

Table 2 Race/Ethnicity

<table>
<thead>
<tr>
<th>Gender/Ethnicity</th>
<th>Number of respondents</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>White women</td>
<td>386</td>
<td>50%</td>
</tr>
<tr>
<td>Women of color</td>
<td>186</td>
<td>24%</td>
</tr>
<tr>
<td>White men</td>
<td>155</td>
<td>20%</td>
</tr>
<tr>
<td>Men of color</td>
<td>50</td>
<td>6%</td>
</tr>
</tbody>
</table>

Age

Table 3 Year Born

<table>
<thead>
<tr>
<th>Year Born</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before or in 1946</td>
<td>2%</td>
</tr>
<tr>
<td>1947-1964</td>
<td>53%</td>
</tr>
<tr>
<td>1965-1980</td>
<td>44%</td>
</tr>
<tr>
<td>After 1980</td>
<td>1%</td>
</tr>
</tbody>
</table>
### Graduation from Law School

**Table 4 Year Graduated from Law School**

<table>
<thead>
<tr>
<th>Graduation Date</th>
<th>Number of Responses</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before or in 1968</td>
<td>2</td>
<td>0.2%</td>
</tr>
<tr>
<td>1969-1979</td>
<td>108</td>
<td>13.2%</td>
</tr>
<tr>
<td>1980-1989</td>
<td>242</td>
<td>29.6%</td>
</tr>
<tr>
<td>1990-2000</td>
<td>368</td>
<td>44.9%</td>
</tr>
<tr>
<td>2001 or after</td>
<td>99</td>
<td>12.2%</td>
</tr>
</tbody>
</table>

Total Number of Responses: 819

### Employment Status

**Table 5 Status of Employment at Fortune 500 Corporation**

<table>
<thead>
<tr>
<th>Employment Status</th>
<th>Number of Responses</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Currently employed at Fortune 500 corporation</td>
<td>626</td>
<td>76.5%</td>
</tr>
<tr>
<td>Not currently employed at Fortune 500 corporation</td>
<td>192</td>
<td>23.5%</td>
</tr>
</tbody>
</table>

Total Number of Responses: 818

### Length of Employment

**Table 6 Length of Employment at Fortune 500 Corporation**

<table>
<thead>
<tr>
<th>Length of Employment</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-5 years</td>
<td>26%</td>
</tr>
<tr>
<td>6-10 years</td>
<td>29%</td>
</tr>
<tr>
<td>11-15 years</td>
<td>19%</td>
</tr>
<tr>
<td>16-20 years</td>
<td>11%</td>
</tr>
<tr>
<td>21+ years</td>
<td>14%</td>
</tr>
</tbody>
</table>

Total Number of Responses: 820
Appendix B

ABA Survey on Diversity Among Fortune 500 Attorneys

Page 1 - Background Information
1. Are you currently employed as an attorney within a Fortune 500 company?
   - Yes
   - No
   Additional Comments

Page 2 - Background Information
2. If you are not currently employed as an attorney within a Fortune 500 company, were you employed at the above at any time since January 1, 2005?
   - Yes
   - No
   Additional Comments

Page 3 - Background Information
3. If you are no longer an attorney within a Fortune 500 company, are you currently:
   - Yes
   - No
   Additional Comments

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Page 4 - Background Information

4. If you are no longer employed as an attorney within a Fortune 500 company, what was the most important reason(s) that affected your decision to leave? (Please check up to 3.)

- To work for an organization which offers advancement opportunities I did not have
- To avoid barriers to professional advancement that were unrelated to skills, competence and/or experience
- To leave a workplace in which I experienced gender bias
- To leave a workplace in which I experienced racial/ethnic bias
- To change careers
- To change geographic location
- To change my immediate supervisor
- To obtain experience that was not available through the organization
- To obtain experience that was not available to me
- To obtain a salary increase
- To work in a more racially/ethnically diverse workplace
- To work in a more gender diverse workplace
- To obtain greater work/life balance
- If other, please specify

Page 5 - Background Information

5. In total, how many years have you worked as an attorney within Fortune 500 companies? (Please include all positions held in any Fortune 500 companies in your response.)

- 0 - 5 years
- 6 - 10 years
- 11 - 15 years
- 16 - 20 years
- 21+ years

Page 6 - Background Information

6. Over the course of your career, have you taken a break from actively practicing law for over a year? (Please check only one.)

- Yes, for 1-2 years
- Yes, for 2-5 years
- Yes, for 6-10 years
- Yes, for more than 10 years
- No
Page 7 - Background Information

7. If you have ever taken a break from actively practicing law for over a year, please tell us the reasons that affected your decision to take the break(s). (Check all that apply.)

- A career change
- Moved to a different city
- To take care of children and/or other family members
- Personal medical reasons
- Transition into retirement
- If other, please specify

Page 8 - Background Information

8. Over the course of your career, have you utilized any part-time/flexibility policies or options? (Please check only one.)

- Yes, for 1-2 years
- Yes, for 2-5 years
- Yes, for 6-10 years
- Yes, for more than 10 years
- No

Page 9 - Background Information

9. If you have ever utilized part-time/flexibility policies or options, please tell us what factors affected your decision(s) to utilize the policies or options. (Check all that apply.)

- To pursue other interests
- To take care of children and/or other family members
- Personal medical reasons
- If other, please specify

Page 10 - Background Information

10. Are you the sole or primary income provider in your household? (Your income is more than half of your household’s total income.)

- Yes
- No

Additional Comments
11. **Recruiting & Hiring**
   Please check all that apply to you:
   - ☐ I was hired as an attorney within a Fortune 500 company directly from a law firm where I worked on that company's matters
   - ☐ I was hired as an attorney within a Fortune 500 company directly from a law firm where I did not work on the company's matters
   - ☐ I was hired as an attorney within a Fortune 500 company through an executive recruiter
   - ☐ I was hired as an attorney within a Fortune 500 company by submitting my resume in response to a posted position
   - ☐ I was hired as an attorney within a Fortune 500 company through a personal referral
   - ☐ I was hired as an attorney within a Fortune 500 company immediately after law school
   - ☐ If other, please specify

12. **Recruiting & Hiring**
   At what level were you initially hired as an attorney within a Fortune 500 company?
   - ☐ Executive level (GC/CLO, or one reporting level below the GC/CLO)
   - ☐ Director level (2 reporting levels below the GC/CLO)
   - ☐ Manager level/Senior Counsel level (3 - 4 reporting levels below the GC/CLO)
   - ☐ Counsel (5 or more reporting levels below the GC/CLO)
   - ☐ If other, please specify

13. **Recruiting & Hiring**
   Did you see or experience a negative bias based on the following during your company’s recruiting and hiring process while you were employed as an attorney within any Fortune 500 company? (Please check all that apply. If you saw or experienced a negative bias based on both race/ethnicity and gender, please check both as applicable.)

<table>
<thead>
<tr>
<th></th>
<th>High level of racial/ethnic bias</th>
<th>Moderate level of racial/ethnic bias</th>
<th>No racial/ethnic bias</th>
<th>Don't know if there was/is any racial/ethnic bias</th>
</tr>
</thead>
<tbody>
<tr>
<td>In Your Company’s Legal Department/Function</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In Your Company Overall</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In the Parent or other Holding Company</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Page 12 - Recruiting & Hiring (Continued)

14. Please tell us more about your answers to the above question.

15. Did you see or experience a negative bias based on the following during your company's recruiting and hiring process while you were employed as an attorney within any Fortune 500 company?

<table>
<thead>
<tr>
<th>High level of gender bias</th>
<th>Moderate level of gender bias</th>
<th>Low level of gender bias</th>
<th>No gender bias</th>
<th>Don't know if there was/is any gender bias</th>
</tr>
</thead>
<tbody>
<tr>
<td>In Your Company's Legal Department/Function</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In Your Company Overall</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In the Parent or other Holding Company</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

16. Please tell us more about your answers to the above question.

Page 13 - Recruiting & Hiring

17. What factors led you to choosing to apply for your position(s) as an attorney within any Fortune 500 company? (Please check all that apply.)

First Position within a Fortune 500 Company | Subsequent Positions within Fortune 500 Company(ies)

- Connections made by family members/friends
- Law school classmates/alumni networks
- Business associates
- Unsolicited resume submission
- Response to an advertisement/website listing
- Law school's placement office
- On campus interview process
- Hired following a summer internship
- Recommendation of a law professor
- Recommendation of a senior lawyer/supervisor within the Fortune 500 company where I wanted to work
- Recommendation/suggestion by an executive recruiter
- Recommendation of a judge following a judicial clerkship
Page 13 - Recruiting & Hiring (Continued)

18. Please tell us if there were any other factors that led you to apply for your position(s) as an attorney within a Fortune 500 company.

Page 14 - Law School Background

19. In what year did you graduate from law school?

☐ Before or in 1968
☐ 1969 - 1979
☐ 1980 - 1989
☐ 1990 - 2000
☐ 2001 or after

20. How old were you when you graduated from law school?

☐ 24 or under
☐ 25 - 34
☐ 35 - 44
☐ 45 and over

21. To the best of your knowledge, what was the national ranking of your law school in the year you graduated?

☐ Tier 1 (Top 20)
☐ Tier 2 (21 - 50)
☐ Tier 3 (51 - 100)
☐ Tier 4 (101 and below)
☐ Don't Know
☐ If other, please specify

22. Which of these categories best describes your class rank upon graduation?

☐ Top 10% / Order of the Coif
☐ 1st Quartile (not Top 10% / Order of the Coif)
☐ 2nd Quartile (26th - 50th percentile)
☐ 3rd Quartile (51st - 75th percentile)
☐ 4th Quartile (76th - 100th percentile)
☐ Don't Know
☐ If other, please specify
Page 15 - Additional Background Information

23. Since graduation from law school, have you ever worked as a judicial law clerk? (Please check all that apply.)
   - [ ] No
   - [ ] Yes, State Trial
   - [ ] Yes, State Appellate
   - [ ] Yes, State Supreme Court
   - [ ] Yes, Federal Trial
   - [ ] Yes, Federal Appellate
   - [ ] Yes, U.S. Supreme Court
   - [ ] If other, please specify

24. In what year were you born?
   - [ ] Before or in 1946
   - [ ] 1947 - 1964
   - [ ] 1965 - 1980
   - [ ] After 1980

Page 16 - Professional Development & Advancement

25. During your employment as an attorney within a Fortune 500 company, who of the following, if any, served as FORMAL (part of a formal mentoring program) mentors for you? (Please check all that apply.)
   - [ ] One or more white women
   - [ ] One or more white men
   - [ ] One or more women of color
   - [ ] One or more men of color
   - [ ] No one

26. Please provide a few examples of what you gained from your relationships with your formal mentors.

27. During your employment as an attorney within a Fortune 500 company, who of the following, if any, served as INFORMAL (not part of any formal mentoring program) mentors for you? (Please check all that apply.)
   - [ ] One or more white women
   - [ ] One or more white men
   - [ ] One or more women of color
   - [ ] One or more men of color
   - [ ] No one

28. Please provide a few examples of what you gained from your relationships with your informal mentors.
**Page 17 - Professional Development & Advancement**

29. During your entire career as an attorney, which of the following career decisions, if any, did you make based upon your spouse's or domestic partner's career and/or life choices? (Please check all that apply.)

- [ ] During my career as an attorney, I have never had a spouse/domestic partner.
- [ ] I have/had a spouse/domestic partner and have not made any changes to my career.
- [ ] I relocated for my spouse's/domestic partner's benefit when it was not a positive career move for me.
- [ ] I took a job I really didn't want in order to be in the same location as my spouse/domestic partner.
- [ ] I put off starting a family because of my spouse's/domestic partner's career interests.
- [ ] I turned down a job I really wanted so that my spouse/domestic partner did not have to move.
- [ ] I agreed to a "long distance relationship" so we could both have the jobs we wanted.
- [ ] If other, please specify

**Page 18 - Professional Development & Advancement**

30. During your tenure as an attorney in any Fortune 500 company, how much of a positive impact on your career would the following changes have made? (Please check all that apply.)

<table>
<thead>
<tr>
<th>Very Positive Impact</th>
<th>Slightly Positive Impact</th>
<th>No Positive Impact</th>
<th>Don't Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>More consistent implementation of formal policies for reduced/alternative work arrangements (i.e. Alternative Work Schedules, Compressed Work Schedules, etc.)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>More effective implementation of diversity and inclusion policies relating to my workplace</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greater opportunity to influence decisions on matters/cases on which I work(ed)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>More effective training and development</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less subjectivity in the case/matter/project assignment process</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>More effective accountability systems to govern the ways in which supervisors develop, train and evaluate</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>More racial/ethnic diversity in the workplace</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
31. Which of the following, if any, has/had a meaningful effect on your career at any time during your career as an attorney in a Fortune 500 company? (Please check all that apply.)

<table>
<thead>
<tr>
<th>Positive Effect</th>
<th>Negative Effect</th>
<th>Neither</th>
<th>Don't Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>My race/ethnicity</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>My gender</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>My race and gender combined</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

32. Please provide comments and/or examples for your answers to the two above questions.

Page 19 - Professional Development & Advancement

33. During the majority of my career as an attorney in a Fortune 500 company, I believe that I receive(d) effective feedback from my supervisor(s).

- Strongly Agree
- Agree
- Neither Agree nor Disagree
- Disagree
- Strongly Disagree

Additional Comments/Examples
34. During the majority of your career as an attorney in a Fortune 500 company, how fair do you believe the promotion process in your workplace to be/have been?

- Completely fair
- Somewhat fair
- Slightly fair
- Not fair at all

Additional Comments/Examples

35. During the majority of my tenure as an attorney within a Fortune 500 company, I believe that the promotion process in my work environment is/was transparent.

- Strongly Agree
- Agree
- Neither Agree nor Disagree
- Disagree
- Strongly Disagree

Additional Comments/Examples

Page 20 - Satisfaction with Career Choices

36. In retrospect, how satisfied are/were you with your choice of the law as a career?

- Extremely satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Extremely dissatisfied

Additional Comments/Examples
37. In retrospect, how satisfied are/were you with your choice of being an attorney in a Fortune 500 company?

- Extremely satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Extremely dissatisfied

Additional Comments/Examples

38. If you are currently employed as an attorney in a Fortune 500 company, what reasons would most likely move you to leave? (Please check up to 3.)

- I would not choose to leave
- I am no longer employed as an attorney in a Fortune 500 company.
- To work for an organization which offers advancement opportunities I did not have
- To avoid barriers to professional advancement that were unrelated to skills, competence and/or experience
- To avoid the racial/ethnic bias that I am facing at work
- To avoid the gender bias that I am facing at work
- To change careers
- To change geographic location
- To change my immediate supervisor
- To obtain experience that was not available through the organization
- To obtain experience that was not available to me
- To obtain a salary increase
- To work in a more racially/ethnically diverse workplace
- To work in a more gender diverse workplace
- To obtain greater work/life balance
- If other, please specify
**Page 22 - Workplace Environment**

39. During the majority of my tenure as an attorney in a Fortune 500 company, I believe that different perspectives than those of my supervisors are/were welcomed in my work environment.

- [ ] Very welcomed
- [ ] Somewhat welcomed
- [ ] Not at all welcomed

Additional Comments

40. During the majority of my tenure as an attorney in a Fortune 500 company, I believe that mistakes are/were seen as learning opportunities in my work environment.

- [ ] Strongly agree
- [ ] Agree
- [ ] Neither agree nor disagree
- [ ] Disagree
- [ ] Strongly disagree

Additional Comments

---

**Page 23 - Workplace Environment**

41. While working as an attorney at any Fortune 500 company, have any of the following happened to you? (Please check all that apply.)

<table>
<thead>
<tr>
<th>Based on Race/Ethnicity</th>
<th>Based on Gender</th>
<th>Based on Other Traits</th>
<th>Never Happened To Me</th>
<th>Don't Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experienced demeaning comments or other types of harassment.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Missed out on desirable assignments.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Experienced one or more forms of discrimination.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Experienced a lack of access to informal or formal networking opportunities.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Experienced unfair performance evaluations.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Been denied advancement or promotional opportunities.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Been treated differently than my peers.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Workplace Environment (Continued)

<table>
<thead>
<tr>
<th>Based on Race/Ethnicity</th>
<th>Based on Gender</th>
<th>Based on Other Traits</th>
<th>Never Happened To Me</th>
<th>Don't Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experienced a lack of access to information that negatively affected my ability to perform effectively.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td>Experienced a lack of access to resources that negatively affected my ability to perform effectively.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
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</tbody>
</table>

42. Please explain your answers to the above question in greater detail and/or provide examples.

43. During the majority of my tenure as an attorney in a Fortune 500 company, I believe that supervisors in my work environment show/showed favoritism based on personal relationships.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Additional Comments

44. During the majority of my tenure as an attorney in a Fortune 500 company, I believe that skills and knowledge are/were valued more than relationships with supervisors in my work environment.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Additional Comments
### Page 24 - Compensation & Advancement

**45.** What was your overall compensation package when you first started as an attorney in a Fortune 500 company? (Please refer to your very first position as an attorney in a Fortune 500 company if you have been at more than one.)

<table>
<thead>
<tr>
<th>1-10 Attorneys Total in Company</th>
<th>11-25 Attorneys Total in Company</th>
<th>26-50 Attorneys Total in Company</th>
<th>51-100 Attorneys Total in Company</th>
<th>101+ Attorneys Total in Company</th>
<th>Don't Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below $75,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Between $75,000 and 149,999</td>
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<td></td>
<td></td>
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<tr>
<td>Between $150,000 and 224,999</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Between $250,000 and 499,999</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Between $500,000 and 1,000,000</td>
<td></td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>Over $1,000,000</td>
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</tbody>
</table>

**46.** What is your overall compensation package right now if you are still an attorney within a Fortune 500 company or the overall compensation package you received in your last position as an attorney within a Fortune 500 company?

<table>
<thead>
<tr>
<th>1-10 Attorneys Total in Company</th>
<th>11-25 Attorneys Total in Company</th>
<th>26-50 Attorneys Total in Company</th>
<th>51-100 Attorneys Total in Company</th>
<th>101+ Attorneys Total in Company</th>
<th>Don't Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below $75,000</td>
<td></td>
<td></td>
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<tr>
<td>Over $1,000,000</td>
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</tbody>
</table>

**47.** What is the highest level position that you hold or held as an attorney in a Fortune 500 company?

<table>
<thead>
<tr>
<th>1-10 Attorneys Total in Company</th>
<th>11-25 Attorneys Total in Company</th>
<th>26-50 Attorneys Total in Company</th>
<th>51-100 Attorneys Total in Company</th>
<th>101+ Attorneys Total in Company</th>
<th>Don't Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive (CLO, GC, etc. - at or one level below highest legal position)</td>
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<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>
### Page 24 - Compensation & Advancement (Continued)

<table>
<thead>
<tr>
<th></th>
<th>1-10 Attorneys Total in Company</th>
<th>11-25 Attorneys Total in Company</th>
<th>26-50 Attorneys Total in Company</th>
<th>51-100 Attorneys Total in Company</th>
<th>101+ Attorneys Total in Company</th>
<th>Don't Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Director (Head of a Department, Head of a Practice Area, Chief Counsel for a business line, etc. - one to two reporting levels below highest legal position)</td>
<td>☐</td>
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</tr>
<tr>
<td>Manager (3 to 4 reporting levels below highest legal position)</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Counsel (more than 4 reporting levels below highest legal position)</td>
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<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

### Page 25 - Demographic Data

48. What is your gender?
   - ☐ Female
   - ☐ Male

49. At any point during your career as an attorney, what level of caretaking responsibility did/do you have for the following people (check all that apply):
   - [ ] Primary Responsibility
   - [ ] Shared Responsibility
   - [ ] Some, but not Primary or Shared Responsibility
   - [ ] None

- Own children or step-children
- Someone else's children
- Parents
- Other adults
Page 26 - Demographic Information

50. Which of the following best describes your race/ethnicity? (Please check only one.)

- Native American/American Indian or Alaska Native
- Asian (origins in Far East, South or Southeast Asia)
- Black or African American
- Hispanic or Latino(a)
- Middle Eastern
- Native Hawaiian or other Pacific Islander
- White or Caucasian
- Multiracial
- If other, please specify

51. Which of the following best describes your sexual or gender orientation/identity? (Please check only one.)

- Bisexual
- Gay/Lesbian
- Heterosexual
- Transgender

52. What is your current marital status?

- Single, never married
- Married/Living with a committed partner
- Divorced or separated
- Widowed
- If other, please specify
Selected Bibliography

Books and Articles


Bartol, K.M. *Spotting Gender Bias in Performance Appraisal.* (National Center for Women and Information Technology, 2006).


Studies and Reports


Project for Attorney Retention. Diversity and Flexibility Connection Best Practices (Oct. 9, 2009).


Other Sources: Status of Women Generally


For further reading, see articles and resources posted on the Commission on Women’s website at www.americanbar.org/groups/women/resources/articles_reports_research.html.

Information Available Online:

American Corporate Counsel Association: www.acca.org and ACCA’s project to identify diverse outside counsel: www.diversecounsel.org.


Catalyst: www.catalystwomen.org.

Lawyers for One America: www.lawyersforoneamerica.org.