

Prepared by: Elizabeth Rindskopf Parker  
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Panel: Collaboration: The Real Deal

## **Increasing Diversity in the Legal Profession:**

### **A Model for Collaboration *with* Schools of Law, Education, Liberal Arts and High Schools *and* Bench, Bar and Corporate Counsel**

Elizabeth Rindskopf Parker  
Dean, University of the Pacific, McGeorge School of Law<sup>1</sup>

#### **Introduction**

Returning to an academic setting after more than three decades in the practice of law, I had as my goal: assist the profession I love in its transition to a new century where globalization has become the defining feature. In my new role as a law school dean, however, I immediately found that questions outnumbered answers:

- Were law schools producing the graduates needed by the 21<sup>st</sup> century legal profession here in the United States and abroad?
- If not, what problems must law schools address to ensure the health of our legal profession, which is so important to strengthening our common culture at home; to knitting together our powerful diversity; and to maintaining the stability, and thus the security, of nations everywhere?
- What opportunities were there for law schools to collaborate with bench, bar, corporate counsel and the educational community as a whole to achieve these goals of an effective legal profession and a robust legal system?

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<sup>1</sup> This paper is a joint effort by Professor Sarah Redfield, Pierce Law Center, Concord, New Hampshire and Elizabeth Rindskopf Parker, who can be reached either at [sredfield@pacific.edu](mailto:sredfield@pacific.edu). or [Elizabeth@pacific.edu](mailto:Elizabeth@pacific.edu). Both authors would be happy to provide additional information on the work of the University of the Pacific's "Pacific Pathways Project" at the School of Law and Public Service at Sacramento High School.

## **Are law schools producing the graduates we need for the legal profession of the future?**

The 21<sup>st</sup> century legal profession and all of the educational institutions that contribute to it, in particular schools of law, share a critical need: student diversity. Our communities tell us this; our business leaders tell us this. We know this. Diversity is particularly important for our law schools, for they produce the leaders of the future — all of our judges, over half of our U.S. Senators, nearly half of our governors, a third of our representatives to Congress, and about one fifth of our state legislators have graduated from law school. The impact of legal training on corporate America is similar. Still, the bar today remains 90.3% non racially and ethnically diverse.<sup>2</sup> Simply put, those trained to manage and protect the legal system of our increasingly diverse nation are not representative of those they must serve. Yet, unless all parts of our legal system and its leadership are broadly representative, the system will not work. The reason is simple. Unless all parts of our society enjoy “ownership” of our legal system, it cannot function as it traditionally has – uniting us with a shared core legal culture.

Beyond this, globalization has created additional demands on both our diverse and non-diverse populations. Every one of us must learn to work together across ethnic, racial, economic and geographic boundaries if individually we--and our nation-- are to be successful. Law school is one of the most important places for this learning to take place. If we have not learned to value and manage diversity there, we may not have the opportunity to do so later.

Thus, the answer to this first question, simply stated, is that law schools are not producing the diverse graduates our nation needs. They are not doing their job to prepare the 21<sup>st</sup> century legal profession.

### **If law schools are not producing the graduates we need, what problems must be solved so that our legal profession is broadly representative, able in the future, as in the past, to support our legal system and serve as the common culture that binds our nation’s powerful diversity together?**

With a bar that is over 90% non-minority (with a particular dearth of Latino and African American representation) we need to recognize that work we have done in the past, while extremely important, has not been sufficient. The reasons for the disproportionate diversity representation in law school are easily documented all along the education pipeline as it leads first into law school and then into the profession:

- Insufficient aspiration and knowledge of the possibilities offered by a legal career among minority groups.
- High school and college preparation that is inadequate for law school entrance and success.
- Low LSAT scores.

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<sup>2</sup> Elizabeth Chambliss, *Miles to Go: Progress of Minorities in the Legal Profession*, American Bar Association Commission on Racial and Ethnic Diversity in the Legal Profession 2004, at 2 and Table 1 (*Miles to Go 2004*).

- Poor performance in law school—a lack of “persistence.”
- Low minority bar passage rates.

Solving these problems—so many of which originate long before law school applications and admissions decisions—has traditionally seemed too remote a concern for a law school’s attention. Law schools have not, in consequence, been actively involved in a systematic way to address these systemic problems at their earliest appearance, even though efforts have been taken to address the problems of poor preparation and performance at entrance or after students have gained admission to law school. Of course, by then, it is often too late. Last minute remediation in the intensely competitive environment of law school is a daunting challenge.

In contrast, bench and bar have been increasingly active in reaching out to students well before law school and even college, designing myriad creative programs to inspire and instruct pre-college students in initiatives often inspired by legal pedagogy and legal content. Still, such efforts, although typically creative and well intentioned, too often lack a systematic approach that continues in a sustained way over time. As a result, much of their potential impact is, in all likelihood, diminished. In fact, without the active participation of law schools, their natural educational partners, the ability of these bench and bar efforts to embed their programs in an effective educational structure that will be long term, consistent in its re-enforcement, and pedagogically sound, is limited. Too often such programs function like fireworks—a burst of light, which quickly dissipates into the surrounding night.

**How can law schools collaborate with other parts of the educational pipeline and with the practicing legal profession to achieve the diversity goals we share?**

The low participation rates of minorities in law school and the profession are well known, and they are not improving. Nevertheless, law schools have traditionally waited for applications to reach them, hoping that sufficient diversity would somehow appear—as if by magic, perhaps, given the dismal state of national statistics. When, not surprisingly, the supply of diverse applications has proven insufficient, individual law schools compete with one another for a larger share, investing scholarship dollars and devising other stratagems to increase the diversity at their own individual institutions, albeit at the expense of others.

The fundamental problem all law schools face, of course, is an inadequate number of well-prepared minority applicants nationally. Yet, somehow little thought has been given to increasing the over-all supply of well-qualified and diverse students. This is the so-called “K-20 Pipeline Problem.” And no attention has been given to how all law schools, working together with their educational colleagues at earlier points in the educational continuum, might influence the overall “supply” of well-qualified minority students. That is, until recently.

In the last three years, at the invitation of the Johnson Foundation, several law schools have come together at the Wingspread Conference Center in teams composed of high schools, colleges, and schools of education. Their goal has been to create a “production pipeline” of well-qualified minority students. In doing so, several important things have been learned:

- Law schools and their alumni, while small in number, are disproportionately powerful in the political, business and community leadership they command. Further, such alums, working with their law schools, can encourage and stimulate the aspirations and performance of diverse undergraduate and secondary students, improving their preparation for and participation in the graduate study of law. They are thus well positioned to participate in addressing both the strategic and the pragmatic day-to-day problems of our educational system.
- While lawyers and law schools may not themselves be expert in secondary education, a collaborative team approach can take advantage of the powerful pedagogy and content of the law, as well as the leadership of law students and practicing lawyers, to enrich, encourage and inform secondary and post-secondary educational programs, guided by the expertise of educators along the pipeline.
- As the “liberal arts professional school,” law schools have a role to play in encouraging the revitalization of our undergraduate liberal arts programs nationwide. These programs need to be rigorous and demanding to ensure that minority students, even if their high school experience has been inadequate, will gain the skills they need in college to succeed on the LSAT, the bar exam and beyond.
- As the source of a continuous supply of high-performing students and committed alums, law schools can bring together a community capable of working with high school students to inspire their aspirations and academic performance.
- The power of individual programs of bench and bar—designed to inspire, educate and promote civic education for minority students, in the hope that some will become lawyers—can be enhanced if such programs are part of a structured, systemic, and systematic approach; in short, if they fit into an educational structure that can be replicated and evaluated as we move forward.

In sum, the solution to inadequate participation by minorities, particularly African American and Latino students, in legal education and the legal profession must be treated with a comprehensive “pipeline” approach. Encouragement, support, and preparation must be the business not only of the bench and bar, but also of all parts of the educational continuum from the lower grades through high school, college, and law school. Structures must be created that allow all parts of this continuum to work well together from preschool to the professions. We must also take greater advantage of what has been done in many individual programs across the country; sharing best practices and lessons learned, whenever we can, evaluating and replicating them.

Working together in this collaborative fashion is a new model. Nevertheless, we have learned that it is possible to envision law schools assuming meaningful organizational and evaluative responsibilities at the center of the project and reaching out to and supporting all of their constituencies — students, alums, university partners (and their students and alums), practicing public and private sector attorneys, corporate counsel, bar associations and other law organizations—in work that will increase diversity and success along the educational pipeline.

Such support would first involve the development of a multi-dimensional data base of existing programs, then application of an evaluative approach to help identify replicable best practices, and dissemination of templates, structural advice, and materials for such practices and for ongoing evaluation. An important ongoing function of law schools organizationally would be to assure program communication (to avoid duplication) and to implement systemic and systematic approaches.

Creating such a structured approach will, of course, require some funding. Still, recent experience shows that the costs required can be less than might be imagined. A brief review of the features of a program now underway in Sacramento, California, at the School of Law and Public Service at Sacramento High School shows why. Over the last two years, a modest array of activities have gradually been designed that now can be seen to have contributed to a dramatic improvement in the results of a group of highly diverse, inner city high school students. Graduation of 96% of these students, with 88% admitted to college, represents a remarkable increase from two years earlier when less than 50% graduated and only 5% were college qualified.

The programmatic support provided by the University of the Pacific team—composed of a school of education, law and undergraduate college and coordinated by a law student “fellow”—included simple things:

- donations of used law books and replaced computers;
- inviting high school students to visit the law school campus for a day of law school classes designed for them and lunch in the law school cafeteria;
- a similar visit to the college campus;
- a weekly one hour law student mentoring program, supported by the School of Education;
- a speakers program, taking advantage of previously scheduled law school events and volunteer alumni presentations;
- periodic receptions and visioning sessions for high school teachers and mentors;
- teacher coaching by the School of Education; and
- a monthly Saturday seminar at local law firms and courts.

If law firms and general counsels’ offices join forces with law schools in simple efforts such as these, improvements can be achieved without any one partner being overburdened. If corporate general counsels and law firms volunteer their time and provide modest financial support, law schools, the essential partners in this endeavor, will be enabled to manage and support programs capable of motivating and supporting a far better prepared and more diverse group of applicants for college and later, the professions. Law schools are essential in this effort, but they must also have the support of their educational colleagues along the educational pipeline: high schools, schools of education and liberal arts. Together they are the “means of production” necessary to create the new generation of diverse and well-prepared law graduates that the legal profession needs and wants.