

The INSIDECOUNSEL/DICKSTEIN SHAPIRO LLP
DIVERSITY
SURVEY

THE LEGAL PROFESSION HAS NOT, historically, been a diverse one. It wasn't until 2002 that women enrolled in law schools at the same rate as men. And the proportion of racial and ethnic minorities in the legal profession is still out of sync with the population at large.

Yet, corporate legal departments have made some important strides toward fostering greater diversity within their ranks. For instance, more than 100 companies have signed onto the "Call to Action," a document authored by Sara Lee's general counsel Roderick Palmore in 2004 that expresses commitment to increasing diversity not only within the legal department, but also among the outside counsel the company hires.

While that is somewhat encouraging, in-house counsel shouldn't start patting themselves on the back just yet. The *InsideCounsel* /Dickstein Shapiro LLP Diversity Survey reveals that while a highly visible minority of companies is making strides toward greater diversity, the in-house bar as a whole is lagging way behind.

BY ADELE NICHOLAS



The Big Picture

- Legal departments lack racial diversity
- Senior leadership fails to set goals
- Commitment from GC and CEO is essential

NO MATTER HOW MUCH LIP service general counsel pay to the issue of racial diversity in the legal profession, our survey results tell their own story—and it's not a pretty one. By and large, legal departments are doing a poor job diversifying their internal ranks.

sel Women of Color—a New York-based networking association of approximately 1,500 minority in-house counsel—and an in-house attorney in New York. “There are a lot of companies only doing step one, and they think that’s more than enough. A lot of people don’t realize they have a problem.”

The results of *InsideCounsel’s* survey confirm that contention. For example, despite the lack of diversity within many departments, 44 percent of survey respondents said they agreed with the statement “My department is doing enough to diversify its ranks.” (Interestingly, 52 percent of Caucasian respondents thought their department was doing enough, while only 16 percent of African-American respondents, 28 percent of Asian respondents, and 31 percent of Hispanic respondents agreed that enough was being done.)

Improving the situation requires the people at the top of legal departments to

The average legal department that responded to our survey employs 46 attorneys, only 3.5 of whom are non-Caucasians. (The median department

employs 11 attorneys, only one of whom is non-white.)

Even among departments that employ minority attorneys, few are retaining those attorneys and promoting them into leadership positions. In the median department that responded to our survey, zero minority attorneys reported directly to the general counsel

When you’re talking about fostering diversity, there are three steps: hiring, retaining and advancement.

—LAURIE ROBINSON, CEO, CORPORATE COUNSEL WOMEN OF COLOR

and zero minority attorneys had responsibility for managing other attorneys. A non-white GC heads less than 9 percent of departments that responded to the survey (see chart).

To some observers, the results aren’t surprising. They attribute the lack of diversity at the more senior levels of legal departments to a shortsighted approach on the part of department leadership.

“When you’re talking about fostering diversity, there are three steps: hiring, retaining and advancement,” says Laurie Robinson, CEO of Corporate Coun-

open their eyes to the fact that simply recruiting or hiring diverse individuals from time to time is not enough to create meaningful change in the department’s demographic makeup.

“The most important thing is that the leadership has to place this as a priority,” says Veta Richardson, executive director of the Minority Corporate Counsel Association in Washington, D.C. “There needs to be recognition that the lack of diversity will make a company less competitive over time, and is bad for them from a business perspective.”

DIVERSITY BY-THE-NUMBERS



The number of attorneys in the median legal department.

1

The median number of minority attorneys.

The median number of minority attorneys that report directly to the GC.

ZERO

The median number of minority attorneys that manage other attorneys.



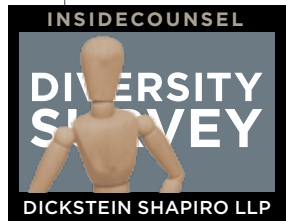
Percentage of legal departments led by a minority GC.



Put It In Writing

- Half of legal departments lack formal diversity policies
- GCs fail to communicate their diversity policies
- Companies tie leaders' compensation to diversity goals

PART OF THE REASON legal departments are faltering in their diversity efforts is that many haven't created formal, written policies that set clear goals for improving internal demographics, time frames for achieving those goals and uniform methods through which to pursue those objectives.



Only 32 percent of departments that responded to our diversity survey had written policies on hiring diverse outside counsel or recruiting, retain-

ing and promoting diverse lawyers (see "Policy Makers"). According to experts, that's a huge mistake—especially for those departments that have yet to make significant strides toward creating a diverse legal workforce.

"In a department that hasn't addressed

diversity, being more formal about the approach will give leaders the opportunity to look at their results, evaluate their progress and come up with plans to continue their progression," says Veta Richardson, executive director of the Minority Corporate Counsel Association. "A more informal approach can only work if the department's commitment to diversity is already universal and serious."

Even more troubling than the fact that many companies neglect to implement a written diversity policy is that 22 percent of respondents had no idea whether their department had a diversity policy.

This confusion highlights the failure of general counsel and other senior leaders to adequately communicate that diversity is an important goal for the department.

"Developing a written policy is not

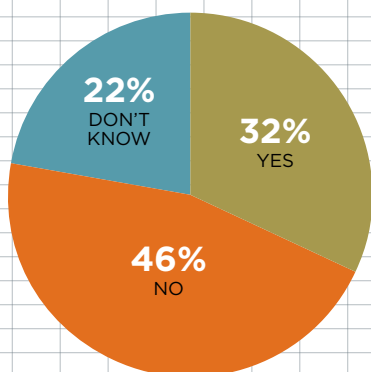
hard," says Laurie Robinson, CEO of Corporate Counsel Women of Color. "But it is important to make sure that the policy is supported by top management, including the CEO, and that the message gets conveyed all the way down to the lower ranks."

For many departments, it comes down to a lack of incentives for legal department leadership to take diversity seriously.

"If you're going to have a diversity program that means anything, you have to tie the top people's bonuses and compensation to achieving certain goals—otherwise there's very little motivation," says Daryl Savage, assistant general counsel of global IT consultancy Computer Sciences Corp. "Without that incentive, people view it as a pain in the butt rather than something to be aspired to." •

POLICY MAKERS

Does your legal department have a written policy on hiring diverse outside counsel or recruiting, retaining and promoting diverse lawyers?

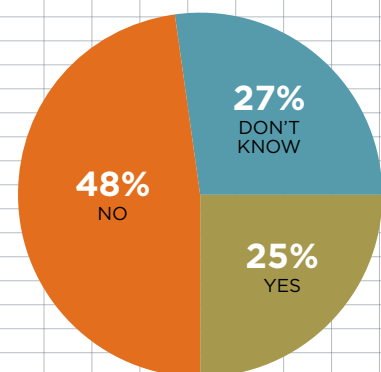


The MCCA recognized **Shell Oil Co.** as having a model diversity policy. That policy sets specific goals and plans for:

- Enhancing individual and group diversity skills, visibility and leadership
- Recruiting diverse talent
- Retaining and promoting the best talent without bias
- Maintaining an inclusive workplace climate
- Consistently achieving balanced workforce objectives
- Promoting relationships with minorities and women who work for or own vendors and service providers

MEASURING UP

Does your department have metrics in place to measure its progress on diversity?

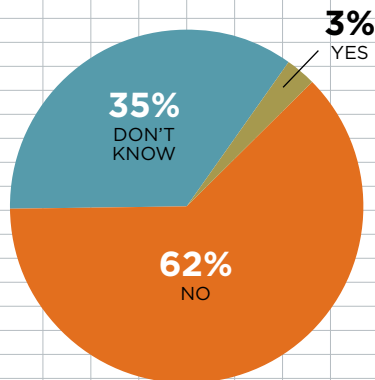
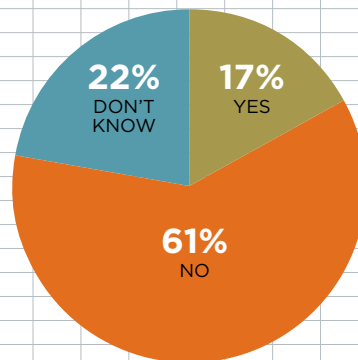


Outside Pressure

- Most departments don't set standards for diversity among outside counsel
- Departments critical of firms' diversity efforts
- More departments hire minority-owned businesses

SETTING THE STANDARD

The majority of legal departments are not pressuring their outside firms to become more diverse. We asked: **Do you set diversity standards for your law firms?**

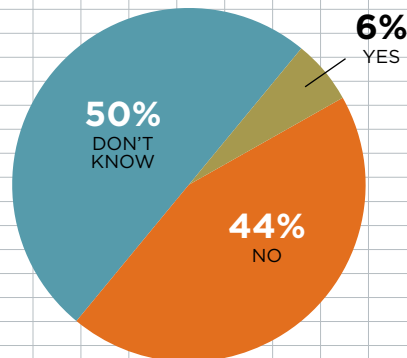


CRACKING DOWN

Even among legal departments that do set diversity standards, few are taking action if firms don't meet them. We asked: **Has your company ever fired a law firm because it failed to meet your department's standards with regard to diversity?**

TAKING ACTION

A small, but growing number of companies are signing on to a formal commitment to hold firms to diversity standards. We asked: **Has your company signed Rick Palmore's "Call to Action"?**



LEGAL DEPARTMENTS HAVE THE buying power to shape the way outside counsel do business, but few are using that influence to put pressure on firms to improve their diversity.

Only 17 percent of departments that responded to our survey required their firms to disclose demographic data to them. And while

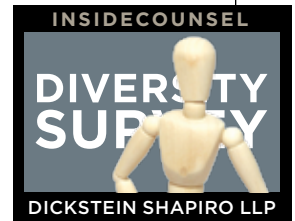
17 percent of respondents set standards for their law firms with regard to diversity, only 3 percent had ever fired a firm because it failed to meet those

standards. Furthermore, just 40 percent of respondents had ever hired a minority-owned law firm, and only 9 percent of departments have a policy in place requiring the hiring of minority-owned firms.

According to experts, legal departments have little excuse for not hiring diverse outside counsel. Finding diverse lawyers of the highest quality is easier now than ever before.

"We have a large group of minority- and women-owned firms that have a long history of doing excellent work for Fortune 500 companies," says Renuka Vishnubhakta, managing director of the National Association of Minority and Women Owned Law Firms. "Not only is their work is just as good—because most of the attorneys received their training at the major law firms—minority-owned firms often provide those services at a lower cost."

Despite legal departments' significant shortcomings on the diversity front, they were quick to criticize law firms for their lack of diversity—only 12 percent of respondents thought law firms were doing enough to diversify their ranks. Meanwhile, 44 percent of in-house lawyers thought their department was doing enough in terms of diversity. ○



Retention Dilemmas

- Departments fail to promote minority attorneys
- Mentoring key to retention and advancement
- Attorneys seek training and development opportunities

ONE OF THE MOST TROUBLING aspects of legal departments' approach to diversity is their inability to retain diverse lawyers and promote them into leadership positions. For instance, while the median department we surveyed employed three minority attorneys, it had zero minority attorneys reporting directly to the GC or managing others in the department. Meanwhile, 68 percent of respondents agreed with the statement, "Minority lawyers in our legal department have as much opportunity to advance as non-minority lawyers."

This startling result—and discon-

nect between perception and reality—is due in large part to the fact that many legal departments lack clear plans for creating meaningful mentoring relationships and career development opportunities for minority attorneys. The result is a revolving door of minority hiring at the junior levels and a consistent lack of diversity among attorneys in management positions.

"Failing to do more than just recruit is a major mistake," says Laurie Robinson, CEO of Corporate Counsel Women of Color. "Bringing in a minimum number of diverse individuals and leaving them to fend for themselves while experiencing the minefields of discrimination and stereotyping from those in the workforce who have not

bought into diversity can be costly to a diversity program."

It is essential therefore that the department creates opportunities for diverse attorneys to work closely with senior leadership and develop mentoring relationships.

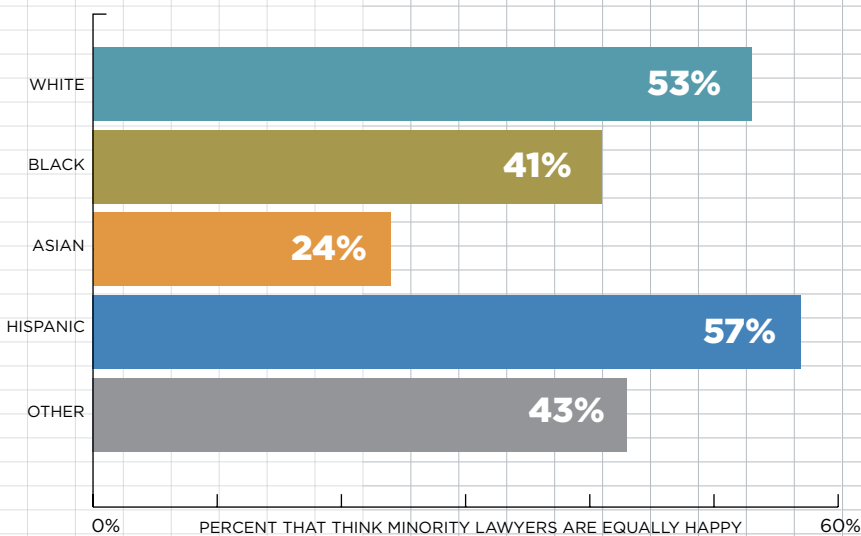
"In most departments, advancement is dependent on finding a godfather or a rabbi who is willing to get the management team to give you a chance," says Daryl Savage, assistant general counsel of Computer Sciences Corp. "You have to provide attorneys with the opportunity to develop those personal relationships and learn the company's culture, methodology and people."

This isn't happening in most departments. Among survey respondents,



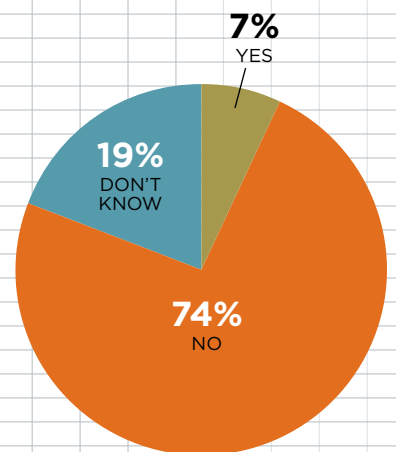
HAPPY LAWYERS

Respondents from different groups disagree on whether minority lawyers were as happy in their jobs as white lawyers.



FORGING RELATIONSHIPS

Does your legal department have a formal mentoring program for minority attorneys?



Any management structure that doesn't include minorities is simply out of step with the rest of society.

—VETA RICHARDSON, EXECUTIVE DIRECTOR, MINORITY CORPORATE COUNSEL ASSOCIATION

only 7 percent had implemented a formal mentoring program for minority in-house attorneys.

Even in the absence of formal mentoring relationships, any general counsel or managing attorney that takes diversity seriously will have to be a champion for talented attorneys that he or she identifies as potential future leaders.

For Charles Alexander, general counsel of Citibank Canada, fostering a sense of community among all attorneys in his department is the key to retention and providing opportunities for growth.

"In the past six years, we've only had one person leave," he says. "People stay here a long time because we create a collaborative, open environment where people can air their grievances

and know they have my support."

Beyond fostering those personal relationships between senior and junior members of the department, general counsel also need to focus on creating clear avenues for talented minority attorneys to advance up the ladder—otherwise, it is almost impossible to retain them. Pouring money and time into recruiting minority attorneys is ultimately a waste if that hiring never translates into the creation of a diverse slate of future leaders.

"Legal departments that hire diverse employees, but fail to provide training, development and advancement opportunities, often find that these employees leave the ranks within three to four years and go to work for a competitor

where growth opportunities are available," Robinson says. "Companies find themselves without a pool of talented lawyers to come up through the ranks to assume leadership positions at the senior level."

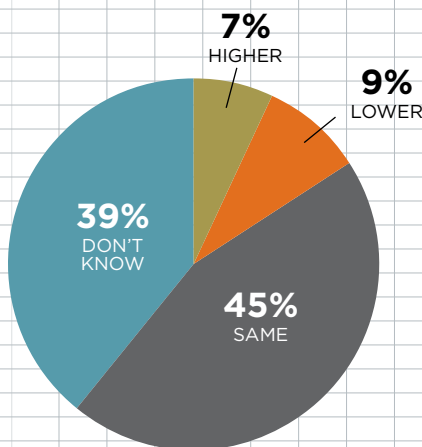
And from a business perspective, failing to create a diverse management team puts the company at a competitive disadvantage.

"In a nation this diverse, any management structure that doesn't include minorities is simply out of step with the rest of society," says Veta Richardson, executive director of the Minority Corporate Counsel Association. ○



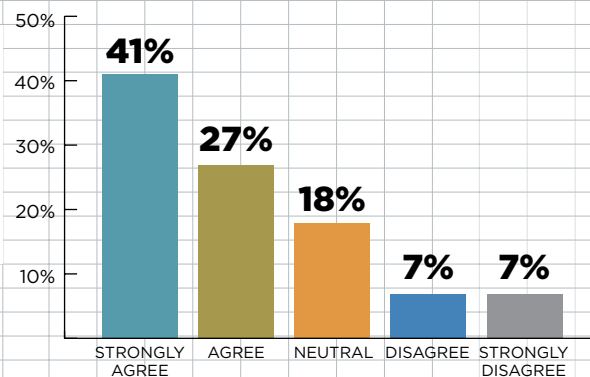
HEADING OUT

How does the turnover rate for minority lawyers in your department differ from non-minority lawyers?



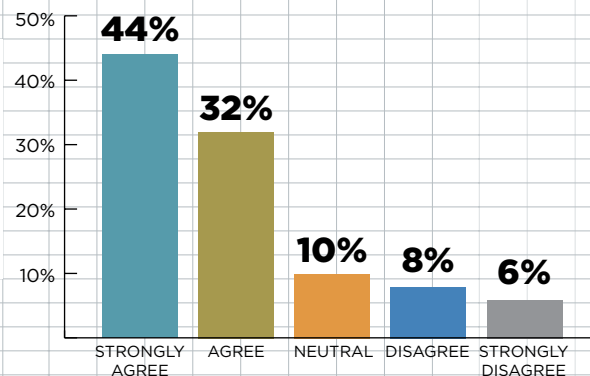
MOVING UP

Minority lawyers in our department have as much opportunity to advance as non-minority lawyers.



CULTURE OF INCLUSION

Our department's culture is inclusive of all people, no matter their race.



Other Survey Results

For complete results of this survey, please visit www.insidecounsel.com/diversity



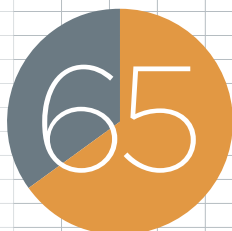
Percentage of companies that had hired a minority-owned law firm.



Percentage of companies that had a policy requiring counsel to hire minority-owned firms



Percentage of companies that had signed onto the Call to Action—a statement authored by Sara Lee GC Rick Palmore that says companies will put pressure on their firms to become more diverse.



Percentage of companies that had never heard of the Call to Action.

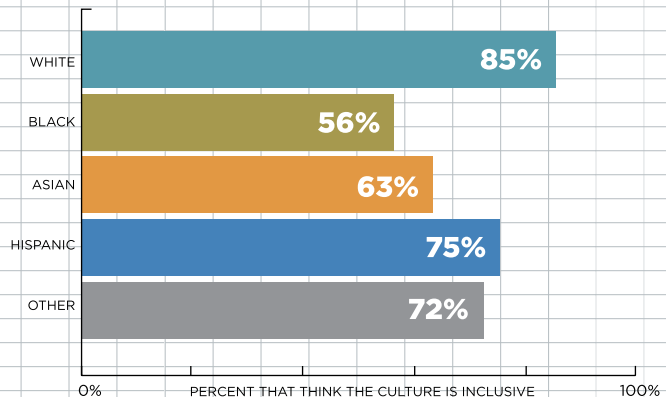


SURVEY DEMOGRAPHICS

377 in-house attorneys responded to this survey. 19 percent of them were general counsel. 70 percent of respondents identified themselves as white; 14 percent as black; 7 percent as Hispanic; and 7 percent as Asian.

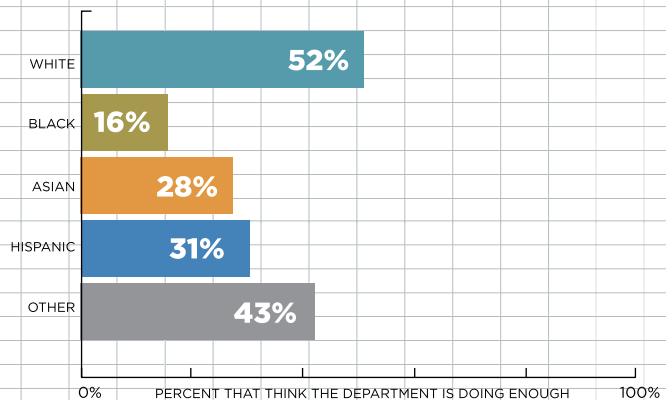
INCLUSIVE ENVIRONMENT

Most white attorneys believe their legal departments' cultures are inclusive regardless of race.



UNSATISFACTORY PROGRESS

The majority of minority in-house attorneys thought the department's efforts to diversify its ranks were lacking.



TAKING IT OUTSIDE

Attorneys from all demographic groups criticized law firms' diversity efforts.

