The State Bar of California

OPEN SESSION
AGENDA ITEM
50-5 JULY 2020

DATE: **July 16, 2020**

TO: **Members, Board of Trustees**

FROM: **Donna S. Hershkowitz, Interim Executive Director**
Elizabeth Hom, Acting Program Manager, Office of Access & Inclusion

SUBJECT: **Receipt and Filing of 2016 Judicial Diversity Summit Report**

EXECUTIVE SUMMARY

A Judicial Diversity Summit has been held every five years since 2006 to assess the efforts to increase judicial diversity in California, and to make recommendations for future activities and initiatives to diversify the judiciary. The 2016 Judicial Diversity Summit was convened by the Judicial Council of California, California Judges Association, and the State Bar of California. Following the first summit in 2006 and again in 2011, a report on the Summit's activities and recommendations was presented to the Board of Trustees for approval.

Attached is the final report of the Planning Committee for the 2016 Judicial Diversity Summit, "Continuing a Legacy of Excellence: A Summit on Achieving Diversity in the Judiciary." Staff recommends that the Board receives and files the report and refers the report to the Council on Access and Fairness (COAF) for review and to make any appropriate recommendations to the Board, consistent with COAF's charge and work plan.

BACKGROUND

The purpose of the Judicial Diversity Summit is to discuss issues impacting judicial diversity, to assess the efforts to increase judicial diversity, and to make recommendations to support judicial diversity efforts. The first two Judicial Diversity Summits were held in 2006 and 2011, and were cosponsored by the State Bar and the Judicial Council of California. The first Summit focused on data collection and sharing, barriers to judicial diversity, including transparency in the screening and appointments process, recruitment of more lawyers from diverse backgrounds, and outreach and education by judges in the community. The 2011 Summit

focused on: the judicial appointments and election processes; pipeline into the profession; judicial diversity data collection and sharing; outreach to attorneys of diverse backgrounds; the online judicial application; and perceived barriers for women and judges of color.

The 2016 Summit reviewed progress made since the 2011 Summit, including an update on judicial diversity statistics. The Summit also featured an interactive, web-based tool that allowed Summit attendees and other stakeholders to anonymously share thoughts about the diversity of California's judiciary. This tool was used to drive Summit discussions and helped shape the recommendations and action plan stemming from the Summit: (1) to develop an agreed upon definition of judicial diversity; (2) to include cultural awareness as a criterion for judicial appointment; (3) to determine appropriate data to gather and analyze in assessing the success of judicial diversity efforts; (4) to invest in social media outreach and education to connect the judiciary with young people; (5) to engage judges in broad-based community service activities to positively influence public perception of the justice system; and (6) to review and reform the judicial retirement system to encourage diverse applicants for judicial appointment.

DISCUSSION

Due to the delay in issuing the report, significant events between 2016 and today that impact the 2016 recommendations and action plan were detailed in the report. In 2017, the State Bar restructured to focus on its functions as a regulatory agency, and the California Lawyers Association (CLA) was created to take over the trade associational functions. In 2019, the Board adopted amendments to the State Bar's 2017–2022 Strategic Plan to reflect a focus in diversity and inclusion efforts on law school and the attorney profession. At that time, the Judicial Council agreed to take the lead role in judicial diversity work. CLA was also encouraged to partner with the Judicial Council and the California Judges Association in organizing the next judicial diversity summit. CLA and the Judicial Council will spearhead the 2021 summit, with the COAF providing limited assistance in the planning to share its expertise, as needed.

As a part of the State Bar's diversity and inclusion efforts, COAF submits annual work plans detailing activities and initiatives to advance the State Bar's strategic goals and objectives related to diversity in the profession. The most recent COAF work plan was amended in May 2020, and includes activities focusing on pipeline to the profession, law schools, and career advancement and retention. COAF plays a supportive role to the Judicial Council's lead role in judicial diversity efforts.

As such, the recommendations and action plan in the 2016 report will need to be reviewed and updated to reflect the current roles and priorities of key stakeholders in diversity and inclusion of the legal profession. Staff recommends that the Board receives the report and refers the report to COAF for further review and recommendations consistent with its charge and work plan.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES OF THE STATE BAR

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: 4. Support access to legal services for low- and moderate-income Californians and promote policies and programs to eliminate bias and promote an inclusive environment in the legal system and for the public it serves, and strive to achieve a statewide attorney population that reflects the rich demographics of the state's population.

Objective: o. Partner with the Judicial Council to complete the Judicial Diversity Toolkit.

RECOMMENDATIONS

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

> **RESOLVED**, that the Board of Trustees receives and files the 2016 Judicial Diversity Summit Report; and it is
>
> **FURTHER RESOLVED**, that the Board of Trustees refers the 2016 Judicial Diversity Summit Report to the Council on Access and Fairness for its review and recommendations, consistent with its charge and amended work plan.

ATTACHMENT(S) LIST

A. 2016 Judicial Diversity Summit Report: Continuing a Legacy of Excellence: A Summit on Achieving Diversity in the Judiciary

Continuing a Legacy of Excellence:

A Summit on Achieving Diversity in the Judiciary

October 1, 2016
Manchester Grand Hyatt
San Diego, California

Cosponsored by

The State Bar of California
The California Judges Association
The Judicial Council of California

Final Report and Recommendations

July 7, 2020

The recommendations made in this report are the product of dialogue and collaboration among the attendees at the summit and the members of the Judicial Diversity Summit Planning Committee. These are not the recommendations of the State Bar of California or the Judicial Council of California. The report and recommendations will be presented to the State Bar of California Board of Trustees for consideration in July 2020. This report and its recommendations will be presented to the Judicial Council of California for consideration later in 2020.

Funding and support for this summit were provided from the Administration of Justice Fund and voluntary contributions to the State Bar.
No mandatory attorney dues were used for this Judicial Summit.

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2016 Judicial Diversity Summit Planning Committee

Chair, Judge Diana C. Becton
Chair, Judicial Committee,
The State Bar of California, Council on Access & Fairness
Contra Costa County Superior Court

Liaisons

Judge Marguerite Downing
Chair, The State Bar of California
Council on Access & Fairness
Los Angeles County Superior Court

Judge Michael D. Carter
Member, The California Judges Association
Los Angeles County Superior Court

Judge David Rubin
Member, The Judicial Council of California
San Diego County Superior Court

Other Members

Judge Marla Osborne Anderson
Monterey County Superior Court

Judge Richard T. Fields
Riverside County Superior Court

Judge Brenda Harbin-Forte
Alameda County Superior Court

Judge Dennis Hayashi
Alameda County Superior Court

Judge Judy Johnson
Contra Costa County Superior Court

Judge Carolyn Kuhl
Los Angeles County Superior Court

Justice William Murray, Jr.
Third District Court of Appeal

Judge John Pacheco
San Bernardino County Superior Court

Judge Bobbi Tillmon
Los Angeles County Superior Court

Judge Allen J. Webster, Jr.
Los Angeles County Superior Court

Staff Support

Patricia Lee
The State Bar of California,
Center for Access & Fairness
Managing Director Diversity Outreach,
Office of the CEO

Kyanna Williams
Judicial Council of California,
Center for Families Children & The Courts,
Judicial Council Liaison to the State Bar of
California Council on Access & Fairness

EXECUTIVE SUMMARY AND FINAL RECOMMENDATIONS

The 2016 Judicial Diversity Summit, *Continuing a Legacy of Excellence: A Summit on Achieving Diversity in the Judiciary (hereinafter the 2016 Summit)* was the third in a series of summits of the same title held at five-year intervals to assess the success of efforts to increase judicial diversity in California.

The first judicial diversity summit in 2006 was an outgrowth of the State Bar's Diversity Pipeline Task Force, which had been established in 2005 to address the lack of diversity in the legal profession, including the judiciary, and to identify barriers to diversity along the pipeline from elementary schools to the judiciary. It was convened during the State Bar's 2006 Spring Summit on Diversity, at the behest of the Task Force's Courts and Government/Public Sector Working Group, and was cosponsored by the California Judicial Council. The 2006 summit brought together leaders and representatives from the Courts, the Legislature, the Governor's Office, the State Bar, law professors, local and affinity bar association, law firms, the government sector, public interest offices, corporate counsel and other stakeholders. The issues identified at the 2006 summit as needing attention included: (1) Data collection and accessibility, especially demographic Information on sitting and appointed judges, (2) Overcoming barriers to judicial diversity (including transparency during the screening and appointments process, consideration of wider ranges of applicant practice skills, and recognition of cultural and other biases that may adversely affect the ratings of applicants), (3) Recruitment of more lawyers from diverse backgrounds; and (4) Outreach and education by judges in their respective communities.

Following the 2006 Summit, the Court's Working Group submitted its Final Report and Recommendations for achieving a more diverse judiciary and legal profession to the State Bar's Board of Governors (BOG) at its March 9, 2007 meeting. The BOG accepted the report and referred the report to the State Bar's newly-formed Council on Access & Fairness (COAF) (now known as the Council on Access and Fairness) for follow-up action. A complete copy of the Courts Working Group's report with all attachments can be found at http://board.calbar.ca.gov/Agenda.aspx?id=10192&tid=0&show=100002118&s=true

The second judicial diversity summit was held in 2011, as a means of evaluating the achievements since the 2006 summit, among other goals. It was again a joint endeavor between the California Judicial Council and the State Bar. It again brought together a wide array of stakeholders, including leaders and representatives from the Courts, the Legislature, the Governor's Office, the State Bar, law professors, local and affinity bar association, law firms, government offices, public interest entities, in house counsel and other stakeholders.
The recommendations from the summit addressed six areas: (1) The judicial appointments and elections process; (2) The leaky pipeline resulting from low numbers of ethnic minorities in law schools; (3) Judicial diversity data collection and accessibility; (4) The level and types of outreach and education needed to encourage more persons to enter the legal field and seek appointment to the bench; (5) Issues with the online judicial application; and (6) The perceived glass ceiling for women and ethnic minorities when it comes to judicial assignments.

After the 2011 Summit, the State Bar drafted a final report and recommendations, with input from the Judicial Council and other interested parties. The final report included an action plan

for increasing judicial diversity, with the outcome of those efforts to be assessed at the next summit. The State Bar's Stakeholder Relations Committee received the final report and recommendations at its July 19, 2012 meeting. COAF followed up on the recommendations. The 2011 summit final report and recommendations was presented to the Judicial Council on October 25, 2012. The Judicial Council referred the report to its Access and Fairness Advisory Committee (now known as the Advisory Committee on Providing Access and Fairness), to determine which recommendations would be appropriate for Judicial Council action. A complete copy of the Final Report and Recommendations from the 2011 Summit, along with all attachments, can be obtained from the State Bar's website at http://board.calbar.ca.gov/Agenda.aspx?id=10609&tid=0&show=100006268, or the Judicial Council's website at https://www.courts.ca.gov/documents/jc-20121026-item1.pdf.

This document constitutes the Final Report and Recommendations following the 2016 summit, and includes an action plan based on discussions at the summit and outstanding issues from prior summits. Upon receipt of the report and approval by the State Bar Board of Trustees, this final report and its recommendations will be presented to the Judicial Council, the California Judges Association, and the California Lawyers Association, for consideration and appropriate action.

Consistent with prior summits, the 2016 Summit included a slide show, panel discussions, breakout sessions, a plenary session, and discussion of an action plan. The summit also included addresses by Chief Justice Tani Cantil-Sakauye, California Judges Association President Judge Eric Taylor, and State Bar President David Pasternak.

For the first time, a unique feature was added for pre-summit preparation. Utilizing technology, the summit incorporated an online WindTunneling process to gather a wider range of viewpoints on critical issues related to judicial diversity. (See www.windtunneling.com) The Planning Committee decided to use this online process to allow a broad group of interested stakeholders to share candidly and anonymously, in their own words, their thoughts on improving the diversity of California's judiciary. By expanding the group of respondents statewide, to include court executives, local, minority, and specialty bars, public interest and non-profit groups, law schools, community representatives, as well as the registrants of the summit, more perspectives and ideas regarding judicial diversity were explored in advance of the summit, which were then analyzed and processed during the summit.

The WindTunneling project was not a survey or focus group. The participants could read the various ideas shared by others, without knowing whose idea it was, and react or contribute to the ideas. The opportunity to provide input lasted approximately one month. The staff of the WindTunneling project identified patterns, themes and emergent new ideas, making all findings available. One could participate in the process via computer, tablet or smartphone as many times as one liked.

The final recommendations from the 2016 summit, which are based on the WindTunneling Process, are as follows:

1. **All Stakeholders Should Agree Upon a Definition of Judicial Diversity.** TheWindTunneling process revealed that there are widely differing definitions of "diversity," beyond those that first come to mind, such as race, ethnicity, and gender.

This conceptual distinction may present a barrier to broad-based support for diversity efforts, and may negatively impact the goal of increasing judicial diversity.

2. **Cultural Awareness Should Be A Criterion For Judicial Appointees**. There was strong support for encouraging the Governor's Judicial Selection Advisory Committees to assess the level of an applicant's cultural awareness in determining an applicant's qualifications to serve on the bench. Courts should also consider this factor in hiring subordinate judicial officers.

3. **Appropriate Data Should Be Gathered and Analyzed In Assessing the Success of Judicial Diversity Efforts**. Participants recognized that there may be different data points to consider depending on what one wishes to emphasize. If the goal of the judicial branch is to increase public understanding of and respect for our justice system, then the data presented to the public must appear to reflect fair comparisons. For example, on the issue of racial and ethnic diversity, the public may not be satisfied with simply comparing the level of diversity to bar membership. Instead, the public is likely to compare the level of judicial diversity to racial diversity in California as a whole.

4. **The Judicial Branch Should Invest in Social Media Outreach and Education to Connect With Diverse Younger Generations**. Summit participants strongly felt that judges could do more to connect with and encourage diverse young people to learn more about the judicial system and the day-do-day operations of our courts. Using social media would enable the judicial branch to reach broad audiences in high schools, colleges, and law schools on platforms that are familiar to this group.

5. **Judges Must Engage in Community Service Activities On A Broader And Different Basis Than in the Past**. Participants recognized that community outreach on the part of judges has long been a part of the conversation on increasing judicial diversity. They urged that reaching out must include more than attending events. Judges should host events at courthouses, but should also be in community venues, such as at soup kitchens and at homeless encampments. Given the concern in many communities about law enforcement and procedural justice, this type of engagement would work to build healthy relationships based on understanding and empathy. Such involvements would profoundly and positively impact the public's perception of the justice available to marginal populations in the court system, and would foster a deeper respect for the rule of law.

6. **The Judicial Retirement System Should Be Reformed To Attract More Diverse Applicants for Judicial Appointment**. The issue of the state's sub-optimal judicial retirement system was raised as a barrier to the lack of diversity on the bench. Judicial salaries and retirement benefits discourage many qualified applicants from seeking judicial office because they will have to take a pay cut. Revising the judicial retirement system presents a systemic change that should be pursued.

FULL REPORT AND RECOMMENDATIONS

BACKGROUND: THE FIRST TWO JUDICIAL DIVERSITY SUMMITS

1. THE 2006 JUDICIAL DIVERSITY SUMMIT

In June 2006, the State Bar of California, in collaboration with the Judicial Council and its Access and Fairness Advisory Committee, convened California's first statewide summit on diversity in the judiciary. Themed *Continuing a Legacy of Excellence: A Summit on Achieving Diversity in the Judiciary*, the summit was an outgrowth of the State Bar's Diversity Pipeline Task Force, which had been established in 2005 to address the lack of diversity in the legal profession, including the judiciary, and to identify barriers to diversity along the pipeline from elementary schools to the judiciary.

The 2006 Summit was convened at the behest of the Task Force's Courts and Government/Public Sector Working Group, which was chaired by Judge Brenda Harbin-Forte. It was held at the Marriott Hotel in San Jose, California, in conjunction with the State Bar's Spring Summit on Diversity. It brought together more than 150 leaders and representatives from the Courts, the Legislature, the Governor's Office, the State Bar, including Chief Justice Ronald George, First District Court of Appeal Justice James Lambden, Third District Court of Appeal Justice William Murray, Jr., other justices and judges, Governor Arnold Schwarzenegger's Judicial Appointments Secretary, the Chief of Staff for then-Assembly Speaker Fabian Nuñez, staff for Senator Ellen Corbett, the Chair of the State Bar's Commission on Judicial Nominees Evaluation (JNE Commission), as well as lawyers, law professors, local and affinity bar associations, law firms, the government sector, public interest offices, corporate counsel and other stakeholders. The summit included panel discussions, concurrent breakout sessions, a plenary session confirming key issues and challenges, and discussion of an action plan

In preparing for this first summit, members of the working group sought to gather official demographics on the level of ethnic and gender diversity so as to establish baseline data for future comparison. To their surprise and concern, they discovered that there was no official source, such as the Administrative Office of the Courts (now the California Judicial Council), from which to request such information. There being no official data source, members of the working group compiled their own statistics by contacting ethnic judges on each court and asking them to count how many ethnic judges were on their courts. To get an idea of how many women were on each bench, members of the working group had to resort to examining the names of judges to ascertain gender, and for judges with gender-neutral names such as Leslie or Terry, working group members made calls to their contacts on the various courts to try to find out to which gender group the particular judge should be assigned.

The working group's demographic data on state court judicial diversity revealed that in all 58 counties, the percentage of Caucasian judges exceeded their percentage of the overall population. It also revealed that in many counties with high ethnic minority populations, there were no judges of color adjudicating the myriad matters for this diverse group of court users.

The lack of official demographics was so concerning that after the summit the Legislature passed emergency legislation, SB56 (Dunn), which was codified at Government Code section 12011.5(n), requiring annual public reports of demographic data. The Governor's office was required to report aggregate statewide demographic data provided by all judicial applicants relative to ethnicity and gender and the same data for all judicial appointments. The State Bar's JNE Commission was required to report aggregate statewide demographic data relative to ethnicity and gender provided by judicial applicants reviewed by JNE, and also to report JNE's ratings by ethnicity and gender. The Judicial Council was required to collect and release demographic data voluntarily provided by justices and judges relative to ethnicity and gender, by each specific court. This emergency legislation was effective September 2006, with the first annual reports due on or before March 1, 2007, covering the period ending December 31 of the previous year, with new annual reports due on or before March 1 of each subsequent year.

Relatedly, summit participants felt that demographic data related to sexual orientation and disabilities should be compiled and reported, and recommended that the Governor's Office, the AOC, and the State Bar establish a mechanism for judges and subordinate judicial officers to disclose that information voluntarily and confidentially.

Participants identified other real and perceived barriers to achieving a diverse judiciary. The role implicit bias may play in the selection of judges was one such barrier, as some felt that JNE rated ethnic minority and women candidates less qualified than equally experienced Caucasian applicants. To address this concern, participants recommended that the State Bar should require two hours of mandatory implicit bias training for all JNE commissioners.

Another barrier was the secrecy surrounding the Governor's judicial evaluation process. The identities of members of the Governor's Judicial Selection Advisory Committee, typically called the "Governor's Secret Committees" were unknown. Thus it was felt that these screening committees were applying criteria and following a process unknown to the judicial applicant and the public, and that such secrecy may have been preventing qualified diverse judicial candidates from advancing to the formal JNE evaluation process.

Another barrier related to a perceived over-emphasis, on the part of the Governor's Office and the JNE Commission, on prosecutorial trial experience as a factor making a candidate better suited for appointment to the bench. Participants pointed out that criminal defense trial experience was not equally weighted, that many members of underrepresented groups have legal practices that emphasize civil, family, juvenile and other areas where jury trials are not common. Participants also observed that juvenile, family, and civil departments should be recognized as important components of the court system, such that experience in those areas should be valued more highly.

Participants also concluded that recruitment efforts should be expanded among diverse attorneys and that judicial officers needed to relate more with their respective communities by engaging in increased community outreach and education.

The Court's Working Group presented its Final Report and Recommendations at the March 9, 2007 meeting of the State Bar's Board of Governors (BOG). The recommendations fell into four broad categories; (1) Data collection and accessibility; (2) Overcoming barriers; (3) Recruitment; and (4) Outreach and education. The recommendations are summarized below:

I. DATA COLLECTION AND ACCESSIBILITY

1. The State Bar should assist the Governor's office and the Judicial Council [hereinafter Judicial Council] in the implementation of Senate Bill No. 56, codified at Government Code section 12011.5(n), which requires the State Bar, the Governor, and the Judicial Council to collect and release of aggregate statewide demographic data relative to ethnicity and gender.

2. The State Bar should encourage each county bar to provide an annual report to the State Bar detailing the aggregate race/ethnicity and gender of the judicial officers on that county's superior court, and should provide a standardized form for reporting such demographics.
3. The ethnic judges' associations should continue to work collaboratively to collect and release, on an aggregate statewide basis, demographic data on the diversity of California's state and federal courts.

4. The Judicial Council should be encouraged to collect and release aggregate data on the level of racial, ethnic, gender, and other recognized types of diversity among all court commissioners and referees.
5. The State Bar should seek to facilitate future discussions on pipeline "leakage" by maintaining statistics on the ethnic minority and women law school enrollment of all accredited California law schools, and receiving input from minority and women law student associations, minority bar associations, and its own advisory committees such as the Council on Access and Fairness.
6. The Governor's Office, the Judicial Council, and the State Bar should establish a confidential mechanism for collecting and reporting voluntary information on the aggregate number of judges and subordinate judicial officers who are lesbian/gay/ bisexual/transgendered or who have a disability.

II. OVERCOMING BARRIERS

1. The State Bar should continue to conduct outreach to the minority and specialty bar associations to explain the role and procedures of the JNE Commission, to encourage members of minority and specialty bar associations to apply for positions on the JNE Commission, and to educate members of minority and specialty bar associations on the types of professional backgrounds they should seek to cultivate to make them more attractive as judicial applicants.
2. The State Bar should require a minimum of two (2) hours of mandatory training for all JNE commissioners in the areas of fairness and bias in the judicial appointments process.
3. The State Bar should work with the Administrative Offices of the Courts and the Governor's office in implementing Senate Bill No. 56, as stated above.
4. County and state population figures, not state bar membership, should be used as the standard in the reports under Senate Bill No. 56 by which the pool of desired level of diversity of judicial applicants should be measured.
5. County bar associations that have judicial evaluation contracts with the Governor's office should be encouraged to submit an annual public report on the total number of applicants evaluated and the aggregate ratings given to applicants, relative to ethnicity and gender, modeled after the reports required of JNE by SB 56. These county bar association judicial evaluation committees should also be encouraged to disclose voluntarily the makeup of their membership in terms of racial, ethnic, gender and other recognized types of diversity.

6. The application form for judicial appointment used by the Governor's Office should be amended to add questions specifically designed to elicit an applicant's experience in areas of the law that may not involve jury trials or litigation, and information about other qualifying experiences and skill-sets, including cultural sensitivity.
7. The JNE evaluation form should be amended to elicit evaluator comments on an applicant's experience in non-jury trials and about other qualifying experiences and skill-sets, including cultural sensitivity.
8. The Governor's Office is encouraged to articulate publicly its position on the importance of judicial diversity and its philosophy and strategies for achieving a more representative judiciary.
9. The leaders of the Executive, Legislative, and Judicial Branches should continue to work collaboratively to ensure that California's judiciary reflects the rich diversity of the population that it serves.

III. RECRUITMENT

1. To the extent allowed by relevant provisions of the California Constitution (e.g. Proposition 209), the pool of commissioners and referees hired by each superior court should represent the rich diversity of the community served by that court.
2. Judges should take a pro-active role in recruiting, grooming, and mentoring candidates from diverse backgrounds for judges, commissioners, referees, pro tem judges, and judicial clerks for the trial and appellate courts, helping them design individual strategies calculated to qualify them for eventual judicial appointment.
3. The State Bar should work with courts and local and specialty bar associations to present educational programs for lawyers, patterned after the "So, You Want To Be A Judge?" programs presented by the California Women Lawyers bar association, to educate attendees on the judicial appointments and elections processes, judicial salary and benefits, and the overall benefits of pursuing a judicial career.
4. Because elections to judgeships can serve as a viable option for increasing diversity on the bench, judges should take a pro-active role in educating lawyers from diverse backgrounds on how to run for open judicial seats.
5. Judges should work with local, minority and other specialty bar associations to identify, recruit and support all qualified candidates for judicial appointment.
6. Mentor judges should provide support and preparation for all levels of the appointments process, in particular early career planning, "how to be a judge" programs, and mock interviews to prepare for meetings with local screening committees and the Governor's Office.
7. Retiring ethnic minority judges should engage in "succession" planning by grooming ethnic minority lawyers to succeed to that seat.
8. Local, minority and other diversity bars should develop methods to identify and track the progress of ethnic minority and women judicial applicants.

IV. OUTREACH AND EDUCATION

1. The State Bar should work with the Judicial Council to implement an action plan to carry out Goal 1 of its strategic plan, with specific deadlines and timetables for achieving the goal of ensuring that the judicial branch reflects the diversity of the state's residents.

2. The State Bar and the Judicial Council should implement similar education and outreach efforts to publicize career opportunities within each organization, and strive to ensure that staff members fairly represent the rich diversity of California's population. In addition, the Judicial Council should encourage justices of the Supreme Court and the Courts of Appeal to hire a diverse pool of law clerks and staff attorneys.

3. Community Outreach: The State Bar and/or the Judicial Council, the Judicial Council, and its appropriate departments should (a) educate the community at large on the importance of the judicial branch and the value of diversity on the bench, and present to diverse community groups judicial role models from non-traditional backgrounds; b. offer regional workshops for judges and court leaders on appropriate community outreach, and allow judges to count time spent on community outreach efforts toward their minimum continuing education expectations; and c. encourage judges to work with community groups, churches and other religious institutions, service clubs, etc., in efforts to increase diversity in the courts.

4. Outreach to Schools: The State Bar, and/or the Judicial Council, the Judicial Council and its appropriate departments should engage in outreach to elementary schools, middle schools, high schools, and colleges, to present age-appropriate programs, including mock trials programs, to educate students about the legal profession and the judiciary.

5. Outreach to Law Schools: The State Bar, and/or the Judicial Council, the Judicial Council and its appropriate departments should work with law schools to develop programs to assist students with LSAT preparation and other appropriate programs, including a week-long orientation course for entering students to help prepare them to succeed in law school.

A complete copy of the Courts Working Group's report with all attachments, including the program agenda for the summit, can be found in the BOG's meeting archives for March 9, 2007 at http://board.calbar.ca.gov/Agenda.aspx?id=10192&tid=0&show=100002118&s=true, or at http://board.calbar.ca.gov/docs/agendaItem/Public/agendaitem1000004161.pdf

In or around March 2007, the State Bar established its Council on Access & Fairness (COAF), to continue the efforts of the Court's Working Group to increase diversity in the bar and on the bench. The BOG referred the report from the 2006 summit to COAF, to create a work plan for implementing the recommendations. COAF decided that judicial diversity summits should be held at regular intervals to assess progress toward achieving diversity on the bench, and that the next summit should be held in five years.

2. THE 2011 JUDICIAL DIVERSITY SUMMIT

Five years after the first summit, the State Bar and the Judicial Council held a second summit on judicial diversity, again themed *Continuing a Legacy of Excellence: A Summit on Achieving Diversity in the Judiciary*, to assess progress made toward achieving the goal of having a judiciary that reflects the rich diversity of California's population.

The 2011 summit was held on September 11, 2011, at the Judicial Council (AOC), Milton Marks Conference Center in San Francisco, California, at the invitation of Chief Justice Tani G. Cantil-Sakauye and State Bar President William Hebert. The invitation explained:

As California's demographics change, it is important that our judiciary reflect the state's growing diversity and that the bench and bar participate in the dialogue that may contribute to achieving greater judicial diversity and increased public trust and confidence in the judicial system.

Therefore, five years after our first summit, the Judicial Council and the State Bar are convening a follow-up summit to:

- *Evaluate achievements since the 2006 summit;*
- *Focus on the current status of judicial diversity in California;*
- *Identify best practices for increasing diversity on the bench;*
- *Develop additional initiatives for achieving greater judicial diversity; and*
- *Create a five-year action plan for further accomplishments.*

In response to this invitation, more than 75 justices, judges, other judicial branch leaders, bar leaders, and law school deans or their designees gathered at the summit. They received a status report on the current level of diversity in California's trial and appellate courts, reviewed accomplishments since the 2006 summit, examined ongoing challenges to achieving a diverse judiciary, and made recommendations on how to further the goal of a more diverse bench.

Attendees were advised that accomplishments since the 2006 Summit included the following:

- A slight increase in the percentage of minority and women judges.
- African-American judges and justices were on an almost even par with their percentage of the total statewide population, by some counts.
- Sitting judges were from more diverse backgrounds.
- Legislation had passed [Gov. Code, §1 2011.5(n)] mandating annual demographic reports by the Governor, the Judicial Council, and the State Bar's JNE Commission
- Legislation had passed [Gov. Code, § 12011.5(d)] mandating that the JNE Commission interpret legal "experience" broadly, including but not limited to litigation and non-litigation experience, legal work for a business or nonprofit entity, experience as a law professor or other academic position, legal work in any of the three branches of government, and legal work in dispute resolution, when evaluating and rating judicial applicants.
- The State Bar had established COAF in 2007 to advise the State Bar Board of Governors on ways to increase diversity in the legal profession and judiciary.
- The AOC and the Judicial Council's Access and Fairness Advisory Committee, with assistance from COAF members, had created a Judicial Diversity Toolkit for the Courts.
- JNE commissioners were mandated to undergo implicit bias training through the AOC's Center for Judicial Education and Research (CJER).
- The State Bar's COAF had created training and resource materials for JNE Commission members to assist them in carrying out their statutory obligation to interpret legal experience broadly.
- The judicial appointment application (formerly the PDQ) had been revised to allow the Governor to gather information on a broader spectrum of an applicant's background.
- The State Bar's COAF had created tips and a checklist to assist all applicants in completing the online judicial appointment application.

- The State Bar's COAF was regularly presenting an MCLE "Road Show" around the state consisting of PowerPoint slides with demographic information and commentary on the status of judicial diversity.
- Local and minority bar associations in Alameda County, Contra Costa County, Los Angeles, San Francisco, and other counties had created judicial mentoring programs.
- Courts were presenting programs at courthouse locations on how to become a judge.
- Governor Schwarzenegger had appointed the first African American and first woman as his Judicial Appointments Secretary in early 2007, after which time there was an increase in the appointments of women and ethnic minorities.
- Governor Schwarzenegger had appointed the first ethnic minority Chief Justice, Justice Tani Cantil-Sakauye, an Asian-Pacific Islander female.
- Our Supreme Court had a majority of ethnic justices, with four justices of Asian-Pacific Islander descent.
- The August 2011 confirmation panel for Supreme Court appointee, Justice Goodwin Liu, was all-female for the first time in our state's history, consisting of Chief Justice Tani Cantil-Sakauye, Presiding Justice Joan Dempsey Klein, and Attorney General Kamala Harris.

Similar to the 2006 summit, the 2011 Summit included panel discussions, concurrent breakout sessions, a plenary session, and discussion of an action plan. Opening remarks were made by First District Court of Appeal Justice James Lambden, Chair of the Judicial Council's Access and Fairness Advisory Committee, State Bar President William Hebert, and Judge Brenda Harbin-Forte, Chair of COAF's Judicial Committee. Panelists included a wide array of judges and justices, the immediate past Judicial Appointments Secretary Judge Sharon Majors-Lewis, women and ethnic minority bar leaders, a law school dean, the State Bar's Executive Director, and the Administrative Director of the Courts. Unfortunately, Chief Justice Cantil-Sakauye was unable to attend to deliver her scheduled keynote address.

Summit participants were also treated to a snapshot of the implicit bias training that JNE commissioners undergo. The interactive presentation highlighted the relationship between neuroscience and implicit bias in the candidate evaluation process. One study demonstrated that even when women and men have identical résumés, with the only difference being their names, women applicants are routinely perceived as less qualified and subjected to more scrutiny. This troubling phenomenon has also been documented to occur when the résumés of ethnic candidates are compared with Caucasian candidates possessing identical or substantially the same qualifications.

Some of the ongoing challenges to achieving a diverse judiciary included an unattractive judicial salary and pension benefits package; Governor Jerry Brown's delay in appointing a judicial appointments secretary; the historical failure of governors to make public the names of members of their Judicial Selection Advisory Committees; a lack of adequate outreach to youths before they reach high school to educate them about legal careers, including judicial careers; the continuing absence of demographic information as to members of the lesbian, gay, bisexual, and transgender community; and a need to educate presiding judges on ways to rotate assignments so as to give ethnic minority and women judges opportunities to hold what are considered plum assignments.

Following the summit, the State Bar, with input from the Judicial Council, the governor's Senior Advisor, and other stakeholders, prepared a Final Report and Recommendations. The recommendations fell into six categories: (1) the judicial appointments and elections process; (2) the leaky pipeline resulting from low numbers of ethnic minorities in law schools; (3) judicial diversity data collection and accessibility; (4) the level and types of outreach and education needed to encourage more persons to enter the legal field and seek appointment to the bench; (5) issues with the online judicial application; and (6) the perceived glass ceiling for women and ethnic minorities when it comes to judicial assignments.

Some recommendations made at the summit were not included in the final report because events following the summit demonstrated that the issues had been adequately addressed and no future action was needed. For example, summit participants had recommended that Governor Jerry Brown appoint a Judicial Appointments Secretary so someone on his staff could devote dedicated time to judicial appointments. It was not necessary to include such a recommendation in the final report because the Governor had already assigned to one of his senior advisors all of the tasks that past judicial appointments secretaries performed, such as evaluating and recommending candidates for judicial appointment and presenting statewide programs on the Governor's judicial appointments process.

Similarly, summit participants, as they had done at the 2006 Summit, had recommended that demographic data on lesbian, gay, bisexual, and transgender applicants, appointees, and sitting judges be compiled and reported annually. After the summit, SB 182 (Corbett) was enacted, amending Government Code section 12011.5(n) to expand the categories of reportable demographics to include data "relative to ethnicity, race, gender, *gender identity, and sexual orientation*." (emphasis added.) The legislation was effective January 1, 2012.

In addition, after the summit, the Governor's Office implemented the recommendation to reevaluate the online judicial application process to eliminate barriers faced by persons with disabilities. The Governor's Office (1) reduced to one the number of required fields that needed to contain exact information on law school graduation and bar admission dates (the month and day no longer had to be precise, and only the exact year was required); (2) lengthened the allowable time to complete the application to three hours per page before the system timed out; and (3) implemented a process that permits applicants with disabilities who request an accommodation to submit their applications in hard copy, rather than online. This extraordinary level of responsiveness by Governor Brown's Office eliminated the need to include recommendations for future action in these areas.

The specific recommendations made in the final report for the 2011 summit were:

JUDICIAL APPOINTMENTS AND ELECTIONS

1. Judges and lawyers should reach out to law schools to educate students on how to become a judge, so that law students can begin at that early stage of their careers to lay the groundwork for serving as a judge. Where possible, judges should employ law students in the courtroom and should establish or participate in programs designed to bring high school students into the courts.

2. So that applicants can better appreciate the level of commitment involved in the application process, judges should serve as mentors to coach potential applicants through the details of, and emotional barriers to, completing the application process.

3. Mentor judges should encourage potential applicants to work in their communities and to be involved with local bar associations.

4. Judges should be proactive and identify the most viable candidates for appointment. Once these candidates are identified, judges should not only mentor these individuals through the application process, but should also offer practical advice on how to be a good judge, manage a courtroom, and avoid the pitfalls that many new judges encounter.

5. To lend more credibility to their recommendations, minority and specialty bar associations should establish a formal application and evaluation process that is equivalent to the process used by the metropolitan bars.

6. The Governor should continue to provide his Judicial Selection Advisory Committee (JSAC) members with educational materials on the status of ethnic and gender diversity on the bench as compared to the state's population, and on the ways implicit bias may impact evaluations of applicants for judicial appointment. JSAC members should also be educated on how the judicial assignments process works at the superior court level, so they understand that the presiding judge has sole authority to make judicial assignments (see rule 10.603(c)(1), Cal. Rules of Court). To assist the Governor in educating JSAC members, the AOC and the State Bar Council on Access and Fairness should, to the extent funding permits, provide training in the areas of judicial diversity and implicit bias, if such training is requested by the Governor's Office.

THE LEAKY PIPELINE

1. The legal profession must undertake a concerted effort to educate the public about the value and benefits of a legal education, while at the same time acknowledging the reality that such an education is quite expensive. Part of this education process must include outreach to ethnic minorities to communicate the value to the minority community that being a lawyer brings.

2. Law schools and the legal profession should seek funding to implement innovative studies, such as the recommendations contained in Schultz and Zedeck's effective lawyering study, which developed race- neutral tools for identifying 26 factors that are predictors of attorney competence (see http://www.law.berkeley.edu/files/LSACREPORTfinal-12.pdf). These tools could be used as a supplement to the LSAT (Law School Admissions Test). Note that the same tools are being considered for application in the legal employment area through focus groups and symposia being conducted by the State Bar Council on Access and Fairness.

3. The legal profession should seek private sector funding to provide financial assistance for economically challenged students to take LSAT preparation courses.

4. Law schools should be encouraged to create a culture of inclusion on campus. Law students of color should be exposed to more role models in the judiciary, and law schools should place greater emphasis on community-oriented or public sector employment as desirable career options.

DATA COLLECTION AND ACCESSIBILITY

1. The Governor's Office should be encouraged to provide more transparency in the application and appointment process, so that the success of efforts to increase judicial diversity can be more readily assessed.

2. In reporting annual demographic information, the Governor's Office should continue to do what it historically has done and use the same ethnic and racial categories specified in Government Code section 12011.5(n)(C)(3). (Please note that, after the summit, SB 126 (Davis) was enacted, which amended Government Code section 12011.5 so that it now provides, in subdivision (n)(C)(3), that the State Bar and the Judicial Council shall use specified ethnic and racial categories in the annual demographic reports. The legislation does not impose such a mandate on the Governor's Office. The original bill language required the State Bar and the AOC to use the same categories as the Governor already was using, but language referencing the Governor's categories was amended out. Consequently, the ability to track the progress of judicial diversity by comparing apples to apples may yet remain elusive, unless the Governor's Office voluntarily continues to use the specified categories, or unless new legislation addresses this apparent oversight.

3. The Governor's Office should appreciate and recognize the contributions of lawyers with disabilities and endeavor to include more of such lawyers among the Governor's appointees. All agencies reporting annual demographic data should set a timetable for implementing a process that allows for the collection of information on applicants, appointees, and sitting judges who choose to disclose that they have a disability.

OUTREACH AND EDUCATION

1. To address the underrepresentation of minorities and communities of color in the judiciary, the bench and bar should, to the extent funding permits, develop outreach programs targeting youth in at-risk and underrepresented communities. In this regard, each court should have its own community outreach program or committee to develop a community-specific program. The AOC's Judicial Diversity Toolkit could be used as the foundation for such outreach programs. The membership of a court's outreach committee should include representatives from the education and business communities. In addition, courts should be encouraged to establish programs similar to the First Impressions Program in Los Angeles and other programs that provide youth opportunities to learn how our court system works. Courts should be encouraged to collaborate with California Partnership Law Academies and other organizations such as AmeriCorps and Teach for America in presenting outreach and education programs. Finally, the Judicial Diversity Toolkit should be expanded to include model mock trials that teach young people about the court system (see e.g. the American Bar Association's mock trial, *The Big Bad Wolf v. The Three Little Pigs*).

2. The Judicial Council, the State Bar, and the Governor's Office should, to the extent funding permits, hold an annual judicial diversity summit. One focus of the summit should be to encourage lawyers from underrepresented groups to apply for judicial appointment. The summit should include a presentation from the Governor's Judicial Appointments Secretary, or equivalent staff person, to identify attributes the Governor is seeking in judicial applicants.

3. The Judicial Council, through the Education Division of the AOC, should develop mandatory judicial training on access, fairness, and bias in judicial decision-making that will provide judges a total of three hours of ethics credit every three years. This course will be designed to, among other things, assist justices and judges in addressing perceptions among communities of color that judges engage in biased decision-making.

4. Judges should mentor at-risk or underrepresented youth, law students, and lawyers and encourage them to consider a future on the bench.

THE ONLINE JUDICIAL APPLICATION

1. If there is an erroneous entry on the online application form, the error code should identify the specific error or highlight the problem entry so that the applicant can easily correct the entry. Currently, the applicant must review the entire page to attempt to identify any errors.

THE PERCEIVED GLASS CEILING

1. Presiding judges should educate the bar about how judicial assignments are made, so that there is more transparency about the process and the bar understands that assignments are governed by rule 10.603(c)(1), Cal. Rules of Court.

2. Judges who mentor judicial applicants should ensure the applicant understands that all of the work of the court is significant and important and that the first few years on the bench are devoted to training the new judge on how to manage a courtroom and make fair judicial decisions.

3. The bar should encourage diversity in judicial assignments, so that all court users see a variety of judges in all departments in the court.

4. Data should be collected on the level of diversity in the civil, felony trials, law and motion, and complex litigation assignments.

5. Work must be done to eliminate the perception that women and judges of color willingly avoid challenging assignments. The JNE Commission, the Governor's Judicial Selection Advisory Committees, the local and specialty bar association judicial evaluation committees, and others who may participate in the evaluation of judicial applicants should be informed that the superior court presiding judges have exclusive authority to assign trial court judges to the various departments. (See rule 10.603(c)(1), Cal. Rules of Court.)

6. Courts should consider mandatory rotation of judges in assignments. This will serve to level the playing field in terms of judicial experience. Women and ethnic minority trial court

judges who seek elevation have found that their judicial résumés are seen as less impressive than those of their Caucasian and male counterparts because they lack experience in what are deemed to be challenging and intellectually stimulating assignments.

The Action Plan included in the final report called for the State Bar and the Judicial Council to continue their historic collaborative efforts to increase diversity in the legal profession and in the judiciary. It was desired that an informal working group be established consisting of members of the State Bar's Council on Access & Fairness; the Judicial Council's Access and Fairness Advisory Committee; the Governor's Senior Advisor on judicial appointments; legislative staffers as designated by members of the Legislature; representatives from the Office of Governmental Affairs at the Judicial Council; the presidents or chairs of the African-American, Asian-Pacific Islander, and Hispanic judges associations; ethnic and specialty bar association representatives: and other key stakeholders. The task of the informal working group was to prioritize the recommendations contained in the final report and set goals and timetables for completion before the next summit, which would occur in 2016 at the latest.
The State Bar's Stakeholder Relations Committee received the final report and recommendations at its July 19, 2012 meeting. COAF did appropriate follow-up on the recommendations. A complete copy of the Final Report and Recommendations from the 2011 Summit, along with all of its attachments, can be obtained from the State Bar's website at http://board.calbar.ca.gov/Agenda.aspx?id=10609&tid=0&show=100006268, or the Judicial Council's website at https://www.courts.ca.gov/documents/jc-20121026-item1.pdf

The 2011 summit final report was presented to the Judicial Council on October 25, 2012. The Judicial Council referred the report to its Access and Fairness Advisory Committee (now known as the Advisory Committee on Providing Access and Fairness), to determine which recommendations would be appropriate for Judicial Council action. The Judicial Council's Advisory Committee on Access and Fairness took action on the referral in 2015, and reported back to the Judicial Council on July 28, 2015, that select recommendations under the categories of Judicial Appointments and Elections (recommendation numbers 1 and 2), Outreach and Education (recommendation numbers 1 and 2), and the Perceived Glass Ceiling (recommendation numbers 1, 2, 4, and 6), were appropriate for Judicial Council Action, and made proposals for implementing those recommendations. The Advisory Committee's Report to the Judicial Council for the July 28, 2015 business meeting can be accessed on the Judicial Council's website, https://www.courts.ca.gov/documents/jc-20150728-itemF.pdf

THE 2016 JUDICIAL DIVERSITY SUMMIT

In October 2016, five years after the 2011 summit, the State Bar, through COAF and in collaboration with the Judicial Council and the California Judges Association, convened its third summit on judicial diversity. Again themed *Continuing a Legacy of Excellence: A Summit on Achieving Diversity in the Judiciary*, the summit was held to assess progress made toward achieving the goal of having a judiciary that reflects the rich diversity of California's population.

The invitation explained that this third summit would serve as a five-year review of accomplishments since the 2011 summit, and would encourage open dialogue on key issues and solutions impacting judicial diversity. It stated that an updated 5-year action plan would be created for review and approval by the Judicial Council and the State Bar, and that the plan will

be shared with key stakeholders and the public. The invitation, which was sent to judges, court executives, local, minority, and specialty bar associations, public interest groups, non-profit groups, and law schools, explained that an on-line WindTunneling process would be used to gather concerns and ideas before the summit, and encouraged recipients to participate in the process.

The summit was held on October 1, 2016 at the Manchester Grand Hyatt Hotel in San Diego, California during the State Bar of California Annual Meeting and the annual conference of the California Judges Association.

As had occurred at the two previous summits, the 2016 Summit included panel discussions, breakout sessions, a plenary session, and discussion of an action plan. Plenary speakers and presenters included: Chief Justice Tani Cantil-Sakauye; Judge Diana Becton, Chair of the 2016 Diversity Summit Planning Committee and Chair of COAF's Judicial Committee; David Pasternak, President of The State Bar of California; Judge Marguerite D. Downing, Chair of the State Bar's Council on Access & Fairness; Judge Eric Taylor, Chair of the California Judges Association; Justice Goodwin H. Liu; Justice William Murray, Jr.; Justice Therese Stewart; Justice James Lambden (Ret.); Justice Cruz Reynoso (Ret.); Judge LaDoris Cordell, (Ret); Judge Brenda Harbin-Forte, Past Chair of the State Bar's Council on Access and Fairness; Judge Dennis Hayashi; Judge John Pacheco; Judge Allen J. Webster, Jr.; and Jane Lorand, the CEO and Social Architect, Future Insight Maps, Inc. and WindTunneling Coordinator.

More than 100 justices, judges, other judicial branch leaders, bar leaders, law school deans, or their designees, and other stakeholders participated in the afternoon summit. Similar to prior summits, the participants received a status report on the current level of diversity in California's trial and appellate courts, reviewed accomplishments since the 2011 summit, examined ongoing challenges to achieving a diverse judiciary, and made recommendations on how to further the goal of a more diverse bench.

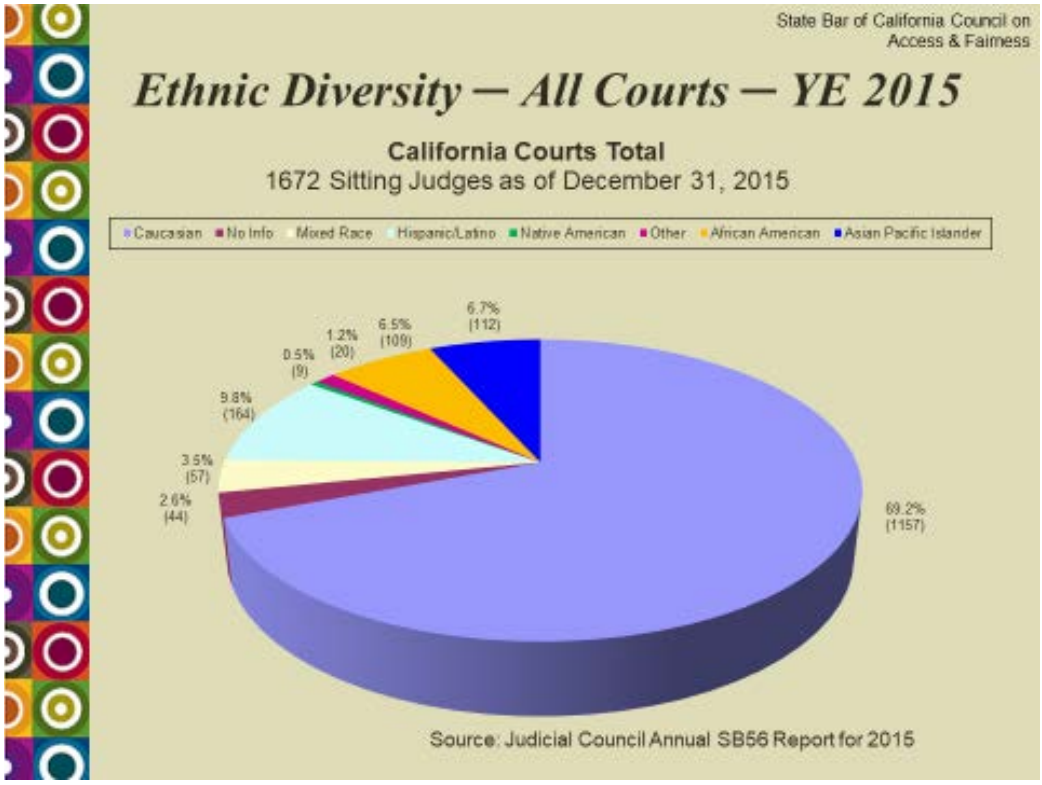
Summit participants were informed that the accomplishments since the 2011 Summit included:

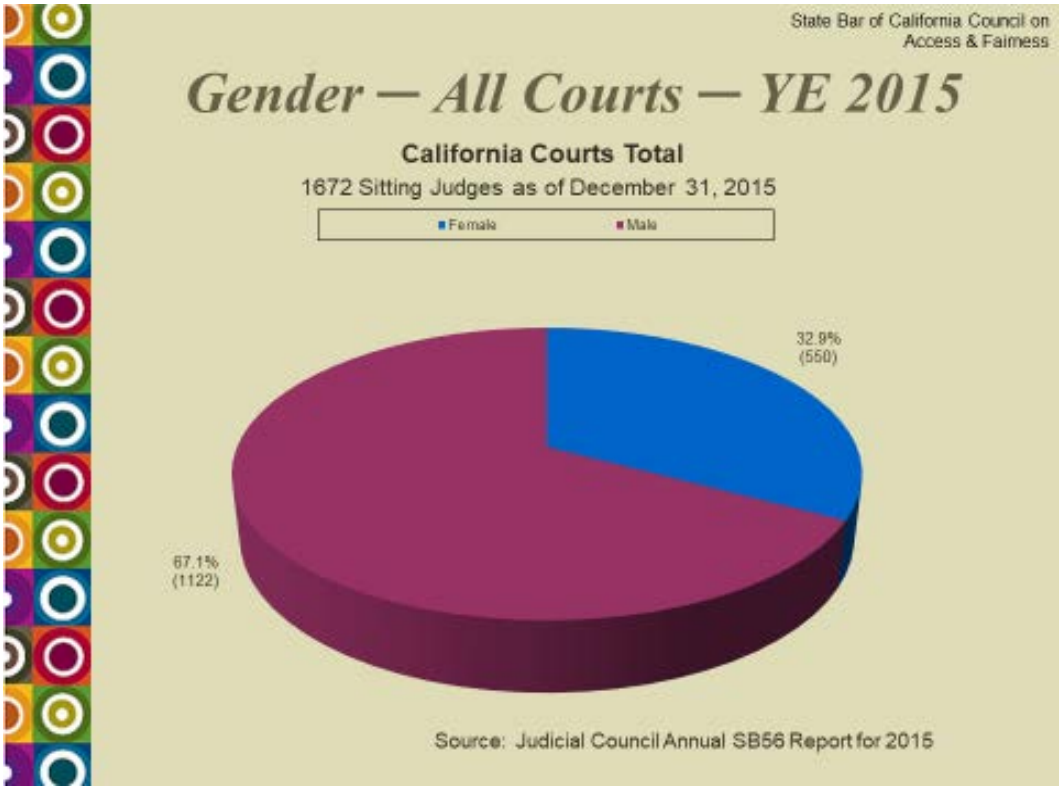
- Governor Brown's appointment of a senior advisor assigned the tasks of past judicial appointments secretaries, such as evaluating and recommending candidates for judicial appointment and presenting statewide programs on the Governor's judicial appointments process
- The level of ethnic diversity had continued to increase, albeit still only slightly
- There was an increase in the appointment of women to the bench, with women appointees approaching almost 40% of Governor Brown's appointees
- The State Bar's Council on Access & Fairness was providing elimination of bias training to JNE commissioners
- The collection of demographic data relative to the LGBT, veteran, and disabled communities was assisting in increasing judicial diversity
- The bench was more diverse in terms of pre-bench practice areas, with more public defenders and other non-prosecutor practitioners having been appointed
- More minorities and women were receiving higher ratings from the JNE Commission
- A transgender attorney had been elected to the Alameda County Superior Court bench after running for an open seat

- Women justices were in the majority on our Supreme Court
- Ethnic judges remained in the majority on our Supreme Court
- Governor Brown had appointed some notable firsts, including the first female Presiding Justice on the 4th District Court of Appeal; the first Latino justice on the 6th District Court of Appeal; the first Muslim-American superior court judge in the state, and the first Latina judge on the Riverside County Superior Court.
- Judicial mentoring programs had been established in various counties
- African American judges were almost on par with the population percentage of African Americans
- Gov. Code 12011.5 (n) had been amended, effective January 1, 2012, to require collection and reporting of demographic data relative to gender identity and sexual orientation by the Governor, the State Bar, and the Judicial Council in their annual SB56 reports.
- Gov. Code 12011.5 (n) had been amended, effective August 13, 2013, to require added collection and reporting of demographic data relative to disability and veteran status by the Governor, the State Bar, and the Judicial Council in their annual SB56 reports.
- Gov. Code 12011.5 (b) had been amended in 2012 to require that JNE Commission members receive training in the areas of fairness and bias in the judicial appointments process as part of their new member orientation, with an additional hour for members serving more than one term (Note: COAF was providing this elimination of bias training)
- Gov. Code 12011.5 (o) had been amended in 2014 to encourage the Governor and members of the judicial selection advisory committees to give particular consideration to candidates from diverse backgrounds and cultures reflecting the demographics of California, including candidates with demographic characteristics underrepresented among existing judges and justices

The participants were also provided a PowerPoint presentation which, among other things, contained pie charts showing the level of judicial diversity and changes since the first summit in 2006. In 2006, Caucasians represented 40.6% of California's population, but accounted for 70% of the judiciary, while ethnic minorities accounted for much more than half of the population, but less than a third of the bench. At the end of 2015, the percentage of the Caucasian population was down to 40.1%, and their representation on the bench was slightly lower than before, down to 69.2%. In 2006, women, at 50.1% of the population, held only 27.1% of judgeships. At the end of 2015, women remained at more than 50% of the population, and their representation on the bench had increased to 32.9%.

Summit attendees were shown the following slides to illustrate the state of ethnic and gender judicial diversity in California, which is a majority minority state, and a majority female state:





A copy of all of the slides provided to attendees is attached as Appendix 3, but it should be noted that not all slides were shown during the summit.

In a "Fireside Chat" moderated by retired Santa Clara County Superior Court Judge LaDoris Cordell, participants listened in as Supreme Court Justice Goodwin Liu, Court of Appeal Justice Therese Stewart, Court of Appeal Justice William Murray, Jr., retired Court of Appeal Justice James Lambden, and retired Supreme Court Justice Cruz Reynoso, discussed the importance of having a diverse judiciary, and their individual journeys to the bench.

For the first time, a unique feature was added to the Judicial Summit's pre-summit preparation. Utilizing technology, the summit incorporated an online WindTunneling process, an innovative, web-based application, created to enable organizations and communities to gather and develop the wealth of knowledge that resides within. For more information see https://www.windtunneling.com. The Project was widely advertised through the resources of the State Bar, the judiciary, bar associations, affiliates, and stakeholders. In addition, a 3-minute video was created by COAF's Judicial Committee Chair, Judge Diana Becton, which promoted the project, explained how the project was designed, and invited participation.

This online process allowed summit registrants, as well as a broad group of interested stakeholders, to share candidly and anonymously their thoughts on improving the diversity of California's judiciary. By expanding the group of respondents statewide, to include court executives, local, minority, and specialty bars, public interest and non-profit groups and law schools, as well as the registrants of the summit, more ideas regarding judicial diversity were explored in advance of the summit, which were then analyzed, processed and discussed during the summit.

The WindTunneling project also allowed all participants, who signed up anonymously, to see every idea that was presented by others without knowing who shared which idea. The participants in the exercise could read the various ideas, observe and react to or contribute to the ideas. The staff of the WindTunneling Project identified patterns, themes and emergent new ideas making all findings available. One could participate in the process via computer, tablet or smartphone as many times as they liked. The WindTunneling Project was not a survey or focus group. The opportunity to provide input lasted approximately one month ending prior to the Summit.

All feedback from the WindTunneling Project was compiled and incorporated into the Closing Plenary/Town Hall portion of the Judicial Summit. This section of the program was extremely successful because it brought the audience into the conversation by providing feedback from the WindTunneling participants and allowed the audience to make comments regarding their reaction to information they heard at the Summit.

As a result of the WindTunneling process, observations termed "emergent insights" were identified and analyzed by the WindTunneling staff. The insights fell into the following six broad categories. (1)What is judicial diversity? (2) Cultural awareness as a selection criterion

for judges; (3) What data is relevant to gather and evaluate? (4) Engaging with the youth and building on social media; (5) Engagement of judges with communities; and (6) Change the judicial retirement system. Each category is discussed below, along with recommendations based on the WindTunneling project feedback.

1. **What is Judicial Diversity?**

Findings: Respondents and summit participants identified a wide variety of aspects of the term "diversity," including racial; cultural; socio-economic; ethnic; gender; sexual orientation; age; legal education; nationality; financial strength of family of origin; civil lawyers as well as criminal layers; level of experience working with marginalized communities or as advocates that seek justice on behalf of "everyday Americans"; and extent to which the judge is seen as a peer in the community in which the court operates.

The WindTunneling exercise revealed that, when dealing with concepts in areas of complex issues, it is helpful to shift away from "definitions" and more toward "characterizations," seeking examples and indicators. Recognizing that there are other valid perspectives builds a group's capacity to navigate the complexity.

Recommendations: The following "*Emergent Insight"* was revealed: It had not previously been recognized that there were so many differing concepts of "diversity." Consequently, before the Summit it was not recognized that conceptual confusion could be a barrier to broad-based support for aggressive action in increasing judicial diversity. There is a need for all stakeholders to agree on the definition of "diversity" as it impacts the goals for increasing diversity among the judiciary.

2. **Cultural Awareness as a Selection Criterion for Judges**

Findings: The WindTunneling staff assessed the statement below as being "High Positive Impact on Judicial Diversity and High Feasibility of Effective Action within 18 months:"

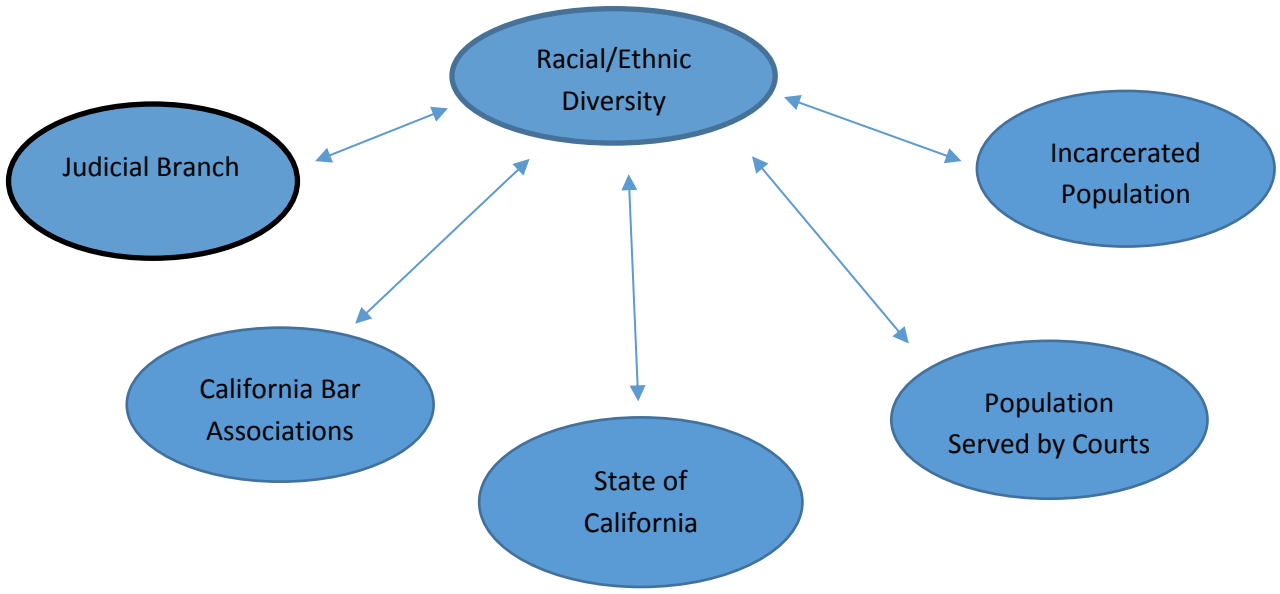
> "*When making judicial appointments, the governor should consider the applicants' exposure to and experience with diverse populations. The governor should request information concerning the applicant's background in these areas on the application form. Cultural awareness as a selection criterion for subordinate judicial officers is also important. When making appointments of subordinate judicial officers, courts should consider the applicants' exposure to and experience with diverse populations*."

Recommendations: The following "*Emergent Insight"* was revealed: There is strong support for including Cultural Awareness as a criterion for appointing judges and for hiring subordinate judicial officers. Clarity about the meaning of "cultural awareness" is essential if that criterion is to be utilized by the Governor's Judicial Selection

Advisory Committees and by other decision-makers; this awareness should also be applied to the hiring of subordinate judicial officers.

What Data is Relevant to Gather and Evaluate?

Findings: Respondents and summit participants shared various ideas about what data should be collected and presented. They recognized that the key to determining relevant data must begin with an understanding of what comparisons are appropriate. WindTunneling staff acknowledged there are many ways to interpret the term "judicial diversity," but concluded that if we begin with racial categories, these five areas might be included in a systemic approach:



When we simply compare racial diversity between the bench and the licensed attorneys, we get one picture of diversity, and there were respondents who felt that perspective was an appropriate one. However, a systemic approach would support including diverse comparisons in order to have a richer picture of the issues. If we are concerned about public perception of the fairness of the judicial system, the inquiry must be whether the public would look at just the racial diversity between the bench and the bar, or would the public compare the racial diversity of the bench with diversity in the state of California as a whole.

Respondents and summit participants raised questions about the outcomes that we are striving to achieve and how to identify data that would help us achieve those outcomes. A positive public perception of the level of judicial diversity was identified as a preferred outcome.

Respondents and summit participants also supported that "the data" on judicial diversity should be disseminated to the public in order to inform Californians who are concerned about the fairness of the justice system.

Recommendations: The following *"Emergent Insight"* was revealed: If one of our objectives is to increase public understanding and respect for the California justice system, then a systemic review needs to be undertaken to determine what data to include, so that the relevant data can be identified, gathered, synthesized and presented to the public. Ongoing reporting of this data also would need to be presented to the legal profession, and continually monitored for relevance to identify new outcomes.

3. Engaging with Youth and Building on Social Media

Findings: The WindTunneling results indicated that there is a strong sense that judges could do more in terms of connecting with and encouraging young people to learn more about the judicial system and the individuals who are in charge of the day to day operation of our courts. Dialogue with young people from diverse backgrounds could demonstrate an openness and sense of sharing experiences, thus building public confidence. This is particularly true given access to and the power of today's social media.

Recommendations: The following *"Emergent Insight"* was revealed: The courts should invest in social media outreach and education to connect judges and court officers with diverse young people. This could be crafted to reach broad audiences in high schools and colleges, as well as in law schools across the state. This would be consistent with previous pipeline strategies.

4. Engagement of Judges with Communities

Findings: In response to the category of the WindTunneling project that was described as "Compelling Arguments for Judicial Diversity," creating contact between judges and the community was recommended numerous times. The term "outreach and education" has been part of the judicial diversity conversation over the past ten years, yet it was unclear by the respondents how much outreach the bench and the State Bar has actually accomplished. Does "outreach" mean that the judiciary shows up at local events? Does it mean that the judiciary should also host events, both at the

courthouse and in community venues? To "reach out" may mean more that "attending." Hosting events also conveys more openness and respect, particularly if those events are interactive and interesting, thereby helping the community learn more about their judges and the judicial system.

Although the attorney who shared this story did not participate in the WindTunneling project, the attorney described the positive impact a judge has on his community because the judge served at a local soup kitchen weekly, and has for years. The impact of this community service on the public's perception of the quality of justice available to marginal populations in that judge's region may be profound. (In the Los Angeles area, a judge has trained homeless individuals to run marathons, including in Europe, for which a film of his commitment has been made.)

Recommendations: The following *"Emergent Insight"* was revealed: If local judiciary and court officials took the initiative to both host and attend events with the communities where they serve, this engagement would work to build healthy relationships of confidence based on understanding and empathy. Given today's media and the many community concerns about law enforcement and procedural justice, the "job description" of today's judges may need to expand to include greater availability, thus limiting suspicion and distrust of "the system," and fostering support for the rule of law.

5. Change the Judicial Retirement System

Findings: Some **r**espondents and summit participants made the following observations: "Those persons appointed after age 45 get stuck in the middle and may not have 20 years in until they are past age 70;" "Retirement and pay are the main reasons why qualified people don't want to be judges, because they will be taking a pay cut. We all know this is a major issue holding back qualified applicants."

Respondents and summit participants believed that this issue was not addressed at the 2006 and 2011 summits. The need to reform the judicial retirement system was coupled with the ideas from this WindTunneling project about financial costs and how it takes economically challenged individuals longer to finish college and law school, thus beginning their careers later and often with a heavier debt load than their more privileged colleagues. All of this makes it less likely for many diverse judicial applicants to be ready to seek a judgeship before age 45.

Recommendations: The following *"Emergent Insight"* was revealed: This is a systemic issue that should be addressed to expand the pool of qualified candidates. The current retirement vesting structure is a barrier to a more diverse judiciary.

FINAL RECOMMENDATIONS FROM THE 2016 SUMMIT

The final recommendations from the 2016 summit are based on the results of the WindTunneling Project, remaining issues from the prior summits and additional issues identified during this summit. These six recommendations will be reviewed at the next judicial diversity summit in 2021:

1. **All Stakeholders Should Agree Upon a Definition of Judicial Diversity**. The WindTunneling process revealed that there are widely differing definitions of "diversity," beyond those that first come to mind, such as race, ethnicity, and gender. This conceptual distinction may present a barrier to broad-based support for diversity efforts, and may negatively impact the goal of increasing judicial diversity.

2. **Cultural Awareness Should Be A Criterion For Judicial Appointees**. There was strong support for encouraging the Governor's Judicial Selection Advisory Committees to assess the level of an applicant's cultural awareness in determining an applicant's qualifications to serve on the bench. Courts should also consider this factor in hiring subordinate judicial officers.

3. **Appropriate Data Should Be Gathered and Analyzed In Assessing the Success of Judicial Diversity Efforts**. Participants recognized that there may be different data points to consider depending on what one wishes to emphasize. If the goal of the judicial branch is to increase public understanding of and respect for our justice system, then the data presented to the public must appear to reflect fair comparisons. For example, on the issue of racial and ethnic diversity, the public may not be satisfied with simply comparing the level of diversity to bar membership. Instead, the public is likely to compare the level of judicial diversity to racial diversity in California as a whole.

4. **The Judicial Branch Should Invest in Social Media Outreach and Education to Connect With Diverse Younger Generations**. Summit participants strongly felt that judges could do more to connect with and encourage diverse young people to learn more about the judicial system and the day-do-day operations of our courts. Using social media would enable the judicial branch to reach broad audiences in high schools, colleges, and law schools on platforms that are familiar to this group.

5. **Judges Must Engage in Community Service Activities On A Broader And Different Basis Than in the Past**. Participants recognized that community outreach on the part of judges has long been a part of the conversation on increasing judicial diversity. They urged that reaching out must include more than attending events. Judges should host events at courthouses, but should also be in community venues, such as at soup kitchens and at homeless encampments. Given the concern in many communities about law enforcement and procedural justice, this type of engagement would work to build healthy relationships based on understanding and empathy. Such involvements would profoundly and positively impact the public's perception of the justice available to marginal populations in the court system, and would foster a deeper respect for the rule of law.

6. **The Judicial Retirement System Should Be Reformed To Attract More Diverse Applicants for Judicial Appointment**. The issue of the state's sub-optimal judicial retirement system was discussed at both the 2006 and the 2011 summits, and was again raised as a barrier to the lack of diversity on the bench. Judicial salaries and retirement benefits discourage many qualified applicants from seeking judicial office because they will have to take a pay cut. Reforming the judicial retirement system presents a systemic change that should be pursued.

EVENTS FOLLOWING THE 2016 SUMMIT

In 2017, the State Bar undertook a significant restructuring to separate the regulatory functions from the trade associational functions. The "sections" split from the bar and became the California Lawyers Association (CLA). In May 2017, the State Bar adopted a new mission statement, expressly including access and inclusion among the core functions of the State Bar: The State Bar of California's mission is to protect the public and includes the primary functions of licensing, regulation and discipline of attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system. In 2018, the Legislature followed suit, amending the State Bar's statutory mission: Protection of the public, *which includes support for greater access to, and inclusion in, the legal system,* shall be the highest priority for the State Bar of California and the board of trustees in exercising their licensing, regulatory, and disciplinary functions. (Business and Professions Code section 6001.1.) Section 6001.3 was also added, requiring the State Bar to develop and implement a plan to meet certain goals relating to access, fairness, and diversity in the legal profession and the elimination of bias in the practice of law, and to make biannual reports to the Legislature on the plan and its implementation. The first report was submitted in March 2019, and the next report is due in 2021.

In 2018, as a continuation of the review of its governance structure, the State Bar undertook a comprehensive restructuring of its subentities, which included an evaluation of the best use of its volunteer committees, an examination of the division of labor between staff and volunteers, subentity size and composition. In January 2019, the Board of Trustees adopted amendments to the State Bar's 2017-2022 Strategic Plan which reflected a shift in focus to systemic and institutional impact, rather than delivering direct programming or delivery of training on bias and the diversity of the judiciary. As part of that restructuring, and as here relevant, the State Bar reduced COAF's size from 25 volunteers to 10, and determined that the State Bar and COAF were uniquely situated to have an impact on the part of the pipeline that addressed law students and attorneys, but that others were better situated to continue the judicial diversity work that COAF had begun. The State Bar and the Judicial Council agreed that the Judicial Council would take the lead role in the judicial diversity area. Additionally, the California Lawyers Association was encouraged to partner with the Judicial Council and the California Judges Association in organizing the next judicial diversity summit. As a consequence, and although COAF had been

the driving force behind the first three summits, the 2021 summit will be spearheaded by CLA and the Judicial Council, with COAF providing limited assistance in the planning to share its expertise, as needed.

Consistent with the agreement that the Judicial Council would take the lead on judicial diversity issues with assistance from COAF in implementing judicial diversity efforts, members of the Judicial Council's Committee on Providing Access and Fairness (PAF) and COAF members worked together in 2019 to redesign the 2011 publication *Pathways to Achieving Judicial Diversity in the California Courts* (Judicial Diversity Toolkit). The comprehensive toolkit contained a compilation of model mentorship programs, seminars, and outreach resources designed to increase the diversity of applicants for judicial appointment in California. The redesign resulted in a "digital-first" version of the toolkit as an online resource, with a goal of making its content and resources more user-friendly for judicial officers and courts to adopt in outreach efforts to diverse communities statewide. The new toolkit went live in September 2019, at the new Judicial Diversity Toolkit website (www.courts.ca.gov/partners/judicial-diversity-toolkit.htm), entitled, "Pathways to Judicial Diversity." In addition, beginning in October 2019, and in partnership with the Governor's Office, State Bar, JNE Commission, California Lawyers Association, California ChangeLawyers, and the California Judges Association, the Judicial Council has convened a number of presentations on the judicial appointments process and the "Pathways to Judicial Diversity" website at various events and conferences. The Judicial Council has also trained the JNE Commissioners on the status of judicial diversity.

On the judicial appointments front, in January 2019 Governor Jerry Brown submitted his final annual demographic report as he departed office, which revealed that he had appointed the most diverse judiciary in California's history. From January 2011, when his term began, through early January 2019, when his term ended, Governor Brown made 644 appointments, with almost 44% of them being women, almost 40% of them being ethnic minorities, and notable firsts in the LGBTQ category. An excerpt from Governor's Brown's press release reflecting his final SB56 report can be found at Appendix 4.

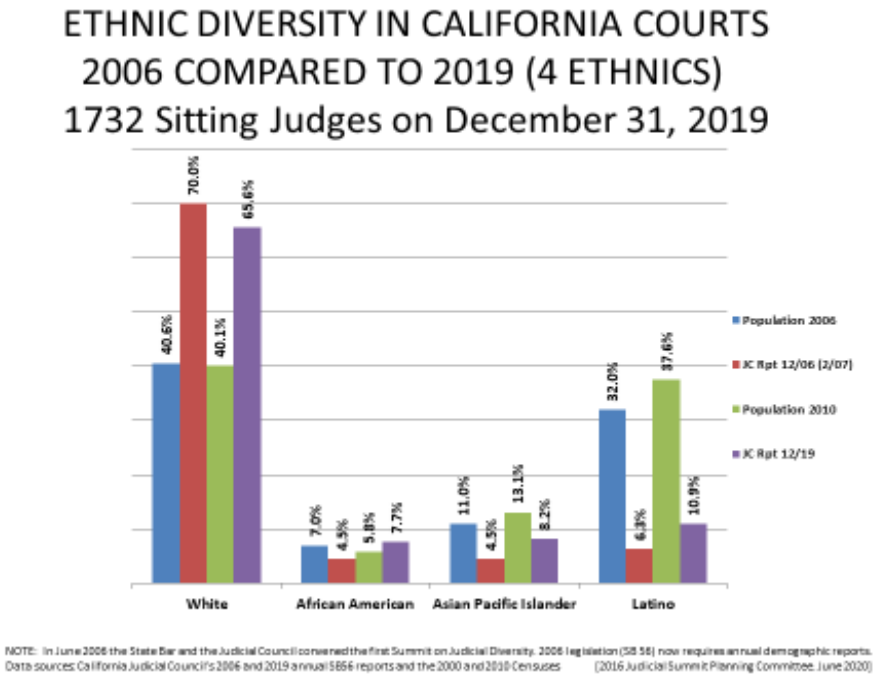
The following slides reflect comparative demographic data. The first two slides compare ethnic and gender diversity between 2006 the year of the first judicial diversity summit, and 2019, the latest year for which demographic data is available. The third slide reflects the changes for LGBTQ, veteran, and disability data from the first year such data was required to be reported and 2019.

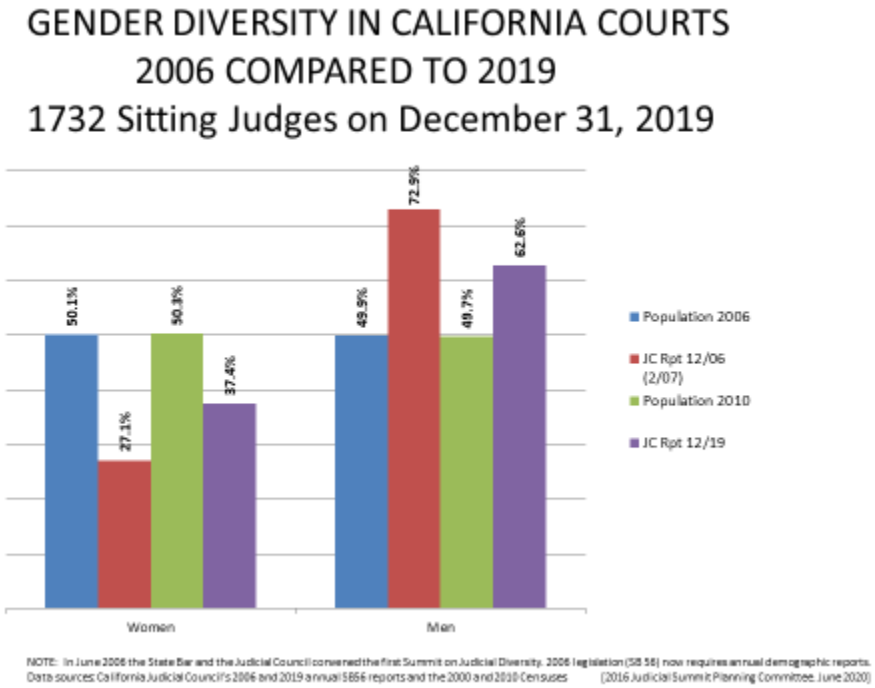
The 2019 demographic data is reflected in the annual SB 56 reports issued in 2020, which can all be found at the following websites:

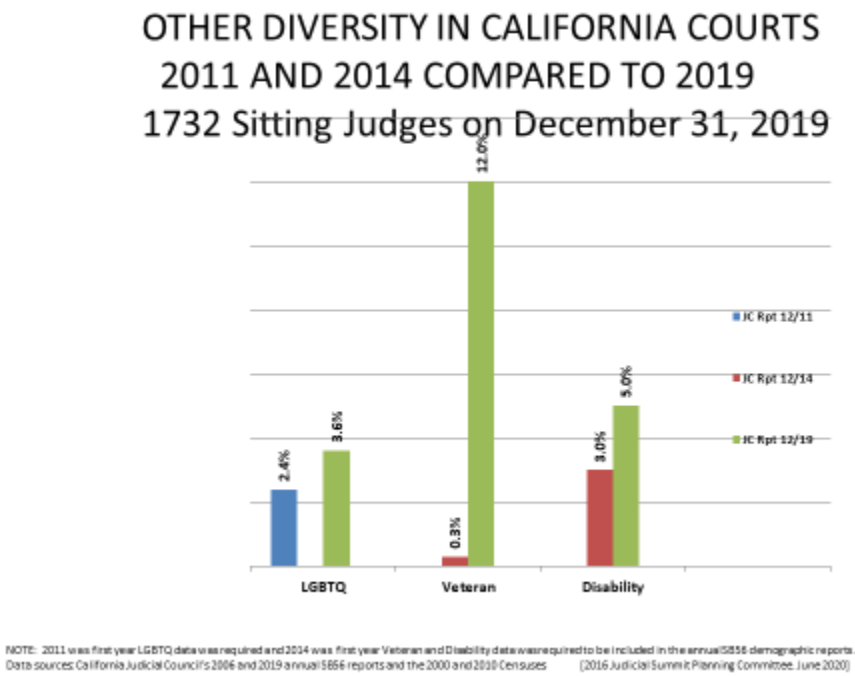
Governor Newsom's 2019 Judicial Appointment Data Report:
https://www.gov.ca.gov/2020/03/02/governor-newsom-releases-2019-judicial-appointment-data/

State Bar Judicial Nominees Evaluation Commission's 2019 Data Report:
http://www.calbar.ca.gov/About-Us/Who-We-Are/Committees/Judicial-Nominees-Evaluation/JNE-Demographics-Reports

Judicial Council's 2019 Judicial Officer's Demographic Report:
https://www.courts.ca.gov/13418.htm







An additional development on the judicial appointments front is that Governor Gavin Newsom, who took office in January 2019, appointed retired First District Court of Appeal Justice Martin Jenkins as his Judicial Appointments Secretary. This represents the first time a former judge and an African American male has ever held this title. In addition, Governor Newsom abolished the tradition of keeping secret the identities of his Judicial Selection Advisory Committee members. The names are now public information and can be accessed on Governor Newsom's website.

ACTION PLAN

There is still much work to do if California is to have a judiciary that reflects the state's richly diverse population. The Action Plan below, emanating from the 2016 summit, reflects additional steps that should be taken toward that goal, and also includes recommendations that remain outstanding from earlier summits. For example, a recommendation from the 2011 summit was that the members of the Governor's Judicial Selection Advisory Committees and county bar judicial evaluation committee members undergo implicit bias training. That recommendation is carried over to the current action plan below. The action plan is formatted to track the six categories of recommendations from the 2011 summit. The designations of lead entities reflects a time before the California Lawyers Association came into existence and joined as a key player in this important endeavor, and before the State Bar's role in diversity became more focused on law school and the attorney profession as opposed to the judiciary. The entities designated as lead therefore will need to change to reflect the current reality.

ACTION PLAN FOLLOWING 2016 JUDICIAL DIVERSITY SUMMIT (INCLUDING OUTSTANDING RECOMMENDED ACTIONS FROM 2006 AND 2011 SUMMITS)

LEGEND FOR LEADS:

JC = Judicial Council **LC = Local Courts**
SBA = Specialty Bar Associations **SBCOAF = State Bar Council on Access and Fairness**

RECOMMENDATION AND SOURCE	***LEAD:* SBCOAF**	***LEAD:* JOINT SBCOAF, JC, LC, SBA**	***LEAD:* JC**
Judicial Appointments and Elections: All stakeholders should agree upon a definition of judicial diversity. *(Source: 2016 Judicial Diversity Summit Report, Recommendation #1)*		√	
Judicial Appointments and Elections: Encourage the Governor's Office to include cultural awareness as a criterion for judicial appointment, and encourage courts to consider cultural awareness as a factor when hiring subordinate judicial officers. *(Source: 2016 Judicial Diversity Summit Report, Recommendation #2)*	√		
Judicial Appointments and Elections: The judicial retirement system should be revised to attract more diverse applicants for judicial appointment. *(Source: 2016 Judicial Diversity Summit Report, Recommendation #6)*			√
Judicial Appointments and Elections: Encourage Governor's Office to have JSAC members undergo training on implicit bias and the Government Code mandate to construe legal experience broadly. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #6 for this topic; prior COAF work plans)*	√ ***On July 28, 2015, the Judicial Council declined action on this recommendation**		
Judicial Appointments and Elections: Encourage Governor's Office to require that all county bar associations that have contracts with the Governor's office to conduct judicial evaluations undergo training on implicit bias and Government Code mandate to construe legal experience broadly. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #6 for this topic; prior COAF work plans)*	√ ***On July 28, 2015, the Judicial Council declined action on this recommendation**		
Judicial Appointments and Elections: Continue to engage in outreach at the high school to law school levels re role of the judiciary, the judicial appointments process, and the importance of judicial diversity. *(Source: 2011 Judicial Diversity Summit Report, Recommendation # 1 for this topic)*		√	

RECOMMENDATION AND SOURCE	***LEAD:*** **SBCOAF**	***LEAD:*** **JOINT SBCOAF, JC, LC, SBA**	***LEAD:*** **JC**
Judicial Appointments and Elections: So that judicial applicants can better appreciate the level of commitment involved in the application process, judges should serve as mentors to coach potential applicants through the details of, and emotional barriers to, completing the application process. *(Source: 2011 Judicial Diversity Summit Report, Recommendations #2 for this topic)*			√
Judicial Appointments and Elections: Judges should be proactive and identify the most viable candidates for appointment. Once these candidates are identified, judges should not only mentor these individuals through the application process, but should also offer practical advice on how to be a good judge, manage a courtroom, and avoid the pitfalls that many new judges encounter. *(Source: 2011 Judicial Diversity Summit Report, Recommendations #4 for this topic; 2006 Judicial Diversity Summit, Pipeline Task Force Courts Working Group Final Report, Recommendation #2 under section on "Recruitment")*	√ ***On July 28, 2015, the Judicial Council declined action on this recommendation**		
Judicial Appointments and Elections: Conduct ongoing judicial appointments workshops for seasoned attorneys to demystify the appointments process and provide one-on-one mentoring and feedback on draft applications. *(Source: 2011 Judicial Diversity Summit Report, Recommendation ##2 and 4 for this topic; prior COAF work plans)*		√	
Judicial Appointments and Elections: Conduct ongoing mentoring workshops on judicial appointments for young lawyers five to ten years out of law school to assist them in developing the skills and experience needed to prepare them for their eventual pursuit of a judicial career. *(Source: Prior COAF work plans)*		√	
The Leaky Pipeline: Generate funding for implementation of innovative studies applying race-neutral tools to predict attorney competence. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #2 for this topic)*	√		
The Leaky Pipeline: Seek private sector funding to assist economically challenged students with LSAT preparation. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #3 for this topic)*	√		
The Leaky Pipeline: Ongoing community outreach and education re value and benefits of a legal education in general and specifically for minority communities. *(Source: 2011 Judicial Diversity Summit Report, Recommendation # 1 for this topic)*	√		

RECOMMENDATION AND SOURCE	*LEAD:* SBCOAF	*LEAD:* JOINT SBCOAF, JC, LC, SBA	*LEAD:* JC
The Leaky Pipeline: Encourage law schools to create a culture of inclusion, provide exposure of diverse students to more judicial role models, and provide a greater emphasis on community oriented or public sector career options. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #4 for this topic)*	√		
Data Collection and Accessibility: Ensure that data collected regarding the success of judicial diversity efforts reflect fair comparisons that will satisfy the public. For example, the public may prefer that racial and ethnic judicial diversity levels be compared to racial and ethnic diversity of California as a whole. *(Source: 2016 Judicial Diversity Summit Report, Recommendation #3)*		√	
Data Collection and Accessibility: Encourage Governor's Office to include population percentages for each category of appointees reported in the Governor's annual demographic report. *(Source: 2006 Judicial Diversity Summit, Pipeline Task Force Courts Working Group Final Report, Recommendation #4 under section on "Overcoming Barriers"; prior COAF work plans)*		√	
Data Collection and Accessibility: Increase outreach and applications by attorneys with disabilities, including creating, updating, or distributing videos of lawyers and judges with disabilities; send videos to Center for Independent Living or other disability rights organizations. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #3 for this topic)*		√	
Data Collection and Accessibility: Require superior courts to collect and release demographic data relative to ethnicity, race, gender, gender identity, sexual orientation, disability, and veteran status on an annual basis. *(Source: 2006 Judicial Diversity Summit, Pipeline Task Force Courts Working Group Final Report, Recommendations ##4 and 6 under section on "Data Collection and Accessibility"; prior COAF work plans)*			√
Outreach and Education: The Judicial Branch should invest in social media outreach and education to connect with diverse younger generations. *(Source: 2016 Judicial Diversity Summit Report, Recommendation #4)*			√
Outreach and Education: Judges must engage in community service activities on a broader and different basis than in the past. *(Source: 2016 Judicial Diversity Summit Report, Recommendation #5)*			√

RECOMMENDATION AND SOURCE	***LEAD:*** **SBCOAF**	***LEAD:*** **JOINT SBCOAF, JC, LC, SBA**	***LEAD:*** **JC**
Outreach and Education: Engage in joint outreach programs by the bench and bar to youth in at-risk and underrepresented communities, and support high school law academies. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #1 for this topic)*		√	
Outreach and Education: Convene Judicial Diversity Summits at a minimum of every five years (and preferably every three years), to be cosponsored by the State Bar, Judicial Council, California Lawyers Association, and other appropriate stakeholders *(Source: 2011 Judicial Diversity Summit Report, Recommendation #2 for this topic)*		√	
Outreach and Education: Require each court to develop its own outreach program (using the Judicial Council's Judicial Diversity Tool Kit, and submit regular reports to the Judicial Council on the outcomes of such programs. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #1 for this topic)*			√
Outreach and Education: Develop and present mandatory judicial training on access, fairness, and bias in judicial decision-making. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #4 for this topic)*			√
Outreach and Education: Encourage judges to mentor at-risk or underrepresented youth, law students and lawyers and encouraging them to consider future on the bench. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #5 for this topic)*		√	
The Online Judicial Application ***There are no new or outstanding recommendations***	**N/A**	**N/A**	**N/A**
The Perceived Glass Ceiling (among Sitting Judges): Bar should encourage diversity in judicial assignments so all court users see a variety of judges in all court departments. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #3 for this topic)*		√	
The Perceived Glass Ceiling (among Sitting Judges): Educate judicial applicants re significance of ALL court work and assignments and that the first few years on the bench are devoted to courtroom management and making fair judicial decisions—focus on changing court culture re "best" assignments. *(Source: 2011 Judicial Diversity Summit Report, Recommendations ##1 and 3 for this topic)*		√	
The Perceived Glass Ceiling (among Sitting Judges): Continue increased transparency re judicial assignments, including education of lawyers and the public re: process for judicial assignments per California Rules of Court and distribution of *"Making Judicial Assignments"* from the Judicial Council's Trial Court Presiding Judges Advisory Committee. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #1 for this topic)*		√	

RECOMMENDATION AND SOURCE	***LEAD:*** **SBCOAF**	***LEAD:*** **JOINT SBCOAF, JC, LC, SBA**	***LEAD:*** **JC**
The Perceived Glass Ceiling (among Sitting Judges): Have courts collect data on level of diversity in civil and felony trials courts, law and motion and complex litigation judicial assignments and report such data at regular intervals. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #4 for this topic)*			√
The Perceived Glass Ceiling (among Sitting Judges): To address the perception that women and judges of color intentionally avoid challenging assignments , Inform all judicial vetting entities including JNE, Governor's Judicial Selection Advisory Committees, and local and specialty bar judicial evaluation committees, that Superior Court Presiding Judges have exclusive authority to assign trial court judges to various departments. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #5 for this topic)*		√	
The Perceived Glass Ceiling (among Sitting Judges): Encourage courts to consider implementing recommendations in the Rules of Court to rotate assignments and institute mandatory rotation of judges in assignments so as to level the playing field in acquiring judicial experience among all judges. *(Source: 2011 Judicial Diversity Summit Report, Recommendation #6 for this topic)*		√	

CONCLUSION

As we examine the remarkable progress made since 2006 toward increasing the diversity on the bench in California, we are reminded that many of the issues we have addressed over the years continue to be expressed as a current concern. With the use of the WindTunneling Project, in addition to the personal interactions at the summit, we were able to increase the opportunity for more individuals to provide input and reflection on these important issues. The most powerful resource we have is the energy and commitment of our members of the bench and bar who support creation of a judiciary that reflects the rich diversity of California. This resource should not be underestimated in its influence toward the goal of transparency and a positive perception of the work that we do to preserve an orderly and just society.

For additional information regarding the summit, please contact Elizabeth Hom at Elizabeth.Hom@calbar.ca.gov.

Respectfully submitted,

Diana Becton

Hon. Diana Becton, Chair
2016 Judicial Summit Planning Committee

APPENDICES

- APPENDIX 1: Invitation to the 2016 Judicial Diversity Summit
- APPENDIX 2: 2016 Judicial Diversity Summit Program Agenda
- APPENDIX 3: PowerPoint Slides Provided to Attendees at the 2016 Judicial Diversity Summit
- APPENDIX 4: Governor Jerry Brown's Final SB 56 Report issued January 2019

APPENDIX 1

INVITATION TO THE 2016 JUDICIAL DIVERSITY SUMMIT

Appendix 1: Invitation to 2016 Summit and WindTunneling Process

Join us for the 2016 Judicial Diversity Summit and Preliminary Dialogue re: Judicial Diversity Issues

Judicial Summit:
Saturday, October 1, 2016, 1:00 to 5:00 PM
Manchester Grand Hyatt Hotel, San Diego Marina, Hillcrest Rooms A-D.
(Complimentary State Bar Diversity Awards Reception immediately following, 5:30 to 7:30 pm, Marriot Marquis Hotel, San Diego Marina, San Diego Ballroom A and B)

This is the third summit in a series focusing on the status of diversity in the California Judiciary. Prior summits were convened in 2006 and 2011. This Summit is co-sponsored by the Judicial Council, the State Bar Council on Access & Fairness (COAF) and the California Judges Association. The summit serves as a five-year review of accomplishments since the 2011 summit, and will encourage open dialogue on key issues and solutions impacting judicial diversity. An updated 5-year action plan will be created for review and approval by the Judicial Council and the State Bar Council on Access & Fairness. The plan will be shared with key stakeholders and the public.

Plenary session speakers will include: Chief Justice Tani Cantil-Sakauye, Justice Goodwin H. Liu, Justice Cruz Reynoso (Ret.), Justice William Murray, Jr., Justice Therese Stewart, Justice James Lambden (Ret.), and Judge LaDoris Cordell, (Ret.), as well as Judge Diana Becton, Judge Marguerite Downing, Judge Brenda Harbin-Forte, Judge Eric Taylor, Judge Dennis Hayashi, Judge John Pacheco, Judge Allen Webster and State Bar President, David Pasternak.

***Space is limited;* please submit your *complimentary* registration for the conference by Friday, September 9, 2016 at:** https://2016judicialdiversitysummittickets.eventbrite.com **After this deadline, registrations will be accepted on a first-come, first-served basis**. If you have difficulty registering, please contact Brandi Holmes at 415-538-2587 or brandi.holmes@calbar.ca.gov

Share Your Perspective on Judicial Diversity:
Whether or not you register for the Summit, we are opening a WindTunneling process on-line that lets a broad group of interested stakeholders share candidly and anonymously what they think will improve the diversity of California's judiciary . . . in their own words. We are inviting the following groups: California's judges, court executives, local/minority/specialty bars, public interest and non-profit groups, and law schools, as well as all registrants for the Summit. Everyone sees every idea; no one knows who shared which idea. The quality of the idea speaks for itself.

This is NOT a survey or focus group. You are randomly assigned to project groups. All responses and sharing of ideas are anonymous. You get to see every response and respond to the ideas in your group. You get to rate a variety of ideas and see how the group responds to all of the ideas.

You will also have read only access to see the ideas generated by all other groups. The WindTunneling staff will bring the patterns, themes, and emergent new ideas for us to consider at the Summit. Everyone who participates in this WindTunneling project will have a chance to see these findings and consider them. These insights will inform our next steps in prioritizing and planning: your voice will be heard! To get ready, go to www.WindTunneling.com and click on *Take a Tour*. This 5-minute walk-through will give you an idea of how this works.

Watch the Video: For this Judicial Summit project, we have created a 3-minute video with Judge Diana Becton providing background information and an overview of the process. See support.windtunneling.com/judicial-diversity-2016/

To create an account and join the WindTunneling project follow these easy steps:
1) Go to join.windtunneling.com
2) Click on "Create an Account"
3) Enter an email, choose a password, and enter the project code: **judicialdiversity2016**

You will be taken directly into the project and can contribute your ideas. You may also use the email and password that you used to register and log in 24/7 via computer, tablet or smartphone, again and again to see what others have to say.

Please participate by September 15, 2016. The windtunneling staff will compile all feedback as of that date, for presentation and discussion during the Judicial Summit. You will receive a copy of these materials.

If you have further questions about joining the project or using WindTunneling please visit the Quick Start Guide found at: support.windtunneling.com/quick-start If you have technical issues or difficulty joining the project, please contact Jason Skinner at: jason@futureinsightmaps.com

We look forward to your participation!

APPENDIX 2

2016 JUDICIAL DIVERSITY SUMMIT PROGRAM AGENDA

Appendix 2: 2016 Judicial Summit Program

Judicial Diversity Summit Program

October 1, 2016 – 1:00 to 5:00 pm
Manchester Grand Hyatt San Diego – Hillcrest A-D

OPENING PLENARY:

Welcome/Overview/Background:
1:00 -1:45 PM

- Opening Remarks (Judge Diana Becton)
- Greetings (Chief Justice Tani Cantil-Sakauye)
- COAF Overview and Status of Judicial Diversity (Judge Marguerite Downing)
- Judicial Summit Overview and Accomplishments (Judge Brenda Harbin-Forte)

FIRESIDE CHAT
1:45 – 3:10 PM

- Moderator: Judge La Doris Cordell
- Panel: Justice Goodwin Liu, Justice Therese Stewart, Justice William Murray, Justice James Lambden (Ret.), and Justice Cruz Reynoso (Ret.)

ADDITIONAL WELCOME REMARKS
3:10 to 3:15 PM

- David Pasternak, State Bar President
- Judge Eric Taylor, President, California Judges Association
- Planning Committee Acknowledgements (Judge Becton)

BREAK (to coincide with CJA break)
3:15 to 3:30 PM Break

CLOSING PLENARY/TOWN HALL

3:30 to 4:45 PM
Windtunneling Feedback and Discussion

- Panelists: Judge Allen Webster, Judge Dennis Hayashi, Judge John Pacheco and Jane Lorand (WindTunneling Project)

4:45 to 5:00 PM
Closing and next steps (Judge Becton)

All are invited to attend the
COAF DIVERSITY AWARDS RECEPTION
5:30 PM – 7:30 PM
Marriot Marquis and Marina Hotel, San Diego Ballrooms A and B

APPENDIX 3

POWERPOINT SLIDES PROVIDED TO ATTENDEES AT THE 2016 JUDICIAL DIVERSITY SUMMIT

APPENDIX 3- PowerPoint Slides Provided to Attendees at the 2016 Judicial Diversity Summit

SLIDES 1-2

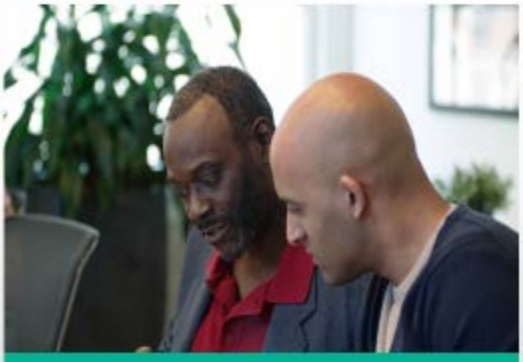
Diversity in the legal profession has long been recognized as one of the key strategies by the State Bar of California.
Council on Access & Fairness appointed in 2007 to serve as State Bar Diversity Think Tank
COAF focuses on the diversity pipeline including Pre-K to high school, community college, university, law school, legal profession and judiciary
Diversity activities are funded solely through voluntary contributions – no attorney dues are used for these purposes

The Case For Diversity
The Administration of Justice
Leadership and Policymaking
The Business Case
The Demographic Rationale

SLIDES 3-4

The Administration of Justice

A diverse profession creates greater public trust and confidence in the legal profession and the judicial system



A diverse legal profession will strengthen the quality of social justice and democracy.

- Public trust and confidence in the courts
- The appearance of fairness in the legal system

See Judicial Council Survey on Public Confidence http://www.courts.ca.gov/5275.htm

Leadership and Policymaking

As Justice O'Connor reminded us in her opinion in the *Grutter* case, this society draws its leaders from the ranks of the legal profession.

Attorneys account for:

100% judges

and approximately:

- **50% of our Presidents**
- **58% U.S. Senators**
- **37% U.S. Representatives**
- **40% Governors**
- **14% State Legislators**
- **11% major CEOs**

(Data updated 2013)

SLIDES 5-6

The Business Case

A diverse profession is more responsive to client demands

DIVERSE LAW FIRMS MAKE GOOD BUSINESS SENSE –
Business entities are rapidly responding to the needs of global customers, suppliers, and competitors by creating workforces from many different backgrounds, perspectives, and skill sets. And more frequently, clients now expect and sometimes demand lawyers who are culturally diverse

The Demographic Rationale

A diverse profession is more reflective of today's changing demographics

AN AGING POPULATION:
- 38.7 million: Number of U.S. residents 65 and over in 2008
- 88.5 million: Projected number of U.S. residents 65 and over in 2050

A MORE ETHNICALLY AND RACIALLY DIVERSE POPULATION:
- 46.7 million: Number of *Hispanics* residing in the U.S. in 2008
- 132.8 million: Projected number of *Hispanics* residing in the U.S. in 2050
- 15.5. million: Number of *Asians* residing in the U.S. in 2008
- 40.6 million: Projected number of *Asian* residents of the U.S. in 2050

The U.S. population is getting older and more diverse.

SLIDES 7-8

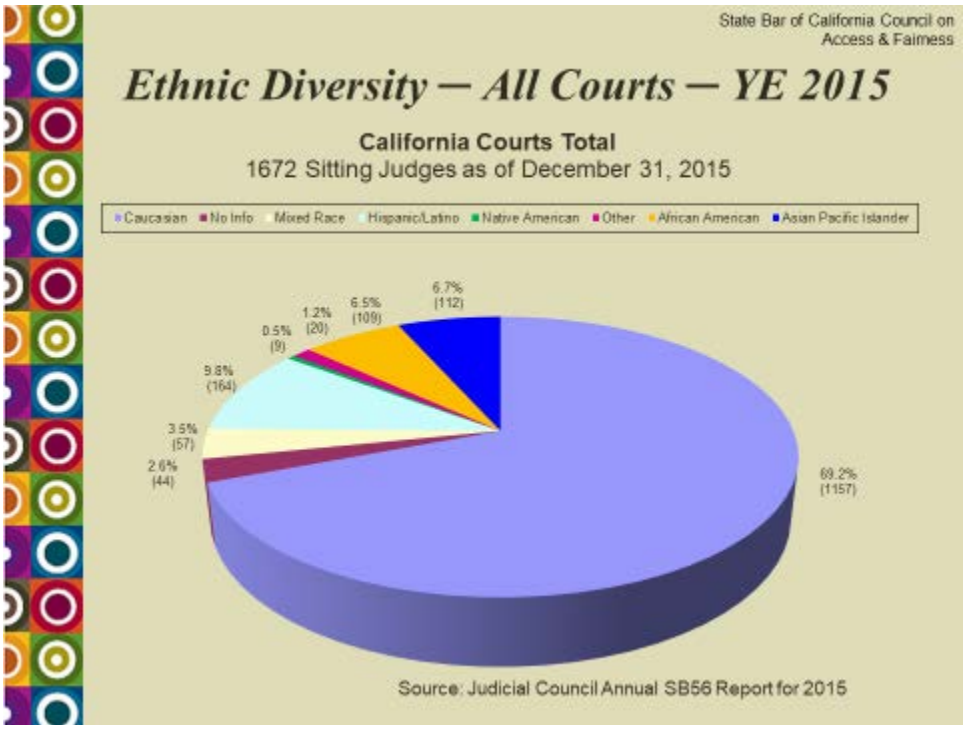
Diversity in the California Courts

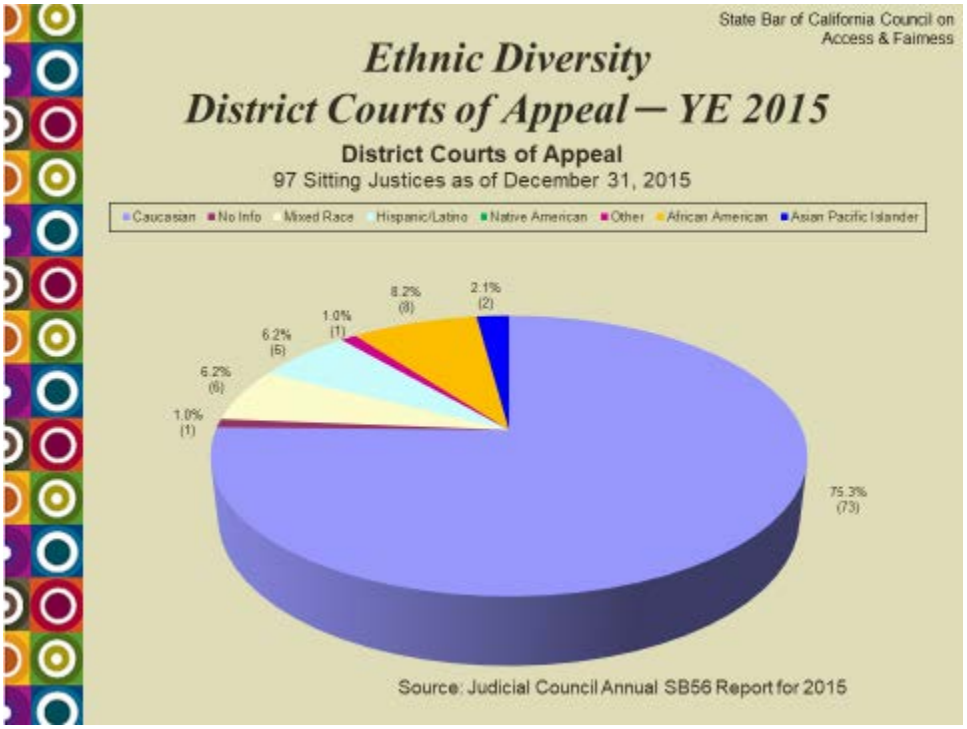
Why Value Judicial Diversity

"…Judges can and do influence each other. They exchange ideas on and off the bench. A judiciary that is comprised of judges from differing backgrounds and experiences leads to an interplay and exchange of divergent viewpoints, which in turn prevents bias, and leads to better, more informed decision making. Diversity of opinion among decision makers encourages debate and reflection, and fosters a deliberative process that leads to an end product that is greater than the sum of its parts."

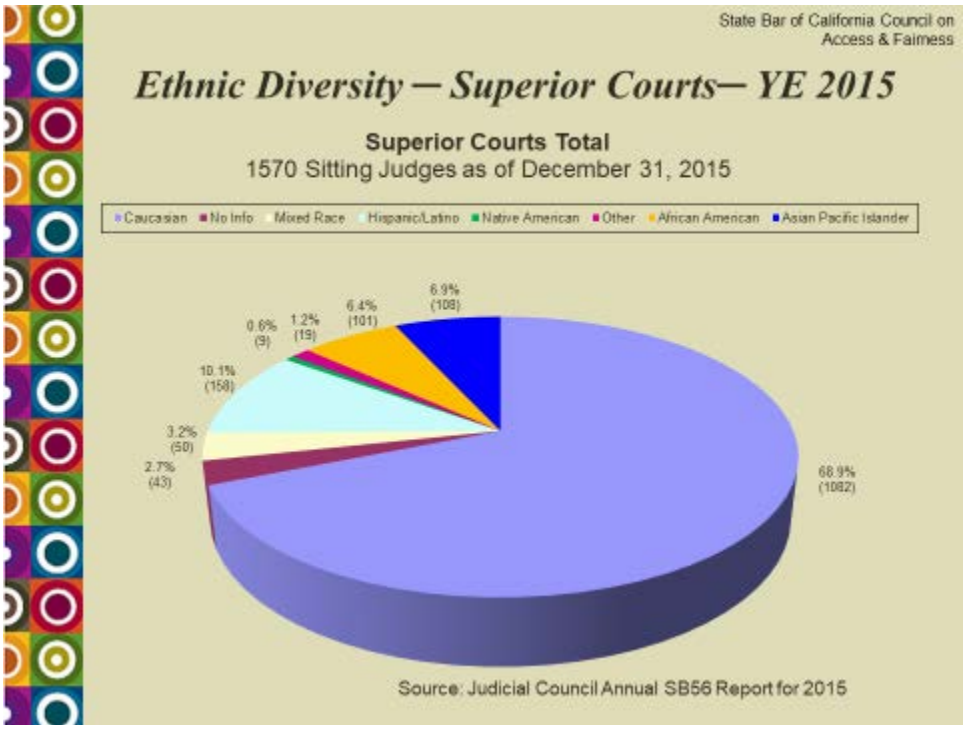
Editorial, American Judicature Society Magazine
March/April 2010 ed.

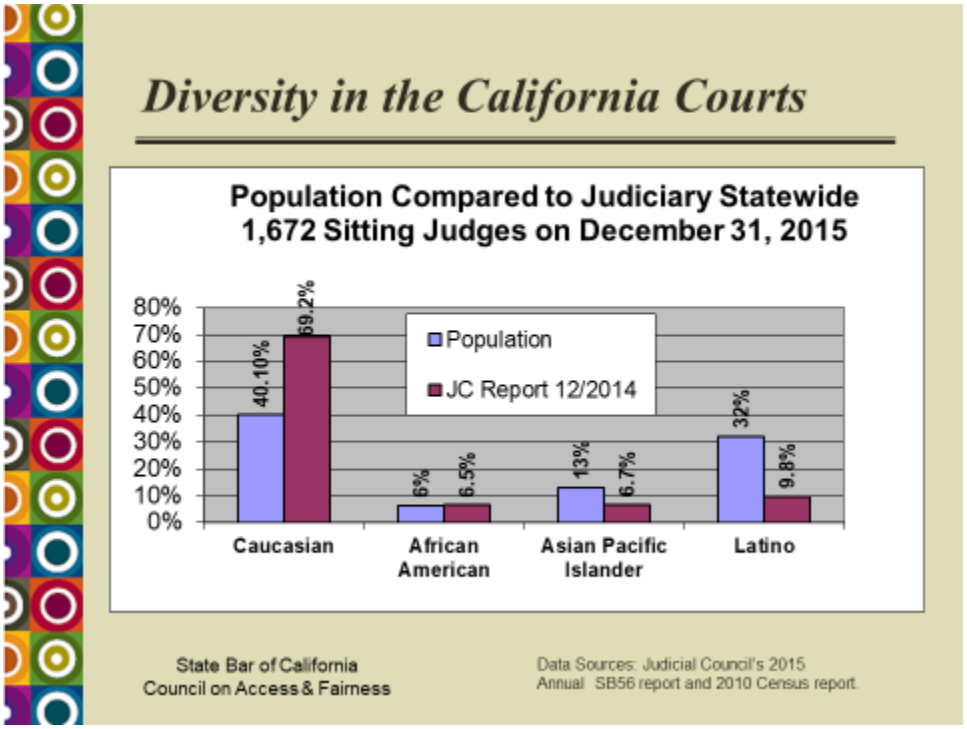
SLIDES 9-10


State Bar of California Council on Access & Fairness
Ethnic Diversity — All Courts — YE 2015
California Courts Total
1672 Sitting Judges as of December 31, 2015
Caucasian
No Info
Mixed Race
Hispanic/Latino
Native American
Other
African American
Asian Pacific Islander
6.7% (112)
6.5% (109)
1.2% (20)
0.5% (9)
9.8% (164)
3.5% (57)
2.6% (44)
69.2% (1157)
Source: Judicial Council Annual SB56 Report for 2015

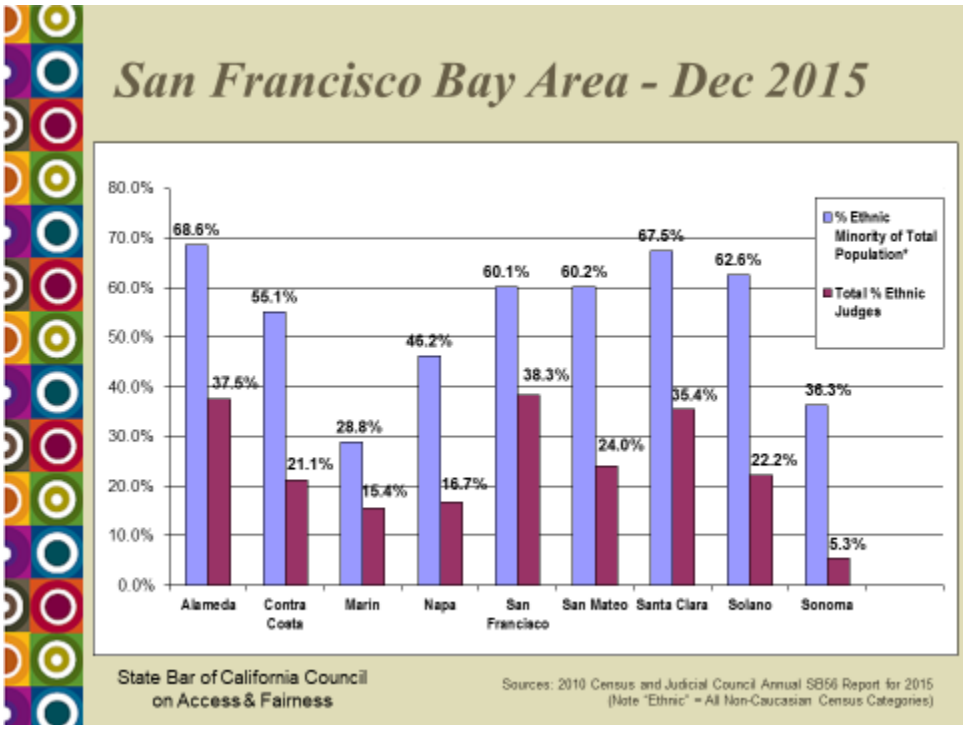

State Bar of California Council on Access & Fairness
Ethnic Diversity
District Courts of Appeal — YE 2015
District Courts of Appeal
97 Sitting Justices as of December 31, 2015
Caucasian
No Info
Mixed Race
Hispanic/Latino
Native American
Other
African American
Asian Pacific Islander
8.2% (8)
2.1% (2)
1.0% (1)
6.2% (6)
6.2% (6)
1.0% (1)
75.3% (73)
Source: Judicial Council Annual SB56 Report for 2015

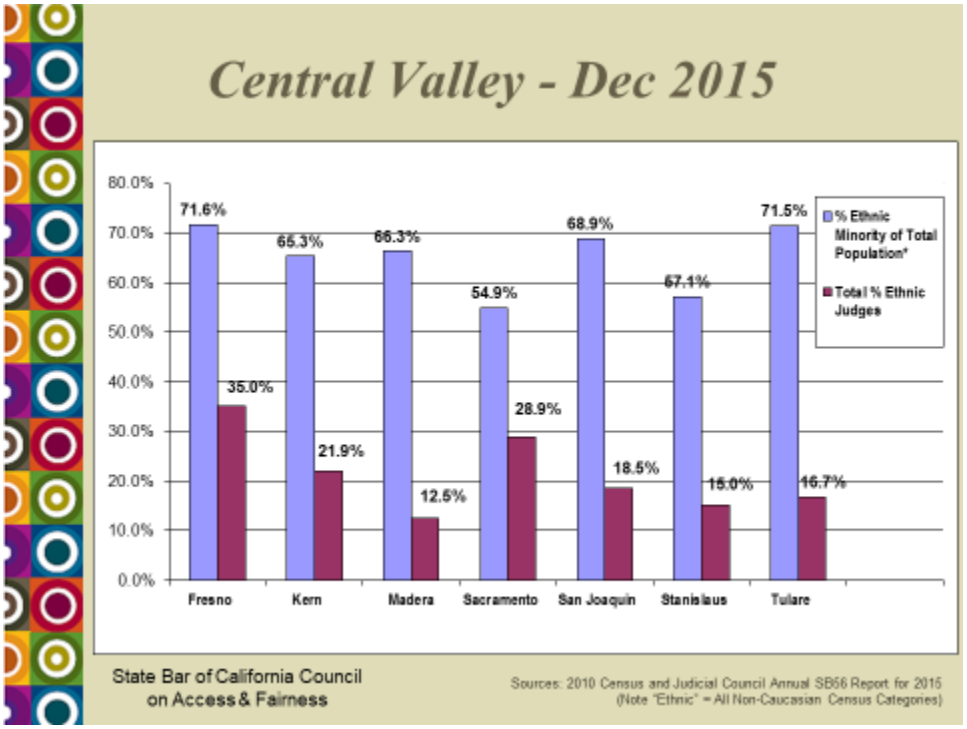
SLIDES 11-12


State Bar of California Council on Access & Fairness
Ethnic Diversity — Superior Courts— YE 2015
Superior Courts Total
1570 Sitting Judges as of December 31, 2015
Caucasian
No Info
Mixed Race
Hispanic/Latino
Native American
Other
African American
Asian Pacific Islander
6.9% (108)
6.4% (101)
1.2% (19)
0.6% (9)
10.1% (158)
3.2% (50)
2.7% (43)
68.9% (1082)
Source: Judicial Council Annual SB56 Report for 2015

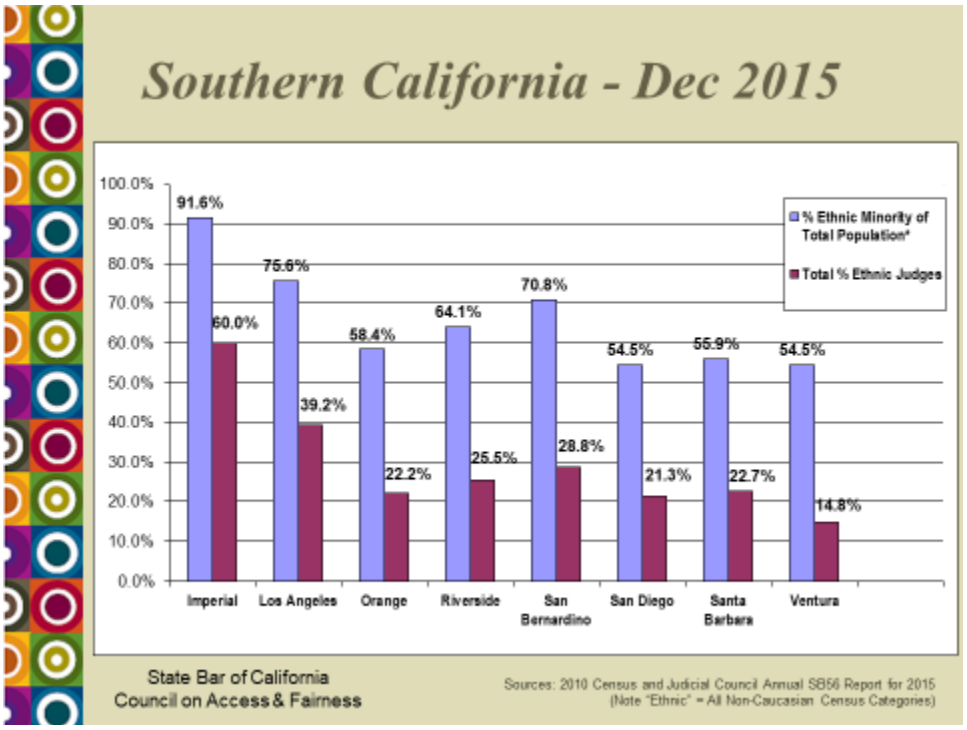

Diversity in the California Courts
Population Compared to Judiciary Statewide
1,672 Sitting Judges on December 31, 2015
80%
70%
60%
50%
40%
30%
20%
10%
0%
Population
JC Report 12/2014
40.10%
69.2%
6%
6.5%
13%
6.7%
32%
9.8%
Caucasian
African American
Asian Pacific Islander
Latino
State Bar of California
Council on Access & Fairness
Data Sources: Judicial Council's 2015 Annual SB56 report and 2010 Census report

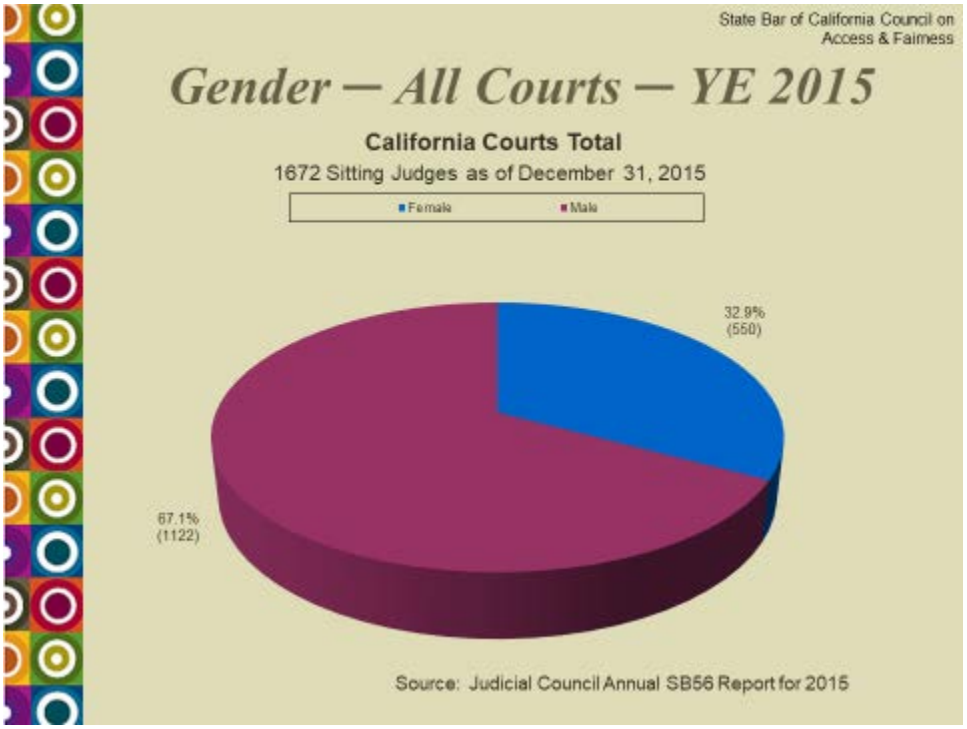
SLIDES 13-14


San Francisco Bay Area - Dec 2015
80.0%
70.0%
60.0%
50.0%
40.0%
30.0%
20.0%
10.0%
0.0%
68.6%
37.5%
55.1%
21.1%
28.8%
15.4%
46.2%
16.7%
60.1%
38.3%
60.2%
24.0%
67.5%
35.4%
62.6%
22.2%
36.3%
5.3%
Alameda
Contra Costa
Marin
Napa
San Francisco
San Mateo
Santa Clara
Solano
Sonoma
% Ethnic Minority of Total Population*
Total % Ethnic Judges
State Bar of California Council on Access & Fairness
Sources: 2010 Census and Judicial Council Annual SB56 Report for 2015
(Note "Ethnic" = All Non-Caucasian Census Categories)


Central Valley - Dec 2015
80.0%
70.0%
60.0%
50.0%
40.0%
30.0%
20.0%
10.0%
0.0%
71.6%
35.0%
65.3%
21.9%
66.3%
12.5%
54.9%
28.9%
68.9%
18.5%
57.1%
15.0%
71.5%
16.7%
Fresno
Kern
Madera
Sacramento
San Joaquin
Stanislaus
Tulare
% Ethnic Minority of Total Population*
Total % Ethnic Judges
State Bar of California Council on Access & Fairness
Sources: 2010 Census and Judicial Council Annual SB56 Report for 2015
(Note "Ethnic" = All Non-Caucasian Census Categories)

SLIDES 15-16


Southern California - Dec 2015
100.0%
90.0%
80.0%
70.0%
60.0%
50.0%
40.0%
30.0%
20.0%
10.0%
0.0%
91.6%
60.0%
75.6%
39.2%
58.4%
22.2%
64.1%
25.5%
70.8%
28.8%
54.5%
21.3%
55.9%
22.7%
54.5%
14.8%
Imperial
Los Angeles
Orange
Riverside
San Bernardino
San Diego
Santa Barbara
Ventura
% Ethnic Minority of Total Population*
Total % Ethnic Judges
State Bar of California
Council on Access & Fairness
Sources: 2010 Census and Judicial Council Annual SB56 Report for 2015
(Note "Ethnic" = All Non-Caucasian Census Categories)


State Bar of California Council on Access & Fairness
Gender — All Courts — YE 2015
California Courts Total
1672 Sitting Judges as of December 31, 2015
Female
Male
32.9%
(550)
67.1%
(1122)
Source: Judicial Council Annual SB56 Report for 2015

SLIDES 17-18

Other Diversity in the Courts - LGBT

Heterosexual	LGBT	No Info	Totals	
60.4% (1015)	2.4% (41)	37.2% (625)	100%* (1681)	2013
62.4% (1032)	2.4% (41)	35.2% (582)	100%* (1655)	2014
64.2% (1074)	2.7% (45)	33.1% (553)	100%* (1672)	2015

State Bar of California
Council on Access & Fairness

Source: Judicial Council Annual SB56 Reports for 2013 through 2015

Other Diversity in the Courts – 2015 Veteran Status and Disability

Veteran Status	Disability
Yes: 9 No: 154 No Response: 1509	Disability: 4 No Disability: 163 No Response: 1505

State Bar of California
Council on Access & Fairness

Source: Judicial Council Annual SB56 Report for 2015

SLIDES 19-20

The Potential Pool: Who Qualifies the Qualified?

- **Informally: The Governor's Judicial Selection Advisory Committees** (aka "Secret Committees")

WE DON'T KNOW- Membership, diversity, evaluation criteria, investigative methods; members don't receive implicit bias training

The Potential Pool: Who Qualifies the Qualified?

- **Formally: State Bar's Commission on Judicial Nominees Evaluation (JNE)**

WE DO KNOW - Membership, diversity, evaluation criteria, investigative methods seek broad input from all stakeholders; members *receive implicit bias training and cultural sensitivity training, Diversity of legal experience training* (Govt. Code Sec. 12011.5(d))

http://www.calbar.ca.gov/AboutUs/JudicialNomineesEvaluation.aspx

SLIDES 21-22

The Potential Pool: Who Qualifies the Qualified?

- **Formally: Local and Minority Bar Judicial Appointments Evaluation Committees**

  Appointments through bar association policies and protocols; membership, including diversity thereof, is known and made public, specific criteria for evaluating candidates; not sure if undergo implicit bias training

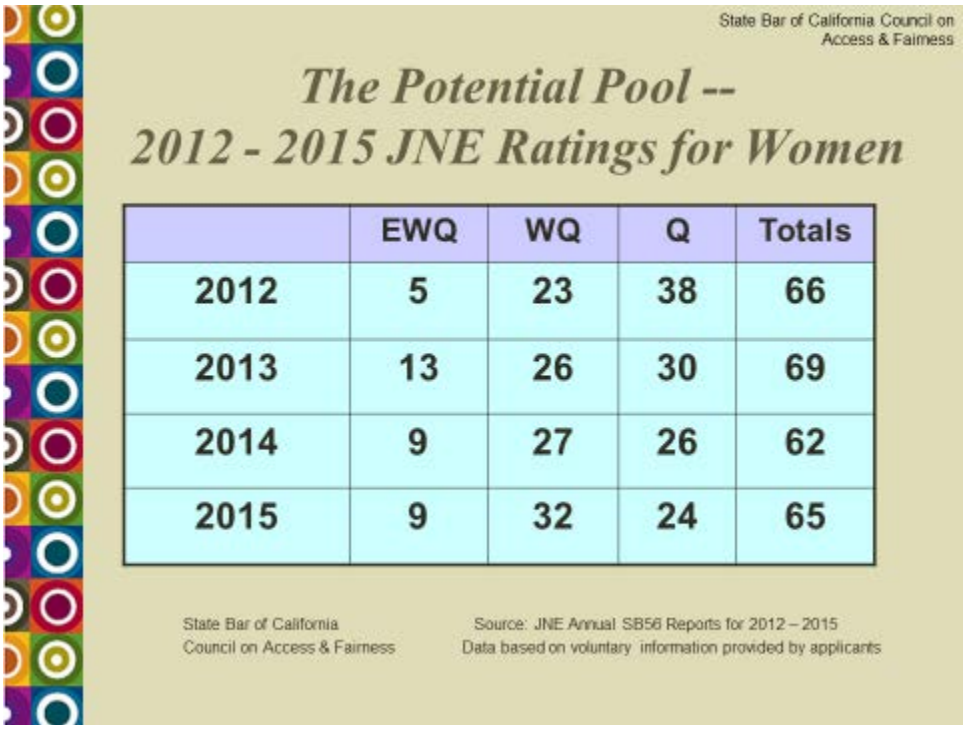
The Potential Pool – 2012 - 2015 JNE Ratings by Ethnicity

	EWQ 2012/13/14/15	WQ 2012/13/14/15	Q 2012/13/14/15	TOTALS 2012/13/14/15
Asian/Pacific Islander	1 / 3 / 2/ 2	5 / 5 / 3 / 6	7/ 8/12 / 3	13/16/17/11
African American	1 / 1 / 2 / 2	4 / 8 / 7 / 8	7 / 7 / 9/ 3	12/16/18/13
Hispanic	2 / 0 / 2 / 1	11 / 9 / 8 /10	16/10/12/10	29/19/22/21
Total Minorities	4 / 4 / 6 / 5	20/22/18/24	30/25/33/16	54/51/57/45
White	14/19/13/15	51/43/47/48	56/35/29/42	121/97/89/105

State Bar of California
Council on Access & Fairness

Data based on voluntary information provided by applicant
Source: JNE Annual SB56 Reports for 2012-2015

SLIDES 23-24



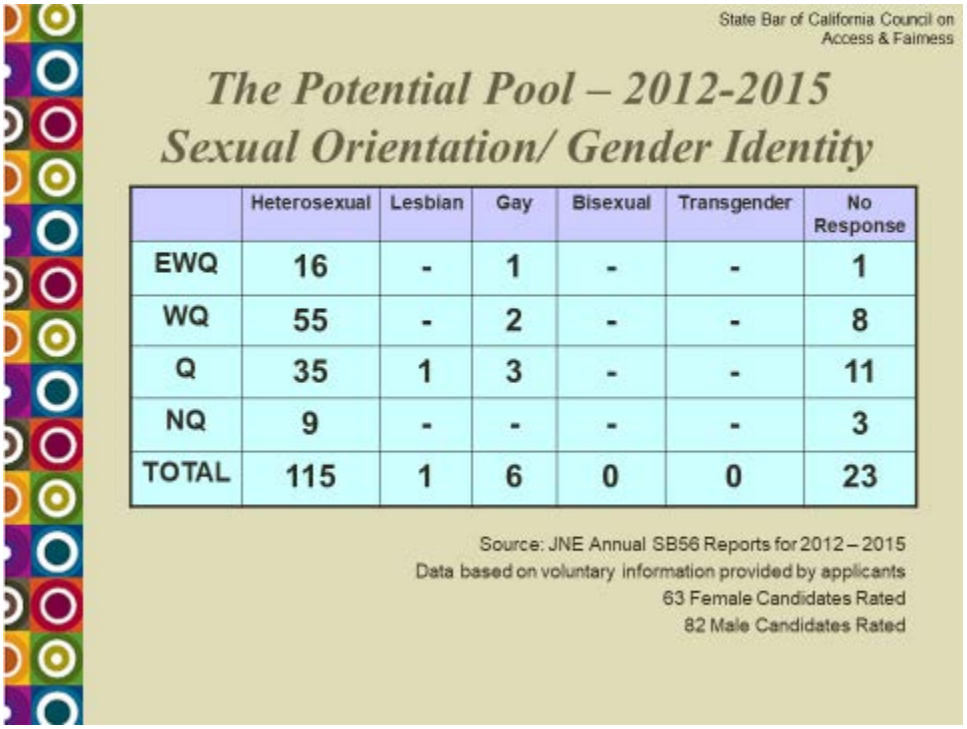
State Bar of California Council on Access & Fairness

The Potential Pool -- 2012 - 2015 JNE Ratings for Women

	EWQ	WQ	Q	Totals
2012	5	23	38	66
2013	13	26	30	69
2014	9	27	26	62
2015	9	32	24	65

State Bar of California
Council on Access & Fairness

Source: JNE Annual SB56 Reports for 2012 – 2015
Data based on voluntary information provided by applicants



State Bar of California Council on Access & Fairness

The Potential Pool – 2012-2015 Sexual Orientation/ Gender Identity

	Heterosexual	Lesbian	Gay	Bisexual	Transgender	No Response
EWQ	16	-	1	-	-	1
WQ	55	-	2	-	-	8
Q	35	1	3	-	-	11
NQ	9	-	-	-	-	3
TOTAL	115	1	6	0	0	23

Source: JNE Annual SB56 Reports for 2012 – 2015
Data based on voluntary information provided by applicants
63 Female Candidates Rated
82 Male Candidates Rated

SLIDES 25-26

State Bar of California Council on Access & Fairness

The Potential Pool – 2012-2015 Disability Status

	Disability	No Disability	No Response
EWQ		10	8
WQ	1	39	25
Q		30	20
NQ		7	5
TOTAL	1	86	58

Data based on voluntary information provided by applicants
Source: JNE Annual SB56 Reports for 2012 – 2015
145 Candidates rated

State Bar of California Council on Access & Fairness

The Potential Pool – 2012-2015 Veteran Status

	Disability	No Disability	No Response
EWQ	-	9	9
WQ	-	43	22
Q	-	32	18
NQ	-	7	5
TOTAL	0	91	54

Source: JNE Annual SB56 Reports for 2012 – 2015
Data based on voluntary information provided applicants
145 Candidates Rated

SLIDES 27-28

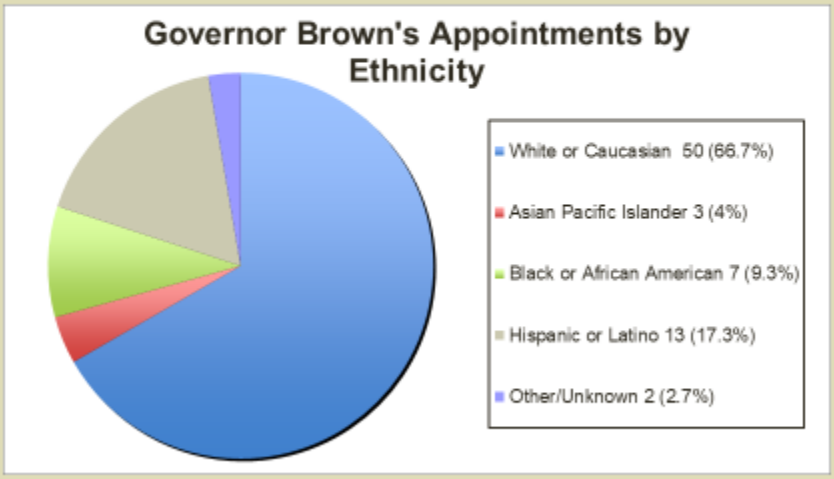
State Bar of California Council on Access & Fairness

The Potential Pool – 2012-2015 Legal Practice/Employment

	EWQ	WQ	W	NQ	TOTAL
Administrative	8	30	10	4	52
Civil Law	16	50	43	9	120
Legislative	2	13	6	1	22
House/Staff Counsel	5	10	13	4	32
Juvenile/Family/Probate	7	33	30	8	80
Criminal	13	44	35	11	105
Litigation (Trial/Appellate)	16	65	57	12	152
Corporate/Transactional	4	17	15	2	38
Other Legal Practice	13	29	31	4	78
TOTAL	84	291	240	55	679

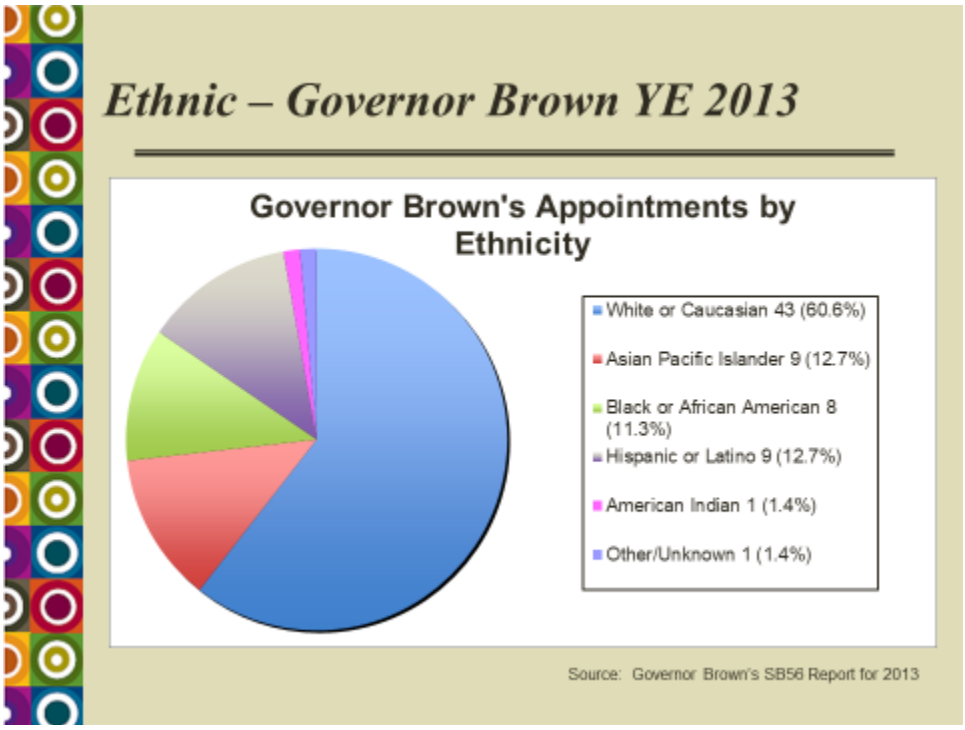
Source: JNE Annual SB56 Reports for 2012 – 2015
Data based on voluntary information provided by applicants--multiple practice areas allowed

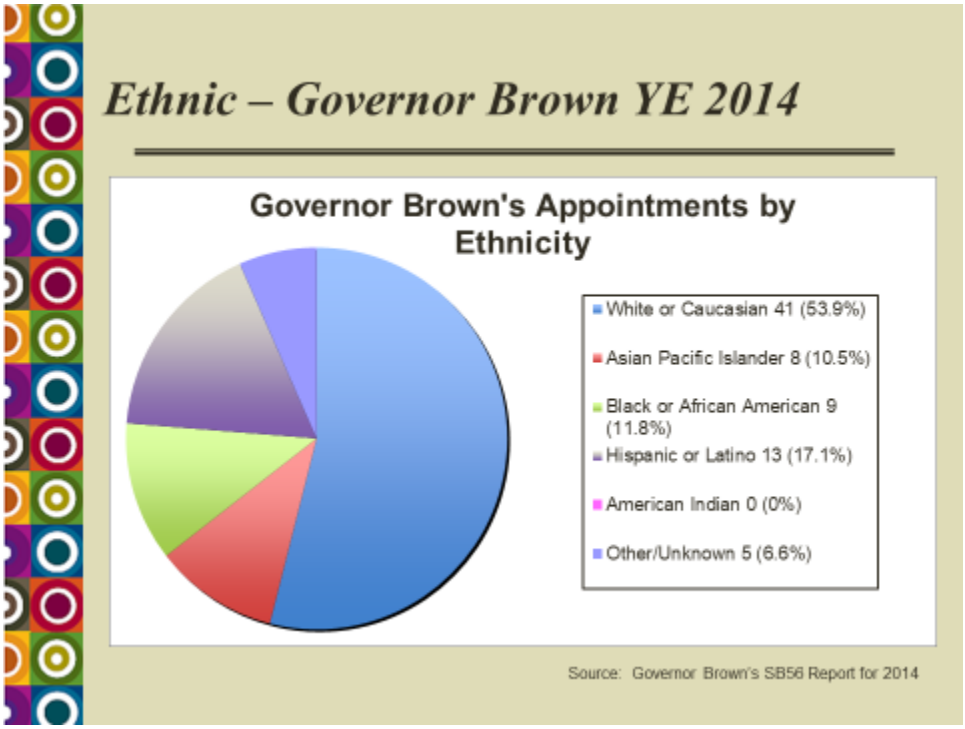
Ethnic – Governor Brown YE 2012



Source: Governor Brown's SB56 Report for 2012

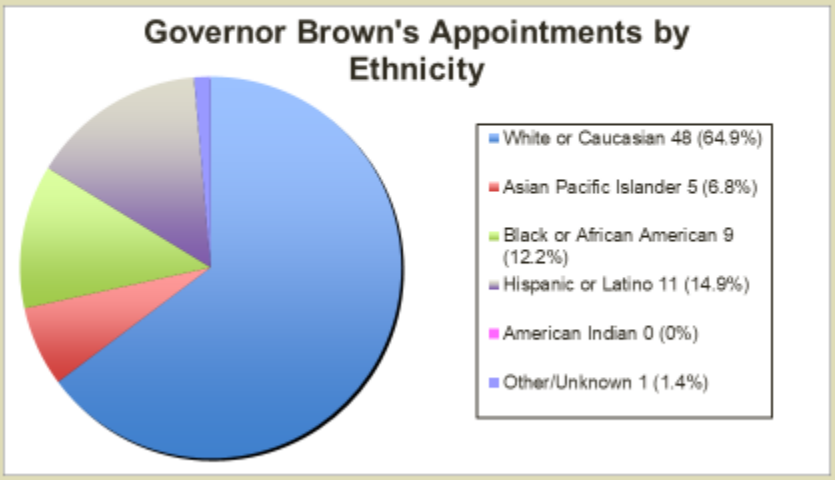
SLIDES 29-30


Ethnic – Governor Brown YE 2013
Governor Brown's Appointments by Ethnicity
White or Caucasian 43 (60.6%)
Asian Pacific Islander 9 (12.7%)
Black or African American 8 (11.3%)
Hispanic or Latino 9 (12.7%)
American Indian 1 (1.4%)
Other/Unknown 1 (1.4%)
Source: Governor Brown's SB56 Report for 2013


Ethnic – Governor Brown YE 2014
Governor Brown's Appointments by Ethnicity
White or Caucasian 41 (53.9%)
Asian Pacific Islander 8 (10.5%)
Black or African American 9 (11.8%)
Hispanic or Latino 13 (17.1%)
American Indian 0 (0%)
Other/Unknown 5 (6.6%)
Source: Governor Brown's SB56 Report for 2014

SLIDES 31-32

Ethnic – Governor Brown YE 2015



Source: Governor Brown's SB56 Report for 2014

State Bar of California Council on Access & Fairness

Gender Diversity in the Courts

Governor Schwarzenegger's Appointments by Gender

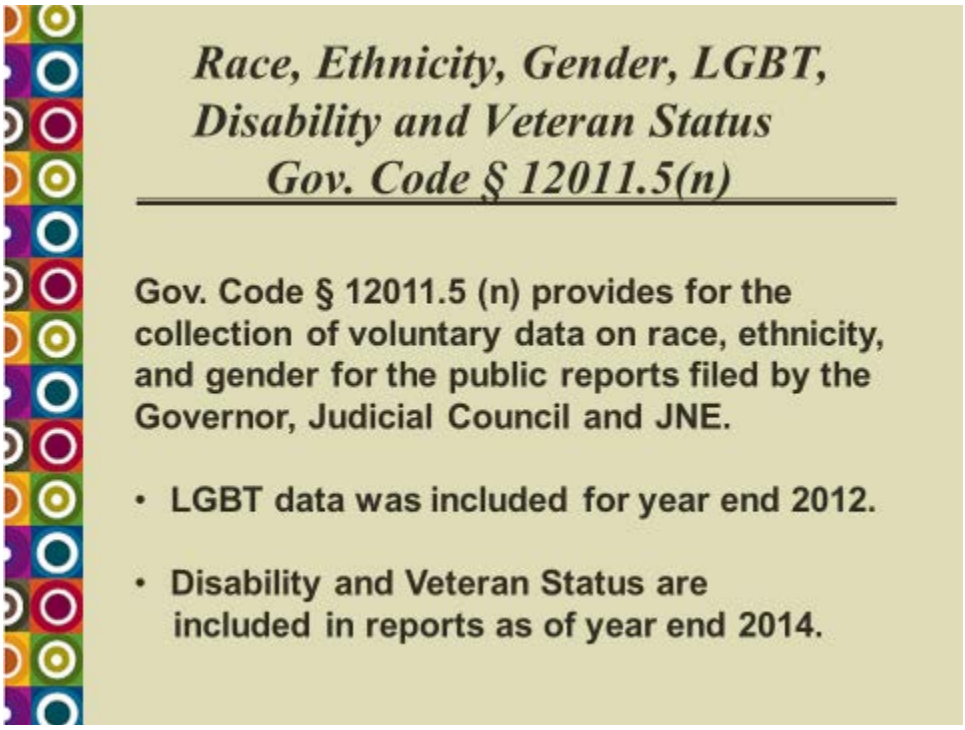
MEN	WOMEN
65.7%	34.3%

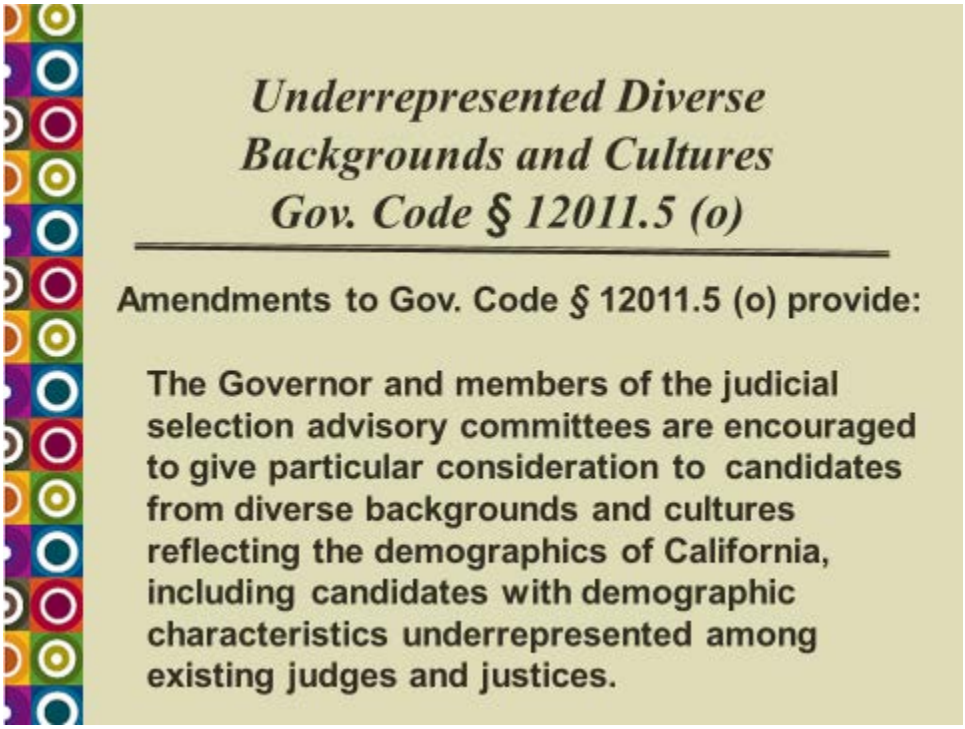
Governor Brown's Appointments by Gender

MEN	WOMEN
61.7%	38.3%

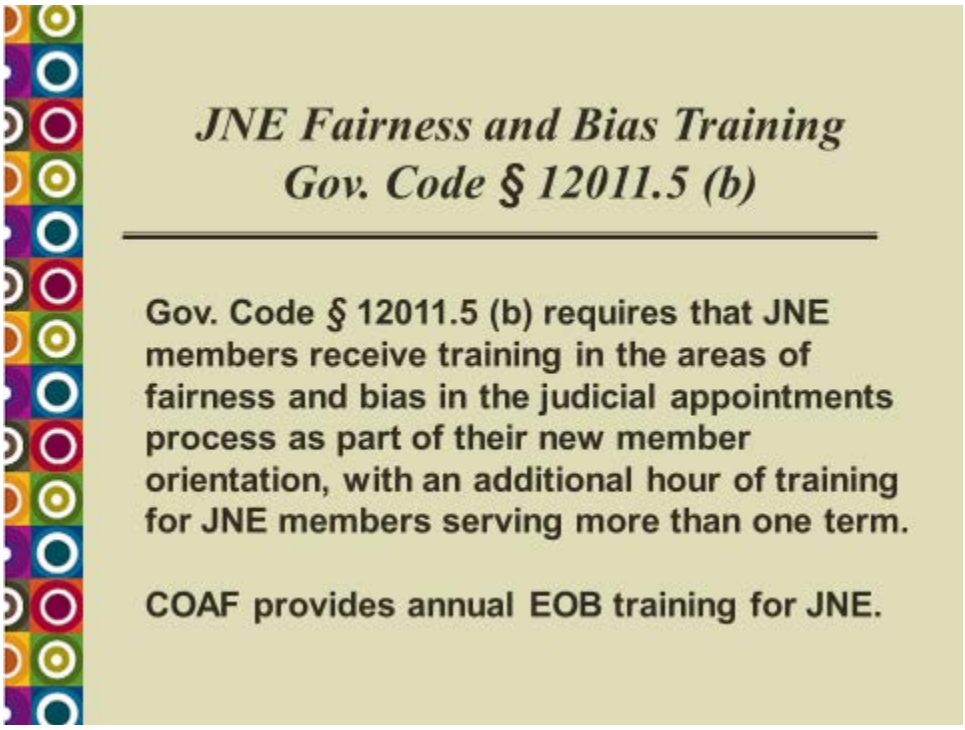
Data Source: Cumulative Governor's SB56 Reports

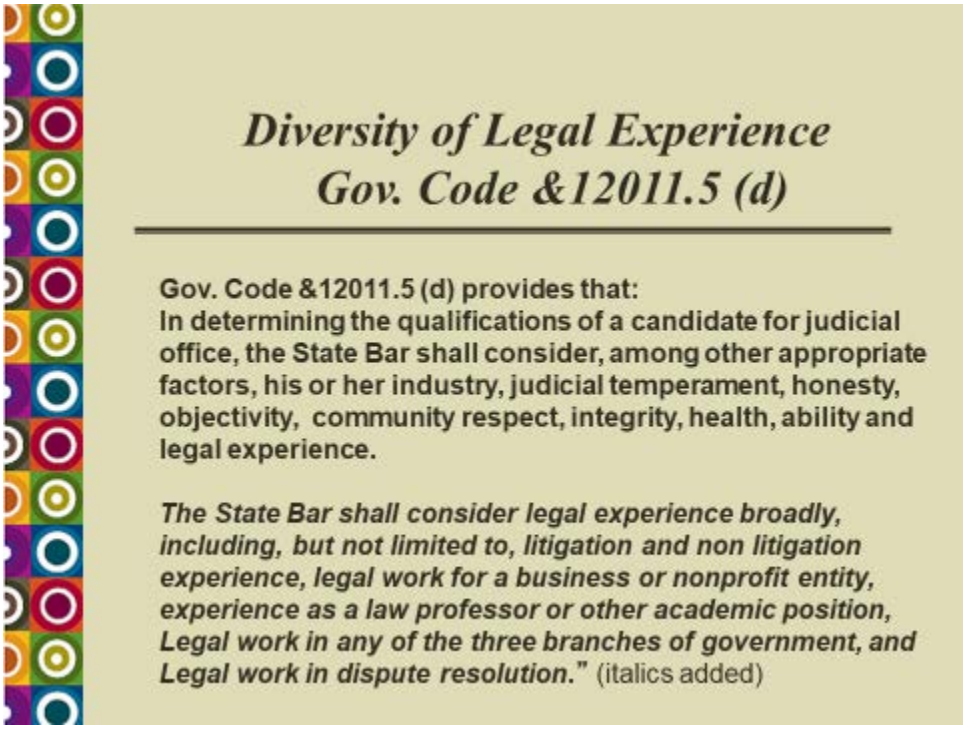
SLIDES 33-34


Race, Ethnicity, Gender, LGBT, Disability and Veteran Status
Gov. Code § 12011.5(n)
Gov. Code § 12011.5 (n) provides for the collection of voluntary data on race, ethnicity, and gender for the public reports filed by the Governor, Judicial Council and JNE.
• LGBT data was included for year end 2012.
• Disability and Veteran Status are included in reports as of year end 2014.


Underrepresented Diverse Backgrounds and Cultures
Gov. Code § 12011.5 (o)
Amendments to Gov. Code § 12011.5 (o) provide:
The Governor and members of the judicial selection advisory committees are encouraged to give particular consideration to candidates from diverse backgrounds and cultures reflecting the demographics of California, including candidates with demographic characteristics underrepresented among existing judges and justices.

SLIDES 35-36


JNE Fairness and Bias Training
Gov. Code § 12011.5 (b)
Gov. Code § 12011.5 (b) requires that JNE members receive training in the areas of fairness and bias in the judicial appointments process as part of their new member orientation, with an additional hour of training for JNE members serving more than one term.
COAF provides annual EOB training for JNE.

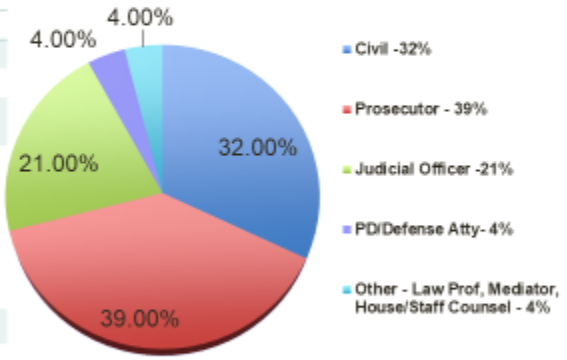

Diversity of Legal Experience
Gov. Code &12011.5 (d)
Gov. Code &12011.5 (d) provides that:
In determining the qualifications of a candidate for judicial office, the State Bar shall consider, among other appropriate factors, his or her industry, judicial temperament, honesty, objectivity, community respect, integrity, health, ability and legal experience.
The State Bar shall consider legal experience broadly, including, but not limited to, litigation and non litigation experience, legal work for a business or nonprofit entity, experience as a law professor or other academic position, Legal work in any of the three branches of government, and Legal work in dispute resolution." (italics added)

SLIDES 37-38

Diversity of Experience

Schwarzenegger's Appointments by Practice Area

Civil	186
Prosecutor	64
Judicial Officer	119
PD/Defense Attorney	26
Other – Pub. Interest, Law Professor, Research Attorney, County Counsel, CA Bar	24

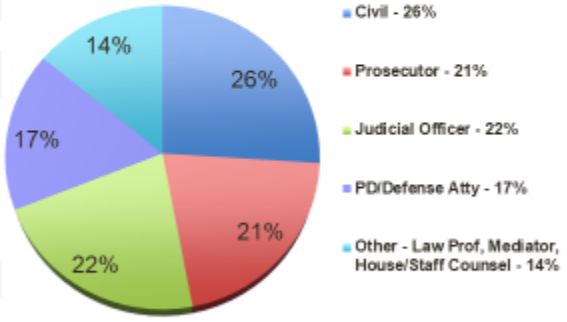


Source: Civil Justice Association of California, January 2011

Diversity of Experience

Brown's Appointments by Practice Area 2011 - 2014

Civil	62
Prosecutor	49
Judicial Officer	52
PD/Defense Attorney	40
Other – Pub. Interest, Law Professor, Research Attorney, County Counsel, CA Bar	34



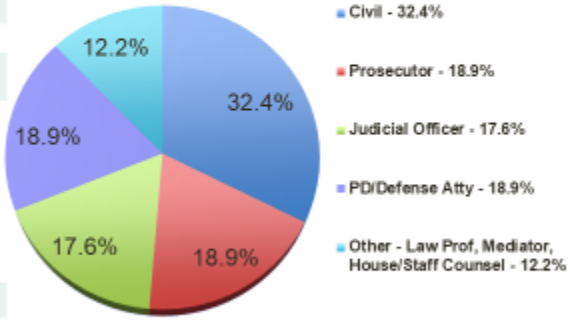
Source: Governor Brown's press announcements 2011 through 2014

SLIDES 39-40

Diversity of Experience

Brown's Appointments by Practice Area - 2015

Civil	24
Prosecutor	14
Judicial Officer	13
PD/Defense Attorney	14
Other – Pub. Interest, Law Professor, Research Attorney, County Counsel, CA Bar, In- House/ Staff Counsel	9



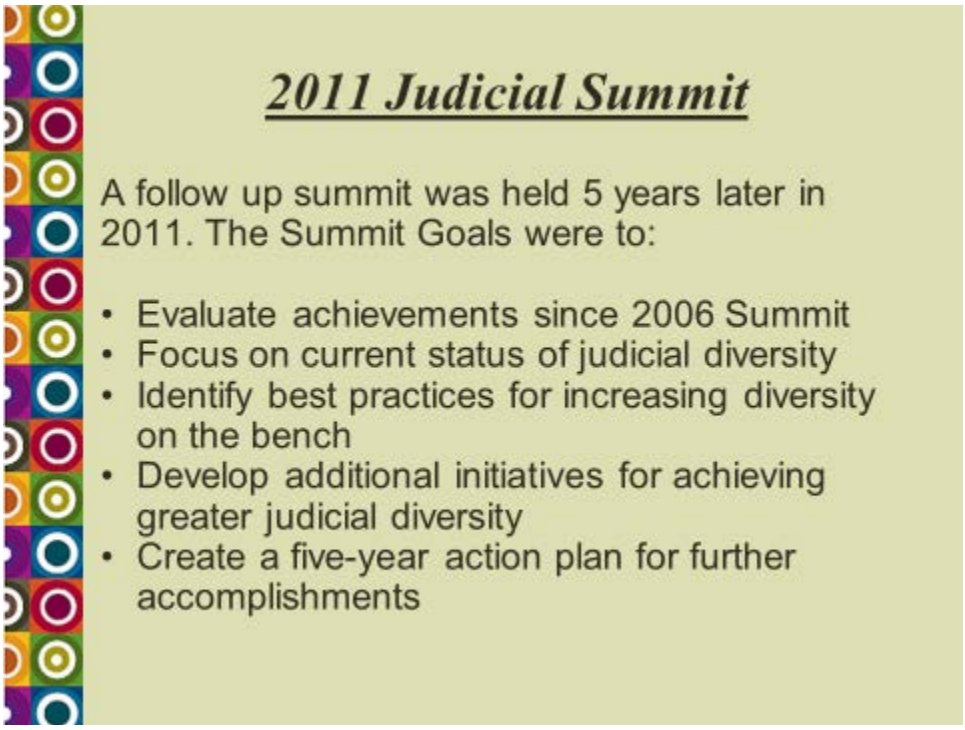
Source: Governor Brown's press announcements 2015

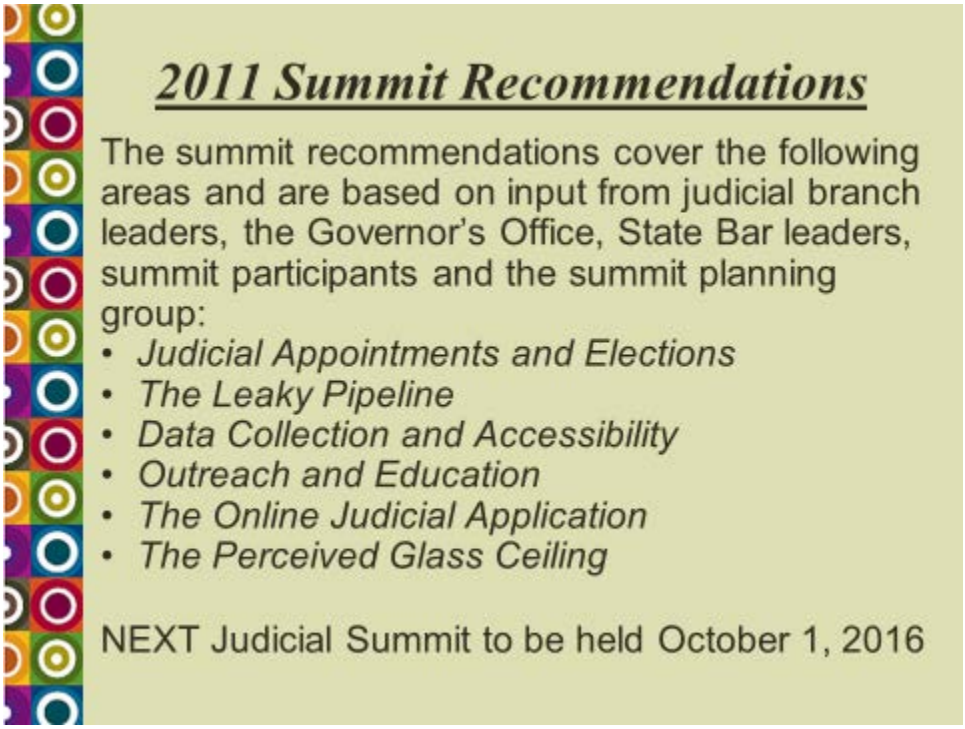
2006 Judicial Summit

The State Bar of California and the California Judicial Council convened the first statewide conference in 2006 on the status of diversity in the state's judiciary and focused on:

- the formal applicant evaluation process;
- the role of the local selection committees established by local bars and other groups;
- the growing disparity between the state's population that is ethnically and gender diverse and a bench/bar less so;
- the ability to obtain comprehensive and consistent demographic data from law schools, the Administrative Office of the Courts, the State Bar, the Commission on Judicial Nominees Evaluation (JNE), the Governor's Office, and the private sector; and
- the need to increase the recruitment and appointments of judicial candidates with disabilities and those from the lesbian, gay, bisexual, and transgender communities.

SLIDES 41-42


2011 Judicial Summit
A follow up summit was held 5 years later in 2011. The Summit Goals were to:
• Evaluate achievements since 2006 Summit
• Focus on current status of judicial diversity
• Identify best practices for increasing diversity on the bench
• Develop additional initiatives for achieving greater judicial diversity
• Create a five-year action plan for further accomplishments


2011 Summit Recommendations
The summit recommendations cover the following areas and are based on input from judicial branch leaders, the Governor's Office, State Bar leaders, summit participants and the summit planning group:
• Judicial Appointments and Elections
• The Leaky Pipeline
• Data Collection and Accessibility
• Outreach and Education
• The Online Judicial Application
• The Perceived Glass Ceiling
NEXT Judicial Summit to be held October 1, 2016

SLIDES 43-44

Accomplishments Since 2006
• Increase (Slight) in Percentage of Ethnic Minorities and Women Judges
• Judges From More Diverse Backgrounds
• Legislation Mandating Annual Statistical Data & Broad Experience
• Transgender Judge Elected in Alameda
• Implicit Bias and "Broad Experience" Training for JNE Commissioners
• Changes to Appointment Application

Accomplishments Since 2006
• State Bar Tips re: Online Application
• In 2007 First Woman and First African American Judicial Appointments Secretary
• All-Female Confirmation Panel for Last Supreme Court Justice
• New Chief Justice in 2010 – Tani Cantil-Sakauye - Woman of Color
• Supreme Court- Majority Women
• Supreme Court- Majority Ethnic Minorities/API
• African American Judges Almost on Par With Population

SLIDES 45-46

Accomplishments Since 2006

- Judicial Mentoring Programs in Alameda, Contra Costa, Los Angeles, San Francisco, et al.
- Court-sponsored "How To" Programs
- First Female Presiding Justice on the Fourth District Court of Appeal, Division Three
- First Latino Justice on the Sixth District Court of Appeal
- First Muslim-American Judge in California
- First Latina Judge in Riverside County Superior Court

Judicial Diversity Issues to be Addressed

- Filling existing judicial vacancies
- Increasing diversity of applicant pool
- Mentoring applicants re: application process
- Expanding scope of diversity and implicit bias training for judicial screening committees
- Providing continued transparency re: numbers and process

SLIDES 47-48

Strategies for Increasing Judicial Diversity

- Appoint more from the pool of qualified candidates
- Recruit and encourage minorities, women, LGBTs, attorneys with disabilities to apply
- Push for better retirement system to attract more applicants

Increasing Judicial Diversity (cont.)

- Encourage more judicial mentoring programs
- Encourage more ethnic minority, women, and LGBT attorneys to run for open judicial seats
- Create more early pipeline programs

SLIDES 49-50

Increasing Judicial Diversity (cont.)

- Level the playing field by providing opportunities for women, minority, and LGBT judges, and judges with disabilities to sit on assignment on the appellate courts
- Don't dilute the definition of "diversity" by including a wider range of different experiences

Increasing Judicial Diversity (cont.)

- Provide diversity and implicit bias training for judicial screening committees
- Educate public on importance of diversity, and provide status report on levels in communities
- Encourage courts to put on programs on how to become a judge – Use Judicial Diversity Toolkit

SLIDES 51-52

Time For You To Join The Effort

". . . It may well be that we will have to repent in this generation, not merely for the vitriolic words of the bad people and the violent actions of the bad people, but for the appalling silence and indifference of the good people, who sit around and say 'wait on time.' Somewhere we must come to see that social progress never rolls in on the wheels of inevitability. It comes through the tireless efforts and the persistent work of dedicated individuals, and without this hard work, time itself becomes an ally of the primitive forces of social stagnation. So we must help time. We must realize the time is always right to do right."

Excerpt from address by Dr. Martin Luther King, Jr. Memorial Auditorium, Stanford University, April 14, 1967

Thank You!!!

For more information on this program contact:

Hon. Diana Becton

dbect@contracosta.courts.ca.gov

For EOB materials or to schedule additional workshops:

Patricia Lee

State Bar Special Assistant for Diversity & Bar Relations

patricia.lee@calbar.ca.gov

SLIDES 53-54

APPENDIX 4

EXCERPT FROM GOVERNOR JERRY BROWN'S JANUARY 2019 PRESS RELEASE REFLECTING HIS FINAL SB 56 DEMOGRAPHICS REPORT

Excerpt from Governor Brown's Jan 3, 2019 Press Release announcing the swearing in of California Supreme Justice Joshua Groban, and the release of judicial appointments data. The entire press release can be found at ca.gov/archive/gov39/2019/01/03/governor-brown-swears-in-justice-groban-to-california-supreme-court-releases-judicial-appointment-data/index.html

[Note: Information and photos about Justice Groban's swearing-in are not included; all of the below is verbatim from the press release]

Governor Brown today also released the final applicant and appointee data for the administration's judicial appointments. Since taking office in 2011, Governor Brown has appointed 644 judges, including 193 from 2018 to January 2, 2019.

Last year, women accounted for more than half of Governor Brown's judicial appointees and nearly 6 percent of all appointees identified themselves as LGBT. Forty-one percent of all appointees identified themselves as non-white or other/unknown.

Over the last eight years, 44 percent of all judicial appointees were women and nearly 6 percent identified themselves as LGBT. Nearly 40 percent of all the Governor's judicial appointees identified themselves as non-white or other/unknown.

The Governor's judicial appointees have included a number of notable firsts:

–Jim Humes, the first openly gay justice ever appointed to the California Court of Appeal;
–Kathleen O'Leary, the first woman presiding justice ever appointed to the Fourth District Court of Appeal, Division Three;
–Rupa Goswami, the first South Asian American woman judge ever appointed in California;
–Paul Lo, the first Hmong American judge ever appointed in the country;
–Halim Dhanidina, the first Muslim justice and the first South Asian American justice in the history of the California Courts of Appeal. Justice Dhanidina was also the first Muslim judge ever appointed in California;
–Joginder Dhillon, the first Sikh judge ever appointed to the Sacramento County Superior Court;
–Richard T. Fields, the first African-American man appointed to the Fourth District Court of Appeal;
–Gabriel P. Sanchez, the first male Latino justice ever appointed to the First District Court of Appeal;
–Monique S. Langhorne, the first African-American judge ever appointed to the Napa County Superior Court;
–Amarra A. Lee, the first African-American woman judge ever appointed to the San Mateo County Superior Court;
–Therese M. Stewart, the first openly lesbian justice ever appointed to the California Court of Appeal;
–Audra Ibarra, the first Filipino-American ever appointed to the Santa Clara County Superior Court and the first Filipino-American woman to serve as a superior court judge in the Bay Area;
–Carin T. Fujisaki, the first Asian-Pacific Islander woman justice ever appointed to the First District Court of Appeal;
–Alicia R. Ekland, the first woman judge ever appointed to the Glenn County Superior Court;
–Gregory A. Pulskamp, the first Muslim judge ever appointed to the Kern County Superior Court;

–Firdaus F. Dordi, the first Zoroastrian judge ever appointed in California;
–Michael W. Jones, the first Latino judge ever appointed to the Placer County Superior Court;
–Jesus A. Rodriguez, the first male Latino judge ever appointed to the Butte County Superior Court;
–Ruth Bermudez Montenegro, the first Latina judge ever appointed to the Imperial County Superior Court;
–Elia M. Ortiz, the first Latina judge ever appointed to the Napa County Superior Court;
–Yvette Durant, the first woman judge ever appointed to the Sierra County Superior Court;
–Nahal Iravani-Sani, the first Iranian-American judge ever appointed to the Santa Clara County Superior Court;
–Eumi K. Lee, the first Korean-American judge ever appointed to the Alameda County Superior Court;
–Roger C. Chan, the first Korean-American judge ever appointed to the San Francisco County Superior Court;
–Sonny S. Sandhu, the first Asian-Pacific Islander judge ever appointed to the Stanislaus County Superior Court;
–Dorothy C. Kim, the first Korean American justice in the history of the California Courts of Appeal;
–Vedica Puri, the first South Asian American judge ever appointed to the San Francisco County Superior Court;
–Shama H. Mesiwala, the first South Asian American judge ever appointed to the Sacramento County Superior Court;
–Somnath Raj Chatterjee, the first South Asian American judge ever appointed to the Alameda County Superior Court;
–Benjamin T. Reyes, the first Filipino-American judge ever appointed to the Contra Costa County Superior Court;
–Godofredo (O.G.) Magno, the first Filipino-American judge ever appointed to the Riverside County Superior Court;
–Winston S. Keh, the first Filipino-American judge ever appointed to the San Bernardino County Superior Court;
–Todd D. Irby, the first African-American judge ever appointed to the Placer County Superior Court;
–Gloria J. Cannon, the first African-American woman judge ever appointed to the Kern County Superior Court;
–Marco D. Nunez, the first openly gay judge ever appointed to the Imperial County Superior Court;
–Sonia Cortés, the first Latino judge ever appointed to the Yolo County Superior Court;
–Marsha G. Slough, the first openly gay justice in the history of the Fourth District Court of Appeal;
–Luis A. Lavin, the first openly gay justice ever appointed to the Second District Court of Appeal;
–Ferdinand P. Inumerable, the first Asian-Pacific Islander judge ever appointed to the Ventura County Superior Court;
–Von T. Nguyen Deroian, the first Asian-Pacific Islander judge ever appointed to the Santa Barbara County Superior Court;
–Lily L. Sinfield the first Asian-Pacific Islander woman judge ever appointed to the San Bernardino County Superior Court;

–Susanne S. Cho, the first Asian-Pacific Islander woman judge ever appointed to the Riverside County Superior Court;
–Truc T. Do, the first Vietnamese-American judge ever appointed to the San Diego County Superior Court;
– M. Bruce Smith, the first African-American justice ever appointed to the Fifth District Court of Appeal;
–Sunshine Sykes, the first Native American judge ever appointed to the Riverside County Superior Court;
–Sunil Kulkarni, the first South Asian American judge ever appointed in Northern California;
–Miguel Marquez, the first Latino justice ever appointed to the Sixth District Court of Appeal;
–Rosendo Peña, the first Latino justice ever appointed to the Fifth District Court of Appeal;
–Chris Doehle, the first woman judge ever appointed to the Del Norte County Superior Court;
–Kimberly Colwell, the first openly lesbian judge ever appointed to the Alameda County Superior Court;
–Mark Andrew Talamantes, the first Latino judge ever appointed to the Marin County Superior Court; and
–Raquel Marquez, the first Latina judge ever appointed to the Riverside County Superior Court.

Under SB 56 and SB 182, the Governor is required to disclose aggregate statewide demographic data provided by all judicial applicants by March 1.

	2018 APPLICANT & APPOINTEE DATA				CUMULATIVE APPLICANT & APPOINTEE DATA (2011-2018)					
	Applicants		Appointees		Applicants		Appointees		CA State Bar Membership (2017)	Sitting Judges and Justices (2017)***
GENDER	#	%	#	%	#	%	#	%	%	%
Female	121	46%	100	51.8%	1030	38.4%	284	44.1%	40.6%	34.5%
ETHNICITY	#	%	#	%	#	%	#	%	%	%
American Indian or Alaska Native	1	0.4%	0	0%	11	0.4%	1	0.2%	0.3%	0.5%
Asian	28	10.6%	29	15%	248	9.3%	70	10.9%	5.9%	7.2%
Black or African-American	21	8%	20	10.4%	221	8.2%	67	10.4%	1.9%	7.3%
Hispanic	33	12.5%	28	14.5%	338	12.6%	101	15.7%	4.6%	10.3%
Native Hawaiian or Other Pacific Islander	3	1.1%	0	0%	10	0.4%	1	0.2%	0.3%	0.2%
Other/Unknown	16	6.1%	2	1%	150	5.6%	14	2.2%	6.7%	7%
White or Caucasian	161	61.2%	114	59.1%	1,701	63.5%	390	60.6%	80.3%	67.5%
GENDER IDENTITY/SEXUAL ORIENTATION (2012-18)*	#	%	#	%	#	%	#	%	%	%
LGBT	13	4.9%	11	5.7%	113	4.2%	38	5.9%	6%	3.2%
VETERAN STATUS (2014-2018)**	#	%	#	%	#	%	#	%	%	%
Veteran	12	4.6%	6	3.1%	77	2.9%	21	3.3%	9.8%	8.2%
DISABILITY STATUS (2014-2018)**	#	%	#	%	#	%	#	%	%	%
Person w/disability	8	3%	1	0.5%	35	1.3%	6	0.9%	4.5%	2.4%

NOTE: The above data for 2018 and cumulative appointees includes appointments made through January 2, 2019.

*****Under SB 182, signed in 2011 and effective January 1, 2012, the administration's judicial application was modified to include a question that asks each judicial applicant to provide demographic data concerning gender identity and sexual orientation. Because a response to this question is voluntary and because all applications received prior to January 1, 2012 did not include this question, the cumulative report does not incorporate this demographic data for 2011

applicants or for appointees who submitted applications in 2011 and were appointed in subsequent years.

******Under AB 1005, signed in 2013 and effective January 1, 2014, the administration's judicial application was modified to include questions that ask each judicial applicant to provide demographic data concerning disability and veteran status. Because a response to these questions is voluntary and because all applications received prior to January 1, 2014 did not include these questions, the cumulative report does not incorporate this demographic data for 2011-13 applicants or for appointees who submitted applications between 2011 and 2013 and were appointed in subsequent years. In addition, though not counted as "veterans" for purposes of the statistical data above, several judicial appointees were on "active reserve status" at the time of their appointment. Finally, some applicants who applied between 2011 and 2014 have subsequently supplemented their applications to show that they are veterans or persons with disabilities. The cumulative data above showing the number of appointees and applicants who identify as veterans or people with disabilities has therefore been updated to include these supplemental responses.

*******Judicial Branch demographic data: In response to the expansion of the mandate for the collection of demographic information from new judges and justices, the sitting judges and justices data collected by the Judicial Council of California on veteran and disability status include responses from those new to the bench in calendar years 2014 through 2017, as well as experienced judges and justices that chose to update their demographic information during the same period.

In addition, the gender identity and sexual orientation data collected for sitting judges and justices include responses from those new to the bench in calendar years 2012 through 2017, as well as experienced judges and justices that chose to update their demographic information during this same period. Thus, the data provided for these categories reflect only a subset of all sitting judges and therefore may not be reflective of the demographics of the entire judiciary.

Judge and Justice demographic data is collected by the Judicial Council of California and State Bar membership data is collected by the California State Bar, based on voluntary survey results. A more detailed breakdown of the demographic data collected by the Judicial Council and the State Bar can be found here and here.

Photo Credit: Joe McHugh, California Highway Patrol. For high resolution copies of these photos, please contact Danella Debel, Office of the Governor at Danella.Debel@gov.ca.gov.

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