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## Trends and Innovations Boosting Diversity in the Law and Beyond

BY CAREN ULRICH STACY ON MARCH 14, 2016

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It's no secret that most legal organizations—law firms in particular—struggle with diversity. When I ask lawyers, diversity experts and researchers around the country why, I usually hear one of two answers: (1) Women and minorities need to fill in the blank, or (2) The current business structure is not equally supportive of all people.

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When people “fill in the blank” on the first answer, they typically assert that diverse individuals need to do something different or better—such as increasing their confidence—to advance in the legal profession. Arguably, that could be true. After all, as humans, aren't we all inherently flawed in some way and, thus, hard-wired to learn, evolve and mature? Maybe. But it certainly seems like an industry-wide copout to use “human flaws” as a primary excuse for why our profession is not more diverse. As recent research demonstrates, the more likely root cause of lack of diversity in the legal field is a flawed business structure that is not equally supportive of all people.

### Fixing the Business Structure, Not Diverse Individuals

In a 2014 *Harvard Business Review* article based on her research, Joan Williams states that “When an organization lacks diversity, it's not the employees who need fixing. It's the business systems.” She explained that organizational “interrupters” can be employed to minimize unconscious bias and the others challenges



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that contribute to the dismal lack of minority representation in law firms and other legal organizations.

These interrupters are centered on the business structures, as well as the leaders who create and support them. Similar to the elements of design-thinking, Williams argues that interrupters should be tried, measured, improved and tried again until success is achieved. Like most R&D efforts, employing these interrupters is an iterative process and not expected to be perfect out of the gate—success, if achievable, comes with testing, tweaking and re-testing with measurable outcomes at all stages of the process. As management expert Peter Drucker says, “What gets measured, gets managed.”

Mentoring in law firms, for example, is the antithesis of this combined interrupters/design-thinking concept. Law firms continue to offer the same mentoring programs year after year for women and attorneys of color, with little or no attention paid to testing, measuring and re-testing their effectiveness from a retention and advancement standpoint. Affinity groups are another example of this phenomenon. A great amount of hoopla often surrounds the launch of a “Women’s Initiative” in a firm, but two years later, there is no mention of positive (or negative) results, because no one is accountable for evaluating the outcomes. Law firms remain stuck with women representing only 18% of the partnership, even though formal mentoring and affinity groups have been standard talent management practices for decades.

Suffice it to say, the old ways are not moving the diversity needle forward. Hope may be on the horizon, though. Several forward-thinking law firms, legal departments, and other organizations are embracing the combined interrupters and design-thinking concept—try, measure, improve and repeat until successful—and benefitting from the results. Put simply, these organizations are trying new things and measuring the outcomes.

Outlined below are just a few examples of innovations aimed at increasing diversity in the legal profession and beyond. These new efforts, which include: (1) tapping untapped sources of diverse talent; (2) minimizing bias in the hiring process; (3) engaging men in the movement; (4) legal departments incentivizing law firms; and (5) transitioning from mentorship to sponsorship; are being tested and measured to improve the business structures that are inhibiting diversity.

## Tapping Untapped Sources of Diverse Talent

Most legal organizations rely on traditional methods such as on-campus interviews, job postings, and headhunters to find the best and brightest lawyers. These tactics are typically effective, but often a shortage of diverse talent is in the mix. Dozens of law firms across the globe, however, have started moving beyond the current traditional sourcing methods to find untapped talent and achieve greater diversity.

Orrick is one example. In May 2015, Orrick partnered with 45 other legal organizations, including Microsoft, Morgan Stanley and Shearman & Sterling, to host the first ever legal-specific military job fair. The goal of the event was to connect legal employers with lawyers who served or currently serve in any branch of the U.S. Armed Forces or Reserves, and lawyers who are military spouses. The need for such an event was highlighted by the fact that veterans and military spouses traveled from all over the country and beyond, including Alaska, Hawaii and Germany, to attend. The event drew nearly 150 candidates—who participated in a total of 400 interviews—and 45 employers, including 24 leading law firms, as well as the legal departments from Microsoft, Morgan Stanley, Citi, Bank of America, American Express, PwC and Prudential. So far, the job fair participants have received offers from Orrick, Kaye Scholer, Schulte Roth & Zabel, Morgan Stanley, Sikorsky Aircraft Corporation and other many other organizations.

Orrick and the other organizations involved tested a new concept that was certainly not a part of the current business structure. They measured the outcomes—which have already resulted in greater diversity in their lawyer ranks—and are now planning to improve and re-test the concept with another job fair in late April 2016.

Greenberg Traurig is another example of a law firm that has employed an innovative sourcing method that is leading to greater diversity. In late October 2013, Greenberg announced its new Residency Program that offers recent law grads without any experience a chance to trade money for training and experience. Residents get paid less than typical first-year associates, but are billed at lower rates and expected to bill



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fewer hours, which allows the firm to incorporate more training as a large part of the one-year program. In return, inexperienced lawyers—many of whom are women and attorneys of color—from law schools outside of Greenberg's typical on-campus interview schedule get an opportunity to demonstrate their value while learning the practice of law and gaining hands-on experience with clients. Since its launch, Greenberg has continuously measured and tweaked the program to increase its effectiveness as a source of great, and hopefully diverse, talent. One of the lead talent management administrators at Greenberg reports that residents are being hired at the same rate as summer associates into full-time, traditional associate roles, and that the program has increased the percentage of Hispanics and African Americans in the firm's talent pipeline.

Finally, the OnRamp Fellowship is another prime example of a non-traditional sourcing method that is leading to increased diversity in law firms and legal departments. The Fellowship is a unique re-entry platform that places experienced women returning to the legal and banking professions in six- to 12-month paid fellowships. This unique experiential learning program gives returning women—many of whom have opted out of the workforce for a period of time to raise children—an opportunity to demonstrate their value in the marketplace while also broadening their experience, skills and contacts.

Similar to the other non-traditional sourcing methods mentioned, the fellowship organizers and four inaugural participating firms—Sidley, Cooley, Hogan Lovells and Baker Botts—tested the concept, measured the results and then improved upon the initial plan. Now, nearly 30 of the world's top law firms, legal departments and banks, including White & Case, Orrick, Jenner & Block, Covington, Amazon, HP Enterprise and Barclays, have signed on and are helping to re-test, measure and continuously improve the program. Two years in, the outcomes are overwhelmingly positive—85 % of the returning women who have completed the fellowship have permanent jobs, and the participating legal organizations are benefitting from the increased diversity in their mid- to senior-level ranks.

## Minimizing Bias in the Hiring Process

Sourcing candidates is just one important step in the hiring process. The other critical elements that can contribute to or detract from an organization's ability to diversify its population include: (1) how employers attract candidates to apply for their jobs; and (2) how they decide who to interview and ultimately hire. In most legal organizations, if candidates have the requisite experience and pedigree, they are invited in for an interview for further vetting to ensure that they fit within the culture. Since most interviewers tend to place significant weight on likability when deciding who to hire, "culture fit" is essentially code for "are you like the rest of us?"

One major problem with this simple, yet antiquated process is unconscious bias. Everyone has biases, and sometimes those biases, if left unchecked, lead to hiring decisions that invite like-minded people in and shut everyone else out. Fortunately, some organizations—in and outside of the legal field—are taking notice of the ever-growing amount of research verifying that diverse teams make better decisions, which often results in higher profits.

Major tech companies such as Twitter and Microsoft are not leaving any part of the hiring process to chance, and they are starting at the beginning with their job descriptions. *Fast Company* writer Sean Captain reports that these companies are vetting their job descriptions to ensure that they are gender-neutral using Textio and other web-based applications. He states that these tools are "... a form of artificial intelligence (AI) called natural language processing (NLP) to study the verbiage in documents. Resembling a spelling and grammar checker, it flags words and phrases that are cliché, gender-biased, or otherwise off-putting as someone types them." A significant 2014 study titled *A Company I Can Trust? Organizational Lay Theories Moderate Stereotype Threat for Women*, found that companies that emphasize employee growth and development are more appealing to women than ones that boast about hiring individuals who are already rock stars.

Several companies and law firms are taking this a step further, and employing blind résumé reviews and interviews during the hiring process. The London offices of Clifford Chance, Mayer Brown and Macfarlanes have implemented a résumé-blind policy for interviews, which means that the decision makers know nothing about a candidate's ethnicity, age, gender, and educational background when they decide whether or not to invite them in for interviews. Petar Vujosevic, a co-founder of GapJumpers, a software platform that presents

candidates without any identifying information, said in a recent *Business Insider* interview that blind résumé reviews "... make the quality of skills the first impression and point of reference, instead of the résumé." Realizing that implicit bias plays a significant role in hiring, these organizations have taken significant steps to mitigate that issue during the resume review process.

## Engaging (White) Men in Diversity Efforts

In some legal organizations, increasing diversity and inclusion is considered to be the responsibility of a specific person or group—the diversity committee, the women's committee, or the diversity director. Enlightened organizations, however, know that it is everyone's responsibility. In particular, white men need to be engaged and involved, since they often account for a large part of these organizations' leadership.

Shifra Bronznick, founder of Advancing Women Professionals and the Jewish Community, understands this need perfectly. Instead of fighting the battle to increase the number of women on panels by herself or with the help of other women, she is encouraging men not to convene or participate on all-male panels. Her efforts sparked a movement that has leapt from religion into the tech and science communities. More than 300 men—rabbis, scientists, and tech leaders included—have signed onto the Men as Allies campaign. SXSW, which produces gatherings in music, film, interactive, education, and more, now requires all panel organizers to include at least one woman in any session with three speakers or more.

Catalyst, one of the largest nonprofit organizations in the world focused on increasing opportunities for women in the workforce and beyond, saw a need to engage men in the diversity challenge as well. It launched Men Advocating Real Change (MARC) as a community for men committed to achieving gender equality in the workplace. MARC's website serves as a forum in which its members can engage in candid conversations about the role of gender in the workplace. It also showcases member-generated advice, insights, and best practices to inspire men who wish to expand gender diversity within their organizations. Although women are welcome to join MARC and take advantage of its resources, the organization's primary purpose is to support and inspire men seeking to drive meaningful change.

Legal organizations are taking notice of the need to engage men as well. In 2014, Ms. JD launched The Incredible Men Initiative (TIM) to celebrate men who not only value equality and diversity in the profession, but also earnestly and enthusiastically support women and women's initiatives. Each year, the TIM Initiative Award is presented to an active male champion for women's advancement in the legal profession.

Ida Abbott, one of the most well-known and respected talent management consultants in the legal field, has also created an initiative to engage men and celebrate their advancement of women in law. She created Breakfast for Champions, which is derived from her book, *Sponsoring Women: What Men Need to Know*, to get more men engaged in sponsoring women for partnership, leadership, and career advancement. Invitations for a breakfast are sent to men and women, and women are encouraged to invite men who are, should be, or want to be sponsors for women. The objectives of the breakfast are to:

- Honor men who have successfully sponsored women.
- Highlight the importance of sponsorship for women.
- Distinguish sponsorship from mentorship.
- Make men comfortable discussing any concerns they may have about sponsoring women.
- Educate men about how to manage and overcome those concerns.
- Present examples and role models of successful male sponsors.
- Offer specific, concrete steps and strategies for sponsoring women.

Ida's rationale for the initiative, as she states on her website, is:

It is well established that sponsorship is critical for advancement in firms and organizations. Most powerful people who are positioned to be sponsors are men, and most men sponsor other men. While most male leaders genuinely support policies and programs for women, they often overlook or avoid women for sponsorship. The reasons for this include discomfort due to perceived

complexities in opposite-sex relationships, unconscious gender bias, and concerns about jealous spouses, office gossip, and allegations of harassment. Women talk with each other about these issues through women's initiatives, conferences, and other activities, but men do not have the same forums, nor is the issue of women's advancement generally a top-of-mind topic for them. We need to bring men into the conversation, inform and encourage them, and get them involved on a personal level by sponsoring more women.

The National Conference of Women's Bar Associations went a step further. In addition to celebrating men who are engaged in the advancement of women and minorities, they created The GOOD (Guys Overcoming Obstacles to Diversity) Guys program and toolkit to provide resources that law firms and legal departments can customize and use as they attempt to engage men in their own diversity efforts. The website offers resources, sample panel questions, programming guides, sample forms, to-do lists, and other templates so organizations don't have to start from scratch with these efforts.

## Legal Departments Incentivizing Law Firm Diversity

For many years, large legal departments such as Gap and Allstate have been requesting diversity data from their law firms in hopes of encouraging greater diversity and inclusion on their teams. Now, several legal departments are taking it to the next level.

Microsoft is one of the legal departments that asks law firms to provide statistics on the diversity of associates working on its matters. This effort, launched in 2008, has resulted in a shift in the percentage of hours worked by diverse lawyers on Microsoft matters from 33.6% to 48.2%. Recently, they upped the ante to also reward firms whose partners and leaders are connected with Microsoft work. Under the new approach, Microsoft's Premier Preferred Provider law firms have an opportunity to earn a bonus between 0.5% and 2% of the legal fees billed to the company. The bonus will be based on the participating firm's performance in increasing diversity in three aspects:

1. Leading the management of the law firm.
2. Leading the law firm's relationship with Microsoft.
3. Leading Microsoft's legal matters.

In addition to the potential 2% bump in legal fees, the new program will award the highest achieving firm an additional bonus of 1% of the firm's legal fees, along with public recognition by Microsoft.

Although packaged a little differently, other legal departments are incentivizing diversity at the leadership levels in law firms as well. In summer 2014, the general counsels of DuPont, General Mills, Verizon, and Walmart launched Engage Excellence. As part of the program, each company has committed a portion of its legal spend and the corresponding work to diverse lawyers in hopes of advancing them within their law firms. Engage Excellence was designed to ensure that these diverse lawyers have the opportunity to serve in leadership roles on significant client matters and, as importantly, that they receive credit for the work. To create a pipeline of next generation lawyers moving up through the ranks, diverse junior lawyers are expected to work on the matters with these senior lawyers to gain the training, skills and experiences necessary for their own advancement.

The diverse lawyers involved include attorneys of color, LGBT lawyers and women—who the companies expect will serve in at least 50% of the lead counsel roles—with supervisory experience across a variety of practices. Law firms will verify that the diverse lead lawyer receives origination credit within the firms.

## Transitioning from Mentoring to Sponsorships

Sponsorship programs are the new mentoring. Many organizations have so-called "sponsorship programs" in place to retain and advance their diverse lawyers. The problem is that they are managing these programs in the same way they managed (and continue to manage) mentoring programs—pair junior lawyers with senior lawyers and hope that they benefit from each other and add value to the firm and its clients. Testing, measurement, and improvement are not part of the equation. Some organizations, however, have adopted a

sponsorship model that truly encapsulates the interrupters concept.

Women Leading Citi, which was launched by Citigroup several years ago, is an excellent example. The 18-month sponsorship program is designed to foster the mobility of Citi's high-performing senior women. Managing director- and director-level women who have expressed an interest in advancing their careers through mobility are nominated by their business leaders. Participants are provided with opportunities to network and to broaden their leadership skills with a four-person support team that includes their manager, a human resources partner, a talent professional, and a senior advocate who serves as their sponsor. Participants receive in-depth assessments, personal coaching, and attend leadership workshops and webinars led by industry experts. 59 women took part in the initial program, 70% of whom experienced career advancement over the 18 months. The program was re-launched a few years later with 54 women, 36% of whom had experienced career mobility through year-end. Citi has an additional sponsorship program called Women in Risk that is dedicated to those working in risk management. Female directors or senior vice presidents in the risk function are identified and nominated by members of the risk executive committee, who then become their sponsor for the program. The multi-faceted one-year program provides visibility, training, career planning, and access to senior leadership within the risk unit and across Citi. According to a 2013 *Glass Hammer* article, more than half of the participants moved onto bigger roles within their first year.

Several legal entities have benefitted from similar sponsorship efforts. For instance, each year Holland & Knight selects a group of talented and dedicated women lawyers in their seventh year and beyond to participate in Rising Stars, a yearlong program of leadership, marketing, management, and professional skills development, professional mentoring, and experiential learning. The program has been in place since 2003. Since then, based on the participants listing on the firm's website, more than 60 women have gone through the program, the majority of whom are still at the firm and now carry the title "partner."

As another example, the Leadership Council on Legal Diversity (LCLD) has a highly successful sponsorship program that spans more than 150 law firms and legal departments. The LCLD Fellows Program, started in 2011, was designed to connect high-potential attorneys with general counsel and managing partners from preeminent organizations. Mid-career lawyers are nominated by their organizations to participate in the intensive learning program that includes in-person conferences, legal practice training, peer-group projects to foster collaboration and build relationships, and extensive contact with LCLD's top leadership, including the managing partners and general counsels who host the fellows for learning experiences and leadership lunches. The fellows are also assigned a peer accountability partner to help them apply the advice and techniques to their careers and lives. Similar to other "interrupter" initiatives, this program benefitted from piloting the program, measuring the outcomes, and improving it based on the lessons learned.

The outcomes of the LCLD Fellows Program are incredibly positive. Nearly half of the fellows (47%) report that their participation in the program has increased their exposure to top management within their organizations. In a growing trend, nearly half have referred work to each other. And 90% report that LCLD has been valuable in enhancing their relationships with leaders of their organizations. The fellows are clearly benefitting from the program, but so are the organizations. LCLD member retention and participation rates are well above 90%; the organizations and their leaders are likely continuing to support and participate in the program year after year because they are seeing positive results.

## In Summary

Although most of these innovations are still too new to fully evaluate the results from a long-term diversity perspective, all of them are set up for continuous measurement and improvement. These organizations and their efforts should be applauded for trying something new. They are *taking action* to rethink and fix the business structure, instead of merely *talking* about the lack of diversity in it.

In addition to celebrating these organizations for their clear "bias for action" to increase diversity, we should encourage and support their efforts in every way possible, since their successes—and failures—will allow our

industry as a whole to learn and grow. Please tell every veteran and military spouse you know about the career fair. Send a note about the OnRamp Fellowship to every women lawyer who has left the profession and wants to come back. Before you launch your firm's or legal department's next mentoring or sponsorship program, think about and include some of the measurement tools that Citi, LCLD, and others are incorporating to increase effectiveness for diverse individuals and the organization.

And, of course, please encourage your organization's leaders to experiment with new and innovative practices that have the possibility of increasing diversity. Together, let's start a R&D movement aimed at moving the diversity needle forward.

## About the Author

*Caren Ulrich Stacy is the CEO of Diversity Lab, which uses data and behavioral science to create and test initiatives that boost diversity at the leadership levels in organizations. The OnRamp Fellowship is the company's hallmark project. Caren can be reached at [caren@diversitylab.com](mailto:caren@diversitylab.com).*

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