

GENERAL COUNSEL ROUNDTABLE  
*April 2002*

FROM THOUGHT TO ACTION:  
FOSTERING LEGAL  
DEPARTMENT DIVERSITY  
*Selections from the Diversity White Paper*



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**Observation #1:** Diversity is often conceptualized as a moral or social imperative. However, diversity is increasingly a business imperative, enabling the department to accomplish a variety of goals.

# FOSTERING DIVERSITY

## **Goal #1: Serve a Diverse Workforce Emerging from Changing Demographics and Global Expansion**

### Diversity Representation in Jurisprudence

Legal Position	Representation in the Field (Selected Statistics)
<b>Law Students</b>	<ul style="list-style-type: none"> <li>• Since 1980, minority law school enrollment has grown 257 percent; however, minority enrollment from 1995 to 2000 increased by less than 1 percent.</li> <li>• In 2001, 49 percent of all law students were women and 20.6 percent were minority students</li> <li>• Among the total 26,257 minority students, 9,412 or 36 percent were African American; 990 or 4 percent were Native American; 8,421 or 32 percent were Asian American; 2,334 or 9 percent were Mexican; 4,411 or 17 percent were Latino.</li> </ul>
<b>Law Firms</b>	<ul style="list-style-type: none"> <li>• Less than 3 percent of all partners in United States law firms are minorities.</li> <li>• 10 percent of the United States' largest firms have, at most, one minority lawyer.</li> </ul>
<b>Law Clerks</b>	<ul style="list-style-type: none"> <li>• People of color comprise approximately 15 percent of judicial law clerks.</li> </ul>
<b>Judges</b>	<ul style="list-style-type: none"> <li>• Three-quarters of the federal circuit courts have either no African American or no Latino jurist.</li> <li>• Asian Americans account for only 7 of 748 federal judges.</li> <li>• Only one Native American serves as a federal judge.</li> </ul>
<b>In-House Counsel</b>	<ul style="list-style-type: none"> <li>• 31.5 percent of in-house counsel are women.</li> <li>• 7.9 percent of in-house counsel in the Fortune 500 are African American.</li> <li>• 2.6 percent of in-house counsel are Asian American.</li> <li>• 2.4 percent of in-house counsel are Latino.</li> </ul>
<b>General Counsel</b>	<ul style="list-style-type: none"> <li>• 21 of the Fortune 500 General Counsel are people of color, 3 of whom are female.</li> <li>• 8.4 percent of Fortune 500 General Counsel are female.</li> </ul>

Source: Minority Corporate Counsel Association, *Creating Pathways to Diversity* (2000); Lawyers for One America, *Bar None* (2000); American Corporate Counsel Association, "Census of In-House Bar: ACCA Membership Survey," 2001; Preis, Elisabeth, and Catherine Aman, "More of a Mosaic," *Corporate Counsel* (November 2001); Stewart, Laurie, "No Growth in Number of Women, Minority Law Students," *The Legal Intelligencer* (4 April 2002); General Counsel Roundtable, *From Thought to Action: Fostering Legal Department Diversity*: December 2001.

# IS A BUSINESS ISSUE

## **Goal #2: Decrease the Risk of Discrimination Litigation and Public Relations Problems Generated by Activist Organizations and Consumers**

### —SELECTED DIRECT COSTS OF DISCRIMINATION LITIGATION—

- A sampling of data for the period 1991 to 2001 shows that 32 companies were ordered to pay out more than \$1.3 billion in damages, ranging from \$17,500 to \$250 million per case.
- From 1994 to 1999, the likelihood that employees would win discrimination suits increased from 45 percent to 72 percent.
- The average, single plaintiff, single-count employment complaint can cost between \$30,000 and \$50,000 before trial. The median compensatory award escalated from \$128,000 in 1996 to \$221,612 in 1999. In June 2001, in a landmark decision, a female former executive for the Massachusetts Bay Transportation Authority (MBTA) was awarded \$7.6 million in a sexual discrimination lawsuit.
- EEOC payouts for employment discrimination claims have increased from \$117 million in 1991 to \$246 million in 2000.

## **Goal #3: Gain Competitive Advantage from the Creative Design of Strategy and the Physical Presence of Diversity in the Courtroom**

### —DIVERSITY ENABLES CREATIVE PROBLEM SOLVING—

“Put simply, diverse people generate diverse thinking. When it comes to problem solving, if six people are gathered around a conference table, all with the same background, education and experience, the issues tend to be viewed through a narrow lens. Diverse thinking, on the other hand, can produce a more expansive view of the issue under consideration. More and better questions arise, leading to more and better answers. New perspectives are shared—and creative legal solutions spring forth.”

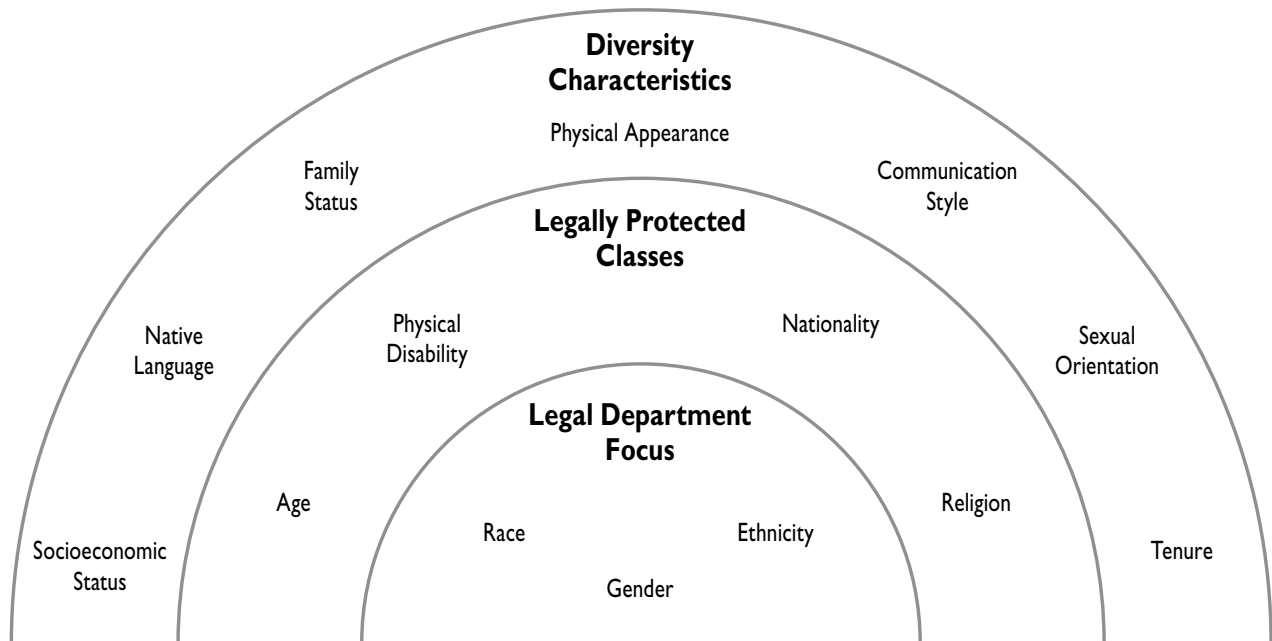
Thomas Sager  
Vice President and Assistant General Counsel  
E.I. du Pont de Nemours and Company

Source: Gresing-Pophal, Lin, “A Balancing Act on Diversity Audits,” *HR Magazine* 46 (November 2001); Lajewski, Leslie, “A Decade of Developments: The Amazing Changes in Employment Litigation During the Past Ten Years,” *The Metropolitan Corporate Counsel* (October 2001): p. 19; Hanchett, Doug, “Jury Hands Fired ‘T’ Exec \$7.6 Million,” *Boston Herald*, 9 June 2001; General Counsel Roundtable, *From Thought to Action: Fostering Legal Department Diversity*: December 2001.



**Observation #2:** Definitions of diversity range from specific terminology based on legally protected classes to broad, all-inclusive definitions. The current trend is to define diversity very broadly. However, the majority of diversity strategies currently at work in legal departments focus on groups with easily identifiable, visible characteristics that are protected by law; specifically gender, race, and ethnicity.

## DEFINING DIVERSITY IS THE FIRST STEP



Source: General Counsel Roundtable, *From Thought to Action: Fostering Legal Department Diversity*; December 2001.

**Observation #3:** The amount of resources dedicated to diversity programs often varies according to department size. Departments with smaller budgets and fewer staff members may confront challenges that are significantly different from those obstacles found in larger departments. Consequently, solution formulation and implementation cannot be generic.

## DIVERSITY CHALLENGES VARY BY

Challenges to the Establishment of Diversity Initiatives, by Department Size

Challenge	Effect on Small Departments	Effect on Large Departments
<b>Ascertaining Appropriate Representation</b>	Smaller legal departments may find it difficult to gauge the appropriate level of diversity representation and typically have fewer hiring opportunities to improve legal team diversity.	Large departments should not only be concerned with the number of diverse attorneys, but also with their distribution throughout the department. Even in departments that are statistically diverse, diverse talent is frequently clustered in more junior positions.  Large departments have more resources to support diversity initiatives; however, programs are scalable and large department programs may still face resource constraints (particularly attorney time).
<b>Securing Adequate Resources</b>	Many of the programs outlined in the study require the following resources, which are often limited in smaller departments: <ul style="list-style-type: none"> <li>• Time</li> <li>• Budget allocation</li> <li>• Staff resources</li> </ul>	Coordinating staff members across geographic regions further complicates the implementation and management of diversity programs.

**Observation #4:** Geography is another factor that shapes diversity challenges and appropriate solutions within corporate legal departments. Many corporate headquarters are located away from large cities and centers of commercial and cultural activity and, as a result, away from larger, more diverse population groups.

## DEPARTMENT SIZE AND GEOGRAPHY

### THE IMPACT OF GEOGRAPHY ON LEGAL DEPARTMENT DIVERSITY

- *Size of Local Talent Pool*  
Departments in cities with a small racial and ethnic minority population confront more difficulties in attaining diversity because there is already a limited talent pool from which to recruit.
- *Bidding Power of Department*  
Departments in some locations confront difficulties vying for talent because diverse candidates may be unwilling to relocate to an area where the total quality of life is perceived to be less than desirable.

### RECRUITING TO THE MIDDLE OF NOWHERE

“The top-notch diverse candidates at Wall Street law firms don’t want to come out here. It’s a suburban area that does not have a large amount of diversity in its population base (although that’s changing) and it’s out in the middle of nowhere. It’s a real challenge.”

General Counsel  
Manufacturing Company

Source: General Counsel Roundtable, *From Thought to Action: Fostering Legal Department Diversity*; December 2001.



**Observation #5: Legal departments must seek out new talent pools and overcome barriers to attracting diverse talent in order to achieve diversity in the workplace.**

# RECRUITING BEYOND

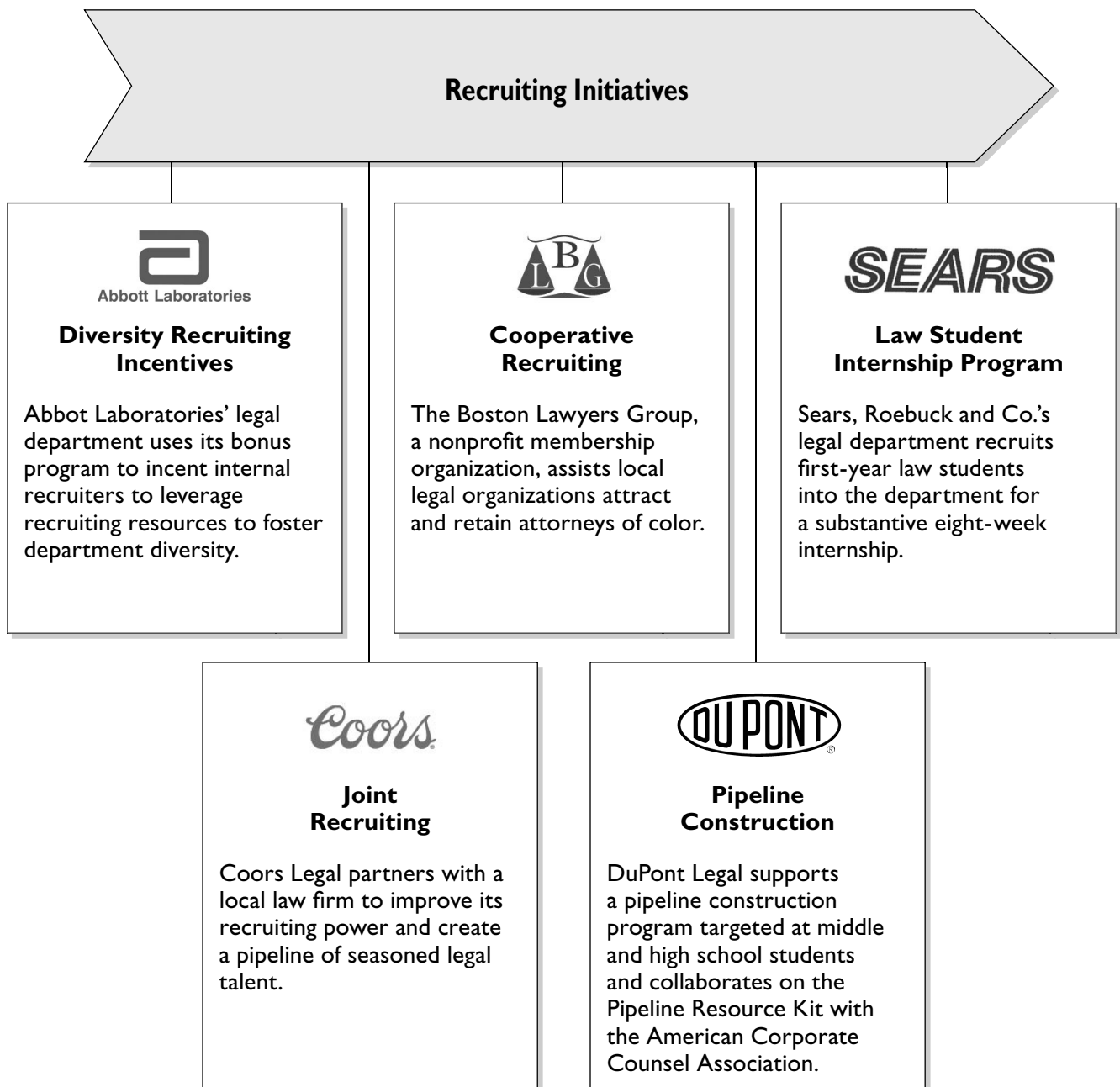
## Barriers to Attracting Diverse Talent

Barrier	Effect
<b>Unattractive Location</b>	General counsel in every region of the country have complained that they are handicapped in recruiting efforts because of their particular location. Companies have difficulty persuading recruits to relocate to a given city for countless reasons, including weather, culture, and size. Attorney location preferences vary. In the case of minorities, the ethnic and racial composition of a city and, equally important, its perceived receptiveness to outsiders can be decisive factors in a relocation decision.
<b>Lack of Critical Mass</b>	The diversity literature and corporate legal staff cite the lack of critical mass of diverse attorneys as the largest obstacle to recruiting. If a minority or female attorney sees few or no similar attorneys within the department or in the management ranks, the recruit will likely perceive limited advancement opportunities in that department. A core of diverse employees at all levels of the legal department is a department's greatest recruiting advantage. As one general counsel notes, "diversity recruiting builds on itself."
<b>Inability to Compete with Law Firm Salaries</b>	The average annual salary of a seventh-year law firm associate is \$120,000, and at certain large firms in major metropolitan areas, salaries may go as high as \$220,000 (not including bonus). The average starting salary for a legal department attorney with five years of legal practice experience, however, is \$104,000, representing a substantial pay cut for moving in-house.

Source: National Association for Law Placement, "2000 Associate Salary Survey National Summary Chart," <http://www.nalp.org/nalpresearch/sumchoo.htm>. (31 October 2001); General Counsel Roundtable Benchmarking Survey 2000; General Counsel Roundtable, *From Thought to Action: Fostering Legal Department Diversity*: December 2001.

**Observation #6:** Strategies include using search firms that specialize in minority attorney searches, as well as partnering with law firms or a consortium. Departments can also capitalize on the personal network of their diverse attorneys.

## THE TRADITIONAL POOL

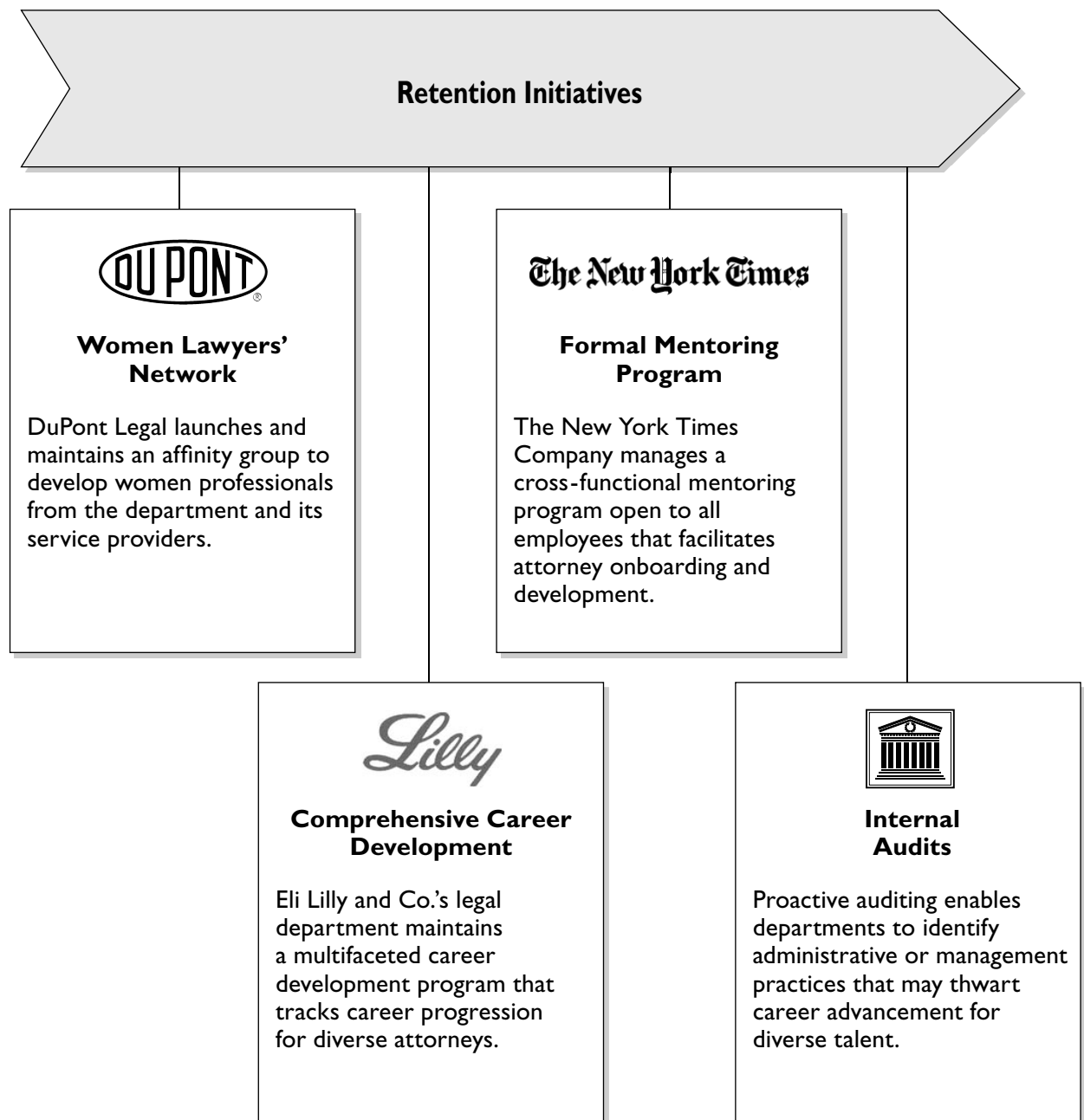


Source: General Counsel Roundtable, *From Thought to Action: Fostering Legal Department Diversity*: December 2001.



**Observation #7:** Many legal departments focus their attention solely (or to an inappropriate degree) on recruiting, leading to a revolving door of diverse legal talent. Retaining diverse employees (through mentoring, creating affinity groups, and removing obstacles to advancement) keeps departments from wasting recruiting dollars and experiencing productivity losses while new attorneys are onboarded.

## RETAINING DIVERSE TALENT IS THE TRUE GOAL



Source: General Counsel Roundtable, *From Thought to Action: Fostering Legal Department Diversity*; December 2001.

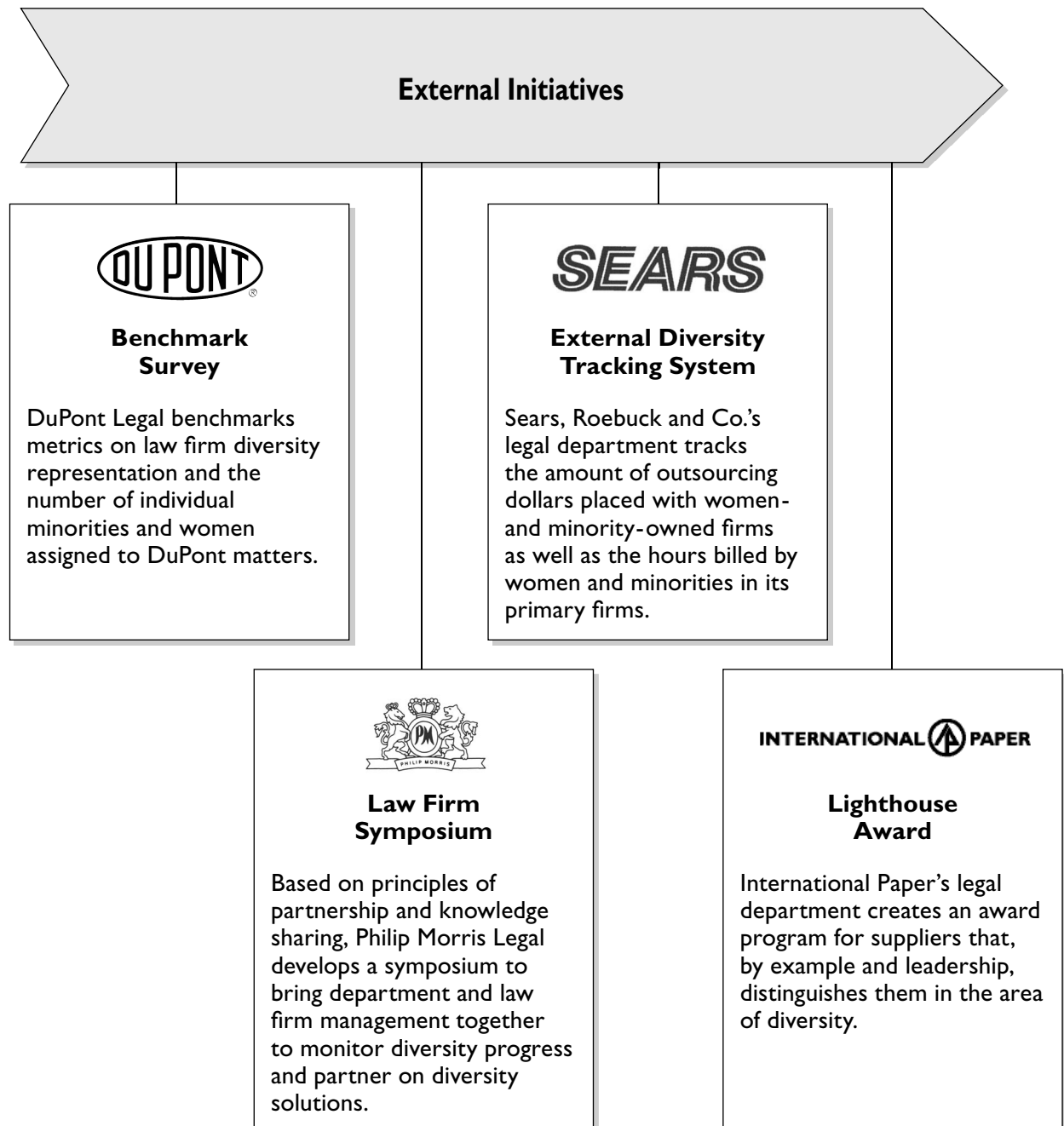
**Observation #8:** Departments that have great difficulty fostering greater diversity internally have a tremendous opportunity to encourage diversity in outside counsel through tracking, monitoring, and rewarding law firm efforts.

## OPPORTUNITY PRESENTED BY

### DRIVERS OF EXTERNAL DIVERSITY INITIATIVES

- *Existence of Internal Diversity Programs*  
Expansion in the breadth and depth of corporate legal department diversity programs has increased attention on diversity in law firms. Failure to structure outside counsel relationships to support diversity initiatives limits the scope of many in-house diversity programs, especially for small departments that allocate an even greater portion of their legal spending to outside counsel engagement.
- *Increased Collaboration with Outside Counsel*  
Progressive legal departments are interested in forming strategic, long-term relationships with outside counsel. These relationships are characterized by increased collaboration and communication.
- *Perception of Strategic Advantage*  
As corporations face a greater likelihood of discrimination suits and diverse juries, legal departments increasingly recognize the strategic advantage of being represented by diverse attorneys.
- *Internal Pressure from the CEO*  
Numerous CEOs place a high degree of importance on using minority service providers (or fear that a lack of diverse suppliers can expose corporations to additional legal risk). As a result, supplier diversity initiatives are a common component of corporate diversity programs.
- *External Pressure from Organizations*  
In some instances, activist organizations and minority supplier associations exert pressure on legal departments to increase the use of minority- and women-owned law firms.
- *Risk of Legal Action*  
A number of corporations may be subject to statutory or regulatory provisions requiring use of minority service providers. Consequently, they have incorporated certain guidelines to ensure compliance.

# EXTERNAL DIVERSITY INITIATIVES



Source: General Counsel Roundtable, *From Thought to Action: Fostering Legal Department Diversity*: December 2001.

**Observation #9:** Few departments compile diversity metrics beyond those that are required for the purpose of EEOC compliance. However, metrics are critical for determining diversity initiative resource investment and return.

# METRICS ARE KEY

## Diversity Performance Metrics

	Metric	Description	Purpose
Recruiting	<b>Applicant Response Rate</b>	Number of resumes received from each recruiting venue (e.g., job fair, employee referral)	Helps determine which recruiting channels are most effective at generating response
	<b>Employment Offers per Recruiting Effort</b>	Number of employment offers extended by recruiting channel	Provides insight into the quantity and quality of applicants received through different recruiting channels
	<b>Number of Diverse New Hires</b>	Number of diverse candidates accepting a job offer	Should be compared to total number of new hires and analyzed over time to determine trends
	<b>Workforce Demographics</b>	Breakdown of legal department staff according to diversity vectors	Vectors will be determined by the department's particular diversity objectives; numbers on women and minorities must be compiled for EEOC compliance
Retention	<b>Attrition Rates</b>	Number/percentage of employees leaving the legal department	Rates for diverse staff should be compared to department average
	<b>Training Evaluations</b>	Quantitative (surveys) or qualitative (focus groups) analysis of training effectiveness	Provides feedback on effectiveness of training format, facilitator, content, etc.
	<b>Affinity Group Participation Rates</b>	Level of participation in affinity group meetings or events (number of participants/ total possible participants)	Provides insight into usage of affinity group networks and the popularity of particular activities
	<b>Mentoring Program Evaluations</b>	Quantitative and qualitative evaluations of mentoring program effectiveness	Survey or debriefing results provide insight into ways the program can be improved; may also indicate problems with a particular mentor or mentee
	<b>Exit Interviews</b>	Meetings with diverse attorneys leaving the department to solicit targeted information on departure drivers	Gather information on what push and pull factors contribute to diverse attorneys' departures

# TO PROGRAM SUCCESS

## Diversity Performance Metrics (continued)

	<b>Metric</b>	<b>Description</b>	<b>Purpose</b>
<b>Advancement</b>	<b>Promotion Tracking</b>	The length of time between promotions versus department average	May indicate performance of individual attorney; however, recognizable trends over time may indicate a bias in the review and promotion process
	<b>Diverse Representation in Senior Ranks</b>	Number of diverse attorneys directly reporting to the General Counsel	Measures success at moving diverse attorneys from entry-level positions into senior legal management; important data for succession planning
<b>Program Performance</b>	<b>Number of EEOC Complaints</b>	Number of harassment and discrimination claims received	Decreasing harassment/discrimination claims is indicative of a more inclusive work environment
	<b>Employee Attitude Surveys</b>	Surveys that measure the employees' perceptions of diversity in the workplace	Attitude surveys should be taken at periodic intervals to measure ongoing diversity progress; using a standardized survey tool allows comparison of results over time

Source: General Counsel Roundtable, *From Thought to Action: Fostering Legal Department Diversity*; December 2001.



# DIVERSITY

## Legal Organizations

Hispanic National Bar Association  
8201 Greensboro Drive  
Suite 300  
McLean, VA 22102  
Phone: 703-610-9038  
Fax: 703-610-9005  
[www.hnba.org](http://www.hnba.org)

Minority Corporate Counsel Association  
1400 L Street NW  
Tenth Floor  
Washington, DC 20005  
Phone: 202-371-5909  
[www.mcca.com](http://www.mcca.com)

National Asian Pacific  
American Bar Association  
1341 G Street, NW  
Fifth Floor  
Washington, DC 20005  
Phone: 202-626-7693  
[www.napaba.org](http://www.napaba.org)

National Bar Association  
1225 11th Street, NW  
Washington, DC 20005  
Phone: 202-842-3900  
Fax: 202-289-6170  
[www.nationalbar.org](http://www.nationalbar.org)

Native American Bar Association  
P.O. Box 167  
West Linn, OR 97068  
[www.nativeamericanbar.org](http://www.nativeamericanbar.org)

## Web Sites

[www.abanet.org](http://www.abanet.org)  
American Bar Association Web site; contains reports on status of diversity in the legal profession and representation statistics.

[www.diversecounsel.org](http://www.diversecounsel.org)  
An American Corporate Counsel Association Web site; contains various diversity resources and an online search function to locate diverse counsel.

[www.diversityinc.com](http://www.diversityinc.com)  
A daily online newsletter with the latest diversity news.

[www.diversityonline.com](http://www.diversityonline.com)  
Official Web site of The Institute for Corporate Diversity, a diversity database and research publisher.

[www.lfoa.org/diversity](http://www.lfoa.org/diversity)  
Lawyers for One America Web site; contains electronic version of Bar None Report.

# RESOURCES

## Search Firms

The Aspen Group  
6930 Carroll Avenue  
Suite 7222  
Takoma Park, MD 20912  
Phone: 240-494-2029  
Fax: 301-270-0061  
Contact: Linda Burke, Managing Director  
E-Mail: [lburke@aspenpersonnel.com](mailto:lburke@aspenpersonnel.com)

Carrington & Carrington Ltd.  
39 South LaSalle  
Suite 700  
Chicago, IL 60603  
Contact: Willie and Marian Carrington  
Phone: 312-606-0015

Catalyst Corporate Board Placement  
120 Wall Street  
New York, NY 10005  
Phone: 212-514-7600  
Fax: 212-514-8470  
Specializes in female board of directors placement

Continuum Legal  
6723 Whittier Avenue  
Suite 202  
McLean, VA 22101  
Contact: Traci Mundy Jenkins  
Phone: 703-734-7474  
Fax: 703-734-8839  
E-Mail: [tmjenkins@continuumlegal.com](mailto:tmjenkins@continuumlegal.com)

Diversity Search Partners  
(a.k.a. Berkhemer/Clayton)  
221 S. Figueroa Street  
Suite 240  
Los Angeles, CA 90012  
Contact: Melba Saunders  
Phone: 213-621-2300, ext. 21

Dominguez and Associates  
7401 Rosewood Manor Lane  
Gaithersburg, MD 20882  
Contact: Cari Dominguez  
Phone: 301-208-1404  
E-Mail: [caridom@erols.com](mailto:caridom@erols.com)

H.C. Smith Limited  
20600 Chagrin Boulevard  
Suite 200  
Shaker Heights, OH 44122  
Contact: Dr. Herbert C. Smith  
Phone: 800-290-9178

LaMonte Owens, Inc.  
P.O. Box 27742  
Philadelphia, PA 19119  
Phone: 215-836-2700  
Fax: 215-836-4167  
E-Mail: [Lowens@diversityrecruiting.com](mailto:Lowens@diversityrecruiting.com)

LawScout, Inc.  
4922 Lake Park Lane  
Acworth, GA 30101  
Contact: Crystal Banks  
Phone: 770-966-8850  
Fax: 770-966-8841  
E-Mail: [lawscout@bellsouth.net](mailto:lawscout@bellsouth.net)

National Association of Legal Search Consultants  
11 East Hubbard Street  
Suite 5A  
Chicago, IL 60611  
Phone: 312-755-0635  
Fax: 312-431-8697  
[www.nalasc.org](http://www.nalasc.org)

Richard Clarke Associates  
9 West 95th Street  
Suite C  
New York, NY 10025  
Phone: 212-222-5600

# DIVERSITY

## Trainers and Consultants

Abt Associates  
181 Spring Street  
Lexington, MA 02421  
Phone: 781-372-6500  
Fax: 781-372-6501  
[www.abtassoc.com](http://www.abtassoc.com)

American Institute for Managing Diversity  
Dr. R. Roosevelt Thomas, Jr.  
50 Hurt Plaza  
Suite 1150  
Atlanta, GA 30303  
Phone: 404-302-9226  
Fax: 404-302-9252  
[www.aimd.com](http://www.aimd.com)

Cook Ross Inc.  
117 East West Highway  
Silver Spring, MD 20910  
Phone: 301-565-4035  
Fax: 301-565-3952  
[www.cookross.com](http://www.cookross.com)

The Diversity Training Group  
692 Pine Street  
Herndon, VA 20170  
Phone: 703-478-9191  
Fax: 703-709-0591  
[www.diversitydtg.com](http://www.diversitydtg.com)

Employment Law Institute  
Zang Mansion  
709 Clarkson Street  
Denver, CO 80218  
Phone: 303-813-0033  
Fax: 303-894-9518

The Felicity Group Ltd.  
Forty East Ninth Street  
Suite 1601  
Chicago, IL 60605  
Phone: 312-663-0202  
Fax: 312-663-4680  
[www.thefelicitygroup.com](http://www.thefelicitygroup.com)

Global Lead Management Consulting  
Hillcrest Tower  
7162 Reading Road  
Suite 250  
Cincinnati, OH 45237  
Phone: 800-762-0882  
Fax: 513-731-8702  
[www.globallead.com](http://www.globallead.com)

Hubbard and Hubbard Inc.  
1302 Holm Road  
Petaluma, CA 94954  
Phone: 707-763-8380  
Fax: 707-763-3640  
[www.hubbardnhubbardinc.com](http://www.hubbardnhubbardinc.com)

J. Howard & Associates  
Brighton Landing West  
10 Guest Street, Suite 300  
Boston, MA 02135-2067  
Phone: 617-254-7600  
Fax: 617-254-7117  
[www.jhoward.com](http://www.jhoward.com)

The Kaleel Jamison  
Consulting Group, Inc.  
279 River Street  
Suite 401  
Troy, NY 12180  
Phone: 518-271-7000  
Fax: 518-271-4400  
[www.kjcg.com](http://www.kjcg.com)

K. Iwata Associates Linkage, Inc.  
One Forbes Road  
Lexington, MA 02421  
Phone: 781-862-3157  
Fax: 781-862-2355

Orlando-Ward Associates  
6634 Winding Creek Drive  
San Diego, CA 92119-1144  
Phone: 619-286-1132  
[www.orlandoward.com](http://www.orlandoward.com)

# RESOURCES (CONTINUED)

Dr. Todd Pittinsky  
Harvard Business School  
Soldier Fields Road  
Boston, MA 02143  
Phone: 650-281-6030  
E-Mail: [todd@hbs.edu](mailto:todd@hbs.edu)

Pope & Associates, Incorporated  
1313 East Kemper Road  
Suite 350  
Cincinnati, OH  
Phone: 513-671-1277  
Fax: 513-671-1815  
[www.popeandassociates.com](http://www.popeandassociates.com)

Prism International, Inc.  
First Sanford Tower  
312 West First Street  
Sanford, FL 32771  
Phone: 888-997-7476  
Fax: 407-324-0148  
[www.prism-international.com](http://www.prism-international.com)

Simmons Associates  
31 North Sungan Road  
New Hope, PA 18938  
Phone: 215-862-3020  
Fax: 215-862-3077  
[www.simmonsassociates.com](http://www.simmonsassociates.com)

Tulin DiversiTeam Associates  
5 Curtis Park Drive  
Wyncote, PA 19095-2211  
Phone: 215-886-5515  
Fax: 215-886-5515  
[www.diversiteam.com](http://www.diversiteam.com)

The Winters Group  
2509 Browncroft Boulevard  
Rochester, NY 14625  
Phone: 716-218-9820  
Fax: 716-218-9816  
[www.wintersgroup.com](http://www.wintersgroup.com)

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Washington, DC 20006  
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United Kingdom  
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Facsimile: +44-(0)20-7499-9700

