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Systemic bias in legal profession confirmed by new report

Despite efforts to reverse the trend, a new study confirms widespread gender and racial bias permeates hiring, promotion, assignments and compensation in the legal industry. Fifty-eight percent of women attorneys of color, and half of white women lawyers surveyed say they have been mistaken for administrative staff or janitors, according to the new study, *You Can't Change What You Can't See*, released today. In glaring contrast, only seven percent of white male lawyers report a similar occurrence.

Conducted by the [Center for WorkLife Law at the University of California, Hastings College of the Law](#) on behalf of [The Minority Corporate Counsel Association \(MCCA\)](#) and [The American Bar Association's Commission on Women in the Profession](#), the report examines implicit gender and racial bias in legal workplaces and offers new solutions and tools for interrupting bias across the legal profession.

"This report paints a stark picture of the obstacles that block many lawyers from achieving their potential," said ABA President Bob Carlson. "The remedies it suggests – using metrics to encourage fairness – will lead the way to better employment practices and greater diversity, which will benefit the entire legal profession and our clients."

Overall, women of color reported the highest level of bias in almost every workplace process in the survey.

- Sixty-three percent of women of color report having to go "above and beyond" to get the same recognition as their colleagues.
- The report notes that men of color and white women experience prove-it-again bias at a higher percentage (nearly 25 percentage points higher) than white men. In comparison, women of color experience prove-it-again bias at a higher percentage than any other group - 35 percentage points higher than white men and 10 percentage points higher than men of color and white women.
- Two-thirds of women of color (67 percent) report being held to higher standards than their colleagues. Men of color and white women also feel like they are held to higher standards considerably more often (58 percent and 52 percent respectively) than white men.
- About half of women of color (53 percent) report that they had equal access to high-quality assignments compared to 81 percent of white men.
- Three-fourths of white men believed they have been given fair opportunities for promotion, but just over half of women of color (52 percent) believe the same.

"This study confirms what many of us have known about the legal profession for some time, that women, especially women of color, face a lot of barriers to success and aren't measured as equals by their employers and peers," said MCCA CEO Jean Lee. "We need to take a different approach to diversity issues and use the findings of this study and metrics from across the industry to drive meaningful solutions to combat workplace discrimination in the legal field."

Across the board, respondents reported negative career consequences after taking parental leave. Women of all races said they were treated worse after having children by being given low-quality assignments, passed over for promotions, demoted or paid less and/or unfairly disadvantaged for working part-time or with a flexible schedule. Fifty-seven percent of white women and about half of people of color (50 percent of women of color and 47 percent of men of color) agreed that taking family leave would have a negative impact on their career. Forty-two percent of white men surveyed also felt taking parental leave would have a negative impact on their career demonstrating the flexibility stigma surrounding leave affects all lawyers.

Large amounts of bias were reported by both women of color and white women in compensation. Almost 70 percent of women of color say they were paid less than their colleagues with similar experience and seniority, while only 36 percent of white men report the same. Similarly, 60 percent of white women reported they were paid less than comparable colleagues.

Following a disturbing national trend, a quarter of women reported that they had encountered unwelcome sexual harassment at work, including unwanted sexual comments, physical contact, and/or romantic advances. Sexist comments, stories and jokes appear to be widespread in the legal field, with more than 70 percent of all groups reporting encountering this type of activity in the workplace.

"This study confirmed that many lawyers report exactly the kinds of racial and gender bias long documented by social psychologists," said Joan C. Williams, Founding Director of the Center for WorkLife Law at the University of California, Hastings College of the Law. "While research has found

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that bias trainings are often ineffective, this report includes a new approach to interrupting bias that is evidence-based and metrics-driven.”

To help corporate legal departments and law firms mitigate the potential negative impact of an unconscious bias, the [survey report](#) includes *Bias Interrupters Toolkits*. Derived from the research, these “bias interrupters” are incremental steps that tweak basic business systems to produce measurable change in behaviors and outcomes.

The survey of 2,827 in-house and firm attorneys was conducted from April-June 2016 (525 respondents included comments). The Likert scale questions were based on social science studies documenting implicit bias in the workplace.

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The [Minority Corporate Counsel Association](#) was founded in 1997 with the purpose of making the next generation of legal leaders as diverse as the world we live in. From publishing research insights to providing professional development opportunities to offering advisory services, today MCCA is the preeminent voice on diversity and inclusion in the legal industry. MCCA empowers members with the tools needed to disrupt business as usual – and to blaze a path forward for their company, industry and corporate America.

Joan C. Williams is a Distinguished Professor of Law, Hastings Foundation Chair, and Founding Director of the Center for WorkLife Law at the University of California, Hastings College of the Law. [The Center for WorkLife Law](#) is a research and advocacy organization at UC Hastings College of the Law that seeks to advance gender and racial equality in the workplace and in higher education. WorkLife Law focuses on initiatives that can produce concrete social, legal, and institutional change within three to five years.

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