

JUDICIAL DIVERSITY IN COLORADO: INCREASING REPRESENTATION THROUGH INNOVATION

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ABSTRACT

Research documents that diversity on the bench improves judicial decision-making, improves access to justice, and strengthens the rule of law. However, until 2019, no formal programs to increase judicial diversity existed within the Colorado Judicial Branch.

In 2019, Colorado enacted legislation establishing an innovative, full-time judicial diversity outreach program that utilizes data and research to develop pipeline programs and amplify its impact through increased community engagement. Now, five years later, Colorado’s state court bench is more diverse than ever before. This Article discusses the development of the Judicial Diversity Program in Colorado and best practices for other states interested in implementing a similar program.

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INTRODUCTION

In 2019, the Colorado General Assembly enacted Colorado Senate Bill 19-043 and established a full-time Judicial Diversity Outreach program (JDO) within the Colorado Judicial Branch—the first of its kind in the country.¹ Since its official launch in 2020, the JDO has increased diversity on the bench in Colorado² and supported other states that are interested in building similar programs within their judicial branches. The program also serves as a community partner in diversity, equity, and inclusion (DEI) initiatives in the broader Colorado legal community.³

This Article provides a summary of the JDO’s work thus far, while acknowledging what remains to be done, in the hope that judicial branches in other states might garner insight to develop similar programs. Part I discusses the importance of judicial diversity in providing a fair and impartial justice system and explains why Colorado’s investment in the JDO is important to its legal community. Part II discusses the inspiration and motivation for creating the JDO and the process of building legislative and community support for Colorado Senate Bill 19-043.⁴ Part III provides an overview of the JDO, including its three focus areas and collaborative partnerships. Part III also provides judicial diversity data from Colorado as of June 30, 2023, and shares best practices from the program’s direct recruiting and candidate development programs. In Part IV, the Article stresses the importance of ensuring that Colorado’s state court bench is inclusive and supportive of all judicial officers; to sustain the progress made in diversifying the bench, it is critical to foster judicial officers’ professional development by promoting a sense of belonging and a culture of well-being. Finally, in Part V, the Article looks to the future of judicial diversity and offers advice to leaders in other states on implementing similar programs.

1. OFF. OF JUD. DIVERSITY OUTREACH, COLO. JUD. DEP’T, 2020 ANN. LEGIS. REP. 2–3 (2020).

2. OFF. OF JUD. DIVERSITY OUTREACH, COLO. JUD. DEP’T, 2022 ANN. LEGIS. REP. 7–15 (2022) (indicating that from 2018–2022, Hispanic/Latino State Court Judges have increased from 12 to 32, Black/African American state court judges have increased from 8 to 14, Asian state court judges have increased from 5 to 6, multiracial state court judges have increased from 2 to 3, and female state court judges have increased from 64 to 141 in Colorado).

3. *Id.* at 24–25.

4. S.B. 19-043, 74th Gen. Assembly, First Regular Session. (Colo. 2019).

I. THE IMPORTANCE OF JUDICIAL DIVERSITY

We begin with the Colorado Judicial Department's mission statement:

The Judicial Department works to provide equal access to justice, contribute to public safety, and strengthen the rule of law across Colorado. Together our courts and probation departments are committed to impartial and timely dispute resolution; support for families, litigants, and victims; client rehabilitation; and meaningful community engagement.⁵

An important aspect of providing equal access to justice and strengthening the rule of law is having a state court bench that reflects the diversity of Colorado's communities. As we discuss below, the 2020 U.S. Census shows that Colorado is becoming an increasingly diverse and multicultural state.⁶ A bench that collectively represents a wealth of demographic and professional experiences leads to better decision-making and richer jurisprudence.⁷ And because judges resolve disputes, protect rights, and interpret the law that dictates countless aspects of people's lives, a diverse bench that reflects the community it serves strengthens confidence in the rule of law and the belief that courts provide a fair and impartial system of justice.⁸

Scholars have long noted that judicial diversity improves judicial decision-making.⁹ Judicial diversity encourages impartiality by ensuring that more than a single set of values and views are represented among decision-makers.¹⁰ According to legal scholar Sherrilyn Ifill, "Courts achieve structural impartiality when judicial decision-making includes a cross-section of perspectives and values from the community."¹¹ Beyond the work of legal scholars, justices and judges themselves have acknowledged how diversity on the bench enriches judicial deliberations. As Justice Sonia Sotomayor stated to the Senate Judiciary Committee before her 2009 confirmation hearings, "My personal and professional experiences help me listen and understand, with the law always commanding the result in every

5. *Mission*, COLO. JUD. BRANCH, <https://www.courts.state.co.us> (last visited Dec. 30, 2023).

6. Shelly Bradbury & Alex Burness, *A Growing, More Diverse Colorado: 9 Key Takeaways from New Census Data*, DENVER POST (Aug. 13, 2021, 6:00 AM), <https://www.denverpost.com/2021/08/13/colorado-census-data-population-growth/>.

7. Kate Berry, *Building a Diverse Bench: A Guide for Judicial Nominating Commissioners*, BRENNAN CTR. FOR JUST., 2 (June 1, 2016), https://www.brennancenter.org/sites/default/files/publications/Building_Diverse_Bench.pdf.

8. *Id.*

9. Sherrilyn A. Ifill, *Racial Diversity on the Bench: Beyond Role Models and Public Confidence*, 57 WASH. & LEE L. REV. 405, 409–10 (2000); see also Pat K. Chew & Robert E. Kelley, *Myth of the Color-Blind Judge: An Empirical Analysis of Racial Harassment Cases*, 86 WASH. U. L. REV. 1117, 1118 (2009) ("An increase in the number of judges of color promises to increase diverse perspectives in the judicial system and to help unveil the complex reality of racial dynamics in the workplace.").

10. Ifill, *supra* note 9, at 411.

11. *Id.*

case.”¹² Diversity among the over 350 judges and 100 magistrates who work in the Colorado state court system ensures that a variety of perspectives and professional experiences are represented in analyzing the cases that come before them.

In addition, a judiciary that includes a broad range of voices, perspectives, and life experiences strengthens public trust and confidence in our system of government.¹³ Who the litigants see on the bench and how they are treated in the courtroom can send an invaluable message of inclusion and help dispel negative perceptions of the justice system. A diverse bench also benefits the justice system more broadly: judges and magistrates make up 10% of the Colorado Judicial Branch workforce,¹⁴ but these leaders also serve on committees and working groups that affect access to justice, criminal justice, family law, and probation policies.¹⁵ Thus, the diversity of experiences that judicial officers bring fosters more robust and thoughtful discussion about how the judicial branch should serve the public.

Lastly, judges serve as role models, especially for those from marginalized communities that often do not see themselves represented in courtrooms as attorneys or judges.¹⁶ Judges’ influence extends beyond the courtroom as well; through community engagement and mentoring the next generation of attorneys, judges inspire future generations of young people to pursue careers in law.¹⁷ Supreme Court Justice Ketanji Brown Jackson’s recent Senate confirmation process highlighted the national impact that the first female, African American justice has had on Black women attending and considering law school.¹⁸ For many diverse law students, seeing a judge that looks like them be appointed to the highest court in the United States gave them hope and encouragement that they too belong in the legal profession and on the bench.¹⁹ Locally, dozens of

12. *Opening Statement: Judge Sonia Sotomayor*, NAT’L PUB. RADIO (July 13, 2009, 3:55 PM), <https://www.npr.org/templates/story/story.php?storyId=106551585>.

13. LAWS. COMM. FOR C.R. UNDER LAW, ANSWERING THE CALL FOR A MORE DIVERSE JUDICIARY: A REVIEW OF STATE JUDICIAL SELECTION MODELS AND THEIR IMPACT ON DIVERSITY 5 (June 2005).

14. *Office of the State Court Administrator*, COLO. JUD. BRANCH, <https://www.courts.state.co.us/Administration/Index.cfm> (last visited Dec. 30, 2023).

15. COLO. JUD. DEP’T, JUDICIAL DEPARTMENT FISCAL YEAR 2024 PERFORMANCE PLAN 2 (2023).

16. *Improving Diversity on the State Courts: A Report from the Bench*, LAWS. COMM. FOR C.R. UNDER L., JUST. AT STAKE CAMPAIGN, & CTR. FOR JUST., L. & SOC’Y AT GEO. MASON UNIV., at 6 (2009) [hereinafter *A Report from the Bench*], <https://www.brennancenter.org/sites/default/files/Improving%20Diversity%20on%20State%20Courts%20a%20Report%20From%20the%20Bench.pdf>; see also Edward M. Chen, *The Judiciary, Diversity, and Justice for All*, 91 CALIF. L. REV. 1109, 1116 (2003).

17. *A Report from the Bench*, *supra* note 16, at 6.

18. Linda Qiu, *‘We Belong in These Spaces’: Jackson’s Successors Reflect on Her Nomination*, N.Y. TIMES (Apr. 8, 2022), <https://www.nytimes.com/2022/04/07/us/politics/ketanji-brown-jackson-harvard.html>; see also Karen Sloan, *Black Law Deans Say Jackson Confirmation Could Inspire New Wave of Students*, REUTERS (Apr. 6, 2022, 2:53 PM), <https://www.reuters.com/legal/legalindustry/black-law-deans-say-jackson-confirmation-could-inspire-new-wave-students-2022-04-06/>.

19. *Colorado Law Students React to Judge Ketanji Brown Jackson’s Confirmation to Supreme Court: ‘Gives Me Hope,’* CBS COLO. (Apr. 7, 2022, 11:50 PM), <https://www.cbsnews.com/colorado/news/ketanji-brown-jackson-supreme-court-university-denver-law-school/>.

Colorado's diverse judges actively participate in mentoring, mock trial, civic education, and meaningful community engagement with diverse students of all ages.²⁰

II. A BRIEF HISTORY OF EFFORTS TO DIVERSIFY THE BENCH IN COLORADO

In 1966, Colorado voters passed a constitutional amendment establishing a merit selection system for judicial appointments.²¹ Candidates for trial court vacancies submit applications to a local judicial nominating commission, and appellate court candidates submit materials to a statewide judicial nominating commission.²² These commissions are comprised of a politically balanced group of lawyers and non-lawyers collectively appointed by the governor, attorney general, and chief justice.²³ The commissions interview applicants and tender a short list of two to three names to the governor, who then has fifteen days to appoint someone from that list.²⁴ Once appointed, our judges periodically stand for retention in uncontested elections and may serve until mandatory retirement at age seventy-two.²⁵ Separate judicial performance commissions provide voters with public evaluations of judges who are standing for retention.²⁶

Many individuals and organizations have long worked to diversify the legal profession in Colorado, including its judiciary.²⁷ Longstanding

20. The Colorado Supreme Court has an attorney mentoring program and there are also mentoring programs provided through the University of Colorado Law School, the University of Denver Sturm College of Law, and numerous diversity, local, and specialty bar associations and Inns of Court throughout Colorado. *See* COLO. ATT'Y MENTORING PROGRAM, <https://coloradomentoring.org/> (last visited Dec. 30, 2023). Colorado also has mock trial programs for high schoolers and civic education programs. *See* COLO. HIGH SCH. MOCK TRIAL, <https://www.coloradohighschoolmocktrial.com/> (last visited Dec. 30, 2023); *see also* OUR COURTS COLORADO, [https://www.cobar.org/ourcourtscolorado/Courts in the Community](https://www.cobar.org/ourcourtscolorado/Courts%20in%20the%20Community), <https://www.courts.state.co.us/Courts/Education/Community.cfm>.

21. COLO. CONST. art. VI, § 20 et seq.

22. COLO. CONST. art. VI, § 24.

23. *Id.*

24. COLO. CONST. art. VI, § 20.

25. COLO. CONST. art. VI, §§ 23, 25.

26. COLO. OFF. JUD. PERFORMANCE EVALUATION, <https://judicialperformance.colorado.gov/> (last visited Dec. 30, 2023).

27. For example, Colorado's specialty and diverse bar associations have long advocated for diversity in the legal profession and provided support to diverse lawyers and law students. *E.g.*, *Mission & History*, COLO. HISPANIC BAR ASS'N, <https://chba.net/mission-and-history/> (last visited Dec. 30, 2023). The 1970s saw the formation of the Sam Cary Bar Association (1971), *About*, SAM CARY BAR ASS'N, https://samcarybar.clubexpress.com/content.aspx?page_id=22&club_id=23404&module_id=509757&actr=4 (last visited Dec. 30, 2023), the Colorado Hispanic Bar Association (1977), *Mission & History*, COLO. HISPANIC BAR ASS'N, <https://chba.net/mission-and-history/> (last visited Dec. 30, 2023), and the Colorado Women's Bar Association (1978), *About Us*, COLO. WOMEN'S BAR ASS'N, <https://www.cwba.org/about-the-cwba> (last visited Dec. 30, 2023). In the 1980s and 1990s, the Colorado Indian Bar Association was formed (1986), *About*, COLO. INDIAN BAR ASS'N, <https://coloradoindianbar.wordpress.com/about/> (last visited Dec. 30, 2023), and the founding of the Colorado LGBT Bar Association (1993), *About Our Bar*, COLO. LGBTQ+ BAR ASS'N, <https://clba.net/i4a/pages/index.cfm?pageid=3268> (last visited Dec. 30, 2023), and the Asian Pacific American Bar Association of Colorado (1990) followed, *APABA Overview*, ASIAN PAC. AM. BAR ASS'N OF COLO., <https://www.apaba-colorado.org/Law-Student-Resources> (last visited Dec. 30, 2023). In addition, organizations such as the Center for Legal Inclusiveness, whose mission is to

organizations such as the Center for Legal Inclusiveness (CLI) work with law firms and organizations to improve the retention and advancement of diverse attorneys through inclusion efforts.²⁸ The Colorado Women’s Bar Association’s Lawyers Teaching for Change program hosts events that place lawyers and judges in elementary school classrooms to inspire young diverse students to consider becoming attorneys.²⁹ Similarly, law student externship opportunities, including the Judge Lorenzo Márquez Appellate Externship Program at the Colorado Court of Appeals (named after its founder and the first Latino judge on the Court of Appeals) expose students to judge-mentors and appellate work.³⁰

For decades, these efforts relied on the volunteer hours of individual judges and attorneys on top of their day-to-day workloads.³¹ In late 2018, however, these efforts took on renewed intensity. Retired Denver County Court Judge Gary Jackson issued a call to action when, following a series of retirements, Colorado was left without a single Black state district court judge.³² This underrepresentation was emblematic of the lack of diversity throughout the Colorado state courts, prompting several leaders in the Colorado legal community to make diversifying the bench an urgent priority.

The idea for the creation of the JDO began with a conversation in 2018 between Associate Justice Monica Márquez of the Colorado Supreme Court (one of the authors of this Article), Associate Justice William Hood, Judge Gary Jackson of Denver County Court, and Representative Leslie Herod of the Colorado House of Representatives. Justice Márquez,

advance diversity in the legal profession by actively educating and supporting private and public sector legal organizations in their own individual campaigns to create cultures of inclusion, was founded in 2007. *About CLI*, CTR. FOR LEGAL INCLUSIVENESS, <https://centerforlegalinclusiveness.org/about> (last visited Dec. 30, 2023). The Colorado Pledge to Diversity Program, which began as a “pledge” between twenty-three leading Denver law firms averring their commitment to diversity, began in 1993. *Diversity in the Legal Profession*, COLO. BAR ASS’N, <https://www.cobar.org/For-Members/Committees/Diversity-in-the-Legal-Profession-Committee> (last visited Dec. 30, 2023); see also *Diversity & Representation in Colorado’s Legal Profession: Milestones*, AMICUS, Fall 2020, at 14, https://www.colorado.edu/law/sites/default/files/attached-files/diversitytimeline-pages_from_culaw_fall20_amicus-final-web-2.pdf.

28. Grace Austin, *Law & Color: Colorado’s Center for Legal Inclusiveness Targets Attrition in Law and Poor Minority Representation*, PROFILES IN DIVERSITY J. (May 9, 2012), <https://diversityjournal.com/9196-law-color/>; see also Avery Martinez, *CLI’s General Counsel Roundtable Offers Insight to EDI, Hiring, Post-COVID Legal World*, LAWWEEK COLO. (Aug. 13, 2021), <https://www.lawweekcolorado.com/article/clis-general-counsel-roundtable-offers-insight-to-edi-hiring-post-covid-legal-world/>.

29. *CWBA Lawyers Teaching for Change Program*, COLO. WOMEN’S BAR ASS’N., <https://www.cwba.org/lawyersteachingforchange> (last visited Dec. 30, 2023). These sessions are similar to a career day presentation—a judge or attorney visits a classroom for a few hours, shares about their experience and role in the judicial system, and answers the students’ questions about what lawyers and judges do.

30. *Judge Lorenzo Márquez Appellate Externship Program*, COLO. JUD. BRANCH, https://www.courts.state.co.us/userfiles/file/Administration/Judicial_Diversity/Page%20about%20LM%20program%202022.pdf (last visited Dec. 30, 2023).

31. See, e.g., *Class of 2023 Mentors*, L. SCH. YES WE CAN, <http://lawschoolyeswecan.org/mentors-2022> (last visited Dec. 30, 2023) (listing Judges LaQunya Baker, David Blackett, Caryn Datz, Olympia Fay, Terry Fox, Carol Haller, and Pax Moultrie among the 2023 mentors).

32. *Denver Judge Urges the Need for More Diversity on the Bench*, CBS NEWS COLO. (July 5, 2020, 4:51 PM), <https://www.cbsnews.com/colorado/news/gary-johnson-denver-judge/>.

Justice Hood, and Judge Jackson shared with Representative Herod the many efforts to foster diversity in the legal profession and to mentor candidates for judgeships made by volunteer judges and attorneys. Judge Jackson emphasized the urgency in specifically addressing the lack of Black judges on the state district court bench.³³ Justice Márquez also discussed the need to broaden outreach and recruitment efforts for judicial openings in rural parts of Colorado where fewer attorneys reside. The judicial officers openly acknowledged the challenges of coordinating and maintaining momentum with only the efforts and work of volunteers.³⁴ In response, Representative Herod suggested the statutory creation of a full-time position dedicated to these collective efforts. And thus, the idea for the JDO was born.

Following thoughtful discussions with the State Court Administrator's Office, legislators, and other stakeholders, on March 21, 2019, Colorado Governor Jared Polis signed Senate Bill 19-043. Senate Bill 19-043 created a position within the State Court Administrator's Office responsible for "education and outreach regarding judicial office vacancies" and for the creation and delivery of "educational programming for attorneys and law students regarding judicial vacancies and the application process" under Colo. Rev. Stat. § 13-3-101.³⁵ The statute also requires the Judicial Department to file an annual report with the legislature each year for the first ten years of the program.³⁶

Sumi Lee (the second author of this Article) was selected as the inaugural hire for the JDO in February 2020 and served as Head of Judicial Diversity Outreach until August 2023. The position was initially staffed within the Court Services division of the State Court Administrator's Office, but it is now part of the newly created Office of People and Culture within the Human Resources division.³⁷ Leading the JDO requires an understanding of the legal field and pathways to the bench (though no law degree or license is necessary) as well as the communication and community-building skills necessary to engage with stakeholders and educate the public about the judicial application process and the importance of judicial diversity.

III. THE JUDICIAL DIVERSITY OUTREACH PROGRAM (2020–CURRENT)

The JDO had a unique beginning, both because it was a new program for Colorado and because its launch coincided with the announcement of

33. Cf. Gary M. Jackson, *A Call to Action*, 57 CT. REV. 96, 96 (2021).

34. Cf. *The Importance of a Diverse Federal Judiciary, Part 2: The Selection and Confirmation Process Before the Subcomm. on Cts., Intell. Prop., and the Internet of the H. Comm. on the Judiciary*, 117 Cong. 4 (2021) (statement of Hon. Monica M. Márquez, Associate J., Colorado Supreme Court) ("Ms. Lee has been instrumental in consolidating and systematizing our previous ad hoc, volunteer efforts").

35. COLO. REV. STAT. § 13-3-101(11) (2021).

36. *Id.*

37. *Colorado Supreme Court Names Head of Judicial Diversity Outreach*, COLO. JUD. BRANCH (May 28, 2020) <https://www.courts.state.co.us/Media/release.cfm?id=1944>.

COVID-19 pandemic restrictions. Initial plans for in-person engagement with judicial districts around Colorado during the first six months of the program quickly pivoted to a series of video conference meetings and telephone calls. The JDO also reached out to Colorado's affinity bar leaders and diverse judges to hear their needs and perspectives on the challenges to increasing judicial diversity. Judges provided invaluable insight about what they had found both helpful and challenging in the judicial application process. By focusing on recently appointed judges from underrepresented backgrounds, we were able to gather information about what resources and support are currently available to judicial applicants. Because the JDO is a part of, and run by, the State Court Administrator's Office, the judges were able to speak candidly about their experiences and share ideas about how the application process could be improved. The questions that guided these initial conversations with bar leaders and judges included:

- In your opinion, what are the challenges that diverse judicial applicants face? How can we encourage more diverse attorneys to apply for the bench?
- What issues impact you in your community? What resources are available?
- For judges: what inspired you to apply to be a judge? What are the resources that were helpful to you in the process, or resources you wish you had?

We discovered that most diverse judges did not start their law careers with the goal of becoming a judge.³⁸ Only when a colleague or another judge encouraged them to apply did they begin to imagine this role as a possibility for them.³⁹ Given that, historically, many judges consider the bench to be a capstone achievement reserved for the end of one's career, some judges shared that they brushed off any suggestion of becoming a judge, thinking they were too young or inexperienced.⁴⁰ Many diverse judges, especially women of color, indicated that imposter syndrome played a role in delaying their consideration of a judicial career.⁴¹ Imposter syndrome can deter applicants from applying in the first place. A KPMG study in 2020 found that 75% of female executives across industries have

38. Consolidated Telephone and Virtual Interviews with Various Judges (2022–23) (notes on file with the author).

39. *Id.*

40. *Id.*

41. *Id.* The term "imposter syndrome" is defined as "a condition that describes high-achieving individuals who, despite their objective successes, fail to internalize their accomplishments and have persistent self-doubt and fear of being exposed as a fraud or imposter." Dena M. Bravata, Divya K. Madhusudhan, Michael Boroff, & Kevin O. Cokley, *Commentary: Prevalence, Predictors, and Treatment of Imposter Syndrome: A Systematic Review*, 4 J. MENTAL HEALTH & CLINICAL PSYCH., NO. 3, at 12 (2020).

experienced imposter syndrome in their careers.⁴² Imposter syndrome can come from being the “only” or “the first” person in a particular role and can impact one’s sense of belonging in the workplace and pursuit of job opportunities.⁴³ One judge shared that she filled out a judicial application but left it in her desk drawer for three years before she had the courage to apply for a vacancy. These conversations also revealed challenges to attracting new legal talent and finding job opportunities for young lawyers in rural communities.⁴⁴

The highly public nature of the Colorado judicial application process and judicial service can create hesitation for prospective applicants. The judicial application not only requires the names of references, but also requires the names of past co-counsel, opposing counsel, and the presiding judge of five representative cases, which means that an applicant is required to disclose their desire to become a judge to a large portion of their professional network.⁴⁵ Specialty bar associations, like the Colorado Women’s Bar Association, the Colorado Hispanic Bar Association, and the Colorado Criminal Defense Bar, each conduct their own due diligence process when a finalist seeks the association’s endorsement.⁴⁶ This publicity can add to the already difficult decision of whether to apply for a judicial vacancy, especially for prospective applicants who are concerned about the decision’s effect on current and prospective clients and employers, and others in their professional and personal networks. Along with other job-related stressors, many judges point out that this lack of privacy continues throughout a judge’s tenure on the bench, especially in the retention process, during which judges frequently experience public criticism and a sense of being misjudged.⁴⁷ Many judges shared that candid conversations with sitting judges and a close network of advisors about the public nature of the position, the heavy workload, and other challenges of

42. KPMG, ADVANCING THE FUTURE OF WOMEN IN BUSINESS: THE 2020 KPMG WOMEN’S LEADERSHIP SUMMIT REPORT 2 (2020), <https://womensleadership.kpmg.us/content/dam/womensleadership/pdf/2020/2020wlsstudy.pdf>.

43. *Id.*

44. See Dan Kittay, *Success on the Horizon? New Efforts to Increase Rural Access to Justice*, 47 AM. BAR ASS’N: BAR LEADER, no. 5 (2022), https://www.americanbar.org/groups/bar-leadership/publications/bar_leader/2021_22/may-june/success-on-the-horizon-new-efforts-to-increase-rural-access-to-justice/.

45. *Judicial Nominating Commission Application for Colorado State Court Judgeship*, COLO. JUD. BRANCH 1, 3, 8 (Dec. 2022), <https://www.courts.state.co.us/userfiles/file/Careers/judge/judicialapplication-eff-dec-22.pdf>.

46. See, e.g., *Judicial Endorsement Policies*, COLO. WOMEN’S BAR ASS’N, <https://www.cwba.org/DUE-DILIGENCE-ENDORSEMENTS> (last visited Dec. 30, 2023).

47. David Swenson, Joan Bibelhausen, Bree Buchanan, David Shaheed, & Kathryn Yetter, *Stress and Resiliency in the U.S. Judiciary*, 2020 J. PRO. LAW. 1, 5, 11 (2020–21). Judicial performance evaluations, which are part of the retention election process, can be impacted by implicit bias, particularly from evaluators (including members of the public) who may unconsciously rely on stereotypes or fixed notions about appropriate roles and behaviors for women and minorities. Natalie Anne Knowlton & Malia Reddick, *Leveling the Playing Field: Gender, Ethnicity, and Judicial Performance Evaluation*, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., 7, 25 (July 20, 2012), https://iaals.du.edu/sites/default/files/documents/publications/iaals_level_the_playing_field.pdf; see also Rebecca D. Gill, *Implicit Bias in Judicial Performance Evaluations: We Must Do Better Than This*, 35 JUST. SYS. J. 301, 306–07, 319 (2014).

the job helped to address and reconcile their concerns before deciding to apply.⁴⁸

The importance of coaching and support from colleagues and trusted friends during the judicial application process became a common theme in panel discussions we hosted with judges. These supporters can review the applicant's materials and prepare them for the interview process, as well as help the applicant think deeply about why they want to become a judge and what qualities they bring to the bench. Many judges found that having a supportive, safe space to explore these topics gave them confidence in the application process.⁴⁹ Some judges noted that first-time applicants, especially those from outside of the Denver Metro area, may not know to seek out this kind of support or may not have access to such a network.⁵⁰ Thus, the JDO's initial offerings and pilot programs focused on filling these gaps.

With these insights in mind, the JDO identified three initial areas of focus:

- **Data and Research:** The JDO formally collects and analyzes data on judicial diversity, the judicial selection process, and judicial vacancies to identify gaps and opportunities around the state. It is clear that analyzing and sharing data is critical both to establish a baseline from which to measure the program's success, and to direct focus to the demographic and geographic communities that need the most support.
- **Pipeline Development:** Building on the educational foundation of our community engagement efforts, the JDO works to address barriers faced by attorneys from underrepresented backgrounds when applying for a judgeship. Through innovative new programs like the Dream Team 2.0 Coaching Program, the Spotlight On Series, and Java with Judges, discussed below, the JDO provides resources to judicial applicants throughout the state and exposes law students to mentoring opportunities with judges.⁵¹
- **Community Engagement:** Consistent with its statutory purpose, the JDO focuses on providing education and outreach programming to attorneys and law students regarding judicial office vacancies and the application process. As of the writing of this Article, the JDO has completed over ninety virtual and in-person

48. Swenson, Bibelhausen, Buchanan, Shaheed, & Yetter, *supra* note 47, at 32.

49. Consolidated Interviews with Various Judges, *supra* note 38.

50. *Id.*

51. *Dream Team 2.0*, CTR. FOR LEGAL INCLUSIVENESS, <https://centerforlegalinclusiveness.org/dream-team-2-0/> (last visited Dec. 30, 2023); *Java with Judges*, COLO. JUD. BRANCH, <https://www.courts.state.co.us/Administration/Section.cfm?Section=studentresources> (last visited Dec. 30, 2023).

presentations.⁵² The JDO also produces an annual report on judicial diversity efforts which is published on the JDO's website, and serves as a popular resource to share the progress made and to communicate the need for continued efforts.⁵³

The JDO works closely with the Colorado Bar Association and Colorado Judicial Institute's Diversity on the Bench Coalition (CBA-CJI Coalition),⁵⁴ the Colorado Bar Association, the University of Colorado Law School (Colorado Law), the University of Denver Sturm College of Law (Denver Law), the CLI Dream Team program, and numerous other partners to broaden its reach in the community.⁵⁵ Sharing ownership of judicial diversity work is critical to maintain momentum and build relationships with stakeholders in all stages of the pipeline building process.

A. Data and Research: The State of Judicial Diversity in Colorado

As of June 30, 2023, Colorado has 335 judges serving in our state courts: 7 Colorado Supreme Court justices, 22 Court of Appeals judges, 193 District Court judges, and 113 County Court judges.⁵⁶ These judges serve in Colorado's twenty-two judicial districts across a state that spans

52. See 2020 ANN. LEGIS. REP., *supra* note 1, at 8–9; OFF. OF JUD. DIVERSITY OUTREACH, COLO. JUD. DEP'T, 2021 ANN. LEGIS. REP. 10–12 (2021); 2022 ANN. LEGIS. REP., *supra* note 2, at 23–24; OFF. OF JUD. DIVERSITY OUTREACH, COLO. JUD. DEP'T, 2023 ANN. LEGIS. REP. 20–22 (2023) (meeting data from 2020–23 is on file with the author).

53. *Judicial Diversity*, COLO. JUD. BRANCH, <https://www.courts.state.co.us/Administration/Unit.cfm?Unit=diversity> (last visited Jan. 1, 2024).

54. The CBA-CJI Coalition was formed in 2019 to help the Colorado court bench reflect the diversity of the state. *Diversity on the Bench*, COLO. JUD. INST., <https://coloradojudicialinstitute.org/what-we-do/diversity-on-the-bench.html> (last visited Jan. 1, 2024). The coalition consists of a leadership of two co-chairs, a Coordinating Council, and Coalition Partners that support the council and its working groups. *Diversity on the Bench Coalition Structure*, COLO. BAR ASS'N, https://www.cobar.org/Portals/COBAR/Repository/CBA/Coalition/Coalition%20Structure%205_21.pdf?ver=x_9EnE_M-KOCFkfdhi8dPg%3d%3d (last visited Jan. 1, 2024). Judges and attorneys passionate about judicial diversity efforts also participate in the CBA-CJI Coalition. News Release, Colo. Bar Ass'n, CBA and CJI Announce Diversity on the Bench Initiative, 1 (May 26, 2020). Initially chaired by retired Judge Gary Jackson and former CBA President Patricia Jarzowski, the coalition is currently led by District Court Magistrate Judge Maritza Dominguez Braswell and retired Arapahoe County District Court Judge Cynthia Mares. The Coalition's working groups focus on critical outreach areas, such as engaging with decision-makers, providing resources to judicial nominating commissions, developing public messaging, and supporting programs that promote judicial well-being.

55. *Diversity on the Bench Coalition*, COLO. BAR ASS'N, <https://www.cobar.org/For-Members/Diversity-on-the-Bench> (last visited Jan. 1, 2024); *Values Statement*, COLO. BAR ASS'N, <https://www.cobar.org/About-the-CBA#8982263-values-statement-> (last visited Jan. 1, 2024); Julia Roth, *Representation Matters*, AMICUS UNIV. COLO. L. SCH., at 12 (Fall 2022), https://www.colorado.edu/law/sites/default/files/attached-files/culaw_fall20_amicus-final-web.pdf; STURM COLL. L., <https://www.law.du.edu/> (last visited Jan. 1, 2024).

56. 2023 ANN. LEGIS. REP., *supra* note 52, at 36. Unless otherwise noted, the data for Colorado state court judges in this Part and throughout the Article reflect responses from county court, district court, and court of appeals judges of the Colorado State Courts as well as the Justices of the Colorado Supreme Court that were active and serving on the bench as of June 30, 2023. The data does not include demographic information for judges that were appointed but had not yet taken their oaths of office as of June 30, 2023, Denver County Court judges, magistrates, or water referees. Data for Denver County Court are not included in the aggregate numbers as Denver County Court judges are appointed by the Mayor of Denver and has its own judicial nominating commission. The data is on file with the author.

100,000 square miles and includes 5.84 million inhabitants.⁵⁷ According to the 2020 U.S. Census, Colorado's population is 22.5% Hispanic and Latino, 4.7% Black and African American, 3.8% Asian American, 1.7% Native American, and 3.4% multiracial.⁵⁸ Among Colorado state court judges, 8.1% are Hispanic and Latino, 4.5% are Black and African American, 2.7% are Asian American, 0.6% are Native American and Alaska Native, and 1.8% are multiracial.⁵⁹

Since its creation, the JDO has made progress on multiple fronts. As of June 30, 2023, 18% of Colorado's state court judges are judges of color, compared to 11% in 2018⁶⁰ when Judge Jackson's call to action to improve judicial diversity began. About 45% of state court judges in Colorado are women,⁶¹ 22% of whom are women of color.⁶² The number of women judges on the bench has grown steadily at an average of 1% per year for the past five years; in 2018, women judges made up 38% of the state court bench.⁶³ As of June 2023, Colorado has twenty-seven Hispanic and Latino judges, fifteen Black and African American judges, nine Asian and Asian American judges, one Native American and Alaska Native judge, and six multiracial judges serving on the bench.⁶⁴

As mentioned earlier, in October 2018, there was a single Black district court judge serving in the Colorado state courts. As of June 30, 2023, Colorado has fifteen Black and African American judges on the state court bench (eighteen total when including Denver County Court judges), nine of whom serve at the district court level.⁶⁵ This is remarkable progress in a five-year period, especially given that the number of Black and African American judges more closely reflects the Black and African American population in Colorado, with a 0.2% margin.⁶⁶ And as celebrated by *Essence Magazine*, more Black women were appointed to the Colorado state court bench in the first eighteen months of the JDO's existence than in the past twenty-five years combined.⁶⁷ In addition, six openly LGBTQ+ judges were appointed in 2021 and 2022, including one to the Colorado Court of Appeals.⁶⁸

57. *QuickFacts Colorado*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/CO/PST045222> (last visited Jan. 1, 2024).

58. *Id.*

59. 2023 ANN. LEGIS. REP., *supra* note 52, at 36.

60. 2018 Judicial Diversity Data, Colorado State Court Administrator's Office (on file with the author); 2023 Judicial Diversity Data, Colorado State Court Administrator's Office (on file with the author).

61. 2023 ANN. LEGIS. REP., *supra* note 52, at 36.

62. *Id.* at 36–50.

63. 2018 Judicial Diversity Data, *supra* note 60; 2023 Judicial Diversity Data, *supra* note 60.

64. 2023 ANN. LEGIS. REP., *supra* note 52, at 36.

65. *Id.*

66. 2018 Judicial Diversity Data, *supra* note 60; 2023 Judicial Diversity Data, *supra* note 60.

67. Chandra Thomas Whitfield, *All Rise: A Record Number of Black Women Judges Have Been Appointed in Colorado*, ESSENCE MAG. (Sept. 14, 2020), <https://www.essence.com/feature/record-number-black-women-judges-appointed-colorado/>.

68. 2022 ANN. LEGIS. REP., *supra* note 2, at 3.

As the recent U.S. Census results indicate, Colorado is among the fastest-growing states of the last decade, and it is becoming increasingly diverse with increasing proportions of residents identifying as multiracial.⁶⁹ These numbers are reflected on the bench as well. There were no judges identifying as multiracial in Colorado in 2018 and 2019; today that number has grown to six judges.⁷⁰ According to the American Bar Association's 2022 Profile of the Legal Profession, the number of multiracial lawyers nationwide has also grown over the last ten years, with 2.7% of all lawyers reporting as multiracial.⁷¹

Diversity has no single definition, and certainly the phrase "diverse judges" can include many aspects beyond race, ethnicity, and gender. Currently, the only official data that can be provided relates to race, ethnicity, and gender as these datapoints are collected during the judges' onboarding process at the Colorado Judicial Department. But it is necessary for the discussion around judicial diversity to include other factors beyond these basic demographics. The JDO has been working on creating ways to measure additional diversity factors in the Colorado judiciary to provide a more complete picture of who is serving on the bench today and the life experiences and backgrounds they bring to the bench.

When comparing the current makeup of the state court bench to the broader demographics of the Colorado attorney population and diversity data at Colorado law schools, it becomes clear why building relationships with law students and providing tools for long-term success is an important element to increasing diversity in the legal profession in Colorado. Both Colorado Law and Denver Law reported an increase in the number of diverse 1L law students in the Fall 2022 semester, with 34% of the students in the Class of 2025 at Colorado Law identifying as students of color and 30% of the students in the Class of 2025 at Denver Law reporting as students of color.⁷² Comparatively, 18% of attorneys who completed a voluntary, anonymous demographic survey administered by the Colorado Office of Attorney Regulation Counsel in 2022 identified as a person of color, which is an increase from 17% reported in 2021.⁷³ As more diverse law students graduate and enter the legal profession than ever before, it is critical to support programs that focus on long-term attorney career development and well-being.

69. Bradbury & Burness, *supra* note 6.

70. 2023 ANN. LEGIS. REP., *supra* note 52, at 36.

71. A.B.A., ABA PROFILE OF THE LEGAL PROFESSION 2022, at 26 (2022), <https://www.americanbar.org/content/dam/aba/administrative/news/2022/07/profile-report-2022.pdf>.

72. Diversity law student data for the Class of 2025 is self-reported data provided by students to their respective law schools at time of admission. Aggregate data was provided to the author by the Office of Diversity, Equity, and Inclusion at the University of Denver Sturm College of Law and the Office of Diversity, Equity, and Inclusive Excellence at the University of Colorado School of Law in September 2022. Data is on file with the author.

73. THE OFF. OF ATT'Y REGUL. COUNS., 2022 ANNUAL REPORT, <https://coloradosupremecourt.com/PDF/AboutUs/Annual%20Reports/2022%20Annual%20Report.PDF>.

As the judicial diversity data indicates, the JDO is currently focusing on increasing the number of Hispanic and Latino judges on the bench. To proportionately reflect Colorado's Hispanic and Latino population, the number of Hispanic and Latino judges should be more than doubled, particularly in regions outside of the Denver Metro area. On a more positive note, Hispanic and Latino judges are currently represented at all levels of the Colorado state courts: county court, district court, Colorado Court of Appeals, Colorado Supreme Court, and the Chief Judges Council.⁷⁴

Colorado has a significant need for more Native American and Alaska Native judges as well. The need for Native representation on the bench is especially great in counties near the New Mexico border; the population in Montezuma County in the Four Corners region, for example, is 14% Native American and Alaska Native.⁷⁵ La Plata County, Alamosa County, Crowley County, and Saguache County also have significantly larger Native populations than the state average.⁷⁶ The Four Corners region is one of several regions in Colorado impacted by an acute shortage of attorneys in rural Colorado and is "hitting a crisis point."⁷⁷ Wherever there is a shortage in the number of attorneys necessary to meet the demand for legal services in rural Colorado, the judicial applicant pipeline and judicial diversity in these regions are also negatively impacted. Whereas the Denver Metro area's growing economy and need for legal labor continues to attract new attorneys to the area, 61% of counties in Colorado have fewer than twenty-five attorneys.⁷⁸ With over twenty students at Colorado Law (across all years) identifying as Native American, Denver Law and Colorado Law are seeing increased participation from Native American students who are pursuing the legal profession.

The JDO contributes to the collective work of increasing judicial diversity in critical ways by compiling and analyzing data about Colorado's judges and judicial applicants. Data and research highlight the gaps between Colorado's state population and the bench, and help establish leading indicators that can be measured periodically to inform whether the program's efforts are having the desired impact. Close analysis of the data also helps identify and diagnose issues in the pipeline and inform the

74. 2021 ANN. LEGIS. REP., *supra* note 52, at 23–24.

75. *QuickFacts Montezuma County, Colorado*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/montezumacountycolorado> (last visited Jan. 1, 2024).

76. *QuickFacts La Plata County, Colorado*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/laplatacountycolorado> (last visited Jan. 1, 2024); *QuickFacts Alamosa County, Colorado*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/alamosacountycolorado> (last visited Jan. 1, 2024); *QuickFacts Crowley County, Colorado*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/crowleycountycolorado/PST045222> (last visited Jan. 1, 2024); *QuickFacts Saguache County, Colorado*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/saguachecountycolorado> (last visited Jan. 1, 2024).

77. Shelly Bradbury, *No Lawyers for Miles: Rural Colorado's Shortage of Attorneys is "Hitting a Crisis Point"*, DENVER POST (July 9, 2023, 6:03 AM), <https://www.denverpost.com/2023/07/09/colorado-rural-attorney-lawyer-shortage-legal-deserts/>.

78. A.B.A., ABA PROFILE OF THE LEGAL PROFESSION 2021, at 18, 26 (2021), <https://www.americanbar.org/content/dam/aba/administrative/news/2021/0721/polp.pdf> (identifying Denver as a top ten metro area for lawyer demand in the United States in 2019).

program's short-term and long-term goals. The JDO shares the judicial diversity data, judicial diversity trends, and milestone achievements in community presentations and produces custom reports for its community partners. JDO's annual reports provide district-by-district data on judicial diversity as well as trends and program details. These reports have been helpful in engaging with stakeholders, decision-makers, and interested applicants.⁷⁹

B. Developing the Pipeline: Direct Recruiting and Applicant Development Programs

Judicial officers at all levels of the Colorado courts have long volunteered their time and energy to mentor and assist interested judicial applicants, both informally and through more organized efforts affiliated with CLI. In addition, pipeline programs such as the Judge Lorenzo Márquez Appellate Externship program have helped increase diversity in appellate chambers for over twenty-five years by exposing law students to the world of appellate law.⁸⁰ In the first three years of the program, the JDO launched initiatives to support and amplify these existing programs and resources within the judicial branch.

1. Bench Dream Team 2.0 Coaching Program

One example of how the JDO has built upon existing programs is the new Dream Team 2.0 Coaching Program. In 2017, CLI and the Colorado Judicial Department created the Bench Dream Team, a group of judges in the Denver metro area focused on developing applicants for judicial vacancies, and the Coffee Brigade, a collection of judges statewide who make themselves available to meet with interested judicial applicants over coffee or lunch to talk about the application process and life on the bench. The Bench Dream Team partnered with CLI, the affinity bar associations, and past nominating commission members to create programming that demystifies the application process for judicial applicants. Among its key projects, the Bench Dream Team updated an existing orientation video used to train Colorado's judicial nominating commission members.⁸¹ The video, narrated by local news anchor Adele Arakawa, features a broad cross-section of Colorado state court judges and nominating commission members.⁸² The orientation video explains the responsibilities of a judicial nominating commissioner, offers guidance on how to review application

79. See generally 2021 ANN. LEGIS. REP., *supra* note 52; 2023 ANN. LEGIS. REP., *supra* note 52.

80. Gilbert A. Román & Lino Lipinsky de Orlov, *The Colorado Appellate Courts' Commitment to Diversity and Inclusion*, COLO. LAW. (July 2020), <https://cl.cobar.org/departments/the-colorado-appellate-courts-commitment-to-diversity-and-inclusion/>.

81. Colorado Judicial, *Colorado Judicial Nominating Commissions - Overview of the Judicial Selection Process*, YOUTUBE (Oct. 5, 2018), <https://www.youtube.com/watch?v=sMYRFAy2-xo>.

82. *Id.*

materials and conduct interviews, and includes a segment on strategies for mitigating implicit bias in the judicial nominating process.⁸³

After reviewing existing judicial applicant informational and assistance programs available in the Colorado legal community, CLI and the JDO found that while there were periodic presentations on how to become a judge there was no formal program providing one-on-one coaching for judicial applicants. And as discussed above, newly appointed judges from underrepresented communities consistently stressed the importance of coaching and support as critical to their success as applicants. In 2021, to build on the foundational work of the Bench Dream Team, the JDO partnered with CLI to launch the Dream Team 2.0 Coaching Program, which provides six months of intensive, one-on-one coaching to applicants for judicial vacancies. Unlike panel discussions and informational events, the Dream Team 2.0 Coaching Program is a time-limited, intensive coaching program that requires active participation from both coaches and participants. The program is most effective for applicants who plan to apply for a judgeship within one to five years, or who have applied unsuccessfully and are feeling “stuck.” By working one-on-one with a dedicated judge coach, judicial applicants can hone their application materials and interviewing skills to elevate their application and interview readiness.

Since the Dream Team 2.0 program’s founding in 2021, twenty-two attorneys from underrepresented communities have worked with fifteen judicial officers in all aspects of the judicial application process.⁸⁴ Each coaching pair committed to meeting at least four times for coaching sessions in a six-month period.⁸⁵ Five of the participants have been appointed to the bench, and two other participants have been selected as finalists.⁸⁶ Based on the feedback of the participants, the Dream Team 2.0 Coaching Program has been effective at increasing applicant readiness for both new and experienced judicial applicants.⁸⁷

2. The “Spotlight On” Series

In designing these programs, JDO considered the different needs of participants from urban and rural communities—since a number of these programs launched amidst the COVID-19 pandemic, JDO was forced to rely heavily on virtual meetings, even for the pipeline building programs. For example, the “Spotlight On” Series, focuses specifically on building a strong judicial applicant pipeline in rural areas of Colorado where informational events are not typically held.⁸⁸ The “Spotlight On” Series publicizes judicial vacancies in rural areas and gives a fuller picture about what

83. *Id.*

84. 2021–22 Program Data, CLI-JDO Dream Team 2.0 (on file with the author).

85. *Dream Team 2.0*, *supra* note 51.

86. 2021–22 Program Data, *supra* note 84.

87. *Id.*

88. 2022 ANN. LEGIS. REP., *supra* note 2, at 27–28.

it is like to work as a rural judge.⁸⁹ Because many rural county court judgeships in Colorado are part-time positions, some judges take on additional employment working as a part-time family court facilitator, a private attorney, or a part-time magistrate in another jurisdiction. Some of these part-time rural county court judgeships do not require a law degree by statute due to population classification of the county.⁹⁰ Therefore, the “Spotlight On” Series also provides interested non-attorney applicants the opportunity to hear Colorado’s lay judges describe their day-to-day work in the courtroom and the resources available to them.

3. Judge Lorenzo Márquez Appellate Externship Program

After becoming the first Latino judge on the Colorado Court of Appeals in 1988,⁹¹ Judge Jose Deciderio Lorenzo Márquez started the court of appeals externship program to address the lack of diversity in the courts and to provide clerkship opportunities for diverse students.⁹² Both the Colorado Supreme Court and the Colorado Court of Appeals receive applications for the spring semester from 2L, 3L, and 4L law students from Colorado Law and Denver Law to serve as Lorenzo Márquez Scholars. The scholars work closely with the justices, judges, and law clerks to improve their writing and legal analysis skills and to gain first-hand experience in the workings of Colorado’s highest courts.

Many of the Lorenzo Márquez Scholars have gone on to work as law clerks after graduation and gained mentoring relationships with law clerks, judges, and justices. This program has also inspired similar law student outreach programs in other judicial districts.

4. Java with Judges

Given limitations on networking opportunities during the COVID-19 pandemic, Colorado appellate court committees focused on DEI efforts teamed up with the JDO to create a “virtual coffeehouse” called Java with Judges.⁹³ Each Java with Judges session brings together an appellate judge, a trial court judge, a law clerk, and up to six law students in a virtual setting for casual conversation about life, law, or any other topic on the students’ minds.⁹⁴ The casual, small group atmosphere allows law students from Colorado Law and Denver Law to ask questions and discuss concerns they might not feel comfortable bringing up to federal and state judges and magistrates in a more formal setting. Since COVID-19 pandemic restrictions have eased, in-person sessions are now also offered on campus at Colorado Law and Denver Law. The Java with Judges program benefits

89. *Id.*

90. COLO. REV. STAT. § 13-6-201, 13-6-203 (2021).

91. Felisa Cardona, *Colorado Supreme Court Milestone a Family Affair*, DENVER POST (May 5, 2016, 9:03 AM), <https://www.denverpost.com/2016/05/05/colorado-supreme-court-milestone-a-family-affair/>.

92. *Judge Lorenzo Márquez Appellate Externship Program*, *supra* note 30.

93. 2021 ANN. LEGIS. REP., *supra* note 52, at 17-18.

94. *Id.*

from the dedicated work of the Java with Judges Steering Committee⁹⁵—because the Committee includes current law students, recent graduates, law clerks, and judges, the program maintains communication with diverse law school students and tailors each semester’s sessions to meet their needs. Beginning in summer 2022, Java with Judges began offering “special theme” sessions, including sessions for women of color, first-generation law students, and LGBTQ+ students in celebration of Pride Month.⁹⁶

Java with Judges has become one of the Colorado Judicial Branch’s most successful diversity-focused programs and is popular both with law students and participating judges. Because this program is offered year-round, Java with Judges is one of the first opportunities for new law students to connect with Colorado’s judiciary. Now in its third year, Java with Judges is led by a Steering Committee that includes the Head of Judicial Diversity Outreach, the members of the Colorado Court of Appeals’ Inclusivity, Diversity, Equity, and Anti-Racism Committee (IDEA Committee), and members of the DEI working group of the Colorado Supreme Court.

Since the program’s inception in January 2021, over 250 students have connected with over 120 state and federal court judges and magistrates and 60 law clerks. In 2021, the program began collecting demographic data on participating students, and over 91% of the program’s participating students since 2021 have self-identified as diverse.⁹⁷ In summer 2022, the Java with Judges Steering Committee conducted a survey of law students who participated in a Java with Judges session to collect information about the program’s impact; specifically, whether it increased the likelihood of students following up with a judge after the session or applying for internship and clerkship opportunities.⁹⁸ Of the thirty-five students that completed the survey, 94% stated that their participation made them more likely to consider applying to judicial externships or clerkships, and 63% reported they had follow-up contact with a judge, justice, or law clerk they met through Java with Judges.⁹⁹ Of the students who stated that they had not yet initiated follow-up contact, 92% stated that Java with Judges helped them feel more comfortable connecting with a judicial officer or law clerk in the future.¹⁰⁰ Notably, 86% shared that Java with Judges helped them learn more about career pathways to becoming a judge, and 69% said that participating in the program changed their impression of diversity on the bench or the kinds of career paths that lead to roles in the judiciary.¹⁰¹ One student noted:

95. For the names of Java with Judges Steering Committee members, see 2023 ANN. LEGIS. REP., *supra* note 52, at 25.

96. 2022 ANN. LEGIS. REP., *supra* note 2, at 30.

97. *Id.* at 29.

98. *Id.* at 28–30.

99. *Id.*

100. *Id.*

101. *Id.*

This program broadened my previously narrow perspective on who can fill the role of “judge.” It also made me excited about applying for a clerkship someday. As a first-generation law student without personal connections in the field, this was an amazing opportunity to connect with people in the judiciary who I otherwise would not have been able to [meet].¹⁰²

The strength of Java with Judges is its simplicity: the program provides easy opportunities for students to meet with busy judges. Virtual meetings have also allowed Colorado judges outside of the Denver Metro area to easily meet with students during the lunch hour or at the beginning or the end of the workday. So far, judges from sixteen of Colorado’s twenty-four state judicial districts and the federal district court have participated. By creatively expanding upon its offerings, Java with Judges continues to be a dynamic and successful program that JDO is proud to champion.

5. Law School . . . Yes We Can!

Although many of the JDO’s efforts focus on current applicants for judicial vacancies, members of Colorado’s legal community have recognized that we must also continue improving access to the legal profession itself, and as a result, have mounted efforts to reach college students.

Law School...Yes We Can! (LSYWC) is a shining example of such a program.¹⁰³ Launched by Judge Christine Arguello, the first Latina to be appointed to a federal district court bench in Colorado, the LSYWC fellowship program offers support to college students from underrepresented communities as they prepare to apply for law school.¹⁰⁴ The program provides each LSYWC Fellow with a mentor team—consisting of a current law student, a junior- or mid-level attorney, and a senior attorney or judge—that supports them throughout their college years.¹⁰⁵ In addition to regular, sustained mentorship, LSYWC offers networking opportunities, leadership training, mock interview experience, and LSAT preparation.¹⁰⁶ Since the program’s inception in 2014, attorneys and judges have amassed approximately 33,800 mentorship hours for its nearly eighty Fellows, many of whom have now graduated law school and entered the legal profession, 97% of whom graduated college after participation in the program.¹⁰⁷ A growing number of LSYWC Fellows have now graduated law school and entered the legal profession, and the program was awarded the 2023 Alexander Award for Excellence in Pipeline Diversity by the American Bar Association.

102. *Id.*

103. *The Program*, L. SCH. . . . YES WE CAN: COLO., <https://lawschoolyeswecan.org/theprogram> (last visited Jan. 1, 2024).

104. *Id.*

105. *Id.*

106. *Id.*

107. *Id.*

C. Community Engagement

The JDO reaches beyond public presentations and education events—by opening doors and welcoming communities that are historically underrepresented in the highest courts, the JDO’s efforts signal that becoming a judge is attainable for members of those communities, and that they belong in these spaces.

1. Judicial Walking Tours

Each year, the Colorado Judicial Department hosts walking tours and receptions for the students of the Black Law Student Associations, Latinx Law Student Associations, Native American Law Student Associations, Asian Pacific American Law Student Associations, South Asian Law Student Association, Arab Law Student Association, and the OUTLaws organizations at Colorado Law and Denver Law.¹⁰⁸ The walking tours are designed to create an opportunity for law students to engage in conversations with attorneys and judges from their respective affinity groups at the appellate and trial courts. The day begins with a welcome reception where the students meet Colorado Supreme Court Justices, Colorado Court of Appeals Judges, and judges from each affinity group, and participate in a tour of the Ralph Carr Judicial Center. Students then participate in a panel discussion and hear from diverse judges about their experiences on the bench and from diverse attorneys who appear before them.¹⁰⁹

The judicial walking tours introduce law students to Colorado’s diverse legal community and the courts. These tours encourage students to participate in programs like Java with Judges and explore internships or clerkships upon graduation. These events complement existing diversity and inclusion programs at Colorado Law and Denver Law and send the message that diverse students belong in Colorado’s legal community. Ultimately, the judicial walking tours offer more than exposure to the judiciary; the tours create a sense of community and belonging that is crucial to law students’ success in school and in the profession. As Justice Márquez testified in July 2021 to the Committee on the Judiciary of the United States House of Representatives on judicial diversity, “It is difficult to be what you cannot see.”¹¹⁰

2. Media and Messaging

It is important to share both the successes of the JDO and the continuing need for judicial diversity with the public and legislators engaged in this work. The CBA-CJI Coalition has helped amplify the voices of Colorado’s diverse judges, celebrate historic judicial appointments, and celebrate judicial diversity efforts in local and national media, including

108. 2023 ANN. LEGIS. REP., *supra* note 52, at 26–29.

109. *Id.* at 31.

110. *The Importance of a Diverse Federal Judiciary*, *supra* note 34, at 7.

Essence Magazine,¹¹¹ Colorado Public Radio,¹¹² Colorado Politics,¹¹³ KUSA 9 News,¹¹⁴ KOAA News 5,¹¹⁵ and the Colorado Bar Association's *Our Voices* podcast.¹¹⁶ The media coverage has also given the JDO and its community partners the opportunity to share judges' stories and encourage additional stakeholders to join in this work. The JDO is currently collaborating with the Colorado History Museum and the Colorado Supreme Court library to further preserve and celebrate these judges' stories as part of Colorado's rich judicial history.

The JDO has received attention on the national stage as well. In 2021, the JDO assisted Justice Márquez in preparing her testimony about the judicial diversity efforts in Colorado and the importance of bench diversity when she was invited by the United States House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Internet to speak on this topic.¹¹⁷ As a result of Justice Márquez's participation in the hearing, the JDO has connected with judicial leaders from Minnesota, Washington, Indiana, and New Hampshire who are also spearheading efforts to create diversity, inclusivity, and equity on the bench in their home states. The JDO has also presented before the Diversity Committee of the National Council of Juvenile and Family Court Judges and is collaborating with The Appellate Project on the community-building and outreach efforts of JDO discussed throughout this Article.¹¹⁸

111. Whitfield, *supra* note 67.

112. Ali Budner, *Two Black Women Judges in Colorado Reflect On This Time in America*, COLO. PUB. RADIO (Oct. 19, 2020, 4:00 AM), <https://www.cpr.org/2020/10/19/two-black-women-judges-in-colorado-reflect-on-this-time-in-america/>; *see also* Chandra Thomas Whitfield, *Celebrating Black Female Judges in Colorado as the Judiciary Starts to Diversify*, COLO. PUB. RADIO (Mar. 28, 2023), <https://www.cpr.org/show-segment/celebrating-black-female-judges-in-colorado-as-the-judiciary-starts-to-diversify/>.

113. Michael Karlik, *Judicial Report Highlights Diversity Initiatives, Significant Uptick in Black Female Judges*, COLO. POLS. (Nov. 12, 2021) https://www.coloradopolitics.com/courts/judicial-report-highlights-diversity-initiatives-significant-uptick-in-black-female-judges/article_5fe483d4-4337-11ec-bb27-3b9d901c7600.html; *see also* Michael Karlik, *Q&A with Sumi Lee: Steering Colorado's Judicial Branch Toward More Diversity on the Bench*, COLO. POLS., (Aug. 29, 2023) https://www.coloradopolitics.com/courts/q-a-with-sumi-lee-steering-colorados-judicial-branch-toward-more-diversity-on-the-bench/article_884983cc-ac83-11ed-9c2f-5bad6d6298f0.amp.html.

114. *13 Women on the Bench in Colorado Pay Tribute to Justice Ginsburg*, KUSA 9 NEWS (Sept. 22, 2020, 10:09 PM), <https://www.9news.com/video/news/local/next/13-women-on-the-bench-in-colorado-pay-tribute-to-justice-ginsburg/73-41b1cce9-a64d-4b5a-a326-3d4b7a392e74>.

115. Colette Bordelon, *Raising the Bar: Colorado Pushes for More Diversity on the Bench*, KOAA NEWS 5 (Sept. 18, 2020, 11:52 PM), <https://www.koa.com/news/covering-colorado/raising-the-bar-colorado-pushes-for-more-diversity-on-bench>.

116. *Our Voices*, COLO. BAR ASS'N, <https://www.cobar.org/Podcast/Our-Voices> (last visited Jan. 1, 2024).

117. *The Importance of a Diverse Federal Judiciary*, *supra* note 34, at 1–2.

118. *The Appellate Project* is a 501(c)(3) organization whose mission is to empower law students of color to thrive in the appellate field. THE APPELLATE PROJECT, <https://theappellateproject.org/> (last visited Jan. 1, 2024).

IV. SUSTAINING SUCCESS: HELPING DIVERSE JUDGES FLOURISH ON THE BENCH

Judges face unique challenges that impact their stress, health, and well-being.¹¹⁹ In May 2022, the Colorado Supreme Court Standing Committee on Judicial Well-Being (JWB Committee) conducted a survey of Colorado's judicial officers. The 225 survey respondents identified stress as a top theme impacting judicial well-being.¹²⁰ The survey also found that non-white judges perceived themselves as being held to a different standard than their white colleagues.¹²¹ The Colorado Attorney Well-Being Task Force's November 2021 report found that "[m]inority judges face additional pressures and stress that go beyond the high level of stress already associated with being a judge," and that "[w]omen and judges of color may feel even more isolated than their colleagues, have a lower sense of belonging to the overall enterprise, suffer from feelings of tokenism, and feel a special responsibility to represent a particular group."¹²²

Given the stress and demands of being a judicial officer, it is critical to look beyond increasing diversity to address the inclusion and equity issues that disproportionately affect judges from underrepresented communities when they reach the bench. Without question, achieving a healthy integration of work and life will not only assist judicial officers' professional development and performance, but judicial well-being efforts ensure that diverse judges are supported so that they may succeed and thrive on the bench. The JDO's goal of increasing diversity on the bench includes working closely with the JWB Committee and similar initiatives to provide support and resources for diverse judges to enjoy long-term success. Without appropriate support and resources, diverse judges are at an increased risk of burning out and quitting.¹²³ As more diverse judges take the bench each year, it is critical to support them throughout their judicial career, particularly in the first few years as they are developing both their skills and identities as judges.

The JWB Committee, currently chaired by Justice Márquez, includes at least one judge from each of Colorado's twenty-two judicial districts and meets every other month. One of the JWB Committee's first projects resulted in the creation of a website that serves as a one-stop location for information about well-being resources and programming specifically tailored to judicial staff.¹²⁴ The committee has also developed a program similar to Java with Judges called Chamber Chats, a popular monthly virtual

119. Swenson, Bibelhausen, Buchanan, Shaheed, & Yetter, *supra* note 47, at 1.

120. *Diversity, Equity, and Inclusion Survey*, JUD. WELL-BEING COMM.: COLO. JUD. BRANCH (May 2022) (on file with author).

121. *Id.*

122. *Lawyer Well-Being*, COLO. SUP. CT. TASK FORCE ON LAW. WELL-BEING, at 61 (Nov. 2021), https://coloradosupremecourt.com/PDF/AboutUs/WellBeing/WellBeing_Report_Nov2021_Release_Final.pdf.

123. *Id.*

124. COLO. JUD. WELL-BEING, <https://judicialwellbeing.colorado.gov/> (last visited Jan. 1, 2024).

brown bag lunch hour meeting for diverse judges around the state to connect with one another for mentorship, fellowship, and community building.¹²⁵

Looking forward, the Colorado Judicial Department recognizes the collective responsibility to ensure that the bench is inclusive and to foster a sense of belonging and culture of well-being to support judicial officers' professional development. Such efforts are critical to ensure job satisfaction and career longevity. As the Colorado Judicial Department renews its commitment to being compassionate and accessible to the public and providing its employees with safe and equitable work environments, the JDO will continue to focus on fostering a workplace where judges can find support and success.

As the vision statement of the Colorado Judicial Department states, the JDO's work is rooted in a commitment to serve Colorado's communities with integrity by providing the public with fair and equal access to the judicial process.¹²⁶ Investing in an innovative judicial diversity program within the judicial branch ensures that the Colorado courts reflect the communities they serve.

V. LOOKING FORWARD

As we reflect on the five years that have passed since the JDO was first envisioned, it is encouraging to see all that the Colorado legal community has accomplished. Creating and funding an innovative, new program was a bold decision that has proven worthwhile. In the three years since its launch, ideas for the JDO have been plentiful, and public support for additional programming and resources has been widespread. Indeed, keeping up with the demand has been a challenge for a one-person office prompting a request for additional funding that will allow the JDO to hire additional support staff. Supporting the program's growth will allow the program to launch new initiatives and broaden its reach.

In addition, the Supreme Court's decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*¹²⁷ informs our vision for the future of the JDO and similar programs in other states.¹²⁸

125. *Id.* The JWB Committee continues to explore the intersection between diversity and well-being as part of the Colorado Judicial Department's long-term investment in fostering an exemplary workplace.

126. Mission, Vision and Values, STATE OF COLO.: WORKPLACE CULTURE INITIATIVE, <https://judicialwci.colorado.gov/mission-vision-and-values> (last visited Jan. 1, 2024). Colorado Judicial Department's vision statement (2023): The Colorado Judicial Department strives to be "a trusted and transparent leader in the pursuit of justice across the state, serving our communities with integrity, and providing fair and equitable access to the judicial process. We are committed to empowering our employees through open communication, fostering a community of trust in a supportive and innovative workplace." *Id.*

127. 600 U.S. 181 (2023).

128. *Id.* at 230 (holding that the admissions systems used by Harvard College and the University of North Carolina violated the Equal Protection Clause of the Fourteenth Amendment because they "lack[ed] sufficiently focused and measurable objectives warranting the use of race, unavoidably

The *Students for Fair Admissions* decision has triggered a host of questions on the legality of DEI efforts, including those outside of the college admissions context—namely, in the employment arena.¹²⁹ In response to this discussion, Colorado Attorney General Phil Weiser issued a formal opinion clarifying the legality of employer DEI programs noting that “[e]mployer DEI programs remain valid under federal law.”¹³⁰ He specifically noted that “an organization’s efforts to expand its outreach to historically unrepresented groups do not adversely impact other applicants for a position.”¹³¹ While certain legal questions remain unresolved, the JDO will carry on with its legislative mandate.

As the JDO grows and works with collaborative partners within and outside of the Colorado Judicial Branch, it is our hope that other state judiciaries will consider creating similar programs as well. The authors offer the following recommendations to state judicial branches interested in creating programs designed to promote judicial diversity.

First, we recommend that other states looking to invest in a judicial diversity outreach program house it within the judicial branch. Not only can a diversity outreach program further the judicial branch’s mission of providing a fair and equitable justice system to all its citizens, but locating the program within the judicial branch also ensures support and resources for judicial officers. The judicial branch has key data regarding its judicial officers, judicial districts, and caseload. Operating the program from within the branch and utilizing that key data will help facilitate statewide communications, support DEI initiatives, and ensure that all judges can find success on the bench long-term.

Second, regular collection and analysis of judicial diversity and state demographic data is a critical part of a successful judicial diversity program. Diversity can be a challenging topic to discuss with stakeholders, and data can help anchor the conversation and illustrate the gap between

employ[ed] race in a negative manner, involve[d] racial stereotyping, and lack[ed] meaningful end points”).

129. See, e.g., Letter from Att’y Gen. of 13 States to Fortune 100 CEOs (July 13, 2023), <https://www.tn.gov/content/dam/tn/attorneygeneral/documents/pr/2023/pr23-27-letter.pdf> (reminding Fortune 100 CEOs of their “obligations as an employer under federal and state law to refrain from discriminating on the basis of race, whether under the label of ‘diversity, equity, and inclusion’ or otherwise”); Letter from Aaron D. Ford, Att’y Gen., et al., to Fortune 100 CEOs (July 19, 2023), [https://ag.nv.gov/uploadedFiles/ag.nv.gov/Content/News/PR/PR_Docs/2022\(1\)/Fortune%20100%20Letter%207.19.23.pdf](https://ag.nv.gov/uploadedFiles/ag.nv.gov/Content/News/PR/PR_Docs/2022(1)/Fortune%20100%20Letter%207.19.23.pdf) (responding to the letter sent by the attorneys general of thirteen states, “condemn[ing] the letter’s tone of intimidation,” and advising Fortune 100 CEOs that such programs remain lawful); Press Release, U.S. Equal Emp. Opportunity Comm’n, Statement from EEOC Chair Charlotte A. Burrows on Supreme Court Ruling on College Affirmative Action Programs (June 29, 2023), <https://www.eeoc.gov/newsroom/statement-eeoc-chair-charlotte-burrows-supreme-court-ruling-college-affirmative-action> (concluding that “[i]t remains lawful for employers to implement diversity, equity, inclusion, and accessibility programs that seek to ensure workers of all backgrounds are afforded equal opportunity in the workplace”).

130. Legality of Employer DEI Programs, Op. Colo. Att’y Gen. 23-02 (2023). In reaching this conclusion, Attorney General Phil Weiser relied on a statement provided by the U.S. Equal Opportunity Employment Commission.

131. *Id.*

the population and the current makeup of the bench. At the onset of a judicial diversity program, benchmarks and goals should be set, and data collection should begin immediately. Data collection also assists with showing measurable progress tied to future funding, as well as tailoring or continuation of programming.

Third, it is helpful to create a formal committee or coalition of internal and external supporters of bench diversity efforts. Judicial diversity efforts are the responsibility of the entire community, not just one JDO director. To create lasting change, government resources must be matched by community support and momentum. In addition, the work of judicial diversity is not limited to supporting judicial applicants; it also requires educating the public about the importance of bench diversity, judicial appointments, and the retention process. This work must also support diverse law students as they navigate law school and enter courtrooms for experiential learning. These outreach efforts require engagement and collaboration between various agencies, schools, and community organizations. The CBA-CJI Coalition has been a key supporter since the creation of this program, and the Coalition's reach (which includes attorneys, judges, law students, appointing authorities, legal organizations, law schools, and pipeline organizations) has been crucial in facilitating JDO's community connections across the state.

Finally, it is critical to remember and communicate the "why." Having a diverse collection of backgrounds and life experiences among the judges on a court leads to richer and fuller discussions of the issues presented and more thoughtful decisions. Communicating to stakeholders the importance of judicial diversity is key to creating a successful JDO program. The JDO begins its community presentations and conversations with a discussion of this topic to provide context for why the JDO exists, and clearly stating the purpose and the mission of the JDO creates effective messaging.

CONCLUSION

A diverse bench ensures that our courts reflect the communities they serve. Everyday judges across the country resolve disputes involving people from all walks of life. Coming to court is a very stressful experience for litigants because so much is at stake: property, livelihoods, reputations, familial relationships, or even life and liberty. The confidence that the judge deciding a case has some understanding of the litigants' life experiences can ease the stress of engaging with the court and enhance trust that the decision rendered will be fair—even if the judge ultimately rules against them. In short, having a diverse judiciary strengthens the public perception that our courts render truly equal and fair justice. That perception of legitimacy is critical; it promotes confidence in, and respect for, the decisions rendered by our courts and thus strengthens the rule of law itself.

In this Article, we have detailed some of the ways Colorado has worked to achieve a diverse judiciary. The creation of the JDO in 2019 formalized what was previously spearheaded almost exclusively through community organizations and ad hoc volunteer efforts. Those organizations remain important partners in the JDO's work collecting and analyzing data on judicial diversity, developing pipelines to the judiciary for law students and attorneys from underrepresented backgrounds, and engaging with the community to educate law students and attorneys on judicial vacancies and the application process. While much work remains, in its first few years, the JDO has already had an impact on the diversity of Colorado's judiciary. We hope this Article may serve as a guide for other states to create similar programs.