Diversifying the Ranks of America’s Prosecutors

by the Honorable Jackie Lacey

Editor’s Note: The Honorable Jackie Lacey presented the following remarks at the Black Prosecutors Association of Los Angeles awards dinner on June 16, 2016.

When I was a child, I never dreamed of becoming a prosecutor. In fact, I never dreamed of becoming an attorney. Growing up, I didn’t know any attorneys. And looking back, I had only heard the names of two, and both were criminal defense attorneys: Johnnie L. Cochran Jr., who led O.J. Simpson’s defense team, and Earl C. Broady, a former police officer turned attorney.

My parents did not attend college. They moved to Los Angeles in the early 1950s to escape the race-based restrictions imposed upon them in the South during the Jim Crow era. My father worked for the city of Los Angeles cleaning vacant lots, and my mother worked in school cafeterias for the Los Angeles Unified School District. Growing up in the predominately African-American Crenshaw District, I didn’t realize all the opportunities that awaited me. I thought I wanted to be a teacher. At the University of California, Irvine, I was introduced to a person who would
change my life: Los Angeles County Superior Court Judge Irma Brown. We never spoke, but after listening to her describe the work of an attorney, I knew I had found my calling.

I graduated from law school at the University of Southern California in 1982. My first job was working for a small firm that specialized in civil litigation, but it wasn’t long before I became bored with the work. I wanted to try cases. A friend from law school was working as a prosecutor in the Santa Monica City Attorney’s Office and suggested I apply for a job. I was interviewed by then-City Attorney Mike Myers, who, at the end of the interview, asked me, “If I hire you, how are you going to explain to your community what you do?”

At the time, I didn’t understand why he asked me that question. And frankly, I was a little offended at some of the assumptions behind it. Back then, there were very few African-American prosecutors. That may have been partly because there was a great deal of mistrust of prosecutors in the black community due to a disproportionate number of African-Americans being prosecuted for crimes. I accepted the job offer, and in 1984, began my career as a prosecutor. Two years later, I joined the Los Angeles County District Attorney’s Office. I feel like I am doing what I was born to do.

Prosecutors play an important role in the criminal justice system. We are the quarterbacks; we call the plays. We decide which cases to file, which defendants to prosecute, and what punishment to seek in every case that enters the criminal justice system. Conversely, if we do not believe beyond a reasonable doubt that the person suspected of a crime actually committed that crime, we have an ethical mandate not to file the case. If a case already has been filed and new evidence is presented, we must dismiss it. Finally, if we believe someone was wrongfully convicted, we have an equally compelling ethical and moral obligation to seek a reversal. There is no justice if we, as prosecutors, fail to perform our job.

Another way to examine our role is to apply the concepts of the late Peter Drucker, widely known as “the inventor of modern management.” He wrote that leaders should understand their business, know who their customers are, and what their customers value.
As prosecutors, our business is to advocate in court and protect the rights of crime victims. Our customers are the members of the community-at-large. And community members value prosecutors who protect them by securing fair results in criminal justice matters. A community’s perception of fairness can be enhanced if its members feel that they have something in common with the people who work as prosecutors.

The Stanford Criminal Justice Center published a report on the value of diversity among prosecutors. In that report, a deputy district attorney observed that our job as prosecutors is about being able to relate to others, and so the more diverse the office is, the more effective the office can be in relating to everyone in the community. That of course includes victims, witnesses, jurors, and other key players in the justice system.

After 16 years of participating in key policymaking decisions within the Los Angeles County District Attorney’s Office, I believe it is important when reviewing or developing policies to have people with divergent perspectives contributing to the discussion. Having policy makers who come from different racial, ethnic, gender, generational, and economic backgrounds is important because it fosters a culture of inclusion and an enhanced understanding of the challenges and opportunities at hand.

According to the Stanford report, diverse viewpoints help combat biases that may be present in judgment-based decisions and foster more equitable outcomes. Areas of the law that may be affected by a prosecutor’s perspective include human trafficking of minors, treatment of recanting domestic violence victims, allocation of U Visas for witnesses, and creation of drug sentencing policies and conviction integrity units.

So how are we doing in terms of diversity among prosecutors? Stanford law professor Deborah Rhode wrote an article published May 27, 2015, in the Washington Post entitled, “Law is the least diverse profession in the nation. And lawyers aren’t doing enough to change that.” Rhode cites U.S. Bureau of Labor statistics showing that 88 percent of the nation’s lawyers are white, compared with 81 percent of the nation’s architects and engineers, 78 percent of its accountants, and 72 percent of physicians and surgeons. By contrast, 4.8 percent of the nation’s attorneys are African-
American, 3.7 percent are Latino, and 3.4 percent are Asian, according to the American Bar Association. These statistics are important, according to Rhode, because “the legal profession supplies presidents, governors, lawmakers, judges, prosecutors, general counsels, and heads of corporate, government, nonprofit and legal organizations.”

Many managing partners attribute their law firm’s lack of diversity to the lack of diversity in the job pool, according to Rhode. Anecdotally, I also have found this to be true in hiring a diverse group of prosecutors. Prosecutors’ offices across the nation, after all, are competing with law firms and corporations for the same pool of candidates.

Rhode concludes that legal organizations need a stronger commitment to equal opportunity through their policies, priorities, and reward structures. Leaders, she said, must not simply acknowledge the importance of diversity, but hold individuals accountable for the result.

Not surprisingly, the ranks of California prosecutors are more inclusive than the nation’s attorney population overall. I suspect it reflects the diversity of our great state. Still, California prosecutors do not look like the general population of either the nation or our state. Another Stanford Criminal Justice Center report concluded that whites make up 38 percent of the population in California, but a whopping 70 percent of its prosecutors.

African-Americans and Asians are fairly represented amongst the state’s prosecutors, according to the report. African-Americans comprise 5.7 percent of California’s population and 5.8 percent of its prosecutors. Asians comprise 14.2 percent of the state’s population and 11.8 percent of its prosecutors. Latinos, however, are heavily under-represented, the report found. Latinos comprise 38.6 percent of the state’s population, but only 9.4 percent of its prosecutors.
I am proud that my prosecutors represent a broader spectrum of the population when compared to California prosecutors overall. And they far exceed the number of African-American, Latino, and Asian attorneys licensed to practice law in California. The Los Angeles County District Attorney’s Office has almost 1,000 attorneys. Approximately 9 percent are African-American (compared to just 2.7 percent of all California attorneys), 16.8 percent are Asian (compared to 7.7 percent of the state’s attorneys), and 12 percent are Latino (compared to 4.3 percent of the state’s attorneys).

We are now faced with the question, what can we do so that prosecutors better reflect the population they serve? As a profession, we must continue to provide law school scholarships and tutor candidates to pass the bar exam. But encouraging more young people to pursue legal careers may be a little too late to get the results we need now.

I was fortunate to find my calling in college. But I advocate starting earlier. Let’s introduce elementary school-aged children to the law. We need to tell them our stories, just like Judge Brown shared hers with me. We need to encourage them at an early age to embrace reading and writing and develop analytical skills. Perhaps we need to give scholarships to kids to go to college preparatory schools or create more law magnet schools.

Diversifying the ranks of our nation’s prosecutors is an achievable goal. But as prosecutors, we can no longer sit back and point to the lack of diversity in the job pool. We must take an active role in recruiting people from different backgrounds to go to law school and become prosecutors. A variety of viewpoints will improve the overall decisionmaking process and build trust with the communities that we serve.

For more than two decades, my office has invited prosecutors to mentor fifth grade students through a law-related education program called Project LEAD. The program is designed to teach students about the criminal justice system. As a former facilitator, I learned firsthand of its value: Giving kids, most of them children of color, an opportunity to spend an hour a week with a prosecutor, learning about what we do, how we do it, and why we do it. My prosecutors serve as positive role models and, as such, invite
students to explore careers in the legal profession. We hope a few of them will join our ranks someday.

In May, I watched on television as President Barack Obama delivered the commencement address to graduates of Howard University, an historic black college. He gave a powerful example of the impact a broader experience can have on how you view the criminal justice system and what impact that can have on the justice system. He said:

[R]emember the tie that does bind us as African-Americans—and that is our particular awareness of injustice and unfairness and struggle. That means we cannot sleepwalk through life. ... We can’t just lock up a low-level dealer without asking why this boy, barely out of childhood, felt he had no other options. We have cousins and uncles and brothers and sisters who we remember were just as smart and just as talented as we were, but somehow got ground down by structures that are unfair and unjust.[5]

I consider the president’s speech a personal challenge to leaders, particularly African-American prosecutors like me. We must create prosecutors’ offices that not only reflect the community in which we live and work but also encourage a robust discussion of different views of the criminal justice system.

As I said, when I was a child, I did not dream of becoming an attorney. But I now lead the largest local prosecutorial agency in the nation. It’s a dream job. And in that role as a leader, I am determined not to sleepwalk through the justice system, particularly when it comes to deciding what is fair and just.

ENDNOTES
2. Id.
