



Local attorneys seek greater judicial diversity

By [LYLE MORAN](#), The Daily Transcript
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Some members of the local legal community are calling for greater diversity among judges both in San Diego and statewide.

They would like to see more people with disabilities, veterans and those who publicly identify as lesbian, gay, bisexual and transgender appointed to the bench.

Peter Lynch, an attorney in Cozen O'Connor's San Diego office, was involved in efforts to secure support for a bill that would require data on the disabled and veterans to be included in the annual demographic information collected about judicial applicants and appointments.

Assembly Bill 1005 was signed into law by Gov. Jerry Brown in 2013 as part of an effort to combat potential bias against applicants from those groups.

The judicial data on the disabled and veterans was collected for the first time in 2014.

Lynch, a veteran who served with the U.S. Marine Corps in Iraq and Afghanistan, said the initial results were discouraging.

Of the 10 applicants for judgeships who identified as veterans among 229 total applicants, none was appointed last year by Brown.

Three disabled applicants also applied and they were not among the 76 people appointed last year.

"It's convenient when people can have sound bites and say we passed this bill to ensure these groups receive a fair shake and a place at the table, but if that is not reflected by the appointments, it needs to be addressed," Lynch said. "We want actual results."

Lynch said at the least, more of the applicants who are veterans or have disabilities need to be advanced to the stage of the appointment process where they are considered by the Commission on Judicial Nominees Evaluation.

The panel, also known as the JNE Commission, is an agency of the State Bar that provides confidential feedback to the governor about potential judicial appointments.

Progressing to the interview stage can provide applicants from an underrepresented group with valuable experience, Lynch said. It also can prevent them from concluding they did not get appointed for arbitrary reasons, he said.

"The candidates have to be brought in," Lynch said.

Evan Westrup, a spokesman for Brown, said the administration aims for a broad, experienced and diverse pool of applicants when it is filling a vacancy.

He said any conclusions reached based on the data about the number of veterans and disabled applicants appointed would be misleading because the lack of available information. Applicants are not required to identify if they are a member of those two groups.

“Pulling these stats on disability and veteran status from a very small pool [2014 applicants alone] presents a very inaccurate picture — especially since many 2014 applications are still being reviewed,” Westrup said in a statement.

As for the representation of the LGBT community among judges, the California LGBT Bar Coalition said the results of a comprehensive survey it conducted revealed they are far from equally represented in state and federal courts.

The coalition, made up of representatives from each of California’s regional LGBT bar associations, reported that there has never been an openly gay justice of the California Supreme Court.

Currently, 45 of California’s 58 counties do not have any LGBT judges.

Locally, just four of the 126 superior court judges in San Diego County identify as LGBT, according to the coalition's survey.

Barbara Cox, a vice dean at California Western School of Law, said one reason for the lack of lesbian and gay judges could be that efforts to expand judicial diversity often focus solely on the appointment of people of color and women.

“That type of ‘affirmative action’ or attempt to diversify the bench is usually not applied to gay and lesbian people,” she said.

Cox said another contributing factor to the low numbers may be judges who spent many years in the closet to ascend the legal ranks have remained in the closet since appointment or election to the bench.

The coalition of LGBT bar associations recommended a mix of actions that could result in more members of the community securing judgeships, such as creating a California LGBT judges association. They also suggested mentorship initiatives and efforts to increase the pipeline of strong applicants for judgeships.

“The LGBT legal community acknowledges that our own challenge is to develop a larger pool of qualified lesbian, gay, bisexual and transgender judicial candidates,” said attorney Kimberly Ahrens, co-president of Tom Homann LGBT Law Association in San Diego.

“As leaders of the various LGBT bar associations in California, we are exploring methods to achieve this goal,” Ahrens said.

The governor’s office also defended Brown’s record of appointing LGBT judges.

Westrup, Brown's spokesman, said the governor's judicial appointments have featured several notable firsts for the LGBT community, such as appointing the first openly gay and lesbian justices to appellate courts and the first lesbian justice to Alameda County Superior Court.

Demographic data concerning the sexual orientation of applicants was first tracked in California in 2012.

From 2012 to 2014, there were 54 judicial applicants who identified as LGBT and 10 were appointed by Brown, for an appointment rate just shy of 20 percent.