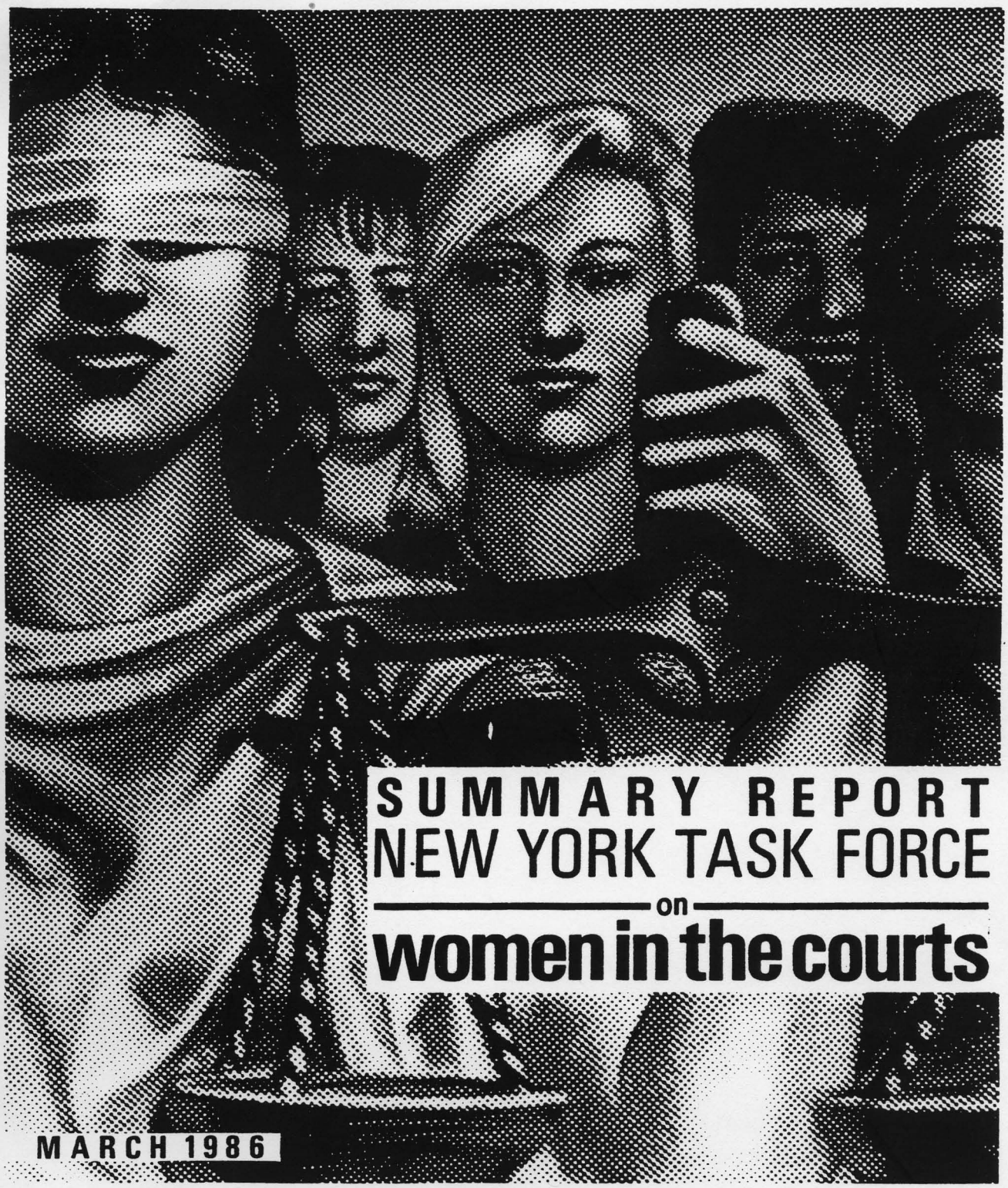
UNIFIED COURT SYSTEM OFFICE OF COURT ADMINISTRATION



SUMMARY REPORT
NEW YORK TASK FORCE
on
women in the courts

MARCH 1986

PREFACE

The New York Task Force on Women in the Courts has concluded that gender bias against women litigants, attorneys, and court employees is a pervasive problem with grave consequences. Women are often denied equal justice, equal treatment, and equal opportunity.

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With leadership there will be change. Ultimately, reform depends on the willingness of bench and bar to engage in intense self-examination and on the public's resolve to demand a justice system more fully committed to fairness and equality.

NEW YORK TASK FORCE ON WOMEN IN THE COURTS

NEW YORK TASK FORCE ON WOMEN
IN THE COURTS

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ON WOMEN IN THE COURTS
SUMMARY REPORT

INTRODUCTION

Submission of the Report of the New York Task Force on Women in the Courts to the Honorable Sol Wachtler, Chief Judge of the State of New York,* culminates a twenty-two month investigation undertaken on behalf of and under the auspices of the Unified Court System of the State of New York. The Report reviews the status and treatment of women who (a) appear before the courts as litigants, (b) practice in the courts as attorneys, and (c) are employed in the courts as non-judicial personnel. It sets forth the Task Force's assessment of (1) conditions in the courts that have an adverse impact on the welfare of women and (2) the consequences of gender bias in the courts, together with (3) the Task Force's recommendations.

On May 31, 1984, the Honorable Lawrence H. Cooke, Chief Judge of the State of New York (1979-1984), announced the creation of the Task Force. He stated that "in recent chapters of history tremendous strides have been made by women in the legal structure and operation of our State and Nation. . . . The issue remains whether, at this juncture, their allotment of the jurisprudential scheme in the Empire State is fair under all the circumstances."**

The Task Force was established to "examine the courts and identify gender bias and, if found, make recommendations for its alleviation." "Gender bias" was defined by Chief Judge Cooke as embracing "deci-

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* The Honorable Sol Wachtler was appointed Chief Judge of the State of New York on January 2, 1985. Soon after his appointment, he communicated to the Task Force his sense of the importance of its undertaking and requested that the Task Force continue its work under his administration.

** Remarks of Hon. Lawrence H. Cooke, Press Conference announcing formation of New York State Task Force on Women in the Courts, attached to this Summary Report.

sions . . . made or actions taken because of weight given to preconceived notions of sexual roles rather than upon a fair and unswayed appraisal of merit as to each person or situation." The scope of the Task Force's mandate was sweeping; it was requested to review "all aspects of the [court] system, both substantive and procedural" and ascertain whether "there are statutes, rules, practices, or conduct that work unfairness or undue hardship on women in the courts."

When examining these issues the Task Force could not overlook the history of women's experiences in the courts. New York's contemporary legal culture arose out of an environment in which women were denied or had limited access to the courts. At Common Law, women were incapable of ordering their legal affairs: "the husband and the wife were treated as one person and marriage operated as a suspension in most respects of the legal existence of the latter. From this supposed unity of husband and wife sprang all the disabilities of married women. She could not make a binding contract or commence an action, because either would imply that she had a separate existence."

Women, permitted to practice law in New York since 1886, have entered the profession in significant numbers only within the past fifteen years. Women could not serve as petit or grand jurors until 1940 and were granted an automatic exemption from jury duty until 1975.

Just as the historical perspective could not be ignored, neither could the considerable progress women have made towards achieving equality. New York was a leader among the States in eliminating by statute these absolute disabilities. Women are now presumed to enjoy nearly the same rights and responsibilities as are men. Barriers to women's professional and civic participation in New York's courts have been removed. Our lawmakers have become more sensitive to prejudicial, gender-based stereotypes.

But the laws of New York, no matter how enlightened, are not self-executing. Judges, attorneys and court administrators must breathe life into legal reforms.

The Task Force has concluded that gender bias against women litigants, attorneys, and court employees is a pervasive problem with grave consequences. Women are too often denied equal justice, equal treatment, and equal opportunity. Cultural stereotypes of women's role in marriage and in society daily distort courts' application of substantive law. Women uniquely, disproportionately, and with unacceptable frequency must endure a climate of condescension, indifference, and hostility. Whether as attorneys or court employees, women are too often denied equal opportunities to realize their potential.

The problems women face -- rooted in a web of prejudice, circumstance, privilege, custom, misinformation, and indifference -- affect women of every age, race, region, and economic status. When women are poor or economically dependent, their problems are compounded. They often must traverse the justice system alone, facing indifference or contempt. Problems are perpetuated by some attorneys' and judges' misinformed belief that complaints by women are contrivances of overwrought imaginations and hypersensitivities.

More was found in this examination of gender bias in the courts than bruised feelings resulting from rude or callous behavior. Real hardships are borne by women. An exacting price is ultimately paid by our entire society. The courts are viewed by a substantial group of our citizenry as a male-dominated institution disposed to discriminate against persons who are not part of its traditional constituency.

This perception and the reality on which it is based require the immediate and sustained attention of New York State's judicial and political leadership and the professional legal community. Active leadership by New York's judicial hierarchy that makes clear that gender-based discrimination in the courts will not be tolerated is an indispensable component of meaningful reform. The assistance and cooperation of bar associations, law enforcement agencies, public employee unions, and law schools should be enlisted to ensure that all court-system participants are aware of the adverse conditions women face in our courts and of the means by which these conditions can be eliminated. Appropriate administrative and legislative action should then follow.

FINDINGS AND RECOMMENDATIONS

The Task Force's Report sets forth in detail the Task Force's findings relating to the status and treatment of women litigants, women attorneys, and women court employees in New York State's court system.* The subjects treated are not an exhaustive list of issues affecting women in the courts. Given the magnitude of the Task Force's charge, its most difficult decision was the initial selection of areas of investigation. Time and resource limitations precluded full examination of "all aspects of the [court] system both substantive and procedural." Accordingly, the Task Force chose to limit its study to those matters that appeared to have the most profound effect on the welfare of the greatest number of women. In making these choices, the Task Force recognized that areas other than those studied are also worthy of scrutiny.

During the course of its inquiry, more than 2,000 judges, lawyers, laypersons and non-judicial employees of the Unified Court System communicated with the Task Force through:

- Four public hearings -- one each in Albany and Rochester and two in New York City -- at which eighty-five witnesses testified. Witnesses included judges, court administrators, public officials, bar leaders and individuals with special expertise in matters affecting women in the courts, such as matrimonial lawyers, prosecutors in sex crimes units, and representatives of battered women's shelters and rape crisis centers.

- Six regional meetings with attorneys and judges in Albany, Kingston, New York City, and Rochester. At each meeting, attendees were asked to assess how gender affects the courtroom environment and the application of substantive law, to relate the evidence supporting their assessments and to suggest how conditions could be improved.

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* This Summary Report is intended to be a companion to the Task Force Report which describes in detail the factual bases underlying the Findings summarized here.

° Five "listening sessions" with residents of Oneida, Oswego, Jefferson, Herkimer and Lewis Counties. The Task Force sought out residents of rural counties in order to secure views of how courts affect the welfare of women in representative communities for which the regional meetings and public hearings were not readily accessible.

° A survey instrument with 107 close-ended questions that solicited attorneys' perceptions and experiences of forms of gender bias cited at public hearings, regional meetings and "listening sessions." This survey elicited 1,759 responses, including more than 500 narrative comments.

° Letters and written submissions, including scholarly commentary on issues affecting women in the courts.

° Questionnaires sent to all Surrogate's Courts soliciting information about women attorneys' appointment to fee-generating positions.

° Questionnaires sent to judicial nominating and screening committees soliciting information about their composition by gender, the number of women who have applied for judgeships and who have been favorably reported on and the existence of any policy favoring the active recruitment of qualified women candidates.

° A study conducted by the Center for Women in Government, State University of New York at Albany, of the effect of personnel practices in the Unified Court System on women non-judicial employees.

The opinions and views expressed reflected a wide spectrum of personal experiences, backgrounds, and agendas. Because of the often elusive nature of the subject matter and the gravity of many claims made, the Task Force was committed to examining the record it compiled thoroughly, deliberately, and dispassionately. Findings were adopted only when well-corroborated in the record. The factual basis underlying the findings and

the identity of sources are set forth at length in the Task Force's Report.

The survey results and data from the public hearings, regional meetings, and "listening sessions" and written submissions revealed consistently similar concerns throughout the state and were mutually corroborative.

Recommendations to improve conditions range from general recommendations for the exercise of leadership by the judiciary and the organized bar to specific administrative and legislative reforms. They call for the participation of all persons and groups -- judges, legislators, attorneys, court employees, law enforcement agencies, bar associations, court administrators, law schools, and public employee unions -- who affect the operations of the courts. A separate section of this Report is devoted to overarching recommendations for institutionalizing reform and monitoring progress.

I. STATUS OF WOMEN LITIGANTS

From the threshold of the judicial process to the ultimate disposition of the case there are obvious signs of women litigants' -- particularly poor and minority women's -- underclass status in our courts. Throughout New York State, women litigants: (1) have limited access to the courts; (2) are denied credibility; and (3) face a judiciary underinformed about matters integral to many women's welfare.

Problems of inadequate information are best understood in the context of how they affect specific areas of substantive law that particularly involve women litigants' claims: domestic violence, rape, post-divorce division of assets, spousal and child support and custody. In each of these areas, cultural myths about women's role in the family and in society and expectations about appropriate modes of behavior at times obscure considerations that are highly relevant to the decision-making process.

Women's lack of credibility is apparent in the way they are treated in the courthouse and in the judicial decision-making process. Women are sometimes treated dismissively, like burdensome children, or disrespectfully, like sexual objects. This affects women's access to the courts by creating an inhospitable environment. Decision making is marred when the results reached in cases consciously or unconsciously reflect not the merits of the case or the spirit of the law to be applied but prejudiced views of sex roles and characteristics: that women's claims are not to be believed; that women are subordinate to men in the marital relationship.

Problems of access arise, in part, from many women's financial inability to retain counsel in civil cases and the inadequacy of public mechanisms for appointing counsel. Women are, therefore, often unable to plead their causes effectively. Courthouse facilities often fail to accomodate the special needs of women. No place is provided for the children whom many women have no alternative but to bring to court.

The Task Force's discussion of the status of women litigants is divided into four principal parts: (1) the court's response to violence against women; (2) the courts' enforcement of women's economic rights;

(3) the court's consideration of gender in custody determinations; and (4) the courtroom environment.

A. THE COURTS' RESPONSE TO VIOLENCE AGAINST WOMEN

Violence against women is a problem of dramatic proportions in New York. In 1984, there were 41,688 calls to police in domestic-violence related cases. During the same year, Family Court figures show that 24,737 new family-offense petitions were filed, the overwhelming majority of which were brought by women against their husbands. In 38.5 percent (24,565) of the 63,853 divorces granted in New York during 1984, physical cruelty was cited as the reason for termination of the marriage. There were 5,571 reported incidents of rape and attempted rape in New York during 1984, of which 1,536 involved the use of a weapon.

New York's courts are principally charged with performing two functions in redressing violence against women: (1) they must review and enforce civil and criminal petitions and orders seeking or mandating protection of women against abuse from spouses or other family members; and (2) they must hear criminal prosecutions brought against men charged with committing assaults and sex-related crimes against women.

1. DOMESTIC VIOLENCE

SUMMARY OF FINDINGS

a. Domestic violence -- the physical or psychological abuse of one family member by another -- is a problem of dramatic proportions for women in New York State.

b. The Family Court Act and the Criminal Procedure Law, by and large, provide an adequate framework for providing relief to victims of domestic violence.

c. Notwithstanding the existence of adequate statutory protections, barriers to the laws' remedial purposes remain:

(i) Judges and other professionals in the court system are too often underinformed about the nature of domestic violence and the characteristics of victims and offenders.

(ii) Victims' access to the courts is limited by their being dissuaded by law enforcement officials and court personnel from proceeding in criminal and Family courts and by having their claims trivialized or ignored.

(iii) Victims are often presumed to have provoked the attack and are not considered credible unless they have visible injuries.

d. Some judges, attorneys, and court personnel erroneously presume that petitions for orders of protection filed by women during the course of a matrimonial action are "tactical" in nature. This assumpton fails to appreciate the many legal disincentives to filing a petition as a litigation tactic and that, in a violent relationship, violence is particularly likely to occur after a divorce action has been commenced.

e. Many Family Court Judges routinely enter mutual orders of protection in family-offense proceedings upon the mere oral request of respondents or sua sponte, without prior notice to the petitioners and without an opportunity for rebuttal testimony by petitioners.

(i) Mutual orders of protection issued in this manner deny the petitioner due process and create the appearance that both parties have been found to be violent notwithstanding the absence of proof of the petitioner's conduct.

(ii) Because the petitioner may subsequently be viewed as equally responsible for the violence or abuse, a court may be reluctant to grant a more restrictive order of protection or to hold the respondent in contempt if there is another violent incident.

(iii) A woman with a mutual order is in a worse position than if she had no order at all; the police are given ambiguous direction as to its enforcement, often being forced to choose between doing nothing or arresting both parties and placing children with protective services.

f. Judges making custody and visitation determinations too often fail to consider a man's violent conduct towards his wife and its well-documented detrimental effect on children.

g. Some judges are unwilling to remove a batterer from the family home, forcing mothers and children to live in shelters.

h. A significant number of women who bring petitions for court-ordered protection fail to follow through, leading to dismissals for failure to prosecute. Women who fail to proceed are deterred in part by the hostile or indifferent treatment they receive in court. Intimidation by the respondent is another cause, although judges rarely inquire into whether the petitioner has been coerced.

i. Judges too often fail to enforce orders of protection. Because of the inequality of bargaining power between the parties, mediation is not an acceptable alternative to swift and sure enforcement.

RECOMMENDATIONS

For Court Administration

1. Take necessary steps to assure that judges, court clerks and security personnel are familiar with the nature of domestic violence, the characteristics of domestic violence victims and offenders and the impact of adult domestic violence on children in the home, including:

   a. The battered woman syndrome.

b. The need for calendar preferences for violation of order of protection cases.

c. The statutory prohibition against dissuading domestic violence victims from seeking court relief as provided in Family Court Act § 812(3).

d. The powers of local criminal courts in cases of domestic violence and harassment.

e. The appropriateness of permitting advocates and others to accompany domestic violence victims into the courtroom as provided by Family Court Act § 838.

f. The due process violations inherent in granting a mutual order of protection when the respondent has not filed a petition.

g. The efficacy of educational programs for those found to have been violent toward members of their families.

h. The effectiveness of ordering those found to have committed family offenses to vacate the family home.

i. The appropriateness of jail for those found to have violated orders of protection issued by both the Family Court and criminal courts.

j. Issues of self defense as they pertain to women who kill men who have abused them.

2. Ensure availability of a judge to issue temporary orders of protection seven days a week, 24 hours a day pursuant to Family Court Act § 161(2).

For the Legislature

Enact legislation that:

1. Prohibits mutual orders of protection unless the respondent has filed and served a cross petition requesting that relief.

2. Provides that adjournments in contemplation of dismissal may be conditioned upon the defendant's attendance at educational programs for those charged with family violence.

3. Provides that abuse of one's spouse is evidence of parental unfitness for custody and a basis for termination of visitation or a requirement of supervised visitation.

4. Permits visitation in supervised locations now utilized for children in placement when there has been violence against the custodial parent by the non-custodial parent.

For District Attorneys

1. Establish domestic violence prosecution units in those jurisdictions with sufficient volume to justify a unit.

2. Ensure that assistant district attorneys receive training as to the nature of domestic violence, the characteristics of domestic violence victims and offenders and the impact of adult domestic violence on children in the home, including the same particular areas recommended for judges and court personnel.

3. Provide for paralegal and social work support for domestic violence victims or link to existing services in the community to assure that the safety and social service needs of the victims are met.

4. Request orders of protection for victims of family violence when there is a prosecution pending or upon a conviction.

For Bar Associations

Conduct continuing education programs on domestic violence including the same particular areas recommended for judges and court personnel, and also including:

1. The need for fully informed consents from the client before agreeing to mutual orders of protection as a settlement.

2. The need for social work and other support services for clients who are victims of domestic violence and the availability of community resources.

For Judicial Screening Committees

Make available to all members information concerning the nature of domestic violence, the characteristics of domestic violence victims and offenders and the impact of adult domestic violence on children in the home, including the same particular areas recommended for judges and court pesonnel.

2. RAPE

SUMMARY OF FINDINGS

a. Until recently, New York's rape law codified the view that women's claims of rape are to be skeptically received. Through a slow process of reform, the most detrimental provisions have been repealed or struck down as unconstitutional.

b. The attitudes embodied in the former law and which resisted its reform continue to operate in the minds of some judges, jurors, defense attorneys, and prosecutors.

c. As a result, cultural stigma and myths about rape's perpetrators and victims still narrow the law's protective reach.

   (i) Elements of a woman's character unrelated to her powers of observation and veracity -- such as her manner of dress, perceived reaction to the crime, and lifestyle -- continue to be unfairly deemed relevant to a determination of the defendant's guilt or innocence.

   (ii) Victims of rape who had any level of past relationship or acquaintanceship with the perpetrator are less likely to see his conviction and appropriate punishment.

d. Certain legislative and prosecutorial measures can offer a more appropriate response to the unique trauma rape victims suffer.

   (i) Specialized prosecution units trained to recognize rape victims' psychological trauma and designed to minimize the need for the victim to repeat her story to many individuals and to appear in court have been successfully implemented in a number of counties.

   (ii) A statute creating victim-rape counselor confidentiality, similar to that applied to communications between psychiatrists

and patients, would permit victims to utilize important crisis services without fear that privately related statements would be admitted in court.

RECOMMENDATIONS

For Court Administration

Take necessary steps to assure that judges are familiar with:

1. The substantial current data about the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape and the long-term psychic injury to rape victims.

2. The difference between vigorous cross-examination that protects the defendant's rights and questioning that includes improper sex stereotyping and harassment of the victim.

3. The appropriate utilization of victim impact statements.

For the Legislature

1. Enact legislation providing for the confidentiality of communications between rape victims and rape counselors.

2. Consider legislation adding one or more felony grades to the crime of rape that are not dependent on the complainant's age.

For District Attorneys

1. Establish specialized prosecution units that permit rape victims to deal with only one assistant district attorney through all stages of the proceeding.

2. Ensure that assistant district attorneys receive training as to the same particular areas recommended for judges.

3. Ensure that acquaintance rape cases are treated with the same seriousness as stranger rape cases.

For Police Departments

1. Establish specialized units to deal with sex offenses.

2. Ensure that police officers receive training as to the same particular areas recommended for judges.

3. Ensure that acquaintance rape complaints are treated with the same seriousness as complaints of stranger rape.

For Bar Associations

Coordinate efforts with rape crisis centers, prosecutors and police to provide community education similar to that recommended for judges.

For Law Schools

Ensure that criminal justice courses provide accurate information about rape similar to that recommended for judges.

For Judicial Screening Committees

Make available to all members information about rape similar to that recommended for judges.

B. THE COURTS' ENFORCEMENT OF WOMEN'S ECONOMIC RIGHTS

The "feminization of poverty"--the disproportionate representation of women among New York's poorest citizens--has impelled the legislative and executive branches of government to identify causes and seek solutions. For most women, unlike men, divorce causes extreme economic dislocation and thus has contributed significantly to the swelling ranks of female single-parent heads of households living in poverty.

The courts directly influence the economic welfare of a substantial number of women in New York when they adjudicate women's rights to: (1) property and maintenance upon dissolution of a marriage; and (2) child support. To determine whether the courts have contributed to the well-documented trend of increased economic hardship for women, the Task Force examined the courts' decisions under the Equitable Distribution Law and child support laws.

1. THE EQUITABLE DISTRIBUTION LAW

SUMMARY OF FINDINGS

a. The manner in which judges distribute a family's assets and income upon divorce profoundly affects many women's economic welfare. Women who forego careers to become homemakers usually have limited opportunities to develop their full potential in the paid labor force.

b. The New York Court of Appeals has recognized that the Equitable Distribution Law embraces the view of marriage as an economic partnership in which the totality of the nonwage-earning spouse's contributions -- including lost employment opportunity and pension rights -- is to be considered when dividing property and awarding maintenance.

c. Many lower court judges have demonstrated a predisposition not to recognize or to minimize the homemaker spouse's contributions to the marital economic partnership by:

(i) Awarding minimal, short-term maintenance or no maintenance at all to older, long-term, full or part-time homemakers with little or no chance of becoming self supporting at a standard of living commensurate with that enjoyed during the marriage.

(ii) Awarding homemaker-wives inequitably small shares of income-generating or business property.

d. Economically dependent wives are put at an additional disadvantage because many judges fail to award attorneys' fees adequate to enable effective representation or experts' fees adequate to value the marital assets.

e. Many judges fail to order provisional remedies that ensure assets are not diverted or dissipated.

f. After awards have been made, many judges fail to enforce them.

RECOMMENDATIONS

For Court Administration

Take necessary steps to assure that judges are familiar with the statutory provisions governing and the social and economic considerations relevant to equitable distribution and maintenance awards, including studies, statistics, and scholarly commentary on the economic consequences of divorce, women's employment opportunities and pay potential and the costs of child rearing.

For the Legislature

Enact legislation that:

1. Makes equitable sharing of the homemaker's lifetime reduced earning capacity an express factor in the division of property and awarding of maintenance.

2. Provides that a spouse's indirect contribution to the appreciation of separate property (e.g. through

homemaker's services) causes such property, to the extent of appreciation, to become marital property.

3. Requires the judge to assume a primary role in the identification and valuation of assets through court appointment of special masters or through required compensation from marital assets of necessary experts retained by the parties.

4. Provides that the marital standard of living, not the "reasonable needs", of the party seeking maintenance is the standard by which maintenance should be awarded and that if assets and income are insufficient to maintain both parties at that standard the reduction in living standard should be equally shared.

5. Provides for mandatory awards pendente lite of counsel fees appropriate to the duration and complexity of the case sufficient to enable both parties to pursue litigation.

For Bar Associations

1. Develop informational materials respecting the social and economic considerations relevant to equitable distribution and maintenance awards including studies, statistics and scholarly commentary on the economic consequences of divorce, women's employment opportunities and pay potential and the costs of child rearing, and make these materials available to their membership for use in submissions to courts considering petitions for equitable distribution and maintenance awards.

2. Invite judges to join in continuing legal education programs concerning the EDL.

For Judicial Screening Committees

Make available to all members information concerning the economic consequences of divorce similar to that recommended for judges.

2. CHILD SUPPORT

SUMMARY OF FINDINGS

a. Gross inadequacies, nationwide, in the ordering and enforcement of child support led Congress to enact the Child Support Enforcement Amendments of 1984. In response to the Act's requirement that states conform their law to the new federal requirements, the New York 1985 Support Enforcement Amendments were enacted.

b. The Task Force received compelling evidence of human suffering resulting from the judicial system's failure to adequately administer child support laws.

c. The new law seeks to address enforcement problems by establishing expedited procedures for immediate or temporary support orders and providing for income execution, income deduction, and state-tax refund intercepts.

d. Attitudes and practices in New York's judicial system that compelled federal intervention raise profound concerns as to how effectively the new law will be administered. Although New York law provided numerous enforcement mechanisms prior to Federal intervention, many judges failed to utilize them effectively.

e. Among the most prevalent problems are:

   (i) Awards frequently are inadequate and appear to be based on what the father can comfortably afford rather than the standard of living of the children and their special needs.

   (ii) Women's attempts at enforcing support are frequently viewed by judges as vindictiveness.

   (iii) Judges are perceived to be more concerned about preserving the father's credit rating than effectively enforcing awards.

(iv) Women have inadequate resources to retain counsel to assist in collecting awards.

(v) Child support arrears are frequently reduced or forgiven without justification.

(vi) In enforcement proceedings, repeatedly granted adjournments to non-paying parents often compromise the custodial parents' employment due to the necessity of numerous appearances in court.

(vii) Visitation problems are improperly considered by the courts as justification for not enforcing child support.

(viii) Resources allocated to the Family Court are perceived to be unfairly low when compared to the resources of other courts.

RECOMMENDATIONS

For Court Administration

1. Take necessary steps to assure that judges and hearing examiners are familiar with:

   a. Current, accurate information respecting the costs of child raising, the costs and availability of child care and other statistical and social data essential to making realistic child support awards.

   b. The economic consequences of divorce from the standpoint of ensuring that parents' financial contributions to child support are proportional to each party's earnings.

   c. All available enforcement mechanisms under new and existing laws and the importance of utilizing them to the fullest extent of the law.

   d. The concept of "good cause" in § 460 of the Family Court Act and Domestic Relations Law § 244 respecting the reduction of arrears.

2. Collect and publish data to enable effective monitoring of child support enforcement cases.

For the Legislature

Enact legislation that:

1. Provides counsel for indigent custodial parents in child support enforcement proceedings.

2. Provides that in any proceeding in which a judgment for support arrears is sought, the grounds constituting "good cause" for permitting untimely requests for modification of the support order be enumerated and strictly limited and that such modifications may be granted only upon a specific finding by the court on the record as to which specific ground has been demonstrated.

3. Provides that child support awards can only be modified prospectively.

4. Establishes a new formula for child support which takes into account the many considerations elaborated in the report of the New York Child Support Commission.

5. Makes penal sanctions for nonsupport of children more readily available as a deterrent measure.

For Bar Associations

Family Law sections and committees should take an active role in ensuring that the new child support enforcement legislation is working effectively and in developing a fair and uniform formula for child support awards in the state.

For Law Schools

Family Law courses should include information about the award and enforcement of child support similar to that recommended for judges and the hardship to children and custodial parents when child support awards are insufficient and unenforced.

C. THE COURTS' CONSIDERATION OF GENDER IN CUSTODY DETERMINATIONS

SUMMARY OF FINDINGS

1. Determinations of child custody are among the most perplexing and difficult aspects of the judicial function.

2. Guided only by the vague standard of "the best interests of the child," judges are given virtually unbridled discretion to determine what factors should be considered when making custody decisions.

3. Some judges appear to give weight to gender-based stereotypes about mothers and fathers that may have little bearing on the child's best interests and that unfairly discriminate against men and women.

4. Stereotypes that influence some judges and that disadvantage fathers include:

   a. Mothers are presumptively preferred as custodial parents, which presumption is reinforced by some counsel's advice to fathers not to litigate custody because they have little chance of winning.

   b. Some judges do not realize that some fathers genuinely are and desire to continue to be actively involved in parenting.

5. Stereotypes that influence some judges and that disadvantage mothers include:

   a. Fathers who exhibit any involvement in parenting should be rewarded with custody despite years of primary caretaking by mothers.

   b. Women who place great emphasis on careers, whether due to ambition or economic necessity, are sometimes considered less fit to be awarded custody than men who place a similar emphasis on their careers.

   c. Women's extra-marital and post-divorce social relationships are sometimes judged by a stricter standard than are men's.

d. When judges look to financial status or the presence of a stay-home mother to determine custody, the lower post-divorce economic status of women -- caused in part by inequitable maintenance, property and child support awards -- disadvantages the mother.

e. Women who respond to domestic violence by leaving the home may be viewed as unstable and less fit to receive custody.

RECOMMENDATIONS

For Court Administration

Take necessary steps to assure that judges are familiar with:

1. How sex-based stereotypes about both women and men affect decision making in custody cases.

2. The psychological impact of divorce on children.

3. The effects of spousal abuse on children.

For the Legislature

Enact legislation that:

1. Clearly articulates the factors and standards which constitute the "best interests of the child", and requires judges to state in writing the factors considered in making their decision and to set forth its reasons for disregarding any of the articulated factors.

2. Provides that abuse of one's spouse is evidence of parental unfitness for custody and a basis for termination of visitation or a requirement for supervised visitation.

3. Recognizes the need, in cases of domestic violence, to order supervised visitation to protect the custodial mother.

For Bar Associations

Continue to support committees engaged in the analysis of problems in the law of custody with a view toward eliminating the problems rooted in gender bias described in this report.

For Law Schools

Include information in family law courses about the psychological consequences of divorce for children, the impact of spousal abuse on children and the way in which gender bias against both women and men influences custody decisions.

D. THE COURTROOM ENVIRONMENT

For most people, the courtroom is a foreign environment; it can be intimidating, indeed, frightening. Courtroom procedures are mysterious and the language of its participants incomprehensible. Anxiety is compounded because the courts often play a decisive role in determining the social, economic, and physical welfare of our citizenry. In times of personal trauma people give the judiciary unparalleled power over the core of their lives and expect the judiciary to execute its duties scrupulously, with fairness, dispatch and compassion. Ready access to the courts and the presence or absence of decorum and professionalism influence litigants' confidence in and respect for the courts.

For these reasons, examination of the courtroom environment -- the general manner of conduct, attitude, and receptiveness of judges, lawyers and court personnel to litigants as well as the courts' physical accessibility -- was considered by the Task Force to be an important measure of the status of women litigants.

SUMMARY OF FINDINGS

1. The Task Force defined credibility as whether a person is "believable, capable, convincing, someone to be taken seriously."

2. When judges and attorneys deny a person credibility based on gender, professionalism is breached and substantive rights can be undermined. The presence or absence of decorum and professionalism in the courtroom environment influences litigants' confidence in and respect for the courts.

3. Perhaps the most insidious manifestation of gender bias against women -- one that pervades every issue respecting the status of women litigants -- is the tendency of some judges and attorneys to accord less credibility to the claims of women because they are women.

4. Many women who seek relief in court for matters such as domestic violence, rape, child support, paternity, and divorce are subject to undue skepticism.

5. Lack of credibility is also manifest in the unacceptable frequency with which women litigants and witnesses are subjected to sexist remarks and conduct by judges, lawyers, and court personnel.

6. Poor and minority women appear to face even greater problems of credibility.

7. The adequacy of physical facilities affects the integrity of the judicial process. One aspect of this inadequacy -- the dearth of space available for children whom mothers must bring to court -- effectively precludes many women from appearing in court.

RECOMMENDATIONS

For Court Administration

1. Issue a declaration of policy condemning sexist conduct by judges, lawyers and court personnel directed against women litigants and announce that all appropriate administrative action will be taken to eradicate it.

2. Establish an internal unit and publicize a procedure for dealing with complaints.

3. Develop and conduct regular training for sitting and newly elected and appointed judges and court employees designed to make them aware of the subtle and overt manifestations of gender bias directed against women litigants and its due process consequences.

4. Review all forms, manuals, and pattern jury instructions to ensure that they employ gender neutral language.

5. When undertaking improvements to physical court facilities in the Unified Court System, take into account the special needs of parents by providing for a supervised area where children may wait with their parents and may stay while their parents attend proceedings.

For Judges

1. Monitor behavior in courtrooms and chambers and swiftly intervene to correct lawyers, witnesses, and court personnel who engage in gender-biased conduct.

2. Ensure that official court correspondence, decisions and oral communications employ gender neutral language and are no less formal when referring to women litigants than to men litigants.

For Bar Associations

Develop and conduct an informational campaign designed to make members aware of the incidence and consequences of gender-biased conduct toward women litigants on the part of lawyers, judges and court personnel.

For Law Schools

Include information and material in professional responsibility courses to make students aware of the subtle and overt manifestations of gender bias directed against women litigants and its due process consequences.

For Judicial Screening Committees

Make available to all members information concerning the incidence and consequences of gender-biased conduct towards women litigants.

II. STATUS OF WOMEN ATTORNEYS

In an adversarial system of justice, litigants must depend on their chosen advocates. It is essential that the training, experience, and performance of those advocates not be adversely affected by bias on the part of courtroom participants, whether they be judges, attorneys, or non-judicial court employees.

With women entering the legal profession and reaching professional maturity in greater numbers, they are increasingly represented in all facets of New York's legal system: government; private practice; the judiciary; and professional organizations. Several survey respondents reported that, in recent years, there has been a significant improvement in the way women attorneys are treated in the courts, particularly by judges, and that some judges are exemplary in their equal treatment of male and female counsel. Professional acceptance of women attorneys has not, however, been uniform. Equality and fairness in professional opportunities for men and women attorneys was also called into question.

1. PROFESSIONAL ACCEPTANCE

SUMMARY OF FINDINGS

a. The question whether judges, counsel, and court personnel professionally accept women attorneys is important from the standpoint of dignity and decency and because it has genuine consequences for due process and the administration of justice.

b. Although in recent years there has been a significant improvement in the way women attorneys are treated in the courts, particularly by judges -- with some judges being exemplary in their equal treatment of men and women counsel -- professional acceptance of women attorneys has not been uniform. There exists a widespread perception that some judges, men attorneys and court personnel do not treat women attorneys with the same dignity and respect as men attorneys.

c. Among the most commonly-cited types of inappropriate and demeaning conduct are:

(i) Being addressed in familiar terms.

(ii) Being subject to comments about personal appearance.

(iii) Being subject to remarks and conduct that degrade women and verbal or physical sexual advances.

d. Men attorneys are viewed as engaging in this conduct more frequently than judges and court personnel. Many judges fail to intervene and remedy such conduct.

e. A more subtle obstacle to professional acceptance is women attorneys' being treated dismissively and with less tolerance than men attorneys. Examples of this include:

(i) Aggressive behavior is rewarded or tolerated from men attorneys but viewed as out of place or even unacceptable from women attorneys.

(ii) Women attorneys do not receive professional performance appraisal from judges as often or as in depth as men attorneys.

g. Although women attorneys who confront gender biased conduct in the courts doggedly and successfully pursue their clients' best interests, the attention of judge, jury, and attorneys is distracted from the merits of the case, thereby reducing the quality of justice.

RECOMMENDATIONS

For Court Administration

1. Issue a declaration of policy condemning sexist conduct by judges, lawyers and court personnel directed against women attorneys and announce that all appropriate administrative action will be taken to eradicate it.

2. Develop and conduct regular training for sitting and newly elected and appointed judges and court employees designed to make them aware of the subtle and overt manifestations of gender bias directed against women attorneys and its due process consequences.

3. Direct that all forms and correspondence employ gender neutral language.

For Judges

1. Monitor behavior in courtrooms and chambers and swiftly intervene to correct lawyers, witnesses and court personnel who engage in gender-biased conduct toward women attorneys.

2. Ensure that official court correspondence, decisions and oral communications employ gender neutral language and are no less formal when referring to women attorneys than to men attorneys.

For Bar Associations

1. Develop and conduct an informational campaign designed to make members aware of the incidence and consequences of gender-biased conduct toward women attorneys on the part of lawyers, judges and court personnel.

2. Ensure that forms and correspondence employ gender-neutral language.

For Judicial Screening Committees

Make available to all members information concerning the incidence and consequences of gender-biased conduct toward women attorneys.

2. PROFESSIONAL OPPORTUNITY

SUMMARY OF FINDINGS

a. In determining the level and quality of women attorney's professional opportunity in the courts, inquiry was made into whether women receive their proportionate share of fee-generating appointments and judgeships. Limitations of time and resources precluded a full empirical analysis of these questions.

b. Leaders of the organized women's bar reported a widespread perception among their membership that women attorneys are not treated with the same favor as are men attorneys in judicial assignments to lucrative and challenging guardianships, felony cases or other desirable fee-generating positions.

c. Although women have been achieving judicial office in greater numbers, they are underrepresented in New York's highest judicial posts and are not well represented throughout the New York State judiciary. Nearly half of all women judges, who constitute 9.7% of New York's judiciary, sit in New York City's Family, Criminal, Civil, and housing courts. Forty-three of New York's 62 counties are reported to have no women judges in their courts of record.

RECOMMENDATIONS

For Court Administration:

Maintain the records of appointments to fee-generating positions by sex of appointee.

For Bar Associations:

1. Review the assigned counsel mechanisms in local jurisdictions in which members practice and develop means to ensure that appointments to fee-generating positions are not only fairly received by qualified

male and female attorneys but are perceived to be fairly received.

2. Review mechanisms by which judges are nominated and elected or appointed, identify impediments to achieving a fair representation and develop means that would assist qualified women in gaining judicial office.

III. STATUS OF WOMEN COURT EMPLOYEES

The Task Force commissioned a study of the effects of personnel practices on non-judicial women employees of the New York Unified Court System ("UCS"). The study was conducted by the Center for Women in Government at the State University of New York, Albany.

The Center's work for the Task Force had three components:

(1) a statistical analysis of the UCS work force which included an evaluation of the relative representation and status of women in the full range of employment grades;

(2) structured interviews with administrators and 101 women employees in female-dominated job titles* intended to assess their perceptions of the impact of UCS employment practices including hiring practices, job requirements, transfer opportunities, promotion opportunities, training opportunities, work-related stress, work hours, decision-making, communication, sexual harrassment, and women's support groups; and

(3) a textual analysis of UCS personnel rules with special attention to their potential impact on women.

On November 22, 1985 the Center submitted to the Task Force its report, entitled: "The Effects of Personnel Practices on Non-Judicial Female Employees of the New York State Unified Court System" (the "Center Report"). The report included an extended discussion of the perceptions of 101 women in female-dominated job titles, as related during interviews, about the UCS work environment. The interviews were conducted in a format of lengthy group discussions in Albany, Buffalo, Manhattan and Syracuse.

The Center reported that the concerns raised by these 101 women were virtually identical in all regions

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* Female-dominated or male-dominated job titles refer to those titles filled 60% or more by that sex.

and principally related to systemic problems such as a lack of communication within UCS, lack of training and lack of input into decision making. Although these are problems with negative consequences for both women and men, they are of concern to the Task Force because they tend to weigh most heavily on the lowest-level employees, and women, as discussed below, are disproportionately the lowest-level employees in UCS. Similarly, the textual analysis of personnel rules revealed ambiguities and indefiniteness that would permit constructions that disadvantage employees irrespective of gender. The Task Force transmitted the Center's complete report, including its discussion of these systemic concerns, to the Chief Administrative Judge. This section of the Task Force's Report focuses on those aspects of the Center's report which relate specifically to gender bias: occupational segregation, personal chores and errands as part of women's work and sexual harassment.

SUMMARY OF FINDINGS

1. Although approximately one-half of all non-judicial employees in the UCS are women, as of June 13, 1985 this distribution was not reflected throughout all judicial-grade (JG) levels. Men consistently dominate the higher-grade, higher-paid positions. Women are vastly overrepresented at the lower levels.

    a. Over 88 percent of men compared with 49 percent of women are in JG 16 (starting salary $22,184) or higher.

    b. In the highest grades, over 40 percent of men compared to approximately 18 percent of women are in positions at JG 23 (starting salary $32,347) or higher. None of the 17 highest grades are dominated by women and only four are sex integrated.

    c. All but three of the lowest-level grades (JG 15 and below) are dominated by women.

    d. The largest proportion of white women (11 percent) is employed in JG 8 (senior office typist -- starting salary $14,042). The largest proportion of minority women (18 percent) is in JG 4 (office assistant or office typist --

starting salary $11,311) the lowest judicial grade to which UCS assigns a title.

e. The largest proportion of both white and minority men is employed in JG 18 (starting salary $24,832) where over 17 percent of white men and almost 13 percent of minority men are employed.

2. There is significant occupational segregation in the UCS.

   a. Approximately 80 percent of minority women and 84 percent of white women compared with less than half of white and minority men are in office/clerical occupations.

   b. Men hold approximately 80 percent of all official/administrator positions and more than two-thirds of all professional positions.

   c. Sixty-two percent (62%) of all employees would have to change jobs for women and men to be equally distributed across all occupational groups.

3. Two concerns raised during the Center's interviews with women court employees involve explicit examples of gender-biased conduct: requiring women court employees to perform personal chores and errands and instances of sexual harrassment. Although these problems do not appear to be widespread, they do require attention.

RECOMMENDATIONS

For Court Administration

1. Implement the broadest possible recruitment efforts for all positions on a continuing basis.

2. Include in the court system's affirmative action program specific efforts designed to address those titles in which women are underrepresented.

3. Increase opportunities for training, transfers and promotions.

4. Monitor the hiring process as it affects women, especially with respect to those positions that are filled on a non-competitive basis.

5. Review qualification requirements and salary grades of all non-judicial titles.

6. Provide sexual harassment prevention training to all employees, supervisors, and managers.

7. Issue a directive stating that employees are not to be asked or expected to perform personal services and errands for their supervisors.

IV. MECHANISMS FOR INSTITUTIONALIZING REFORM AND MONITORING AND EVALUATING PROGRESS

The Task Force's recommendations are a first step towards remedying the problems women litigants, attorneys, and court personnel face in New York's court system. Their promise is much more likely to be fulfilled if means for institutionalizing reform and monitoring progress are implemented. Accordingly, the Task Force proposes several measures intended to ensure lasting equality for women and men in the courts.

A. Appointing a Special Assistant and an Advisory Committee

It is the hope and expectation of the members of the Task Force that this report will lead to a better understanding of the deleterious effects of gender bias as it is experienced by women attorneys, litigants and court personnel. That understanding, coupled with the implementation of recommendations made will result in progress being made toward achieving a system of justice in which gender bias plays no part.

The focus of the best-intentioned leaders, however, cannot remain long on one particular facet of progress. There are too many areas in which improvements are needed; too many emergencies that may take precedence.

The Executive Branch has recognized the need to create a permanent Division for Women in the Executive Chamber, with its director now serving as a member of the Governor's cabinet. The Task Force recommends that the Chief Judge recognize that same need within the Judicial Branch and create a high-level staff position. The Special Assistant could perform the following major functions:

a. Signal to members of the bench, bar, and public the commitment of the Judicial Branch to a system of justice that treats all litigants, attorneys, and personnel with equal dignity;

b. Develop, design and implement specific training programs for judges and for nonjudicial personnel to help them better understand the effects of gender bias, and to provide the tools to remedy situations that arise;

c. Establish internal procedures to collect and investigate complaints of gender bias and make recommendations to the Chief Administrator as to appropriate action;

d. Review court rules, legislative and administrative recommendations, and Office of Court Administration public statements to insure that they are gender neutral; and

e. Act as liaison to a Community Advisory Committee appointed by the Chief Judge, composed of representatives of bar associations, judges associations, court employee groups, organizations with special expertise in recognizing and combatting gender bias, and others with special interest in the issue.

The last function, that of liaison with a Community Advisory Committee, would provide a mechanism for the Office of Court Administration to hear from a diverse group of concerned organizations about the perceptions of the public and the bar as to problems with gender bias in the court system. Perhaps as important, the Committee could help the Office of Court Administration to disseminate accurate information concerning progress that has been made and opportunities for change within the courts.

B. Judicial Education

Throughout its Report, the Task Force has recommended judicial education and training respecting a wide range of issues in which gender bias is a factor. During the Task Force's public hearings, the need for judicial education to help judges understand their own biases about women in general and in specific areas of substantive law was a repeated theme, with judicial witnesses among the strongest proponents of this kind of training.

Judge Richard Huttner, Administrative Judge of the New York City Family Court, spoke of the judicial education programs he has arranged for his own court to counteract gender bias and urged that the Office of Court Administration expand presentation of this kind of material at the judges' formal training sessions at the State University of New York at Buffalo Law School. Speaking of the kinds of sex biased attitudes that "corrupt the impartiality of justice and lie hidden from all," Judge Huttner stated,

> What I believe is vitally necessary to combat this situation is judicial training aimed at raising the consciousness and sensitivity of our judges. Re-examination and soul searching, if you will, of long accepted beliefs about the role of women.

Supreme Court Justice Stanley Sklar testified:

> [M]any, if not most of us, are sexist to one degree or another without ever realizing it. . . . I submit that education will help us, especially those of us charged with equal enforcement of the law, to reduce sexist shibboleths, attitudes and rulings.

New York City Civil Court Judge John Stackhouse, when asked what he would recommend to eliminate the problems he had described to the Task Force, replied, "I think education is the answer" and, like Judge Huttner, urged the expansion and repetition of such education at the judge's summer training sessions. Supreme Court Justice William Rigler, when asked whether he had any solution to the problem areas he had identified responded: "Education." Judge Ira Rabb, New York State Governor of the American Judge's Association, spoke of the "sex stereotyped, prejudicial attitudes and behavior" in a variety of substantive law areas as well as courtroom interaction and stated:

> I believe that the root cause of these unacceptable occurrences is the cultural conditioning of a male oriented judiciary. . . . Judicial education and training is the answer. Judges must unlearn their male oriented cultural conditioning.

Numerous non-judicial witnesses concurred in these calls for judicial education about gender bias, in particular with Justice Rigler's assertion that training

for judges responsible for matrimonial cases is essential. Rockland County Legislator Harriet Cornell urged that the Office of Court Administration establish a permanent commission "with the mission of educating the judiciary on all matters regarding domestic relations and family problems and of monitoring judicial actions. Further, this commission shall see that current and accurate information be given judges about living costs, child care costs and other statistical or social data that may be pertinent in helping the judiciary reach unbiased decisions."

Judicial education about gender bias should be accomplished through courses that are fully devoted to this issue and through the integration of relevant materials into courses on specific areas of substantive law. For example, gender bias in the application of the rape shield law should be discussed in courses on criminal evidence. Courses about the Equitable Distribution Law should include material about the different economic consequences of divorce for women and men. Judicial education about gender bias must be an ongoing effort, not a one time response to the Task Force's Report.

C. Examination of Rules Governing Judges' and Attorneys' Professional Conduct

Under current rules governing professional responsibilities and ethics, attorneys are admonished in very general terms to "assist in maintaining the integrity and competence of the legal profession." Similarly, judges are required to "observe high standards of conduct so that the integrity and independence of the judiciary may be preserved" and to conduct themselves "at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Although much of the gender-biased conduct identified in the Task Force's Report clearly falls within the ambit of prohibited conduct under these rules, the Task Force believes that express definition and recognition of this type of unethical conduct, either in the rules themselves or in accompanying commentary, would give notice to judges and lawyers of the seriousness of the impropriety and the consequences to the impartial administration of justice. This task may be most appropriately undertaken by bar associations.

D. Bar Association Response

The response of the legal profession to the issues identified and discussed in this Report will be an important measure of the prospects for reform. It is incumbent on lawyers, as officers of the court ethically bound to promote justice and the public understanding of the judicial process, to take a leading role in seeking to remedy the perceptions of gender bias in the courts and the realities upon which those perceptions are based.

The Task Force recommends that every bar association in the State place as an item on its agendas the issues of women litigants', women attorneys', and women court employees' status and treatment in the courts. Through frank and open discussions, statewide and local issues will be better understood. Creative solutions can be developed and implemented. By publicizing specific responses to these troublesome issues, public confidence in the profession's commitment to equality in the courts will be enhanced.

CONCLUSION

A number of attorneys responding to the Task Force's survey questioned the need for and the purpose of the Task Force's undertaking. Some said:

> ° I think the Task Force is placing too much emphasis on this problem -- it appears to me the area of concern is that of attitude rather than actuality.
>
> ° To the extent that [gender bias] exists, it will disappear on its own with the passage of time because of the increasing number of women in the law schools and in the profession, and because of the attitude of young people about sexual bias. It seems to me that a lot of time and money could be saved if the Task Force were abolished and the problem, if there is one, be allowed to disappear without exacerbating it by holding public hearings and studying it to death.
>
> ° Accept certain things as they are. Society will change as people grow with the times. Don't force people to accept attitudes spurred by hostility . . . . Gender bias is not a crime -- it is merely an outgrowth of 3,000 years of culture. Old habits die hard. Be patient -- your time will come.

Calls for complacency in identifying gender bias in New York's courts and for sole reliance on the passage of time for its amelioration misapprehend the nature and consequences of gender bias in our society. The Courts have a special obligation to reject -- not reflect -- society's irrational prejudices.

Attitudes invariably influence conduct. Conduct influenced by gender bias in an institution with profound power over those who come before it can wreak substantial injustice and can undermine the courts' prestige and authority by eroding public confidence in the justice system. It is fitting, therefore, that New York's court system examine and seek to rid itself of any bias.

With leadership there will be change. Ultimately, reform depends on the willingness of bench and bar to engage in intense self-examination and on the public's resolve to demand a justice system more fully committed to fairness and equality.

Respectfully submitted,

NEW YORK TASK FORCE
ON
WOMEN IN THE COURTS

New York, New York
March 31, 1986

Remarks of Lawrence H. Cooke, Chief Judge of the State of New York, at Press Conference announcing the formation of the New York Task Force on Women in the Courts, at the House of the Association of the Bar of the City of New York, 42 West 44th Street, New York City, Thursday, May 31, 1984 at 11:00 a.m.

* * * * * * * * * * * * * *

The concept of justice is broad in reach and serious in nature; it is antithetical to any discrimination triggered by prejudice.

None of us had any choice of the home in which we were born; a higher power decided that circumstance. To deny anyone anything because of race, creed, color, national origin, gender, or any such irrelevant consideration is the basest kind of misbehavior. It is a surrender of the human to the animal instincts.

Distinctions grounded on improper concerns have no place whatsoever in the operation of our legal system and every reasonable effort should be made to guarantee that the scales of justice are balanced evenly for every person who comes before the courts. They expect no less and, certainly, are entitled to no less. There must be no corridors of special privilege, high hurdles for some, or bans on any. There must be no institutional hypocrisy.

It was not much more than 100 years ago that the United States Supreme Court upheld the constitutionality of an Illinois statute prohibiting women from gaining admission to that State's Bar. The words, that all are created equal and are endowed with certain inalienable rights, yielded no life, liberty or pursuit of happiness to those before whom doors were closed in search of

their noblest aspirations or those who were told they could not enter the legal profession because of sex.

There are those, particularly such substantial groups as the New York State Association of Women Judges and The Women's Bar Association of the State of New York, who have expressed concern with the situation of women in our legal system. There is no question but that in recent chapters of history tremendous strides have been made by women in the legal structure and operation of our State and Nation. The issue remains whether, at this juncture, their allotment of the jurisprudential scheme in the Empire State is fair under all the circumstances.

To answer this question the New York Task Force on Women in the Courts is being organized. The general aim of the Task Force will be to assist in promoting equality for men and women in the courts. The more specific goal will be to examine the courts and identify gender bias and, if found, to make recommendations for its alleviation. Gender bias occurs when decisions are made or actions taken because of weight given to preconceived notions of sexual roles rather than upon a fair and unswayed appraisal of merit as to each person or situation. In determining the fact or extent of its existence, the focus of the Task Force should be upon all aspects of the system, both substantive and procedural. An effort should be made to ascertain if there are statutes, rules, practices, or conduct that work unfairness or undue hardship on women in our courts.

Recently, a similar study was conducted on behalf of the court system in New Jersey. Its leadership is to be commended and its methodology provides an exemplar for the study to be conducted here in New York.

The Task Force is made up of outstanding, representative and independent citizens. The members are charged with fulfilling their mission dispassionately and with reasonable dispatch.

The Task Force will be chaired by Edward J. McLaughlin, Administrative Judge of the Family Court of Onondaga County, formerly a President of the Family Court Judges Association of New York State and at one time employed by the "Hughes Judiciary Committee." The other members of the Task Force are:

--Jay C. Carlisle, Esq., Professor of Law, Pace University School of Law, White Plains;

--Hon. Hazel Dukes, President of New York Conference of NAACP, Roslyn Heights;

--Haliburton Fales, II, Esq., President of New York State Bar Association, New York City;

--Neva Flaherty, Esq., Assistant District Attorney, Monroe County, Rochester;

--Hon. Josephine L. Gambino, Commissioner of New York State Department of Civil Service, Bayside;

--Marjorie E. Karowe, Esq., Past President of Women's Bar Association of the State of New York, Albany;

--Hon. Sybil Hart Kooper, Justice of the Supreme Court and President of New York State Women Judges' Association, Brooklyn;

--Ms. Sarah Kovner, Chair, Board of Directors, First Women's Bank, New York City;

--Hon. David F. Lee, Jr., Justice of the Supreme Court, Norwich;

--Ms. Joan McKinley, President of New York State League of Women Voters, Saratoga Springs;

--Hon. Olga A. Mendez, New York State Senator, Bronx;

--Hon. S. Michael Nadel, Deputy Chief Administrator of the Unified Court System, New York City;

--Edward M. Roth, Esq., Senior Law Assistant to Chief Judge, Monticello;

--Oscar W. Ruebhausen, Esq., Former President of the Association of the Bar of the City of New York, New York City;

--Fern Schair, Esq., Executive Secretary, The Association of the Bar of the City of New York, Scarsdale;

--John Henry Schlegel, Esq., Associate Dean, State University of New York at Buffalo Law School, Buffalo;

--Richard E. Shandell, Esq., Past President of New York State Trial Lawyers' Association, New York City;

--Florence Perlow Shientag, Esq., Member of the Bar, New York City;

--Sharon Sayers, Esq., Member of the Family Law Section of the Monroe County Bar Association, Rochester;

--David Sive, Esq., Stimson Award Winner of New York State Bar Association and Lecturer at Columbia Law School, Ardsley-on-Hudson;

--Hon. Ronald B. Stafford, Chairman of Codes Committee of New York State Senate, Plattsburgh;

--Hon. Stanley Steingut, Former Speaker of New York State Assembly, Brooklyn.

Technical services for the Task Force will be supplied by the Equal Employment Opportunity unit of the Office of Court Administration under the leadership of Adrienne White, Director.

Patricia P. Satterfield, Assistant Deputy Counsel in the Counsel's Office of the Office of Court Administration, will serve as the Task Force's Counsel.