

**Unified Court System
Office of Court Administration**



**REPORT
OF THE
COMMITTEE TO IMPLEMENT RECOMMENDATIONS
OF THE
NEW YORK TASK FORCE
ON
WOMEN IN THE COURTS**

April 1987

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STATE OF NEW YORK
UNIFIED COURT SYSTEM
NEW YORK CITY FAMILY COURT
(OFFICE OF COURT ADMINISTRATION)
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April 30, 1987

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Honorable Sol Wachtler
Chief Judge of the State of New York
State of New York
Court of Appeals
Court of Appeals Hall
Albany, New York 12207

Dear Judge Wachtler:

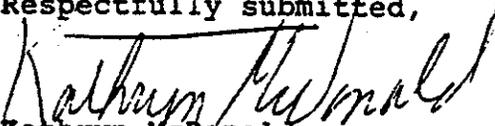
Nearly one year ago, the Office of Court Administration's Implementation Committee, created to carry out the recommendations of the Task Force on Women in the Courts, began its work. Today, on behalf of all the members of this Committee, I am pleased to present to you our first-year report on the implementation phase of your program to address problems faced by women in our courts.

The Task Force spent two years exhaustively attempting to learn and document the nature of these problems. With the recommendations born of that effort, the Implementation Committee has continued to move forward to begin and understand better the process of cure. Our progress is dependent upon increased awareness of the conditions and treatment to which women in court are subjected. Necessarily, therefore, we have devoted most of our energies to publicizing the work of the Task Force through distribution of its report, through public appearances by committee members, and through a major educational campaign within the court system.

Our educational efforts have already been supplemented by a number of administrative steps that could be taken centrally and, therefore, immediately. This Report documents these efforts and seeks to illuminate the direction in which we believe the court system must and is now ready to proceed.

We are especially appreciative of your strong support, and that of former Chief Administrative Judge Bellacosa, for this endeavor. Your continued leadership, together with Chief Administrative Judge Rosenblatt, will keep alive the call for equal justice for women and our confidence that it will continue to be answered.

Respectfully submitted,



Kathryn McDonald
Chairperson

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Preface

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.

These words, from the Preface to the Report of the Task Force on Women in the Courts released a year ago, were prophetic ones. They describe the engines of change which have driven the Office of Court Administration Implementation Committee's efforts over the past year to give life to the Task Force's recommendations.

In the last year, we have seen leadership and its overarching importance: the attention and interest shown by Chief Judge Wachtler and former Chief Administrative Judge Bellacosa supplied the energy to engage all parts of the court system in the combat against gender-biased conduct. We have seen the bench and bar meet and meet again to examine themselves, debate, and create solutions to the problem of bias in the courts. And we have seen how the willingness of community organizations and law schools to contribute their experience and expertise has kept alive the resolve to change.

Through these efforts, we have taken the essential first step toward the elimination of bias by heightening awareness of the existence and complexity of this problem. Within the court system, the most concrete manifestation of our commitment to increased understanding has been the initiation of a major educational campaign for judicial and nonjudicial personnel, including both experiential and substantive content. We will continue to deepen, refine, and expand our training on gender bias in the year to come.

In the process of training others, we have inevitably sensitized and educated ourselves about the best methods of redress. Among the most significant of the lessons learned is that as we add to our educational efforts more concentration on the administrative and legislative phases of change-making, we must ensure that the appropriate level of court system leadership is in place and well nourished by all the expertise the community has to offer. Change through education can be orchestrated centrally, through the Office of Court Administration's Office of Education and Training. Administrative and legislative changes, however, demand an alertness to regional differences in needs, practices, and policies as well as a capacity, available only at the local level, for scrutiny over operations in the far corners of the state.

To equip ourselves adequately to meet the coming challenge, we recommend the enlargement of the existing Implementation Committee to include administrative judges from all over the state, as ex officio members. Each administrative judge should solicit the assistance of local bar associations and other concerned community groups to carry out his or her responsibility to identify the special needs of the community and fashion imaginative administrative and legislative remedies. Additional staff will be necessary to buttress this effort and to ensure that local activities and ideas are communicated through the central Implementation Committee to other localities.

To remain grounded in the realities of gender bias and to measure the progress we make, we need to build more bridges to the world outside the judicial branch. May Newburger, who has served on our Committee this past year, has agreed to take on the responsibility of Special Consultant to the Chief Judge for the coming year. She will be engaged in various efforts to continue to implement the Task Force's recommendations. One of her first responsibilities will be to communicate with law schools throughout the state to encourage programs to further education with respect to gender bias. The Committee will consult with other advisors when particular needs for additional expertise arise.

With these adjustments to the structure of OCA's effort to implement the Task Force Report's recommendations, we should be well prepared for the ground-level work that lies ahead.

INTRODUCTION

The New York Task Force on Women in the Courts was established on May 31, 1984, to "examine the courts and identify gender bias and, if found, make recommendations for its alleviation."¹ After two years of extensive investigation, the Task Force submitted its report to Chief Judge Sol Wachtler in April of 1986. The Report contained a wide-ranging study of court conditions and practices having an adverse impact on women litigants, attorneys, and court employees and of the consequences of gender bias in the court system. It analyzed judicial handling of cases concerning domestic violence, rape, equitable distribution, child support, and custody. It described courthouse treatment of women as litigants and as attorneys and examined the effects of personnel practices on nonjudicial women court employees. The Report concluded that "gender bias against women litigants, attorneys and court employees is a pervasive problem with grave consequences."²

On May 1, 1986, Chief Judge Wachtler devoted much of his Law Day address to a discussion of the Task Force findings. He stated:

It has been the abiding objective of this administration to provide to all citizens a court system that delivers quality justice. Making abundantly clear that gender biased conduct is wrong whenever found in New York's Courts - inimical to any concept of justice - is an important step toward that end.³

To make use of the Task Force Report's recommendations for the elimination of bias, Chief Judge Wachtler established an implementing team within the court system. The Implementation Committee includes Judge Kathryn McDonald, the Administrative Judge of the New York City Family Court, as chair; four other court personnel, whose positions within the court system allow them access to channels essential to implementation of court programs; and a respected member of the New York State Legislature known for her commitment to the elimination of gender bias.⁴

The Committee's mandate was a broad one.

This standing team's charter will be as sweeping as the need warrants. They will start with the report of the Task Force which has now completed its work. The new team will report their recommendations and progress directly to Judge Bellacosa and me. They will reach out very specially to the court system's Personnel Director and to the education and judicial units and organizations, as well as all judges, lawyers, bar leaders, law school deans and faculties, law enforcement agencies, and other public officials and community leaders who affect the operation of the courts.⁵

Immediately after its creation, the Committee set to work making a detailed analysis of the recommendations in the Task Force Report. The Report contains nearly 100 recommendations categorized by the group to which they are directed: court administration, judges, the Legislature, district attorneys, bar associations, law schools, and judicial screening committees.

The Committee chose to focus its initial efforts on those areas to which it had the most direct access: the recommendations directed specifically to court administrators and judges. Accordingly, the Committee concentrated particularly on the recommendations relating to education and training of judges and nonjudicial staff. It made a further determination that the optimal education program should begin with awareness training, to ensure the highest level of receptivity to instruction of a more concrete, or substantive, nature about all forms of gender or any other prejudice in court. The Committee also began to address those administrative recommendations, involving treatment of nonjudicial personnel and other miscellaneous problems, directed specifically to centralized court administrators.

Each recommendation was analyzed to determine the specific actions necessary to achieve the results sought. Then, as catalyst or expeditor, the Committee reached out to the appropriate areas of the court system to assist and encourage in the process of implementing these actions. Some recommendations were already being implemented; some could be, and were, given effect almost immediately; others require more long-range planning. This report details the present state of their implementation and the steps to be taken in the future to bring about the elimination of gender bias in the courts.

I. EDUCATION AND TRAINING

Most of the Task Force recommendations directed to judges and court administrators concerned the need to sensitize and educate both judges and nonjudicial court personnel about manifestations of gender bias in judicial decisions and in the court system's treatment of the women within it. These recommendations were:

- Judges and nonjudicial staff should be familiar with the nature of domestic violence, the characteristics of its victims and its offenders, and the impact of adult domestic violence upon children.
- Judges should be familiar with current data about the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape, and the psychic injury to victims.
- Judges should recognize the difference between vigorous cross-examination and harassment of a sex crime victim.
- Judges should be aware of and willing to make appropriate use of victim impact statements in sex crime cases.
- Judges should be familiar with the legal, social, and economic considerations relevant to equitable distribution and maintenance including studies concerning the economic consequences of divorce and women's employment opportunities and pay potential.
- Judges should have up-to-date, accurate information about child support issues, including costs of child rearing, cost and availability of child care, and other economic aspects of divorce.

- Judges should be made aware of available child support enforcement mechanisms and the importance of their full utilization.
- Judges should understand the concept of "good cause" respecting the reduction of arrears (FCA §460, DRL §244).
- Judges should be aware of how sex-based stereotypes affect decision-making in custody cases.
- Judges should be informed about the psychological impact of divorce on children.
- Judges should be given information about the effects of spousal abuse on children.
- Court administrators should develop and conduct regular training for sitting and newly appointed and elected judges and court employees designed to make them aware of gender bias issues affecting women litigants and women attorneys.

At the time of the release of the Task Force Report, there were existing O.C.A. programs for training judges and nonjudicial personnel: an annual seminar for judges, an orientation course for new judges, town and village justice training courses, and training seminars for nonjudicial court employees. The Committee concluded that these programs were appropriate vehicles for education on gender bias issues and worked with the Education and Training Unit of the Office of Court Administration to develop gender bias components for them. Additionally, the Committee assisted the federal Office of Child Support Enforcement and the Administrative Office of the New York City Family Court in presenting material on

prejudicial treatment of women in court to Hearing Examiners and Family Court Law Assistants.

A. Judicial Education and Training

1. The Annual Judicial Seminar

For several years judges have attended an annual one-week judicial seminar, offered twice each summer, consisting of courses on legal and administrative issues of interest to judges of state-paid courts (all judges except Town and Village Justices). All judges, except those needed to maintain court operations, are urged, encouraged, and expected to attend. This seminar is conducted under the auspices of the Education and Training Unit by judges, lawyers, and law professors. Psychologists, doctors, and other professionals with special expertise from outside the legal community are invited to join the faculty when appropriate. The seminar offers a variety of elective courses, and the selection may vary from year to year.

Immediately after release of the Task Force Report in April of 1986, the Education and Training Unit began to design a course for the 1986 annual seminar to sensitize judges to the existence and complexity of gender bias. The result was a three-hour course entitled "Courtroom Dynamics: Women and Justice." It was presented at a mandatory, plenary

session on the first day of each week of the seminar. After introductions by Judge Joseph W. Bellacosa, former Chief Administrative Judge, and Judge Kathryn A. McDonald,⁶ two professional trainers with private sector experience in gender bias training conducted the course which sought to raise consciousness and promote self-examination. The judges participated directly in small discussion groups that were asked to consider stereotyped perceptions of women as they affect domestic violence, child support, and custody determinations and the treatment of women in a courtroom environment. Justice Betty Weinberg Ellerin of the Appellate Division, First Department, closed with remarks designed to integrate the experiential lessons of the session with the substantive courses to follow, to drive home the purpose of the exercise to aid in making objective, bias-free decisions.

Thereafter, material relevant to unfair treatment of women was incorporated wherever possible into the legal lectures given at the seminar. One criminal law course included a discussion of the rules of evidence relating to a victim's sexual conduct in sex offense cases; one lecture contained information about the legal aspects of equitable distribution; and a three-hour seminar on child support reviewed available mechanisms for child support enforcement, the importance of their utilization, and the concept of "good cause" regarding excusal of arrears. To promote expedited

process of support matters, the child support seminar also emphasized the judge's role in relation to Hearing Examiners (quasi-judicial officers sitting in Family Court who are empowered under FCA §439 to hear and determine most matters relating to spousal and child support). Available data on the costs of child rearing and economic consequences of divorce also were distributed.

Finally, a three-hour domestic violence presentation by a recognized expert in the field covered the psycho-social dynamics of wife abuse, the battered woman syndrome, the conscious and unconscious gender prejudices to which judges and other criminal justice system players may be prone, the appropriateness of both jail and counselling programs as dispositional alternatives, criminal court powers, the legality of orders excluding one party from the home, and the effects of spousal abuse upon children.

2. New Judge Orientation Program

The same approach -- an experiential session coupled with the incorporation of more concrete material about prejudice against women into appropriate law courses -- was adapted for use in the 1986 new judge orientation program. This program, held annually in December and offered to all newly elected and appointed judges, provides instruction on

both legal and administrative matters. The 1986 program included a gender bias segment, entitled "Lessons from the Report of the New York Task Force on Women in the Courts." Two educators from the CUNY Law School faculty, working with Judge McDonald and the Education and Training Unit, developed this course. For two-and-one-half hours, the CUNY faculty members wove a discussion of the dynamics of biased conduct, its harmful effects, and methods of judicial intervention⁷ around specific findings of the Task Force and three hypothetical fact patterns presenting typical manifestations of gender bias in the courtroom.

In addition, the orientation program made copies of the Task Force Report available to all judges in attendance and integrated gender bias material into the other lectures wherever practicable. The lecture on "The Trial Judge's Role" emphasized the trial judge's responsibility to eliminate all forms of inappropriate conduct, including displays of prejudice against women, from the courtroom; the segment on judicial conduct highlighted gender bias as a form of judicial misconduct; and an entire lecture was devoted to legal aspects of equitable distribution.

3. Town and Village Justice Training

The Education and Training Unit also regularly provides education for Town and Village Justices, most of whom are not lawyers. Each new non-lawyer Town or Village Justice must attend a six-day course prior to being certified to hear and determine cases (Uniform Justice Court Act, §105). This basic course includes a presentation on the law pertaining to orders of protection in family violence cases. Beyond this, all Justices -- lawyers as well as non-lawyers -- must attend a continuing education program each year. In 1986, this program featured a mock felony hearing exercise on the use of orders of protection in an intra-familial assault case.

The Town and Village Justice program required a somewhat different approach to gender bias awareness training. Because most of these justices are not lawyers, their training programs offer more introductory courses on the law and the legal system. In keeping with the tenor of these courses, Judge McDonald and the Education and Training Unit developed a new two-hour "Court Decorum and Demeanor" lecture which examines gender bias. The Education and Training Unit trained the program faculty specially to teach this course, and it will be presented at each of the 30 advanced programs offered in 1987.

This presentation begins with brief, videotaped remarks by Elizabeth Hubbard, Associate Director of the Fund for Modern Courts. Ms. Hubbard makes various suggestions about appropriate decorum and reviews for judges the areas of particular interest to court monitors when they visit a court. The remaining time is devoted to excerpts from the New Jersey and Wisconsin training videotapes on women in the courts. Faculty use these vignettes with specially designed discussion guides to stimulate awareness of gender bias and to develop practical resolutions to the problems presented. The program ends with a brief discussion of decisions of the Commission on Judicial Conduct involving improper behavior in the courtroom, with specific references to three decisions about gender biased conduct.⁸ Copies of the Summary Task Force Report are included in the materials distributed to attending Town and Village Justices.

* * *

The Committee has identified several ways in which judicial gender bias training should be continued. First, we recommend that copies of the full Report⁹ be made available at the 1987 Annual Judicial Seminar and at this year's Town and Village Justice training programs, for all who have not yet received a copy. Because it contains concrete findings on

manifestations of bias in the courts, the full Report is particularly useful as a means of combatting an unwillingness to accept that gender bias in our courts is a fact, to the extent that that unwillingness may still persist.

Additionally, the Committee believes that, having offered experiential sensitivity training on gender bias to every judge in the state, OCA should now concentrate more on judicial training about the objective and substantive elements of unfair treatment of women. Accordingly, the Committee will recommend to the new Director of Education and Training (appointed in April of this year) the creation of a program to develop faculty for judicial training courses, with emphasis upon how and what to teach in the area of gender prejudice. The Committee will also recommend that judicial training curricula be supplemented with current economic data from studies and other scholarly writings on divorce, spousal and child support and with psychological and social data on the nature and effect of sex crimes. Criminal law offerings should also include discussion of the appropriate use of victim impact statements in rape cases, stress the gravity and prevalence of acquaintance rape, and explore the justification defense in homicide cases arising from spouse abuse. Finally,

the Committee will suggest to the new Training Director that the 1987 Orientation Program for new judges repeat the experiential gender bias component offered in 1986.

B. Nonjudicial Education and Training

For years, nonjudicial staff employed in the Unified Court System have had annual seminars sponsored by the Education and Training Unit. Often, these seminars are held in conjunction with various court associations. They include:

- Annual Seminar of Supreme Court Clerks Association
- Annual Seminar of Family Court Clerks Association
- Annual Seminar of City Court Clerks Association
- Annual Seminar of Surrogate Court Clerks Association
- Law Librarians Education and Training Seminar
- Commissioner of Jurors Education and Training Seminar

The seminars offer practical courses on court operation and administration, personnel, and court procedures. Trainers may be from the judiciary, nonjudicial court staff,

the Office of Court Administration, or from outside the court system. Each seminar generally runs for three to four days every year.

Upon the release of the Task Force Report, the Education and Training Unit examined the program content of the seminars to discern how to integrate gender bias components into them. A model training segment was developed and then piloted at the City Court Clerks Seminar held in September of 1986. This two-hour pilot session included a general discussion of issues raised by the Task Force Report, an assessment of which issues had arisen or were likely to arise in each clerk's court, and discussion designed to stimulate thinking about correction and prevention. Subsequently, the pilot course was refined and expanded to three hours and will be used in that form¹⁰ throughout 1987.

These nonjudicial seminars do not reach every employee of the Unified Court System. The Office of Court Administration, however, has begun the development of a large-scale, formal nonjudicial training program. It is intended to reach all nonjudicial employees of the Unified Court System and to provide them with the information and skills designed to improve their job performance and enhance their opportunities for promotion. The Committee has been

advised that the general training will include sexual harassment prevention and the impropriety of requests for performance of personal services.

Finally, as the Education and Training Unit worked this year to include instruction about prejudicial treatment of women in the courses for nonjudicial employees, it became clear that the faculty needed to learn how to teach this subject matter. At present, the Education and Training Unit conducts a faculty development program for those who train nonjudicial staff, entitled "Train the Trainers." At the July, 1986, Train-the-Trainer program, the faculty who instructed nonjudicial personnel during the rest of 1986 and will continue to do so in 1987 received training designed to sensitize them to gender-free writing and presentation of their material.

C. Other Training Within the Court System

In addition to the work of OCA's Education and Training Unit, the Department of Health and Human Services' Office of Child Support Enforcement and the Administrative Office of the New York City Family Court have offered training responsive to Task Force recommendations. In July, 1986, the Office of Child Support Enforcement offered a two-and-one-half

day session on support enforcement to all New York State Hearing Examiners. For distribution to each participant at this session, which included a review of available mechanisms for enforcement of support awards, the Committee supplied the Office of Child Support Enforcement with copies of "The Economic Consequences of Divorce: Background for Judges who Set and Enforce Support Awards," prepared in 1985 by the National Judicial Education Program of the NOW-LDEF. This manual features reports of studies on and analyses of the economic consequences of divorce, divorced women's employment opportunities and pay potential, availability of child care, costs of child rearing and child care, enforcement techniques with respect to spousal and child support, and the psychological impact of divorce upon children.

Also in the summer of 1986, the New York City Family Court offered a half day of instruction to all New York City Hearing Examiners on the 1986 Support Enforcement amendments, including the new provisions in FCA §460 and DRL §244 requiring a showing of good cause before entry of orders excusing child support arrears and other provisions relating to enhanced enforcement of support awards.

New York City Family Court Law Assistants received training in the fall of 1986 on the battered woman syndrome and the psychological dynamics in domestic violence cases,

community services available to victims and abusers, and non-coercive methods of conducting case conferences in family offense proceedings. These Law Assistants also received copies of the Task Force Report's section on the courts' consideration of gender in custody determinations.

II. EMPLOYMENT OF NONJUDICIAL COURT EMPLOYEES

Another major area of concern to the Task Force was the status of women court employees. To obtain detailed information about these employees, the Task Force commissioned a study of the Unified Court System's personnel practices by the Center of Women in Government (CWG) at the State University of New York at Albany. The CWG completed this study in 1985, and the Task Force used the results as the basis for its recommendations to court administration:

- Implement the broadest possible recruitment efforts for all positions on a continuing basis.
- Include in the court system's affirmative action program specific efforts designed to address those titles in which women are underrepresented.
- Increase opportunities for training, transfer and promotions.
- Monitor the hiring process as it affects women, especially with respect to those positions that are filled on a noncompetitive basis.

- Review qualifications, requirements and salary grades for all nonjudicial titles.
- Provide sexual harassment prevention training to all employees, supervisors and managers.
- Issue a directive stating that employees are not to be asked or expected to perform personal services and errands for their supervisors.

The CWG study upon which these recommendations were based is now over two years old and was conducted at a time when several employment-related efforts undertaken by the Unified Court System had just begun to show results. The findings of that study, as adopted by the Task Force, showed that women had limited access to many court positions in the past. The record of the last few years, however, shows a commendable determination by court administration to remove the obstacles to advancement of women court employees.

The Task Force's primary finding in this area was that women are underrepresented in the higher levels of the Unified Court System. The judicial branch had historically been male-dominated, particularly because many of its employees entered the system in protective services (court security) positions. These positions have traditionally been sought by males and at one time were limited almost exclusively to males. Employees in these positions received the experience and training required for advancement to many other positions in the court system. They were also able to

progress up through the ranks to the court clerk series of titles, because entry into that series had been limited to a very few titles, and the court officer titles predominated among them. As a result, those courts having court security positions (in New York City, Nassau and Suffolk Counties)¹¹ ended up with a predominantly male employee base in the higher-level court clerk and administrative titles.

All of this began to change in the mid-1970's, both with respect to expanding the entry of women into the court security titles and to opening up the court clerk series to titles that were held predominantly by women. In the court security titles, testing and recruitment were altered to ensure that selection criteria and job screening techniques are job-related and free of gender and ethnic bias. Examinations measuring physical strength and endurance were redesigned to eliminate tests that gave males unfair advantage over females. Test redesign was accompanied by a concentrated program -- of public announcements, visits to targeted groups, and broad advertising -- to recruit women to take the entry-level Court Officer examination. As a result, the historically male position of Court Officer became far more accessible to females.

The outcome of this enhanced access has been a marked increase of female candidates who have successfully passed the

entry-level Court Officer examination. The number of female Court Officers has more than doubled: from 12% of the workforce in 1980 to 30% in 1987. In addition, the number of female candidates applying for these positions has grown from 33% for the 1982 Court Officer examination to 43% for the 1986 Court Officer examination.

In a further effort to expand entry into the court clerk title series to women and others who do not desire to enter the protective services ranks, the Unified Court System created in 1979 a new Court Assistant title (at salary grade 16 -- starting salary of \$24,804 as of April 1, 1987) that would attract qualified women from outside the Judiciary into the court clerk title series.¹² Women currently make up 73% of the existing Court Assistant workforce, providing a large base for the advancement of women into the high-level, and heretofore underrepresented, court clerk titles in the metropolitan New York City area.

To encourage further female entry into mid-level positions in the Unified Court System, the basic qualifications for the titles of Court Clerk (outside the New York City metropolitan area) and Senior Court Clerk (within the New York City metropolitan area) were changed. Now any court employee with two years of competitive class experience -- including those in predominantly female office clerical titles -- is eligible to take the Court Clerk or Senior Court Clerk examination. As a

result, 47% of the candidates for the Senior Court Clerk examination in 1984 were women, compared with only 37% for the 1980 examination. In addition, the examination pass rates for women doubled during this time period, perhaps due in part to the preparatory class offered by the Unified Court System to any candidate eligible to take the examination. The result has been that female workforce representation in the Senior Court Clerk title in the metropolitan New York City area has climbed from 15% in 1980 to 31% in 1987. The Committee is encouraged by these figures and regards them as a base for more rapid entry of women into the higher court clerical titles in those metropolitan New York City courts in which they have been so severely underrepresented.

The Task Force pinpointed all titles at salary grades 23 and above as underrepresented by women. Many of these titles are not subject to competitive examination. To evaluate the progress of court administration with respect to this finding, the Committee analyzed all appointments (including promotions) made to these titles since the release of the Task Force Report in April of 1986. During fiscal year 1986-87 (April 1, 1986 - April 1, 1987), 649 appointments were made to both competitive and noncompetitive positions at grades 23 and above. Of these, 322, or 49.6%, were women. These appointments are broken down as follows:

APPOINTMENTS IN FISCAL YEAR 1986-87

	<u>JG-23</u>	<u>JG-24</u>	<u>JG-25</u>	<u>JG-26</u>
All	168	79	67	98
Female	76 (45.2%)	64 (81%)	33 (49.3%)	40 (40.8%)
	<u>JG-27</u>	<u>JG-28</u>	<u>JG-29</u>	<u>JG-30</u>
All	42	44	28	18
Female	31 (73.8%)	19 (43.2%)	5 (17.9%)	9 (50%)
	<u>JG-31</u>	<u>JG-32</u>	<u>JG-33</u>	<u>JG-34</u>
All	98	4	1	2
Female	43 (43.9%)	0 (0%)	1 (100%)	1 (50%)
Total:	649			
Female:	322 (49.6%)			

In titles at grades 23 through 27, the chart shows that women are appearing on competitive lists with much greater frequency. In the predominantly noncompetitive titles at grade levels 28 through 34 (the highest salary grade), the 1986-87 appointments of 78 women out of a total 195 positions indicate that extended recruitment and improved hiring practices have begun to have their intended result with respect to noncompetitive positions.

Significantly, two women were appointed in 1987 to "cabinet-level" ungraded positions in the Office of Court Administration. Helen Johnson, the new Director of Education and Training, comes from the Bronx District Attorney's Office where she was the first woman to try a homicide case in that County.

As Director of Education, she will be responsible for developing and implementing all of the education programs for judges and nonjudicial personnel. Mary deBourbon, the new Director of Communications, will be responsible for planning and developing the Office of Court Administration's public information, press, and other public communications operations.

The Committee also notes the commitment of court administration to addressing gender bias issues in the Family Court Hearing Examiner program instituted late in 1985. The Family Court Hearing Examiner legislation provides that matters involving child support initiated in Family Court be brought before a nonjudicial officer to hear and determine issues of support. Court Administrators directed a broad recruitment effort to ensure opportunities for women and minorities. Applicants were asked to complete a detailed questionnaire and were required to appear before specially selected screening panels. Of the 71 people selected for these high-level responsible positions, 35% were women.

The Committee attributes the movement toward greater employment of women in the courts not only to an evident commitment by court administration to hire women, but also to the

institutionalization of programs designed to recruit, train and promote women, as well as other protected classes. The Equal Employment Opportunity (EEO) Unit of the Office of Court Administration, which is responsible for ensuring that the Unified Court System is an equal opportunity employer, maintains a data bank of over 500 organizations representing women and minorities statewide. This data bank enables the EEO Unit to promulgate job announcements and other relevant information widely. It also allows the EEO Unit to ensure that relevant information is sent to organizations -- such as specialty bar associations, business schools, junior and senior colleges, and service clubs -- devoted to serving constituents of protected classes. Representatives of the EEO Unit travel throughout the State and visit job fairs, schools, and courts to acquaint people with the court system and inform them about career opportunities. Based upon present efforts, the Committee believes that the commitment of court administration to active recruitment of women is a real one that is starting to show positive results.

The EEO Unit also monitors employment practices in the Unified Court System to make certain that equal employment is an integral part of the personnel management structure and that all policies and directives of the court system reflect this concern.

To this end, the Unit collects and publishes data on the court system's workforce, makes recommendations and studies issues concerning all aspects of equal employment opportunity. The Committee recognizes the importance of this monitoring effort and intends to use these sources fully in its own continued monitoring role.

The Task Force expressed concern that qualifications, requirements, and salary grades of court titles should be reviewed periodically. The Personnel Office of the Office of Court Administration conducts this type of review on a regular basis to ensure that title standards are current and contain appropriate information. The Committee believes that this ongoing review should be made in the context of the statistics generated by the EEO office so that the examination of titles includes a search for causes of underrepresentation of women.

In conjunction with negotiations with unions representing nonjudicial employees, OCA is developing a uniform transfer program for nonjudicial employees. The goal of this program is to permit a more flexible transfer by nonjudicial employees among court positions. The Committee recognizes that a more flexible transfer policy will increase the opportunities for women to advance in the court system and encourages this effort.

petitioners seeking judicial relief in family violence cases. Specifically, all Family Court Judges in New York City were alerted to problems engendered by mutual orders of protection in the absence of a cross-petition and service of process upon the petitioner. The Administrative Office also assisted the New York City Police Department in its effort to devise a Notice of Rights to be given to family offense victims, in compliance with a 1986 amendment to FCA §812. Additionally, the Police Department is now studying a Family Court proposal for police officers, who have made an arrest for a violation of an order of protection, to file supporting depositions with the Court when the petitioner cannot appear in court personally. This measure is legally necessary for the Family Court to further the proceeding and, if warranted, to continue temporary detention of an individual arrested in such a case. Finally, the Family Court has adjusted its procedures to assist the Police Department in ensuring that police officers execute the requisite affidavits of service when they serve orders of protection.

* * *

Apart from the issue of actual availability of judges, neither the Task Force nor the Committee has established that there is a significant number of domestic violence victims who

seek but are denied access to a judge after Family Court hours. Accordingly, the Committee will recommend that administrative judges throughout the state work with local police departments, bar associations, and victim advocacy groups to answer this question. If, after such an inquiry, it is clear that victims often need access to a judge after Family Court hours but can find no open courthouse door, the Committee will propose to the Chief Administrative Judge specific adjustments in the hours of court or the use of telephonic communication to ensure that victims in each county have the access to court they require.

This account of the Committee's efforts at the administration of justice in the domestic violence area illustrates the importance of implementing the Committee's recommendation to engage the assistance of local administrative judges in this endeavor. The administrative judge is in a unique position to watch closely the actual workings of the courts within his or her domain. Collecting data, monitoring court practices, and coordinating procedures with agencies and community groups are among the everyday functions performed by an administrative judge. As another example in the domestic violence area, the administrative judge can assist in giving consideration to calendar preferences in violation of order of

protection cases because of his or her administrative responsibility for and regular contact with the judges within the district. Thus, by joining forces with these judges, the Committee's ability to spot unfair practices and create administrative solutions appropriate to each locality will be enhanced.

C. Child Support

The Task Force further recommended that court administrators collect and publish data to permit effective monitoring of child support enforcement cases. To effectuate this recommendation, a member of the Committee met with the Director of the New York State Commission on Child Support to determine what data would be most useful for monitoring progress in the enforcement of orders of child support. The Committee then explored the practicability of collecting this data and storing it for easy accessibility in the court's computerized data system.

The Office of Court Administration's Program and Planning Unit has determined that most of this data on child support enforcement can be maintained. Court data-gathering instruments and computer programs are being developed to compile the data within New York City, and the feasibility of doing so outside New York City is being explored.

D. Handling of Complaints

Another recommendation of the Task Force was for court administrators to establish an internal complaint unit and publicize procedures for dealing with gender bias complaints. Because many women who believe they have received unfair treatment do not know where to make a complaint, the Committee functioned this year as a clearinghouse for such complaints and sent each writer a letter indicating the appropriate organization authorized to investigate and take action on the complaints.

As noted, the responsibility of administrative judges includes accountability for the effective operation of their courts, which in turn requires oversight of judges and nonjudicial personnel. All administrative judges' offices investigate complaints and take appropriate action. For complaints against nonjudicial personnel, the administrative judge can make a recommendation that OCA bring disciplinary charges; complaints against judges can be referred to the State Commission on Judicial Conduct, and complaints about lawyers can be brought to the attention of local grievance committees. The administrative judge can also adjust informally those complaints that do not rise to a level requiring formal disciplinary action, but require admonitions that certain conduct must cease. In addition, the Office of Court Administration has an Inspector

General empowered to investigate and prosecute particular acts of misconduct.

* * *

Since there are adequate mechanisms in place to investigate all complaints concerning actions by judges, nonjudicial court personnel, and lawyers, the Committee believes that it is unnecessary to establish an internal complaint unit solely for gender bias complaints. While the Committee will continue to function as a clearinghouse for these complaints, the real imperative is to publicize information about how gender bias, and any other, complaints can be made. It is the Committee's hope that through this Report, among other means, the public will be informed about the existing mechanisms for resolution of complaints of gender bias in the courts.¹⁶ This may also be accomplished by developing brochures on this subject for the widest possible distribution. Two such brochures already exist: one, entitled "How to Complain About Lawyers and Judges," is published by the Association of the Bar of the City of New York. The other is a brochure, called "Structure of the Courts," which contains general information about the court system and is published by the Office of Court Administration. The latter pamphlet must be revised to include information about complaint procedures. The Committee will work with the OCA Director of

Communications to ensure that the OCA pamphlet is revised and that both are distributed appropriately.

E. Gender Neutral Forms

The Task Force further urged court administrators and judges to review all forms, materials, pattern jury instructions, and court correspondence to ensure that they employ gender neutral language. Review of official court documents, forms, and rules for gender neutrality has been an ongoing project for several years. Every document or rule promulgated by the courts that otherwise needs modification or revision is automatically reviewed for gender neutral language. Most official court forms, rules, and manuals have already undergone revision in the past few years, and most are now gender neutral.

* * *

Many documents for use in courts, however, are not official and are printed by private publishers. The Committee recommends that OCA make the effort necessary to obtain the cooperation of these publishers in making the necessary revisions. Additionally, the Committee notes that neutralizing general court correspondence is an issue with which administrative judges might assist the judges within their districts.

F. Child Care Facilities

The Task Force also recommended that court administrators take into account the special needs of parents, when undertaking improvements to physical court facilities in the unified court system, by providing for a supervised area where children may wait with their parents and may stay while their parents attend proceedings. Court facilities are not under the exclusive control of the Unified Court System; the physical plants that house the courts are controlled by the localities in which the courts are located. Accordingly, the courts cannot simply mandate that physical plants be modified to provide space for children. The Committee, however, has alerted the OCA Court Operational Services Unit to be attentive to the need for additional child care space, whenever court facilities are renovated or constructed, and to advise the controlling local authority accordingly.

G. Records of Fee-generating Appointments

Maintenance of the records of appointments to fee-generating positions by sex of appointee was another Task Force recommendation. Pursuant to the rules of the Chief Judge (22 NYCRR Part 36), the Office of Court Administration maintains records of fee-generating court appointments and publishes them

on a regular basis in major newspapers circulated in New York State, including the New York Law Journal, the Buffalo Daily Law Journal, and the Rochester Daily Record. The present OCA form to be completed by an appointee, however, does not require specification of gender.

* * *

The Committee recommends that the form be revised to include information about all protected classes, including sex. As required by law, the applicant would have to be advised that provision of this data is voluntary, for research purposes, and that the data so collected will be stored separately from the application. See Executive Law, §296(1)(d); State Division on Human Rights, "Rulings on Inquiries," #9.

IV. CONCLUSION

Since the release of the Task Force Report, with its disturbing findings about the pervasiveness of prejudicial attitudes toward women in our courthouses, we have seen the beginning of change and the elements essential to lasting change.

Education has served, and must continue to serve, as our primary agent in ridding ourselves of even the smallest

vestige of biased behavior. Gender bias and all other forms of prejudice cannot thrive in people whose capacity for empathy is enhanced and whose information is accurate. Indeed, we can already attest to an awakening, throughout the court system, from a complacency caused by unawareness or denial of the existence and harmful effect of insensitivity toward women in court.

Education is most effective when administration institutes procedures that invite the educated to apply their learning. It is our hope that by supplementing the centralized efforts of the Implementation Committee with local responsibility for fashioning administrative remedies best suited to the needs of individual localities, we will create court environments in which all women will be treated fairly.

Respectfully submitted,

Hon. Kathryn McDonald, Chair
Nicholas P. Capra, Esq.
Michael Colodner, Esq,
Hon. May Newburger
Hon. Juanita Bing Newton
Adrienne White

Christine C. Kopec, Esq.
Counsel to Committee

NOTES

1. Memorandum creating the Task Force on Women in the Courts, p.2. Attached as Appendix A.
2. Preface to the Report of the Task Force, p.i.
3. Chief Judge Sol Wachtler's Law Day Address, p.3. Attached as Appendix B.
4. The other members of the Committee on Women in the Courts are: Nicholas P. Capra, Deputy Commissioner, the Division of Criminal Justice Services (formerly Executive Assistant to Hon. Robert J. Sise, Deputy Chief Administrative Judge for the Courts outside New York City); Michael Colodner, Counsel to OCA; Hon. May Newburger (formerly member of the New York State Assembly); Hon. Juanita Bing Newton, Judge of the Court of Claims (formerly Executive Assistant to Hon. Milton L. Williams, Deputy Chief Administrative Judge for the Courts within New York City); and Adrienne White, Director of Equal Employment Opportunity, OCA.
5. Law Day Address, p.6. See Appendix B.
6. See Judge McDonald's remarks. Attached as Appendix C.
7. This issue may also be addressed by administrative judges in the course of supervising the judges within their areas of responsibility.
8. Matter of Doolittle; 1986 Annual Report 87 (Comm'n on Judicial Conduct, June 13, 1985); Matter of Fromer, 1985 Annual Report 135 (Comm'n on Judicial Conduct, Oct. 25, 1984); Matter of Jordan; 1984 Annual Report 104 (Comm'n on Judicial Conduct, Jan. 26, 1983).
9. Volume XV, Number 1 of the Fordham Urban Law Journal, published in April of this year, contains the Task Force Report in full and is available through Fordham Law School and OCA.

10. See Participants' Notebook for the nonjudicial training segment. Attached as Appendix D.
11. This male-dominated upper echelon does not exist outside New York City, Nassau and Suffolk Counties, because court security in those counties was performed by deputy sheriffs, who were not court employees and did not promote within the system. Court-employed Court Officers began to supply court security in Westchester County a few years ago.
12. The court clerk title series consists of Court Assistant (JG 16); Court Clerk (JG 18); Senior Court Clerk (JG 21); Associate Court Clerk (JG 23); Principal Court Clerk (JG 26); and higher noncompetitive titles. The Senior Court Clerk title exists in New York City, Nassau, Suffolk and Westchester Counties in lieu of the Court Clerk title, because Senior Court Clerks have supervisory responsibilities over Court Officers, who are not employed in the upstate courts.
13. Law Day Address, p.3. See Appendix B.
14. Chief Judge Wachtler's State of the Judiciary Address, delivered February 24, 1987, p.6. Attached as Appendix E.
15. An analysis of state-wide judicial power to grant temporary orders of protection was prepared by Jane Sachs, Esq., Principal Law Assistant to Hon. Kathryn McDonald, at the Committee's request. Attached as Appendix F.
16. See Appendix F, pp. 6-7.
17. List of Administrative Judges' offices, local grievance committees, the Inspector General's Office, and the Commission on Judicial Conduct. Attached as Appendix G.

APPENDIX A

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.

APPENDIX B

Remarks of Hon. Sol Wachtler,
Chief Judge of the State of New York,
Law Day, May 1, 1986, Court of Appeals
Hall, Albany, New York

THE LADY IN THE HARBOR AND THE LADY IN ALBANY
TWO SYMBOLS OF FREEDOM

We have read much during these past few months about the one hundredth anniversary of the dedication of the Statue of Liberty in New York Harbor. We are justifiably proud of this symbol and foundation of freedom. At the same time as this lady of liberty arrived, another important lady "arrived" in New York.

During this month of May, one hundred years ago, the first woman was admitted to the practice of law in this State. While this milestone has not attracted the same attention as the anniversary of the Statute of Liberty, it is certainly of equal significance as a symbol of freedom and a measure of progress in our great nation.

New York's first woman attorney, Kate Stoneman, came to Albany from Jamestown, New York. She learned the law, by marvelous historical coincidence, in this very building as a transcriber of the official proceedings of this Court. And it was here, in Albany, that our Legislature, on May 19, 1886, amended the Laws of this State so as to allow, for the first time, women to be admitted as attorneys.

Ironically, only 14 years earlier, the United States Supreme Court, in its notorious Myra Bradwell decision, had

upheld an Illinois law which prohibited women from becoming attorneys. The language in the concurring opinion in Bradwell revealed the obstacles women faced. There, three justices on our nation's highest court expressed their view that "the natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life * * * The paramount destiny and mission of women are to fulfill the noble and benign offices of wife and mother".

While the New York State Legislature's progressive action in 1886 removed one obstacle confronting women, it was, of course, only a beginning. Just as the arrival of the Statue of Liberty did not eradicate ethnic prejudice, the change in our laws did not remove the bias against women and women attorneys.

This celebration of Kate Stoneman's admission to the Bar, while not diminished, is made sober by compelling evidence that some of the same attitudes that delayed her becoming an attorney are still present today.

On April 2 of this year, the New York Task Force on Women in the Courts submitted its report to me. The Task Force was established on May 31, 1984 by then Chief Judge Cooke. Since becoming Chief Judge sixteen months ago, I, along with Chief Administrative Judge Joseph W. Bellacosa, have continued to provide encouragement and financial support for its vital project.

I commend the Task Force, many of whom are here today, and its Chairperson, Judge Edward J. McLaughlin, for the

extraordinary effort and thoroughness of the report. It is the product of dedication, tireless effort, and a profound sense of commitment. We are deeply grateful for your contribution.

Although the report documents continuing problems and prejudices facing women in our court system, and serves as a strong impetus to accomplish more in this area, the report should not be read as an indication that all judges and lawyers are insensitive to the problem.

I know from my personal experience that the vast majority of judges, and members of the Bar, are also committed to the protection and enhancement of women's rights in our courts. Nevertheless, adopting the voice of scores of professionals and lay persons with considerable experience in courts throughout the State, the Task Force has put forth an orderly and detailed exposition of "statutes, rules, practices, and conduct that work unfairness or undue hardship on women in the courts".

In examining the status and treatment of women litigants, attorneys, and court employees, it found that women are denied equal justice, equal treatment, and equal opportunity -- the result of problems "rooted in a web of prejudice, circumstance, privilege, custom, misinformation and indifference". Gender bias against women in our courts is unacceptable.

The Task Force correctly observed that "the courts have a special obligation to reject -- not reflect -- society's irrational prejudices". It has been the abiding objective of

this administration to provide to all citizens a court system that delivers quality justice. Making abundantly clear that gender biased conduct is wrong wherever found in New York's courts -- inimical to any concept of justice -- is an important step towards that end.

Accordingly, we are prepared to pursue a comprehensive program to address the problems women face in our courts.

First, and without question, the educational and consciousness raising recommendations which pervade the report are singularly important and will be implemented immediately by substantial inclusion in all judicial and nonjudicial orientation and educational programs. This will be a significant part of one of our highest priorities for the next two years which is to develop and inaugurate expanded educational programs and syllabi for judges and nonjudicial personnel on the entire range of subjects for which they and we are responsible.

Second, we will continue our policy of advancing women to important positions of judicial responsibility.

The most significant move in this direction was made, of course, when Governor Cuomo appointed my colleague, a superb jurist, Judith Kaye to this Court.

Judge Bellacosa, when he was Chief Clerk of this Court, began a program of recruiting qualified women and minorities for top professional positions.

We intend to continue that commitment and accomplishment throughout the court system and have already done so on our own

initiative within the last several weeks by bringing to our ranks of administrative and supervising judges three distinguished judges and lawyers:

Judge Marie Santagata, a distinguished jurist, who was the first Chairperson of the Nassau County Youth Board and formed the Juvenile Aid Bureau for Nassau County, appointed as Supervising Judge of all Criminal Courts in Nassau County;

Judge Kathryn McDonald, who, in addition to her outstanding judicial experience, served for 12 years with the Children's Rights Division of the Legal Aid Society, and as Attorney in Charge of that Division, appointed as Administrative Judge for the entire Family Court of the City of New York, and,

Judge Judith Sheindlin, an excellent jurist, who was former Deputy Chief of the Family Court Division of the New York City Department of Law, appointed as Supervising Judge of the New York County Family Court.

Another key step in our comprehensive program will be the establishment of a standing and implementing arm of the court system to help us assess, monitor, and further sensitize ourselves to these concerns. I am creating -- as I did, for another key policy initiative last year, the statewide IAS Case Management Program -- a small, in-house implementation team consisting of:

Judge Kathryn McDonald, as Chairperson, in whose court so many of the concerns have been found to exist in a special way.

Adrienne White, our OCA Director of EEO, who has responsibility for the whole spectrum of equal opportunity, embracing this particular gender neutral and gender sensitive aspect as well.

Nicholas Capra, the Executive Assistant to Judge Sise for all the courts outside New York City.

Juanita Newton, the Executive Assistant to Judge Williams for all the courts in the City of New York.

Michael Colodner, our OCA Counsel;

And very specially as a bridge outside our own judicial branch, one member designated as my Special Consultant, the Honorable May Newburger, member of the Assembly and Chairperson of the Assembly's Special Task Force on Women's Issues and Concerns.

This standing team's charter will be as sweeping as the need warrants. They will start with the report of the Task Force which has now completed its work. The new team will report their recommendations and progress directly to Judge Bellacosa and me. They will reach out very specially to the court system's Personnel Director and to the education and judicial units and organizations, as well as all judges, lawyers, bar leaders, law school deans and faculties, law enforcement agencies, and other public officials and community leaders who affect the operation of the courts.

I am convinced and determined that by this pervasive and persistent method of insight and oversight, we shall make

great strides together to build on the significant improvements that have already been accomplished and to substantially eliminate the vices of gender bias and gender insensitivity insofar as they may persist in our great court system.

In pursuing this goal there will emerge a justice system better able to satisfy its special obligation to all the people of this State.

APPENDIX C

[OPENING: JUDGE BELLACOSA]

Good Morning! I am here today in my capacity as chair of the Committee Judge Wachtler appointed to implement the Report of the Task Force on Women in the Courts. Our Committee has worked hard with Don Taylor to design this opening session -- with Don insisting that it must be educational and our Committee insisting it must be interesting.

I believe we have accomplished both goals inasmuch as we have two talented consultants with us today --Barbara Bunker and Charles Seashore-- to kick off the second week of our educational program.

Let me tell you a little bit about Barbara and Charles. They come from outside the legal system and are expert in helping organizations to work better.

Barbara received her BA from Ohio Wesleyan and has done graduate work at the University of Chicago and Columbia

University from which she received a PhD in social psychology. She has written extensively on such topics as Conflict Resolution, Organization Effectiveness, and the Roles of Men and Women at Work. Presently, Barbara is the Director of the Social Psychology Doctoral Training Program at SUNY Buffalo, which trains students to be consultants. As a consultant, Barbara has much to offer in assessing management training needs, dealing with difficult employees, preparing organizations for change, and developing interpersonal skills, for starters.

Charles is a social psychology consultant, who received his doctorate from the University of Michigan. His professional concentration is in team and organization development and human relations training in government and the health care field. At present, he also holds teaching positions at the American University and Johns Hopkins.

Both Barbara and Charles have had extraordinary successes in helping a variety of high-powered corporations, like DuPont, Exxon, and Bell Telephone, to rid themselves of "baggage" which encumbers an organization's ability to perform efficiently and effectively. Both are expert in identifying ways in which differences among people in a system can impair that system's ability to function well. They are also expert at minimizing this effect by heightening the awareness of all the players in

the system of each other's contributions.

This morning, they are going to move us through some exercises in the subjective realm calculated to sharpen our perceptions in our daily work of objective decision-making. They are not going to preach to us. This will not be, as someone has suggested, a session on the "Battle of the Sexes". This will be a session focussed on fairness, rather than equality, and on increasing competence.

Barbara quizzed us as much as we quizzed her, as she and Charles usually work with commercial tycoons, not judges. (Don't worry, I explained carefully that there is no one more "tycoonish" than we judges.) Seriously, I did tell her that whatever our differences might be in geography or in the composition of the communities we serve, there is one strong thread that ties us all together and that is our pride in our ability to identify issues and deal with them in such a fashion that fairness is the hallmark of our labors. She and Charles both know that we are all aware that the existence of any kind of bias that demeans human beings --open or insidious, real or perceived-- impairs the integrity of our work and, certainly, the public image of our courts.

The model they will use this morning requires a spirit of inquiry (with maybe a touch of humility) and I ask you all to have a little faith and to cooperate as full participants in this process. This experience should make the other courses this week more meaningful and should help us when we return to work, particularly in those tough areas of credibility assessment and the fashioning of appropriate orders.

APPENDIX D



STATE OF NEW YORK
UNIFIED COURT SYSTEM
OFFICE OF MANAGEMENT SUPPORT
(OFFICE OF COURT ADMINISTRATION)
270 BROADWAY
NEW YORK, NEW YORK 10007
(212) 587-5823

JOSEPH W. BELLACOSA
Chief Administrative Judge

MATTHEW T. CROSSON
Deputy Chief Administrator

DONALD A. TAYLOR
Director,
Education and Training

Participant notebook for

WOMEN IN THE COURTS:
IMPLICATIONS OF THE TASK FORCE REPORT

PROGRAM CC86

LAKE GEORGE, NEW YORK

September 23, 1986

This session designed and presented by
RAYMOND F. CRAPO
Education and Training Coordinator
New York State Unified Court System

This notebook belongs to: _____

Roaring Brook Ranch
Lake George, New York

September 23, 1986

Good morning.

This first presentation on today's schedule deals with a topic that affects every one of us. The Report of the New York Task Force on Women in the Courts was delivered to the Chief Judge in March of this year. It is important that all court employees be informed of its conclusions and become aware of some of the things they can do, individually and collectively, to implement the recommendations of this important document.

A copy of the report summary has been distributed along with this workbook. You will be using it right along with the workbook throughout the session.

This presentation will be a workshop, so you will have a lot of things to do during the hour. Please be sure that you participate fully in every activity. You will observe that this notebook has a lot of blank lines in it. This is because you are expected to create most of the notes. The observations and conclusions you make during this session will be used for reference at your court, so your investment in this notebook during the next hour will pay you well. Notes written in your own style and in your own hand certainly should be very helpful to you in the future. The trick is to make them as complete as possible now. Therefore it is important not only to take notes when you are working with your own group at the table, but it is also important that you take notes as the other tables, dealing with different aspects of the topic, report to the whole group.

You may agree or disagree with some or all of the findings of the task force. That's certainly understandable. We all must agree, however, that fair and equal treatment of women in our courts is something that must be scrupulously practiced. This session will give you a chance to react to the report, to inventory some of the things that happen in your court, to affirm the correct practices you are already using and to provide a personal plan for changing those behaviors that you feel might be improved.

We look forward to your candid and active participation.

-Ray Crapo

THE REPORT

Please open the summary report now and read the Preface (page i) the Introduction (pages 1-3) and the Findings and Recommendations (pages 4-6). When you have completed reading them and taking notes on the ideas of greatest interest to you, please turn to the the Table of Contents (pages iii and iv) and review it.

You are asked to do this individually and in a sense of silence. Please do not converse with anyone at this time, even if they appear to desire to be distracted. This is a time for your private reaction to the report. The facilitator will signal when we will be moving on to the next phase. Your cooperation is essential to the design of this workshop. Thank you.

NOTES ON PREFACE, INTRODUCTION,
AND FINDINGS AND RECOMMENDATIONS

Members of the group will now be asked to share, on a strictly voluntary basis, some of their written observations. Due to the size of the group it will be impossible to obtain much more than a sampling of the observations.

NOTES ON THE OBSERVATIONS:

SELECTION OF INTEREST AREA

You will be working on only one of the report summary areas below. Please take a few minutes to choose a FIRST and a SECOND area you would like to explore. Use the manual to see what is covered and discussing your selections with your colleagues at the table is okay.

AREAS TO BE SELECTED:

STATUS OF WOMEN LITIGANTS,
DOMESTIC VIOLENCE
(Pages 7-16)

THE COURTROOM ENVIRONMENT
(pages 25-28)

STATUS OF WOMEN ATTORNEYS:
PROFESSIONAL ACCEPTANCE
(pages 29-31)

STATUS OF WOMEN COURT EMPLOYEES
(pages 34-37)

My FIRST preference area is:

My SECOND preference area is:

* * * * *

My table assignment is: _____

You will likely move to another table. When you are asked to do so, please be sure to take your summary report with you. When your table group is seated, please fill out the top of the next page, including the names of your table group members.

GROUP WORK SHEET

Our topic area is: _____

The names of the members of my table group are:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Instructions:

Use this page and the following one for your in-session work and notes. Upon completion of your work, your table will be asked to report to the entire group. In order to assure uniformity of format among the groups, it is important that you put your agreed upon findings at the end of your discussion on the appropriate report sheet for your subject.

Please circle the appropriate report sheet:

STATUS OF WOMEN LITIGANTS, DOMESTIC VIOLENCE, sheet 8

THE COURTROOM ENVIRONMENT, sheet 9

STATUS OF WOMEN ATTORNEYS, sheet 10

STATUS OF WOMEN COURT EMPLOYEES, sheet 11

Here is your group's charge:

1. Reread your section together, highlighting and discussing key ideas in the particular section's introductory paragraphs and the summary of findings. Take notes on page 7 as you go along.

2. Go over the recommendations, particularly those for court administration and for judges. Highlight them, discuss them, agree on their meaning.

3. Add your own recommendations for City Court Clerks.

4. Generate a list of specific things you, as court clerks, can do to implement the recommendations. Prioritize them with the most important appearing first.

5. Fill in the appropriate report sheet and prepare to present your ideas to the entire group.

REPORT SHEET: STATUS OF WOMEN ATTORNEYS: PROFESSIONAL ACCEPTANCE
Summary report page nos. 29-31

We added the following recommendations for City Court Clerks:

1. _____

2. _____

3. _____

4. _____

Here are some of the specific things we can do as Clerks of the City Courts to implement both the recommendations made in the summary report and those we have added above. The most important are presented first.

Notes on questions/discussion of group's report:

REPORT SHEET: STATUS OF WOMEN COURT EMPLOYEES
Summary report page nos. 34-37

We added the following recommendations for City Court Clerks:

1. _____

2. _____

3. _____

4. _____

Here are some of the specific things we can do as Clerks of the City Courts to implement both the recommendations made in the summary report and those we have added above. The most important are presented first.

Notes on questions/discussion of group's report:

GENERAL DISCUSSION/REACTION

DISCUSSION NOTES:

FACILITATOR'S OBSERVATIONS:

ENDPIECE

Thanks for your participation. We hope that this session was useful to you and that you will take back some of its ideas to your court.

APPENDIX E

STATE OF THE JUDICIARY

SOL WACHTLER
CHIEF JUDGE
OF THE STATE OF NEW YORK

February 24, 1987
Albany, New York

TASK FORCE ON WOMEN IN THE COURTS: FOLLOWING UP

Last year, the 23 member New York Task Force on Women in the Courts, appointed by my predecessor, reported to me that there is gender bias against female litigants, attorneys and court personnel in the court system. The Task Force concluded that this bias effectively denies women equal justice, treatment and opportunity.

As I have stated previously, while I know that the majority of judges and lawyers in our courts are committed to fair and equal treatment for women, the report of the Task Force clearly and convincingly indicates that reform is necessary. Gender bias against women in our courts is unacceptable and must be eliminated.

To insure that the Task Force report is appropriately pursued, I appointed a special six member in-house implementation team chaired by Judge Kathryn McDonald, Administrative Judge of the Family Court in New York City, and including, among others, former Member of the Assembly May Newberger. The implementation team has broad authority to consult with court system personnel, judicial organizations, judges, lawyers, bar associations, law enforcement agencies, public officials and community leaders to recommend specific actions and programs needed to implement the Task Force's recommendations. The team met regularly throughout 1986 and plans to present a status report on its efforts this spring. Last summer, working with the Education and Training Unit of the Office of Court Administration, the team helped devise a special training program which was an important part of the 1986 Judicial Seminars held in Syracuse. We are determined that, through this implementation team, the court system do everything within its power to eliminate gender bias in the courts.

APPENDIX F

**JUDICIAL POWER TO ISSUE EX PARTE TEMPORARY ORDERS OF PROTECTION
IN CASES INVOLVING FAMILY VIOLENCE**

Although the New York Task Force on Women in the Courts found that victims of domestic violence have had limited access to judicial relief because of discouragement from court system and law enforcement personnel, the Task Force also found that the Family Court Act (FCA) and the Criminal Procedure Law (CPL) establish an effective legal framework for providing prompt relief to these victims. This endorsement of existing Family and local criminal court legal procedures was implicit in two of the Task Force's recommendations to court administrators: 1) to ascertain that judges and other court personnel are familiar with the powers of local criminal courts in domestic violence and harassment cases and 2) to ensure the availability of judges to issue temporary orders of protection (TOPs) seven days a week, twenty-four hours a day, pursuant to FCA §161(c).

Victims of domestic violence, however, have more than the two options of a local criminal court and Family Court for ex parte TOP relief. Notably, the Supreme Court and County Court are available as forums in which an emergency, or ex parte, TOP may be granted in family violence cases. This, in turn, has bearing upon the round-the-clock availability of judges to issue TOPs, because Supreme Court justices and County Court judges may entertain ex parte applications after court hours. The following is an analysis under existing New York statutes and caselaw of the forums potentially available to family violence victims who seek ex parte TOPs.

Ex Parte Orders Generally

The concept of due process and the Civil Procedure Law and Rules (CPLR) counsel against the issuance of ex parte orders unless a statute expressly sanctions this action. Papacostopoulos v. Morrelli, 122 Misc.2d 938 (NYC Civil Court 1984); Weinstein, Korn and Miller, CPLR Manual §15.01 (rev. ed.). See CPLR §2211. Absent such express authority, an ex parte motion will be granted only in the exceptional case, after consideration of the difficulty or futility of providing notice and the likelihood that the opponent will not be prejudiced by the relief sought. Practice Commentary C2211:6 to CPLR §2211, 7B McKinney's, p. 33.

Family Court Proceedings

Articles 4, 5, 6, 7, 8 and 10 of the FCA expressly authorize the Family Court to issue an ex parte TOP. FCA §§430(a), 550(a), 655(a), 740(a) 828(1), 1029(a). Indeed, in a provision making immediate court action available when the Family Court is not in session, "any magistrate is authorized to perform the functions of a Family Court judge" as described in the TOP provisions of these six articles. FCA §161(c). See Practice Commentary to FCA §161, 29A McKinney's Part 1, p. 105. Thus, upon the filing of a petition under Articles 4-8 and 10 and upon good cause shown, any magistrate (defined in General Construction Law §28-b as "a judge of any court of this state") may issue an ex parte TOP.¹ The TOP may set forth reasonable conditions of behavior² to be observed for a specific time.

Moreover, for good cause shown by any person eligible to originate an Article 10 proceeding, any magistrate may issue a TOP even before the filing of a petition under this Article. FCA §1029(a). Unlike a TOP issued after an Article 10 petition is filed, however, a court issuing a TOP before the petition is filed may not include in the order any requirements that a person 1) stay away from the home, the other spouse, or the child or 2) permit a parent to visit a child at certain times. FCA §§1027(c), 1029(a). Finally, an FCA §1029(a) TOP must be vacated in ten days unless a petition is filed within that time.

Research does not disclose whether the application for a TOP in the proceedings noted above may be heard only by a magistrate in session or by a magistrate out of court as well. Cf. Judiciary Law §147-a; CPLR §2212(b) (Supreme Court justice out of court may hear application for ex parte order). Nor is it clear what venue rules, if any, restrict issuance of TOPs by magistrates when performing as Family Court judges under FCA §161(c). Because any proceeding in which a magistrate acts under FCA §161(c) remains within Family Court jurisdiction, however, the venue rules normally applicable to Family Court proceedings would most likely apply.³

As noted, the filing of a petition under Articles 4-8 of the FCA is a prerequisite to issuance of a TOP. If the petition has not already been filed in Family Court at the time the individual seeks the TOP, this fact will operate in most cases as a bar to the issuance of a TOP by a magistrate other than a Family Court judge under FCA §161(c). Generally, unless the law or court order provides otherwise, papers must be filed with the Clerk of the court in which the action is triable. CPLR §2102. Inasmuch as FCA §161(c)

Any criminal court has the power to grant an ex parte TOP in a criminal matter already pending in that court, whether or not a family offense. At any time, a Supreme Court justice or County Court judge may, by order to show cause containing a provision for interim relief, issue a TOP against a party in a pending matrimonial action. Moreover, the Supreme Court and County Court have the authority to grant ex parte TOP relief out of court at the time a family offense proceeding is commenced in Supreme Court and thereafter.

- 1 Generally, a TOP may run against either party or both. FCA §759 permits a TOP to issue against a person before the court who is the respondent's parent (or the parent's spouse), the respondent, or both. FCA §842 allows the TOP to run against either party or both or, if before the court, any other member of the family household. FCA §1056 authorizes a TOP against a person before the court who is a parent (or legally responsible person) or the spouse of that person.
- 2 See FCA §§446, 551, 656, 759, 842 and 1056 for enumeration of these conditions.
- 3 Thus, it should be unnecessary to resort to venue rules in the CPLR. See FCA §165(a). For the individual rules of venue applicable to Family Court proceedings under FCA Articles 4-8 and 10, see FCA §§421, 521, 717, 818, 1015, and Social Services Law §384-b(3)(c)(governing FCA Article 6 proceedings to terminate parental rights).
- 4 Any criminal action may be commenced in a "local criminal court" - i.e., District, New York City Criminal, City, town and village courts - by the filing of a complaint or an information. CPL §10.10(3), 10.30(2), 100.05. A criminal action can also be commenced in a superior court - Supreme and County Court - by the filing of an indictment by a grand jury. CPL §§10.10(2), 10.20, 100.05. The latter, however, is unusual. In a family offense, a Family Court petition can commence an action in a local criminal court. FCA §155(2).
- 5 Permissible conditions of a criminal court TOP may be found in CPL §530.12(1) (family offense) and CPL §530.13(1) (all other cases).
- 6 Similarly, DRL §252 is silent about the permitted terms of such an order, but FCA Article 8 apparently supplies the substantive law in applications for TOPs in Supreme Court matrimonial cases. See Peters v. Peters, 100 A.D.2d 900 (2nd Dept. 1984).
- 7 Research reveals no cases in which the Supreme Court accepted jurisdiction over a family offense proceeding.
- 8 An Article 8 proceeding in Supreme Court probably falls into the category of a "special proceeding," cf. Law v. Henion, 115 N.Y.S.2d 788 (Sup. Ct. Spec. Term, Rockland Co. 1952), aff'd, 281 A.D. 851 (2nd Dept. 1953) (adoption), and would actually "commence" upon service of the show cause order, summons and complaint upon the defendant, CPLR §304. When a final order of protection is the ultimate relief sought, such a proceeding may be classified as an action for a permanent injunction including an ex parte application for a temporary restraining order. See CPLR §§6301, 6313.

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