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Sexism in the Courtroom: Report from a "Little Girl Lawyer"

Martha Copleman

Educating the Judiciary About Gender Bias: The National Judicial Education Program to Promote Equality for Women and Men in the Courts and the New Jersey Supreme Court Task Force on Women in the Courts

Lynn Hecht Schafran

Sexism and the Courts: Speech to Metropolitan Judges, Lewis & Clark College, August 19, 1983

Honorable Betty Roberts

The First Year Report of the New Jersey Supreme Court Task Force on Women in the Courts

Educating the Judiciary About Gender Bias: The National Judicial Education Program to Promote Equality for Women and Men in the Courts and the New Jersey Supreme Court Task Force on Women in the Courts

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I. INTRODUCTION

"I was quite shocked at the information we received that indicated the disparity between males and females and the treatment of them in the courts, especially the statistics concerning how men fare after divorce, after a few years. Many of the myths that are taken as facts by judges were shattered by your presentation and the correct situation revealed. It was the impact of knowledge on ignorance."

"I knew it was a biased presentation when I saw two women on the panel and only one man."¹

"There's no room for gender bias in our system. There's no room for the funny joke and the not-so-funny joke. There's no room for conscious, inadvertent, sophisticated, clumsy, or any other kind of gender bias, and certainly not for gender bias that affects substantive rights."²

The first two quotations reflect the polarities of judicial response to the pilot course of the National Judicial Education Program to Promote Equality for Women and Men in the courts (NJEP), given at the California Center for Judicial Education and Research in January and March 1981. The third quotation is New Jersey Chief Justice Robert N. Wilentz's unrehearsed admonition to the New Jersey judiciary following the presentation of the New Jersey Supreme Court Task Force on Women in the Courts' first year findings to the state's judicial college in November 1982. This article is about the efforts of NJEP to come into existence and make the understanding of gender bias³ an integral part of American judicial education;⁴ the response to those efforts on the part of funders, judicial educators and judges; and the outgrowth of those efforts—the New Jersey Supreme Court Task Force on Women in the Courts, created to document gender bias in that state's court system and develop ways to eliminate it, and the other state task forces which it has inspired.

1. California Center for Judicial Education and Research, Course Evaluations, *Judicial Discretion: Does Sex Make a Difference*, (January and March 1981, respectively).

2. *Panel in Jersey Finds Bias Against Women in State Court*, N.Y. Times, Nov. 22, 1983, at A1, col. 1.

3. "Gender bias" is the term used by NJEP in place of "sex bias" or "sexism," terms which made many judges uncomfortable.

4. Judges participate in continuing education programs of various kinds. Some states have judicial colleges of their own which judges attend on a mandatory or voluntary basis. Other states send their judges to national programs such as the American Academy of Judicial Education and the National Judicial College. Individual judges often attend these national programs on their own.

II. THE NATIONAL JUDICIAL EDUCATION PROGRAM TO PROMOTE EQUALITY FOR WOMEN AND MEN IN THE COURTS

NJEP, established in 1980, is a project of the NOW Legal Defense and Education Fund in cooperation with the National Association of Women Judges. NJEP has presented courses that examine the effects of sex stereotypes, myths and biases on judicial decision-making, fact-finding, sentencing, communication and courtroom interaction in more than a dozen states and with numerous national judicial education programs. NJEP is endorsed by the American Academy of Judicial Education, the National Center for State Courts, the National Judicial College and the California Center for Judicial Education and Research. NJEP was the catalyst for the New Jersey Supreme Court Task Force on Women in the Courts created in October 1982, the first of its kind in the country. As of May 1986, the chief justices of New York and Rhode Island have established task forces in their states. An independent task force was at work in Arizona. NJEP is involved as a member or advisor in all of them.⁵

NJEP addresses a wide range of substantive issues which include *inter alia*: how stereotyped thinking about rape distorts judicial enforcement of the rape shield laws and rape sentencing; how sentencing of female defendants may be influenced if the women are seen as dependent and feminine or independent and unfeminine; and how myths about the "true nature" and "proper role" of women and men prejudice both sexes in custody decisions. NJEP focuses particularly on gender bias in support awards and enforcement.

This area of law affects the greatest number of women. Inadequate and unenforced support awards are a prime cause of the feminization of poverty. NJEP also explores the dynamics of courtroom interaction—that is, how women litigants, lawyers, witnesses, and experts are treated—to demonstrate how demeaning verbal and non-verbal behavior, both conscious and unconscious, undermine women's credibility.⁶

A. Present at the Creation, I

The idea for a judicial education program about gender bias crystallized in the mind of Sylvia Roberts, pioneer Title VII litigator, during a 1969 meeting with the judge assigned to determine the remedy in *Weeks v. Southern Bell Telephone & Telegraph Co.*⁷ As Roberts recalls:

Lorena Weeks and I met with Judge Bell⁸ in his chambers to talk about the remedy and Judge Bell said he was concerned about Weeks wanting to become a switchman because that job involved knowing a lot about electricity and he didn't even know how to fix his own air conditioner.

Some inspiration led me to say, "Well, Judge, Mrs. Weeks' husband is an electrician," and I think by some operation of the Blackstone principle that upon marriage the two become one and the one is the husband, the judge felt that it would really be Weeks' husband who would tell her what to do, and then we were okay.

I realized then and there that if we did not help judges to get past their own preconceptions about men and women,

5. In addition to its courses for judges and its participation in task forces on women in the courts, NJEP acts as a national and international clearinghouse for information about gender bias in the courts and how to eliminate it, provides technical assistance to judicial and bar organizations seeking to develop information about the problem, speaks widely on the issue to legal and non-legal groups, and publishes articles about judicial gender bias in legal and non-legal publications.

6. For further information about the substantive, procedural and environmental issues with which NJEP deals, see Wikler, *On the Judicial Agenda for the '80's: Equal Treatment for Men and Women in the Courts*, 64 JUDICATURE 202 (1980); Schafran, *Women as Litigators: Abilities vs. Assumptions*, 19 TRIAL 36 (1983); Schafran, *Eve, Mary, Superwoman: How Stereotypes About Women Shape Judicial Perceptions*, 24 JUDGES' JOURNAL 12 (1985). NJEP's pilot course, *Judicial Discretion: Does Sex Make a Difference?* has been published in a model text based on the transcripts from the course as given at the California Center for Judicial Education and Research.

The Instructor's Manual (194 pages) includes edited transcripts of the instructors' presentations and participants' responses for the entire course, as well as supplementary readings, copies of visual aids and bibliographies. The Participants' Binder (224 pages) contains all materials used by participants in the course, such as pre-course readings, hypothetical cases, copies of all visual aids, supplementary readings, bibliographies and evaluation forms. The pilot course may be purchased from NJEP, 99 Hudson Street, 12th Floor, New York, N.Y. 10013.

7. 408 F.2d 228 (5th Cir. 1969). Lorena Weeks was a telephone company employee who claimed that Southern Bell's refusal to consider her for a switchman position solely because she was a woman violated Title VII. The district court found that because the job was too "strenuous" for a woman the company had met the BFOQ test. The Fifth Circuit reversed and remanded for a determination of appropriate relief.

8. Fifth Circuit Judge Griffin Bell, subsequently Attorney General and senior partner at the defending law firm in *Hishon v. King Spaulding*, 104 S. Ct. 2229 (1984).

Title VII and all the other laws we were passing and changing would just be words on paper.⁹

Roberts' perception received detailed confirmation from New York University Law School professors John A. Johnston, Jr. and Charles L. Knapp in their 1971 critical study,¹⁰ which concluded:

[B]y and large the performance of American judges in the area of sex discrimination can be succinctly described as ranging from poor to abominable. With some notable exceptions they have failed to bring to sex discrimination cases those judicial virtues of detachment, reflection and critical analysis which have served them so well with respect to other sensitive social issues. Particularly striking, we believe, is the contrast between judicial attitudes toward race and sex discrimination. Judges have largely freed themselves from patterns of thought that can be stigmatized as "racist"—at least their opinions in that area exhibit a conscious attempt to free themselves from habits of stereotypical thought with regard to discrimination based on color. With respect to sex discrimination, however, the story is different. "Sexism"—the making of unjustified (or at least unsupported) assumptions about individual capabilities, interests, goals and social roles solely on the basis of sex differences—is as easily discernible in contemporary judicial opinions as racism ever was.¹¹

1. *The NOW Legal Defense and Education Fund (NOW LDEF)*

The establishment of NOW LDEF in 1970 offered a vehicle for creating the kind of judicial education program about gender bias which Sylvia Roberts envisioned. Throughout the fund's early years, organizing a judicial education program was an ongoing concern. Roberts' efforts as NOW LDEF counsel were joined particularly by Marilyn Patel,¹² another board member and Title

VII litigator.

In 1977, NOW LDEF hired its first legal director, Phyllis Segal, who began a concerted effort to convince foundations to fund a judicial education program about gender bias. Segal found funders unsure about whether a feminist advocacy group could have this type of discourse in a constructive way with the judiciary. A more serious barrier to funding was the funders' disbelief that a problem even existed. Thus, the next phrase in NJEP's creation became documenting the problem and bringing it to national attention via the media.¹³

As part of its efforts to document the existence of gender bias in the courts, NOW LDEF interviewed knowledgeable judges and lawyers, hired five New York University Law School students to conduct a court monitoring project, and gathered recent examples from all parts of the country of the kinds of cases and courtroom statements which demonstrated the need for judicial education about gender bias. Typical instances included a group of sexual assault cases: a Colorado judge dismissed as "an attempted seduction" a sexual assault charge against a man who broke into a woman's trailer, threw her to the floor and put his hand inside her clothing and vagina; a Wisconsin judge was recalled from the bench after sentencing a teenage rapist to probation because he was only reacting "normally" to a permissive society; a California judge told a rape victim that by hitchhiking she had invited sexual intercourse; a Connecticut judge dismissed an indictment against a man who failed in an attempted rape with the comment, "You can't blame someone for trying."¹⁴ Having documented the existence of judicial gender bias, NOW LDEF had to find someone with the requisite skills to bring the envisioned judicial education program into being.

In 1979, through fortuitous circumstances, the Fund's legal and executive directors discussed the program with Dr. Norma Wikler, an associate professor of sociology from the University of California-Santa Cruz. Professor Wikler had researched many aspects of sexism and had expe-

9. Conversation between Sylvia Roberts, Esq. and the author (Mar. 6, 1985).

10. Johnston and Knapp, *Sex Discrimination by Law: A Study in Judicial Perspective* 46 N.Y.U.L. REV. 675 (1971).

11. *Id.* at 676.

12. Now Judge Marilyn Patel, United States District Court,

San Francisco, California.

13. See Segal, *Sexism Sits on the Bench*, L.A. Times, Aug. 23, 1978, at 7, col. 3.

14. Segal, Proposed Project on Judicial Attitudes Toward Women: An Introductory Overview, NOW Legal Defense and Education Fund 5-6 (1978).

rience in creating interdisciplinary materials and with teaching adults. This type of background was essential for the program. Wikler subsequently obtained a two year leave from the University and in 1980, more than ten years after Sylvia Roberts first conceived it, made the National Judicial Education Program to Promote Equality for Women and Men in the Courts a reality. Professor Wikler guided NJEP through its first two years and continues to act as a consultant to it.

2. *The National Association of Women Judges (NAWJ)*

Wikler's initial strategy was to gain the endorsement of leading judicial education organizations and to establish an Advisory Committee of prominent judges, judicial educators, attorneys and social scientists. She particularly sought the cooperation of the women judges who joined together in 1979 to form the National Association of Women Judges (NAWJ). Wikler approached the NAWJ leadership about joining NOW LDEF as co-sponsor of the program. The NAWJ agreed that an education program that enhanced judicial impartiality by helping judges understand their conscious and unconscious gender-based biases was consonant with NAWJ's goals "to promote the administration of justice" and "to discuss and formulate solutions to legal, educational, social and ethical problems mutually encountered by women judges."¹⁵

NAWJ members have been deeply involved in bringing NJEP courses and materials into their states. Women judges have taught NJEP courses; initiated and served on task forces on women in the courts; encouraged the formation of these task forces in increasing numbers of states; and provided financial support to NJEP through their Foundation for Women Judges.

B. The National Judicial Education Program: 1980-1985 Resistance and Response

Norma Wikler is a sociologist, not an attorney.

ney. In fact, prior to NJEP, Wikler says that she "had never met a judge."¹⁶ Nonetheless, Wikler believed that her prior research into sexism and credentials as a tenured professor at the University of California gave her the status to approach California judicial educators. Wikler undertook the formidable task of convincing California judicial educators to put a course on gender bias on their programs.

A complete review of the literature about sex discrimination revealed almost nothing written about changing sexist attitudes and behaviors in adults. Thus, Wikler developed a proposal detailing the nature of judicial gender bias. Wikler's proposal delineated the NJEP's intention to combine legal, statistical, social science and anecdotal data to convey to judges the ways in which their own, often unconscious, biases interfere with the genuine impartiality for which judges strive. Professor Wikler then set out on an arduous round of fundraising—an annual rite that has not gotten easier, despite NJEP's demonstrable success.

As part of her initial efforts, Wikler spoke with a variety of people who had dealt with judges from different vantage points. Journalists who had written about judges told Wikler that judges were "the toughest group" they had dealt with and that she was "embarking on a perilous journey."¹⁷ Wikler recalls,

In the beginning it was extraordinarily difficult. The interdisciplinary materials which were written had to be "perfect" to pass the scrutiny of the judges.¹⁸ The resistance, hostility and even sabotage of some of our presentations by some judges and judicial educators made the work emotionally draining as well. But we had to put "gender bias" on the judicial agenda for the '80s, and whatever it took to do it was worth it.¹⁹

1. *Judicial Educators*

Judicial educators are the individuals, almost

15. Letter from Professor Norma Wikler to the Author (Feb. 22, 1985) (discussing the development of NJEP) [hereinafter cited as Wikler, Letter].

16. *Id.*

17. *Id.*

18. Given that judges are trained to test the evidence in the courtroom, it is not surprising that they apply the same tests to the "evidence" presented in NJEP courses. In the courses, however, judges sometimes look for evidentiary weaknesses, not

out of objectivity, but as a way to deny an unpleasant reality. I once had a judge argue with me about how the U.S. Census Bureau collected data for its 1981 study of support awards and compliance. It was soon apparent that the Judge was not so much distrustful of the Census Bureau's methodology as he was unwilling to accept its grim findings. See BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, SERIES P-23, PUB. NO. 124, Child Support and Alimony 1981 (1983).

19. Wikler, Letter, *supra* note 15.

all men, who plan courses held at continuing judicial education programs. Like the judges, judicial educators were both resistant and responsive to NJEP.

Some judicial educators, uncomfortable with the issue of gender bias themselves, asserted that judges would not think the issue was relevant and would not tolerate a course which dealt with it. In a few instances, judicial educators "lost" NJEP materials before scheduled presentations, weakened follow-up courses by cutting out hard data on support awards and enforcement and tampered with evaluations. Wikler observed:

As a sociologist I understood that the judicial educators were in a structurally difficult position. Their jobs depended in part on keeping the judges happy, and it did not take a genius to see that the NJEP materials were going to upset a lot of judges. Even when the judicial educators believed that materials were important, they were likely to oppose it because of their own position. To overcome this obstacle, it was critical to have judges involved with the judicial educators or take full responsibility for including the topics on the program.²⁰

At the same time there were also many judicial educators who were fully responsive to NJEP. The National Association of State Judicial Educators (NASJE) invited Professor Wikler and the author to speak at its annual meeting in 1980 and 1982 respectively. The NASJE also featured NJEP in its first newsletter in 1984.

Other leading judicial education organizations endorsed NJEP at NJEP's inception and invited NJEP to teach at their programs. Indeed the very first discussion of gender bias in any established judicial education program in the country was NJEP's talk on "Sexism in the Courts" at the National Judicial College in November 1980. After NJEP's 1981 pilot course the Director of the California Institute for Judicial Education and Research told the press, "It's very necessary. The evaluation from participants was outstanding."²¹

2. Judges

Interested judges are a leading force in NJEP's progress. The National Association of Women Judges' cooperation in the program was essential to the program's acceptance. The efforts of individual NAWJ members, along with judicial members of NJEP's Advisory Committee and other concerned jurists, male and female, in scheduling and teaching NJEP courses is critical to its success.

The test, of course, is the response of the judges attending NJEP courses. Although some judges were manifestly resistant, others showed an interest and willingness to listen. Some judges were surprised at how much substantive data about gender bias in the courts exists and acknowledged that knowing this information would make them better judges.

Judicial resistance has many roots. Judges believe that they are already fair and impartial. One judge told Professor Wikler, "I know that I have biases like everyone else, but law school taught me to put them aside in my role as a judge. Therefore they do not affect my decisions." Judges become defensive when told that they are not fair and impartial to women because this questions the judges' core perception of themselves as jurists.

Many judges consciously subscribe to the very stereotypes and biases that NJEP tries to combat. Consequently, these judges see no problem with their behavior. In a 1980 discussion group at the National Judicial College, which focused on the differential and unequal treatment of female and male juveniles,²² the judges had no compunction about admitting that gender bias was the norm. Nonetheless, the judges stated that they had to "protect the girls" through institutionalization and incarceration. At the 1984 Connecticut Judicial Institute course, "Gender Stereotyping in Court," a male judge stated privately to the male judge who organized and led the course that he did not believe women should have been admitted to the legal profession.

20. *Id.*

21. Mall, *A Murky Area in Gender Justice*, L.A. Times, Sept. 27, 1981, Part VII at 11, col. 1.

22. See, e.g., WISCONSIN FEMALE JUVENILE OFFENDER STUDY PROJECT, SUMMARY REPORT, YOUTH POLICY AND

LAW, INC., EXPLORING THE ISSUE OF DIFFERENTIAL TREATMENT (1982); Chesney-Lind, *Young Women in the Arms of the Law*, in WOMEN, CRIME AND THE CRIMINAL JUSTICE SYSTEM (Bowker ed. 1978).

The resistance of some women judges presents a delicate problem, because of their token status on the bench.²³ Some women judges feel the need to disidentify with judicial education course material about gender bias in order to maintain a close identity with their male colleagues. Wikler learned not to be shocked when the first hand raised to oppose the relevance of the subject matter to the judiciary was that of a women judge. On the other hand, many women judges talked openly about their personal encounters with discrimination. In particular, I recall one white female and one black male in a group of fifteen judges at a 1984 course for the American Academy of Judicial Education who were completely forthright in discussing the sex and race bias they experienced as attorneys and jurists. Their experiences were a revelation to several of the white male judges present, and powerful precisely because they were related by judicial peers.

Undoubtedly the most significant factors in the resistance of male judges to NJEP course material are the deeply held personal values of the judges; their lifetime conditioning regarding the "true nature" and "proper role" of women and men;²⁴ and the way they act on these beliefs in daily life. As Professor Wikler observes:

More than any other problem I can think of, "gender bias" strikes close to home. When you are talking about the treatment of women in the courts, you are talking about the personal and professional relationships these men have with women in their own lives. When I spoke to judges, for example, on the devastating consequences to women of court decisions regarding support awards and enforcement, I was aware that some members of the group were either divorced or divorcing and therefore took very personally the charge that courts are treating women inequitably in this area of the law.²⁵

Judicial reluctance to believe that the painful material with which NJEP deals with is true—

and just how true it is—was vividly demonstrated by an incident at the 1983 Oregon Supreme Court Judicial Bias and Prejudice Program. Justice Betty Roberts, the one woman on the Oregon Supreme Court, had been persuaded by her chief justice to open the segment on sex discrimination by relating her personal experience with bias on the part of judicial colleagues and support staff when she was on the court of appeals.* I followed Justice Roberts and described, *inter alia*, the discrimination encountered by women attorneys in the courtroom. At the conclusion of our remarks, a male judge in the audience turned to a female colleague and asked, derisively "You didn't experience any of that stuff, did you?" She replied, "All that and more. I was once fired from a law firm for refusing to wash the dishes."

It is important to appreciate that even the sexist remarks, hostility and arguments that NJEP courses sometimes generate have a positive aspect. They provide judges an opportunity to listen and understand how deeply rooted gender bias is, and measure their responses against those of their peers on issues which they have rarely if ever discussed with one another. At the Oregon program, a male judge's outburst in a small group discussion that dealt with how lawyers are treated, led other male judges to say that they had not realized how threatened some men are by women judges and lawyers. A small group discussion at a course in another state ranged from rape to stereotypes about appropriate toys for girls and boys. The one female judge in the group told the author that she would not have believed the depth of some of her male colleagues' gender bias if she had not heard their statements in that discussion group.

In 1984 the author spoke at the New York Judicial College. At the direction of the Appellate Division, she specifically addressed very sensitive aspects of judicial behavior. There was palpable tension in the room. Nonetheless after the address, several judges engaged the author in extended conversations about their own experiences and views. Some judges sought suggestions about

23. According to a study by the Fund for Modern Courts, Inc. of New York City, as of December 1985 women constituted 8.1% of state court judges and 7.4% of federal judges. FUND FOR MODERN COURTS, INC., *THE SUCCESS OF WOMEN AND MINORITIES IN ACHIEVING JUDICIAL OFFICE: THE SELECTION PROCESS* (1985).

24. Justice Bradley's notorious views on this point in

Bradwell v. Illinois, 83 U.S. 130 (1872), which the reader undoubtedly knows by heart, retain a powerful hold on many judges, as they do on a great many non-judicial members of society.

25. Wikler, Letter, *supra* note 15.

*The speech, entitled "Sexism in the Courts", appears in full at page 125 of this issue.

how to handle certain situations. Several months after the judicial college, the Appellate Division judge who selected the topic called the author to say, "You'll never know how much good you did."

At the 1984 New Jersey Judicial College NJEP presented a course with the New Jersey Supreme Court Task Force on Women in the Courts, which dealt with the economic consequences of divorce. The judges in the audience became involved in an intense discussion among themselves about how to conceptualize the division of marital property—do you start fifty-fifty? zero-zero? When the Chief Justice stopped by, he listened to the debate for a few moments. Then looking to the audience, he said to the arguing judges, "Who's teaching this course, them or you?"

Happily, resistance is but one side of the story. Since its inception, judges have been significantly responsive to NJEP. At NJEP's January 1981 California pilot course, for example, the trial judges were particularly impressed by the course segment about the economic consequences of divorce. They insisted this material be repeated for the benefit of family court judges in March.

Six weeks after the January course, Professor Wikler conducted telephone interviews with several judges who were given a set of questions to guide post-course observations in their courtrooms. As a result of NJEP's course, many judges reported that they had become aware of the negative impact of various behaviors towards women which they had not noticed nor understood before. Most importantly, judges reported that now they intervened and stopped the demeaning behavior—a necessity which NJEP stresses continuously.

Finally, the Oregon Supreme Court Judicial Bias and Prejudice Program illustrates the concrete way in which judicial education about gender bias has directly impacted judicial decision-making. The author's speech to that conference included discussion of the stereotypes which burden rape victims. The reading materials distributed included excerpts from Professor Vivian Berger's article, *Man's Trial, Woman's Tribulation: Rape Trials in the Courtroom*.²⁶ The excerpts described FBI data which shows rape as underre-

ported and underprosecuted, with a high proportion of rape defendants going free. A few months after the program, the author received an opinion from the Oregon Supreme Court which incorporated this data with a note thanking her for the helpfulness of her presentation.

The opinion dealt with a rapist's effort to overturn his conviction on the ground that the judge refused to give the so-called Lord Hale charge. The Lord Hale charge originated in the common law and was once standard across the country. The charge states that rape is a crime easy to charge and hard to defend. Therefore, the female complainant must be examined with extra caution. The Supreme Court used the data in Professor Berger's article to show that rape is, in fact, a crime hard to charge and easy to defend. The Oregon Supreme Court held that the Lord Hale charge "should never be given in any rape case." Further, the Court stated, "[W]e find no reason to continue the institutional assumption that alleged rape victims are less trustworthy than other victims of crime."²⁷

Although putting gender bias on the judicial education agenda for the '80s has not been easy, the positive response to NJEP—evident in judicial decisions, course evaluations, letters of thanks and "return engagements" to speak and teach in several states—demonstrates that judges are receptive to the combination of legal and social scientific data that NJEP makes available to them. Judicial education about the nature, cause and effect of gender bias in judicial decisionmaking and courtroom interaction is an effective means to eliminate it. Yes, there is resistance. But there are also responses, like those of the judges at NJEP's course for the 1982 New York Judicial College who urged that the course be made mandatory for the entire state judiciary, and the letter from the officer of the Federal Administrative Law Judges Conference who wrote after NJEP's course for the 1984 FALJC Annual Seminar,

Your thought provoking presentation made us examine anew our courtroom procedure and techniques. Based upon my conversation with other judges, I conclude that your presentation made us focus on a problem that most as-

26. 77 COLUM. L. REV. 1 (1977).

27. *Oregon v. Bashaw*, 296 Or. 50, 54, 672 P.2d 48, 50

(1983).

sumed to be nonexistent.²⁸

III. THE NEW JERSEY SUPREME COURT TASK FORCE ON WOMEN IN THE COURTS

A. Present at the Creation: II

One of the most valuable outgrowths of NJEP has been the creation of statewide task forces to investigate and recommend ways to eliminate gender bias in local courts. These task forces, created by state supreme courts, significantly enhance the work NJEP accomplishes on its own. State task forces on gender bias in the courts can closely document local problems and make it difficult for judges to dismiss the issue easily.

The first of these task forces and the only one yet to have published its findings is the New Jersey Supreme Court Task Force on Women in the Courts.* New Jersey Chief Justice Robert N. Wilentz appointed this task force, which is chaired by Newark Superior Court Judge Marilyn Loftus in October 1982. The New Jersey task force is a model for the nation because of the genuine commitment of New Jersey's Chief Justice and Director of the Administrative Office of the Courts to implement the task force's recommendations. Further, the New Jersey task force did not stop with a report to the Chief Justice. Four years after its inception, the task force still conducts studies, writes reports, gives courses and works to integrate the issue of gender bias in the courts at all levels of judicial and legal education and in all areas of the state.

Judge Loftus became familiar with NJEP and the issue of gender bias in the courts at meetings of the National Association of Women Judges (NAWJ). NJEP's directors gave courses on the substantive issue and reports on the program's progress at NAWJ meetings. Further, Norma Wikler spoke on the importance of women judges teaching in judicial education programs at a conference for forty women judges convened by the National Center for State Courts in 1981 which Judge Loftus attended.

At all these meetings NJEP stressed that for a course on judicial gender bias to be effective, it must present as much local data as possible. The

east coast judge hearing about the mid-western jurist who was recalled from the bench because of his remarks in a rape case, or the large scale west coast study which showed judges made consistently low support awards to women in divorce cases, might respond with interest. But all too often the response to judicial gender bias is, "That doesn't happen here."

Robert Lipscher, Director of New Jersey's Administrative Office of the Courts (AOC), responded enthusiastically to Judge Marilyn Loftus' suggestion for a course on judicial gender bias and wanted to schedule it for the 1982 judicial college. Before proceeding, however, Judge Loftus insisted that she needed a committee to assist in collecting the local data that would make such a course meaningful. In a letter to Chief Justice Wilentz which outlined her recommendations for a committee, Judge Loftus wrote about the need to determine "whether" gender bias existed in the New Jersey courts. In response to this letter, Chief Justice Wilentz established a thirty-one member statewide task force. He dispensed with the question of "whether" gender bias existed by instructing the task force that its purpose was to investigate "the extent to which gender bias exists in the New Jersey judicial branch" and devise educational programs to eliminate it.

B. Phase I

The New Jersey Supreme Court Task Force on Women in the Courts is composed of thirty-one female and male trial and appellate judges, attorneys, legal and judicial educators and members of the public. As NJEP Director, the author is the task force's only non-New Jersey member. NJEP's first director, Professor Norma Wikler, is advisor to the task force. The task force reported its first year findings to a plenary session of the New Jersey College in November 1983. Three questions framed the task force's inquiry:

- (1) Do gender based myths, biases and stereotypes affect the substantive law and/or impact upon judicial decision-making?
- (2) Does gender affect the treatment of women and men in the legal and judicial environment (courtroom, chambers, professional gatherings)?

28. Letter from Hon. James A. Laurenson to the author, (Sept. 28, 1984).

* As this article was going to press the New York Task Force

on Women in the Courts released its report, citing "pervasive" gender bias that denies women litigants, lawyers and court personnel equal justice, equal treatment and equal opportunity.

- (3) If so, how can judges affirmatively ensure equal treatment for women and men in the courts?

1. *Do Gender Based Myths, Biases and Stereotypes Affect the Substantive Law and/or Impact Upon Judicial Decision-making?*

To answer the first question the task force set up a subcommittee on substantive law. The subcommittee reviewed relevant case law, interviewed judges and analyzed statistical data from the New Jersey AOC and other state and federal agencies to determine whether gender bias influences judicial decisionmaking in the areas of damages, domestic violence, juvenile justice, matrimonial law and sentencing. These substantive law areas and the question of how women litigants, lawyers, witnesses and experts are treated in the courtroom, chambers, and at professional gatherings were further explored in seven regional meetings with female attorneys throughout the state; an eighth meeting held in conjunction with the New Jersey State Bar annual meeting; and an attorneys' survey distributed primarily through the *New Jersey Law Journal*. More than 1,100 female and male attorneys communicated with the task force through the survey, the regional and state bar meetings, and individual letters and phone calls.

After reviewing and comparing the voluminous data collected, the task force concluded:

With few exceptions, the findings and results of the Substantive Law Subcommittee, the Attorneys' Survey and the Regional and State Bar Association were mutually corroborative. They indicate that although the written case law appears to be gender neutral, stereotyped myths, beliefs and biases appear to sometimes affect decisionmaking in certain subject areas e.g., damages, domestic violence, juvenile justice, matrimonial and sentencing. Additionally, it appears that there may be inequality of treatment of men and women in the legal and judicial environment (courtroom, chambers and professional gatherings).²⁹

The full findings and recommendations of

the task force appear in The New Jersey Supreme Court Task Force on Women in the Courts Report of the First Year, reprinted in this volume. The following is a summary of that report.

a. *Damages*

Because the major components of personal injury awards are so closely tied to wage earning, women whose work is uncompensated are often relegated to modest awards. Moreover, there are lawyers who fail to explore the economic value of work in the home and judges who refuse to admit evidence on this element of damages. The model jury charge in personal injury and wrongful death suits should be supplemented with instructions specifically addressed to the measurement of damages for a plaintiff who pursues a career at home, and should recognize that such a career is "work" that produces economic value.

b. *Domestic Violence*

New Jersey's 1982 Prevention of Domestic Violence Act has wrought great improvements. Nonetheless, reported problems included complaints about police officers trivializing domestic violence complaints; some judges' resistance to the 24-hour emergency provisions of the Act, creating difficulties in after-hour access to the courts during emergencies; some judges' reluctance to accept complaints where prior complaints were withdrawn and to fully utilize the remedies available under the Act; judicial failure to monitor or enforce orders of protection and a lack of uniformity in contempt proceedings when they are violated; child visitation orders that do not address the complainant's concern with having contact with the alleged abuser; insufficient support orders that are seen as a determining factor in the victims' decision to remain in the abusive situation; and record keeping deficiencies that hamper judicial access to reliable data on previous patterns of violence in a particular case, sharply impeding judicial response to the problem. There was disagreement at the regional meetings as to whether judges were underutilizing counseling as a means to break the cycle of violence or mandating counseling when it should be made available on a voluntary basis. The task force made extensive recommendations to meet each of these concerns and stressed the need for continuing education and training for po-

29. New Jersey Supreme Court Task Force on Women in the Courts, Summary Report at 3 (Nov. 21, 1983), [hereinafter

cited as Summary Report].

lice, judges and court personnel about domestic violence.

c. *Juvenile Justice*

National and state studies reveal disparate treatment on the basis of sex at almost every stage of the juvenile process. Although female juvenile delinquents receive more lenient treatment than males with respect to certain crimes, female status offenders are treated far more harshly than males and young females are often institutionalized for longer periods than males. Available New Jersey data indicated the state's conformance with the national pattern during certain periods. Because a new Code of Juvenile Justice was to take effect in New Jersey on January 1, 1984, the task force recommended that there be educational programs for all involved with the new Code's administration and that sentencing decisions under this new Code should be closely monitored.

d. *Matrimonial Law*

At the regional meetings with attorneys, matrimonial law emerged as the area of greatest concern "where the stereotypes about men and women are most strongly expressed, the facts least known and the economic disadvantage to women appears to be the greatest."³⁰ The subcommittee limited its first year investigation to the economic consequences of divorce after initial inquiries showed this to be women's most pressing problem in the matrimonial law area.

The Task Force's First Year Report compared national data on support awards and compliance and women in the workplace compiled by NJEP with New Jersey data and concluded that New Jersey matched the national picture. In New Jersey, single parent households headed by women outnumber single headed households headed by men nine to one. Forty per cent of female maintained households, of which those headed by divorced women are a significant fraction, exist below the poverty line. There is a pattern of defaults in alimony and child support payments, grossly insufficient child care for mothers of young children who must enter the paid workforce after divorce, and an unavailability to displaced homemakers of any but the lowest paying jobs.

In its Summary Report, distributed at the 1983 judicial college, the task force wrote: "There was

strong agreement that New Jersey courts are not provided with sufficient information about the economic obstacles confronting women, with the result that women suffer inequitable long range outcomes with respect to property division, support awards and enforcement."³¹ At the regional meetings and in the survey, attorneys reported an unofficial statewide standard that a wife should receive no more than thirty five to forty percent of marital assets and thirty percent of the husband's net pay even if the wife is the custodian of small children. Some judges were reported to award minimum rehabilitative alimony, even after marriages of long duration where the wife is unlikely ever to achieve her husband's level of earning power. Judicial reluctance to award meaningful *pendente lite* counsel and expert fees was cited as making it extremely difficult for women to properly pursue their cases. Concerns were also raised about gravely inadequate spousal and child support enforcement by some judges reluctant to impose serious sanctions for default. It was widely noted that judges have insufficient and inaccurate information about the kinds of jobs and salaries available to women, the costs of raising a family and child care, and the particular employment problems of the displaced homemaker.

In addition to reporting the several remedial proposals made by regional meeting participants, the task force recommended that the AOC design a comprehensive study to collect detailed economic data about all New Jersey divorces for one year. Such a study would enable the task force to fully assess the problems identified by its investigations and suggest remedial action.

e. *Sentencing*

Attorneys' perception that female defendants generally receive lighter and more noncustodial sentences than male defendants was confirmed by a study of 1977 and 1981 New Jersey sentencing data. Changes in the 1979 Code of Criminal Justice limiting judicial discretion and somewhat narrowed the differential. The task force recommended a study to examine two issues: (1) to determine whether the factors the judiciary views as relevant for sentencing are different for women than for men; and (2) to determine whether or not the perceived leniency toward female offenders holds true for women who committed "male crimes" such as armed robbery and assault, when defendants are matched for prior

30. Summary Report, *supra* note 29, at 7.

31. Summary Report, *supra* note 29, at 28.

criminal record, marital status and child care responsibilities.

2. *Does Gender Affect the Treatment of Women and Men in the Legal and Judicial Environment?*

The second of the Task Force's three questions received a clearly affirmative answer from both female and male attorneys in the attorneys survey and at bar association meetings. The survey asked a variety of questions about judges', lawyers' and court personnel's behavior toward women litigants, lawyers and witnesses with respect to the use of inappropriate forms of address, such as "sweetheart" and "young lady," or the use of first names when men are addressed by surname and/or title; comments on clothing and appearance; unwelcome advances; hostile remarks and sexist jokes. Both male and female attorneys reported having observed or experienced inappropriate behavior toward women in all these categories, but women reported their happening at consistently higher rates. For example, sixty-one percent of female attorneys but only twenty-four percent of male attorneys reported hearing judges use inappropriate forms of address to women attorneys. Women attorneys also reported significantly greater problems with male attorneys' behavior than with judges or court personnel, and a low frequency of judicial intervention to stop such behavior.³²

As to whether inappropriate forms of address, comments on appearance, and sexist remarks affect case outcome, sixteen percent of women and three percent of men responding felt there were instances in which they did. Many attorneys' survey comments indicated that even if the ultimate outcome of the case is not affected, the litigation process overall is negatively effected. One female attorney wrote, "I can't say a case was ever won or lost because of the above conduct, but I was so frequently embarrassed that I lost my composure. . . ."³³

32. An exception to the general pattern of disagreement in male and female perceptions of gender bias in the judicial system was their overall agreement in the area of attorney performance. Female and male respondents agreed that the sex of the attorney does not affect how well clients fare in either civil or criminal matters. However, there was again a difference in male/female perception as to how female attorneys are regarded judges' awards of counsel fees and appointments to fee generating positions. A vastly larger percentage of women than men reported women lawyers were awarded lower fees

A small sample of the narrative answers to the survey from female and male attorneys conveys a sense of the survey responses and the regional meetings far better than the statistics.

The most disturbing thing is that I am sure that many of these incidents, such as a judge calling an attorney "pretty" or "dear," are viewed as totally harmless or even complimentary by certain judges. Female attorneys are extremely loathe to appear discourteous to a judge who thinks that he is complimenting them, especially if one feels that taking such a position will hurt a client or a case.³⁴

Thirty-seven-year-old female attorney

A woman attorney must walk the fine line between being feminine and being assertive. She is held to a different standard than a man. If she is too feminine she is accused of trying to use it to her advantage and is therefore resented, but if she is equally assertive to her male counterpart, she is accused of being too aggressive. To their credit, most of the women attorneys with whom I have had dealings have been able to walk that fine line, but it is usually with much more pressure than is experienced by a man.³⁵

Forty-eight-year-old male attorney

Particularly in matrimonial matters, women are most often left with no more than needed to barely exist—on a threadbare basis, while the husband improves his standard of living to a luxury level, retaining substantial earnings.³⁶

Fifty-three-year-old male attorney

[I]n response to a statement by a female attorney that she had "problems" with her case and wanted to be heard at the second call, [the judge] made a pronouncement that "woman are the prob-

than men in similar cases and that men received significantly more appointments to receiverships, condemnations and other fee generating positions. See Summary Report, supra note 29 at 10.

33. New Jersey Supreme Court Task Force on Women in the Courts, *The First Year Report*, 17 (1984).

34. *Id.* at 14.

35. *Id.* at 19.

36. *Id.* at 21.

lem." This comment, again, was received by the audience with a great deal of amusement, laughter, clapping, etc. What would have happened had this same judge said that Blacks, Jews, Catholics, Orientals or Hispanics were the "problem?" Would that comment have been made with uproarious laughter? Certainly not, but women are still considered a joke.³⁷

Female attorney, no age given

An issue not anticipated by the task force which emerged as a matter of serious concern in the narrative answers to the survey was judges' attitudes and questions during clerkship interviews. A forty-three-year-old man wrote:

I was not so attuned to [gender bias] until my wife entered law school three years ago and entered the job market last fall. We were appalled when in interviews with two appellate division judges for judicial clerkships, she was asked:

1. Did she have my permission to be doing this?
2. Would she be able to handle the job while being a wife and step-mother?
3. Was she planning to have children?³⁸

Female clerkship applicants reported being told that a particular judge would never hire a woman for his civil clerkship; receiving an application for a legal secretary job after the clerkship interview; and being told outright that the judge had never hired a female law clerk and did not intend to start now. Readers of this *Reporter* will particularly appreciate the judge who noted on the applicant's resume her work for the *Woman's Rights Law Reporter* and said "this nonsense won't stop you from making rational decisions, will it?"

Another unanticipated aspect of the employment picture that emerged was a sense that women attorneys are not being hired, promoted or paid on the same basis as men in both law firms and government service. The Old Boys' Network,

so often encountered in conferences and chambers, also prevails in county bar associations which seek out male but not female attorneys for active involvement and leadership.³⁹ Attorneys urged that judges see their obligation to promote equality in the courts as extending to the functioning of bar associations.

3. *What Can Judges Do To Ensure Equality for Men and Women in the Courts?*

Having answered its first two questions about the existence of gender bias in the courts in the affirmative, the task force suggested many ways in which judges could alter their own and others' courtroom behavior to eliminate the problems the task force documented. Suggestions included following the task forces' remedial recommendations respecting the substantive law; examining one's own appointment record respecting law clerks, fee generating positions and supervisory and administrative positions in the court system; using gender neutral language in courts, correspondence and forms; and setting an example by not engaging in or permitting sexist jokes and inappropriate comments about women in chambers, courtrooms or at professional gatherings.

C. Response to the Task Force

During its year of data collection and at the New Jersey judicial college, response to the task force ran the gamut from interest and enthusiasm to the overt hostility of those judges attending the college who attempted to leave the room. In the months following the judicial college, women attorneys around the state reported a change in judicial behavior. Several attorneys observed that when a judge said something untoward, he often corrected himself with a comment like, "Oh, I'm not supposed to say that anymore." The task force's summary report was cited in a concurrence to the New Jersey Supreme Court's opinion holding the battered woman syndrome an appropriate subject for expert testimony in self-defense cases.⁴⁰ Both that case and a case holding that a

37. *Id.* at 16.

38. *Id.* at 23.

39. A seventy-three year old male survey respondent wrote: "I still note an attitude of superiority among men in bar association activities and a reluctance to accord women lawyers equal opportunity to serve on committees or in leadership

positions or to be considered for judicial appointment." *Id.* at 18. The task force counts as one of its most symbolic achievements the end to the female stripper tradition at the annual Monmouth County Bar Association clambake.

40. *State v. Kelly*, 97 N.J. 178, 478 A.2d 364 (1984).

young child could assume its mother's birth name after the parents' divorce,⁴¹ sounded many of the themes raised in the task force's report respecting stereotypes about women and theories of inequality. The press gave wide coverage to the task force's findings and immediate requests for information and copies of the summary report were received from all parts of the country.

D. Phase II

The task force's presentation of its findings to the 1983 New Jersey Judicial College and the publication of its summary report were only the first phase of its efforts. In 1984-85 the task force continued to pursue its goals through a variety of activities and studies. In July 1984 the AOC published the 120-page full report of the task force's first year and distributed the report to all New Jersey judges.

In September 1984 Chief Justice Wilentz issued a memorandum to all New Jersey judges directing them to be strictly attentive to the first year report of the task force. The memorandum urged judges to follow the task force's recommendations regarding the treatment of women in the courts and the substantive areas of the law for which individual judges are responsible. The AOC Director circulated the recommendations of the task force's subcommittee on administration to the state's court clerks and administrators. State court clerks and administrators were directed to revise their forms and correspondence by using gender neutral language and "to be sensitive to both actual and perceived gender bias in all our dealings with the public and co-workers."⁴²

In 1984, the task force also produced a videotape composed of incidents reported in the attorneys' survey and regional meetings.⁴³ The videotape, intended for use as a teaching tool in judicial and legal education programs, includes ten scenes which demonstrate both positive and negative courtroom behaviors. In March 1985, Chief Justice Wilentz showed the videotape at a meeting of all the state's assignment judges and encouraged them to show it to the judges and

court personnel in their counties.

The task force presented two courses at the 1984 New Jersey Judicial College. The first course, "Valuing Homemaker Work in Damages and Divorce,"⁴⁴ explored the concerns raised in the task force's report regarding bias in damage and support awards to women with unpaid careers as homemakers. A judge in the audience pointed out that if a judge during *voir dire* examination accepts, without comment, a male juror's response about his wife's occupation that "She doesn't do anything" or "She doesn't work—she's just a housewife," the jury might sense that the judge places little value on homemaker work and render the damage award accordingly.

Panel member Judge William Dreier, an appellate division judge who formerly sat on the matrimonial and trial benches, made a strong statement about the necessity for judges to rethink their views about "what is sufficient money for women to have." Judge Dreier stated that after dissolution, both wife and husband should be maintained at their marital standard of living or, if that is impossible, each person should be equally deprived. Although Judge Dreier is highly respected by his peers, his statements drew an obviously negative response from some judges in attendance, on which Judge Dreier himself commented during the course. It is clear that no matter who the speaker is, many judges are so personally invested in the equitable distribution/support award issue that they feel deeply threatened by the notion that marriage should be treated as an economic partnership.

The task force's second course, "Women in the Courts: Changing Roles, Changing Attitudes" featured the first showing of the task force's videotape for New Jersey judges, which afforded them an opportunity to react to the individual scenes, and a second videotape about sexual harassment. Because the task force attorneys' survey revealed many problems in judicial clerkship interviews, the third segment dealt with Title VII law and the interview questions that are not legal and appropriate for both sexes. The final segment was an overview of the task force's find-

41. In re Joseph Michael Thomas Russell, 196 N.J. Super. 109, 481 A.2d 602 (Law Div. 1984).

42. Memorandum from Robert D. Lipscher, Director, Administrative Office of the Courts, September 28, 1984.

43. This videotape may be obtained from Melanie Griffin, Esq., Administrative Office of the Courts, Hughes Justice

Complex, CN-037, Trenton, N.J. 08625.

44. This course was taught by the NJEP Director, the Director of the NOW Legal Defense and Education Fund's Family Law Project, judicial and attorney members of the task force and a New Jersey appellate judge.

ings and recommendations for improvement in the several areas of substantive law studied. In view of the notably positive evaluations received after the course, the task force was particularly delighted with one that read, "This was the single best course I attended at the college." It was not a surprise, however, when one judge subsequently wrote AOC demanding the course be abolished.

The New Jersey task force's 1985 activities included an inquiry into the status of women in the court personnel system and studies of appellate decisions respecting women's rights, equitable distribution and support awards. AOC agreed to research a substantial sample of decided cases in each county to determine what the parties said they had, what the parties said they needed, and what was awarded. This study will enable the task force to document decision-making patterns where, for example, long term homemakers with little chance of earning post-divorce income commensurate with their marital standard of living are being awarded *de minimis* short term rehabilitative alimony.

In 1986, the task force will issue a report on its activities following the 1983 judicial college and the ways in which its recommendations were implemented. The task force participated in the 1985 judicial college in an extremely well received "Equal Justice Under the Law" course that dealt with issues of bias relating to sex, race and linguistic minorities, and a course on equitable distribution and support awards.

The ongoing work of the New Jersey task force is a critical model for the nation. The issues presented by an examination of gender bias in the courts are numerous, complex and sensitive. One report, one judicial college course, is only a beginning.

E. Other Task Forces on Women in the Courts

The findings of the New Jersey task force and attendant publicity⁴⁵ led to the formation of similar task forces in three other states in 1984. As of May 1986, the highest courts in New York and Rhode Island had also established task forces. In Arizona, a task force created by a woman judge and subsequently endorsed by the supreme court is working on an independent basis in one county.

Knowing how these task forces were created may be helpful to readers interested in establishing task forces in their own states.

In New York, officers of the New York State Association of Women Judges and the Women's Bar Association asked the NJEP Director to join them in meeting with the state's chief judge—with whom both organizations had a long and positive relationship—to describe the New Jersey experience and support their request for a task force in New York. Chief Judge Lawrence Cooke, since retired, announced formation of the New York Task Force on Women in the Courts on May 31, 1984. Its mandate is to examine "all aspects of the system, both substantive and procedural" to determine whether women in New York State have received an "allotment of the jurisprudential scheme" that is "fair under all the circumstances." The New York task force is directed to "ascertain if there are statutes, rules, practices or conduct that work unfairness or undue hardship on women" and, if so, to develop recommendations and educational programs for reform.⁴⁶

The Rhode Island Committee on the Treatment of Women in the Courts came about through a confluence of events. Rhode Island's director of judicial education had been interested in bringing an NJEP course to that state for some time. The updated information NJEP forwarded to him in February 1984 featured the summary report of the New Jersey task force and news clippings about its findings. This led to an invitation to the New Jersey task force chair to address the Rhode Island judicial college in June. Also in June, the Committee on Sex Discrimination of the Rhode Island Bar Association released a study of discrimination against women attorneys on the part of judges, court personnel and opposing counsel. The study reported problems ranging from demeaning forms of address to unwanted physical contact to judges' failing to intervene in male counsels' biased behavior toward female counsel in court and chambers. Chief Justice Joseph Bevilacqua announced creation of the Rhode Island task force in August and directed it "to document instances of discrimination against women and to develop concrete programs to elimi-

45. See, e.g., Panel in Jersey Finds Bias Against Women in the State Courts, N.Y. Times, Nov. 22, 1983 at A1, col. 1.

46. Remarks of L.H. Cooke, Chief Judge of the State of New

York, at a press conference announcing the formation of the New York Task Force on Women in the Courts (May 31, 1984).

nate the problem."⁴⁷

The Arizona Task Force on Gender and Justice is somewhat different from the others. This task force was organized by a judge active in the National Association of Women Judges, Lillian Fisher, who became familiar with the New Jersey task force and its findings at NAWJ meetings. It is composed of judges, bar leaders, private practitioners, law professors and deans, sociologists and other academics. This task force's investigation is limited to Pima County. It keeps the Arizona Supreme Court, which was persuaded to endorse the task force, informed of its activities with a view toward a statewide inquiry in the future.

As of this writing, the New York, Rhode Island and Arizona task forces are at various stages in their inquiry. Each state is building on the New Jersey experience by including additional modes of data collection. New York conducted four public hearings around the state, allocated a specific budget for purchasing transcripts of domestic violence hearings, and commissioned a study of the status of women in the court personnel system. This task force invited individuals with a wide range of pertinent expertise to testify, including, *inter alia*, judges, prosecutors in sex crimes units, directors of shelters for battered women, father's rights groups, matrimonial attorneys and individual litigants. Their testimony covered problems ranging from women's segregation into low-paying, low-mobility jobs in the court personnel system to judicial disdain for women's credibility in domestic violence cases to the

need for a child care facility in the New York City Housing Court. Rhode Island utilized court watching and intends to survey not only attorneys, but judges and jurors as well.

IV. CONCLUSION

The National Judicial Education Program's dream is a task force in every state established by a chief justice with the same commitment to implementing its recommendations as New Jersey's Chief Justice Robert Wilentz and the same understanding that one report and one judicial college course are only the beginning of the wide ranging and repeated efforts that must be made if gender bias is to be fully eliminated from our courts. To that end, NJEP is available to consult with judges and lawyers about any aspect of organizing a task force. The National Association of Women Judges has established the NAWJ National Task Force on Gender Bias in the Courts, headed by the chair of the New Jersey task force, to encourage and support the formation of task forces throughout the country.⁴⁸ In 1986, this task force will publish a manual written by Professor Norma Wikler and the author of this article which will explain how to have a task force established, collect data, disseminate findings and implement and institutionalize reform. We hope this article will stimulate readers to consider and act on the ways in which the work ongoing in New Jersey and just beginning elsewhere can be replicated in their own states.

47. Letter from Rhode Island Chief Justice Joseph A. Bevilacqua to members of the Rhode Island Supreme Court Committee on the Treatment of Women in the Courts, (Nov. 1984).

48. Contacts are Lynn Hecht Schafran, Esq., Director, National Judicial Education Program to Promote Equality for

Women and Men in the Courts, 99 Hudson Street, 12th Floor, New York, N.Y. 10013, (212) 925-6635 and for the Manual, Mary Ann Stein, Esq., Executive Director, Foundation for Women Judges, 1225 15th Street, N.W., Washington, D.C. 20005, (202) 462-4243.