Annual Report

of

THE NEW YORK STATE

JUDICIAL COMMITTEE

on

WOMEN IN THE COURTS

November 1997

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NEW YORK STATE JUDICIAL COMMITTEE ON WOMEN IN THE COURTS

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The New York State Judicial Committee on Women in the Courts

1997

INTRODUCTION

The New York State Judicial Committee on Women in the Courts launched its second decade on a high note.

Established in 1986 in response to the report of the New York State Task Force on Women in the Courts, the Committee took up the Task Force's challenge to change the conditions that had been found to deny women equal justice, equal treatment, and equal opportunity. From the start, the Committee's mandate was to work on behalf of women to alter attitudes and conduct that had created a system in which "gender bias against women litigants, attorneys and court employees is a pervasive problem with grave consequences."[1]

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[1] Report of the New York Task Force on Women in the Courts, reprinted in 15 *Fordham L. J.* 1, 13 (1986-87) [hereinafter *Task Force Report*].

"More was found in this examination of gender bias in the courts than bruised feelings resulting from rude or callous behavior. Real hardships are borne by women. An exacting price is ultimately paid by our entire society."

Report of the New York Task Force on Women in the Courts (1986)

The Committee marked its 10th anniversary with a conference in Albany on May 14, 1996. At the same time the Committee published a 10th year report, which, echoing the voices of conference participants, concluded that the decade's systematic attention to gender bias had resulted in "impressive progress alongside persisting problems."[2]

With the new decade came new leadership. In September of 1996, New York State Chief Judge Judith S. Kaye appointed as Committee Chair Hon. Betty Weinberg Ellerin, a seasoned jurist and administrator with a string of "firsts" to her name -- among them, first woman Deputy Chief Administrative Judge for New York City Courts and first woman to serve on the Appellate Division, First Department. Judge Ellerin took the reins from Hon. Kathryn A. McDonald, the recently-retired Administrative Judge of the New York City Family Court, who had guided the Committee so ably for 10 years, and Judge

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[2] New York Judicial Committee on Women in the Courts, *Appraising Change and Progress a Decade After the Report of the New York Task Force on Women in the Courts*, May 1996, at 45 [hereinafter *Appraising Change and Progress*].

McDonald assumed the role of Chair Emeritus. Fern Schair, a member of the original Task Force and former Executive Secretary and Chief Operating Officer of the Association of the Bar of the City of New York, become the Committee's Vice Chair.

More, much more, remains for the Committee and its new leadership to accomplish. The Task Force aimed high. It understood that gender bias compromises the very ideal of justice on which our court system rests. The problems, the Task Force found, were "rooted in a web of prejudice, circumstance, privilege, custom, misinformation, and indifference,"[3] not easily transformed overnight, in a year or even in a decade.

This report, like the others the Committee has published, serves dual purposes in the continuing project of freeing the courts of vestiges of gender bias. First, it gives an account of the Committee's activities over the past year. These range from organizing a program for new judges, to inaugurating a newsletter, to advocating specialized matrimonial parts for enforcing orders for spousal and child support. Second, it moves beyond describing the Committee's own projects, to chronicling significant changes within the courts, regardless of their genesis, and adds to the portrait of the court system as an evolving institution, moving towards the Task Force's vision of a system serving all of its constituencies, responsive equally to men and women.

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[3] *Task Force Report* at 18.

EDUCATION

Education is perhaps the most effective path to change, and the Committee, cognizant of the ability of education to influence attitudes on gender, has directed its attention to programs designed to help judges, court personnel, and the public learn about the dynamics and implications of bias.

Judges

Orientation for New Judges. New judges in the process of changing their perspective on courtrooms from a place in front of the bench looking up at judges to one behind the bench looking out at the courtroom, are at a particularly critical professional juncture. Understanding this unique opportunity, the Committee for several years has made presentations at New Judges' Orientations with the intent of encouraging creative thought about issues affecting women.

In December 1996, when newly-elected and newly-appointed judges met in White Plains, Committee Chair Emeritus Hon. Kathryn A. McDonald and Committee Member Hon. Juanita Bing Newton made a presentation on behalf of the Committee. Working from written scenarios that were distributed to participants, they led a discussion about

effective judicial responses to common courtroom dilemmas that have a particular impact on women.

Judicial Seminars. The annual Judicial Seminars, held on two successive weeks in July, are another chance to encourage judges to think creatively about topics affecting women. For the past several years, the Committee has taken an active role in assisting seminar planners in integrating Committee concerns into other presentations so that they are not isolated in programs focused solely on gender topics. This has proved an effective strategy for producing meaningful programs geared toward the judicial perspective.

This year's three-day seminar, like those in recent years, had a number of programs that addressed topics of concern to women. Sessions were devoted, for example, to Family Court Confidentiality, Family Court Case Management, Child Support and Paternity, and International and Interstate Child Custody and Visitation Issues. Consistent with the efforts to integrate gender into presentations, a program on case management considered the deadlines and issues particular to matrimonial cases and a presentation on evidence discussed the admissibility of hearsay testimony from psychiatrist who had treated a four-year-old victim of sexual abuse.

In addition, a plenary session took a creative approach to judicial education on domestic violence and moved far beyond earlier efforts to provide judges with an understanding of the dynamics of abuse. New York's judges were asked to engage in a

sophisticated exploration of the technical issues raised by complex new laws permitting proceedings in multiple courts.[4]

Education on Sexual Harassment and Bias for Court Personnel

Reaching somewhat different audiences in different kinds of settings, Alice M. Chapman, OCA's Deputy Director, Human Resources, Equal Employment Opportunity, as well as a Committee member, conducted over a dozen sessions of a program exploring topics of sexual harassment, gender bias and ethnic sensitivity. Initiated by the Eighth Judicial District Gender Fairness Committee, which is chaired by Family Court Judge Marjorie Mix, and Eighth Judicial District Administrative Judge Vincent Doyle, the program debuted successfully before Erie County City Court Judges in late 1996. Since then Ms. Chapman, working with judges from various courts, has presented the program to judges from Erie Family, Supreme and County Courts; the Court of Claims; and the New York City Criminal Court.

Town and Village Justices also have participated in the program. The program has been presented on four separate occasions during Town and Village Justices' Advanced Certification programs and a "Train the Trainer" session has been held to acquaint others

[4] A copy of the scenario used for the presentation is attached as *Appendix A.*

with the techniques necessary to present the program to smaller groups of Town and Village Justices meeting locally.

During the summer of 1997 nonjudicial court personnel had a chance to take part in the program as well. Two sessions were held for clerks from Town and Village Courts in July and August. Plans are underway to bring the program to the staffs of Administrative Judges in the fall.

Publications

The Committee, recognizing that reports, pamphlets and other written media are an ideal means to spread critical messages to a wide audience beyond the courts' formal educational programs, has produced a number of publications.

Ten Year Report. During the past year, the Committee disseminated its ten-year anniversary report, published to coincide with its May 1997 conference. Called *Equal Justice, Equal Treatment, Equal Opportunity: Appraising Change and Progress a Decade after the Report of the New York Task Force on Women in the Courts,* the report summarized movement towards the goal of a court system free of gender bias. Copies were sent to New York State Judges, court officials, bar association leaders, the press, and the various gender bias task forces and committees throughout the country, and it has evoked many positive responses.

"[K]eeping judgments consistently free of 'preconceived notions about sex roles ... upon a fair and unswayed appraisal of merit as to each person or situation,' the standard Chief Judge Lawrence Cooke set when he appointed the Task Force, continues to be our goal. A court system without vestiges of gender bias remains an ideal, but it is an ideal that can -- and must -- guide and inform us as we move into another decade."

Equal Justice, Equal Treatment, Equal Opportunity: Appraising Change and Progress a Decade After the Report of the New York Task Force on Women in the Courts (1996)

Newsletter. Interested in maintaining a dialogue with judges as well as others both inside and outside the court system and interested in keeping all those concerned apprised of new developments, the Committee inaugurated its own newsletter. The first issue, which appeared in March 1997, featured short articles on recent legislation requiring judges to consider domestic violence in child custody and visitation cases; Appellate Division decisions suspending lawyers' licenses to practice law as a sanction for failing to pay court-ordered child support; and a court rule directing matrimonial judges to decide motions for interim maintenance and child support within thirty days. The second issue, published in July, covered the meeting the Committee held with chairs of local gender bias and gender fairness committees and legislation permitting the revocation of state-issued licenses when court-ordered support payments are unpaid. It also publicized the court system's online Family Court Bulletin.

Newsletters have been distributed throughout the court system with paychecks and direct deposit statements and in mailings to Town and Village Justices. They have been sent, as well, to bar association leaders and the chairs of the court system's local gender bias and gender fairness committees.

Second Edition of *Fair Speech: Gender-Neutral language in the Courts*. This year the Committee prepared for publication the second edition of its 1991 pamphlet *Fair Speech: Gender-Neutral Language in the Courts*. A small booklet encouraging the use of language that speaks fairly and accurately to all who use the courts, *Fair Speech* presented simple suggestions for avoiding unnecessarily gendered forms of expression. By 1997, continuing requests for reprints from across New York State and the country pointed to the need for an updated version. The second edition includes not only the original text but also an article by Chief Judge Judith S. Kaye entitled *A Brief for Gender-Neutral Brief-Writing*, which appeared first in the *New York Law Journal*.

> **"We can immediately recognize certain ancient court writings as stilted, bombastic, archaic, sometimes even comical today, though once they were held up as beautiful, indeed exemplary. I believe that gendered writing also will one day be immediately recognized as archaic and ludicrous. My only message to brief-writers is that, to many brief-readers today, it already is."**
>
> ***Hon. Judith S. Kaye,***
> ***Chief Judge of the State of New York***
> ***"A Brief for Gender-Neutral Brief-Writing"***

WOMEN AND FAMILIES

Matrimonial Law

This year the New York State Court System, under the strong leadership of Chief Judge Judith S. Kaye, instituted a number of reforms designed to streamline and make the process more manageable for those litigants with little money and few resources. Most often these litigants are women whose prime years were spent rearing children and administering households rather than earning wages or following career paths.

Appointment of an Administrative Judge for Matrimonial Matters. Among the most important of these steps was the appointment of an Administrative Judge for Matrimonial Matters. Hon. Jacqueline W. Silbermann assumed the newly-created post in November 1996, with a mandate to use her time and talents to making divorce and ancillary proceedings more efficient and more fair.

Dedicated Matrimonial Parts. One of Judge Silbermann's first initiatives, undertaken in partnership with the state's other Administrative Judges and court officials, was establishing dedicated Matrimonial Parts in Supreme Courts staffed with judges whose backgrounds and interests suited them for these demanding assignments. By September 1997, parts specializing in matrimonial cases were operating in all five

counties in New York City as well as in Nassau, Suffolk, Westchester and Erie Counties, and plans were underway to extend their to other counties as well.

Uniform Uncontested Divorce Forms and Uncontested Divorce Package. Developing a single set of forms for uncontested divorces throughout the state has been another priority for Judge Silbermann's office. When Judge Silbermann assumed her position in late 1996 virtually every county in New York State required a different set of forms. Court officials are now developing a single, standardized procedure for uncontested matrimonial matters and making plans to put together the uniform set of papers as an Uncontested Divorce Package. Among those standing to benefit most from this initiative are litigants who appear in court representing themselves because they cannot afford a lawyer.

Using Technology. Technology too is being drafted into the campaign to make matrimonial litigation better serve litigants. The court system is now using software to help judges calculate complex formulas for child support and maintenance, to generate orders efficiently, to assist in case management, and to provide relevant case law through a specialized database.

Matrimonial Practice Rules. As yet another effort on behalf of those who come to court seeking divorces, portions of the Court Rules addressing a number of practices identified as troubling in a 1993 report to the Chief Judge[5] were amended on the basis of

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[5] Office of Court Administration, *Report of the Committee to Examine Lawyer Conduct in Matrimonial Actions,* May 4, 1993.

three years of experience. These amendments, which went into effect in January 1997, extended the time for holding preliminary conferences to 45 days after the assignment of a judge, mandated the holding of compliance conferences, required judges to address personally parties who appear at the time of the conferences, and eliminated the requirement that attorneys report counsel fees and costs at the close of the litigation.[6] The Unified Court System continues to collect data on compliance with these rules, which initiated an era of reform.

Enforcing Orders for Child Support and Maintenance

Case Law. Affirming the New York courts' commitment to rigorous enforcement of laws passed to secure parental responsibility for financial support for children, the Court of Appeals, in a case decided in June 1997, refused to permit an implied waiver of support obligations. In *Matter of Dox v. Tynon*,[7] the Court traced the history of legislative enactments intended to cure defects in the child support enforcement scheme that the original New York Task Force on Women in the Courts found were disastrous. Before 1986, noncustodial parents could neglect to pay support, force the custodial parents to take the initiative by filing a lawsuit, and then apply for modifications of the

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[6] *See* 22 NYCRR Part 202.16 and 1400.3

[7] 90 N.Y. 2d 166 (1997).

past obligations already accrued. The New York State Legislature put a stop to this practice by foreclosing after-the-fact forgiveness in 1986 legislation restricting applications for downward modifications to future payments. In *Matter of Dox v. Tynon* the Court underlined the importance of this amendment by rejecting the respondent father's claim that the mother had waived her right to child support simply by failing to ask for child support until a number of years had passed.

> **"Indeed, to allow such an implied waiver of child support arrears would .... be tantamount to placing the burden back on child support recipients to initiate enforcement proceedings. Such a result would defeat the manifest legislative intent to guarantee payment in full of all court-ordered child support obligations, except where -- before missing any payments -- the paying spouse successfully applies to the court for modification."**
>
> ***Dox. V Tynon*, 90 N.Y. 2d 166, 176 (1997)**

New York judges also have moved to employ sanctions provided in legislation allowing them to suspend licenses to practice law when attorneys fail to pay court-ordered child or spousal support. A recently-passed New York statute granted judges the power to refer attorneys to local Disciplinary Committees when four months of arrears have accumulated, and, once the Disciplinary Committees have these referrals, their inquiries are limited to determining whether the payments have been made. On October, 15, 1996, the Appellate Division, Second Department, disciplined an attorney barely a

month after a Duchess County Family Court judge found him in arrears and made the requisite referral.[8] The Appellate Division, First Department, similarly suspended the license of an attorney who owed his former spouse over $100,000.[9]

Specialized Enforcement Parts. Following Committee discussions on the difficulties of enforcing support orders in New York Courts, where the process can be long, complicated, and often frustrating, the Committee's Chair, Hon. Betty Weinberg Ellerin, wrote to Chief Judge Judith S. Kaye conveying the Committee's concerns and suggesting the establishment of specialized parts in criminal courts to hear these cases.[10] Court parts dedicated to enforcing child support and maintenance orders were proposed as a way of ameliorating problems by allowing a cadre of knowledgeable judges to devote their attention to these frequently difficult but urgent cases.

In response, a specialized enforcement part was established at the Chief Judge's direction in New York County and others are contemplated for courts throughout the state.

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[8] *In the Matter of William R. Updegraff, New York Law Journal*, Oct. 15, 1996, p. 30, col. 1.

[9] *In the Matter of Michael E. Rosoff, 225 A.D. 2d 197 (1996).*

[10] A copy of this letter and the response are attached as *Appendix B.*

Domestic Violence

Preventing domestic violence, whose victims most often are women, continues to command the attention of those both within the court system and without. Major legislation, chiefly New York State's Family Protection and Domestic Violence Intervention Act of 1994[11] and the federal government's Violence Against Women Act, also passed in 1994,[12] opened the way to fundamental changes in public responses to this ancient problem. The quest now is to find sophisticated answers to the specific problems that still create obstacles to protection for those at risk.

Legislation. The New York State Legislature has continued to respond to experience under new statutes and add provisions that fill gaps in existing protections.

Recognizing the "wealth of research demonstrating the effects of domestic violence upon children," the Legislature, in 1996, enacted into law the requirement that judges weighing the best interests of the children in custody or visitation proceedings take into account any proven instances of domestic violence.[13] The introductory legislative findings leave no doubt that judges must look not only to whether the children themselves

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[11] NY Laws of 1994, Chapters 222 and 224.

[12] Public Law 103-322, 18 U.S.C. §§ 2265, 2266.

[13] NY Laws of 1996, Chapter 85.

have suffered physical abuse or even if they have witnessed violence but, in addition, to the harm that inures to children from simply living in a violent home. Nor does the legislation permit judges to ignore domestic violence once a couple has separated. Rather, it directs that "great consideration ... be given to the corrosive impact of domestic violence and the increased danger to the family upon dissolution and into the foreseeable future."[14]

> **"A home environment of constant fear where physical or psychological violence is the means of control and the norm for the resolution of disputes must be contrary to the best interests of a child."**
>
> ***Legislative Findings***
> ***NY Laws of 1996, Chapter 85, sec. 1.***

Removing guns from the possession of abusers was the aim of another legislative enactment from the 1996 session. Judges issuing orders of protection are now permitted, and, in some cases, required, to include provisions directing the suspension or revocation of licenses to carry firearms and their surrender to law enforcement authorities.[15] Orders issued by both Family Court and Criminal Courts are covered by the statute.

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[14] *Id.* Sec. 1.

[15] NY Laws of 1996, Chapter 644.

The 1997 legislative session added another level of protection for victims of abuse by making sure access to courts is available around the clock. A bill signed into law in August 1997, made explicit provisions for local criminal courts to issue orders of protection on the basis of sworn affidavits when Family Courts and Supreme Courts are closed on evenings and weekends.[16]

Commission on Domestic Violence Fatalities. Attempting to find ways to avoid the approximately 200 deaths of New Yorkers at the hands of their abusers each year, Governor George Pataki, in October 1996, appointed a Commission on Domestic Violence Fatalities. The Commission was charged with reviewing select cases and reporting on legislation or other measures that might prevent deaths. In a series of public hearings, the Commission has elicited insights into systemic problems and approaches to improving official responses to domestic violence.

Committee Chair Hon. Betty Weinberg Ellerin and Member Hon. Joan B. Carey both testified at the public hearing held at the Bronx County Courthouse in January 16, 1997, and, along with Administrative Judge Judith Kluger, they presented the views of New York Judges. Judge Ellerin introduced the Committee's most pressing concern: the difficulties of prosecuting cases when victims decline to cooperate with prosecutions of their batters. She suggested that police premise their investigations of all domestic violence cases on the assumption that any prosecution would have to proceed without the

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[16] NY Laws of 1997, Chapter 186.

victim's testimony. Judge Carey, speaking as the Deputy Chief Administrative Judge for New York City Courts and a former prosecutor as well as a member of the Committee, presented recommendations for changing evidentiary rules to overcome some of the obstacles these cases present. Chief among these was expansion of two exceptions to the rule against hearsay -- the excited utterance exception and the present sense impression exception -- so that statements made by victims may be introduced into evidence more easily. Judge Kluger testified to the need for greater resources to enable criminal courts to deal more effectively with these cases.

Committee Member Hon. Zelda Jonas also testified before the Commission, at hearings in Mineola, similarly expressing concern about ways of proceeding without the victim's cooperation.[17]

> **"As a former prosecutor, I am keenly aware of the fact that fear frequently results in an unwillingness by victims to cooperate with law enforcement in the prosecution of batterers. The very nature of domestic violence relationships presents unique problems to the prosecution and requires an approach different from the traditional one. A domestic violence case is very likely the only type of criminal case in which the defendant leaves court and goes home with the complainant-victim."**
>
> ***Hon. Joan B. Carey, Public Hearings before the Commission on Domestic Violence Fatalities***

[17] Copies of the testimony of Judges Ellerin, Carey and Jonas are attached as *Appendix C.*

CRIMINAL LAW: WOMEN AS DEFENDANTS

While women are still a small minority of those arrested and convicted of crimes in New York State, their numbers are increasing and their presence has begun to make itself felt as programs are designed to take their situations and needs into account.

Brooklyn Treatment Court

The increased visibility of women in the criminal justice system played a prominent role in shaping the newly-established Brooklyn Treatment Court. Officially opened on January 29, 1997, the court was designed in large part for the women arrested in Brooklyn for drug-related felonies charges, who comprise a full three-quarters of all women who appear on in Brooklyn's courts on felony charges. The court offers defendants indicted for nonviolent felonies the chance to accept drug treatment in lieu of prosecution, and the court links them to health services, including pre-natal care, housing, day care, education, domestic violence counseling and classes to learn the skills required of parents.

Midtown Community Court

Planning for the Midtown Community Court, an experiment in improving the criminal justice system's responses to low-level crimes, has taken into account another category of women defendants within the criminal justice system -- those charged with prostitution. A cornerstone of the court's efforts "to make justice constructive, visible, efficient -- and, above all, . . . responsive and meaningful to victims, defendants and the community," [18] has been reliance on intermediate sanctions. The court commonly dispenses sentences that stakeout a middle ground between the mild sanctions of time served or conditional discharges and the much harsher sanctions of jail sentences.

The most commonly used alternative is a sentence to a specified number of hours of community service under the direction of the court. These sentences begin in the courthouse itself with interviews by representatives from the City Department of Health, who offer referrals to substance abuse treatment and provide immediate testing for HIV, TB and STD. Defendants then see intake counselors, who encourage defendants to take advantage of offers to help with emergency housing, long-term substance abuse treatment and other problems. Assistance for battered women, acupuncture for drug abusers, and classes in English as a second language are among the services available on-site.

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[18] Michele Sviridoff, David Rottman, Brian Ostrom, and Richard Curtis, *Dispensing Justice Locally: The Implementation and Effects of the Midtown Community Court* (May 1997) at 2.

The Midtown Community Court's novel approaches have been the subject of research under the auspices of the U.S. Justice Department's National Institute of Justice and the State Justice Institute. In the first phase of this research project, investigators found that in the early months of the court's operations prostitution was the charge against 11% of those arraigned; 26% of the courts' defendants were women.[19] The court's impact on recidivism will be analyzed in the second stage of this study.

WOMEN IN THE JUDICIARY

The number of women in the judiciary is one indication of the ability of women attorneys to advance in their profession, and, for this reason, the Committee has made available in its reports figures on the gender of those holding judicial office in New York State. But a diverse bench, with both women and men visible to the world dispensing justice, is important as well because it suggests an openness to the claims of all who appear, regardless of gender.

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[19] *Id.* at 52-53.

State-Paid Judges

Elected Judges and Judges Appointed by Officials Outside the Court System. In the most recent year, the percent of women among New York State judges in the Unified Court System who achieve their posts through election or appointment by an elected official has increased steadily, at a rate of about 1% a year. Eleven years ago women held 138 out of 1035 of New York's judgeships or 11%. In 1997, they held 236 out of 1136 judgeships or about 21% of these positions.

The chart below shows figures for 1986, when the Committee began recording these numbers, for 1996 and for 1997:[20]

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[20] For additional data, *see Appendix D.* For historical data, *see Appraising Change and Progress* at 25 and Appendix E.

% WOMEN IN THE NEW YORK STATE JUDICIARY 1986, 1996 and 1997

Court	1986	1996	1997
Court of Appeals	14%	29%	**29%**
Appellate Division	14%	19%	**20%**
Administrative Judges	5%	27%	**30%**
Supreme Court	8%	12%	**13%**
Acting Supreme Court*	16%	30%	**32%**
Surrogates Court	7%	15%	**15%**
Court of Claims	10%	15%	**11%**
County Court**	4%	5%	**5%**
Family Court (Outside NYC)	10%	22%	**23%**
District Court (Nassau & Suffolk)	7%	11%	**21%**
City Court (Outside NYC)***	6%	12%	**15%**
NYC Family Court	54%	58%	**55%**
NYC Civil Court	20%	42%	**43%**
NYC Criminal Court	21%	48%	**56%**
Total	**11%**	**20%**	**21%**

* Judges from other trial level courts who are designated to sit in Supreme Court and Supervising Judges from New York City's Civil, Family and Criminal Courts.

** Judges who sit in County Court only and judges who combine service on the County Court with service on the Family and/or Surrogate's Court.

*** City Court Judges, Acting City Court Judges, and Chief Judges of the City Court.

Quasi-Judicial Positions: Housing Court Judges and Family Court Hearing Examiners. Although Housing Court judges and Family Court Hearing Examiners perform judicial functions, they do not have constitutional status as judge, and incumbents are chosen directly by Chief Administrative Judge of the Courts.

Women occupy these positions in substantial numbers. In 1997 they held 40% of the Housing Court judgeships, nearly double the number of 20% in 1986, when the Task Force issued its report. They comprised 42% of the Family Court Hearing Examiners, up from 34% for 1986. [21]

Town and Village Justices

Town and Village Justices, the part-time magistrates who are elected locally and paid directly by municipalities, are not required to be lawyers. These judges do occupy, however, an important niche in the Unified Court System. They arraign those arrested on felonies as well as misdemeanors, try misdemeanor, and hear civil claims. Their jurisdiction extends to domestic violence cases, and their responsibilities encompass arraigning defendants charged with abuse, setting bail and deciding applications for orders of protection.

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[21] For historical figures on Housing Court Judges and Family Court Hearing Examiners, *see Appraising Change and Progress*, Appendix F, Table 3.

The percent of women who occupy these positions historically has been below the number for state-paid judges, and the number has grown slowly. In 1991, the first year for which statistics are available, women represented 11% of the Town and Village Justices. In 1997, they had increased to 14% (286 out of 2012), a number that has remained steady for the past two years.

LOCAL GENDER BIAS AND GENDER FAIRNESS COMMITTEES

In recent years, local gender bias and gender fairness committees appointed by the state's administrative judges have become partners in the statewide Committee's work, both responding to suggestions of the Committee and generating their own projects. Their work has multiplied the sheer volume of activity on behalf of women in the courts at the same time it has brought a wider perspective to problems faced by women.[22]

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[22] For a committee-by-committee description of the activities and projects of local gender bias and gender fairness committees, *see Appendix E.* For a list of chairs of these local committees, *see Appendix F.*

Local Activities in Cooperation with the Committee

Programs for Domestic Violence in the Workplace Day. At the suggestion of Chief Judge Judith S. Kaye, with help and encouragement from the state-wide Committee, local committees sponsored a host of programs to mark Domestic Violence in the Workplace Day, October 1, 1996. Speakers, among them advocates for domestic violence victims, judges who hear domestic violence cases, and victims themselves, made moving presentations; videotapes, such as the award-winning *Defending Our Lives*, were shown; posters were displayed; and informational materials were distributed. Some committees, including those of the New York City Criminal Court, New York City

> **"Every day people who work for the New York State Court System witness the devastating repercussions of domestic violence on the lives of litigants they assist as public servants, but today's programs are directed to the existence of domestic violence victims among court employees. They are designed to help co-workers and managers recognize and assist court employees as they navigate their ways out of dangerous relationships."**
>
> ***Honorable Betty Weinberg Ellerin, Chair, New York State Judicial Committee on Women in the Courts, Discussing Domestic Violence in the Workplace Day.***

Family Court, the Queens County Supreme Court, and the Sixth Judicial District Committee, organized multiple programs at a number of different locations.

Circulating surveys. Drawing on the ability of local committees to tap into sources of grass roots information, the state-wide Committee has asked local committees for help with two surveys. The first was an informal effort to learn what kinds of complaints about gender bias in the courts -- if any -- still cause concern. The second was part of a census on supervised visitation programs, which make possible visits by noncustodial parents when unsupervised visits are considered inappropriate or possibly dangerous, often because of domestic violence.

Meeting with Chairs of Local Committees. On April 21, 1997, the chairs of local gender bias and gender fairness committees met, as they have on two other occasions, with members of the state-wide Committee to exchange ideas and strategies. At the meeting time was given to chairs to speak about their own committee activities, to raise questions, and to voice their concerns. Following remarks by Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman, a representative from the Fund for the City of New York discussed computer software that can help allow domestic violence victims find critical information easily and draft court papers on their own.

Local Committee Projects

Part of the great strength of local committees always has been their ability to generate programs tailored to the geography, demographics, and cultures of their own courts. This year local committees have continued to try an array of projects and to produce some impressive results.

Educational Programs. Local committees often have chosen education as a major focus of their efforts. Many committees continued to put education on domestic violence at the top of their agendas after Domestic Violence in the Workplace Day was over. The Brooklyn Supreme Court Committee showed videos during the month of October, and the New York City Family Court presented "Defending Our Lives" at each of its courthouses in lunch time sessions throughout the fall. The Bronx Supreme Court Committee co-sponsored a program on "The Reluctant Witness: The Abuse Victim" and organized a lunch-time program, featuring Hon. Marjorie Fields, called "Guns, Custody and Bail -- Recent Changes in Domestic Violence Law." In May 1997, the Nassau County Committee organized a half-day presentation on Domestic Violence, which was attended by over 75 judges.

Sexual harassment, gender bias, and gender-neutral language were the subject of other educational programs. The Eighth Judicial District's Committee, under the leadership of its chair, Family Court Judge Marjorie Mix, pioneered an innovative

program that has been adopted by the Office of Court Administration and replicated throughout the state.[23] The Brooklyn Supreme Court Committee organized its own program, attended by over 75 judges, with Committee Chair Hon. Betty Weinberg Ellerin as a featured speaker, and the Queens Supreme Court Committee arranged for a lunchtime presentation by a CUNY Law School Professor on sexual harassment in the schools. Focusing on gender-neutral language, the New York City Civil Court Committee sponsored a program for newly-elected Civil Court judges and a separate presentation for nonjudicial personnel and judges that drew an audience from all of the courts in New York County.

The local committees branched out beyond education into a number of interesting undertakings. Organizing supervised visitation programs has occupied two committees, the New York City Family Court Committee and the Seventh Judicial District Committee. The Nassau and Suffolk County Committees have both worked to make possible Children's Centers in their districts, and the opening of Suffolk County's Center is scheduled for November.

Among the other imaginative projects is a clinic, organized by the Suffolk County Committee, for self-represented matrimonial litigants, where people can get help with simple cases. This committee also has written and published two booklets on domestic violence for lay audiences. The Eighth Judicial District has formed a subcommittee on

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[23] These programs are described in this report's section on "Education," *infra*.

User-Friendly Courts, which has helped address problems that have arisen since the most recent laws on domestic violence went into effect. Other topics discussed at meetings include girls in detention and girls designated as Persons in Need of Supervision (New York City Family Court Committee); incarcerated women (Suffolk County Committee); and the dearth of women appointed to represent defendants in felony cases (Fifth Judicial District). Brooklyn Supreme Court's Committee continues to produce a newsletter and several committees, including those in the Third Judicial District, the Sixth Judicial District, Bronx County, Brooklyn, and Queens, continue to make themselves available as conduits for complaints.

All of these projects have served well an overarching interest in keeping the issues that matter most to women before the court system's officials and administrators, its judges, and the attorneys who practice there. They have also made the courts better places for litigants.

CONCLUSION

During the past year, the New York Judicial Committee on Women in the Courts has worked to bring closer the day when all of those who come to New York courts, whether as litigants, attorneys, or employees, will find "equal justice, equal treatment,

and equal opportunity."[24] Zealous pursuit of this goal remains the essential mission of the Committee and a core commitment of the entire New York State Unified Court System.

[24] *Task Force Report* at 15.

Appendix A

Domestic Violence Hypothetical

Judicial Seminars 1997

STATE OF NEW YORK
UNIFIED COURT SYSTEM
FAMILY VIOLENCE TASK FORCE

Domestic Violence Programs: Criminal, Matrimonial, Family Court Summer Judicial Seminars July 11 and 18, 1997, 8:30 AM - 10:00 AM Westchester Marriott, Tarrytown, New York

ANTHONY V. CARDONA
SONDRA MILLER
Co-Chairs

The Family Violence Task Force, in collaboration with the Criminal, Family Court and Matrimonial Curriculum Committees, will be presenting 90-minute panels on domestic violence at each of the summer judicial seminars -- July 11th and July 18th from 8:30 to 10:00 AM. No other programs are scheduled for those time periods in order that all judges of the Supreme, County, City, Criminal and Family Courts will be able to participate. The programs will utilize an interactive format -- a panel of judges and practitioners facilitating a discussion among the audience, using the attached hypothetical case -- in order to promote a lively interchange among judges of each of the courts that address domestic violence. The issues addressed will include some of the most significant and difficult -- conflicting orders of protection and visitation issued by different courts, firearms license suspensions and other protective order conditions, utilization of the domestic violence registry, communications between courts, interstate enforcement and prosecutions involving reluctant or recalcitrant victims. A comprehensive set of materials, containing recent legislation and case law, a checklist for judges, court rules and forms will be distributed at the seminars. All judges are encouraged to read the attached hypothetical case in advance of the program.

	July 11, 1997	July 18, 1997
Introduction	Hon. Sondra Miller	Hon. Sondra Miller
Legislative Update	Janet Fink, Esq.	Janet Fink, Esq.
Moderator	Janet Fink	Hon. Jaqueline Silberman
Panelists		
-- Judges:	Hon. John Leventhal	Hon. John Leventhal
	Hon. Cheryl Chambers	Hon. Judith Rossiter
	Hon. Bryan Hedges	Hon. Sharon Townsend
	Hon. John O'Donnell	Hon. Jacqueline Silberman
-- Practitioners:	Maggi Pasquale, Esq.	Lisa Smith, Esq.
	Lisa Schreibersdorf, Esq.	Lisa Schreibersdorf, Esq.
	Susan Bender, Esq.	Bruce Wagner, Esq.
	Pat Siracuse, Sheriff	Lucia Raiford, NYC Police

STATE OF NEW YORK
UNIFIED COURT SYSTEM
FAMILY VIOLENCE TASK FORCE

ANTHONY V. CARDONA
SONDRA MILLER
Co-Chairs

DOMESTIC VIOLENCE HYPOTHETICAL

Judicial Seminars, July 11 and 18, 1997, 8:30-10:00 AM
Tarrytown, New York

Jennifer Russell is a real estate broker, and Fred Rudolf is a security officer for a bank in Albany. They met at a sales conference, where Fred was "moonlighting" doing security work for the hotel. It was magic. They had a romantic, whirlwind courtship, with Fred calling Jennifer several times a day, sending flowers and other gifts and making surprise evening visits with tickets for the theater or reservations for dinner. Before long they were married, settled into a house in Delmar and had two children, Amy and Andy, who were born in 1992 and 1994, respectively.

I. Commencement of Matrimonial Proceedings: *Pendente Lite* Relief

In January of 1996, after a tumultuous five years, Jennifer moved out of the house, filed for a divorce in Supreme Court, Albany County, on the grounds of constructive abandonment and cruel and inhuman treatment and moved for a *pendente lite* order of temporary custody and child support. Although Fred had hit, and even kicked, Jennifer on occasion and frequently accused her of sleeping with her clients while she was showing houses, he had never struck the children. Jennifer had reported one of the episodes of assaultive behavior to the police but, upon their arrival at the home, she had urged them not to make an arrest. No arrest had been made and no criminal charges had been filed, although the police filled out a "Domestic Incident Report."

Query: How should Supreme Court rule on the custody and visitation aspects of the motion for *pendente lite* relief?

Assume that the Supreme Court entered a *pendente lite* order giving Jennifer temporary custody of the children with liberal visitation for Fred. The order provided minimal temporary child support since Fred agreed to have the children with him every weekend in order to enable Jennifer to continue her real estate work. Equitable distribution issues have not yet been resolved as disputes remain regarding the house,

Fred's pension and Jennifer's real estate business.

II. Domestic Abuse Begins: Order of Protection #1

In June of 1996, shortly after Jennifer started dating another man, Fred began calling Jennifer several times a week and threatening to take the children away from her. He continued to take the children with him on weekends, but began to yell at Jennifer when he picked them up and refused to let her know when he would bring them back. Late one Friday afternoon, Fred appeared at Jennifer's office and, with her co-workers looking on, dragged her outside to the curb, where he shoved her against a car and began to choke her while he threatened to kill her if she kept embarrassing him. While shaken but not visibly injured, Jennifer returned to work and declined her colleagues' offers to assist her in seeking medical or police assistance. However, with the Family Court not in session, the next morning, Jennifer appeared *ex parte* before her local Town Court in order to request a Family Court temporary order of protection.

Query: 1. What documents, if any, would be filed in support of Jennifer's request? What would the Town Court need to know before acting on Jennifer's request?

2. Should Jennifer be granted a Family Court or a criminal temporary order of protection?

Assume that the Town Court issued a temporary Family Court order, which the Court forwarded to the Delmar Police Department to serve upon Fred, along with notice of the return date in Family Court four days hence. The temporary order of protection was also sent to the Family Court via facsimile and mail, entered onto the statewide automated registry of orders of protection and transmitted to the Division of State Police NYSPIN system for entry into the "National Protection Order File" operated by the FBI.

Query: 1. How quick should the return date be in Family Court and should the order expire on that date?

2. Should the temporary order issued by the Town Court contain any restriction upon Fred's visitation with the children the next day (Sunday)?

3. Should the order contain any conditions requiring surrender of firearms or suspension of Fred's gun license issued pursuant to Penal Law §400?

4. Should the Delmar Police Department submit the affidavit of service to the Family Court, as well as the transmittal of service information to the registry?

5. If Fred does not appear on the adjourned date, should the Family Court issue a warrant or proceed on default?

Assume that the Family Court proceeded in Fred's absence and, after a hearing on inquest, sustained the family offense petition. A final order of protection was issued directing Fred to stay away from Jennifer except for the brief periods necessary to pick up and deliver the children. The order also reduced Fred's visitation to alternate weekends, set forth specific times for pick-up and return and required that the visits be supervised. The order was transmitted to the statewide automated registry of orders of protection and NYSPIN for entry into the national registry.

Query: 1. Should the Court make specific findings as to the allegations in the petition and as to whether Fred represented a "credible threat" to Jennifer's physical safety? Does this have implications for criminal enforcement of the order or of the federal firearms prohibitions [18 U.S.C. §922(g)]?

2. Should the Court issue a three-year order on the basis of aggravating circumstances or a one-year order? Should Fred be placed on probation and directed to attend a batterer's education program?

3. Should the order contain any firearms restrictions?

4. Should the final order be served by mail or personally and, if the latter, by whom? Would this make a difference in the ability to charge criminal contempt if the order is subsequently violated?

5. Would the Family Court be notified of the Supreme Court *pendente lite* visitation order or communicate in any way with Supreme Court before issuing its final order? Conversely, would the Supreme Court, Albany County, be notified of the Family Court order of protection, which conflicts with the *pendente lite* order?

6. How should the conflict between the Family Court order of protection and Supreme Court *pendente lite* visitation order be resolved?

III. The Family Discord Escalates: Order of Protection #2

Assume that the Family Court issued a one-year order of protection. Things went fairly smoothly for just under that one-year period, that is, until early June of 1997, when Jennifer's attorney moved to increase the *pendente lite* order of child support because of her need for a babysitter on alternate weekends now that Fred's visitation was restricted. Shortly after Fred was served with the motion papers, Jennifer began to see him parked in front of her apartment when she came home in the evenings. She also began to receive telephone calls throughout the night, with no

one on the other line. Jennifer contacted the Albany County Sheriff, as well as her attorney in her matrimonial and Family Court family offense proceedings.

Query: 1. Has a criminal offense occurred that would result in criminal contempt charges being filed or a mandatory arrest being made?

2. Should Jennifer seek an extension of her order of protection or pursue a violation of the existing order of protection in Family Court?

3. Should Jennifer seek a new order of protection in her Supreme Court matrimonial proceeding?

Assume that Jennifer simply returned to the Family Court and obtained a temporary extension of her order of protection, with a date for hearing set for some time in July on issuance of a new, final order. The next day, a dozen long-stemmed roses were delivered to her door. A few days later, when Fred called Jennifer to discuss his weekend visitation with the children, he begged her to return to him, apologized for his behavior and insisted that he had changed. She told him she was much happier now and that she didn't want to discuss getting back together. When she told him that she had extended the order of protection, Fred began yelling at her and hung up. The following weekend, Fred did not return the children until after midnight, and the next night, when Jennifer came home from work, Fred was parked in front of her apartment building, glaring at her as she walked by.

Jennifer again contacted the Albany County Sheriff Department. The Sheriff checked the NYSPIN domestic violence registry and received no indication that the temporary extension of the order of protection had, in fact, been served upon Fred. Jennifer insisted that the Family Court had indicated that the notice of the extension would be mailed to Fred and that, in any event, she had given him notice orally on the telephone.

Query: 1. Should Fred be arrested and, if so, for what offense(s)?

2. If Jennifer pursued a violation petition in Family Court, what would be the likely consequence?

Assume that the Sheriff arrested Fred in Delmar and charged him with criminal contempt in the first degree [Penal Law §215.51(b)(iv)], an E felony. He was brought before the Albany City Court, since the offenses occurred in downtown Albany, where Jennifer lived. Assume further that while Jennifer signed the "Domestic Incident Report," she refused to come into the District Attorney's office in order to sign an affidavit or complaint. The judge issued a temporary order of protection, pursuant to Criminal Procedure Law §530.12, that required Fred to stay

away from both Jennifer and the children altogether. This order conflicts with the extended Family Court order of protection, which allows restricted visitation, and with the Supreme Court *pendente lite* order, which permits liberal visitation.

Query: 1. Should the District Attorney present this case to a grand jury or reduce the charges to aggravated harassment in the second degree [Penal Law §240.30(2)], an A misdemeanor?

2. Assuming that Jennifer refused to testify before the grand jury or in court, what steps, if any, should be taken by the district attorney, the police or the Albany City Court with respect to the case? Would her signature on the Domestic Incident Report suffice to convert the original complaint into an information? Would the District Attorney proceed with the case in her absence or seek continuances in court?

3. Since the Family Court has statewide jurisdiction and its orders have statewide reach, is venue proper in Albany City Court? Was the arrest in Delmar valid?

4. Would the Albany City Court inquire into, and have access to information regarding, the Family Court order of protection and Supreme Court matrimonial proceeding? Should the Albany City Court check the domestic violence registry? Should the Albany District Attorney obtain this information and furnish it to the Court? What impact, if any, would this information have on the Court's decision?

5. Should the new order of protection contain firearms restrictions? Or further visitation restrictions or, conversely, expanded or unsupervised visitation?

6. Assuming Jennifer was living in Pittsfield, Massachusetts, would she be able to enforce the New York Family Court order in Massachusetts?

7. Assuming Fred was spending the summer in the Berkshires, while telephoning Jennifer at her home and job in Albany, would she be able to prosecute a violation of her order of protection against him? Would she be limited to relief from the Family Court in Albany, since it can exercise long-arm jurisdiction pursuant to Family Court Act §154(c)? Would a federal interstate domestic violence offense lie?

8. Would Jennifer be able to enforce the criminal order of protection precluding visitation, despite the conflict with the Family Court and Supreme Court orders? What would be the likely outcome if Fred attempted to enforce his Supreme Court *pendente lite* visitation order?

9. Should Jennifer's attorney move to modify the Supreme Court visitation order in light of changed circumstances? What would be the likely outcome of such a motion?

IV. Violent Crescendo: Felony Prosecution; Order of Protection #3

Assume that in light of Jennifer's refusal to cooperate with the prosecution, Fred entered a plea of guilty to a reduced charge of misdemeanor harassment. A sentence of conditional discharge was imposed, along with a three-year order of protection, pursuant to Criminal Procedure Law §530.12(5). Notwithstanding the new order of protection, Fred attempted to exercise his visitation rights as provided in the Family Court and Supreme Court orders and appeared at Jennifer's house at the appointed hour to pick up Amy and Andy. At first, Jennifer refused to open the door. As Fred said he wanted to talk, and the children begged her to let him in, Jennifer finally relented and invited him into the house. The conversation went well, at first. When Jennifer refused to let Fred take the children with him, however, Fred became furious. He took out his gun and threatened to shoot them all if he couldn't have the children. He then shoved Jennifer to the floor and pistol-whipped her. As she fell, she knocked into a vase, causing a skull fracture and severe bleeding. Meanwhile, the terrified children, then ages five and three, cowered in a corner of the room and witnessed, although were uninjured during, the incident. A neighbor heard the racket and called the police, who arrested Fred. Jennifer was unconscious and was thus unable to speak to the arresting officer or sign the police "Domestic Incident Report." Fred was brought for arraignment before the Albany City Court.

Query: 1. What crime or crimes -- and, importantly, what felonies, if any -- would be charged against Fred?

2. In addition to the substantive offenses, would he be likely to be charged with criminal contempt or menacing for violating the Family Court and Albany City Court orders of protection? What, if any, charges would lie for his violation of the firearms surrender conditions of those orders?

3. What bail would the Assistant District Attorney request and what bail would be set by the Albany City Court? $500? $5000? $25,000? $50,000?

4. What, if any, new temporary order of protection would be issued?

In preparation for Fred's criminal trial, the Assistant District Attorney assigned to the case contacted Jennifer to come in for an interview, as she was both the victim and the only adult witness to the incident. [Although five-year old Amy was quite verbal, three-year old Andy remained terrified and uncommunicative]. Jennifer told the A.D.A. that it had all been a misunderstanding, that she and Fred had decided to try to make a family again, and that she certainly would not be testifying in Fred's criminal trial. She explained that the incident in the apartment had occurred when she and Fred were having a excited game with the children and that everyone else had just blown it out of proportion. Her sole desire, she maintained, was to be left alone.

Nonetheless, with forensic evidence, testimony of the arresting officer and neighbor and unsworn testimony of the five-year old, the Assistant District Attorney presented the case to the grand jury, which returned an indictment. Several months later, with Jennifer still refusing to testify, the case was tried in Albany County Court.

Query: 1. For what crime or crimes should Fred be indicted?

2. Should the A.D.A. have presented the case to the grand jury, notwithstanding the victim's refusal to testify? Should the A.D.A. utilize her subpoena power to compel Jennifer's testimony before the grand jury? Should she obtain a material witness order to compel her testimony at trial? How common is it that a complainant in a serious felony case declines to cooperate with the prosecution and what, if anything, can or should be done to address that situation?

3. What bail would the Assistant District Attorney request and what bail would be set at arraignment by the Albany County Court? $500? $50,000?

4. Would a new temporary order of protection be issued by the County Court? If so, would any new visitation conditions or firearms licensing conditions be set?

5. How would the police and prosecution proceed in light of the reluctance of the complaining witness? What, if any, special procedures would be followed to gather necessary evidence and prepare the case?

6. Would the prosecution offer expert evidence with respect to the reluctance of the complainant, such as testimony regarding the "battered women's syndrome" ? How would the defense respond to this evidence?

7. What records or information would be obtained and presented with respect to the Family Court and Supreme Court cases? Would the felony charge of criminal contempt be sustained in this case?

8. What would the defense in this case assert and what, if any evidence, would be presented?

9. Assuming a conviction, what sentence would the Court impose?

10. Should the A.D.A. report Jennifer's refusal to cooperate with the criminal prosecution to the child abuse and maltreatment hotline as evidence of failure to protect her children ? If such a report is made, would Jennifer be likely to be charged with child neglect in Albany County Family Court? If so, what is the likely outcome of such a case?

11. Depending upon the outcome of the criminal proceeding, how would the matrimonial proceeding be resolved?

Appendix B

Letters re: Specialized Enforcement Parts

New York State Judicial Committee on Women in the Courts

80 Centre Street, Room 502
New York, New York 10013
(212) 417-4605
Facsimile (212) 417-4965

January 2, 1997

Hon. Judith Kaye
Chief Judge of the State of New York
230 Park Avenue, Suite 826
New York, New York 10169

Dear Chief Judge Kaye:

One of the issues that has been of great concern to our Committee is the many difficulties that have been encountered in seeking to enforce awards for spousal maintenance and child support. Is is widely recognized that it is an arduous and frustrating process, usually requiring time-consuming and expensive motion practice which engenders unconscionable cost and delay to the party least able to bear this burden. This is particularly so since these awards represent the money necessary to pay for food, rent, mortgage, electricity, telephone, doctors, or the costs of child care so that a custodial parent may work.

As an immediate measure to address this problem our Committee would like to recommend that special matrimonial enforcement parts be established in the Supreme Court. While legislation may be necessary to stream line the process, enforcement parts could, at least, begin to ameliorate some of the worst problems in this area. By hearing variations on the same theme day after day, a judge in a dedicated part would have the opportunity to accumulate the wealth of experience that leads to strong, effective judicial decision making and would be in a position to expedite necessary proceedings and recognize and prevent the delays which the most recalcitrant debtors have elevated to a fine art.

We hope that our recommendation meets with your approval and the Committee will be happy to assist in any way you think best. We also look forward with great enthusiasm to working with Justice Silberman on this and the other persisting problems in the matrimonial field which the Task Force Report on Women In The Courts identified.

With warmest wishes for a very happy New Year, I am,

Sincerely yours,

Betty Weinberg Ellerin

cc: Hon. Jonathan Lippman
Members of the New York Judicial Committee on Women in the Courts

State of New York

Jonathan Lippman
Chief Administrative Judge

270 Broadway
New York, N.Y. 10007
(212) 417-2004

February 18, 1997

Honorable Betty Weinberg Ellerin
Chair
New York State Judicial Committee
on Women in the Courts
27 Madison Avenue & 25th Street
New York, New York 10010

Dear Judge Ellerin:

I am responding, on behalf of Chief Judge Judith S. Kaye, to your letter on behalf of the New York State Judicial Committee on Women in the Courts concerning the process for enforcing spousal maintenance and child support awards. I want to apprise you of the steps that are being taken in this important area which we agree is in need of improvement.

Jacqueline W. Silbermann, Administrative Judge for Matrimonial Matters, is presently formulating a proposal to establish specialized parts capable of handling enforcement applications immediately. Judge Silbermann expects that these specialized parts will be fully operational in the coming months and that they will first be instituted in those courts that handle a high volume of enforcement applications.

In recognition of the difficulties inherent in collecting maintenance and child support, the Unified Court System will propose an amendment to CPLR 5519(a) that would limit statutory stays on appeal in matrimonial cases awarding maintenance and/or child support. Permitting the losing party in a civil matter to stay enforcement of a judgment or order directing the payment of money by serving a notice of appeal and posting an undertaking often operates to harm the beneficiaries of such orders—children and non-monied spouses—who are financially vulnerable and can ill afford to await the conclusion of the appellate process before receiving the ordered maintenance and/or support.

We look forward to working with you and the Judicial Committee on Women in the Courts to improve the process for enforcing court awards of maintenance and child support.

Very truly yours,

JL/bh

cc: Hon. Judith S. Kaye
Hon. Jacqueline W. Silbermann
Jill Laurie Goodman

Appendix C

Testimony of

Hon. Betty Weinberg Ellerin,

Associate Justice,
Appellate Division, First Department
and
Chair, New York State Judicial Committee
on Women in the Courts

TESTIMONY OF HONORABLE BETTY WEINBERG ELLERIN

BEFORE THE COMMISSION ON DOMESTIC VIOLENCE FATALITIES

January 16, 1997

Good morning. I am Betty Weinberg Ellerin, Associate Justice of the Appellate Division, First Department. I am delighted to be here this morning testifying in my capacity as Chair of the New York State Judicial Committee on Women in the Courts. With me is the Honorable Joan Carey, Deputy Chief Administrative Judge for Courts within New York City, who will address specific statutory changes. We are both grateful for the opportunity to address this Commission on an issue of such vital importance.

The New York State Judicial Committee on Women in the Courts, appointed in response to the Report of the New York Task Force on Women in the Courts in 1986, is charged with mobilizing forces both within and outside New York's Court System to create, in the words of the Task Force,"a justice system more fully committed to fairness and equality."

Violence against women, and domestic violence in particular, have been at the top of this Committee's concerns since its inception over ten years ago. Over that time span we have seen an awakening and public acknowledgement by the media and public officials that this is a critical problem and that the legal system's ability to respond forcefully and effectively to domestic violence is literally a matter of life an death.

Our Committee has assisted in instituting court procedures to help New York's courts better serve victims of domestic violence who come to our courts for assistance

and are willing to follow cases through to final disposition. However, we recognize that a great number, perhaps even a majority, of such victims do not seek the courts help, but in fact decide not to pursue in court cases they have participated in initiating or decline to cooperate from the beginning. Their hesitations may be motivated by psychological ambivalence about the man who has abused them, or economic concerns, or often by simple, and often fully justified, fear.

New York's mandatory arrest statute has been taken away from victims the decision about starting the process. However, obtaining convictions without victims willing to support prosecutorial efforts is usually impossible because victims, of course, are usually the best source of the evidence necessary to convict.

In recognition of these very real difficulties in effectively dealing with domestic violence incidents our Committee has two recommendations that we believe will help provide the courts with the necessary evidence to do their jobs properly. First, we recommend that rules be promulgated requiring that police response to these cases be premised on the likelihood that the cases will be prosecuted without a victim willing -- or able safely -- to testify. Much important evidence can be gathered by police answering emergency calls. Police can be prepared to take on-the-spot photographs of the scene of the crime that include, for example, overturned furniture and broken glass. The victim's statements can be recorded, her emotional state noted, and her injuries photographed. Physical evidence, such as weapons and torn clothing, can be collected. Witnesses can be interviewed, including neighbors and other family members, particularly children. The

arrested man's statements can be preserved as well. Follow up queries to hospitals, 911 operators, and medical personnel also can yield valuable, independent evidence.

Second, we recommend changes in evidentiary rules relative to these cases. Judge Carey will address specific recommendations for statutory changes.

We heartily applaud the recent legislative changes and gubernatorial initiatives outlined by Mrs. Pataki. We believe that the time is ripe now to consider further changes relative to these important issues.

Testimony of

Hon. Joan Carey

Deputy Administrative Judge
for
New York City Courts

Because of the peculiar aspects of domestic violence cases and the long term social consequences of these cases, we must amend our current laws to provide us with a different, more appropriate and more effective framework for treating them, taking into account issues particular to this crime.

As a former prosecutor, I am keenly aware of the fact that fear frequently results in an unwillingness by victims to cooperate with law enforcement in the prosecution of batterers. The very nature of domestic violence relationships presents unique problems to the prosecution and requires an approach different from the traditional one. A domestic violence cases is very likely the only type of criminal case in which the defendant leaves court and goes home with the complainant-victim.

There is tremendous difficulty for the prosecution to proceed to trial with a hostile or reluctant witness. Therefore, we must make alternatives available where a prosecutor, faced with a recalcitrant witness, can seek to introduce evidence pertaining to the charges, by alternative means. A paramount consideration for the prosecution is always, "will she be there when the times comes to give testimony against him?"

My suggestions relate to some overall changes in our evidentiary rules that would remove some of the barriers to the effective prosecution of these cases.

HEARSAY

Under our rules of evidence, hearsay testimony is not admissible. The hearsay rule prohibits out of court statements when offered to prove the truth or falsity of facts asserted. There are however exceptions to that rule but unless the statements come within an exception to that rule, the statements of Joan to Betty may not be received when offered through Betty to prove the truth of the facts asserted. In a domestic violence case, the statements made by a victim to the police are not admissible unless they come within an exception to the hearsay rule. Two widely used exceptions to the hearsay rule are excited utterances and present sense impressions.

EXCITED UTTERANCE

I'll start with the first of these exceptions to the hearsay rule, the excited utterance. The admissibility of an excited utterance is entrusted in the first instance to the trial court. The court must ascertain whether at the time the utterance was made, the declarant was under the stress of excitement caused by an external traumatic event sufficient to still her reflective faculties, thereby preventing opportunity for deliberation and potential fabrication. The event must be startling and the amount of time which elapsed between the startling event and the statement are very significant factors. The declarant need not be available at the time of trial.

The problem with the excited utterance exception is that in determining admissibility of the utterance, the court must ascertain whether, at the time the utterance was made, the declarant was under such stress of excitement caused by so startling an event that the reflective faculties were stilled, thereby preventing any opportunity for deliberation. There are domestic violence cases filed that involve evidence of physical injury and even serious physical injury to a victim, but said injuries are not generated from the type of startling event that the excited utterance exception to the hearsay rule requires.

PRESENT SENSE IMPRESSION

Under existing interpretation of the law, oral descriptions of events made substantially contemporaneously with those events or immediately thereafter are admissible if the descriptions are sufficiently corroborated by other evidence. If the event has been concluded however there is a problem with admissibility; in other words, the declarant must describe an event almost as it unfolds if the statement is to be admitted into evidence. Such statements may be admitted even though the declarant is not a participant in the event and not available at the time of the trial.

Consequently, a 911 call describing a burglary in progress was held admissible by the Court of Appeals as a present sense impression even though the declarant was not available at trial. The Court reasoned that a statement describing an event as it

occurs, or immediately thereafter, is reliable and admissible because of the contemporaneous nature of the statement; because there was no time for reflection. The statement has, therefore, circumstantial guarantees of trustworthiness and is therefore admissible in evidence.

In domestic violence cases, victims often recant and become uncooperative after the defendant/batterer has been formally charged with the commission of a crime. The statements made by the victim to the police are often inadmissible under the present sense impression exception because the statements are not made as the event was unfolding. This is true no matter how rapid the police response. Applying the present sense impression principle to domestic violence cases would be a very effective weapon in a prosecution's arsenal where the prosecution finds itself faced with a fearful and recalcitrant witness. I suggest to you today that the nature of domestic violence cases demonstrates the need for legislative amendment of the existing "contemporanaeity" requirement, allowing instead a relaxation of the required time interval factor between the event and the declaration. However, a statement may not be admitted under this exception unless the prosecution makes the declarant available to the defense. The statements made to the police shortly after the event should be admissible so long as factors exist which contribute to the reliability and trustworthiness of the statements. Under this suggestion, however, a

factor to be weighed and considered by the trial court is whether an appreciable length of time elapsed between the event and the statement so as to create an opportunity for calculated misstatement.

FEDERAL RULE 804

I also recommend the adoption of a rule which would be the functional equivalent of Federal Rule of Evidence 804(b)(5). Under what is known as the overall residual hearsay exception, a statement, in the federal court, which does not fall within any of the statutory exceptions to the hearsay rule but which has the "equivalent circumstantial guarantees of trustworthiness" may still be allowed into evidence if the court determines that:

(a) the statement is offered as evidence of a material fact;

(b) it is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and

(c) the general purposes of the rule and the interests of justice will best be served by admission of the statement into evidence.

Nevertheless, even if all of these criteria are met, the statement will still be excluded unless the proponent makes the statement known to the adverse party well enough before trial so as to allow that party a "fair opportunity" to meet it, the proponent's intention to offer the statement and the particulars of the statement. The

Federal Rules require only that the name and address of the declarant be made available to the adverse party, a lesser standard than I have proposed with respect to the Present Sense Impression Exception.

EVIDENCE OF OTHER CONDUCT

In People v Molineux the Court of Appeals decided that evidence of prior similar acts could be admitted as part of the direct case against a defendant only under certain circumstances -- to prove motive, intent, the absence of mistake or accident, the identity of the person charged or a common scheme or plan. I suggest that in the prosecution of domestic violence cases, a Molineux-like concept should be adopted so as to allow the prosecution to introduce evidence of similar prior conduct by the defendant /batterer in order to place the alleged criminal acts within their proper context. Under circumstances wherein the probative value of the evidence is substantially outweighed by the danger of unfair prejudice to the defendant, the evidence would be excluded. This rule would only apply to situations involving the same parties. The traditional Molineux ruling would apply to the admissibility of similar prior conduct by the batterer with respect to other people. In other words, with respect to establishing intent or absence of accident, evidence of prior similar conduct toward other victims would be relevant testimony.

Consider a situation wherein there existed a pattern of abuse for years even

though the victim remained uncooperative with law enforcement and refused to press charges. Finally, on a particular occasion, the defendant/ abuser arrives home and strikes the victim causing some abrasions and contusions. Presented to a jury, under the circumstances of this case, that is, a single incident, an absence of injuries of a life-threatening nature and the presumption of innocence, a jury could compromise and excuse the defendant for this seemingly "isolated" event. In this case, it would be extremely relevant for a complainant to be permitted to testify to the prior bad acts so that the jury could place this situation in its proper context; so that the jury may be provided with a more accurate, realistic view of the evidence.

Another example wherein it is important to allow the prosecution of a domestic violence case to place the alleged act or acts within their relevant context is in the area of non-verbal conduct of the abuser. All crimes have certain elements which must be proven by the prosecution beyond a reasonable doubt. For the crime of menacing, the element of "intentionally placing or attempting to place another person in reasonable fear of physical injury, serious physical injury or death" is the prosecution's burden.

We can all appreciate the marked distinction between circumstances involving a known abuser repeatedly stroking a pair of scissors in the presence of an abused victim and a non-violent person, engaging in exactly the same conduct being

observed by a person who has not been subjected to any kind of domestic abuse.

HOSTILE WITNESS RULE

We should consider changing our laws to allow leading questions when the partner of the opposing party is testifying. The hostile witness rule defines a class of witness who, because of their relationship with a party, would appear to have obvious sympathies with the party. In domestic violence cases no showing of actual sympathy toward that party or hostility toward the questioner should be required before leading questions are permissible. All that need be established is that the relationship between the witness and the adverse party is such that the witness appears to have sufficient interest in the litigation so as to be identified with the adverse party.

AGGRAVATING FACTORS

We should enact separate provisions for domestic violence cases which would allow a prior conviction for battering to be an aggravating factor, raising a misdemeanor assault to the level of a felony. Similarly a lower grade felony would be heightened where a prior conviction is proven.

Testimony before the

Commission on Domestic Violence Fatalities

Hon. Betty Weinberg Ellerin

Testimony of

Hon. Zelda Jonas

Judge, Nassau County Court

Madame Chairperson (JEANINE FERRIS PIRRO), I wish to thank you and the members of the Commission on Domestic Violence Fatalities for giving me the opportunity to speak on behalf of both the New York Judicial Committee on Women in the Courts and the Nassau County Judicial Committee on Women in the Courts.

In 1986, the New York Judicial Committee on Women in the Courts was established. Its purpose was to address gender bias in the courts. The local gender bias committee, which is The Nassau County Judicial Committee on Women in the Courts, is appointed by the Administrative Judge to fulfill the mandate of the state committee on a local basis. The state committee is chaired by the Hon. Betty Weinberg Ellerin. The Nassau committee was organized and chaired by me from 1989 through 1995. Judge Sandra Feuerstein

then chaired the committee, and Judge Denise Sher is its present chair.

Gender bias has been defined as "occurring 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."

The changing role of women in the last several decades has drawn attention to the issue of gender bias in our society and its effect on our judicial system. Nowhere has gender bias impacted more profoundly than on cases of domestic violence. As stated by Cheryl Hanna, formerly the Assistant State's Attorney in the Baltimore Domestic Violence Unit and a leading authority on the subject, "domestic violence is both a crime and a manifestation of

gender inequality."

Domestic violence victims must be assured that if they turn to the courts, their plights will be understood, and gender bias will not cloud the issue that battering is a criminal act not only against the victim but against the People of the State of New York. The batterer must be aware that law enforcement and judges will prosecute domestic violence without preconceived concepts of gender behavior but as a violent crime and punish those found guilty within the limits of the law to the ultimate end that the violence and death cease.

A retrospect of the attitude of the courts mirrors the changing attitudes toward domestic violence. In 1874, the North Carolina Supreme Court best expressed the Court's attitude at that

time when it stated "It is better to draw the curtain, shut out the public gaze, and leave the parties to forgive and forget." It was this attitude, this gender bias, if you will, toward the victim, who was most often a woman, that allowed domestic violence to be perpetrated and continued. In fact, it was not until 1920 that all states had made wife-beating, which had been considered a private matter, illegal.

Even as late at 1986, the New York Task Force on Women in the Courts reported that (Summary Report New York Task Force on Women in the Courts, March 1986, p. 7) "Women's lack of credibility was apparent in the way they were treated in the courthouse and in the judicial decision-making process. Women were sometimes treated dismissively, like burdensome children, or disrespectfully, like

sexual objects. This affected women's access to the courts by creating an inhospitable environment. Decision making was marred when the results reached in cases consciously or unconsciously reflected not the merits of the case or the spirit of the law to be applied but prejudiced views of sex roles and characteristics."

It has been only in the last decade that the courts and the criminal justice system have recognized domestic violence as a serious crime. The "pro-arrest" policy, that we now have in Nassau County, has replaced the 1970's mentality of putting the police in the untenable position of mediating cases of domestic violence usually by sending the husband or boyfriend for a walk around the block to "cool off." Although domestic violence has come from behind the curtain, it is clear that there is a continuing need for

understanding the dynamics and criminality of domestic violence and to make the criminal justice system more responsive to these crimes which predominantly affect female victims. To accomplish this purpose as well as reduce gender bias across the board in our courts, the state committee supported the recruitment of qualified women to positions rarely held before. Female court officers and court clerks no longer are an oddity. As women graduated from law school, their numbers began to occupy the formerly male bastions of litigants, district attorneys, and judges. The very presence of other women has greatly reduced the feeling of alienation experienced by many of the victims of domestic violence. With women's entry upon this professional scene, the concomitant need to educate all concerned about gender bias became a primary function

of the court system. The committee was responsible for seminars educating judges as well as nonjudicial personnel as to the negative effect gender bias can have upon judges, attorneys, and litigants. On the state level, specially produced films depicting domestic violence, such as "Defending Our Lives," were shown and discussed. This past year, the local committee had a staffed table in each of the four courthouses with domestic violence information, resources, and referral services available in Nassau County. Available at the tables for questions were representatives from the Nassau County District Attorney's Crime Victims Advocate Unit, the Task Force on Domestic Violence, and the Nassau County Coalition Against Domestic Violence.

Further, the local committee is now planning a program as an

update on domestic violence laws, procedures, and policies in Nassau County to be presented to the judiciary in Nassau County. Most importantly, the local committee serves as the clearinghouse of thoughts and ideas to promote policies to help eradicate domestic violence. Members of our local committee include judges, court personnel, attorneys, prosecutors, and community representatives. Included in our membership are Helen Scholfield, the Director of Legal Services of the Coalition Against Domestic Violence (represented at this hearing by its Executive Director, Sandy Oliva); Nassau County Assistant District Attorney Toby Kurtz, who is the Bureau Chief of the Sex Offense and Domestic Violence Bureau, who will also testify here today, and Deputy County Attorney Lois Weinstein, who is the Chair of the County Executive's

Task Force on Family Violence.

On the state level, Judge Joan Carey and I have been appointed to study and recommend legislation and policy changes to encourage the reluctant or recalcitrant victim to come forward such as those already in place in Deluth, Minnesota, and San Diego, California.

Those jurisdictions have a "no-drop" or mandated victim participation policy in effect. Unlike most violent crimes, a victim's reluctance or complete failure to cooperate in the prosecution of a case often results in a dismissal or reduction of the crime. "No-drop" simply means that domestic violence cases cannot be dismissed at the victim's request. The prosecutor determines if the case warrants a "hard" no-drop policy where the victime can be subject to arrest for her failure to cooperate or a

"soft" no-drop policy which includes suspending the case for a period of time with the option of restoring it within one year with interim counseling of the parties. This is, of course, a simplified statement of these policies which involve special statutes, support groups, and training.

An appropriate no-drop policy in effect not only removes the decision to prosecute from the victim but also takes away the batterer's ability to influence the victim. This policy treats domestic violence as a serious crime while recognizing the ambivalence abused victims bring to the process. Early data indicates that aggressive prosecution policies can reduce homicides. In San Diego, homicides related to domestic violence fell from 30 in 1985 to seven in 1994 after successful

implementation of its no-drop policy.

Through the judicial education program of Office of Court Administration and our committee's bias awareness program, the courts are better able to assess domestic violence cases to evaluate the need for orders of protection and to consider bail where appropriate.

Through this education, awareness, and cooperation, we endeaver to eradicate gender bias from domestic violence and treat it as any other violent criminal act.

Our committee continues to be vigilant in eliminating preconceived ideas of gender bias that would interfere with this goal.

Testimony before the

Commission on Domestic Violence Fatalities

Appendix D

Women in the New York State Judiciary

WOMEN IN THE NEW YORK STATE JUDICIARY 1986 AND 1997

	1986		1997	
Court	Total	Women	Total	Women
Court of Appeals	7	1 (14%}	7	2 (29%)
Appellate Division	44	6 (14%)	50	10 (20%)
Administrative Judges	22	1 (5%)	23	7 (30%)
Supreme Court	290	22 (8%)	316	42 (13%)
Acting Supreme Court*	126	20 (16%)	120	38 (32%)
Surrogates Court	29	2 (7%)	26	4 (15%)
Court of Claims	29	3 (10%)	56	6 (11%)
County Court**	114	5 (4%)	116	6 (5%)
Family Court (Outside NYC)	70	7 (10%)	71	16 (23%)
District Court (Nassau & Suffolk)	46	3 (7%)	44	9 (21%)
City Court (Outside NYC)***	115	6 (5%)	155	23 (15%)
NYC Family Court	30	16 (54%)	38	21 (55%)
NYC Civil Court	71	14 (20%)	81	35 (43%)
NYC Criminal Court	42	9 (21%)	34	19 (56%)
Total	**1035**	**138 (11%)**	**1136**	**238 (21%)**

* Judges from other trial levels courts who are designated to sit in Supreme Court and Supervising Judges from New York City's Civil, Family and Criminal Courts.

** Judges who sit in County Court only and judges who combine service on the County Court with service on the Family and/or Surrogate's Court.

*** City Court Judges, Acting City Court Judges, and Chief Judges of the City Court.

WOMEN IN THE NEW YORK STATE JUDICIARY 1996 AND 1997

	1996		1997	
Court	Total	Women	Total	Women
Court of Appeals	7	2 (29%)	7	2 (29%)
Appellate Division	52	10 (19%)	50	10 (20%)
Administrative Judges	22	6 (27%)	23	7 (30%)
Supreme Court	327	40 (12%)	316	42 (13%)
Acting Supreme Court*	110	33 (30%)	120	38 (32%)
Surrogates Court	27	4 (15%)	26	4 (15%)
Court of Claims	48	7 (15%)	56	6 (11%)
County Court**	118	6 (5%)	116	6 (5%)
Family Court (Outside NYC)	72	16 (22%)	71	16 (23%)
District Court (Nassau & Suffolk)	45	5 (11%)	44	9 (21%)
City Court (Outside NYC)***	151	18 (12%)	155	23 (15%)
NYC Family Court	40	23 (58%)	38	21 (55%)
NYC Civil Court	88	37 (42%)	81	35 (43%)
NYC Criminal Court	42	20 (48%)	34	19 (56%)
Total	**1149**	**227 (20%)**	**1136**	**238 (21%)**

* Judges from other trial levels courts who are designated to sit in Supreme Court and Supervising Judges from New York City's Civil, Family and Criminal Courts.

** Judges who sit in County Court only and judges who combine service on the County Court with service on the Family and/or Surrogate's Court.

*** City Court Judges, Acting City Court Judges, and Chief Judges of the City Court.

Appendix E

Activities of the
Local Gender Bias and Gender Fairness Committees

LOCAL BIAS AND GENDER FAIRNESS COMMITTEES
Activities for 1996-97

COURTS OUTSIDE OF NEW YORK CITY

The Third Judicial District Gender Fairness Committee (Hon. Harold J. Hughes, Administrative Judge; Hon. George Ceresia, Jr., Chair) issued a press release, publicizing the availability of assistance for victims of domestic violence, as its contribution to Domestic Violence in the Workplace Day, October 1, 1996. Later in the month the committee showed a videotape of a panel discussion about domestic violence at the Third District's Court Managers' Meeting. Continuing its effort to act as a conduit for complaints, the committee printed and distributed new posters describing the committee and naming county contact people for complaints. Also, the Ulster County Subcommittee helped secure a grant for the operation of a children's center.

The Gender Bias Committee of the Women in the Courts Fourth Judicial District (Hon. Jan Plumadore, Administrative Judge; Hon. Kathleen Rogers, Chair) distributed materials to its county level subcommittees for Domestic Violence in the Workplace Day. In February, 1997, the committee surveyed its members about the existence of complaints on gender bias and the treatment of women.

Fifth Judicial District Gender Bias Committee (Hon. William R. Roy, Administrative Judge; Hon. John Grow, Chair) held a meeting in May, 1997 with the administrative judge at which complaints about the assignment of woman attorneys to felony cases under the Onondaga County Assigned Counsel program were raised. Plans were made to hold a meeting with the Assigned Counsel Administrator.

Sixth Judicial District Gender Fairness Committee (Hon. Patrick D. Monserrate, Administrative Judge; Hon. Judith F. O'Shea, Chair) presented programs on domestic violence in nine of its 10 counties to mark Domestic Violence in the Workplace Month. At each of these the video "Defending Our Lives" was shown and discussed with court personnel. The committee also published and distributed a brochure to publicize the purposes of the committee.

Seventh Judicial District Gender Fairness Committee (Hon. L. Paul Kehoe, Administrative Judge; Hon. Evelyn Frazee, Chair) continued to receive, process and monitor complaints about gender discrimination. In addition, the committee conducted programs for new court employees on sexual harassment, gender discrimination and gender-neutral language. Also, joining forces with the Juvenile Law Committee of the Monroe County Bar Association, the committee explored ways to operate an expanded supervised visitation program.

Eighth Judicial District Gender Bias and Racial Fairness Committee (Hon. Vince Doyle, Administrative Judge; Hon. Marjorie Mix, Chair) has directed its efforts towards educating the various constituencies within its courts. With the help of Alice M. Chapman, Deputy Director of Human Resources for Equal Employment Opportunity, the Committee organized programs for judges as managers of their courts and staff. These programs were presented at meetings with Family Court Judges, Buffalo City Court Judges and Supreme Court Judges. The scenarios developed by the committee have been adapted by OCA for use at meetings with Court of Claims judges and Town and Village Justices.

A subcommittee on User-Friendly Courts held a series of meetings to help resolve problems that have arisen since recent domestic violence legislation went into effect. Chief among the subcommittee's interests has been developing protocols for handling the overlapping jurisdictions of Supreme Court, Erie County Family Court and Buffalo City Court and coordinating the work of the courts with efforts of local police. Informational meetings have been held and solutions are beginning to be developed.

Nassau County Judicial Committee on Women in the Courts (Hon. Edward F. McCabe, Administrative Judge; Hon. Denise Sher, Chair) with the help of the Nassau County Bar Association, organized a judicial education program entitled "Nassau County; Update on Domestic Violence Laws and Procedures. A half-day program held in May, the presentation was attended by 70% of the county's judges. In addition, Committee member Hon. Zelda Jonas, also a member of the state-wide Committee, testified at hearings held by the Task Force on Domestic Violence Fatalities in December, as did two other members of the local committee.

Combining forces with the Joint Commission on Child Care, the committee submitted a funding application for a Children's Center at the District Court in Hempstead, the facility determined to have the greatest need for this kind of service. A

subcommittee on gender-neutral language finished its review of the Patterned Jury Instructions and the CPLR and made comments to these respective editors.

Suffolk County Women in the Courts Committee (Hon. Mary Werner, Administrative Judge; Caroline Levy, Esq., Chair) marked Domestic Violence in the Workplace Day by distributing literature and information and by showing the film "Defending Our Lives" during employees' lunch hours. The committee also drafted a booklet for lay people on domestic violence. A shorter version was completed and distributed within Suffolk County.

The Committee also achieved a long term goal of establishing a Children's Center at the Cohalan Court Complex in Central Islip with capacity to serve children of litigants at both the District Court and Supreme Court. After years of organizing and locating resources, the Center is scheduled to open formally in November.

A subcommittee on Self-Represented Litigants has established a clinic for those on the waiting list at the Nassau/Suffolk Law Services with simple, uncontested matrimonial matters. Touro Law School, where the clinics will be held, the matrimonial clerks of Supreme Court, and volunteer lawyers all have cooperated with the effort. Another subcommittee, on Women Offenders, held meetings with Suffolk County's Sheriff's Office and its Probation Department and intends to work together with these agency to remedy problems that have been identified for Suffolk County's incarcerated women. A Legislation Subcommittee also has been established.

NEW YORK CITY COURTS

New York City Civil Court Gender Fairness Committee (Hon. Fern Fisher-Brandveen, Administrative Judge; Hon. Carol H. Arber, Chair) sponsored a program for Domestic Violence in the Workplace Day at which, among others, a victim of domestic violence spoke about her experiences; the committee also showed a videotape, which was followed by a lively discussion. On November 20, 1996, the committee held a Town Meeting at which bar association representatives, including the president of the New York County Lawyers Association, spoke as well as attorneys from legal services offices. Gender-neutral language was the subject of a workshop organized in January,

1997, for newly-elected judges and a March, 1997, program for court personnel and judges.

New York City Criminal Court Anti-Bias Committee (Hon. Judith Harris Kluger, Administrative Judge; Hon. Douglas Wong, Chair) organized programs in the court's five separate locations, open to public and court personnel alike, with speakers from the District Attorneys' offices, the Legal Aid society, local bar associations, the Victim Services Agency, and battered women's groups. At the committee's suggestion, anti-bias training for newly-appointed Criminal Court judges was included in the annual Criminal Court Judges Conference. In addition, the chair and members of the committee helped organize the Domestic Violence program at the annual Judicial Seminar; they contributed to drafting the hypothetical used in the presentations and served as panel members. Also, the committee surveyed the need for Children's Centers in Criminal Courts and formed a subcommittee to assist the center at 111 Centre Street.

Gender Bias Committee of the Family Courts of the City of New York (Hon. Michael Gage, Administrative Judge; Hon. Mary Bednar, Chair) arranged for presentations in all five NYC Family Courts for Domestic Violence in the Workplace Day with representatives at each courthouse from the District Attorneys Office, the Victims Services Agency and the OCA Employee Assistance Program. In addition, during the fall, five lunch time presentations were made of the film "Defending Our Lives; facilitated discussions followed each viewing.

The committee also surveyed the city's supervised visitation programs, found only the Bronx lacked a program, and, with the help of court staff and Bronx's supervising judge, helped organized a program that is ready to open in the Bronx.

After a series of presentations on detention programs, both nonsecure and secure, available to girls and opportunities for girls in PINS (Persons in Need of Supervision) programs, the committee has been asked to give advice on training programs for gender-specific programming.

New York County, Supreme Court, Criminal Term Gender Fairness Committee (Hon. Juanita Bing Newton, Administrative Judge; Hon. Colleen McMahon, Chair) sponsored a program on domestic violence in the workplace for employees for Domestic Violence in the Workplace Day and has reorganized its committee structure.

Bronx Supreme Court Gender Bias Committee (Hon. Burton Roberts, Administrative Judge, Hon. Richard Lee Price, Chair) organized a program for Domestic Violence in the Workplace Day, attended by over 100 people, at which a member spoke about her personal experiences. The Committee also co-sponsored one program with the New York County Lawyers' Association on "The Reluctant Witness: The Abuse Victim" and another with the Bronx Woman's Bar Association and presented a lunchtime rogram with Hon. Marjorie Fields called "Guns, Custody and Bail -- Recent Changes in Domestic Violence Law." The committee's chair made presentation on domestic violence at the orientation for New Judges at which "Defending Our Lives" was shown. A drive for food, clothing, and toys for a domestic violence shelter was organized and proved so successful that the proceeds were shared with another shelter as well. The committee also produced an educational brochure and continued to hear complaints.

Brooklyn Supreme Court Gender Fairness Committee (Hon. Michael Pesce, Administrative Judge; Hon. Michelle Patterson, Chair), during October, 1996, sponsored weekly film workshops with discussions led by committee member to mark Domestic Violence Awareness Month. Judicial and nonjudicial workshops on domestic violence were held at both Kings And Richmond County courthouses as well. In addition, the committee collected items needed for local shelters.

More than 75 judges participated in an educational program the committee organized, which highlighted bias issues in the courtroom judges. Programs for Bring Your Sons/Daughters to Work arranged by the committee were attended by over 175 children. Also, a second edition of the committee's newsletter was distributed, procedures were adopted for handling complaints and issues that arise, and posters with committee members names were developed.

Queens County Supreme Court Gender Fairness Committee (Hon. Alfred Lerner, Administrative Judge; Donna Lasher, Esq. and Nina Munz, Co-chairs) organized three programs for the County's three Supreme Court Courthouses on Domestic Violence Awareness Day, including an innovative program with a video presenting domestic violence as viewed through the eyes of children. A program was conducted for "Take Your Daughters to Work day" and a separate one for "Take Your Sons to Work Day." Also, a professor from CUNY Law School presented a well-attended luncheon program on sexual harassment in the schools arranged by the committee.

Appendix F

Chairs of
Local Gender Bias and Gender Fairness Committees

November 24, 1997

LOCAL BIAS AND GENDER FAIRNESS COMMITTEES

COURTS OUTSIDE OF NEW YORK CITY

Third Judicial District

THIRD JUDICIAL DISTRICT GENDER FAIRNESS COMMITTEE

Hon. Harold J. Hughes
Administrative Judge
Third Judicial District
125 State Street
Albany, New York 11207

Telephone: (518) 445-5160
Fax: (518) 487-5166

Hon. George Ceresia, Jr.,
Chair
Justice, Supreme Court
Rensselaer County Courthouse
Troy, New York 12180

Telephone: (518) 270-3728
Fax: (518) 270-3788

Fourth Judicial District

GENDER BIAS COMMITTEE OF THE WOMEN IN THE COURTS OF THE FOURTH JUDICIAL DISTRICT

Hon. Jan Plumadore
Administrative Judge
Fourth Judicial District
64 Congress Street, P.O. Box 4370
Saratoga, New York 12866

Telephone: (518) 587-3019
Fax: (518) 587-3179

Hon. Kathleen M. Rogers, Chair
St. Lawrence County Surrogate
Surrogate Building
Court Street
Canton, NY 13617-1199

Telephone: (315) 379-2217
Fax: (315) 379-2372

Fifth Judicial District

FIFTH JUDICIAL DISTRICT COMMITTEE

Hon. William R. Roy
Administrative Judge
Fifth Judicial District
Onondaga County Courthouse
Syracuse, New York 13202

Telephone: (315) 435-2009
Fax: (315) 435-3394

Hon. John W. Grow, Chair
Justice, Supreme Court
Court House
300 N. James Street
Rome, New York 13440

Telephone: (315) 336-0772
Fax: (315) 337-0846

Sixth Judicial District

SIXTH JUDICIAL DISTRICT COMMITTEE

Hon. Patrick Monserrate
Administrative Judge
Sixth Judicial District
c/o State Office Building
44 Hawley Street, Suite 1501
Binghamton, New York 13902-4466

Telephone: (607) 721-8541
Fax: (607) 778-2398

Hon. Judith O'Shea
Judge, Family court
Chemung County
P.O. Box 588
Elmira, New York 14902

Telephone: (607) 737-2002
Fax: (607)737-2898

Seventh Judicial District

SEVENTH JUDICIAL DISTRICT COMMITTEE

Hon. L. Paul Kehoe
Administrative Judge
437 Hall of Justice
Civic Center Plaza
Rochester, New York 14614-2185

Telephone: (716) 428-5271
Fax: (716) 428-2059

Hon. Evelyn Frazee, Chair
Justice, Supreme Court
115 Hall of Justice
Rochester, New York 14614

Telephone: (716) 428-2486
Fax: (716) 428-2698

Eighth Judicial District

EIGHTH JUDICIAL DISTRICT COMMITTEE

Hon. Vincent Doyle
Administrative Judge
Eighth Judicial District
Erie County Hall
92 Franklin St.
Buffalo, New York 14202

Telephone: (716) 851-3273
Fax: (716) 855-1611

Hon. Marjorie C. Mix, Chair
Judge, Family Court
25 Delaware Avenue
Buffalo, New York 14202

Telephone: (716) 858-8188
Fax: (716) 858-8432

Ninth Judicial District

COMMITTEE TO PROMOTE GENDER FAIRNESS IN THE COURTS
NINTH JUDICIAL DISTRICT

Hon. Angelo J. Ingrassia
Administrative Judge
Ninth Judicial District
Westchester County Court House
111 Grove Street, 11th Floor
White Plains, New York 10601

Telephone: (914) 285-4100
Fax: (914) 285-4111

Hon. Sondra Miller, Co-Chair
Associate Justice
Appellate Division, 2nd Department
140 Grand Street - 6th Floor
White Plains, New York 10601

Telephone: (914) 285-4910
Fax: (914) 761-9620

Hon. Joan Lefkowitz, Co-chair
Justice, Supreme Court
Westchester County Courthouse
White Plains, New York 10601

Telephone: (914) 285-4906
Fax: (914) 285-3427

Nassau County

NASSAU COUNTY JUDICIAL COMMITTEE ON WOMEN IN THE COURTS

Hon. Edward G. McCabe
Administrative Judge
Courts Within Nassau County
Supreme Court Building
Supreme Court Drive
Mineola, New York 11501

Telephone: (516) 535-2684
Fax: (516) 571-3713

Hon. Denise Sher, Chair
Nassau County District Court
99 Main Street
Hempstead, NY 11550

Telephone: (516) 572-2159
Fax: (516) 572-2507

Suffolk County

SUFFOLK COUNTY WOMEN IN THE COURTS COMMITTEE

Hon. Mary Werner
Administrative Judge
Courts within Suffolk County
400 Carleton Avenue
P.O. Box 9070
Central Islip, New York 11722-9070

Telephone: (516) 853-5368
Fax: (516) 853-7741

Caroline Levy, Esq.,Chair
3 Coach Hill Lane
Northport, NY 11768-3305

Phone and FAX: (516) 757-5131

COURTS WITHIN NEW YORK CITY

New York City Civil Court

NEW YORK CITY CIVIL COURT
GENDER FAIRNESS COMMITTEE

Hon. Fern Fisher-Brandveen
Administrative Judge
Civil Court, City of New York
111 Centre , Room 1240
New York, New York 10013

Telephone: (212) 374-8082
Fax: (212) 374-5709

Hon. Carol H. Arber, Chair
Civil Court Judge
80 Centre Street
New York, New York 10013

Telephone: (212) 374-5667
Fax: (212) 374-3907

New York City Criminal Court

NEW YORK CITY CRIMINAL COURT
ANTI-BIAS COMMITTEE

Hon. Judith Harris Kluger
Administrative Judge
Criminal Courts, City of New York
100 Centre Street, Room 538
New York, New York 10014

Telephone: (212) 374-3200
Fax: (212) 374-3004

Hon. Douglas Wong, Chair
Queens Criminal Court
125-01 Queens Boulevard
Kew Gardens, NY 11415

Telephone: (718) 520-2221
Fax: (718) 520-1472

New York City Family Courts

GENDER BIAS COMMITTEE OF THE
FAMILY COURTS OF THE CITY OF NEW YORK

Hon. Michael Gage
Administrative Judge
60 Lafayette Street
New York, New York 10013

Telephone: (212) 374-3711
Fax: (212) 374- 2721

Hon. Mary Bednar, Chair
Judge, NYC Family Court
60 Lafayette Street
New York, New York 10013

Telephone: (212) 374-8999
Fax: (212) 374-2623

New York County, Supreme Court, Civil Term

ANTI-BIAS COMMITTEE,
NEW YORK COUNTY, SUPREME COURT, CIVIL TERM

Hon. Stephen Crane
Administrative Judge
Supreme Court, Civil Term
60 Centre Street
New York, New York 10007

Telephone: (212) 374-8515
Fax: (212) 374-7256

Hon. Alice Schlesinger, Chair
Justice, Supreme Court
111 Centre Street, Room 568
New York, New York 10007

Telephone: (212) 374-8468
Fax: - (212) 374-3907

New York County, Supreme Court, Criminal Term

GENDER BIAS COMMITTEE
NEW YORK COUNTY, SUPREME COURT, CRIMINAL TERM

Hon. Juanita Bing Newton
Administrative Judge
Supreme Court, Criminal Term
100 Centre Street
New York, New York 10013

Telephone: (212) 374-4972
Fax: (212) 374-3003

Hon. Colleen McMahon, Chair
Acting Justice, Supreme Court
111 Centre Street, Room 1146
New York, New York 10013

Telephone: (212) 374-8067
Fax: (212) 748-519

Bronx County, Supreme Court

BRONX COUNTY SUPREME COURT COMMITTEE

Hon. Burton B. Roberts
Administrative Judge
Supreme Court, 12th Judicial District
851 Grand Concourse, Room 832
Bronx, New York 10451

Telephone: (718) 590-3786
Fax: (718) 590-8899

Hon. Richard Lee Price, Chair
Acting Justice, Supreme Court
851 Grand Concourse
Bronx, New York 10451

Telephone: (718) 590-3590
Fax: (718) 590-8914

Queens County, Supreme Court

QUEENS COUNTY SUPREME COURT GENDER FAIRNESS COMMITTEE

Hon. Alfred D. Lerner
Administrative Judge
Supreme Court, 11th Judicial District
88-11 Sutphin Boulevard, 3rd Floor
Jamaica, New York 11435

Telephone: (718) 520-3763
Fax: (718) 520-4689

Donna Lasher, Esq., Co-Chair
Principle Law Assistant
125-01 Queens Blvd.
Kew Gardens, New York 11415

Telephone: (718) 520-4659
Fax: (718) 520-1472

Nina Munz, Co-Chair
First Deputy Chief Clerk
Supreme Court
88-11 Sutphin Boulevard, 3rd Fl.
Jamaica, New York 11435

Telephone: (718) 520-3763
Fax: (718) 520-4689

Brooklyn Supreme Court

BROOKLYN GENDER FAIRNESS COMMITTEE

Hon. Michael Pesce
Administrative Judge
Supreme Court, Second Judicial District
360 Adams Street
Brooklyn, New York 11201

Telephone: (718) 643-7086
Fax: (718) 643-2095

Hon. Michelle Patterson, Chair
Justice, Supreme Court
360 Adams Street - Room 726D
Brooklyn, New York 11201

Telephone: (718) 643-7074
Fax: (718) 643-7250