

NEW YORK STATE JUDICIAL COMMITTEE ON WOMEN IN THE COURTS

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NEW YORK STATE JUDICIAL COMMITTEE ON WOMEN IN THE COURTS (2017-18)

Betty Weinberg Ellerin, Chair

Fern Schair, Vice Chair

Historical Overview

In 1984, in response to respected academic studies that questioned whether women were being fairly and justly treated in our nation's court systems, the then Chief Judge of the State of New York, Hon. Lawrence H. Cooke, established a Task Force to examine the courts of New York State and "identify gender bias and, if found, make recommendations for its alleviation". To no one's surprise, when the Task Force issued its Report in March, 1986 it documented findings that demonstrated "the pervasiveness of gender bias in our court system with grave consequences that denied women equal justice, equal treatment and equal opportunity" and also made specific recommendations for corrective action directed, as relevant, to Judges, Court Administration, Bar Associations, Police Departments, District Attorneys, Law Schools, the Legislature and Judicial Screening Panels.

The Report focused on three major areas:

- 1) the status of women litigants in various contexts including domestic violence and rape - the courts' treatment of women's economic rights- i.e., with respect to property and maintenance awards upon the dissolution of a marriage and child support- the impact of gender on custody determinations- and the lack of respect accorded to women litigants, particularly with respect to credibility;
- 2) the status and treatment of women attorneys; and
- 3) the status and treatment of women court employees.

When the Report was issued it was presented to the successor Chief Judge, Hon. Sol Wachtler who, consistent with the Report's emphasis on institutionalization of reform and monitoring progress, established a Committee to Implement the Recommendations of the New York Task Force on Women in the Courts that was renamed by Chief Judge Judith S. Kaye as presently entitled. Over the years the Committee, and its subsequently formed satellite local committees, have sought to bring to fruition the manifold recommendations in the Report including the sponsoring and presenting of a broad spectrum of educational programs for Judges and court employees regarding bias and gender issues and by successfully serving as a

catalyst for the creation by court administration of specialized parts for matrimonial cases and for domestic violence cases with access to ameliorative services as well as encouraging the recruitment of qualified women for traditionally male occupied positions in the court system such as court officers, court clerks and senior supervisory personnel.

In many instances, the Committee expanded recommendations to address practical realities that affect women in the court setting such as the need for a part-time, flex-time employment option for employees with parental obligations (primarily women), the critical need for children's waiting rooms, the need for supervised visitation and the need for private lactation spaces. The issues of children's waiting rooms, supervised visitation and lactation spaces are still works in progress. The Committee also early on focused on the problems of immigrant women litigants, particularly with regard to the deficiencies in the courts' interpreting services which we brought to the attention of court administration resulting in the promulgation of corrective plans and protocols. The Committee' representative in that endeavor was Fern Schair who was instrumental in the corrective steps taken.

Significantly, the Report pointed out that the focus of its effort was limited to matters that appeared at *that* time "to have the most profound effect on the welfare of the greatest number of women. In making these choices, the Task Force recognized that areas other than those studied are also worthy of scrutiny". The Committee has taken that acknowledgment seriously and has undertaken to educate itself about various issues that have in recent years received public prominence and recognition such as sex trafficking and its intersection with prostitution and also sexual harassment, now very much a subject of public awareness. The Committee has been very active in urging our court system to recognize that the victims of sex trafficking be recognized as "victims" and be treated accordingly in special court parts. We continue to urge for the expansion of those parts throughout the state.

Our Focus in 2017

The Committee has always sought to keep abreast of new and emerging issues affecting women generally and more particularly in the court setting. To help us achieve that goal we maintain relationships and invite representatives from relevant organizations and agencies to our meetings to speak with us in an informal and interactive format. This year we heard from several representatives from Sanctuary for Families regarding various topics including legal issues confronting immigrant women, initiatives for incarcerated survivors of gender violence and the impact of potential federal funding cuts on essential services for women victims of violence; from the Director of the NYS Office of Victim Services; from the Executive Director of the Judicial Commission on Promoting Racial and Ethnic Fairness in the Courts; and from the Chair and Commissioner of the New York Committee on Human Rights on Gender Discrimination.

We continue with our effort to insure the availability of Children's Centers or Waiting Rooms throughout the state. This may be characterized as "2 steps forward 1 step back". We

were initially successful in having such centers throughout the state although we were concerned with the limited hours of availability at many of the centers. This markedly changed with the budget crisis in 2008 when many centers were closed and hours curtailed at many of those remaining. We have continued to advocate strenuously on behalf of those that have been closed or hampered and are working within the Committee to find possible alternative funding mechanisms using the Suffolk County Center as an example. A bright spot in this picture is New York County where the Center that served the Housing/Civil Court and Criminal Courts was completely closed and the space allocated to other uses. The Chair of the Committee met with District Attorney Cyrus Vance who agreed to pay for reconstructing space to serve as a Children’s Center or Waiting Room and to fund the project for 5 years (or as she put it to him “that’s great for a start”).

We also have an ambitious Pro-bono program for matrimonial cases where one of the parties is appearing pro-se (usually the wife). It has worked very successfully in New York County for several years and we have introduced it into Kings County where we are hopeful it will also operate successfully and are exploring other possibilities depending on the receptiveness of the localities local matrimonial bars.

During the past year and a half, which essentially marked 30 years since the issuance of the original Report, we have been discussing, based upon our own observations and conversations with others knowledgeable about the issues affecting women generally and in the courts, the extent of progress that we have really made in eradicating bias against women in the court system and whether some of the remedial measures taken, such as the spousal support guidelines, have really ameliorated the unfair situations detailed in the report. It is also apparent that attention must now be given to issues such as sex trafficking and sexual harassment that were not previously addressed. Accordingly, the Committee has unanimously voted to do another survey to ascertain where we are on these issues and what further remedial steps can be taken. In preparation for the survey we will hold listening sessions, perhaps have hearings and will work with a professional to effectively draft the survey questions. We have already obtained the consent of major Bar Associations with regard to distributing the survey in addition to our own OCA facilities. We believe such a survey is essential in order to chart the Committee’s course for the future.

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