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# Eliminating the Barriers Opening the Doors

By Lorraine H. Weber

**FAST FACTS:**

*The Open Justice Commission's history, mission, and goals have resulted in important accomplishments, especially in the 1999-2000 year.*

*The committees and members of the OJC have taken on 11 major projects, coordinating with varied groups and individuals.*

*The OJC's 15 goals for 2000-2001 build upon the momentum of the past.*

Since 1986, a goal of the Michigan judicial system and the legal profession has been to create a diverse and bias-free environment. Historically, we lawyers and judges have stood at the forefront of civil rights initiatives supporting fair and equal application of the laws throughout our state. It is both our privilege and our responsibility to continue these efforts today. As officers of the courts, guardians of the law, advocates for the under-represented, and teachers of fairness, lawyers and judges must demonstrate the leadership necessary to increase the quality of justice available to our citizens.

The State Bar of Michigan, in partnership with many other organizations, has provided this leadership, actively contributing time, energy, and money to the investigation and elimination of discrimination and bias in our profession. Over the last decade, it has joined the Michigan Supreme Court Citizen's Commission to Improve the Courts in its firm position that "a fundamental principle of our constitutional government is that discriminatory treatment on the basis of race, gender, economics, class, religion, or physical condition cannot and will not be tolerated."

## BACKGROUND

In 1986 the Citizens' Commission to Improve Michigan Courts, under the leadership of Justice Patricia Boyle, issued its report. It concluded that over one-third of Michigan's cit-

One of the most important goals of the Commission is to generate partnership in programs and initiatives with the larger community of our profession and the public.

izens believed that the Michigan court system discriminates against individuals on the basis of gender, race, or ethnic origin. As a result, the report called for further investigation. In response to this conclusion, the Michigan Supreme Court created the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts. Their mandate was to examine the courts and to recommend revision in rules, procedures, and administration to assure equal treatment for men and women, free from race or gender bias. The task forces issued their reports after two years of study. The reports concluded that a substantial number of citizens and lawyers not only believed that bias adversely affects justice, but that this perception is based in reality. The

reports contained 167 recommendations to improve the quality of justice and to eliminate bias and discrimination.

In 1996, State Bar of Michigan President Victoria Roberts created the State Bar of Michigan Task Force on Race/Ethnic and Gender Issues in the Courts and the Legal Profession. Its mandate was to report on the status of the recommendations made by the Supreme Court Task Forces and to develop a strategy for implementing those recommendations and identifying new areas of concern. The report of the Task Force was unanimously adopted one year later by the State Bar of Michigan Board of Commissioners. Special emphasis was placed upon the creation of an implementation commission and numerous recommendations were submitted for future activity. By early 1998, the Board of Commissioners unanimously approved the creation of the State Bar of Michigan Open Justice Commission. The Commission was inaugurated at the September Annual Meeting of the State Bar of Michigan that year.

## MISSION

The mission of the Open Justice Commission is to:

- Raise both public and professional awareness of open justice issues and the impact of race, ethnic origin, gender, religion, sexual orientation, or disability on the fair delivery of justice in our state
- Reduce or eliminate such bias or invidious discrimination within the courts or legal profession
- Increase public confidence in the fairness of the legal profession and the equal application of law for all citizens

## GOALS

In order to fulfill its mission, the Commission has adopted the following goals:

- Implement the 1989 Task Force Reports on Gender and Racial/Ethnic Issues in the Courts and the recommendations made by the State Bar of Michigan Task Force on Racial/Ethnic and Gender Issues in the Courts and the Legal Profession
- Create a forum for discussion and analysis of diversity issues and their impact upon the delivery of justice
- Investigate and implement new initiatives that were not addressed by the 1989 Task Force
- Establish a state clearinghouse for collecting and sharing information and assisting organizations and individuals in meeting their diversity goals

- Develop judicial, legal, and public education programs on fairness and open justice issues
- Investigate, adopt, and implement programs related to all discrimination and bias that adversely affect the fair delivery of legal services and justice

## COMMISSION ACCOMPLISHMENTS IN 1999–2000

This year marked the first year of true implementation efforts for the Commission. In October of 1999, the Commission adopted and funded 31 implementation projects. During the course of the year these projects were increased to a total of 34. There are currently 45 commissioners. In addition, over 85 committee members, 35 project members, 12 interns, and three independent contractors worked on these projects. The Commission also developed partnerships with a variety of organizations and bar entities to accomplish its goals for the year. As a result of this effort, the Commission accomplished the following substantive achievements during the past year:

- Creation and distribution of a “Court Commitment to Service” code which will be available for adoption by all courts in the state of Michigan
- Review and update of the State Court Administrative Courthouse Access checklist
- Compilation of a national survey to detail the current status of Judicial Canons and Rules of Professional Conduct in all 50 states as they relate to Open Justice concerns
- Development of a presentation on Disproportionate Minority Representation in the Juvenile Justice System and delivery of that presentation to numerous state and national audiences
- Sponsorship of receptions for minority law students and judges at all Michigan law schools
- Distribution of 10,000 information booklets about the Open Justice Commission and its programs
- Development of the Open Justice Commission website
- Production of a special Open Justice Forum sponsored by the Commission and offered at the State Bar of Michigan Annual Meeting
- Completion of a survey of attorneys who identified themselves as having a disability on the State Bar

dues notice regarding the impact of disabilities in the legal process

- Creation and presentation of the program—“Teaching the Legal Community about the Gay, Lesbian, Bisexual and Transgendered Community: A Resource Guide”
- Receipt of a Michigan State Bar Foundation grant to fund the development of an Open Justice Round Table television presentation
- Receipt of an Edison Foundation challenge grant along with donations from large law firms to fund the disabilities survey and to produce a report of findings and recommendations

## STRUCTURE

The Commission was created for a five-year term, coinciding with the State Bar of Michigan’s long-range plan, with evaluation of its effectiveness taking place at the end of that term.

Generous resources have been made available to create the Commission, administer its work, fulfill its goals, and oversee the research, recommendation, and implementation process.

The Commission has formed 12 committees to assist it. Of those, the following 10 substantive committees generally conduct Commission work: Access To Justice, Cultural Issues and Language Barriers, Disabilities, Domestic Relations, Ethical Standards and Discipline, Juvenile Justice, Open Justice

within the Court Environment, Professional Development and Opportunities, Sexual Orientation and Gender Identity, Violence and Criminal Justice Issues.

In addition, there are two administrative committees: Commission Resource Development and Public Information and Education.

The Commission forwards all its policy recommendations to the State Bar of Michigan Board of Commissioners and/or the Representative Assembly for adoption and approval. It submits an annual report to the Board of Commissioners at the State Bar of Michigan Annual Meeting each September. Operations are managed through the Open Justice Division of the State Bar with consulting services provided by Hon. Lorraine H. Weber, former Executive Director of the Michigan Supreme Court Task Forces on Gender Issues



in the Courts and on Racial/Ethnic Issues in the Courts, and Special Advisor to the State Bar of Michigan Task Force on Racial/Ethnic and Gender Issues in the Courts and the Legal Profession.

## SUMMARY OF PROJECTS

This year, each committee defined one or more projects to undertake and complete:

### ACCESS TO JUSTICE COMMITTEE

- Court Commitment to Service (Joint with Open Justice within the Courtroom Environment Committee)
- *Pro Se* Issues in the Courts
- Courthouse Access Checklist
- SCAO and SBM Public Education Publications Listing

### CULTURAL ISSUES AND LANGUAGE BARRIERS COMMITTEE

- Diversity Curriculum Development and Implementation
- Language Interpretation within the Court Environment

### DISABILITIES COMMITTEE

- Disabilities and Justice Report

### DOMESTIC RELATIONS COMMITTEE

- Continuing Legal Education and Judicial Training
- Alimony Guidelines
- Bench/Bar Holidays and Observances Guide
- Child Support Formula Evaluation
- Pro Bono Project

### ETHICAL STANDARDS AND DISCIPLINE COMMITTEE

- Review of Rules, Canons, and Regulations
- Evaluation of Enforcement Efforts
- Education and Training of Judges and Lawyers
- Enhancing Public Awareness

### JUVENILE JUSTICE COMMITTEE

- Disproportionate Representation of Minorities and Females in Juvenile Justice
- Bias and Discretion in Juvenile Justice Decision-Making
- Community Based Prevention and Treatment Programs—A Best Practice Manual

### OPEN JUSTICE WITHIN THE COURT ENVIRONMENT COMMITTEE

- Jury Representation and Participation
- Mediation and Alternative Dispute Systems
- Public Information in the Courts

### PROFESSIONAL DEVELOPMENT AND OPPORTUNITIES COMMITTEE

- Professional Opportunities in the Judiciary
- Law Schools and Bias

### PUBLIC INFORMATION AND EDUCATION COMMITTEE

- Public Information about the OJC and its Committees
- *Michigan Bar Journal* Issue on Open Justice
- Speakers Bureau
- Open Justice Round Table
- Annual Meeting Program

### SEXUAL ORIENTATION AND GENDER IDENTITY COMMITTEE

- Education and Advocacy for Equality

### VIOLENCE AND CRIMINAL JUSTICE ISSUES COMMITTEE

- Hate Crime Prevention, Investigation, and Enforcement
- Race and Gender Bias in the Appointment of Attorneys to Fee Generating Positions in the Criminal Justice System
- Pro Bono for Domestic Violence Victims
- Comprehensive and/or Mandatory Education on Domestic Violence and Sexual Assault Issues for Judges, Magistrates, Referees, and Family Law Attorneys
- Sentencing Disparity

## THE OPEN JUSTICE COMMISSION IN PARTNERSHIP WITH OTHERS

During the last year the Commission has collaborated with numerous organizations in many of its projects, including the State Court Administrative Office, Michigan Judges Association, Plain English Committee, Office of the Chief Justice, Supreme Court Pro Se Task Force, Michigan Judicial Institute, Kent County Circuit Court, Calhoun County Circuit Court, Genesee County Circuit Court, Kalamazoo County Circuit Court, National Center for State Courts, Grand Rapids Bar Association, Legal Aid of Western Michigan, Michigan Migrant Legal Assistance, Dispute Resolution Center, University of Michigan Law School, Detroit College of Law at MSU, Wayne State University Law School, Thomas M. Cooley Law School and University of Detroit Law School, Bar Journal Advisory Board, Law and Media Committee, Arts and Entertainment Section, WKAR and MSU School of Journalism, Michigan Alliance Against Hate Crimes, Access to Justice Campaign, the Domestic Violence Coalition, SBM Domestic Violence Committee, Family Law

Section, a coalition of Legal Aid providers, Children's Law Section, Pro Bono Section, the Prosecutor's Association of Michigan, Straker Bar Association, and the Sentencing Guidelines Commission.

## COMMISSION GOALS FOR 2000-2001

The Commission anticipates that the following projects will be completed in the next year:

- Development of three new brochures on victim restitution (juvenile) garnishment and judgment enforcement
- Translation and distribution of selected District Court forms into eight languages
- Adoption of a testing and certification program for foreign language interpretation in courts
- Submission of a final report with recommendations on the status of persons with disabilities in the courts and the legal profession

## OPEN JUSTICE COMMISSION

### Membership

The Commission has drawn its membership from many jurisdictions and diverse backgrounds and expertise, including the judiciary, court administrative agencies, the organized bar, and academia. The president of the State Bar of Michigan appoints members of the Commission and its committees in consultation with and upon the recommendation of the co-chairs of the Commission.

#### Co-Chairs

Hon. Marilyn Kelly  
Justice, Michigan Supreme Court  
Hon. Harold Hood  
Judge, Michigan Court of Appeals

#### Special Advisor

Hon. Lorraine H. Weber  
State Bar of Michigan Consultant,  
Open Justice Issues

#### Commissioners

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Joan Mahoney  
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Attorney, Dykema Gossett PLLC, Detroit  
Hon. Wade Harper McCree  
Judge, 36th District Court, Detroit  
Hon. Patricia L. Micklow  
Former Judge, 96th District Court, Marquette  
Deborah L. Miela  
Trade Regulation Counsel, Kmart  
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Mayra Lorenzana Miles  
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Mt. Clemens  
Hon. Claudia House Morcom  
Former Judge, 3rd Circuit Court, Detroit  
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Hon. William B. Murphy  
Judge, Michigan Court of Appeals,  
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Hon. Michael L. Petoskey  
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Former Judge, 36th District Court, Detroit  
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Presiding Judge, Civil Division, 3rd Circuit  
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Judge, 3rd Circuit Court, Detroit  
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Director of Legal Resources, State  
Appellate Defender Office, Detroit  
Hon. Kurtis T. Wilder  
Judge, Michigan Court of Appeals, Detroit  
Hon. Carolyn H. Williams  
Presiding Judge, Family Division, 9th  
Circuit Court, Kalamazoo  
John Yun  
Attorney, Adkison, Need, Green & Allen,  
PLLC, Oxford  
**Ex-Officio**  
Thomas J. Ryan  
2000-2001 President of the State Bar  
of Michigan



- Creation of a Masters in Litigation seminar focusing on bias, discrimination and the effect of stereotypes in litigation (with the Litigation Section of the State Bar)
- Creation of a best practices manual on community-based primary and secondary prevention programs in Juvenile Justice
- Completion and distribution of the Manual for Improving Citizen Participation and Representation in the Jury Process
- Production of the Future Search Conference to plan for the Legal Assistance Center for the Kent County Courthouse
- Design, production and distribution of the television and video presentation entitled "And Justice for All"—an Open Justice Round Table
- Execution of a comprehensive education program for judges, court personnel, enforcement officials, and lawyers about the gay, lesbian, bisexual, and transgender community and the legal system
- Completion of an analysis of the impact of sentencing guidelines across race and gender lines
- Design and production of the Pro Bono Project for Domestic Violence Victims, including recruitment of attorneys, statewide training, and creation of a manual and curriculum for representation of domestic violence victims in civil matters
- Development of a prototype Cultural Awareness Curriculum for judges, lawyers, and court staff
- Distribution of a Bench/Bar Holidays and Observances Guide



- Creation of a *Michigan Bar Journal* issue devoted exclusively to the Commission and Open Justice concerns

## CONCLUSION

Numerous members of the legal profession and the judiciary have contributed to the development of open justice initiatives in Michigan. They are to be congratulated for the quality of their work, the clarity of their vision, and

the level of their effort. They have served the citizens of our state well. The State Bar of Michigan Open Justice Commission was created out of these efforts. The articles contained in this special edition of the *Michigan Bar Journal* highlight a small portion of the Open Justice Commission agenda. Every member of the Commission knows that this work can be accomplished only through the combined partnership of concerned judges, lawyers, and citizens throughout the state.

For more information about the work of the Open Justice Commission, its committees and projects, or to volunteer time and talent, we encourage you to contact us in any of the fol-

lowing ways. WRITE: Open Justice Commission, State Bar of Michigan, 306 Townsend Street, Lansing, MI 48933-2083; PHONE: (800) 968-1442 ext. 6335; FAX: (517) 482-6248; E-MAIL: [jhershkowitz@mail.michbar.org](mailto:jhershkowitz@mail.michbar.org); or visit our website at [www.michbar.org](http://www.michbar.org) Information booklets are available for individuals or groups at no charge. ◆

*Lorraine H. Weber is the special advisor to the Open Justice Commission.*