
The Michigan Supreme Court Task Force on Gender Issues in the Courts

**Conclusions and
Recommendations**

Dedication

The Task Force dedicates this report to the memory of G. Mennen Williams, an outstanding national leader and humanitarian. Following his sixteen year tenure on the Michigan Supreme Court, including four years as Chief Justice, Justice Williams carried out the role of honorary chairperson of the Task Force with vigor and enthusiasm until his sudden death on February 2, 1988. Our knowledge of his expectations for the project and his commitment to equal justice inspired the Task Force in our work.

**MICHIGAN SUPREME COURT
TASK FORCE ON GENDER ISSUES IN THE COURTS
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INTRODUCTION

The Task Force's Mandate

A fundamental principle of our constitutional government is that discriminatory treatment on the basis of race, gender, economic class, religion, or physical condition cannot and will not be tolerated. Bias damages a court in its fundamental role as dispenser of justice.

With these words, the Michigan Supreme Court Citizens' Commission to Improve Michigan Courts called in 1986 for the creation of task forces on gender and racial/ethnic issues in the courts. In its year-long examination of the Michigan courts, the Citizens' Commission found a significant and disturbing perception among Michigan citizens: over one-third believed that the Michigan court system discriminated against individuals on the basis of gender, race or ethnic origin.

Several states throughout the country had by 1986 created joint bench and bar commissions to study the effect of gender discrimination in their court systems. The State Bar of Michigan, the Women Lawyers Association of Michigan and numerous individual members of the Michigan judicial and legal community endorsed the Citizens' Commission's call for the Michigan Supreme Court to support a similar effort.

On September 15, 1987, the Justices of the Michigan Supreme Court issued Administrative Order No. 1987-6 creating the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts. The Supreme Court directed the Task Forces "to examine the courts and to recommend revisions in rules, procedures and administration of the courts to assure equal treatment for men and women, free from race or gender bias".

The Task Force on Gender Issues in the Courts reports that its two-year examination of the Michigan courts establishes, as the Citizens' Commission suggested, that a substantial number of Michigan citizens believe that gender bias affects justice in the Michigan court system. The Task Force further concludes that the perceptions of gender bias are rooted in reality. Gender bias adversely affects the interpretation and application of substantive laws, practices and procedures; the treatment of and relationships among participants in the court system, including parties, victims of violence, children of divorce, witnesses, court employees, judges and lawyers; and related educational institutions and professional associations. The Task Force investigated the concerns of both men and women and found that gender bias adversely impacts both sexes.

The Task Force defined gender bias as:

... the tendency to think about and behave toward others primarily on the basis of their sex. It is reflected in attitudes and behavior toward women and men which are based on stereotypical beliefs about the "true nature", "proper role" and other "attributes" of the gender.

The Task Force recommends a variety of reforms to address gender bias, ranging from specific to general. Some require implementation by the Supreme Court; others by bar associations,

disciplinary agencies, law schools, court administrators and law firms. However, the conclusions and recommendations in the Task Force's Final Report focus on five areas. This document sets the full text of those conclusions and recommendations, as follows:

Topic	Final Report Section
The Courts' Response to Violence Against Women	Section V
Domestic Relations	Section VI
Gender Bias Within the Court Environment	Section VII
Status of Women in the Profession	Section VIII
Joint Recommendations of the Task Force on Racial/Ethnic and Gender Issues in the Courts - Relating to Ethical Standards and Disciplinary Systems; Education; and Implementation	Section IX

The Final Report of the Michigan Supreme Court Task Force on Gender Issues in the Courts details the Task Force's methodology, research and findings, as well as, conclusions and recommendations. It has been provided to all Michigan depository libraries. Additional copies will be available after January 19, 1990 at a cost of \$7.00 from:

Department of Management and Budget
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7461 Crowner Drive
Lansing, MI 48913

THE COURTS' RESPONSE TO VIOLENCE AGAINST WOMEN

CONCLUSIONS

Domestic Violence

Conclusion V-1: Domestic violence is a serious problem for women and children.

Conclusion V-2: Criminal and civil remedies are available under Michigan law.

Conclusion V-3: Myths and misconceptions about the nature of domestic violence and the characteristics of victims and assailants sometimes interfere with the ability of the system to properly respond to the crime. Some examples of myths that prevent effective use of existing legal remedies are:

- a. domestic violence is not a serious crime; it is a private family matter;
- b. victims provoke the violence;
- c. victims must enjoy the violence or else they would leave;
- d. families must be preserved or at least not disturbed; criminal justice intervention may jeopardize family relationships.

Conclusion V-4: Domestic violence is a crime. The response of the criminal justice system to domestic violence should be the same as the response to physical and/or sexual assault between strangers. Decisions about prosecution and disposition should be based on the nature and seriousness of the criminal conduct, not the relationship between the parties. The legal system does not uniformly and clearly:

- a. hold assailants accountable for their conduct;
- b. protect victims and treat them with respect;
- c. encourage and support effective and appropriate response to domestic violence by law enforcement agencies;
- d. let assailants and the community know that battering is crime which will not be tolerated.

Women as Criminal Defendants

Conclusion V-5: Women defendants in victim-precipitated homicides may be treated unfairly by the criminal justice system due to gender-based attitudes and a lack of understanding of the effects of prolonged abuse. Primarily, they may be blamed for not leaving their home or the relationship before the killing occurred.

Conclusion V-6: Self-defense and the use of expert testimony on "the battered woman's syndrome" for the purpose of establishing the defendant's state of mind at the time of the killing are not consistently used in defending these cases in Michigan.

Conclusion V-7: The past violent acts and reputation for cruelty and violence of the decedent, and the defendant having no duty to retreat from her own home in the face of an attack, are legal issues which are not consistently raised, developed, or admitted in these cases. In some cases, the proper jury instructions as to these legal rules may not be given or requested.

Conclusion V-8: The existing criminal jury instruction on the use of deadly force in self-defense cases does not address the issue of defense against sexual assault.

Women as Victims

Conclusion V-9: The Michigan criminal sexual conduct statute has made a difference in the prosecution and conduct of rape trials. Problems remain related to the failure of participants in the criminal justice system to understand the provisions of the statute or their unwillingness to follow the law.

Conclusion V-10: Resources are not always available for courts to provide separate waiting areas for victims, making them vulnerable to intimidation, stress and fear of the process.

Conclusion V-11: Juror bias may reinforce the idea that a woman invites and deserves abuse.

Conclusion V-12: The rape shield provision is violated by inappropriate questioning about the victim's past sexual history.

Conclusion V-13: Judges, attorneys and court personnel are not always appropriately aware of or sensitive to the nature and trauma of sexual assault cases.

Conclusion V-14: No-contact condition bonds are not uniformly used or enforced.

Conclusion V-15: Unduly lenient sentences may result from:

- a. unrealistic optimism about the effectiveness of therapy;
- b. lack of training for judges and personnel making recommendations;
- c. greater value placed on the male than the female; and
- d. belief that the victim is somehow responsible for the crime.

Conclusion V-16: Civil suits against victims for defamation of character may be used to intimidate women and avoid the rape shield laws.

Conclusion V-17: Stereotypes which minimize the emotional and physical trauma which women experience when they are victimized may affect civil as well as criminal cases and result in the award of lesser damages.

Conclusion V-18: Sexual assaults are not consistently recognized as crimes which should not be treated differently from any other assault.

RECOMMENDATIONS

Domestic Violence

Recommendation V-1: Every prosecutor's office should have written policies and procedures that encourage aggressive prosecution of domestic violence cases. They should provide that:

- a. Domestic assaults will be charged at the appropriate level of seriousness, based on the nature of the criminal conduct.
- b. The victim is not required to sign the formal complaint against the assailant.
- c. The assailant and the victim are to be told that it is the responsibility of the prosecutor to proceed with the case and that no case will be dropped simply because the victim so requests.
- d. Waiting or "cooling off" periods are not required before warrants are issued.
- e. Peace bonds will not be utilized in domestic violence cases.

Recommendation V-2: The Prosecuting Attorneys Association of Michigan and the Prosecuting Attorneys Coordinating Council should be encouraged to work with the Domestic Violence Prevention and Treatment Board and the Michigan Coalition Against Violence to develop model policies and procedures and to encourage the collection of statistics on domestic violence cases.

Recommendation V-3: The Prosecuting Attorneys Association of Michigan and the Prosecuting Attorneys Coordinating Council should be encouraged to work with the Domestic Violence Prevention and Treatment Board and the Michigan Coalition Against Domestic Violence to develop training programs for prosecutors on the nature of domestic violence, the characteristics of victims and assailants, the impact of domestic violence on children in the home, the effectiveness of arrest and prosecution of assailants, and issues of self-defense as pertaining to women who kill their batterers.

Recommendation V-4: Prosecutors should establish special prosecution units for domestic violence cases in those jurisdictions where the volume of those cases permits. These units would make it possible for the same prosecutor to handle cases from intake through final disposition.

Recommendation V-5: Prosecutors should inform victims how they can obtain spouse abuse injunctions and referrals to domestic violence programs and social services and should prepare victims to participate in prosecutions by explaining the functions of courts and prosecutors, steps in the process between charging and disposition, the number of hearings which may be required and the possible outcomes.

Recommendation V-6: Whether criminal action and/or a violation of a spouse abuse injunction occurs, the prosecuting attorney should be responsible to go forward with the action.

Recommendation V-7: The Supreme Court and State Court Administrative Office should issue appropriate procedural guidelines to ensure that spouse abuse injunctions permitted under civil law are available in every circuit. They should also take steps to guarantee that all administrative orders and local rules comport with statutory requirements (MCR 8.112) before approval.

Recommendation V-8: Mutual injunctions should not be issued prohibiting physically abusive behavior unless the record justifies a finding that both parties have exhibited physically abusive behavior.

Recommendation V-9: Judges should consider violence or threatened violence by one spouse toward another in making custody and visitation decisions. Violence should be specifically included in the "best interest" standard for custody decisions.

Recommendation V-10: Procedures should be put in place that permit victims to obtain spouse abuse injunctions regardless of their education or economic status. They should include:

- a. Statewide availability and use of pro per injunctions with instructions for their use.
- b. Judges should effectively enforce injunctive orders through use of jail and/or fines, and should separate the couple if violence is a continuing thing.

Recommendation V-11: The Michigan Supreme Court should monitor the sentencing practices of judges, including the factors used to determine the sentences imposed and the reliance upon diversion/expungement and counseling as an alternative to incarceration in domestic violence cases, in order to determine effectiveness and to effectuate desired changes.

Recommendation V-12: When an alleged assailant is released, judges and magistrates should restrict the assailant's access to the victim, as a condition of bond or sentence.

Recommendation V-13: The Supreme Court should mandate education for all judges, magistrates and referees on the nature of domestic violence, the characteristics of victims and assailants, the impact of domestic violence on children, the impact of economic decisions on abusive relationships and the effectiveness of arrest and prosecution of assailants.

Recommendation V-14: Domestic violence cases should receive a high priority and be granted calendar preference. The timeliness of case handling should be monitored.

Recommendation V-15: Court personnel should receive training on the nature of domestic violence, the characteristics of victims and assailants, the impact of domestic violence on children, and the effectiveness of arrest and prosecution of assailants.

Recommendation V-16: The State Bar through the Family Law and Criminal Law sections and other appropriate agencies should provide continuing legal education to family law and defense attorneys on the nature of domestic violence, the characteristics of victims and assailants, the impact of domestic violence on children, the impact of economic decisions on abusive relationships and the effectiveness of arrest and prosecution of assailants as well as criminal and civil remedies, the availability of community resources, and issued related to self-defense for women who fight back.

Recommendation V-17: The State Bar should develop programs to provide legal assistance to victims of domestic violence. This should entail further efforts toward the adoption of the proposed mandatory IOLTA Program which is essential to secure additional funding for indigent legal services, particularly in light of recent federal funding reductions. Additionally, the State Bar should adopt a pro bono program to provide legal representation for domestic violence.

Recommendation V-18: The Crime Victims Compensation Act should be amended to allow payments to victims residing in the same household as the assailant.

Women as Criminal Defendants

Recommendation V-19: All participants in the criminal justice system should receive education on "the battered woman's syndrome" to ensure an understanding of the complex nature of the problem and why such victimized women should not necessarily be held criminally responsible.

Recommendation V-20: The standard criminal jury instructions should be revised to add defense against sexual assault as a situation in which the use of deadly force may be justified.

Recommendation V-21: Expert testimony concerning the battered woman's syndrome should be admissible in Michigan courts to develop a self-defense claim and provide the trier of fact with guidance as to why a defendant perceived herself to be in imminent danger or death or serious bodily injury at the time of the killing.

Recommendation V-22: Sentencing guidelines should be amended to allow mitigation based on the dire circumstances present in many cases involving battered women.

Women as Victims

Recommendation V-23: Judges, attorneys and court personnel should receive education in the following areas:

- a. Michigan Criminal Sexual Conduct Code and related law;
- b. dynamics of criminal sexual conduct, options for and efficacy of various treatment modalities for sex offenders and the long and short-term impact of sexual assault on victims; and
- c. the use of pre-trial techniques and courtroom controls to limit inappropriate trial tactics and intimidation of the victim.

Recommendation V-24: Courts should be provided with separate waiting areas for victims and other prosecution witnesses and should utilize all available mechanisms to protect such individuals from harassment and intimidation.

Recommendation V-25: Jury instructions should be reviewed to ensure that bias is addressed to the end that juror biases will be minimized. Jury instructions should reflect the spirit and intent of the Criminal Sexual Conduct Code. A jury instruction for the elimination of the marital rape exception should be developed.

Recommendation V-26: Legislation should be adopted which prohibits the filing of a civil damage action until completion of any related criminal sexual conduct case during the pendency of which the statute of limitations would be tolled.

DOMESTIC RELATIONS

CONCLUSIONS

General

Conclusion VI-1: Fundamental attitudes about men and women, divorce and the role of judges and lawyers contribute to gender disparity in domestic relations cases.

Conclusion VI-2: The resolution of economic issues is often premised on misconceptions about the economic consequences of divorce for women.

Conclusion VI-3: The status and importance of domestic relations cases are not uniformly established in the minds of some judges and attorneys. In some instances, cases take too long, are unreasonably delayed or are forced into settlement. The financially weaker party is often least able to afford an extended wait and most vulnerable to the increase in costs and fees created by the delay.

Conclusion VI-4: The Michigan appellate courts have failed to establish clear judicial direction on important domestic relations issues. There are few limits on trial court discretion and little guidance for judges on matters involving the lives and livelihood of men, women and children.

Alimony

Conclusion VI-5: The manner in which alimony is determined and awarded profoundly affects the lives of the parties. Alimony is often not awarded when it should be or is awarded for too short a period of time and in inadequate amounts. This places women in a financially disadvantaged position after divorce. Older, long-term homemakers have little or no chance to become self-supporting at a standard of living commensurate with that enjoyed during the marriage. Divorce orders often provide for the automatic termination of alimony upon remarriage.

Conclusion VI-6: Enforcement of alimony orders is inadequate.

Conclusion VI-7: Some judges and attorneys fail to recognize a spouse's loss of career or career potential as a meaningful contribution to the economic partnership of the marriage.

Property

Conclusion VI-8: Marriage is not consistently viewed by the courts and the bar as an economic partnership in matters related to the division of marital property. In some cases, the contribution of the homemaker/mother is not recognized as having provided an economic benefit to the marriage.

Conclusion VI-9: In order for a traditional 50/50 property split to be fair and equitable to both parties, it must take into account the wage-earner's profession or career as an asset arising out of the marriage.

Conclusion VI-10: In many cases, a non-earning spouse has little knowledge of what property the parties own, or its value, and has a difficult burden in discovering the nature and extent of the marital estate. There are few meaningful adverse consequences to a party who hides or disposes of marital assets and thus avoids inclusion of such assets in the property award.

Conclusion VI-11: In some cases, a presumption exists that men should be awarded income producing assets and women the non-income producing assets, without adjusting for the added value of the available future income of the former or for the increased costs of maintenance and repair of the latter. This presumption may apply even where both parties have participated equally in the creation and operation of the business.

Conclusion VI-12: In some cases, a demand for custody of the minor children is used as a bargaining chip in property negotiations, often to the disadvantage of the woman who may voluntarily relinquish a claim to property in order to make sure that she receives custody of the children.

Child Support

Conclusion VI-13: The failure to award adequate child support and to enforce child support orders causes significant economic hardships to children and their custodial parent (who is usually the mother).

Conclusion VI-14: Through the child support guidelines, Michigan has sought to address the appropriate level of support required and has established expedited procedures for immediate or temporary support and provided for alternative collection methods.

Conclusion VI-15: Problems relating to child support are:

- a. Awards frequently are inadequate and appear to be based on what the father can comfortably afford rather than the earlier standard of living of the children and their special needs. Child support guidelines are often viewed as a maximum and not merely as a guide. Some courts do not recognize the guidelines.
- b. Women often have inadequate resources to retain counsel to assist in collecting awards.
- c. In enforcement proceedings, repeated adjournments benefit the nonpaying parents and compromise the custodial parent's employment by necessitating numerous court appearances.
- d. Resources allocated to the Friend of the Court are inadequate.

Child Custody

Conclusion VI-16: Determinations of child custody are among the most important, difficult and demanding aspects of a judge's responsibility. In making such decisions, a judge should exercise his or her discretion based on the "best interest of the child" standard instead of stereotypes about the traditional roles of men and women as parents.

Conclusion VI-17: Stereotypes that influence some judges and that disadvantage fathers include:

- a. Mothers are presumptively preferred as custodial parents, resulting in counsel's advice to fathers not to litigate custody because they have little chance of winning.
- b. Some judges do not realize that some fathers genuinely are, and desire to continue to be, actively involved in parenting.

Conclusion VI-18: Stereotypes that influence some judges and that disadvantage mothers include:

- a. Fathers who exhibit any interest in parenting should be granted custody despite years of primary caretaking by mothers.
- b. Women who place great emphasis on careers, whether because of ambition or economic necessity, are sometimes considered less fit to be awarded custody than men who place a similar emphasis on their careers.
- c. Women's extra-marital and post-divorce social relationships are sometimes judged by a stricter standard than are men's.
- d. When judges look to financial status or the presence of a stay-home mother as a factor in deciding custody, the lower post-divorce economic status of women--caused in part by inequitable maintenance, property and child support awards--disadvantages the mother seeking custody.
- e. Women forced to leave home to escape domestic violence may be viewed as unstable and less fit to receive custody

Conclusion VI-19: The adversarial nature of the divorce process makes contested decisions involving children difficult and counterproductive. Custody often becomes a bargaining chip to gain an advantage in negotiations over other issues.

Conclusion VI-20: The longer a custody battle takes the more disadvantage incurred by the non-custodial parent and the more difficult it is for the family.

Conclusion VI-21: Delay in deciding disputes which involve allegations of sexual abuse may result in unnecessary harm to the child and, in some cases, to the father.

RECOMMENDATIONS

General

Recommendation VI-1: Educational programs should train judges and lawyers to recognize the unfairness which can result from gender-based stereotypes in the domestic relations area. These training programs should emphasize the special importance of domestic relations litigation to the parties involved and to society. Such programs should explore fully the economic realities facing women after divorce.

Recommendation VI-2: Mechanisms should be created within the system which will assist a financially disadvantaged party in bearing the expenses of litigation.

Recommendation VI-3: The Michigan bar examination should include a domestic relations component. Law schools in Michigan should be encouraged to include information concerning not only the substantive law of domestic relations but also its economic and social consequences for men, women and children.

Recommendation VI-4: Domestic relations should be recognized by the judicial system and the practicing bar as a vital area of practice affecting a large number of litigants which requires expertise in substantive law and procedure and awareness of the psychological factors experienced by people in divorce.

Alimony

Recommendation VI-5: The Supreme Court should establish a Task Force to develop statewide guidelines for alimony awards.

Recommendation VI-6: The Supreme Court should adopt rules and procedures to foster prompt enforcement of alimony awards.

Recommendation VI-7: Judges should impose meaningful sanctions for failure to comply with alimony orders.

Recommendation VI-8: Judges and attorneys should be trained in the economic consequences of divorce for men and women.

Property

Recommendation VI-9: Judges and lawyers should be educated about the value and relevance of non-monetary contributions to a marriage in dividing the marital estate. Evidence should be introduced to establish the extent and value of such contributions.

Recommendation VI-10: In accordance with appellate decisions, the value of a career to which both parties have made contributions should be included as a marital asset and appropriately distributed.

Recommendation VI-11: Both parties should be required to disclose all assets in the early stages of a divorce action. Failure to disclose assets should result in the imposition of meaningful sanctions such as default, an award of actual attorney fees and costs or contempt. If undisclosed assets are later discovered, there should be a rebuttable presumption that they were deliberately concealed, resulting in the award of 100% of such assets to the injured party unless the presumption is overcome by the non-disclosing party.

Recommendation VI-12: An economically disadvantaged party should be awarded attorney fees and costs early in the proceedings to allow for adequate preparation of the case.

Recommendation VI-13: There should be no presumption that income-producing assets of the parties should be awarded automatically to one or the other of the parties.

Child Support

Recommendation VI-14: Training programs for lawyers, judges, and hearing officers should include:

- a. current, accurate information about the costs of child raising, the costs and availability of child care and other data essential to making realistic child support awards;
- b. identification of all available enforcement mechanisms under new and existing laws and stress on the importance of utilizing them to the fullest extent of the law; and
- c. the child support guidelines.

Recommendation VI-15: The determination of child support should be made with special consideration given to:

- a. alleviation of the disproportionate percentage of income contributed by divorced mothers and fathers to the support of their children, (e.g., husband's wages equal 80% of total family earnings, but he contributes 12% to 20% of his income to child support, while mother's wages equal 20% of total "family" earnings but she contribute 80% of her income to child support); and

- b. application of the guidelines as a guide and not as a maximum standard, with the actual needs and prior standard of living of the child as the most important determining factors.

Recommendation VI-16: Legislation should permit the courts to impose an obligation on the non-custodial parent to share the cost of post high school education.

Recommendation VI-17: Greater resources should be allocated to the Friend of the Court system in order to secure prompt and effective enforcement of child support orders.

Recommendation VI-18: The Friend of the Court should periodically review child support orders to avoid the need for the custodial parent to raise issues of changed income.

Recommendation VI-19: Opportunities should be given outside of ordinary working hours for parents to confer with the Friend of the Court office personnel.

Child Custody

Recommendation VI-20: Courts should use non-adversarial dispute resolution mechanisms such as conciliation and mediation to resolve custody disputes. Voluntary agreements with parents should be encouraged regarding major decisions concerning: education, enrichment activities, travel, medical problems, notice by the custodial parent of the whereabouts of the child and unlimited phone contact. However, such mechanisms should not be used in situations of domestic violence where unequal bargaining positions should be assumed.

Recommendation VI-21: Educational programs for judges should emphasize that the "best interest" of the child should specifically relate to the individual parenting ability of each party and not the societal role placed upon their gender.

Recommendation VI-22: Custody decisions should be expedited and should be separated from decisions on economic issues. Michigan Court Rule 3.206(F) directs that custody decisions be expedited. Trial courts should make every effort to comply with this rule. In order to ensure compliance, adequate Friend of the Court funding and staffing should be provided.

Recommendation VI-23: Where sexual abuse allegations are made, specific expedited time limits should be established and adhered to. Special training for judges concerning the underlying issues, as well as access to juvenile court resources and expertise, should be provided.

Recommendation VI-24: In any divorce proceeding or post-divorce proceeding where an allegation of child sexual abuse is made by one party against the other, the circuit court should refer the matter immediately to the probate court for prompt review and recommendation as to future custody and/or visitation of the minor children.

Visitation

Recommendation VI-25: Uniform standards and guidelines for frequency and duration should be established when parents are unable amicably to establish visitation arrangements.

Recommendation VI-26: Visitation and child support should be treated as separate issues.

Recommendation VI-27: Clear and consistent methods for enforcement of orders consistent with the best interest of the children should be adopted statewide.

Recommendation VI-28: Meaningful consequences for violation and/or interference with visitation orders should be imposed on the offending parent.

Recommendation VI-29: Judges and prosecutors should encourage the procedures outlined in the Support and Visitation Enforcement Act, which permits the injured party to bring the issue to the attention of the Friend of the Court and/or judge in pro per.

Recommendation VI-30: Mediation projects such as the Clinton County Mediation/Consultation Project should be studied to determine whether changes in legislation or court rules are needed.

GENDER BIAS WITHIN THE COURT ENVIRONMENT

CONCLUSIONS

Treatment of Women Judges, Attorneys, Litigants, Witnesses and Jurors

Conclusion VII-1: Female litigants, witnesses, judges, lawyers and court personnel in the Michigan court system are subjected to discourteous and disrespectful conduct not encountered by their male counterparts.

- a. Patronizing language, improper forms of address and references to appearance and marital status undermine credibility and isolate female litigants, witnesses, judges, attorneys and court staff.
- b. Verbal and physical actions such as interruptions, male-only conferences and directed conversations exclude women or ignore their presence.
- c. Jokes or demeaning comments are made by some judges, lawyers and court staff within the court environment.
- d. Male attorneys "bully" female litigants, witnesses or attorneys in a manner which transcends acceptable advocacy techniques.

Conclusion VII-2: Sexual harassment of women occurs in the Michigan court system, including jokes, sexual references, physical touching and implied or overt pressure for sexual favors.

Conclusion VII-3: Some judges and attorneys appear to accord less credibility to the claims, testimony and statements of female litigants, witnesses and lawyers. They may express undue impatience with or harsh criticism of women in the courtroom which they do not express with respect to men in comparable situations.

Conclusion VII-4: Some judges and attorneys appear to tolerate or encourage certain behavior by male professionals which they devalue in female professionals such as aggression, assertiveness and other departures from the "feminine" ideal.

Appointment of Women to Fee Generating Positions

Conclusion VII-5: In comparison to their male counterparts, women attorneys do not receive an equitable share of the available appointments in all jurisdictions, or of the assignments to more serious criminal cases and cases which are high profile or economically lucrative.

Mediation

Conclusion VII-6: Some mediation panel members are insensitive to the existence and impact of gender bias in their decision-making and their treatment of women attorneys and litigants.

Conclusion VII-7: Mediation panels do not include a representative number of female participants.

Treatment of Court Personnel

Conclusion VII-8: Michigan courts do not have uniform policies and standardized procedures relating to personnel and employment matters.

Conclusion VII-9: There is a lack of standardized data collection regarding the employment status, recruitment, hiring and benefits respectively accorded male and female employees in Michigan courts.

Conclusion VII-10: Courts lack parental leave and temporary disability policies.

RECOMMENDATIONS

Treatment of Women Judges, Attorneys, Litigants, Witnesses and Jurors

Recommendation VII-1: The Michigan Supreme Court should issue an Administrative Order that behavior exhibiting gender bias in the court environment is not acceptable and that judges must set an example by not engaging in or permitting such behavior in chambers, courtroom or administrative areas.

Recommendation VII-2: The Michigan Supreme Court should require the Michigan Judicial Institute ("MJJI") to provide education in the following areas:

- a. awareness training for judges on the definition, recognition and impact of sexist behavior; and
- b. the importance of language.

Recommendation VII-3: All court administrators should:

- a. direct that all forms, manuals, bench books, and correspondence employ gender-neutral language;
- b. establish a policy prohibiting gender-biased conduct by all judges and court personnel;
- c. conduct regular training for court employees on the issue of gender bias and its relation to the proper function of the court as a service provider; and
- d. when undertaking improvements to court facilities, take into account the special needs of parents by providing for child care areas and facilities.

Recommendation VII-4: Jury instructions should be continually monitored to ensure gender neutrality. Some jury instructions should be amended to include specific examples of the types of bias jurors must guard against and the ways in which such bias might influence their decision-making.

Recommendation VII-5: The State Court Administrative Office should be empowered to investigate allegations of gender bias on the part of court personnel.

Appointment of Women to Fee Generating Positions

Recommendation VII-6: Records of appointments to fee-generating positions by type of position, gender of appointee and fee generated should be maintained and monitored.

Recommendation VII-7: Such appointments should be distributed fairly among qualified male and female attorneys.

Recommendation VII-8: Mechanisms for appointment of assigned counsel in the jurisdictions in which their members practice should be reviewed and a means should be developed to ensure that appointments to fee-generating positions are fairly distributed among qualified male and female attorneys.

Mediation

Recommendation VII-9: The number of women appointed to mediation panels should be increased through the use of the following mechanisms:

- a. consistent, established objective criteria for appointment;
- b. a clear, advertised and available application process;
- c. public access to mediation statistics profiling selection and panels; and
- d. inclusion of women representatives as plaintiff, defense and neutral mediators.

Recommendation VII-10: Courts should monitor any agencies to which they refer cases for mediation for gender diversity and should decline referrals to any agency which does not fairly utilize women mediators. Where mediators are routinely appointed by individual judges, efforts should be made to report and review those appointments based upon the same considerations.

Recommendation VII-11: To the extent that courts, either by practice or court rule, refer cases to alternative dispute resolution, assignments as mediators, arbitrators or special masters should be available to attorneys regardless of gender. The referring court or judge has the affirmative obligation to ensure that any private agency receiving such assignments utilizes lawyers from both genders.

Recommendation VII-12: Appointing agencies should establish standards for conduct of mediation panels, arbitrators and special masters and make these individuals aware that discrimination in the discharge of their duties is not acceptable in any form or manner.

Recommendation VII-13: Women should be present in all aspects of mediation, arbitration or alternative dispute resolution and the compensation of these positions shall be provided without disparity based upon the gender of the individuals.

Treatment of Court Personnel

Recommendation VII-14: Standardized employment policies and procedures should be adopted by the Supreme Court for the administration of Michigan courts with particular emphasis on:

- a. equal employment goals;
- b. sexual harassment;
- c. disability and parental leave; and
- d. flexible work schedules.

All courts should be required to promulgate written policies which accord with these standards.

Recommendation VII-15: Data should be collected annually from Michigan courts which correlates job classification, salary level and hiring, recruitment and promotion decisions with gender factors.

Recommendation VII-16: Training programs should be developed for the executive component (Chief Judge, Court Administrator) of the courts to teach administrative topics which impact disparately upon male and female court employees.

Recommendation VII-17: Education programs should be developed for all judicial and court support personnel addressing issues of gender bias and sexual harassment in the administrative environment.

Recommendation VII-18: A mechanism for monitoring administrative compliance with Supreme Court standards should be developed.

Recommendation VII-19: The Michigan legislature should implement "One Court of Justice" to facilitate standardized administrative delivery systems and uniform, equitable enforcement of gender-neutral policies and management practices.

THE STATUS OF WOMEN IN THE PROFESSION

CONCLUSIONS

Representation

Conclusion VIII-1: Underrepresentation of women as judges and quasi-judicial officers and other public servants involved in the justice system such as Assistant Attorneys General, prosecutors, public administrators and public defenders affects public confidence in, and the effectiveness of, the justice system.

Professional Associations

Conclusion VIII-2: Women are underrepresented on the State Bar Board of Commissioners, and the limited appointive process now utilized by the Michigan Supreme Court fails to address the imbalance.

Conclusion VIII-3: Local bar associations do not consistently provide a hospitable atmosphere for women members.

Conclusion VIII-4: Women are underrepresented in State Bar section leadership.

Employment

Conclusion VIII-5: During the recruitment process, female law students and female candidates for employment may be asked illegal interview questions related to family responsibility, husband's attitudes, future family plans and the applicant's appearance and gender.

Conclusion VIII-6: Women lawyers are economically disadvantaged in comparison with their male colleagues and underrepresented in some areas of practice.

Conclusion VIII-7: The following work policies are not consistently recognized as legitimate alternatives to traditional work arrangements for both men and women attorneys: part-time employment, flexible work schedules, non-traditional promotional tracks, parental and family leave and flexible child care arrangements.

Conclusion VIII-8: Women practicing in law firms may experience difficulties related to lack of upward mobility into positions of authority (i.e., partnership), greater difficulty in establishing positive mentor relationships, increased rate of attrition and lack of access to the same economic benefits as their male colleagues.

Law School

Conclusion VIII-9: Compared to the percentage of women law students there is underrepresentation of women on law school faculties and as tenured law school professors.

Conclusion VIII-10: Women law professors' professional legitimacy and the respect accorded by colleagues and students are negatively affected by the small number of women professors and the lack of knowledge about women's issues.

RECOMMENDATIONS

Representation

Recommendation VIII-1: The Governor should continue to appoint more women to the bench.

Recommendation VIII-2: Courts should appoint more female referees, magistrates and quasi-judicial personnel in numbers sufficient to represent the demographics of the population they serve.

Recommendation VIII-3: Appointing authorities should increase the representation and influence of women in the offices of the Attorney General, prosecutors and public administrators.

Professional Associations

Recommendation VIII-4: The Supreme Court should adopt a mechanism to increase the number of female appointees to the Board of Commissioners or otherwise ensure adequate representation.

Recommendation VIII-5: The Supreme Court's policy prohibiting reappointment of its appointees to the Board of Commissioners should be revised to permit appointments for at least two terms, thereby enabling appointees to run for election for State Bar office, including the presidency.

Recommendation VIII-6: The Local Bar Liaison Committee, the "On The Road" publication, the Presidents-Elect Conference and other communications mechanisms of the State Bar should be used to raise the consciousness of local bar associations to the need for establishing an hospitable atmosphere for new women members.

Recommendation VIII-7: The leadership of the State Bar should continue efforts to eliminate bias in the profession and should encourage local bar associations to make such efforts an important priority.

Recommendation VIII-8: State Bar sections must increase their efforts to recruit women members and must aggressively pursue policies designed to increase the number of women serving on the section councils and as section officers.

Employment

Recommendation VIII-9: The State Bar should establish model employment policies for the profession which contain gender-neutral standards for recruitment and interviewing and for mentoring and prescribe exit interviews which include gender-related concerns. It should provide educational programs concerning these policies.

Recommendation VIII-10: The State Bar should participate in and support the adoption of gender-neutral standards for recruitment and interviewing at Michigan law schools.

Recommendation VIII-11: The State Bar should establish model employment policies in the areas of part-time employment, flexible work schedules, non-traditional promotional tracks, parental and family leave and flexible child care arrangements and sponsor the development of informational material and provide educational programs concerning these issues.

Recommendation VIII-12: The State Bar should investigate establishing a program for women attorneys similar to the Michigan Minority Demonstration Project in order to give women attorneys the opportunity for increased exposure to clients and to business opportunities, as well as other programs which address the economic concerns of women attorneys.

Recommendation VIII-13: The State Bar should conduct a survey every three years of Michigan law firms regarding: the gender composition of their attorneys by partnership categories/staff/associate status and by number of years in practice; mentoring policies and practices; and attorney net income by gender, years in practice, practice classification, size of firm, office location and other relevant variables. It should publish the results of the survey in the Michigan Bar Journal.

Law Schools

Recommendation VIII-14: Law school textbooks, course materials and classroom presentations should be reviewed and altered where necessary to eliminate overt and subtle gender bias.

Recommendation VIII-15: Law school faculty and administrative policies should reflect a commitment to train attorneys who will be sensitive to and aware of manifestations of gender discrimination and its effects.

Recommendation VIII-16: Professors should be taught the need for and use of gender issues discussions in substantive law courses. All professional ethics classes should cover gender discrimination as it affects law practice, treatment of fellow professionals and treatment of court users.

JOINT RECOMMENDATIONS OF THE TASK FORCES

CONCLUSIONS

Ethical Standards and Disciplinary Systems

Conclusion IX-1: The existing Attorney Rules of Professional Conduct and the Code of Judicial Conduct do not contain specific grievable provisions which prohibit gender or racially or ethnically discriminatory conduct on the part of judges, quasi-judicial officers or lawyers.

Education

Conclusion IX-2: Judicial education programs are an effective means of dealing with bias in the Michigan court system.

Conclusion IX-3: A substantial proportion of judges would be interested in attending a program which would discuss the impact of bias on the Michigan court system.

Conclusion IX-4: Attorney education is necessary to deal with bias in the profession and the Michigan court system.

Conclusion IX-5: Education of court personnel is necessary to deal with bias in the Michigan court system.

Conclusion IX-6: Education at law schools is fundamental to deal with bias in the profession and in the Michigan court system.

Conclusion IX-7: Race/ethnic and gender bias issues can be integrated throughout educational curricula.

RECOMMENDATIONS

Ethical Standards and Disciplinary Systems

Recommendation IX-1: Judges, quasi-judicial officers and lawyers should be subject to a specific Judicial Canon and/or Michigan Rule of Professional Conduct precluding inappropriate gender or racial/ethnic comments or actions.

Recommendation IX-2: The Code of Judicial Conduct (Canon 3) should be amended to add an additional numbered paragraph under Section (A) providing that:

A judge shall not engage in sexual harassment or invidious discrimination and shall prohibit staff, court officials and others subject to the judge's discretion and control from doing so. A judge shall prohibit sexual harassment or invidious discrimination against parties, counsel or others on the part of lawyers in proceedings before the judge.

Recommendation IX-3: The Michigan Rules of Professional Conduct (MRPC 8.4) should be amended to state:

It is professional misconduct for a lawyer to:...

(f) Engage in sexual harassment or invidious discrimination.

Recommendation IX-4: General Court Rules 2.003 and 9.205 should be amended to provide for disqualification on the basis of such precluded behavior.

Recommendation IX-5: The disciplinary systems for attorneys and judges should actively promulgate policies and procedures designed to increase the confidence level of the public and the profession regarding their response and intervention in matters related to discrimination and bias.

Education

The Judiciary and the Courts:

Recommendation IX-6: Judicial education related to gender and race/ethnic bias in the courts should be a permanent component of the new judges' seminar as well as of regional seminars and separate curricula for judges on the bench. It should be presented in at least these forms:

- a. Task Forces' findings and recommendations should be presented for all judges on the bench, then for each group of new judges.
- b. Courses should be developed which examine gender and race/ethnic bias as they affect court system interactions and case or controversy outcomes with particular attention to an analysis of race and sex-based stereotypes, myths, beliefs and biases that may affect judicial decision making in numerous spheres which affect litigants.
- c. New and existing courses on substantive areas of the law should be continually updated from the perspective of gender and race/ethnic issues.

Michigan Judicial Institute and Professional Associations:

Recommendation IX-7: The Michigan Judicial Institute and professional associations should ensure that all educational components are sensitive to the issues of race/ethnic and gender bias by adopting standards which address the following items:

- a. Gender and race/ethnic neutral materials.
- b. Inclusion of women and racial/ethnic minorities as committee members, planners, faculty and speakers.
- c. Impact of race/ethnic and gender bias on issues related to substantive law areas.

Recommendation IX-8: Regular training should be conducted for court employees on the issues of gender and race/ethnic bias and their relation to the proper function of the court.

Recommendation IX-9: Faculty utilized in educational components should be trained regarding relevant issues of race/ethnic and gender bias.

Attorneys:

Recommendation IX-10: All entities which provide education for attorneys should be encouraged to:

- a. Include in ethics courses the nature and impact of gender and race/ethnic discrimination and bias on the profession. There should be an aggressive program of education regarding amendments proposed to the Michigan Rules of Professional Conduct, the Code of Judicial Conduct, and any other ethics amendments proposed to prohibit race/ethnic and gender bias, and the consequences flowing from violation of these provisions.
- b. Include components regarding the nature and impact of race/ethnic and gender discrimination and bias in a course in the mandatory continuing legal education currently being developed by the Standing Committee on Continuing Legal Education of the State Bar of Michigan, pursuant to State Bar Rule 17.
- c. Establish an educational standard which assures that all educational components are sensitive to the issues of race/ethnic and gender bias by addressing the following items:
 - 1) race/ethnic-gender-neutral materials.
 - 2) inclusion of women and racial/ethnic minorities as planners, faculty and speakers.
 - 3) impact of race/ethnic and gender bias on issues related to court system interaction and case or controversy outcome.
- d. Upon adoption of mandatory continuing legal education, adopt the above standard as a requirement for accreditation.

Recommendation IX-11: All entities which provide education including publication of literature for attorneys should review such literature to make sure it does not reflect race/ethnic or gender bias.

Law Schools:

Recommendation IX-12: Law schools have a very important role in educating future lawyers regarding the nature and impact of gender and race/ethnic bias in the profession. Michigan law schools should receive the Task Forces' reports and be requested to undertake the following actions:

- a. Include the Task Forces' conclusions and recommendations in the following areas:
 - 1) Court system interaction: to be included in clinical law and trial practice courses;
 - 2) Ethics: to be included in professional responsibility courses;
 - 3) Substantive areas of the law: to be included in courses covering said areas;

- 4) Task Forces' conclusions and recommendations where appropriate should be included in extra-curricular legal activities, such as moot court programs.

b. Sensitize faculty to race/ethnic and gender bias issues.

Recommendation IX-13: Law schools should review case book and instructional materials for biased materials and introduce corrective supplemental materials.

Recommendation IX-14: Law schools should initiate programs to expand the pool of potential applicants for faculty positions to include more minorities and women.

The Public:

Recommendation IX-15: Conclusions and recommendations of the Task Forces' Reports should reach the public through the press and other media. Task Force members should actively seek out avenues, such as meetings of groups, associations and commissions, to speak on conclusions and recommendations of the Reports.

Implementation

Recommendation IX-16: A Standing Committee on Racial/Ethnic and Gender Issues in the Courts should be created by the Supreme Court. This Committee would:

- a. Implement the Task Forces' recommendations and monitor implementation efforts on an ongoing basis.
- b. Work with the Michigan Judicial Institute, continuing legal education providers for attorneys, the National Judicial Education Program and other similar entities to develop judicial and legal education programs on gender and race/ethnic fairness.
- c. Work with the State Court Administrative Office to establish a statistical database appropriate for monitoring areas of Task Forces' concerns and performing studies in furtherance of the committee's charge.
- d. Monitor the impact of the changes in the Codes regarding the profession, the judiciary, and court operation. As a part of this process, monitor complaints to the Attorney Grievance Commission, the Attorney Discipline Board, the Judicial Tenure Commission, Civil Service entities and individual courts from lawyers, litigants, court personnel, and others.
- e. Develop the information generated by these inquiries and information obtained by or provided to the Task Forces through other sources into annual reports which:
 1. evaluate progress in implementing reforms and reducing gender and race/ethnic bias;
 2. describe the nature and disposition of the complaints received;
 3. assess the extent to which the findings and recommendations of the Task Forces are being integrated into judicial and legal education courses and programs;
 4. identify new problems rooted in race/ethnic and gender bias and suggests appropriate remedial action.

- f. Disseminate these Reports to the Chief Justice, the state judiciary, Task Force members, interested individuals and groups and the media and publish it in the Michigan Bar Journal.
- g. Review appellate decisions on gender-related and race/ethnic-related issues in all areas of law and call to the attention of the trial courts those decisions which pertain to gender and race/ethnic bias.

Recommendation IX-17: The Standing Committee on Racial/Ethnic and Gender Issues in the Courts should be structured as follows:

- a. A Committee should be appointed which is multi-jurisdictional in scope, including representation from the judiciary, court administrators, the organized bar and academic communities in both law and social science.
- b. The Committee should be smaller in size than the original Task Forces.
- c. Selection of chair, staff, and committee members should take into account recommendations of Task Force Chairs Harold Hood and Julia Darlow and Project Director Lorraine Weber, in consultation with Task Forces' members.

Recommendation IX-18: Adequate resources must be made available to create the Committee and administer its work, to implement all programmatic concerns reflected in the recommendations of both Task Forces, and to oversee the implementation process. Funding should come from the Supreme Court budget.

The Michigan Supreme Court Task Force on Racial/Ethnic Issues in the Courts

**Conclusions and
Recommendations**

DEDICATION

This report and all the work of the Task Force on Racial/Ethnic Issues in the Courts is dedicated to the memory of the

**HONORABLE G. MENNEN WILLIAMS
February 23, 1911 - February 2, 1988
Former Chief Justice, Michigan Supreme Court**

His life stands as an example to each of us, in its commitment to the principle that every person must be assured dignity, respect and justice in a judicial system based on fairness and equality for all of our citizens.

**MICHIGAN SUPREME COURT
TASK FORCE ON RACIAL/ETHNIC ISSUES IN THE COURTS
Task Force Members**

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INTRODUCTION

The lack of equal opportunity for minority participation in business, corporate, and professional affairs, is a grave societal problem that will not be solved by legislation and judicial decrees alone. Full and equal opportunities for racial and ethnic minorities will exist only after an informed society rejects discrimination and racism, not only because they may be unlawful, but also because they violate the moral and human values upon which our Nation was founded.

No segment of society is so strategically positioned to attack minority problems as the legal profession. None has a higher duty to do so. That duty arises out of the unique offices that lawyers hold as ministers of the law, guardians of its conscience, and as teachers and advocates of fairness and equality.

In 1986, the Michigan Supreme Court Citizens' Commission to Improve Michigan Courts called for the creation of task forces on gender and racial/ethnic issues in the courts. In its examination of the Michigan court system, the Citizens' Commission found that a significant and disturbing perception existed among Michigan citizens: Over one-third believed that individuals were discriminated against in the Michigan court system on the basis of their gender, race or ethnic origin.

In response, the Michigan Supreme Court issued Administrative Order No. 1987-6 creating the Task Force on Racial/Ethnic in the Courts as well as the Task Force on Gender Issues in the Courts.

The Michigan Supreme Court's Task Force on Racial/Ethnic Issues in the Courts was the first of its kind in the nation. Task forces have now been established in six other states, and several additional jurisdictions are considering the creation of minority issue commissions. In the past year, four states (Michigan, Washington, New Jersey and New York) have formed the National Consortium of Commissions and Task Forces on Racial/Ethnic Bias in the Courts. The purpose of this consortium is to provide a national forum for the dissemination of information relating to Task Force work and to encourage favorable consideration by other states for the creation and support of initiatives in this area. To that end a presentation was made to the National Conference of Chief Justices and State Court Administrators in August, 1989.

In its order the Supreme Court stated that the mission of the Task Forces was to examine in detail the Michigan court system and to determine whether and to what extent citizens believe that bias exists in the court system; to determine where the court system actually operates in a biased manner; and to recommend ways to reform the court system to prevent the actual and/or perceived bias.

The Task Force identified many areas where race and ethnicity influence conduct, procedures and, in some instances, case outcome. While confident that these factors are not occurring in every court in every case, there is evidence that bias does occur with disturbing frequency at every level of the legal profession and court system. This damages the lives of individual litigants, witnesses, judges, lawyers, and court personnel; and the court system itself.

The oral and written testimony, as well as research indicates that bias occurs in a variety of circumstances. However, the conclusions and recommendations in the Task Force's Final Report focus on five areas. This document sets out the full text of those conclusions and recommendations, as follows:

Topic	Final Report Section
Courtroom Treatment of Minority Litigants, Witnesses, Jurors and Attorneys	Section V
Impact of Racial/Ethnic Bias on the Administration, Staffing and Behavior of the Court Environment	Section VI
Impact of Racial/Ethnic Bias on the Criminal Justice Process	Section VII
Professional Opportunity and Development for Minorities in the Legal Profession	Section VIII
Joint Recommendation of the Task Forces on Racial/Ethnic and Gender Issues in the Courts - Relating to Ethical Standards and Disciplinary Systems; Education; and Implementation	Section IX

The Final Report of the Michigan Supreme Court Task Force on Racial/Ethnic Issues in the Courts details the Task Force's methodology, research and findings as well as conclusions and recommendations. It has been provided to all Michigan depository libraries. Additional copies are available after January 19, 1990 at a cost of \$7.00 from:

Department of Management and Budget
Office Services Division
Publication Section
7461 Crowner Drive
Lansing, MI 48913

COURTROOM TREATMENT OF MINORITY LITIGANTS, WITNESSES, JURORS, AND ATTORNEYS

CONCLUSIONS

Courtroom Treatment of Minority Litigants, Witnesses, Jurors and Attorneys

Conclusion V-1: There is a perception on the part of racial and ethnic minorities and also of many non-minorities of the justice system's discrimination and insensitivity. There is evidence that such behaviors do exist.

Conclusion V-2: A minority lawyer's ability to attract and service clients is affected by the quality of treatment afforded the lawyer by judges, court personnel and other lawyers. Testimony was received by the Task Force which indicated that minority lawyers and litigants are treated differently. The apparent ease of access that non-minority lawyers have to judges and court personnel is as detrimental to the minority lawyer as overt negative behaviors and comments.

Appointments and Compensation of Attorneys to Fee Generating Positions

Conclusion V-3: In determining the access of minority attorneys to court appointments, there is evidence that minority attorneys do not receive an equitable share of the available appointments in every jurisdiction of the State, nor do they have the same access as majority attorneys to cases which are more serious in nature, higher profile or more economically rewarding.

Appointment and Compensation of Mediators, Arbitrators and Special Masters

Conclusion V-4: Mediation panels, arbitrators and special masters do not include a representative number of minority participants.

RECOMMENDATIONS

Courtroom Treatment of Minority Litigants, Witnesses, Jurors and Attorneys

Recommendation V-1: Both judges of courts of record and quasi-judicial officers should be educated about this issue as a regular part of their on-going continuing legal education. Wherever possible such education should be a part of training on substantive areas of law and judging as a curriculum component of all training which is offered to the bench on a required or non-mandated basis (MJI, ICLE, Civil Service and Appropriate Administrative Agencies).

Recommendation V-2: Educational materials and guidelines should be amended and designed to identify and appropriately advise judges on problems related to racial/ethnic issues and judicial decision-making.

Recommendation V-3: Attorneys should be educated about these issues as a regular part of their on-going Continuing Legal Education. Wherever possible such education should be a part of training on substantive and procedural areas of law as a curriculum component of all training which is offered to the bar on a required or non-mandated basis.

Recommendation V-4: The Administrative Procedures Act (MCL 24.279; MSA 3.560 (179) Presiding Officer's Designation, Disqualification and Inability) should be amended to prohibit such conduct by quasi-judicial officers and should provide appropriate sanctions.

Recommendation V-5: Just as the Michigan Rules of Professional Conduct and the Code of Judicial Conduct govern overt behaviors, effort should be made to ensure equal and appropriate access to judges and court personnel for all counsel, and to educate both judicial and court personnel on this issue.

Recommendation V-6: Increase the amount of participation by the trial bench in pre-trial stages of litigation, with heightened race/ethnic consciousness.

Recommendation V-7: Institute educational programs for judicial and court personnel to increase consciousness of race/ethnic issues.

Recommendation V-8: Increase the number of racial/ethnic minorities in the alternative dispute resolution process. (See recommendations under professional opportunities for minorities).

NOTE: For the purpose of this section, a quasi-judicial officer includes: magistrates, referees, hearing officers, and any other administrative officers performing adjudicative functions as part of their official action.

Appointment and Compensation of Attorneys to Fee Generating Positions

Recommendation V-9: Courts should be required to maintain records of all appointments to fee-generating positions by type of position, race/ethnicity of the appointee and the amount of fee eventually generated. This data should be reported to the State Court Administrators office on a regular basis. These appointment records should include all indigent defense appointments, guardian-ad-litem, next friend, special fiduciary and all other court-appointed counsel whether or not fees are paid from public moneys or other sources.

Recommendation V-10: Bar Associations should develop mechanisms for educating the local bench about the availability and qualifications of minority attorneys for appointment. This can include sponsoring opportunities for judges to meet and participate in social, educational and professional activities with minority attorneys; the identification of qualified minority attorneys available for appointments in multi-county districts; and the sponsoring of special informational programs by the bar to discuss the barriers to full participation of minority lawyers in the appointment process.

Recommendation V-11: Courts should also develop and sponsor outreach programs to encourage minority attorneys to accept appointments in districts where there are no local minority practitioners. These programs may include special compensation for mileage when extensive travel is required and creation of local initiatives to assure that minority attorneys are afforded full and equal access to the benefits of the profession.

**Appointment and Compensation of Mediators,
Arbitrators and Special Masters**

Recommendation V-12: The number of minorities appointed to mediation panels should be increased through the use of the following mechanisms:

- a. consistent, established objective criteria for appointment; a clear, advertised and available application process; public access to mediation statistics profiling selection and panels; and inclusion of minority representatives as plaintiff, defense and neutral mediators.
- b. Courts should monitor any agencies to which they refer cases for mediation for racial and ethnic diversity and should decline referrals to any agency which does not fairly utilize mediators from racial and ethnic minorities. Where mediators are routinely appointed by individual judges, efforts should be made to report and review those appointments based upon the same considerations.

Recommendation V-13: To the extent that courts, either by practice or Court Rule, refer cases to Alternative Dispute Resolution, assignments as mediators, arbitrators or special masters shall be accessible to counsel regardless of race, ethnicity or gender. The referring court or judge has the affirmative obligation to ensure that any private agency receiving such assignments utilizes lawyers from racial and ethnic minorities and from both genders.

Recommendation 14: Appointing agencies should establish standards for conduct of mediation panels, arbitrators and special masters and make these individuals aware that discrimination is not acceptable in any form or manner in the discharge of their duties.

Recommendation 15: Minority representatives should be present in all aspects of Mediation, Arbitration or Alternative Dispute Resolution and the compensation of these positions shall be provided without disparity based upon the race or ethnicity of the individuals.

THE IMPACT OF RACIAL/ETHNIC BIAS ON THE ADMINISTRATION, STAFFING AND BEHAVIOR OF THE COURT

CONCLUSIONS

The Court Administration Environment

Conclusion VI-1: A review of court employment demographics shows that minorities are under-represented in professional and administrative positions which exercise authority and determine or recommend policy.

Conclusion VI-2: Many courts lack formal personnel policies and procedures that would promote an environment in which equal opportunity is protected, bias free attitudes and treatment are encouraged, and invidious discrimination prohibited.

The Service Role of the Courts

Conclusion VI-3: Testimony and user surveys suggested that there is a perception by individuals from racial/ethnic minority groups, as well as those who used non-standard or accented English, that treatment by some clerical personnel was discriminatory, impatient, or less than helpful.

Conclusion VI-4: Individuals unable to speak or understand English are effectively deprived of equal access to the courts, and, therefore, are limited in the exercise of their right to fully participate in the judicial system.

Conclusion VI-5: The translation services currently available in the court system are inconsistent from court-to-court, and in some instances, unreliable and inadequate.

Jury Issues

Conclusion VI-6: Recent changes in Michigan Laws governing the source list from which jurors are selected have probably improved the process, resulting in more representative and inclusive jury panels. However, further improvement may be possible.

Conclusion VI-7: The experience of other states shows that it is possible to enhance representativeness and inclusiveness in the jury selection process through the use of multiple source lists.

RECOMMENDATIONS

The Court Administration Environment

Recommendation VI-1: The Michigan Supreme Court should direct each Chief Judge and Administrator to attend training regarding the role and significance of the executive component to court administration.

Such executive component training should include, at a minimum, the following:

- a. The roles and responsibility of the Chief Judge and Court Administrator in personnel matters, including equal opportunity, and bias-free treatment of the public.
- b. Treatment of staff, prohibition of racial/ethnic harassment, propriety of special service, intimidation and stereotyping on racial/cultural basis.

Recommendation VI-2: Each Court should develop written personnel policies and procedures which include, but are not limited to an equal opportunity, recruitment, promotional procedures and disciplinary policies. Of particular importance is the fact that employee grievances must be disposed of expeditiously and fairly.

Recommendation VI-3: The State Court Administrative Office annual survey of Court Employee Compensation should include a section which identifies the existence of such policies, their implementation, and the results achieved, as well as other matters relating to equal opportunity hiring and promotion.

Recommendation VI-4: Each Court should provide for the training of its supervisors and managers in personnel management issues, including the importance of fair and equitable practices in promotion, discipline, and job assignments.

The Service Role of the Court

Recommendation VI-5: Courts must educate staff on their responsibility to treat all members of the public and officers of the court fairly. Such treatment must avoid the appearance of discrimination.

Recommendation VI-6: Each Court should develop techniques for employees to use when handling situations involving non-standard English, uncommon dialects or accents.

Recommendation VI-7: The Supreme Court should adopt a court rule mandating and setting standards for interpretation services in civil and criminal cases where a litigant, witness or victim is unable to communicate effectively in English.

Recommendation VI-8: Courts should promote outreach services in the community to provide non-English speaking populations with adequate resources to assist in understanding court processes and in completing forms.

Recommendation VI-9: Judges should determine whether interpreter services are required in a given case, and provide those services when appropriate.

Recommendation VI-10: The chief judge of each trial court, the other judges of that bench, and the Court Manager/Administrator, must establish and maintain an environment that promotes and protects equal opportunity, bias free attitudes, and fair treatment.

Juries

Recommendation VI-11: Michigan courts should examine the use of multiple source lists, after careful consideration of the available sources to augment the Drivers/PID list, and seek appropriate legislative authority.

Recommendation VI-12: Studies should be undertaken to investigate how representative and inclusive the currently available lists are, and the extent to which the excusal practices impact on the diversity of jury pools.

Recommendation VI-13: Jury terms of service should be shortened, in those courts using a relatively long term, in order to lessen the financial impact on those who are economically disadvantaged, and to decrease the likelihood that such persons will seek excusal from jury service.

Recommendation VI-14: That trial judges be encouraged to implement the Batson standard on their own initiative in any jury selection process in which peremptory challenges appear to be racially motivated.

THE IMPACT OF RACIAL/ETHNIC BIAS ON THE CRIMINAL JUSTICE PROCESS

CONCLUSIONS

Conclusion VII-1: There is a perception that there is a disparity in prosecutorial decision making based upon the race and ethnicity of both the accused and the victim. These perceptions are based on the belief that:

- a. Broad discretion is exercised in the hands of white male prosecutors.
- b. Warrants are sometimes issued for inappropriate police searches which target minority populations without probable cause.
- c. Minority people are more likely to be charged with a more serious crime than non-minority people for similar offenses and records.
- d. Minority defendants are more likely to be pressured into plea-bargaining by the use of multiple charges.
- e. Dispositional alternatives to trial, including plea-bargaining opportunities are disparately available between minority and white defendants.

Conclusion VII-2: The Pretrial Release Rule 6.110 creates a social stability index for the granting of bail which disproportionately impacts upon minorities by stressing factors such as employment, financial stability, and community ties. There is a perception that bail practices are affected by the race and ethnicity of the accused. Adequate statistical studies have not been conducted to collect information on the question of disparity in bail decisions.

Conclusion VII-3: The appearance and language of an individual impacts upon the court's perception and treatment of that individual.

Conclusion VII-4: It appears that conviction and acquittal rates may be affected by race or ethnicity of defendant and/or victim.

Conclusion VII-5: Psychiatric examination of minority defendants is not uniformly conducted by individuals aware of and sensitive to the socio-cultural background of the minority defendant.

Conclusion VII-6: An analysis of the Michigan Sentencing Guidelines data indicates that race/ethnicity are not significant factors in sentencing when the only variables taken into account are severity of offense and prior record. This data does not address other factors which may impact upon minority populations in the system such as arrest, exercises of prosecutorial discretion, pretrial detention, and the effect of the race/ethnicity of the victim and the adjudicator. The Sentencing Guidelines project has been asked to analyze the incidence of departure from guidelines as it relates to minority populations. This data has not been made available to the Task Force.

Conclusion VII-7: Certain courts in the state have a practice of including police photographs in pre-sentence reports to the judge.

RECOMMENDATIONS

Recommendation VII-1: The Michigan Supreme Court should AMEND MCR 6.110 to add the following language "Nothing in these rules shall be construed to sanction the determination of Pretrial release on the basis of race, religion, gender, age, economic status, or other impermissible criteria.

Recommendation VII-2: The Michigan Supreme Court should AMEND MCR 6.110 to eliminate any factors which can be shown to have minimal predictive effect on the likelihood the defendant will appear at subsequent proceedings and which allow and invite considerations of race and ethnicity.

Recommendation VII-3: The Michigan Supreme Court should conduct a study similar to that done in the felony sentencing project of actual bail practices to investigate the question of disparity in bail practices by race, ethnicity, gender, economic class and region and to establish a process to develop recommendations in the event that disparity is statistically shown.

Recommendation VII-4: Judges, attorneys, and court personnel should be trained to understand and control their attitudes about individual appearance and language as it relates to both defendants and victims.

Recommendation VII-5: Courts and mental health agencies should create a pool of qualified forensic specialists who are aware and sensitive to socio-cultural factors in minority defendants.

Recommendation VII-6: The Sentencing Guidelines project should continue to monitor the sentencing practices of Michigan judges. Effort should be made to insure the meaningful input of minority representatives in the administration and policy setting of this project.

Current analysis of sentencing should include factors relating to the impact of and interrelationship of:

- a. misdemeanor convictions and sentences
- b. race, ethnic background and gender of the judge
- c. race, ethnic background and gender of the victim
- d. race, ethnic background and gender of the defendant
- e. guideline departures

All judges should receive an analysis of their own sentencing practices on an annual basis.

Recommendation VII-7: Photographs of defendants in pre-sentence reports should be prohibited in all court systems.

PROFESSIONAL DEVELOPMENT AND OPPORTUNITIES FOR MINORITIES

CONCLUSIONS

Minority Representation in the Profession

Conclusion VIII-1: Minority presence is inadequate both in numbers and in terms of geographical distribution on the benches of the State.

Conclusion VIII-2: The Departments of Social Services and Correction have significant minority service populations, but very few minority Administrative Law judges. This disparity affects the perception of fairness.

Conclusion VIII-3: The justice system involves numerous participants who are not judges, quasi-judicial officers, or court employees, but who are public servants: Attorney Generals, Prosecutors, Public Administrators and Disciplinary Systems. The absence of representative numbers of minorities in these positions affects the confidence in and effectiveness of the system.

Conclusion VIII-4: There are few instances in the Michigan judiciary of majority jurists employing minority law clerks, judicial assistants, or commissioners.

Professional Organizations and Bar Associations

Conclusion VIII-5: Minorities cannot obtain seats on the State Bar Board of Commissioners proportional to their numbers in the profession through the elective process.

Conclusion VIII-6: Sections of the State Bar have not aggressively recruited minority members, in the past.

Conclusion VIII-7: The presence of minority representatives in Committees of the State Bar is a result of an aggressive policy on the part of State Bar leadership.

Conclusion VIII-8: Local bar organizations may not actively recognize their responsibility to encourage and create opportunities for minority involvement.

Conclusion VIII-9: The State Bar Executive Staff does not have adequate representation of minority employees at the executive level.

Employment Issues for Minorities in the Profession

Conclusion VIII-10: Minorities have traditionally been excluded from certain areas of the legal profession. This exclusion is reflected in the low percentage of participation by minorities in private law firms, on law school faculties, with corporations, and in the judiciary.

Conclusion VIII-11: Minorities experience unique difficulties in the profession related to their lack of advancement, lower hiring and recruitment, increased rate of attrition, and lack of access to professional development opportunities. Many of these problems are directly related to disparate treatment based on racial/ethnic bias.

Legal Education and the Impact of Racial/Ethnic Bias

Conclusion VIII-12: There is a small number of racial/ethnic faculty at the five Michigan law schools and an even smaller number of tenured minority professors.

Conclusion VIII-13: The absence of minority law faculty, or their minor presence, directly affects minority students by denying them role models and has an untoward effect on the quality of legal education for all students and the professional development of the law faculty.

Conclusion VIII-14: Law schools have a very important role in educating future lawyers regarding the nature and impact of gender and race/ethnic bias in the profession. Law schools curricula does not adequately incorporate racial/ethnic bias and discrimination discussions into substantive courses, and it is not a part of all professional ethics courses.

RECOMMENDATIONS

Minority Representation in the Profession

Recommendation VIII-1: Progress must be continued toward a representational bench throughout the State through the appointive authority, and by the support and recruitment of minority candidates for the bench.

Recommendation VIII-2: Courts, through their Chief Judges, should appoint referees, magistrates, an quasi-judicial personnel in numbers which accurately reflect the racial/ethnic demographics of the population they serve.

Recommendation VIII-3: The appointing authority should increase the representation of racial/ethnic minority populations in quasi-judicial positions.

Recommendation VIII-4: The appointing authorities should increase the representation of racial/ethnic minority populations in policy-making positions in the offices of the Attorney General, State Public Administrators, Prosecutors offices, and Disciplinary systems.

Recommendation VIII-5: Increase the number of minorities hired as law clerks, judicial assistants, and commissioners at all levels of the judiciary, but particularly at the appellate level.

Professional Organizations and Bar Associations

Recommendation VIII-6: The Supreme Court should use its appointive powers to place minorities in leadership positions and to facilitate advancement within the leadership ranks of the bar. Specifically, the number of Supreme Court appointees to the Board of Commissioners should be increased by at the very least restoring the number to five. Additionally, the Court's policy prohibiting reappointment of their appointees to the Board of Commissioners should be revised to permit appointments for at least two terms, thereby enabling appointees to run for election for State Bar office including the presidency.

Recommendation VIII-7: State Bar of Michigan Bylaws should be amended to delete any requirement that a minimum number of votes be cast for any vacant position on The State Bar Board of Commissions and Representative Assembly.

Recommendation VIII-8: The State Bar of Michigan and local and special purpose bar boards should utilize their appointive powers to place minority lawyers into leadership positions and to facilitate advancement within their ranks.

Recommendation VIII-9: State Bar presidents should be encouraged to continue their efforts to recent years to appoint minorities as committee members and chairs in substantial numbers.

Recommendation VIII-10: State Bar sections must increase their efforts to recruit minority members and must aggressively pursue policies designed to increase the number of minorities serving on the section counsel and as section officers.

Recommendation VIII-11: Rather than await the gradual change which will inevitably accompany a growing number of minorities admitted to practice, the State Bar of Michigan should develop methods of sensitizing local bar associations and special purpose organizations to the more subtle forms of discriminatory treatment, and by persuasion and example end them.

Recommendation VIII-12: The Local Bar Liaison Committee, the "On The Road" publication, the Presidents-Elect Conference and other communications vehicles should be used to raise the consciousness of local and special purpose bar associations to the need for establishing a hospitable atmosphere for minority members.

Recommendation VIII-13: State Bar efforts initiated under the leadership of its Committee on Expansion of Underrepresented Groups in the Law to encourage the Michigan Judicial Institute, The Institute of Continuing Legal Education, and other educational programs to use more minorities on its faculties should be continued. Similar efforts should be directed at State Bar sections to recruit faculty for their fall and spring seminars and their programs at annual meetings. Minorities must be adequately involved as faculty for the Michigan Continuing Legal Education program for new lawyers.

Recommendation VIII-14: Every effort should be made to hire additional minorities for the State Bar's executive staff.

Employment Issues for Minorities in the Profession

Recommendation VIII-15: The State Bar should adopt the recommendations contained in the ABA Task Force on Minorities in the Legal Profession Report of January 1986, and provide leadership and assistance in increasing opportunities for minority attorneys within the profession.

Recommendation VIII-16: The Supreme Court should publicly acknowledge and support the Michigan Minority Demonstration Project and the American Bar Association Minority Demonstration Project. The Court, when appropriate, should encourage the increased participation and expansion of such programs.

Legal Education and the Impact of Racial\Ethnic Bias

Recommendation VIII-17: Michigan law schools should receive the Task Force report, and incorporate consideration of the Task Forces' conclusions and recommendations in the following course areas:

- a. Courtroom interaction: to be included in clinical law and trial practice courses;
- b. Ethics: to be included in professional responsibility courses;
- c. Substantive areas of the law: to be included in courses covering said areas;
- d. Task Force conclusions and recommendations where appropriate should be included in extra-curricular legal activities, such as moot court programs.

Recommendation VIII-18: Law schools should adopt and follow policies aimed at the recruitment, advancement toward tenure and retention of minority faculty members.

Recommendation VIII-19: Textbooks, course materials and classroom presentations should be reviewed and altered where necessary to eliminate overt and subtle race/ethnic bias.

Recommendation VIII-20: Faculty and administrative policies should reinforce law schools' commitment to train attorneys who will be sensitive to and aware of manifestations of race/ethnic discrimination and its effects.

Recommendation VIII-21: Professors should be taught ways to integrate race/ethnic issue discussions into a range of classes. All professional ethics classes should cover racial/ethnic bias and discrimination as it affects law practice, treatment of fellow professionals and treatment of court users.

Recommendation VIII-22: Law school placement offices should work with professional associations, bar organizations, and the courts to facilitate the entry of minority students into summer clerkships and other opportunities which lead to professional development.

JOINT RECOMMENDATIONS OF THE TASK FORCES

CONCLUSIONS

Ethical Standards and Disciplinary Systems

Conclusion IX-1: The existing Attorney Rules of Professional Conduct and the Code of Judicial Conduct do not contain specific grievable provisions which prohibit gender or racially or ethnically discriminatory conduct on the part of judges, quasi-judicial officers or lawyers.

Education

Conclusion IX-2: Judicial education programs are an effective means of dealing with bias in the Michigan court system.

Conclusion IX-3: A substantial proportion of judges would be interested in attending a program which would discuss the impact of bias on the Michigan court system.

Conclusion IX-4: Attorney education is necessary to deal with bias in the profession and the Michigan court system.

Conclusion IX-5: Education of court personnel is necessary to deal with bias in the Michigan court system.

Conclusion IX-6: Education at law schools is fundamental to deal with bias in the profession and in the Michigan court system.

Conclusion IX-7: Racial/ethnic and gender bias issues can be integrated throughout educational curricula.

RECOMMENDATIONS

Ethical Standards and Disciplinary Systems

Recommendation IX-1: Judges, quasi-judicial officers and lawyers should be subject to a specific Judicial Canon and/or Michigan Rule of Professional Conduct precluding inappropriate gender or racial/ethnic comments or actions.

Recommendation IX-2: The Code of Judicial Conduct (Canon 3) should be amended to add an additional numbered paragraph under Section (A) providing that:

A judge shall not engage in sexual harassment or invidious discrimination and shall prohibit staff, court officials and others subject to the judge's discretion and control from doing so. A judge shall prohibit sexual harassment or invidious discrimination against parties, counsel or others on the part of lawyers in proceedings before the judge.

Recommendation IX-3: The Michigan Rules of Professional Conduct, (MRPC.8.4) should be amended to state:

It is professional misconduct for a lawyer to...

(f) Engage in sexual harassment or invidious discrimination.

Recommendation IX-4: Michigan Court Rules 2.003 and 9.205 should be amended to provide for disqualification on the basis of such precluded behavior.

Recommendation IX-5: The disciplinary systems for attorneys and judges should actively promulgate policies and procedures designed to increase the confidence level of the public and profession regarding their response and intervention in matters related to discrimination and bias.

Education

The Judiciary and the Courts:

Recommendation IX-6: Judicial education related to gender and race/ethnic bias in the courts should be a permanent component of the new judges' seminar as well as of regional seminars and separate curricula for judges on the bench. It should be presented in at least these forms:

- a. Task Forces' findings and recommendations should be presented for all judges on the bench, then for each group of new judges.
- b. Courses should be developed which examine gender and race/ethnic bias as they affect court system interactions and case or controversy outcomes with particular attention to an analysis of race and sex-based "stereotypes, myths, beliefs and biases that may affect judicial decision making" in numerous spheres which affect litigants.
- c. New and existing courses on substantive areas of the law should be continually updated from the perspective of gender and race/ethnic issues.

Michigan Judicial Institute and Professional Associations:

Recommendation IX-7: The Michigan Judicial Institute and professional associations should ensure that all educational components are sensitive to the issues of race/ethnic and gender bias by adopting standards which address the following items:

- a. Gender - race/ethnic - neutral materials.
- b. Inclusion of women and racial/ethnic minorities as committee members, planners, faculty and speakers.
- c. Impact of race/ethnic or gender bias on issues related to substantive law areas.

Recommendation IX-8: Regular training should be conducted for court employees on the issues of gender and race/ethnic bias and their relation to the proper function of the court.

Recommendation IX-9: Faculty utilized in educational components should be trained regarding relevant issues of ethnic and gender bias.

Attorneys:

Recommendation IX-10: All entities which provide education for attorneys should be encouraged to:

- a. Include in ethics courses the nature and impact of gender and race/ethnic discrimination and bias on the profession. There should be an aggressive program of education regarding amendments proposed to the Michigan Rules of Professional Conduct, the Code of Judicial Conduct, and any other ethics amendments proposed to prohibit race/ethnic and gender bias, and the consequences flowing from violation of these provisions.
- b. Include components regarding the nature and impact of race/ethnic and gender discrimination and bias in a course in the mandatory continuing legal education currently being developed by the Standing Committee on Continuing Legal Education of the State Bar of Michigan, pursuant to State Bar Rule 17.
- c. Establish an educational standard which assures that all educational components are sensitive to the issues of race/ethnic and gender bias by addressing the following items:
 1. race/ethnic-gender-neutral materials.
 2. inclusion of women and racial/ethnic minorities as planners, faculty and speakers.
 3. impact of race/ethnic and gender bias on issues related to court system interaction and case or controversy outcome.
- d. Upon adoption of mandatory continuing legal education, adopt the above standard as a requirement for accreditation.

Recommendation IX-11: All entities which provide education including publication of literature for attorneys should review such literature to make sure it does not reflect race/ethnic or gender bias.

Law Schools:

Recommendation IX-12: Law schools have a very important role in educating future lawyers regarding the nature and impact of gender and race/ethnic bias in the profession. Michigan law schools should receive the Task Forces' reports and be requested to undertake the following actions:

- a. Include the Task Forces' conclusions and recommendations in the following areas:
 1. Court system interaction: to be included in clinical law and trial practice courses;
 2. Ethics: to be included in professional responsibility courses;
 3. Substantive areas of the law: to be included in courses covering said areas;

4. identify new problems rooted in race/ethnic and gender bias and suggests appropriate remedial action.
- f. Disseminate these Reports to the Chief Justice, the state judiciary, Task Force members, interested individuals and groups and the media and publish it in the Michigan Bar Journal.
- g. Review appellate decisions on gender-related and race/ethnic-related issues in all areas of law and call to the attention of the trial courts those decisions which pertain to gender and race/ethnic bias.

Recommendation IX-17: The Standing Committee on Racial/Ethnic and Gender Issues in the Courts should be structured as follows:

- a. A Committee should be appointed which is multi-jurisdictional in scope, including representation from the judiciary, court administrators, the organized bar and academic communities in both law and social science.
- b. The Committee should be smaller in size than the original Task Forces.
- c. Selection of chair, staff, and committee members should take into account recommendations of Task Force Chairs Harold Hood and Julia Darlow and Project Director Lorraine Weber, in consultation with Task Forces' members.

Recommendation IX-18: Adequate resources must be made available to create the Committee and administer its work, implement all programmatic concerns reflected in the recommendations of both Task Forces, and to oversee the implementation process. Funding should come from the Supreme Court budget.