

A SUMMARY OF THE INVESTIGATION INTO THE PUBLIC PERCEPTION OF THE 1989 REPORTS

FINDINGS

In the eight years since the Michigan Supreme Court Task Forces on Gender, Race and Ethnic Issues in the Courts submitted their final Reports, several questions remain unanswered. Among those questions are whether or not the Reports themselves have truly had an impact upon the legal community of Michigan and have accomplished their goals. In its investigation the State Bar Task Force attempted to answer specific concerns about specific recommendations. However, it was also determined that the perception of the community regarding the Reports in general was important information for consideration. As a result, a Preliminary Questionnaire was distributed to each person contacted by the State Bar Task Force. This questionnaire was designed to elicit a broad perspective on the awareness, experience and perception of judges and lawyers in Michigan in relation to the 1989 Reports.

This preliminary questionnaire covered four main areas of interest:

- To what extent, if any, are judges and lawyers aware of the existence of the Supreme Court Task Force Reports and familiar with their conclusions and recommendations?
- To what extent, if any, have the Supreme Court Task Force Reports been effective in addressing issues of gender and race/ethnic bias and discrimination in the courts?
- To what extent, if any, have the Supreme Court Task Force Reports been effective in bringing about suggested reforms in the court system as it relates to gender and race/ethnic bias and discrimination?
- What factors contributed to the perceived effectiveness or lack of effectiveness in generating reforms in the court system as it relates to gender, race and ethnic bias and discrimination in the courts?

It should be noted that this investigation was purposely directed at the individual perceptions, experiences and beliefs of selected members of the legal community. The State Bar Task Force received responses from 399 judges, lawyers and court personnel. While these responses cannot be statistically generalized to the larger population, they are clearly indicative of the overall experiences and beliefs of

persons responding. To the extent that these responses indicate a significant pattern or trend, they can be viewed as a reliable source of information upon which to draw general conclusions. These conclusions, however, cannot be characterized as statistically valid.

To what extent, if any, are judges and lawyers aware of the existence of the Supreme Court Task Force Reports and familiar with their conclusions and recommendations?

It is clear from the questionnaires that there is a high level of awareness regarding the existence of the Supreme Court Task Force Reports among those answering. Seventy-nine percent (79%) of the respondents reported knowing about the Reports and nearly seventy percent (70%) of the respondents had physically received a copy of the Reports. This level of awareness is particularly impressive given the eight years since the Reports were first published. Forty percent (40%) of the respondents had actually attended an educational program where the findings and recommendations of the Reports were used as a part of the curriculum. Yet, despite the general familiarity with the Reports as a whole, only twenty percent (20%) of the respondents would describe themselves as familiar or very familiar with the Race/Ethnic Report findings and recommendations, and twenty-four percent (24%) were familiar or very familiar with the Gender Report. Nearly half of the respondents, or forty-seven percent (47%), would describe themselves as minimally or not at all familiar with the findings and recommendations of both Reports.

To what extent, if any, have the Supreme Court Task Force Reports been effective in addressing issues of gender and race/ethnic bias and discrimination in the courts?

In answer to this question, twenty-eight percent (28%) of the respondents believed that the Reports had been effective or highly effective in recommending ways to prevent or reduce racial and/or ethnic bias, while thirty-two percent (32%) found the Reports effective in the area of gender bias. The largest percentages were in the neutral range responses. Those individuals who believed the Reports were effective typically responded in the following ways. One judge stated, "It was effective at the time, but there has not been much ongoing attention paid to racial/ethnic issues." Another judge stated, "The report has served as a means of bringing these issues to the forefront, with concrete recommendations for change." Most individuals with positive responses to this question believed that the Reports had

heightened awareness and focused attention on the problems within the system. Other respondents stated that the Reports made “relevant and material suggestions for dealing with these problems.”

It was this same issue of awareness that generated the largest amount of commentary in the neutral responses. In the explanations to their answers, judges and court staff consistently stated that they had received little information regarding the status of the Reports. A significant number of respondents reported having no knowledge or awareness of anything involving the Reports or that they remembered the Reports at one time but have had no current experience or exposure to the recommendations.

Those individuals who rated the effectiveness in the lowest scales seemed to fall in two distinct categories. The first constitutes individuals who believe that there is no real need to address these issues, as they are not problems within their local court system. The second category involves those with a general sense that a report is by its very nature ineffective unless followed up with tangible responses and actions. In both of these categories, respondents believed that the report process was an unnecessary or inadequate mechanism to address issues of bias and discrimination. In essence, the responses could be summarized as: “There is no racial/ethnic or gender bias problems in my court, and even if there were, a report will not change it,” or “Racial/ethnic and gender bias is such a complex issue requiring significant attention and action, a report is not enough unless it is accompanied with monitoring, consequences and real mandates for action.”

To what extent, if any, have the Supreme Court Task Force Reports been effective in bringing about suggested reforms in the court system related to gender and race/ethnic bias and discrimination?

An even lower percentage of respondents, sixteen percent (16%) in the area of race/ethnic and fifteen percent (15%) in the area of gender, believe that the Reports have been in any way effective in actually generating reform in the court system. Those individuals cited heightened awareness, increased training opportunities and some actual changes in practice and policy as examples of reforms which were generated by the Reports. It should be noted that even within this group there were very few substantive examples of reform identified in the questionnaires.

Nearly half the respondents (forty-nine percent [49%]) were neutral in evaluating the effectiveness of the Report recommendations in actually changing behaviors and attitudes. Most of these individuals believed that they did not have sufficient information to make an informed decision one way or the other.

Of the thirty-five percent (35%) of those respondents who believed that the Reports were either ineffective or highly ineffective in generating reform in the court system, a large portion had not had any direct experience with the Reports or their recommendations. Another group remembered having some involvement early in the report process, but believed that the momentum for change and reform had been lost in the interim period. A third group believed that because implementation efforts were suggested and not mandated, that the Reports were not effectively implemented.

What factors contributed to the perceived effectiveness or lack of effectiveness in generating reforms in the court system related to gender, race and ethnic bias and discrimination in the courts?

The preliminary questionnaire asked respondents to assess the effectiveness of accountability and follow-up on the implementation of the 1989 recommendations and to state whether they believed that sufficient resources had been allocated for the implementation effort. Only twenty percent (20%) of the respondents believed that an effective method for accountability and follow-up had been created. Reasons cited for this response rate were varied. A large portion of the respondents had no specific knowledge of the Reports or their findings and recommendations. Numerous respondents cited a lack of mandated resources. An example of this response is:

“This was yet another of those mandates without funding. The Court does not have enough resources to deal with all the functions assigned by statute, much less directive or recommendation. The Court does the best that it can. SCAO has provided what support it can with its limitations and cutbacks on funding.”

Most individuals believed that the Reports had been most effective in increasing the level of awareness, but had stopped short of actual systemic changes or reforms. Some respondents asserted the opinion that until reform was mandated with specific monitoring mechanisms and consequences for failures, the Reports would remain interesting but only of “historical interest.” This was typified in a response from a Friend of the Court stating:

“Too few people have actually read the report and of those that have, too few understand it. Further, every change requires effort and effort requires manpower and funds. The suggestions are made, but no funding is allocated to effectuate them. Court personnel are more aware of the problem and may be more sensitive to it, if only, because they

perceive that someone else is supervising or watching. But the basic attitudes will not change and the necessary empathy will not develop because there isn't a potential hammer if reforms are not implemented."

The concern about the allocation of sufficient resources was reflected in the responses to the question about whether sufficient resources have been allocated for the implementation of the Report and Recommendations. Only one-third of the respondents believed that allocation of resources was sufficient.

CONCLUSIONS

There are several conclusions that might be drawn from these results and the comments that accompanied them. First, it is clear that the initial publication and dissemination of the 1989 Reports was effective. Most of the respondents remembered the many programs and discussions which occurred at that time regarding certain aspects of the Reports. Yet, this familiarity and focus has not been maintained over the long run. Secondly, educational opportunities were clearly not available to a majority of respondents regarding the Reports. Receiving the Reports without an opportunity to examine, review and internalize their contents did not result in meaningful awareness. As a result, the respondents did not seem to be aware of the Reports in any detail. Rather, they understood the overall purpose of the Reports without retaining specific information about the findings and recommendations.

This lack of detailed understanding of the Reports would account for the belief, on the part of most respondents, that the Reports were not effective in addressing issues of gender, race and ethnic bias. Respondents seemed to lack both knowledge and confidence in the ability of the Reports to adequately address these concerns. The extremely low number of responses that found the Reports in any way effective further reinforced this. An analysis of these answers reveals a general perception on the part of these members of the courts and legal community that the Reports have been unable to fulfill their stated mandate and actually bring about reform.

Finally, a large majority of respondents within the legal system do not believe that accountability or follow-up on the implementation of the 1989 Reports has been effective. They are unaware of existing efforts to address the Report recommendations and they have not received information which would lead them to believe that the Reports have been successful in addressing the issues of race/ethnic or gender bias in the Michigan justice system. Two-thirds of the respondents believe that resource allocation has not

been sufficient to fund a successful implementation plan. The perception on the part of a large number of respondents is that either too little has been done to implement these proposals or that little needed to be done in the first place and the project should have been abandoned.

These perceptions on the part of respondents are disturbing and the conclusions, which can be drawn from these answers, are evident. To the extent that the recommendations of the 1989 Reports have been implemented, the message has not been delivered effectively. While there is a general awareness of the existence of the Reports, the legal community seems to be unaware and uninformed as to most other factors related to their specific recommendations and their implementation. While it is true that there are many recommendations that remain partially or completely unimplemented, the perception of the Report's failure seems to be far worse than the reality, as determined by this Task Force. A detailed analysis of the accomplishments of the last eight years reveals a somewhat more optimistic picture than is evidenced in the questionnaire responses. However, there are many areas that were studied where the perception of failure is accurate and where the promise of the 1989 Reports has not been met. In either case, the issues of race/ethnic and gender bias in the Michigan Justice system remain much the same today as they were in 1989. The perception of bias and the response of our legal and judicial leaders are inextricably connected. The overall results of an analysis of the preliminary questionnaire reinforces that connection and shows that the 1989 Reports have not been able to maintain clear visibility and present viability in the justice system of today.