

NATIONAL JUDICIAL EDUCATION PROGRAM*

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When Bias Compounds: Insuring Equal Justice for Women of Color in the Courts

A Model Judicial Education Curriculum

Developed under a grant from the State Justice Institute, **When Bias Compounds: Insuring Equal Justice for Women of Color in the Courts** informs judges about the problems women of color face at every level and in every aspect of the judicial system, as litigants, witnesses, defendants, employees, lawyers and judges. The curriculum prompts judges to think about actions they can take to address these problems, in order to insure women of color equal access to justice and equal participation in the judicial system.

The curriculum comprises the substantive content to be communicated in the program and detailed directions for presentations. It is divided into a pre-program primer, an introduction, and five units. Each unit includes handouts, exercises and overheads for use at the program, as well as readings that explore in greater depth the subjects covered in the program. The curriculum utilizes a variety of interactive teaching techniques to present this material in ways familiar to judges: case studies, expert presentations, small and large group discussions, role plays and action planning. Each unit is designed to be either part of a comprehensive program or integrated into a variety of other education presentations. The unit on women of color as victims of gender-based violence can be a complete program in itself.

- The *Primer on Cognitive Process, Stereotyping, Intersectionality and the Implications for the Courts* is mailed in advance of the program to introduce two key issues with which participants are unlikely to be familiar: the research into cognitive processes and stereotyping and the concept of intersectionality. Fifty years of psychological research shows why and how the human mind is hard-wired to create stereotypes, how stereotypes become reflexive judgments that impair fairness, and how conscious intervention can stop stereotyped thinking from becoming discriminatory behavior. *Intersectionality* is the term coined by legal theorists to describe the way the confluence of race and gender creates an indivisible identity that shapes the lives of women of color, resulting in a type of compounded bias that is more than race or sex bias alone, and more than race plus sex. The Primer familiarizes participants with these concepts and terminology so that they can devote the program time to how judges can minimize discriminatory stereotyping in the particular context of women of color in the courts.
- The program itself begins with a short *Introduction to the Program* in which participants are asked their assessment of whether and why a program with this

* a project of Legal Momentum in cooperation with the National Association of Women Judges

focus is needed, and the moderator briefly describes the five reasons why a judicial education program about women of color in the courts is necessary for judges of both sexes and all racial and ethnic backgrounds.

- Unit I is ***Intersectionality, Cognitive Process, and the Implications of Stereotyping for Women of Color in the Courts***. This unit takes up the material introduced in the Primer on intersectionality and cognitive process as prelude to exploring the specific stereotypes about women of color and the implications of these stereotypes for women of color as litigants, complainants, defendants, lawyers, judges and court employees, and in substantive law areas ranging from personal injury to juvenile justice. The judges discuss the actions they can take in the courtroom, the courthouse, and the community in light of this research and these existing stereotypes to insure equality for women of color in the courts.
- Unit II is ***Controlling the Courtroom and the Courthouse***. Participants explore scenarios based on courthouse interactions involving women of color documented by the task forces on gender, race and ethnic bias in the courts that illustrate the problems this curriculum seeks to overcome. The first presentation of the scenarios shows what actually happened. Then participants discuss why the approaches demonstrated adversely affect the women of color involved, and what can be done to prevent or rectify these situations. A second version of the scenarios models better ways to approach the various interactions.
- Unit III, ***Women of Color as Victims of Gender-Based Violence***, is divided into sections on domestic violence, battered woman syndrome and rape. Each part explores the unique problems confronting women of color and immigrant women when these crimes bring them into the courts. The focus is on what judges can do to eliminate or minimize these problems.
- Unit IV, ***Action Planning***, is a small group discussion session in which participants discuss and record the actions they will take as a result of the program to ensure equal justice for women of color in the courts. The action plans are collected and compiled into a master plan distributed to all participants for their own use.
- Unit V, ***The Cultural Defense and Cultural Evidence***, presents the conflicting views toward admitting cultural evidence in defense of a criminal charge when women of color are the victims or the defendants. Participants then rule on the admission of cultural evidence in four types of cases—wife-murder, “marriage-by-capture,” rape, female genital mutilation and parent-child suicide—and discuss how their decisions reflect the vying schools of thought on this issue.

The curriculum may be purchased for \$80.00 (\$70.00 for courts and court-related entities), which includes regular postage within the United States. If you are outside that area, postage will depend upon your location and postal preference, i.e. surface or air.