

Planning

for

Evaluation

*Guidelines
for Task Forces
on Gender Bias
in the Courts*

by Lynn Hecht Schafran, Esq.

WOMEN JUDGES' FUND FOR JUSTICE

These guidelines were developed in part under a grant from the State Justice Institute. Points of view expressed herein are those of the author and do not necessarily represent official positions or policies of the State Justice Institute.

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1989

THE WOMEN JUDGES' FUND FOR JUSTICE

The Women Judges' Fund for Justice (WJFJ) was created in 1980 by women judges committed to strengthening the role of women in the American judicial system. The Fund is a non-profit, tax exempt organization engaged in educational and research programs. The Fund is the educational and research arm of the National Association of Women Judges (NAWJ).

Recent accomplishments and ongoing projects include:

- Publication and distribution of Operating a Task Force on Gender Bias in the Courts: A Manual for Action. Written by experts on gender bias in the courts, the Manual offers concrete, step by step instruction on how to encourage the formation of a task force, collect relevant data, prepare a report, and structure the recommendations for maximum effectiveness.
- Publication and distribution of Learning from the New Jersey Supreme Court Task Force on Women in the Courts: Evaluation, Recommendations and Implications for Other States. This evaluation of the impact of the first gender bias task force by the authors of the task force Manual assesses the status of all the New Jersey task force's recommendations four years after its report and suggests future actions for this and other task forces.
- Development of a curriculum for institutes on the judicial selection process and candidacy skills, with the help of the Nation Women's Education Fund.
- Presentation of seminars on judicial selection and candidacy skills in targeted states for women interested in becoming judges.
- Publication and distribution of Judicial Education: A Guide to State and National Programs.
- Co-sponsorship of institutes on judicial education faculty development.
- Development of conference and training workshops on critical issues such as judicial issues relating to recent developments in bioethics and reproductive technology.

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ACKNOWLEDGMENTS

These Evaluation Guidelines for Task Forces on Gender Bias in the Courts evolved from my work with **Professor Norma J. Wikler**, my predecessor as Director of the National Judicial Education Program to Promote Equality for Women and Men in the Courts, in providing technical assistance to gender bias task forces throughout the country and evaluating the impact of the first of these task forces. Professor Wikler has been a wonderful colleague for the last decade. I thank her for her comments on these Guidelines and her collaboration in our many joint endeavors.

Funding for the writing and publication of these Guidelines and their companion volume, Learning from the New Jersey Supreme Court Task Force on Women in the Courts: Evaluation, Recommendations and Implications for Other States, written with Professor Wikler was provided by the **State Justice Institute** through the **Women's' Judges Fund for Justice**, the non-profit, tax exempt, educational arm of the **National Association of Women Judges**. I am grateful to these three organizations for their continuing support.

Support staff services for the production of these Guidelines were provided by the **NOW Legal Defense and Education Fund**. My thanks to **Sandy Pardes**, **Jane Tomkiewicz** and, especially, **Juliet du Mont** and **Charlae Olaker** of the NOW LDEF word processing staff for their efforts on this document. Thanks also to **Marilyn Nejelski** and **Evelyn Devlin** of the Women Judges' Fund for Justice for their administrative support in the review and publication of these guidelines.

I. INTRODUCTION

Gender bias in the courts -- stereotyped thinking about the nature and roles of women and men, society's devaluation of women, and myths and misconceptions about the economic and social realities of women's and men's lives manifested in judicial decision making and court interaction -- has become a matter of national concern.

As the result of efforts to introduce the issue of gender bias in the courts into judicial education using state specific data and the work of the National Association of Women Judges' National Task Force on Gender Bias in the Courts, state chief justices across the country have established task forces to investigate gender bias in their own court systems and make recommendations for reform. The first such task force, the New Jersey Supreme Court Task Force on Women in the Courts, was established in 1982. Its mandate was to investigate the extent to which gender bias exists in the New Jersey judicial branch and develop an educational program to eliminate it. The task force's findings and recommendations, published in 1984,¹ sparked a gender bias task force movement nationwide.²

As of June 1989 five states were engaged in implementing their task forces, recommendations,³ sixteen state task forces

¹ First Year Report of the New Jersey Supreme Court Task Force on Women in the Courts - June 1984, reprinted in 9 Women's Rights Law Reporter 129 (1986). The task force's Second Report is available from the New Jersey Administrative Office of the Courts, R.J. Hughes Justice Complex, CN-037 Trenton, N.J. 08625.

² The origins of the focus on gender bias in the courts as a subject for judicial education, the National Association of Women Judges' National Task Force on Gender Bias in the Courts and the national gender bias task force movement are described in Norma J. Wikler, "On the Judicial Agenda for the 80's: Equal Treatment for Women and Men in the Courts" 64 Judicature 202 (1980), Lynn Hecht Schafran "Educating the Judiciary About Gender Bias in the Courts: The National Judicial Education Program to Promote Equality for Women and Men in the Courts and the New Jersey Supreme Court Task Force on Women in the Courts" 9 Womens Rights Law Reporter 109 (1986) and Lynn Hecht Schafran, "Gender Bias in the Courts: An Emerging Focus for Judicial Reform," 21 Arizona Law Journal 237 1989.

³ In addition to New Jersey, task forces in New York, Rhode Island, Nevada, Maryland and Massachusetts have published their reports. The Hawaii task force published a short summary of its attorney survey. The Report of the New York Task Force on Women in the Courts (1986) is reprinted in 15 Fordham Urban Law

were engaged in data collection, and another six states were in an exploration or formation phase. At their 1988 joint annual meeting the Conference of Chief Justices and the Conference of State Court Administrators adopted resolutions urging every chief justice to establish a task force "devoted to the study of gender bias in the court system."⁴

The growing number of task forces devoted to an issue which

Journal 1 (1986-1987). The Report of the Rhode Island Supreme Court Committee on Women in the Courts (1987) is available from the Rhode Island Administrative Office of the Courts, 250 Benefit Street, Providence, RI 02903. Justice for Women (1989), the Report of the Nevada Supreme Court Gender Bias Task Force, is available through the Nevada Supreme Court, Carson City, Nevada, 89710. The Report of the Maryland Special Joint Committee on Gender Bias in the Courts (1989) is available through the Administrative Office of the Courts, Court of Appeals Building, Annapolis, Maryland 21401. The Report of the Gender Bias Study of the Supreme Judicial Court of Massachusetts (1989) is available from the Supreme Judicial Court, 1300 New Courthouse, Boston, MA 02108. New Jersey's First Report and the Report of the New York Task Force on Women in the Courts are summarized in Lynn Hecht Schafran, "Documenting Gender Bias in the Courts: The Task Force Approach," 70 Judicature 280 (1987).

4 Conference of Chief Justices. Resolution XVIII. "Task Forces on Gender Bias and Minority Concerns." Adopted August 4, 1988. Conference of State Court Administrators. Resolution I. "Task Forces on Gender Bias and Minority Concerns." Adopted August 4, 1988. As is apparent from their titles, these Resolutions also call for creation of separate task forces to address racial and ethnic bias in the courts. Task forces on minority concerns are a further evolution of the gender bias task force movement. To date four states have such task forces. These Evaluation Guidelines are applicable to task forces on minority concerns as well as those investigating gender bias.

Readers interested in establishing task forces in their own states or communities should consult Lynn Hecht Schafran and Norma J. Wilker, Operating A Task Force on Gender Bias in the Courts: A Manual for Action (1986), available from the Women Judges' Fund for Justice, 1900 L Street, N.W., Washington, D.C. 20036, (202) 331-7343.

Extensive information and materials generated by and relating to gender bias task forces may be obtained from the National Center for State Courts Information Services, (300 Newport Avenue, Williamsburg, Virginia 23185) which serves as a clearinghouse for the National Association of Women Judges' National Task Force on Gender Bias in the Courts.

was all but invisible at the start of the decade is itself a form of progress. But increasingly task forces are asking not just how their predecessors carried out their investigative and report functions, but how a task force can know whether its efforts have made a difference. These Evaluation Guidelines for Task Forces on Gender Bias in the Courts are intended to assist task forces in answering this question. The Guidelines encourage task forces to think about monitoring and evaluation from the beginning of their work; urge task forces to recommend in their reports that an initial and then subsequent assessments of progress be conducted, each of which should point the way to the next phase of implementation; and suggest ways in which the impact of a task force can be measured by the task force and others in the legal and lay communities.

Under the auspices of the National Association of Women Judges' National Task Force on Gender Bias in the Courts, Professor Normal Wikler and I have worked with gender bias task forces throughout the country and conducted an extensive evaluation of the first gender bias task force. These Guidelines are based on those experiences. Our assessment of the first task force, N. Wikler and L. Schafran, Learning from the New Jersey Supreme Court Task Force on Women in the Courts: Evaluation, Recommendations and Implications for Other States (1989)⁵ is an essential companion to these Guidelines. Evaluating a gender bias task force is a complex undertaking, difficult to explain in the abstract. The New Jersey Evaluation is a concrete example of how this kind of evaluation can be carried out, and provides the background and context for fully understanding these Guidelines. It is preferable to read the New Jersey Evaluation first. Both the New Jersey Evaluation and these Evaluation Guidelines should be read as early in the task force process as possible.

⁵ Available from the Women Judges' Fund for Justice, see *supra* note 4. Hereinafter cited as Learning from the New Jersey Supreme Courts Task Force on Women in the Courts or "the New Jersey Evaluation."

II. THE THREE ASPECTS OF GENDER BIAS TASK FORCE EVALUATION

Evaluating the impact of a gender bias task force entails three questions:

- (1) Did the task force's investigation and report educate the judicial, legal and lay communities about gender bias in the courts and motivate others to become change agents?
- (2) Were the task force's specific recommendations regarding matters such as legislation, education and administrative reform implemented?
- (3) Has the activity documented under (1) and (2) reduced gender bias in the courts?

In evaluating a task force's impact it is not enough to ask whether the legislature passed the recommended laws or the code of judicial conduct was amended or judicial education programs were presented. The answers to these questions are indeed essential measures of the task force's success in its implementation efforts and the system's commitment to reform. But an evaluation must look to the ultimate question of whether all this activity actually reduced gender bias in the courts.

Answering this ultimate question is neither straightforward nor simple. Assessing the impact of a gender bias task force does not lend itself to a conventional social scientific analysis. In that kind of study, researchers typically evaluate the success of a project using quantitative measures of progress made toward goals and objectives clearly defined from the outset. For a task force, however, the first phase of its work is determining precisely what the problems are. Moreover, virtually every court system lacks the statistical data bases that would provide baselines against which to measure progress, and many of the areas in which change occurs do not lend themselves to quantitative analysis. Thus, it is particularly important for a task force to shape its investigations and recommendations in ways that will facilitate future evaluations of its success in effecting change.

III. PLANNING FOR EVALUATION DURING THE INVESTIGATION PHASE

A task force's initial responsibilities for data collection and the formulation of findings and recommendations are so daunting that it is difficult to think beyond the task force report. But the report is merely the beginning of the work to be done. A task force's efforts are for naught unless they result in meaningful implementation and actually reduce gender bias in the courts. Thus, evaluations of progress subsequent to the task force report are of paramount importance. Moreover, recommending that there be an evaluation puts people on notice that their actions will be monitored. That in itself may produce change. Task forces should make recommendations in their reports and pursue activities during their investigation and implementation phases that will facilitate evaluations and enhance the likelihood of their being carried out.

Recommend That There Be an Initial and Subsequent Evaluations of the Task Force's Impact

Task forces should not assume that an evaluation will happen by itself. Recommend in the task force report that there be an initial and follow-up evaluations to assess progress in reducing gender bias in the courts and spell out what must be done in the next phase of implementation. Recommend time frames for these evaluations, recommend who should carry them out, and recommend that the necessary funding be provided.

When Should Evaluations Be Conducted?

When to conduct the initial evaluation of the impact of a gender bias task force is a difficult question. Time must be allowed for the task force or implementation team to carry out recommendations. Even straightforward administrative changes take time to achieve in a complex court system. Change in the sensitive area of gender bias in decision making often comes slowly. Yet allowing too long an interval before evaluation undermines the momentum for change and leaves the legal and lay communities wondering if the task force report has become just another dust gatherer. Beginning the evaluation process three years after the report is published so that an evaluation report can be published no later than the fourth year strikes a balance. It is likely that there will be continuing concerns warranting further action and evaluation. Both the task force report and the initial evaluation report should recommend that a second assessment be carried out after a two- or three-year interval.

Who Should Perform the Evaluations?

The task force report should include suggestions about who should perform evaluations.

The task force may know during the report writing phase who will be responsible for implementing its recommendations. For example, the chief justice may already have made a commitment to establish an implementation committee. If this committee will be broadly based and include a variety of task force members, it would be appropriate to recommend that this group carry out evaluations as well.

However if the implementation committee will be composed solely of individuals within the court system, evaluations performed by a group or individuals who are not part of the system will likely have more credibility in the community and are therefore preferable. The original task force or a small group of its members including "insiders" and "outsiders" could be reconvened for this purpose.

In making its recommendation for who should carry out evaluations the task force should take into account the makeup of the implementation committee if known. If this is not known, the report should suggest that evaluations be carried out by individuals who will have credibility with the community, preferably individuals who were involved with the original task force and are familiar with its findings and goals.

What Should the Budget Be for Monitoring and Evaluation?

Obviously monitoring and evaluation require funding. The task force should recommend that the court system, legislature, and bar associations⁶ provide the necessary resources. How much funding is necessary cannot be answered in the abstract. Just as some task forces have very limited funds and tailor their data collection accordingly, so the scope of these subsequent phases will depend upon what monies and in-kind services can be obtained. The New Jersey Evaluation was carried out with extremely limited resources, as discussed at page 19. Task forces can develop a sense of the potential costs for monitoring and evaluation from those task forces which are already in an implementation phase, and which have carried out the studies necessary to provide a baseline for assessing progress.

Make Recommendations Which Will Facilitate Evaluation

Recommend the Development of Appropriate Data Bases:

The most important recommendation a task force can make to facilitate evaluation is that the court system create and maintain data bases about all the areas of concern where data can

⁶ These have been the principle sources of funding and in-kind services for task forces to date.

be readily collected. (E.g., a data base about divorce cases can be readily developed, as discussed at pages 7-8; a data base about court interaction would require stationing highly trained long-term monitors in every courtroom, hardly an advisable deployment of resources.) Without a baseline that establishes the "before," it is difficult to assess the "after."

Lack of data is a problem afflicting every aspect of the courts, not just gender bias task forces. It is essential that court systems develop data collection capabilities which ensure that information needed to assess gender bias is collected on an ongoing basis and is easily retrievable.

Task forces should recommend that data bases be created and should specify the kinds of data to be collected. To be comprehensive, these data bases should cover not only the areas the state's own task force studied, but also the areas that other task forces have shown to be problematic. For example, most gender bias task forces are studying custody awards and will want a data base about initial awards and modifications in custody disputes. To date only the Florida task force has examined prostitution,⁷ an area for which every state should develop a data base on the comparative treatment of prostitutes of both sexes and their patrons in order to document who is arrested, who is prosecuted, and what kinds of sentences and fines are imposed on the parties to these transactions.

These data bases must capture the specific information necessary to assess whether gender bias is a factor in decision making. This means going beyond raw numbers. With respect to custody disputes, for example, relevant information would include not only the specifics of the ultimate disposition (i.e., sole custody to father or mother or the form of joint custody) but information about such matters as:

- the parents' respective employment and incomes;
- who had been the primary caretaker before divorce and who would be the daily caregiver post divorce or modification;
- whether there was an order of protection issued against

⁷ Philippa Levine, Prostitution in Florida, A Report Presented to the Gender Bias Study Commission of the Supreme Court of Florida (1988). Professor Levine found with respect to the judiciary that although most judges whom she interviewed "denied seeing or making any distinction between the prostitutes and their patrons, [the judges] agreed that their sentencing procedures nonetheless did not imply equal culpability. For the most part...judges largely favour incarceration for women and fines for men, although male and female prostitutes are generally treated on an equal basis." Prostitution in Florida, supra, at 148.

- either parent:
- whether either parent had been or was about to be remarried:
 - whether the nature of either parent's social and sexual relationships was noted in the opinion or other court documents:
 - the amount of any spousal and child support awarded and whether it was being paid:
 - if the case was about a modification of custody, whether the modification motion was made independently or in response to an effort to enforce child support.

Evaluators and other researchers need this level of detail in order to determine patterns and whether gender bias is a factor in these trends.

Task forces should recommend that data bases be designed in consultation with individuals expert in the nuances of gender bias in the courts. Data base designs must also be periodically reviewed and updated to capture additional data as new information about what constitutes or appears to be gender bias comes to light. An example here is sentencing. It has long been assumed that judges sentence women less harshly than men out of chivalry or paternalism. Recent studies involving both large data sets and qualitative interviews with individual judges indicate that where there is a pattern of lighter sentences for women the motivating factors are their status as single parents and judges' reluctance to see children placed in foster care⁸. Thus, a meaningful sentencing data base will include information about each defendant's marital and parental status, whether she or he is actively caring for and/or supporting a child and who would care for the child if the defendant were incarcerated.

Recommend Studies that Will Provide a Baseline for Evaluation:

As discussed in the New Jersey evaluation, often a task force is not able during its investigation phase to collect quantitative data such as case analyses. For those areas in which such data would be desirable, task forces should state in their reports that these studies are necessary as a baseline for evaluation, recommend that such studies be carried out, and work to secure them during the implementation phase.

Perhaps the task force received information about gender bias in the award of rehabilitative alimony but could do little

⁸ Kathleen Daly "Rethinking Judicial Paternalism: Gender, Work Family Relations and Sentencing," 3 Gender & Society 9 (1989); Kathleen Daly, Discrimination in the Criminal Courts: Family, Gender, and the Problem of Equal Treatment, 66 Social Forces 97 (1987).

more than describe this perception because trial level divorce decisions are not reported and the task force lacked funds for a study from court files. As part of its initial inquiry the task force should try to ascertain whether the necessary data are collected in court records and can be readily accessed. If not, the task force should recommend that the court system develop a form on which data about every contested divorce will be entered by designated court personnel. A Model Divorce Case Analysis Summary form for collecting information ranging from the parties' employment histories to the award of pendente lite counsel and expert fees appears in Appendix A.

To obtain an objective baseline the task force can recommend that the forms for a stated time period be developed into a report by an expert outside the court system. If this study confirms the existence of a problem, the study should be repeated and a report published a few years after the first report, to measure change. For example, in its report the task force could recommend that these data be collected and reported upon within two years, and that if warranted, a follow up report be published three to four years subsequently.⁹ (Concurrent with this data collection there should be judicial education about how gender bias affects alimony awards.)

Task forces should also recommend that these studies be carried out under the auspices of the ongoing task force, standing committee or implementation committee so that clear lines of authority will be established and the studies can proceed on a timely basis..

Make Recommendations as Specific as Possible:

The more specific an initial recommendation, the easier it will be to trace the recommendation's post report history. With respect to recommended legislation for example, name the par-

⁹ Note that a prospective study cannot precisely corroborate or contradict the perceptions of respondents to the task force's inquiry. If the task force publishes its report in 1990 based on information collected in 1988-89, and the study of divorce case data is based on 1991 cases, the study will reveal what is happening in 1991, not what was happening when respondents reported. This is not to say that the information will not be valuable or will not provide the necessary baseline. Given that change in decision making patterns comes slowly, absent a singular happening such as the institution of child support guidelines, there should not be much distortion.

Note also that the task force should make clear the need to collect these data on an ongoing basis even if the study does not confirm an inequitable pattern.

titular committee(s) responsible for that type of legislation and recommend that this committee, in consultation with the task force and appropriate experts, draft and introduce the bill.¹⁰ Recommend that when the report is sent to individual legislators it carry a cover letter drawing their attention to the legislation the task force recommends they draft and introduce. During evaluation, members of the designated committees can be asked for detailed information about the status of recommended legislation.

Recommend that the Legal and Lay Communities Participate in Evaluating Progress

During a task force inquiry, individuals and organizations asked to provide information often express skepticism as to whether the task force's efforts will make any difference. The task force report should suggest ways in which the legal and lay communities can track progress, or the lack of it, and keep the court system and public attention focused on the issues. The report can urge bar associations to establish committees to implement the task force's recommendations and to have individual members record their ongoing experiences in areas of concern to the task force, particularly those areas in which it is difficult to obtain data in other ways.

For example, a concern across the country is the difficulty many economically dependent women experience in obtaining pendente lite counsel and expert fees in divorce cases. Although the courts themselves should record and make available data about these motions, and task forces should recommend that they do this, another way of developing these data is through bar association matrimonial law committees. Committee members could complete a form each time they seek interim fees. The form, without naming the lawyers or clients, would provide information sufficient to determine whether, in families where the husbands have liquid assets and the wives do not (or vice versa), interim fees adequate to pursue the litigation are being awarded or withheld. See Appendix B for a suggested form. The forms would be forwarded to a subcommittee which would produce an annual report on the award of interim fees in that county.

Bar association committees and sections should be encouraged to generate their own reports on areas of concern to the task force on an ongoing basis. It may be more difficult to get an entire state court system to collect and provide access to data than to have attorneys do it individually. The task force should recommend that a bar committee conduct a study for the one year after the task force report to provide a baseline, and then again

¹⁰ If the task force has time and resources it can provide draft bills in its report or refer the legislature to specific well drawn statutes from other states.

two or three years later to see if there is any change. The task force should also recommend that when designing these studies bar associations consult with social scientists knowledgeable about gender bias in the courts and data collection.

Although the task force or its successor (e.g., a standing committee) should function as a clearinghouse for complaints, local bar associations should also be encouraged to establish committees to receive and process complaints about gender bias in their own communities. The nature, validity and incidence of these complaints and how they are resolved should become part of the evaluation (with confidentiality appropriately protected).

Similarly, community organizations knowledgeable about issues of concern to the task force should be asked to participate in an ongoing evaluation process. For example, NOW chapters in many states and cities maintain hotlines for women seeking assistance in several areas that relate to the courts. NOW-New York State estimates that of the thousands of calls it receives each year half relate to divorce cases. NOW chapters could be asked to keep records of the calls that relate to task force concerns and to obtain transcripts and decisions from these callers or else case names and docket numbers so that researchers can obtain the court files. The nature and number of concerns brought to NOW's attention would be one way of learning about progress and continuing or new problems.

Another example of the kinds of grass-roots organizations that should be enlisted in ongoing record keeping for the task force are those involved in child support collection, such as local chapters of ACES (Association for Children for Enforcement of Support, Inc.).

Enlisting bar associations and community organizations in ongoing data collection to enhance evaluation is important because few state court systems can afford the kind of data collection systems that would be optimal. Task force reports should recommend that during the implementation phase the task force or its successor should collect and maintain records of data collected by these-various groups.

IV. DID THE TASK FORCE'S INVESTIGATION AND REPORT EDUCATE THE COMMUNITY ABOUT GENDER BIAS IN THE COURTS AND MOTIVATE OTHERS TO BECOME CHANGE AGENTS?

Before a task force educates the community relatively few people realize that gender bias in the courts means more than a judge calling a woman lawyer "honey" or that the problem is pervasive. Efforts to reduce gender bias in the courts are usually confined to "special interest groups" such as advocates for battered women and public interest law firms devoted to women's rights. Therefore the task force's success in enlightening the community about the meaning and extent of gender bias in the courts and motivating new groups to become change agents is a significant measure of a task force's impact. This should be documented as part of the evaluation.

Chronicle Community Response to the task Force During the Investigation Phase

The first measure of the task force's impact is what actions the legal and lay communities take in response to the task force's creation and investigation, even before its report. The formation of the task force will hopefully stir interest in the community, leading to invitations to task force members to address bar associations and other legal and non-legal organizations about the meaning of gender bias in the courts and the task force's mission and methods. A chronicle of the task force's outreach to the community (e.g., press releases, articles written for legal and non-legal publications) and the way the community responds (e.g. requests for speakers, news articles) during data collection is the beginning of an evaluation. During the investigative phase, the task force should keep a record of these speaking engagements, radio and television interviews, press coverage and other indicia of community concern. This record should include the response to these appearances and articles. Appendix C, the Assessment Form prepared for New Jersey task force members for use in the New Jersey Evaluation, includes a log (page two) on which task forces members were asked to list their public appearances. This log can be adapted for use during the data collection phase.

Document How the Task Force's Findings and Recommendations Were Made Known to the Judicial Branch, the Legal Community and the Public.

The threshold question in connection with community response to the task force's report is: How were the task force's findings and recommendations made known to the judicial branch, the legal community and the public? To date no task force has explicitly recommended that its report be distributed to all judges in the state and to the legal and non-legal communities as well. Rather, it has been assumed that this would be done.

Given the importance of the education function of a task force report and the need to enlist both the court system and individuals and organizations outside that system in the implementation effort, task forces should make specific recommendations about disseminating the task force's complete findings to the judiciary, the legislature, bar associations, law schools, community organizations and the press.¹¹ Task forces should also recommend that the office of court administration keep count of the reports distributed, distinguishing between those sent at the task force's behest and those requested by interested individuals and organizations. How the court system responds to these recommendations is part of the evaluation. The "count" of reports distributed, particularly those requested, is a measure of the task force's impact.

It is essential to recommend that the task force's full report, not just a summary report, be widely disseminated. In New York, where there was a long hiatus between judges' receipt of the summary report and the full report, many judges understandably objected that the task force's findings were conclusory.

Chronicle Actions Taken by the Legal and Lay Communities in Response to the Task Force Report

The task force or its successor should record the actions taken by legal and lay organizations in response to the task force report and recommendations. For example, in New Jersey the state and several county bar associations responded by introducing programs about gender bias, intensifying efforts to recruit women and appointing more women to leadership positions. In New York bar associations throughout the state established committees to implement the task force's recommendations. These committees have undertaken a variety of activities including reports of their own, discussion groups with local judges and continuing legal education programs. Among non-legal organizations, NOW-New York State has held two day long conferences to assess progress, each of which attracted several hundred attendees.

The level of community activity in response to the task

¹¹ To insure that the task force report will be accessible to readers in and out of state after the office of court administration's initial printing(s) have been exhausted, task forces should also recommend that efforts be made to secure publication of the full report in a suitable publication, such as a law journal, listed in the Index of Legal Periodicals. As cited in notes 1 and 3 supra, the New Jersey and New York task force reports are published in the Women's Rights Law Reporter and the Fordham Urban Law Journal, respectively.

force report is a crucial measure of the task force's impact on social change and must be documented. Task forces or their successor implementation committees should:

- State in the task force's recommendations that legal and non-legal organizations should keep the implementing authority informed about actions they take to carry out, or encourage those in authority to carry out, the task force's recommendations.
- Make sure that the legal and lay communities know that the task force or committee is collecting this information and where to forward it.
- Have individual members keep logs, as they did during the investigative phase (see page 12 and Appendix C), of public and media appearances at which they discuss the task force report.

Maintaining an ongoing record of these activities will facilitate assessment of the task force's success in educating the community and enlisting others as change agents.

Chronicle Media Response

A strong response from the state's print and electronic media to the task force's findings and recommendations is essential to creating public pressure for change and is another measure of the task force's impact.

The task force or its successor should maintain a file of newspaper and magazine articles about the report and implementation efforts as well as listings (and, where possible, audio and video tapes) of electronic media coverage.

Communicate with Other Task Forces, Committees and Commissions About Specific Task Force Findings and Recommendation and Chronicle Their Response.

During the task force's investigation and implementation phases other official bodies may come into existence or take up issues relevant to the task force's findings and recommendations. The task force should communicate with these other bodies to ensure that its views are known and chronicle the response to the task force's suggestions.

Information the task force develops about women of color should be communicated to task forces addressing race bias in the courts, so that they, too, can report on the double discrimination experienced by minority group women in the courts.

An increasing number of states have Citizens Advisory

Commissions on the Courts conducting investigations about current issues and how the courts should function in the twenty-first century. Many of the issues covered by gender bias task forces are relevant to these commissions' work and should be communicate to them. The Arizona Supreme Court Commission on the Courts, for example, has task forces on children and families, alternative dispute resolution, court organization and administration and productivity. These task forces need to hear from the gender bias task force about issues such as child support enforcement: why mediation is not an appropriate response to domestic violence: and gender bias in the courtroom behavior of judges, lawyers and court personnel.

The American Bar Association Standing Committee on Ethics and Professional Responsibility recently proposed changes to its Code of Judicial Conduct which would explicitly bar gender and other types of bias on the part of judge sand those under their direction and control¹² and ban judges' memberships in invidiously discriminatory clubs.¹³ Task forces should communicate their views on these revisions to the Judicial Code Committee of the ABA Standing Committee on Ethics and Professional Responsibility and to state court or bar committees charged with considering revisions in their own state codes of judicial conduct.

Other committees to which task forces should provide input include those dealing with child support guidelines, sentencing guidelines, court facilities, judicial performance evaluation surveys and judicial disciplinary procedures.

Having communicated with these various bodies, task forces should chronicle whether the informationand views shared affected these other entities' reports and policy decisions.

¹² American Bar Association, Draft Revisions to ABA Code of Judicial Conduct (May 1, 1989), Section 3B (5) and Commentary.

¹³ Id., Section 2C and Commentary.

V. WERE THE TASK FORCE'S SPECIFIC RECOMMENDATIONS IMPLEMENTED?

Task forces are making numerous recommendations for judges, court administrators, legislatures, bar associations, prosecutors, police, law schools, judicial screening committees and others. Evaluating the impact of a task force requires learning whether these recommendations for judicial education were carried out. Was the code of judicial conduct amended to make gender bias a form of judicial misconduct? Have all county prosecutors established special units to handle domestic violence and sexual assault cases? Are local law schools presenting the task force's findings in relevant courses? Some of these inquiries will be relatively straightforward, but determining whether the task force's specific recommendations were implemented often requires more than ascertaining yes or no. It is important to learn how fully and effectively recommendations were implemented, why some are still in process and why others are stalled or dead. This may be a subtle and politically sensitive inquiry.

How Fully and Effectively Were Recommendations Implemented?

For many recommendations it is essential to learn not only whether they were carried out, but precisely how. For example, if judicial education programs were presented in response to the task force's recommendation, was the faculty trained to avoid gender biased language and hypotheticals and to be able to integrate gender bias issues across the range of substantive and procedural courses? Were the programs confined to generalizations about stereotypes that never addressed the specific ways stereotyped thinking manifests itself in decision making? Was it passive education in which reading materials were distributed but not discussed? Because neither of these methods constitute effective judicial education about gender bias in the courts, the recommendation for judicial education appears to have been carried out, but it was not done in a meaningful way.

If the task force made recommendations about advancing the status of women court personnel and insuring that women become policy makers in the court system, determine whether the Equal Employment Opportunity Commission or grade categories which were the basis for the task force's initial report have been revised in any way, in order to avoid comparing apples and oranges. In both the initial and evaluation reports clarify the responsibilities that go with apparently high ranking jobs. For example, the chief of court reporters may rank in the top management grades, but not hold a policy making job within the court system. Putting a woman in this position would mean a woman held a high ranking post, but would not be responsive to the recommendation that women be appointed to policy making jobs. Similarly, if an underrepresentation of women as clerks of court was corrected, are the new appointees' posts in a variety of communities, or are the women only appointed to these posi-

tions in small, relatively rural courts?

Why Were Some Recommendations Not Carried Out?

For those recommendations not carried out it is important to learn why not and what can be done to bring them about. For example, if suggested legislation has not been adopted, is it because it was never introduced, because it was not voted out of committee, because those who support the legislation were not informed about it and thus could not lobby for it, or because it was rejected on the floor of one or both houses? In any of these situations, the standing committee (or other evaluation body) should ask: what must happen next and who has to do it?

It may be that some action the task force recommended was not possible for reasons of which the task force was not aware when it made the recommendation. It may be a genuine lack of the necessary personnel or monetary resources. Or it may be the result of overt or covert resistance. Pinpointing in the initial evaluation why a recommendation has yet to be carried out is essential for the next phase of implementation.

VI. HAS THE ACTIVITY GENERATED BY THE TASK FORCE'S INVESTIGATION AND REPORT REDUCED GENDER BIAS IN THE COURTS?

As stated earlier, learning whether a task force has made a difference entails answering three questions: (1) Did the task force educate the legal and lay communities about gender bias in the courts and motivate others to become change agents? (2) Were the task force's recommendations implemented? and (3) Has the activity documented under (1) and (2) reduced gender bias in the courts? The critical distinction between the first two questions and the third is illustrated by a situation in New York that predates that state's task force. At a 1982 meeting on the legal rights of battered women, a lawyer sought advice about dealing with a judge in her county who refused to issue orders of protection. At the request of battered women's advocates, the legislature in 1980 had reformulated the purpose of the Family Court Act, replacing the statement that the Act's purpose was to keep the family intact with a statement that the Act's purpose is to secure the safety of individual family members. When a delegation met with the judge to point this out, the judge responded that he knew all about the change in the law, but he liked it the old way. The legislature had been educated, the law had been changed, but the judge's own gender bias on the issue had not been reduced.

Determining what is actually happening in the courts on a day to day basis requires an investigation both similar to and divergent from the task force's original inquiry.

Utilize Both Objective and Subjective Data in Your Evaluation

Answering the ultimate question of whether gender bias in decision making, court interaction and court employment has actually been reduced requires both objective and subjective data. Obviously objective data is the most desirable, which is why it is so important to put in place the kind of data collection system described earlier. But some of the concerns cited by the task force do not lend themselves to this kind of documentation. If a proper data base is maintained, statistical records will tell how many orders of protection were sought and granted and whether child support was awarded with these orders when requested or sua sponte. But statistical records will not tell whether judges or court personnel asked women what they did to provoke the violence against them or why they have no visible injuries, and transcripts are rarely available. Assessing a diminution in these kinds of remarks will have to depend on the experiential reports of individuals such as battered women's legal advocates who are regularly in court on these kinds of cases. As in the task force's original inquiry, a key element in evaluation is developing data from several different sources and determining the extent to which they corroborate one another.

Utilize Both Legal and Social Science Expertise for Data Collection

Another important aspect of the original task force inquiry which should be carried forward into evaluation is that data collection must be pursued as an interdisciplinary effort involving individuals with expertise in the law, in social science and in the nuances of gender bias. As discussed more fully in Chapter Three of Operatins a Task Force on Gender Bias in the Courts: A Manual for Action,¹⁴ the experiences of many task forces have shown that this kind of work cannot be carried out by judges and lawyers alone, nor "farmed out" to social science researchers unfamiliar with the courts and the ways in which gender bias is manifested there. It is useful to have social scientists as members of the task force, the implementation team and the evaluation team so that there is regular-interchange among disciplines and problems of collecting and understanding data are minimized.

Be Creative in Developing Methodologies and Sources

Like the task force's initial effort to document the nature and extent of gender bias in the courts, learning whether gender bias has been reduced is an effort that can be conducted at many levels. Evaluators with substantial time and resources can replicate the entire initial investigation and pursue whatever additional studies they deem necessary. If, as is more likely, the evaluators are as constrained by time and money as the original task force, decisions will have to be made about what are the most important things to learn and the least expensive ways of learning them.

Appendix D lists the twenty-five objective and subjective data sources utilized in Learning from the New Jersey Supreme Court Task Force on Women in the Courts: Evaluation, Recommendations and Implications for Other States.¹⁵ Despite extremely limited resources we were able to obtain assessments of progress and continuing areas of concern from a wide variety of knowledgeable informants by utilizing, for example specially convened and already scheduled meetings, individual reporting forms for task force members and women judges (see Appendix C) and interviews with individuals with the most relevant expertise. The many gender bias task forces operating today have developed numerous creative ways of searching out data for their initial investigations. Reviewing their methodologies will suggest ways to go forward with evaluation.

14 See note 4, supra.

15 See note 5, supra.

Is it Necessary to Repeat the Task Force's Initial Surveys?

Most task forces have surveyed attorneys. Some have also surveyed judges, bar sections, court administrators, court personnel, jurors, litigants, prosecutors and domestic violence shelters. Obviously, it would be extremely interesting to resurvey these populations to discover, for example, whether judges feel they learned anything from the task force, what the bar's perceptions are about change and whether these two groups' perceptions match the objective data. However, resurveys present several problems. Because it is more difficult to persuade people to complete a survey about what is right than about what is wrong, the response rate may be very low. Unless there is a way to assure that the respondents are the same individuals who responded the first time, it is inappropriate to draw strict comparisons between the two surveys. Surveys are expensive and are not a substitute for objective data in those areas which lend themselves to statistical data collection.

Taking child support as an example, assume the task force reported that awards are unrealistically low or, in this new era of child support guidelines, that judges and hearing officers use the guidelines as a ceiling without regard for the special needs of individual children and families. An evaluation survey of family law practitioners will reveal whether they perceive any improvements. A data base that documents the awards made in individual family circumstances, the response to requested deviations and deviations made sua sponte over a period of time will reveal what is actually happening, permitting an assessment as to whether there is, in fact, an improvement.

This is not to say that subjective data are not valuable or should not be sought out by evaluators. Indeed, subjective data complement objective data by revealing the nuances of daily court activity and providing a deeper understanding of where problems lie. The important point is that once a task force identifies the data bases that should be made part of the court's permanent monitoring system, these data bases must be put into place. A survey is an adjunct to, not a substitute for, a data base.

In some instances only subjective data will be available, but here, too, judgments will have to be made about how widely to survey. Limited resources for the evaluation may make it necessary to focus on those sources which can provide the most specifically relevant information. With respect to the treatment of women attorneys, as noted earlier, unless a monitor is placed in each courtroom, this is not an area in which a comprehensive data base is likely to evolve. The several task force and bar association reports on this issue to date have consistently revealed that women perceive a significant amount of discrimination in court interaction while men perceive little. Although it would be interesting to resurvey men as well as women to learn

whether men have become more aware of gender bias as a result of the task force's report¹⁶, if the evaluators only have resources to find out whether the incidence of gender biased behaviors originally reported has diminished, it makes sense to limit an inquiry on this point to women's bar associations and women attorneys.

Seek Information and Evaluation from Groups with Specialized Expertise

During the task force's inquiry it will become apparent which organizations and individuals are involved with the task force's areas of concern on a continuing basis and will be able to provide future assessments of change in these areas. These organizations will include domestic violence shelters, rape crisis centers and sex crimes units, grass-roots child support collection organizations, bar association sections and academics following these legal issues within the state. Evaluators can turn directly to these sources and seek information from them.

For example, as part of the evaluation of the impact of the New Jersey Supreme Court Task Force on Women in the Courts, a structured telephone survey was conducted of the directors or legal advocates at fifteen of the state's seventeen domestic violence shelters. (Two shelters declined to participate.) That survey instrument appears in Appendix E. Communicating with these individuals enabled us to tap the experiences of the large number of women who negotiate the court system with the help of advocates from domestic violence shelters.

Be Clear About What Actually Brought About Change

For some areas in which evaluators find an amelioration of task force concerns, the causative agent will be something other than the task force or, more likely, there will have been a number of factors at work. That something other than the task force was responsible for bringing about change, or that there was a convergence effect, should be made clear in the evaluation.

The most obvious example is child support awards. The first task force, established in New Jersey in 1982, reported in 1984 that inadequate, unenforced child support awards were a matter of concern. Also in 1984 the federal government enacted the Child

¹⁶ Realize that if more men report more gender bias on an evaluation survey than did so on the initial survey, the question raised is: Is there now more gender bias than in the past, or are men now aware of incidents that formerly made no impression on them? Questions should be drawn to elicit both men's and women's sense of whether they have been alerted to gender-biased behavior that they did not notice or understand before.

Support Enforcement Amendments, requiring states to establish award guidelines and new enforcement mechanisms or lose federal funds. During the evaluation of the New Jersey task force in 1987-8, family law practitioners reported and data from the Administrative office of the Courts confirmed that the guidelines were definitely bringing about increased awards. Obviously this was an important area of improvement, but the most that could realistically be said about the task force's role in it is that perhaps there were some synergistic effects, given the coincidental timing of the report and the federal legislation. Presumably there will be even greater improvements in child support awards and enforcement under the 1988 Family Support Act which will affect evaluations of other task forces' impact.

Another example would be a case that galvanizes public attention and results in new legislation. In 1988 New York legislators drafted legislation to bar cross examination about the social and sexual life of witnesses in all types of criminal trials when these matters are not relevant to the case at bar. (Undermining witnesses' credibility by impugning their chastity is a ploy long utilized against women -- but not men -- not only in rape trials, but in all kinds of criminal and civil cases.) This legislation was prompted by a case in which a model whose face was slashed by thugs hired by a man she had declined to date was cross examined intensively at the trial of her attackers about her social life and attitudes toward men.

The fact that an agency other than the task force brought about change does not mean that this progress should not be reported. When other entities take action it reinforces the credibility of the task force in pointing out these problems.

Pay Attention to the Subtleties

To fully understand what the current court climate is and whether it has changed requires attention to subtleties. For example, what actually happened on remand to a domestic relations case overturned on appeal? La Roque v. La Roque, 406 N.W. 2d 736, 139. Wis. 2d 23 (1987) illustrates why it is necessary to follow such a case to its conclusion.

This case dealt with a twenty-five year marriage in which the wife, 46 years old at the time of divorce, was a homemaker and mother of five. She had worked outside the home while her husband was in law school and later assisted in his various election campaigns. At the time the divorce was granted she had no income and he was earning \$60,000 as an appellate judge. The trial court awarded the husband his entire pension. The wife received the family house, largely encumbered by a mortgage, with instructions to sell it when her last child reached majority and use the income for living and education expenses. She was also awarded short-term alimony of \$1,500 per month for five months

and \$1,000 per month for another thirteen months. The appellate court extended the \$1,000 a month alimony until such time as she could earn \$1,000 per month herself. In other words, the appellate court considered it equitable that she live on \$12,000 pre-tax while her former husband lived on \$60,000 pre-tax.

In a strongly worded opinion about the substantial disparity in the post-divorce incomes of the parties under the trial court's scheme and the court's failure to appreciate the wife's contribution to her husband's earning ability at the cost of her own financial independence, the Wisconsin Supreme Court held that the amount of maintenance could not be justified and that limiting it to eighteen months was an abuse of the trial court's discretion.

On remand the trial judge awarded indefinite alimony of \$1,500 per month, maintaining that it could not be higher because during the three years the case was on appeal the husband incurred substantial consumer debt on a boat and a second wedding. The judge also punished the woman and her lawyer for prosecuting the appeal in the way he dealt with attorneys fees. Against the wife's \$40,000 bill the judge awarded \$6,000, payable \$200 per month without interest starting in January 1989.

The Wisconsin Supreme Court's opinion in this case sets an extremely important precedent for decisions respecting indefinite alimony for long-term homemakers. Nonetheless, on remand, the trial court judge did not carry out the spirit of the high court's decision.

VII. LOOKING TO THE FUTURE

Evaluations Should Provide Guidance for the Next Phase of Implementation

In addition to assessing the task force's impact to date, evaluations should provide guidance for the next phase of implementation. For example, the New Jersey Evaluation recommends that the New Jersey task force devolve into a small standing committee, that judicial education focus on integrating gender bias issues into all relevant substantive and procedural courses¹⁷, and that the Office of Court Administration develop the kind of social science research expertise needed for assessment and monitoring of gender bias issues.

17 For example, medical negligence courses should present information about how gender bias sometimes shapes the medical profession's response to women patients; criminal, and civil evidence courses need to explore inappropriateness of allowing women to be cross-examined about their sex lives and attitudes toward men in cases where these matters are irrelevant; judicial trial skills seminars should explain why failing to use gender-appropriate pronouns in jury charges can prejudice a jury; matrimonial law courses should explore matters such as the work force potential of women and men of different ages and backgrounds so that judges can better assess the appropriateness of short term alimony for older homemakers; law and psychiatry seminars should cover gender bias in the mental health profession's views of women and how this can skew expert witness testimony; custody seminars should explain why a man who beats his wife but not his child is not a suitable custodial parent. To facilitate integrated judicial education, the Women Judges' Fund for Justice will publish this author's Integrating Gender Bias Issues into Judicial Education: Outline for a Model Curriculum later this year.

Education About Gender Bias in the Courts Must be a Permanent concern

However positive the findings of an evaluation may be, it is essential for every court system to treat the need for awareness of, sensitivity to, and education about gender bias as a permanent condition. New judges, masters, hearing officers, referees, mediators, court administrators and court personnel are constantly joining the system. They must all be educated and sensitized. It would be a serious mistake to assume that over time, as younger people join the system, the need for conscious attention to gender bias in the courts will spontaneously abate. Not even increasing the number of women judges, helpful as that will be, is by itself the answer. Neither women nor men are born understanding the battered woman's syndrome or the economics of divorce. To date gender bias issues have rarely been addressed in legal and continuing legal education. Although this deplorable state of affairs is beginning to change, it will be many years before today's law students are judges, and even then it cannot be assumed that all will have been exposed to this new knowledge or will have taken it in. And many categories of individuals active in the court system do not go to law school.

We can expect that time will ameliorate many of the problems being documented in the area of court interaction. As increasing numbers of women become lawyers and judges, men in these positions will no longer view their female counterparts as oddities, to be treated with chivalry or scorn. But understanding all the aspects of substantive decision making in which gender bias may be a factor will continue to require attention and education. New research and scholarship gives us new insights into how gender bias is manifested in the courts. New issues in which gender bias may be a factor (e.g. reproductive technologies) arise and must be examined. This is an area which requires that everyone in the justice system must be learning regularly and learning anew. In recommending that there be an initial and subsequent evaluations of its impact on reducing gender bias in the courts, a task force must make clear that no matter how positive those evaluations, the issues require permanent attention and concern.

VIII. CONCLUSION

These Evaluation Guidelines are about process: How can a gender bias task force know whether it has made a difference? But given the enormous effort required in all stages of a task force's work and the need for a long term perspective, the important note to conclude on is that a task force can make a difference. The New Jersey Supreme Court Task Force on Women in the Courts, the first gender bias task force, was established in 1982, presented its findings at the New Jersey Judicial College in late 1983 and published its first report in mid-1984. When the impact of this task force was evaluated four years later, we were able to report that although gender bias had not been eliminated from the New Jersey courts -- an accomplishment impossible to achieve in four short years -- this task force had made notable progress in many areas, especially in "creating a climate within the court system in which the nature and consequences of judicial gender bias are both acknowledged to exist and understood to be unacceptable in the New Jersey courts."¹⁸ The success of the New Jersey task force in legitimating gender bias in the courts as an issue the judiciary must take seriously should be a cause for optimism among other task forces as they pursue their arduous and much needed work.

18 Learning from the New Jersey Supreme Court Task Force on Women in the Courts, supra note 5, at 2.

APPENDIX A

MODEL DIVORCE CASE ANALYSIS SUMMARY SHEET

Directions: Check off appropriate answer or complete blank as required. Attach additional sheets if necessary.

Name, address and phone of individual completing form:

Case Name: _____

Court _____ Reporter Cite or Docket No.: _____

Date of decision: Duration of Marriage _____

Grounds for Divorce _____

Standard of Living: Low income(\$) _____ Middle income(\$) _____
Comfortable(\$) _____ Luxurious(\$) _____

Wife: Age _____ Health _____

Education _____

Currently Employed: Yes _____ No _____

Full Time _____ Part Time _____

Employment _____

Current Title _____

Income _____

Date started _____

Prior Employment: Title _____

Income _____ Dates _____

Dates _____

Title _____

Income _____ Date _____

Court's Assessment (if any) of wife's future employment prospects:

Husband: Age _____ Health _____

Education _____

Currently Employed: Yes _____ No _____

Full Time _____ Part Time _____

Employment _____

Current Title _____

Income _____ Date started _____

Prior Employment: Title _____

Income _____ Date _____

Title _____

Income _____ Date _____

Court's Assessment (if any) of husband's future employment Prospects:

Children of Marriage: Number _____
Age _____ Health _____
Current School Placement _____
Anticipated educational needs through graduate
Education _____

Present and future child care costs _____
Present and anticipate medical needs _____

Age _____ Health _____
Current School Placement _____

Anticipated educational needs through graduate
education _____

Present and future child care costs _____

(Describe additional children of marriage as needed)

Custodial Disposition: Father _____ Mother _____ Split _____
Visitation Schedule _____
Children of Other Marriage(s): Number _____ Age(s) _____
Joint Physical _____ Joint Legal _____
Custodial Parent(s): Father _____ Mother _____ Split _____

ASSET DISTRIBUTION AND SUPPORT AWARDS:

NOTE: Include all types of property including pension rights, family home, other real property, business, cash, vehicles, non-income producing personalty, securities, professional good will, professional education and licenses, etc.

Separate Property: List type and value

Wife _____

Amount of income producing _____
Amount non-income producing _____
Wife's Valuation _____ Husband's Valuation _____
Court's Valuation _____
Husband's Valuation _____ Wife's Valuation _____
Court's Valuation _____

Marital Property: Total Value _____% to wife _____% to husband _____

Wife _____

Amount of income producing _____
Amount non-income producing _____
Wife's Valuation _____ Husband's Valuation _____
Court's Valuation _____

Husband _____

Amount of income producing _____
Amount non-income producing _____
Husband's Valuation _____ Wife's Valuation _____
Court's Valuation _____

Temporary Spousal Support Award to: W____ H____ Not Awarded _____
Amount and payment schedule _____
Spousal Support Award to: Wife____ Husband____ Not Awarded _____
Rehabilitative _____ Duration _____
Permanent _____ Lump-sum, in gross, etc. _____
Annual amount _____ Payment schedule _____

Child Support: Annual amount due from mother _____
Payment schedule _____
Termination date _____

Annual amount due from father _____
Payment schedule _____
Termination date _____

Special Provisions (e.g., private school, college expenses, medical insurance, extraordinary medical expenses, child care):

Special Relief (e.g., medical or life insurance): Describe _____

COUNSEL AND EXPERT FEES:

Temporary Counsel Fees Awarded to: W____ H____ Not Awarded _____
Amount Requested _____ Amount Awarded _____
Temporary Expert Fees Awarded to: W____ H____ Not Awarded _____
Amount Requested _____ Amount Awarded _____
Counsel Fees Awarded to: Awarded to: W____ H____ Not Awarded _____
Amount requested: _____ Amount awarded _____
Expert Fees Awarded: W____ H____ Not Awarded _____
Amount requested _____ Amount Awarded _____

Comments: _____

Signed _____
Date _____

APPENDIX B

INTERIM COUNSEL AND EXPERT FEE AWARDS STUDY
Bar Association Name _____
Committee Name _____

Each time you make a motion for an interim award of counsel or expert fees, please complete this form. Retain a copy for yourself and forward one - anonymously if you wish - to our Subcommittee on Interim Awards c/o Attorney X, Address.

Court _____

Date of Motion _____ Date of Decision _____

Which Party Do You Represent? Husband _____ Wife _____

Counsel Fee Requested _____ Awarded _____

Expert Fee Requested _____ Awarded _____

Type of Expert(s) Needed _____

Asset(s) to be Appraised (e.g., pension, business) _____

Assets of Parties Known to You At this Time:

Husband: Salary _____

Liquid Assets (e.g. savings, money market
Accounts, stocks) _____

Non-Liquid Assets (e.g., business, real estate)

Wife: Salary _____

Liquid Assets _____

Non-Liquid Assets _____

National Judicial Education Program to Promote Equality
for Women and Men in the Courts

APPENDIX C

NEW JERSEY SUPREME COURT TASK FORCE ON WOMEN IN THE COURTS

MEMBERS' TASK FORCE ASSESSMENT FORM

Date _____

Name _____

Title/Affiliation _____

Address _____

Phone Number _____

IN ORDER TO ASSESS THE TASK FORCE'S WORK IN A SYSTEMATIC MANNER, WE ARE COLLECTING INFORMATION FROM A VARIETY OF SOURCES. THE INFORMATION YOU ARE BEING ASKED TO PROVIDE ON THIS FORM IS CRITICAL TO THIS ASSESSMENT. THANK YOU IN ADVANCE FOR YOUR COOPERATION.

Contact Melanie Griffin, Esq. At (609) 984-5430 for questions. ADD EXTRA PAGES AS NECESSARY.

I. WHAT IS YOUR OVERALL ASSESSMENT OF THE TASK FORCE'S IMPACT ON GENDER BIAS IN THE NEW JERSEY COURTS AND WITHIN THE LEGAL/JUDICIAL COMMUNITIES IN THE STATE?

Please think about both objective evidence of change (e.g., court opinions citing the Task Force; bar associations moving women into leadership positions) and subjective indicators of change (e.g., your and other's impressions of a change in the gender "climate" in the courtroom and at professional Gatherings).

II. MEMBERS' ACITIVITY LOG

Please record all formal and informal professional presentations you have given (talk, panels, etc.) on the Task Force or gender bias in the courts both within and outside of the state, for judicial, legal and lay audiences. (If you do not recall a date, estimate the season-- Fall, 1983). Append Written Announcements, if any.

<u>DATE</u>	<u>PLACE</u>	<u>AUDIENCE</u>	<u>DESCRIBE PRESENTATION</u>
		(Description, Number)	(e.g., judicial education program; topic; responses)

[illegible]

III. CONCRETE EXAMPLES OF POSITIVE CHANGE IN JUDICIAL DECISION-MAKING

Please give examples of cases in which decisions (whether in response to objections, motions, or final outcomes) reflect sensitivity to the concerns raised by the Task Force. Please APPEND any reported or unreported decisions or transcripts in your possession. If you do not have them, provide the case name, docket number and hearing date.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

Please give examples of behavior (including verbal behavior) of judges, attorneys and court personnel which indicate change in the treatment of women in the courts and the profession since the commencement of the Task Force. Please note in what ways, if any, the Task Force's existence was a factor in this change. Be as specific as possible in your examples drawn from incidents observed by you or reported to you. (E.g., women attorneys reporting that there is less gender bias in the courts; judges or attorneys intervening to stop gender biased behavior and taking affirmative steps to promote gender fairness in the courts and at professional gatherings; elimination of sexist rituals such as female strippers at annual bar clambakes.)

[illegible]

[illegible]

VI. OTHER SOURCES OF INFORMATION ABOUT TASK FORCE IMPACT.

In addition to information regarding individual Task Force member's activities and observations, assessment of the Task Force's work will be based on the additional items below. Please review this list carefully, TELL US IF WE HAVE OMITTED ANYTHING AND APPEND RELEVANT DOCUMENTATION.

1. Data on the distribution of the Task Force's first and second reports and the videotape. Sent to whom? How many?
2. Press clippings about the Task Force and gender bias in the New Jersey courts.
3. Description of all legal and judicial education programs about gender bias given in New Jersey.
4. Copies of all New Jersey court memoranda documenting the Chief Justice's and Court Administration's implementation of Task Force recommendations.
5. The number (and description) of complaints of gender bias (from attorneys, litigants) received and processed by the Task Force.
6. Copies of court opinions which incorporate Task Force findings or reflect the perspectives of the Task Force and sensitivity to gender bias.
7. Reports on any disciplinary action taken because of gender biased behavior by the Judicial Conduct Commission or other such bodies.
8. Copies of court forms and other communications which have been "gender neutralized" since the Task Force began.

THANK YOU

APPENDIX D

DATA SOURCES UTILIZED IN EVALUATING THE IMPACT OF THE NEW JERSEY SUPREME COURT TASK FORCE ON WOMEN IN THE COURT*

1. Task Force Meeting: At a special meeting of the Task Force on April 24, 1987, Professor Wikler led a structured discussion among Task Force members about their experiences, observations and analyses of the Task Force's impact and sought their suggestions for other sources of data. The entire meeting was recorded and transcribed.
2. Task Force Logs: Task Force members completed an assessment form prepared by Professor Wikler which asked them to (1) list all judicial, bar and public education programs about the Task Force in which they had participated; (2) record their overall assessment of the Task Force's impact on gender bias in the New Jersey courts, drawing upon their personal experiences, reported and unreported opinions, and comments made to them by judges and lawyers; (3) describe concrete examples of positive and negative responses to the Task Force's work, including its reports; (4) submit relevant documentation; and (5) suggest other sources of data.
3. Subcommittee Reports: The Chairs of the Task Force subcommittees were asked to report on the implementation of the recommendations made by their respective subcommittees in the Task Force's first and second reports.
4. Interview with the Chief Justice: On April 28, 1987, Professor Wikler interviewed Chief Justice Robert N. Wilentz about his assessment of the Task Force's impact and his continuing concerns about the elimination of gender bias in the New Jersey Courts.
5. Women Judges Meeting: At the May 5, 1987, meeting of District Three of the National Association of Women Judges, which includes New Jersey, twenty-six women judges participated in a discussion led by Judge Marilyn Loftus and Lynn Hecht Schafran in which these judges were asked for their assessment of the Task Force's impact. The entire meeting was recorded and transcribed.
6. Women Judges Logs: The judges attending the NAWJ District Three meeting were also asked to complete a log similar to that prepared for Task Force members.

* See Norma J. Wikler and Lynn Hecht Schafran, Learning From The New Jersey Supreme Court Task Force on Women In The Courts: Evaluation, Recommendations and Implications for Other States (Women Judges' Fund for Justice, 1989).

7. Essex County Judges Meeting: On January 20, 1988, the monthly meeting of the Essex County (Newark) Judges was devoted to a discussion led by Judge Marilyn Loftus and Lynn Hecht Schafran designed to elicit these judges' views as to whether and how the Task Force had influenced their decision making and the way they conduct their courtrooms.

8. Judicial Education: A review was made of the courses given at the New Jersey Judicial Colleges since 1983 that were either presented by the Task Force or that integrated Task Force materials and concerns, and the judges' evaluations of these courses.

9. Judges Survey: In 1984 the Administrative Office of the Courts on behalf of the Task Force surveyed Superior Court Judges and Supreme Court Justices to learn about their responses to the Task Force's 1983 judicial college program and about areas in which they believed their decision-making ability would be enhanced by a deeper factual background on the status of women in society today. The seventy-eight responses were reviewed for this evaluation.

10. Interview with the Director of the Administrative Office of the Courts (AOC): On April 30, 1987, Professor Wikler met with AOC Director Robert Lipscher to discuss the Task Force's impact and institutional mechanisms to ensure continued monitoring and reform.

11. Administrative Office of the Courts (AOC) Actions: The authors consulted extensively with the first and second AOC staff attorneys assigned to the Task Force, Patricia Nagle, Esq., and Melanie Griffin, Esq., to learn about their perceptions of progress attributable to the Task Force and problems remaining, and to obtain documentation of AOC actions. These included such items as implementing directives from the Administrative Director of the Courts, amendments to the Code of Judicial Conduct and a handbook for nondiscriminatory interviewing of job applicants. The new AOC liaison to the Task Force, Marilyn Slivka, also provided extensive information about AOC implementation actions.

12. Women's Rights Bar Section Meeting: At the authors' request, the June 18, 1987, meeting of the Women's Rights Section of the New Jersey Bar Association included an extended discussion of the question: "The New Jersey Task Force on Women in the Courts: Where Were We and Where Are We Now?"

13. Individual Telephone Interviews: Lynn Hecht Schafran conducted a series of telephone interviews with a variety of individuals with knowledge and vantage points of particular interest. These included judges who had talked to the Task Force Chair about the impact the Task Force has had on them personally and Task Force members whose log comments merited further discussion. She also spoke with child support officials and grassroots child support advocates, the Director of the New

Jersey Commission on Discrimination Against Women in the Statutes and the President of the New Jersey Chapter of the American Trial Lawyers Association.

14. Administrative Office of the Courts' Domestic Violence Internal Report: The AOC Family Division provided the authors with a forty-six-page internal report detailing the judiciary's efforts to date to improve the court's response to domestic violence and new measures that will be considered at the October 1988 New Jersey Judicial Conference.

15. Administrative Office of the Courts' Reports on the Prevention of Domestic Violence Act for July 1, 1984 - June 30, 1985, July 1, 1985 - June 30, 1986, and July 1, 1986 - June 30, 1987. The Prevention of Domestic Violence Act, P.L. 1881, c. 426 (N.J.S.A. 2C:25-1 et seq.) requires the Administrative Office of the Courts to collect and publish data on the number of complaints filed under the Act, the types of relief sought and the relief awarded or denied.

16. Domestic Violence Shelter Survey: Under the auspices of the National Judicial Education Program to Promote Equality for Women and Men in the Courts, a twenty-four-question structured telephone survey of directors and legal advocates at shelters for battered women in fifteen counties was conducted during the summer of 1987 to ascertain these experts' experiences and perceptions of improvements and continuing problems in the courts' response to domestic violence cases and the award and enforcement of spousal and child support.

17. Governor's Advisors Council on Domestic Violence Public Hearings: The authors reviewed testimony from two September 1988 public hearings held by the Governor's Advisory Council on Domestic Violence to determine how to improve the treatment of victims under the 1981 Prevention of Domestic Violence Act.

18. Family Law Practitioner Interviews: Lynn Hecht Schafran conducted a series of telephone interviews with family law practitioners from counties throughout the state to ascertain their views of progress and problems with respect to equitable distribution, spousal and child support awards and enforcement, custody and domestic violence. The attorneys interviewed were in private and Legal Services practice and were recommended by the New Jersey Women's Bar Association.

19. Administrative Office of the Courts Data on Child Support Enforcement: The AOC provided information about the performance of New Jersey's Child Support Enforcement Program drawn from a draft copy of the forthcoming Twelfth Annual Report to Congress for the Period Ending September 30, 1987, of the U.S. Department of Health and Human Services, Office of Child Support Enforcement.

20. Enforcement: Review of the Statement of NOW Legal Defense and Education Fund (NOW LDEF) on the Status of the 1984 Child Support Enforcement Amendments, Before the Subcommittee on Public Assistance and Unemployment Compensation Committee on Ways and Means, United States House of Representatives, United States Congress, February 23, 1988. Review of the NOW LDEF empirical research on state implementation of the 1984 Federal Child Support Enforcement Amendments as it pertained to New Jersey.

21. Appellate Decisions Update: Review of the update prepared by the Women's Rights Litigation Clinic at Rutgers Law School - Newark of its review of appellate decisions from 1978 to 1984 that appeared in the Task Force's Second Report.

22. New Jersey Law Journal Notice: A notice was placed in the New Jersey Law Journal on July 16, 1987, inviting readers to communicate with the Task Force regarding their assessment of the Task Force's impact on substantive decision making and the courtroom environment.

23. Press and Media Coverage: Newspaper, magazine and broadcast media coverage of the Task Force was assembled and analyzed.

24. Distribution of Reports and Videotapes: Statistics on the nationwide distribution of the Task Force's reports and videotapes were obtained from AOC.

25. Data on Formation of Other Gender Bias Task Forces and Task Forces on Minorities: Review of National Judicial Education Program files on the formation of gender bias task forces throughout the country inspired by the New Jersey Task Force, and the new task forces on minorities for which the gender bias task forces were the catalyst.

APPENDIX E

SURVEY INSTRUMENT FOR USE WITH NEW JERSEY DOMESTIC VIOLENCE SHELTERS JULY 1987

TELEPHONE SCRIPT, QUESTIONNAIRE AND RESPONSE FORMS

I. INTRODUCTION

Good morning/afternoon.

What is the name of your Director, please?

May I speak with her/him?

This is Reesa Vaughter calling from the office
of the National Judicial Education Program.

I am Reesa Vaughter. I am working with
Lynn Hecht Schafran who is the Director of the
National Judicial Education Program and
a member of your New Jersey Supreme Court Task Force
on the Women in the Courts.

I'm calling about the work of the Task Force. As you know, the
first Report of the New Jersey Supreme Court Task Force on Women
in the Courts was published in 1984. The Report made numerous
recommendations to the judges and administrators of the state
courts.

Now, after three years, we need to begin to assess the impact of
the Task Force and its Report. So, we are contacting people like
you, the directors of shelters and crisis centers in every
county in the state -- people like you because we know you have

first-hand knowledge, or have received reports from your staff and clients, about women's experiences in the courts.

We appreciate that your time is valuable, so we've done our homework to make up a brief list of specific questions. Can you please give me some time now?

(YES) Good. (go to Response Instructions)

(NO) May I call you back at -----?
 A better person for me to interview -----?
 May I speak with -----?
 ----- is not in? When should I call back?

II. RESPONSE INSTRUCTIONS

Our purpose, then, is to begin to document the effects of the 1984 Task Force Recommendations. I will call your attention to particular concerns that were cited by the Task Force a few years ago. Then we can discuss the changes that you think have occurred in the past few years. And we can identify any problems that you think still confront women litigants in the state courts.

For the first set of questions I am going to make a statement.

(For example: In cases of wife-battering, judges tend to ask the woman what she did to provoke the attack.)

Then I am going to ask you to respond that, in your experience, the statement is: "RARELY TRUE" or "SOMETIMES TRUE" or "OFTEN TRUE". We will conclude the interview with a couple of open-ended questions so that you can describe more fully the areas of progress you are seeing and identify the problems that trouble you the most today.

TWO things --

- (1) I know that it can be frustrating to limit your answer to a simple RARELY or SOMETIMES or OFTEN. But this is necessary if we are going to be able to quantify the percentage of shelter directors who perceive particular areas of progress and problems, and there will be an opportunity for open ended responses later.
- (2) We are asking you to give your opinion based upon your experiences in your county. From talking with shelter directors in the other counties we will develop a picture of the state.

Okay? -- So I'll make the statement, and you tell me
if generally,
on the average,
in your opinion,
the statement seems to be
RARELY TRUE or SOMETIMES TRUE or OFTEN TRUE.

III

QUESTIONNAIRE

These questions are about cases of domestic violence, property distribution, maintenance and child support.

DO YOU THINK THAT JUDGES TEND TO:

1. Give priority to cases of domestic violence so that the case gets on the calendar as soon as possible?
2. Grant mutual orders of protection when the respondent, the batterer, has not filed a petition for a mutual order?
3. Order the batterer to vacate the family home so that the woman and children can return from the shelter?
4. Make themselves available to issue temporary orders-of-protection 24-hrs a day, 7-days a week?
5. View the woman who has responded to the domestic violence by leaving the home to be less stable or less fit to receive custody of the children?
6. Disregard a father's violence against the mother when making a custody decision?
7. Perceive spouse abuse as evidence of the batterer's unfitness for custody, or as a basis for terminating visitation rights, or as a basis for ordering supervised visitation?
8. In domestic violence cases, do you think that the actions of judges seem to vary according to the race or the color of the woman?

About the enforcement of women's economic rights in cases of divorce: DO YOU THINK THAT JUDGES TEND TO:

9. Reflect an attitude that the property belongs to the husband and a wife's share is based on how much the husband can afford to give her without diminishing his current standard of living?
10. Enforce maintenance awards?
11. Award adequate child support?
12. Reduce or forgive child support arrears without adequate justification?
13. Consider visitation problems as justification for not enforcing child support.

14. In the distribution of property, maintenance awards, and child support, do you think the actions of judges vary according to the color of the woman?

On the last 7 questions, please respond with "Yes" or "No" or "I'm Not Sure". We are again asking about domestic violence litigants, maintenance and child support.

DO YOU THINK THAT JUDGES ARE ADEQUATELY INFORMED ABOUT:

15. The psychological effects of spouse abuse upon children?
16. The issues of justification and self-defense as they pertain to battered women?
17. The cost of raising a child, the costs and availability of child care, and the other social data necessary to make realistic child support awards?
18. The Federal Child Support Enforcement Amendments of 1984 and the mechanisms to enforce child support under state law?
19. The economic consequences of divorce upon women -- women's employment opportunities and pay potential compared with men's after divorce?
20. The economic value of the work of homemaking and childrearing?
21. The nature of the discrimination experienced by women of color in the courts?

OPEN ENDED QUESTIONS

That's it for my "short answer" questions. Now I have a few open-ended questions which you can answer in as much detail as you wish.

- A. Did we identify some of the **priority concerns** for you and for the women with whom you work?
- B. Based on your experiences with women in the state courts:
- (1) Would you identify points of **progress** within the past three years?
- (2) Would you identify any **problems** that you believe persist?
- (3) Would you identify any issues of concern to you that we did not touch upon?

CLOSING

- C. Do you have the name of an attorney in the prosecutor's office that might be a good person for us to interview? or - Is there someone else that you think we should interview?
- _____
- _____

- D. Have you read or seen a copy of the '84 Task Force Report?
_____ Yes _____ no _____ neither _____ heard of it only.

- E. You have been most helpful! You know how important it is to be able to document our experiences and our opinions when we are trying to make change.

If you think of a transcript, an incident report, a decision that documents any of the points you have made, **PLEASE SEND IT TO US.**

The more documentation we have, the better.

Our names, address and phone are:

Reesa M. Vaughter **or**
Lynn Hecht Schafran
National Judicial Education Program
for the Promotion of Equality for Women and Men
in the Courts
99 Hudson Street, 12th floor
New York, N.Y. 10013
(212) 925-6635

Respondent _____

Phone _____

County _____

Address _____

Title/Position _____

Rarely ____R

Sometimes

S

Often

O

1. Comments: _____

____ R

____ S

____ O

2. _____

____ R

____ S

____ O

3. _____

____ R

____ S

____ O

4. _____

____ R

____ S

____ O

5. _____

____ R

____ S

____ O

6. _____

____ R

____ S

____ O

7. _____

____ R

____ S

____ O

8. _____

____ R

____ S

____ O

9. _____

____ R

____ S

____ O

10.		R	S	0
11.		R	S	0
12.		R	S	0
13.		R	S	0
14.		R	S	0
15.		Y	N	NS
16.		Y	N	NS
17.		Y	N	NS
18.		Y	N	NS
19.		Y	N	NS
20.		Y	N	NS
21.		Y	N	NS

OPEN ENDED QUESTIONS

Attach as Many Sheets As Necessary