

Gender and Justice in Utah:

A Six Year Follow-up on
the Utah Task Force
on Gender and
Justice Report
June 1996

A Report to the
Utah Judicial Council
by the Gender Fairness Committee

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Table of contents

I. Introduction	1
II. Implementation Efforts in the State Court System	3
A. The Implementation Committee and Subsequent Follow-up Activities	4
<i>Ethics</i>	4
<i>Education</i>	5
<i>Legislation and Rules</i>	6
<i>Human Resource Issues</i>	9
B. Follow-up Focus Group Sessions	13
C. Women on the Bench	15
III. Implementation Activities by Attorney Organizations	20
A. Women Lawyers of Utah	20
B. Young Lawyers and Family Law Sections	22
C. Women in Positions of Bar Leadership	23
D. Law Firm Sponsored Activities	23
E. Bar-Sponsored Continuing Education Classes	24
IV. The Executive Branch	25
A. The Governor's Office	25
B. Division of Family Services	26
C. Law Enforcement	27

D. County Attorneys and Prosecutors: State Attorney General's Office	28
V. The Utah Legislature	29
VI. Child Support Guidelines Advisory Committee	30
VII. Judicial Conduct Commission	30
VIII. Utah Law Schools	31
IX. Findings and Recommendations	33
X. Conclusion	38

Tables

Table #1, "Utah Court System Job Classifications by Gender, January, 1996	11
Table #2, "Gender Breakdown of Judges and Commissioners at Each Court Level, December, 1995	17
Table #3, "Women Faculty and Women Students at Utah Law Schools, 1990 and 1994	32

Appendices

Appendix #1, "Membership of the Utah Task Force on Gender and Justice"	I
Appendix #2, "Education Programs Related to Gender and Justice Issues"	II
Appendix #3, "Executive Summary, Legislation Subcommittee Report to the Gender and Justice Implementation Issues"	V
Appendix #4, "Proposed Questions, Jury Survey"	VII

I. Introduction

In 1987, the Utah Judicial Council commissioned a comprehensive study of gender issues in the state justice system. No other Utah state institution before or since has sponsored as thorough and rigorous a study of gender related issues and problems. The 19 member Utah Task Force on Gender and Justice (UTFGJ) chaired by Aileen Clyde, spent 30 months systematically exploring gender related challenges to the standard of equal justice.

The UTFGJ was staffed by Education Officer Joanne Slotnik from the Administrative Office of the Courts (AOC), and included distinguished representatives from the bench, bar and community. The UTFGJ explored academic research in the field, conducted surveys and interviews, assembled data, and held hearings in its search for a true picture of how gender related discrimination might impact the justice system.¹ The UTFGJ Report, issued in April of 1990, was addressed to various components of the court system and to other members of the justice system, including the bar, the legislature, prosecutors, law enforcement and law schools.

Though Utah's effort was not the first of its type nationally, it gained attention within the state and across the country because of the quality and comprehensiveness of its research, findings and recommendations. Two years after it was issued, the UTFGJ report went into a second printing, and it continues to be one of the court system's most frequently requested publications.

In her preface of the 1990 Report, Ms. Clyde praised the judicial branch for sponsoring the wide ranging study: "The Task Force also expresses appreciation to the Utah Judiciary for the leadership it has demonstrated by being in the forefront in the United States to invite a study of this issue, . . . It is well understood that the judiciary holds itself to the strictest standards and its aspirations are necessarily higher than for other state institutions. Consequently, the critical findings by the Task Force of the judicial system do not imply that the problems cited here are worse than elsewhere, but that the ethical concern for justice is greater and the standard to be met is higher."

¹For a list of original UTFGJ members, see Appendix #1.

The report addressed five major areas of concern:

- * Domestic Relations
- * Domestic Violence
- * Judicial Selection
- * Court Employment
- * Courtroom Interaction

Each section of the UTFGJ Report began with a general description and analysis of discrimination problems in that area, and proceeded to list specific findings. The sections concluded with a list of recommendations addressed to each of the groups that had an impact on the problems described.

The great majority of the recommendations fell into three categories which might be referred to as the “three E’s:”

- A. ***Enactments*** – These recommendations asked for new or revised laws, rules, or policies.
- B. ***Education*** – These recommendations suggested education programs that increased sensitivity and responsiveness to gender discrimination problems.
- C. ***Encouragement*** – These recommendations urged various groups to alter certain discriminatory practices which had been revealed in the UTFGJ Report.²

Frequently, two or more of the “three E’s” were combined in a single recommendation. While each recommendation was carefully framed, the tone of the report and subsequent remarks by Chair Aileen Clyde and other UTFGJ members indicate more concern that the problems outlined in the findings be effectively addressed than that each specific recommendation be carried out to the letter.

In the summer of 1995, five years after the release of the UTFGJ Report, the Judicial Council asked the *Gender Fairness Committee* chaired by Third District Court Judge Leslie Lewis to review what progress had been made by the state justice system in responding to the problems outlined in the report. The Gender Fairness

²Copies of the Task Force Report are available from the Administrative Office of the Courts.

Committee is made up of judges, court personnel, bar and law school representatives and a community representative Aileen Clyde, chair of the UTFGJ.

A recent national survey by the National Association of Women Judges' National Task Force on Gender Bias reported that by 1995, nearly thirty states had issued gender and justice reports, but that in most states, "the movement to eliminate gender bias has lost much of its momentum."³ The Judicial Council was determined that this not happen in Utah.

Methodology – The Gender Fairness Committee members and staff have spent the last nine months interviewing individuals inside and outside the court system who have led the effort for gender equality in the justice system in the last six years. The Committee has gathered data from the court system, executive agencies, law schools and private agencies and has reviewed the reports of all the implementation committees and other groups established to follow-up on the UTFGJ Report. At the request of the Committee, Professor Kate Kirkham from the Brigham Young University Organizational Behavior Department volunteered her time to conduct four focus groups of court employees discussing current conditions relating to gender fairness in the courts. This exercise was a follow-up to the focus groups Professor Kirkham held all over the state in 1989 for the original UTFGJ. In late November and early December of 1995, four 90 minute sessions were held with a cross section of court employees. A summary of Professor Kirkham's findings is included in this report.

This follow-up report examines the gender fairness activities in the major institutions addressed in the original UTFGJ Report. It will review both the specific responses to UTFGJ recommendations and more general efforts to reach the goals presented in the Report. This report concludes with the Committee's recommendations for carrying the effort forward.

II. Implementation Efforts in the State Court System

In the three months after the UTFGJ Report was issued, then State Court Administrator William Vickrey, Deputy Court Administrator Ron Gibson, and various members of the UTFGJ traveled to every judicial district, introducing the report to judges and court employees. Leaders from the major state agencies dealing with gender and justice issues were also invited to these presentations. These statewide sessions conveyed a strong message that the top administrative leaders of the court system took the report seriously and were committed to reaching its goals.

³Sheila M. Murphy, "Report of Chair Sheila M. Murphy; National Association of Women Judges National Task Force on Gender Bias," September 8, 1995, p.1.

A. Implementation Committee and Subsequent Follow-up Activities

Many of the UTFGJ recommendations were focused on the Judicial Branch. The *Court Employment and Courtroom Interaction* sections addressed areas that concerned the court system almost exclusively and many of the recommendations in the other three sections of the report were also addressed to the court system. To respond to these recommendations, the Judicial Council established a *Gender and Justice Implementation Committee*, chaired in 1990 by Supreme Court Justice Christine Durham and Third District Court Judge Timothy Hanson, and in 1991 and 1992, by Hanson alone. The Implementation Committee was divided into four subcommittees: *Ethics*, chaired by Judge Russell Bench from the Court of Appeals; *Legislation*, chaired by Commissioner Michael Evans; *Education*, chaired by Appeals Court Judge Regnal Garff; and *Court Employment*, chaired by Juan Benavidez, who was Human Resources Director at the AOC at the time.

Ethics – Judge Bench’s subcommittee recommended several additions to the Code of Judicial Conduct to spell out with greater specificity the judges’ duty to ensure gender fairness to the full extent of their ability to do so. The recommended additions included two new subsections to Canon 3B of the Code. Subsection 3B(5) outlines a judge’s duty to act without bias or prejudice, specifically including sex bias or prejudice on the prohibited list. The new subsection also states: “A judge should be alert to avoid behavior that may be perceived as prejudicial.” Subsection 3B(6) relates to judges preventing or stopping lawyers in the courtroom from “manifesting, by words or conduct, bias or prejudice based upon race, sex. . . .”

Judge Bench’s subcommittee also recommended that in Canon 3C(1), dealing with judges’ administrative duties, the term “should” be changed to “shall,” so the subsection would read: “A judge *shall* diligently discharge the judge’s administrative responsibilities without bias or prejudice.” Finally, the subcommittee recommended continued inclusion of subsection 3C(2) which reads:

“A judge should require staff, court officials and others subject to judicial direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.”

All of these recommendations were incorporated into the Code by the Supreme Court in the course of a major Code revision completed in 1993.⁴

⁴See Utah *Code of Judicial Conduct*, in 1994 Utah Court Rules Annotated, pp. 985-93.

Education – Many UTFGJ recommendations were directed at educators inside and outside the Judicial Branch. Judge Regnal Garff chaired the courts' Standing Education Committee, and the Implementation Committee's Education Subcommittee. His report reflected the input of these bodies and that of the Education Division at the Administrative Office of the Courts (AOC); the agency charged with the educational goals outlined in the report. All these bodies were committed, in the words of the subcommittee report, to "effect the internalization of the concepts of the Gender and Justice Task Force."⁵

Specifically, the Education Subcommittee pledged that programs to sensitize judges, commissioners, and support staff to sexist behavior, in order to eliminate such behavior, "will be a core part of all initial and ongoing educational programs."

This pledge has been carried out with great consistency by the Education Division. Sessions on preventing and dealing with sexual harassment have been held at each quarterly New Employee Orientation Session since 1990, and sessions on avoiding gender bias have been held at each orientation session since 1992. A section on gender bias issues has been a regular part of Judicial Nominating Commission training since 1986. These issues have also been covered at all orientations held for new judges since 1992.

Since 1992, gender bias issues have been a prominent part of every conference program for every level of court. Gender bias issues have also been featured on the agenda of every Judicial and Employees conference since 1992. (Appendix #2 lists Education Division Gender and Diversity Programs since 1986.) At the 1994 Judicial Conference, the keynote address and a half-day training session were presented by Sara Buel, a Massachusetts prosecutor and nationally known advocate for community organization to prevent domestic violence. Personnel from the Attorney General's Office, law enforcement, and many executive agencies with an interest in domestic violence also attended the session. The current curriculum plan for every court level includes sessions on gender bias and diversity issues at least once every two years in the future.

The Education Division's listing of gender and diversity classes together reflects the assumption that the two subject areas are closely related. The Gender Fairness Committee supports that assumption. Gender discrimination stems from a tendency to judge people on some basis other than competency. Male/female differences are one of many types of diversity in today's workplace. Diversity training classes teach

⁵*Education Division Response to Task Force Recommendations, July, 1992*, Education Division, Administrative Office of the Courts, p.3.

general rules for promoting mutual respect and successful teamwork among people from different backgrounds. These rules help prevent sex discrimination just as effectively as the many other “brands” of discrimination.

In 1992, the Education Division received a grant from the *State Justice Institute* to develop and present an intensive “Valuing Diversity” program for all judges and support staff. The program included segments on sensitivity to varying gender perspectives. The programs were presented at several court conferences in 1993 and 1994. In November of 1995, a new education program on “Dealing with Difference” was presented at the Administrative Office of the Courts. Dan Becker, who assumed the position of State Court Administrator in September, 1995, has directed that the new class be presented first to all AOC employees, and eventually to employees at every level of the court system. These programs show that the court system at the highest administrative level is committed to an ongoing effort to prevent on-the-job discrimination.

Legislation and Rules – Commissioner Evans’ subcommittee focused its efforts on recommendations from the Domestic Relations and Domestic Violence sections of the UTFGJ Report. The subcommittee drafted proposed rule changes and legislation to address the difficulties women often experience in securing their rights in paternity actions, divorces, and enforcement of statutes against domestic violence. (See Appendix #3 for a copy of the Subcommittee’s Executive Summary, with an asterisk indicating those proposals that have been adopted.)

HB 146 – The majority of the legislative recommendations were enacted in Representative Brent Haymond’s HB 146 passed in 1993. HB 146 authorizes the awarding of court costs and attorney fees to the prevailing party in paternity actions and actions to enforce orders of custody, visitation, child support, alimony, or division of property. It also provides that attorney and witness fees can be awarded in advance of final judgment to allow a party to prosecute or defend an action. The bill severely limits the use of mutual protective orders (where both victim and abuser are prohibited from contacting one another) and gives the court the power to order counseling for the abuser as part of the protective order.

The Evans subcommittee noted that the UTFGJ recommendation that the spousal exception in the Utah rape statute be eliminated was carried out in 1991.

1995 Cohabitant Abuse Act – Since the UTFGJ Report was issued, several amendments to the Cohabitant Abuse Act have been passed that promote the task force goals of making it easier for spouses threatened with domestic violence to obtain and retain protective orders. In the 1995 amendments to the Cohabitant Abuse Act,

the process for obtaining protective orders was expedited. District and Circuit Courts were required to have protective order request forms available at all times; the forms were required to be easy to understand and uniform throughout the state. Court clerks were required to "provide clerical assistance in filling out the forms and filing the petition."

Domestic Violence taken into Account in Custody Evaluations – Through the efforts of the Evans subcommittee, the Judicial Council in 1994 approved a change in Rule 4-903 of the Code of Judicial Administration relating to the factors custody evaluators needed to consider when making their reports to a judge. The factor of "evidence of abuse of the subject child, another child, or spouse" was added to the list.

Court Clerk Training – In May and June of 1995, AOC Associate General Counsel Brent Johnson and Associate Judicial Support Coordinator Joan Bly from the AOC visited every court district, introducing the clerks to the new forms, and training them to provide appropriate assistance in completing them. In the past, only a few clerks knew the procedures involved in the protective order process, and thus service to patrons seeking these orders could be spotty. To address this problem, all clerks and deputy clerks are being trained, so that well prepared clerks will always be available at each court location. The legislative mandate requiring uniform forms will eliminate the confusion caused by each district having developed its own variation on protective order procedures.

Under the 1995 legislation, court clerks must now provide the protective order petitioner with a list of public and private service providers in the community who can help domestic violence victims. To promote more effective delivery of these services, Bly regularly invites representatives from law enforcement, the county attorney's office, victims' advocates, the Department of Family Services, and private agencies to join her training presentations which explain the services available and the way they are delivered. The Office of Support Services under Elma Ashley plans a follow-up program to ensure that the training has been successful, and that all court clerks have the information they need to perform their jobs effectively.

District Level Scheduling Policies – In October 1995, Third District Court Presiding Judge Leslie Lewis instituted a schedule where each day two judges are assigned to be available to sign protective orders. This schedule relieves petitioners from having to visit several offices, looking for an available judge to sign the orders.

Computer Network – The domestic violence amendments from the 1995 Legislative Session mandated that a computer network for protective order information be created to increase the effectiveness of enforcing those orders. AOC staff worked with colleagues from public safety and law enforcement to develop the

programming for this network. The network became operational January 1, 1996. The network contains information on all types of protective orders and their conditions. Law enforcement agencies access the information in the same manner they access the state-wide warrant system. The protective order information flows into the network from the court. Locations which are part of the statewide computer system update the information each day, and courts that are not part of the system give updates within 72 hours.

Summary Process for Alimony, Child Support and Visitation Enforcement Not Yet in Place – The major domestic relations recommendations still not acted upon by the court system relate to instituting a summary process for enforcement of alimony, child support, visitation orders and property transfer. In June of 1994, the Judicial Council sent back to the Policy and Planning Committee for further study a proposed rule instituting such a summary process. Council members expressed concern that the process might be expedited to such a degree that essential rights were lost.

More Domestic Cases Handled Administratively – Legislation passed since the Task Force Report was issued has broadened the categories of cases that can be handled administratively, avoiding the time and expense of going to court. *The Voluntary Declaration of Paternity Act*, passed in 1994, established a procedure for gaining the father's voluntary signature on the birth certificate for children born out of wedlock. The bill is just coming on line in terms of implementation, and representatives from the Office of Recovery Services (ORS) report that many fathers are signing the necessary forms at the hospital at the time of birth. Only if the purported father denies the claim does the judicial system have to play a role in ordering blood tests, etc. This volunteer procedure greatly facilitates arrangements for payment of child support to mothers of children born out of wedlock.

Under current Utah law, a spouse not receiving court ordered child support can go directly to the Office of Recovery Services (ORS) to apply for services. Wages can be garnished and bank accounts attached without any resort to the courts. Ninety-six percent of the cases handled by ORS, including enforcement of child support orders and establishment of paternity, are handled without any resort to judicial procedures. However, the custodial spouse must still return to court to enforce or modify visitation, custody, or division of property issues.

QuickCourt – In late November 1995, the *Quick Court* kiosk program began offering services in several locations throughout the state. Current QuickCourt locations include Ogden, Salt Lake City, Hunter, Provo and St. George. This interactive touch screen system allows citizens to fill out forms for uncontested divorces and

compute child support payments, among other services. The kiosks provide a quick, simple, and extremely inexpensive method of handling some family relations procedures.

Human Resource Issues – Former Human Resources Director Juan Benavidez reported in his subcommittee report to the Implementation Committee that the recommendations in the Court Employment section of the UTFGJ Report had been carried out within the state court system. The Policies and Procedures Manual and New Employee Handbook both contain strong statements of commitment to gender equity, and pledge that no gender bias or sexual harassment will be tolerated. Presentations on these topics in new employee orientation sessions give substance to these anti-bias declarations. The brochure, “*Every Person’s Guide to Gender Fairness in the Courts*”, distributed to all court employees, underscored the court system’s strong commitment to gender fairness.

The *Policy and Procedures Committee* has rigorously and continuously reviewed the *Policies and Procedures Manual* to ensure that its language and substance are gender neutral. The review was spearheaded by Committee Chair Mary Noonon and has been continued for the last two years by the current chair, Paul Sheffield. In February of 1993, the AOC sponsored a workshop for all court administrators and executives with consultant Lynn Lund on the latest litigation trends in sexual harassment and gender bias cases. Lund also outlined the steps these managers needed to take to ensure gender fairness in the daily functioning of their offices. Each quarter, Human Resources personnel conduct sessions on identifying and effectively dealing with gender bias.

Ombudspersons – In 1991, in response to another Task Force recommendation, the Human Resource Division trained a court worker in each district to be an “ombudsperson” for that district. Any court worker could go to the ombudsperson for a confidential discussion of gender bias or harassment problems. The program was soon altered, however, due to concerns about liability in situations where the confidential relationship between those voicing complaints and the ombudsperson might prevent managers from learning of serious problems in their departments. The new policy asks workers with gender bias or harassment complaints to contact their supervisor, or if that is not comfortable, to talk to one of the two Human Resource personnel designated as “statewide ombudspersons,” Joan Tegt and Blake Swain. Tegt and Swain report that while the system is not used often, they have received referrals in situations where using the normal channels for complaints was uncomfortable, and that this “back-up” complaint channel has proved its worth.

Women in Management Positions – The Judicial Council chose not to accept the UTFGJ recommendation that it set specific goals for increasing the number of women in supervisory positions. The Council reasoned that if the strictures prohibiting any

discrimination in hiring or promotions were observed, capable women would automatically rise to managerial positions without imposition of specific goals.

Over the last five years, several significant breakthroughs have been made by female court employees, especially in the Juvenile Court. The first female District Probation Chief was selected in the Fourth District in 1995 and a second was selected in Seventh District in 1996. In 1990, only one woman held the position of Juvenile Probation Supervisor. In 1996, five women in the system hold that post. Women also hold the position of Special Services Supervisor in three districts, up from only one woman in that position in 1990.

Table #1 shows small increases in the number of women in most of the upper management and professional positions within the court system during the last five years. In 1995 women served as Interim Court Administrator, Assistant Court Administrator, Clerk (Administrative Director) of the Court of Appeals, Education Director, Guardian ad Litem Director, Human Resources Director, Alternative Dispute Resolution Program Director, Public Information Officer, Media Relations Officer, Audit Manager and Judicial Support Coordinator. Two women serve as Court Executives for their districts.

It is noteworthy, however, that all but one of the managerial advances for women in the last five years have taken place in the two most populous districts (Third and Fourth), and at the Administrative Office in Salt Lake City. This may be accounted for, at least in part, by the fact that the less populous districts have far fewer personnel, and thus less opportunity for advancement for men or women. For example, the position of Probation Supervisor exists only in Second, Third, and Fourth Districts. The turnover rate is also lower in the smaller districts. Nevertheless, the Judicial Council needs to exercise vigilance in ensuring that its fairness standards are strictly adhered to when positions do become available in outlying districts, as well as in the urban districts.

To deal with the Task Force's complaint that court system record keeping was inadequate to allow a meaningful evaluation of hiring and promotion practices, the Human Resources Division instituted a Hiring Decision Form for use in all court system hiring and promotion decisions. The form names the final candidates for hiring and promotion and calls for the listing of specific reasons for the particular selection made.

Greater Gender Equity in Jobs Generally Held by Women – One of the most interesting findings from a comparison of the 1990 and 1995 numbers, is that the Deputy Court Clerk level is no longer such a dominantly female province. In the last five years gender equity has increased in the courtroom, where the number of male

JOB CLASSIFICATION	1990		1992		1995	
	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE
Top Management & Administration Directors, Court Executives & Administrators	19 (68%)	9 (32%)	21 (78%)	6 (22%)	19 (68%)	9 (32%)
Mid Level/Program Management Probation, Accounting & Computer Managers Program Managers	25 (81%)	6 (19%)	26 (81%)	6 (19%)	31 (72%)	12 (28%)
Technical Supervision Clerks of Court	16 (21%)	60 (79%)	14 (20%)	55 (80%)	13 (17%)	65 (83%)
Professionals Probation Officers, Computer Professionals Accountants, Auditors, Human Resources	65 (57%)	49 (43%)	83 (57%)	62 (43%)	113 (54%)	98 (46%)
Technical Deputy Court Clerks, Court Reporters Computer Technicians	49 (12%)	355 (88%)	31 (7%)	391 (93%)	67 (12%)	487 (88%)
Clerical Secretary, Clerical Support	0 (0%)	41 (100%)	1 (2%)	45 (98%)	7 (9%)	73 (91%)
Maintenance Maintenance Specialists	4 (80%)	1 (20%)	7 (78%)	2 (22%)	8 (89%)	1 (11%)
Totals	178 (25%)	521 (75%)	183 (24%)	567 (76%)	258 (26%)	745 (74%)

Deputy Court Clerks and Court Reporters has increased from seven percent to fourteen percent.

“Every Person’s Guide to Gender Fairness in the Courts” – As the Gender and Justice Implementation Committee was assembling its recommendations in the Spring of 1992, then Court Administrator William C. Vickrey gained the support of the Judicial Council to develop a brochure to sensitize all court system personnel to the meaning and dangers of gender bias. The tone of the brochure was to be serious, but not solemn. Well known cartoonist Calvin Grondahl was hired to draw cartoons illustrating the points made in the brochure. Vickrey’s thought was that pictures and a simple, straightforward format would be helpful tools for conveying the anti-bias message.

An Advisory Board from the bench, bar and community was assembled to supervise the brochure project, co-chaired by Judges Michael Murphy and Pamela Heffernan. Public Information Officer Cheryll May was asked to provide staff support. The brochure includes sections on defining gender bias, using gender-neutral language, ensuring gender-neutral demeanor in the courtroom and court offices, and what to do about bias or harassment experienced or observed by a court system employee.

The brochure was completed in fall of 1992 and distributed to all judges and court employees. It has been accepted by the Judicial Council as court system policy and is part of the orientation materials given to each new court employee.

Judicial Council Asks Nominating Commissions to Consider Diversity – Following the instructions of the Judicial Council, the most recent (1994) revision of the *Manual of Procedures for Judicial Nominating Commissions*, included a section that encouraged nominating commissions “when deciding among candidates whose qualifications appear in all other respects to be equal . . . to consider the background and experience of the candidates in relation to the current composition of the bench for which the appointment is being made. The idea is to promote a judiciary of sufficient diversity that it can most effectively meet the needs of the community.”⁶

Miscellaneous Implementation Activities – Other activities pursued by the court system in the last five years to promote gender fairness include judges’ participation on the State Domestic Violence Coordinating Council and on various Continuing Legal Education panels relating to gender fairness issues. The Administrative Office of the

⁶*Manual of procedures for Judicial Nominating Commissions, 1995 Utah Code of Judicial Administration, p.1170.*

Courts co-sponsors annual statewide conferences on domestic violence, victims' rights, and other topics related to gender fairness.

B. Follow-up Focus Group Sessions

In November and December, 1995, Professor Kate Kirkham from the Brigham Young University Organizational Behavior Department conducted four confidential focus groups of 10-11 people each. These groups included court employees from every district and level and from every major personnel classification. Care was taken to make the groups as representative of the diverse court system work force as possible.

These focus groups were a follow-up to similar sessions Kirkham held throughout the state in 1989 as part of the research for the *Court Employment* section of the UTFGJ Report. Kirkham's 1989 findings are summarized in the original report. The Gender Fairness Committee felt that the best way to "take the pulse" of court system employees on gender issues was to repeat the focus group exercise. Professor Kirkham was asked to gather feedback on what, if anything, had changed since 1989 in regard to gender issues on the job.

Findings – Perhaps the most striking finding from the focus group sessions is the overwhelming perception that things have changed significantly for the better since 1989. The biggest changes Kirkham noticed were in the *attitudes toward discussing gender related issues*. In the 1989 round of focus groups, Kirkham reported, "I really felt like I was pulling teeth to get people to say anything." In 1995, however, Kirkham reported that group members needed no urging to become engaged in the topic. In each group, the discussion was so animated that "it was difficult to complete even a limited number of questions."

The follow-up focus group participants seemed less personally threatened by the expression of a wide range of viewpoints and perceptions on gender issues. Six years ago, Kirkham reported that some people in the group felt obliged to correct the "wrong" views and perceptions expressed by other group members. The original report recounted the frustration and indignation experienced by those whose good intentions in respect to gender fairness had been misinterpreted. This time around, there appeared to be greater willingness to allow people to state how they perceived a particular behavior, even if the perception didn't correspond with the actor's intentions.

Kirkham also noted "an emerging pattern of redefinition." *Many workplace issues that had once been defined as "gender issues" have been redefined as "general workplace issues."* One example was the issue of ensuring safety for court personnel in possibly

dangerous situations. Previously, when pairing of personnel was required to assure safety, questions arose about the appropriateness of pairing members of the opposite sex. Focus group members reported that these concerns have largely subsided. Another example of this “redefinition” emerged in discussion of “status issues,” questions about who is valued and treated well. More often now, these issues are discussed in terms of employee roles and respect needed in professional interaction. They are less often described in such terms as “he favors her because she is pretty.”

Perceived Changes Since the Last Report – Virtually all the changes noted by the focus group participants have been positive. Noted changes include:

- Workers have more opportunity than in the past to talk about gender related issues; most find it easier to speak candidly without offending.
- They reported that the system-wide sexual harassment training conducted in the wake of the UTFGJ Report was helpful.
- More women judges have been appointed, and more women have been promoted to administrative positions in the districts.
- The general awareness of appropriate workplace behavior has increased, especially in terms of a decline in inappropriate remarks.
- Women have greater recourse than in the past in dealing with gender related complaints.
- The Human Resources Department is seen as a “strong” defender of gender fairness.
- Most attorneys now treat female court personnel in a more professional manner.

Remaining Concerns: While appreciative of the progress achieved over the last six years, the focus group members noted several continuing concerns:

- A number of group members expressed the view that some judges were using inappropriate criteria when they expressed their views about the type of person they wanted to work on their staff. Gender related criteria such as “I want someone vivacious,” or “I want someone grandmotherly” were quoted by group members as being mentioned by particular judges.

- Women are perceived as having insufficient representation at the top echelons of court system leadership.
- Some employees reported instances of discrimination (ridiculing, accusing them of not fitting in) against male deputy court clerks by some of their female colleagues.
- The perception is still common that speaking up against gender discrimination will have negative consequences. Some women reported that their efforts to address a gender fairness issue were not supported by management. Negative management responses to discrimination complaints included “You should be grateful to have a job”, and “If you talk, you’re out of here.”
- Kirkham noted wide differences in every group in terms of knowledge of court system policy on gender fairness, of how to initiate a grievance and about the availability of “ombudspeople.” Court workers who lack knowledge of what their rights are, and how to proceed if those rights are violated, are seriously limited in their ability to exercise those rights.

While problems clearly remain, the Gender Fairness Committee is pleased to observe the pattern of redefining “gender issues” as “workplace issues,” and the significant improvements in gender fairness perceived by most of the group members. The Committee is troubled, however, by the reluctance of some people to come forward on gender issues. The Committee intends to monitor future compliance with regulations aimed at securing a work environment free of discrimination and harassment and with the other recommendations contained in this report.

C. Women on the Bench

When the UTFGJ Report was issued in 1990, seven women served on state courts of record, and none of these women held leadership positions within the system.⁷ The seven women on the state court bench represented seven percent of Utah State Court judges. Three women judges served in the appellate courts, one in the Juvenile Court, and three in the Circuit Court. No women served in the District Court, the system’s trial court of general jurisdiction. Nineteen women served on the

⁷Justice Christine Durham did serve, however, as Presiding Judge while serving on the Third District Bench, and Juvenile Court Judge Sharon McCully had earlier served a term on the Judicial Council. Also, Justice Court Judge Peggy Acomb (serving on a court not of record) was then serving on the Judicial Council.

Justice Court in 1990, representing 13 percent of the 142 Justice Court judges serving during that year. The UTFGJ Report concluded that “women are under represented on the trial bench statewide” and that “the judicial selection process is failing to produce an adequate number of women appointees to the trial bench.”⁸

The Judicial Branch has no direct impact on the process of choosing judges. The actors in the merit selection process are Judicial Nominating Commissions, the Governor, and the State Senate. Four of the nominating commission members are chosen directly by the Governor, with equal numbers chosen from each political party. The Governor chooses two additional members from a list supplied by the Utah State Bar. The nominating commissions review applications and interview finalists for judicial openings. The Governor picks a judge from a list of three to five nominees recommended by the nominating commission for each vacancy. A majority of the State Senate must then approve the appointment.

To redress the sexual imbalance on the bench, the Task Force recommended that nominating commissions set goals of increasing the number of women on the bench, and that members of the bench, the bar, and court administration actively solicit qualified women to apply for judicial positions. It also recommended that educational materials be prepared for the nominating commissions aimed at eliminating any gender bias in their selection process.⁹

The few Judicial Branch employees regularly involved in the selection process include the Education Division, which provides procedural manuals and training for the nominating commissions, and the Chief Justice, who sits as an ex-officio member of each commission. Additionally, in some districts nominating commissions over the last several years have routinely called sitting judges to talk about the kind of work they do and about the most valuable qualities in a good judge. (This practice now takes place in First, Third and Fourth Districts.)

Women on the Bench in 1996 – Today, thirteen women serve on the Utah courts of record. They include one in the Supreme Court, two in the Court of Appeals, four in the District Court, four in the Juvenile Court, and two in the Circuit Court. (One female Circuit Judge has retired since 1990.) This is an increase of six percent from the 1990 total. The number of female Justice Court judges has also increased by six percent. The twenty-two women who now serve as Justice Court Judges make up 19 percent of current total of 116 Justice Court Judges. The 1990 total was 13 percent. (See Table #2)

⁸ Utah Task Force on Gender and Justice, Report to the Judicial Council, March, 1990, p. 73.

⁹ Ibid. pp. 73-74

**TABLE #2
GENDER BREAKDOWN OF JUDGES AND
COMMISSIONERS
AT EACH COURT LEVEL
(JANUARY 1996)**

	TOTAL JUDGES	MALE	FEMALE
SUPREME COURT	5	4 (80%)	1 (20%)
COURT OF APPEALS	7	5 (71%)	2 (29%)
DISTRICT COURT	50	46 (92%)	4 (8%)
CIRCUIT COURT	18	16 (89%)	2 (11%)
JUVENILE COURT	21	17 (81%)	4 (19%)
JUSTICE COURT	116	94 (81%)	22 (19%)
COMMISSIONERS	7	6 (86%)	1 (14%)
TOTAL	224	188 (84%)	36 (16%)

Not only has the number of women on the bench increased, but the influence of women judges would appear to be much greater than indicated by the numerical increase. Many women judges have been elected by their (predominantly male) peers to positions of leadership in the last five years. Supreme Court Justice Christine Durham completed a term on the Judicial Council in 1995, where she chaired the Liaison Committee. Court of Appeals Judge Pamela Greenwood represents her court on the Judicial Council and served for nine months in 1996 as Acting State Court Administrator. Court of Appeals Judge Judith Billings served as Presiding Judge in that court for the 1994 term. Third District Court Judge Leslie Lewis sits on the Board of District Court Judges and has just completed a term as chair of that board. She also serves as Third District Court Presiding Judge. Third District Judge Anne Stirba was elected to a seat on the Judicial Council in 1995. Second District Juvenile Judge Diane W. Wilkins completed a term in 1995 as Chair of the Board of Juvenile Court Judges.

Electing women to leadership positions has clearly become commonplace in the Utah Judicial Branch. This fact emphasizes more than could any anti-discrimination pledge that the great majority of men and women on the Utah bench care more about competence than about gender in choosing their leaders.

Female Judges' Experiences – The vast majority of the women appointed to the Utah bench in the last five years report that they have experienced a high level of acceptance and collegiality by their male colleagues. The experiences of Judges Leslie Lewis and Anne Stirba, both of whom were appointed to the Third District Bench in 1991, illustrate that winning the respect of colleagues was not the lonely struggle it was for some of the first female judicial appointees. This is evidenced by the fact that Judge Lewis was elected to the Board of District Court Judges in 1992, less than a year after her appointment to the bench.

However, Judge Lewis remembers her early years as a practitioner as being very different. She describes an incident in 1975, when as a young lawyer filing her first Supreme Court brief, she was introduced to a distinguished male appellate judge. The judge responded to the introduction with an extremely disparaging remark about all female lawyers. Judge Lewis recalls that when she moved to the Salt Lake County Attorney's Office, she and a female colleague were assigned a particularly difficult homicide case, and several colleagues questioned whether "two girls" could handle such an assignment. When the "girls" brought in a first degree murder conviction, however, the achievement was recognized. Judge Lewis noted that when she graduated from law school in 1974, only one woman served as a Utah State judge.

By the time Lewis was appointed to the bench in 1991, the atmosphere was clearly different for women lawyers and judges from what had prevailed in the early years of her career. She was urged to apply for the position by several members of the then all male Third District Court Bench. "Since I've come on the bench," Judge Lewis stated, "the contrast from my early years as an attorney has been profound. I have received support, respect and friendship from the overwhelming majority of my colleagues." Two years after her election to the District Court Board, she was elected chair of that body, and the next year she was unanimously elected Presiding Judge of her district.

Asked to reflect on keys to women gaining success in what is still a dominantly male province, Judge Lewis observed that maintaining friendly, collegial relationships with male colleagues is essential. "Sometimes women lawyers have had to fight so hard to be successful that they have developed a defensive attitude," she remarked. "Good interpersonal skills and a sense of humor are just as important for women as they are for men."

In a recent interview Judge Anne Stirba, who served two years as Chair of the *Court Technology Committee* before her 1995 election to the Judicial Council, noted the loneliness and isolation of her early years in the profession, when she was likely to be the only female lawyer at her work site. She observed that in the mid-70's, discriminatory remarks and behavior in the courtroom were still common, as was wage discrimination against women lawyers.

In 1984, Judge Stirba became the first woman elected to the position of Utah State Bar Commissioner. "While I was treated very graciously by my fellow commissioners," Stirba remarked, "the pressures on me as the sole woman were intense. When Pamela Greenwood was elected to the Commission a few years later, the dynamic changed immediately. Female members of the Commission were now routine, and it became much easier for our colleagues to look beyond our gender and concentrate on what we had to contribute. It's very difficult," Stirba continued, "to avoid the trap of tokenism when you're the only woman in a professional group."

Judge Stirba noted that the fact that she and Judge Lewis were appointed to the Third District Bench within a few months of one another (Judge Lewis in January of 1991, and Judge Stirba in March of that year) was a help to both of them. "I felt wonderfully received by most of the judges in my district. In professional terms, I think that any gender consciousness that might have existed at first has gone away."

Woman Appointed to Utah Federal District Bench – Women have been making progress on the federal as well as the state bench in Utah. In July of 1995, Tena

Campbell was appointed as the first woman on the United States District Court for the District of Utah.

Woman Elected Attorney General – Jan Graham's election as Utah's first female Attorney General in 1992 and Olene Walker's election as Lieutenant Governor in the same year, reflect a growing willingness on the part of the voters to look at competence rather than gender when voting to fill high elective positions.

III. Implementation Activities by Attorney Organizations

A number of Utah State Bar leaders were deeply committed to the goals of the UTFGJ Report, including former Bar President Norman Johnson and 1991 Bar President Judge Pamela Greenwood. These individuals and others put in many hours promoting the Task Force recommendations. In addition, many groups of lawyers, official bar committees and others, have worked vigorously to promote implementation of Task Force recommendations.

A. Women Lawyers of Utah

Perhaps the group that did the most to secure the implementation of the UTFGJ recommendations was the *Women Lawyers of Utah*. In a recent interview, Patricia Christensen, the 1989 President of Women Lawyers, described the meeting that sparked the Women Lawyer's commitment to turn the UTFGJ recommendations into reality. The meeting took place in April of 1990, just a month after the Task Force Report had been issued. Justice Christine Durham, Judge Pamela Greenwood, and Task Force member and staff director Joanne Slotnick reviewed the chief findings and recommendations of the Report, and urged the Women Lawyers to become active in the implementation struggle.

Women Lawyers leaders Patricia Christensen and Paula Smith were chosen to chair the Implementation Committee. The most active subcommittees over the next few years were the Domestic Violence Subcommittee, chaired by Brooke Wells and Kimberly Hornak, and the Judicial Selection Subcommittee, chaired by Lisa-Michele Church.

The first thrust of the Domestic Violence Subcommittee was to promote the legislation recommended by the Task Force. Subcommittee members lobbied legislators, scheduled Task Force members and other experts to testify at hearings, gave presentations to groups of potential supporters, and worked closely with the many groups inside and outside the government, which by the early '90s were coalescing into an effective statewide anti-domestic violence network.

The work of the Women Lawyers group and its allies gained much legislative success in 1991. The spousal exemption in Utah's rape statute was repealed, and the legislature enacted most of the major changes in domestic violence legislation recommended by the Task Force. The 1991 revisions of the Cohabitant Abuse Act included mandatory arrest if probable cause of spousal abuse was found, and judicial authority to defer sentencing while the perpetrator was engaged in a treatment program. The revised act also provided funding for perpetrator treatment programs. Women Lawyers of Utah have continued to support the strengthening of domestic violence legislation, including the 1995 Cohabitant Abuse Act Amendments that expedited the issuance of protective orders, increased the penalty for repeat offenses, made the duration of protective orders subject to court order rather than to a specified number of days, and prohibited mutual domestic orders even more strictly than did the 1993 legislation.

Statewide Advocates Network – One of the most important of the UTFGJ recommendations adopted by the 1991 legislative session was HB 56, which established, under direction of the Division of Family Services, a statewide network of volunteer advocates for victims of domestic violence. This network has expanded every year, and today 24 regional advocacy groups have been organized across the state. Women Lawyers has also played a prominent part in the coalition, working for more shelters, safe houses and transitional housing for domestic abuse victims and their children. Women Lawyers has done much to promote the immediate Task Force goal of punishing domestic violence as seriously as violence against strangers. Women Lawyers has also promoted the long-term goal of removing all social and cultural sanctioning of domestic abuse.

Education Campaign – During the last two years, the Women Lawyers' Implementation Committee has moved from an emphasis on legislation to an emphasis on getting domestic abuse victims the information they so desperately need. "We were convinced," said Christensen, "that domestic abuse was a seriously under-reported crime. We were sure there were thousands of victims out there who had no idea of what community help was available to them, or how to obtain it. We committed ourselves to seeing that information on how to stop domestic abuse was disseminated throughout the state."

The new education effort, spearheaded by Paula Smith, solicited donations from organization members and from many public and private groups, including local law firms. Smith's efforts raised over \$20,000. That money was used to produce videos on the criminal and civil procedures involved in prosecuting domestic violence cases. The free videos were widely disseminated throughout the state to community groups, prosecutors, law enforcement and others. Bumper stickers, posters and brochures with the headline "**There's no Excuse for Abuse**" were distributed

statewide, and a domestic abuse hotline number was widely publicized, as part of a multi-agency, statewide effort. Members of Women Lawyers and others in the domestic violence network spoke on radio and television and to many community groups concerning domestic abuse problems and where and how to get help. The over 200 percent increase in assault arrests in the last five years indicates that the word is getting out and that many more abused spouses and partners are turning to the justice system to get help.

“We are pleased with the concrete results our efforts to implement the Task Force Report have brought,” Christensen observed. “But these efforts have had a residual impact we hadn’t anticipated. We learned early on that to be successful, we had to coordinate our efforts with the many public and private groups in the state working on the domestic violence problem. We became part of a network. Now when we see a problem we want to work on, we know who to call to get the network activated. It’s a wonderful feeling to know that your group is not alone in the struggle, that hundreds of committed people are out there willing to push right along with you.”

Judicial Selection – The Women Lawyers Judicial Selection Subcommittee took a multi-pronged approach to increasing the number of women judges in the state court system, particularly at the District Court level. Women Lawyers of Utah encouraged qualified women to apply for the bench, and held orientation sessions on what was involved in the bench application process and how the merit selection system worked. The organization also sponsored several sessions with representatives from the Governor’s office to dialogue about what particular qualities the Governor was looking for, and to discuss the importance of a gender-balanced bench. Members of Women Lawyers pressed successfully for more female members on nominating commissions and when women emerged as nominating commission choices, they sent letters to the Governor pointing out the qualifications of these nominees for judicial office. Lisa-Michele Church, immediate past President of Women Lawyers of Utah, has stated that, “Women Lawyers of Utah have made an ongoing effort to recruit qualified female applicants for judgeships and to lobby for their appointment to the bench. This effort will continue.”

B. Young Lawyers and Family Law Sections

The *Young Lawyers* and *Family Law* Sections of the Bar have given strong support to many of the reforms proposed by the UTFGJ Report. Mary Woodhead, Chair of the Diversity Committee of the *Young Lawyers Section*, mobilized young lawyers to secure grant funding, help to draft scripts, brochures, etc. and engage in many other activities supporting the effort to get the word out about help available to domestic violence victims. At the recommendation of the *Delivery of Legal Service Task Force*, chaired by Keith Kelly, the Bar has expanded its pro bono program and hired a pro

bono coordinator to further develop the program. Greater availability of pro bono services would be a great help to many victims of domestic violence, as well as to low income clients with child support, visitation, and other domestic relations issues.

C. Women in Positions of Bar Leadership

In the last five years, increasing numbers of women have assumed leadership positions in the Bar, and within individual firms. Three of the thirteen voting members of the current Bar Commission are female, and women chair several Bar sections. Since 1986, women have been elected to the Board of Directors of the Utah Bar Foundation. Salt Lake Attorney Ellen Maycock was the first women to be elected to the Board, in 1987. Maycock served two three year terms. Jane Marquart, an Ogden attorney, was elected to the Bar Foundation Board in 1992, and reelected in 1995. Joanne Slotnik, former AOC Education Officer and member of the UTFGJ, was elected to the board in 1993 and Court of Appeals Judge Pamela Greenwood was elected to the board in 1994. Three women now serve on the seven member board.

Family Law Section Chair and former Bar Foundation Board member Ellen Maycock typifies the growing number of Utah women lawyers whose professional record and public service have propelled them into positions of leadership among their peers. Maycock, who is a partner in a medium sized firm, reports that she is treated very differently inside and outside the courtroom than she was when her career began in the seventies. "When I started out," she observed, "whenever I was called in on a case, I could count on the client making some startled remark about me being a 'lady lawyer.' That just doesn't happen anymore." Maycock also reports that the condescending treatment she was occasionally accorded in the courtroom has also disappeared. "I think that people needed some time to get used to the idea of women in the legal profession. And women needed time to make it up the ladder in law firms and in the bar organization as well. Even five years ago, I would sometimes find myself the only woman at a meeting of some bar section or other attorney's group. That's never the case today. The other day someone called me an 'add/mix feminist.' I like that idea. I really believe that if enough women lawyers are added to the profession, and if these women make an effort to mix with the dynamic people in the profession, they will be successful."

D. Law Firm Sponsored Activities

Many law firms and individual attorneys have been active in helping women attorneys develop their practices and succeed in their legal careers. Some male attorneys enjoy serving as mentors for younger women attorneys, and a few law firms have launched business-development programs to help their women attorneys secure good clients. For example, the firm of Van Cott, Bagley, Cornwall & McCarthy founded

the Forum for Women in Business three years ago to help showcase its women lawyers and to develop relationships among other women in business decision-making positions. The goal of the bi-monthly forum is to educate business people on important business and legal issues. The women (and some men) attending the forums have not only gained from the expert discussion of topics of mutual interest, but have also benefited from the excellent opportunities for professional networking.

E. Bar-Sponsored Continuing Legal Education Classes

While many continuing legal education (CLE) classes deal with litigation relating to sexual harassment and other gender bias issues, the only CLE session directly dealing with gender fairness is one hour in a mandatory full-day seminar for new lawyers which has been conducted for the last two years. The goal of the "Gender Bias" presentation was to inform new attorneys of the importance of gender sensitivity and fairness in the legal profession.

Interestingly, most of the responses to the presentation received by the Utah State Bar's Continuing Legal Education Department were very negative. A new female lawyer remarked, "I feel the gender bias section was unnecessary and inappropriate. I do not believe this type of indoctrination forwards the cause of respect for women in the legal profession . . . it brands all of us as feminists in a negative, pushy and offensive sense." A male attendee remarked, "The gender presentation was useless – it should be inflicted upon older members of the bar; most of us have been educated with an even number of women and men and we are thus more sensitive."

The Utah State Bar's Legal Education Department report to the Gender Fairness committee on CLE classes related to gender fairness concludes: "An important lesson can be learned from the Bar's experience with gender presentations. Instead of making gender the main focus of a fairness or sensitivity seminar, emphasize consideration, fairness, etc. to all people in a professional conduct course. This would get the point across, but would be less offensive and glaring."¹⁰

¹⁰ Utah State Bar, Continuing Legal Education Department, *Report to Administrative Office of the Courts on the Effects of the Gender Fairness Task Force*, September, 1995, p.2.

IV. The Executive Branch

A. The Governor's Office

Under Utah's merit judicial selection system, the Governor appoints seven nominees to each judicial district's nominating commission and to the Appellate Courts Nominating Commission. Currently, at least two members of each nominating commission are lawyers. With their first-hand knowledge of the court system, lawyers are in a position to speak with confidence in commission deliberations about the qualities needed in an effective judge. It should be noted that one of the two female members of the Third District Nominating Commission is a lawyer; however, only one other female lawyer, in the Fourth District, has been appointed to a state court nominating commission. This is the case despite of the fact that many well qualified women lawyers have submitted their names for consideration as nominating commission members.

The number of women and minorities appointed to the bench has notably increased since Governor Michael Leavitt assumed office in January of 1993. For example, when the Gender and Justice Report was issued in 1990, only seven percent of the state judges were female. In 1996, women make up 13 percent of the state bench. Similarly, four women now sit on the District Court bench, while the District bench was entirely male in March of 1990.¹¹ (See Table #2.)

A female Bar leader who has closely observed women's progress on the bench suggests that women are just beginning to reach a "critical mass" in the profession where a bigger percentage of them will qualify for judgeships. She noted that while women make up 30 percent of lawyers in practice for three years or less, they make up only 12 percent of women practicing for more than three years. "You generally need to practice for at least ten years to be taken seriously for a judgeship. We are just starting to get significant numbers of women who qualify in that respect." This leader also pointed out that since nearly 80 percent of both male and female lawyers in Utah practice in Salt Lake, the pool of qualified female lawyers outside Salt Lake County is still relatively small. This might help to explain the fact that the only district with any female District Court judges is Third District, which includes Salt Lake County.¹²

¹¹ In addition to appointing several women to the bench, Governor Leavitt has appointed Andrew Valdez, an Hispanic American, to the Third District Juvenile Court, Circuit Judge William Thorne, a Native American, to the Third District Court, and Howard Maetani, a Japanese American, to the Fourth District Court.

¹² It is to be noted that Second Circuit Judge Pamela Hefferman is presently serving as a Pro Tempore District Court Judge and that in July, 1996, all Circuit Court Judges will become District Court Judges under the court consolidation bill passed by the 1996 Legislature.

All of the nominating commissions are currently chaired by men. Three women serve on the Appellate Courts Nominating Commission. The First and Fourth District Commissions each have two female members, and the Second and Sixth District Commissions have one female member.

In a recent interview, a female nominating commission member expressed concern that the nominating commissioners do not recognize the importance of selecting a judiciary that reflects the diversity of the citizens who appear before it. "If diversity on the bench is valued, the legitimacy of the court system is enhanced in the eyes of the public, it is very tempting to choose the people who seem most like you," she remarked, "and many commission members don't seem to see the danger in that." It would appear appropriate that in the future, the orientation program for nominating commissions place greater emphasis on the value of a diverse state bench which includes significant numbers of women and racial and ethnic minorities.

In its April, 1996 meeting, the Utah Judicial Council approved the establishment of a Task Force on Ethnic and Racial Bias, if funding can be secured to support its work. The Council commissioned a working group chaired by Chief Justice Michael Zimmerman, co-chaired by Third District Judge Tyrone Medley and John T. Nielson, Esq., and staffed by AOC Counsel Brent Johnson. The working group's mission includes securing grant funding for the project, selecting Task Force members from the justice system and the community and starting to frame the agenda of topics the Task Force will wish to investigate. The working group was to report its progress to the Council in three months. The Gender Fairness Committee strongly supports this effort to eliminate any possibility of unfair treatment in respect to race or ethnicity.

B. Division of Family Services

The Division of Family Services (DFS) of the Department of Human Services is responsible for providing "domestic violence services" at the local level. Domestic Violence Specialist LeRoy Franke and Victim Advocacy Coordinator Diane Stewart provide training and support for the scores of domestic violence specialists who supply services to victims throughout the state. Franke and Stewart provide staff assistance to the State Domestic Violence Advisory Council (DVAC), a group which represents various private and public provider, advocacy and allied agency groups throughout the state. The DVAC "coordinates prevention and treatment services between agencies and has been instrumental in key legislation and development of funding other resources in domestic violence services."¹³

¹³ Division of Family Services, **Five Year State Master Plan for the Prevention of and Services for Domestic Violence**, January, 1994. p. 5.

Since 1990, the DVAC has coordinated a rapid expansion of domestic violence services. Twenty-four volunteer advocacy groups have been established throughout the state, with a total of 250 volunteer advocates. Most counties have their own Domestic Violence Advisory Councils. The State DVAC has co-sponsored scores of local training conferences and co-sponsors the Utah Prosecution Council's annual domestic violence conference. The state and local councils have worked with local groups to greatly expand the number of shelters and safe houses for victims of domestic violence. While at the end of 1994 there were only 10 shelters throughout the state, during 1995 new shelters opened in Davis County, Summit County, St. George, South Salt Lake Valley and Cedar City. The Legislature has allocated funds for upgrading current shelters and for expanding treatment programs. The committed people at DFS and on the various Domestic Violence Councils and advocacy groups have made great progress toward the statewide network of domestic violence service providers envisioned in the UTFGJ report.

C. Law Enforcement

Sergeant Gary Cox of the West Valley Police Force, and current Chair of the DVAC, indicated in a recent interview that law enforcement agencies have also been active in upgrading their response to domestic violence complaints. "A lot of it is an attitude change," commented Sergeant Cox, "getting our people to think of domestic violence as a criminal matter, and not just a family matter. It hasn't been easy, but we've made great progress." Cox described the scores of statewide and regional training sessions held for law enforcement at all levels during the last five years. He explained that in 1991, DFS framed model law enforcement protocols which were distributed to all law enforcement agencies throughout the state. "We have used those protocols as the basis for much of our training," Cox remarked, "and have been involved in a whole new cycle of training to get officers up to speed on the new requirements of the 1995 legislation. We have also played an active role on Domestic Violence Advisory Boards throughout the state, working with prosecutors, DFS people, local service providers and courts."

Ivan Orr, Director of the Peace Officer Standards and Training (POST) Division of the Department of Public Safety, reported that eight hours of training in the domestic violence area is part of the basic training curriculum for every peace officer in the state. Training Director Terry McKinnon reported that regular in-service classes on domestic violence and related subjects keep veteran officers up to date on the newest legislation and policies.

Salt Lake County Sheriff's Office – Salt Lake County Sheriff Aaron Kennard has provided leadership in eliminating gender discrimination within his department and in upgrading domestic violence enforcement in the county.

Sheriff Kennard assumed office in 1993 with a determination to eliminate politics and patronage from the appointment and promotion process in his office, and to promote the rights of women and minorities. “We have insisted on standards for hiring and promotion that are fair, predictable and consistent,” Kennard stated. “Since I assumed office, three women have achieved the rank of sergeant. This was a rank never before achieved by a woman in our office. The pool of women in the department is still small, but we are recruiting actively and, with patience, we hope to eventually have a significantly greater number of women working with us.” Sheriff Kennard mentioned that for the first time the department had a full time Human Resources Director specifically charged with dealing promptly and effectively with any complaints of harassment or discrimination.

Sheriff Kennard has also accelerated training for his department, especially in the area of domestic violence enforcement. “We must go beyond the basic POST training to be fully effective,” he said. “We have brought in outside instructors to give us supplementary training, and sent our people to training conducted by the Salt Lake City Police Department when they were of mutual interest. We have also enlisted in a University of Utah Law School Domestic Violence training program. Training can't be a one time thing,” he concluded, “it must be ongoing.”

Kennard noted that in the last three years domestic violence complaints in Salt Lake County have more than doubled. He sees this increase as being due to the declining acceptance of domestic violence in our society, and to the growing conviction on the part of victims that law enforcement officials will respond effectively to their complaints. Sheriff Kennard's department is cooperating with various social service and mental health agencies to protect victims' rights.

D. County Attorneys and Prosecutors; State Attorney General's Office

Utah prosecutors have actively promoted reforms in domestic violence prosecution since 1990. The Utah Prosecution Council has been the principal sponsor of yearly conferences on domestic violence, as well as scores of yearly regional prosecutors' training sessions. The annual conferences have been well attended, with the 1995 meeting attracting over 300 participants. These conferences probed the causes of domestic violence, and the most effective responses to the problem, both for victims and perpetrators. Recent conferences have reached out to educators and health care professionals as important parts of the anti-domestic violence team.

The Utah Prosecution Council has recently finished a manual on domestic violence prosecution for county and district attorneys. Prosecutors have worked closely with courts, DFS, local advocacy and support groups, treatment providers and others to promote more effective community responses to the problem. In 1994, Judge Kimberly Hornak, then an attorney with the Salt Lake County Attorney's Office, led the effort to adopt screening guidelines and protocols for dealing with domestic violence cases. An important part of the protocol is a "no drop" policy for domestic violence cases.

Since she was elected in 1992, Attorney General Jan Graham has developed the "*Safe at Home*" Workplace Program to fight family violence in Utah. The Attorney General's Office has developed a 20 minute video on the cycle of domestic violence and what to do about it. The video is part of an hour-long program conducted by personnel from the Attorney General's Office. The program features experts on domestic violence discussing treatment, legal remedies, and shelter services. The prize-winning one hour program has already been presented to thousands of Utahns in their workplaces, and is scheduled to be presented to tens of thousands more.

V. The Utah Legislature

Several members of the State Legislature have provided leadership in promoting gender fairness in the state justice system. Representative Brent Haymond has been a consistent champion of reforms that have eased the disproportionate burdens on women and children that frequently follow divorce. His sponsorship of HB 146 in 1993 has already been mentioned. Haymond also sponsored the bills that led to state-wide implementation of the Divorce Education Program for parents.

Senator Winn Richards, before his retirement in 1995, worked tirelessly on legislation giving greater protection and more effective redress to victims of domestic violence. In 1995 and 1996, Representative Marda Dillree sponsored the Domestic Violence Act Amendments which have greatly facilitated the process of obtaining protective orders. Representative Steve Barth sponsored important bills relating to no-contact orders, electronic monitoring of domestic violence offenders, and stiffening penalties for domestic violence offenses.

Senators Lyle Hilliard and Craig Peterson have secured greater protection for female (and other) victims with their support of the Victim's Rights Amendment and other victims' rights legislation. Senators Robert Steiner and Craig Taylor and Representatives R. Mont Evans and Kelly Atkinson have also provided leadership in

securing many of the legislative reforms recommended by the UTFGJ Report. Members of the House and Senate leadership have worked hard to see that this vital legislation made it through the legislative tight spots.

Since the Task Force Report was issued, women in the Legislature have made modest progress in assuming leadership positions. Female representation in the State House of Representatives has risen from 11 of 75 in 1990 to 14 in 1995. While there were no women in House leadership positions in 1990, Representative Christine Fox serves today as Majority Leader. In 1990, only one woman served as a House Committee chair and none as vice chairs. Today, two House committees are chaired or co-chaired by women, and four women serve as vice chairs.

VI. Child Support Guidelines Advisory Committee

The general inadequacy of child support levels was a major concern voiced in the UTFGJ Force Report. The legislatively-mandated Child Support Guidelines Advisory Committee (CSGAC) has for the last six years supplied the Legislature with expert information and recommendations on setting child support guidelines at realistic levels. The CSGAC is made up of two state judges, two Bar members, two representatives from the Office of Recovery Services, and five "persons of diverse interests on child support issues." The five at-large members include representatives from child advocacy groups and economists with expertise in determining current costs for raising a child.

The 1994 Amendments to the Child Support Guidelines addressed several of the Task Force's concerns. The recommended level of child support was increased by 10 to 15 percent and each party's benefits were to be taken into consideration in determining responsibility for medical expenses. The amendments also set minimum income and subsistence levels and allowed for an accounting of expenditures by the custodial parent. Judge Michael Murphy chaired the group while the amendments were being framed.

The 1994 amendments did not address other Task Force concerns, such as the proposal to increase child support for older children to reflect their increased expenses.

VII. Judicial Conduct Commission

Complaints that judges have violated the Code of Judicial Conduct by discriminating on the basis of gender (or on any other basis) are investigated by the Judicial Conduct Commission. The ten member commission has four of its members chosen

by legislative leadership, two chosen by the Governor, and three chosen by the Utah State Bar Commission. The Commission itself then chooses a single judge, who sits as the only Commission member from the judicial branch. The commission has the power to investigate complaints, hold hearings, and recommend sanctions to the Supreme Court, up to and including removing a judge from the bench. A female lawyer, Denise Dragoo, from the firm of VanCott Bagley and McCarthy now chairs the Commission. A second female member, Sylvia Bennion, was appointed by the Governor.

Responding to complaints that the Commission had insufficient resources and powers, the 1995 Legislature gave the Commission a full-time director and resources for increased investigative and office support. The Commission was also granted the subpoena power. The commission is currently reviewing proposals to amend the constitutional provision that its operations remain secret unless and until they reach the point of a public reprimand, censure, or removal from the bench, in order to make these operations more visible to the public.

VIII. Utah Law Schools

In replying to questions about law school "responses" to the UTFGJ Report, Professor John Martinez, Associate Dean for Academic Affairs at the University of Utah College of Law, sent a summary of the Law School curriculum and noted that courses related to domestic relations, domestic violence, and courtroom interaction, which had been recommended by the Task Force, were indeed an important part of the law school curriculum. Professor Martinez also noted the strong university strictures against inappropriate gender-related behavior in the classroom.

The number of female students has increased steadily at both Utah law schools since 1990. In 1994, women made up 46 percent of the students enrolled at the U. of U. College of Law, and 32 percent of the Brigham Young University J. Reuben Clark College of Law. This compares to 35 percent female enrollment at the U. of U. Law School in 1990 and 23 percent at B.Y.U. Law School in that year. Percentages for female faculty at the "U" and "Y" Law Schools in 1990 were 21 percent and 14 percent respectively. Female faculty made up 32 percent of the U. of U. total in 1994, while by that year the B.Y.U. female faculty declined to 10 percent. (See Table #3, p. 28A.)

Professor Martinez noted in his report that, "In most cases it is hard to say that our programs 'responded' to the Task Force Recommendations. . . In fact, the concerns expressed in the report had frequently been addressed in our courses and programs prior to issuance of the report, or were addressed quite independently of the report." This has been true of other Utah institutions as well. Many of their efforts

**WOMEN FACULTY AND WOMEN STUDENTS
AT UTAH LAW SCHOOLS
1990 AND 1994**

	WOMEN STUDENTS		WOMEN FACULTY	
	1990	1994	1990	1994
BYU	23%	32%	14%	10%
U OF U	35%	46%	21%	32%

during the last six years to fight gender bias were not a direct response to the Task Force recommendations. The Task Force Report was a current in a widening stream of gender bias reform.

IX. Findings and Recommendations

In the last six years, the effort to promote gender fairness in the Utah justice system has moved forward on almost every front. The legislative framework for protecting women against discrimination is much stronger. The court system, the bar, law enforcement, and many other justice system institutions have strengthened their anti-bias policies and guidelines. Training on how to identify and effectively eliminate gender bias has mushroomed, especially in the court system and at all levels of law enforcement.

There is much evidence that our society is coming to accept the idea of women in leadership roles. The large number of women assuming positions of justice system leadership since 1990 reflects the growing confidence and support of these women's male and female colleagues.

At the same time, evidence is mounting that society now rejects the notion that violence against women is tolerable so long as it takes place within the home. Law enforcement officials, from the cop on the beat to the prosecutors, are treating domestic abuse more firmly and consistently. Domestic abuse victims themselves are demonstrating a new assurance that abuse is something they neither caused nor deserved and that the justice system can work for them. Between 1993 and 1995, the number of protective order filings increased by 46 percent. Assault filings for domestic abuse have increased 30 percent in each of the last four years. It is the view of Sheriff Kennard and other Utah law enforcement leaders that the increased reporting is due to a victim's greater willingness to report domestic abuse rather than to an actual increase in domestic abuse.

Recommendations

1. It is the view of the Gender Fairness Committee that one of the most important keys to effectively dealing with domestic abuse is for all relevant agencies (prosecutor's office, Division of Family Services, law enforcement, courts, private support groups such as the YWCA) to work closely together. Close coordination of services allows the most effective use of resources and greatly enhances the likelihood that victims will receive all the services they need. The combined training in domestic order procedures and the executive-judiciary partnership in developing the domestic violence computer network are good examples of how well these partnerships can work.

We recommend that these agencies, public and private, work to maintain and extend these partnerships, not allowing differing perspectives, turf battles, or other such difficulties to push them apart.

2. As the UTFGJ Report pointed out, divorcing wives and single mothers are often economically disadvantaged. This makes it more difficult for them to obtain the legal assistance necessary to obtain an uncontested divorce or needed repairs from a landlord. Court system programs that make dispute resolution services cheaper and more convenient, such as the QuickCourt kiosks and the Neighborhood Dispute Resolution mediation project, are a great aid to these women.

The Gender Fairness Committee recommends that the QuickCourt network be extended to more locations across the state. The Neighborhood Dispute Resolution Project, and other such low cost mediation projects, should also be expanded into every judicial district.

3. This report noted several areas of court employment where women have reached supervisory positions in the last six years. It is the Gender Fairness Committee's view that even greater progress needs to be made toward reaching the goal of providing a court system that reflects the diversity within the society it serves.

To this end, the Committee recommends that the Judicial Council include in the Policies and Procedures Manual a recommendation that ethnic and gender diversity be an important factor taken into consideration when making hiring and promotion decisions within the court system.

4. It is the Committee's view that many gender inequities within the justice system occur in the domestic relations area. Some judges give a low priority to domestic relations matters, which may seem mundane, difficult, and not legally challenging. There is concern that millions of dollars may be involved in the property distribution element of a divorce action; but it may not capture the interest and attention of a judge as much as a civil lawsuit in which much smaller sums are at stake.

The Committee recommends that the Judicial Council seriously consider creation of a court specifically focused on family issues to ensure that these vital matters receive the attention they deserve. Establishment of a Family Court Department of the District Court recently recommended by the Family Court Blue Ribbon Task Force would help meet the needs identified by the Committee.

The provision that Family Court Judges be appointed specifically and permanently to the Family Court Department of the District Court ensures that these judges will have both the experience and commitment to family work necessary for effectively dealing with family problems. The Family Department will be able to promote collaboration among community and private family services providers to see that they are working together rather than at cross purposes. The Family Court will also eliminate the inconsistency and inconvenience involved when various family problems are dealt with in several different courts at the same time.

5. The Gender Fairness Committee has observed that although much progress has been made since 1990 in the area of domestic violence enforcement, some county attorney's offices display a similarly dismissive attitude toward family matters. The critical enforcement provisions related to visitation interference and criminal non-support which have been on the books for many years but are seldom enforced.

The Committee recommends that county and district attorneys enact policies reflecting a willingness to screen and file custodial interference cases and criminal non-support proceedings.

6. It is the Gender Fairness Committee's view that members of judicial nominating commissions need to have a better understanding of:

- A. The central role of domestic cases in the workload of a District Court judge, and
- B. The need for judicial sensitivity in areas where gender bias has been a problem, such as domestic violence cases and courtroom interaction with female litigants and witnesses.

Armed with this understanding, the nominating commissions will be more likely to choose judicial candidates who are sensitive to the concerns that bring most women to court. The best way to convey this understanding is for the commission to invite one or more local District Court judges to explain to them in detail the work they do, the challenges of domestic relations work, and the need for sensitivity concerning gender, racial and ethnic bias. (If the Family Court proposal is adopted, the Family Department judges would be the ones to explain their work to nominating commissions considering candidates for vacancies in that department.)

The Committee recommends that when considering a district court vacancy, judicial nominating commissions routinely seek input from local district judges to describe what their workload is really like, to increase the likelihood that the commission members will choose nominees whose knowledge and experience makes them sensitive to domestic relations issues. Further, the Governor should be encouraged to appoint more qualified women to nominating commission vacancies as they occur, and make a particular effort to appoint more female lawyers to these vacancies.

7. Professor Kate Kirkham reported that many of the court employees in the 1995 focus groups had not received a copy of "Every Person's Guide to Gender Fairness in the Courts" brochure. Many were also unaware of the availability of ombudspersons, or the procedures outlined in the Policies and Procedures Manual for dealing with complaints of harassment or discrimination.

The Committee recommends that the Human Resources Staff at the Administrative Office ensure that all court system employees have a copy of the "Every Person's Guide to Gender Fairness in the Courts" brochure, and that the resources and procedures for dealing with gender fairness problems be highlighted in new employee orientation sessions and in training for veteran employees.

8. The negative response of many new lawyers to the Bar's CLE presentation on gender fairness indicates that in some cases, a more sophisticated and comprehensive approach to gender fairness training is called for.

The Committee recommends that both court system and CLE educators adopt a gender fairness program similar to the program developed by the Institute for Court Management in association with the National Judicial College. This program outlines a process for integrating gender fairness concepts into the entire legal and judicial training curriculum.

9. It is the view of the Gender Fairness Committee that to be meaningful, the goal of gender fairness in the court system must be part of the more sweeping objective of eliminating all forms of discrimination from the system. The court system should be vigorously engaged in efforts to eliminate any preference or punishment based on race, ethnicity, age, religion or any other factor irrelevant to effective job performance.

To further this comprehensive goal, the Gender Fairness Committee recommends that the Judicial Council actively support the Racial and Ethnic Bias Task Force Working Group, headed by Chief Justice Zimmerman, co-chaired by Third District Judge Tyrone Medley and John T. Nielson Esq., and staffed by AOC General Counsel Brent Johnson. The goals of the working group are to secure grant funding for the work of the task force, to start assembling task force members from the justice system and community, and to begin framing the research and survey agenda which the task force will pursue.

10. The Gender Fairness Committee commends the program recently initiated in Third District Court to assign two "judges of the day" to be on call to sign protective orders.

The committee recommends that in the other districts where the press of business makes it desirable, the "signing judge for the day" system be implemented.

11. Starting in 1997, the Judicial Performance Evaluation program will add a new component. Results of surveys of jurors which evaluate a judge's performance will be included as part of the information used by the Judicial Council to determine whether or not a judge is worthy of being certified for retention. These results will also be included in the Voter Information Pamphlet with the information concerning the performance of each judge running for retention election that year. (See Appendix #4 for a proposed list of juror questions.)

The Committee notes that many of the questions in these surveys ask directly or indirectly whether the judge displayed bias of any kind. A careful review of these surveys will give each judge, and the court system as a whole, valuable evidence of whether individual or systemic prejudices exist that need to be dealt with.

12. In the view of the Gender Fairness Committee, significant additional work needs to be done to determine the perceptions of the general public concerning gender fairness issues in the state justice system. Since this issue was not specifically addressed in the UTFGJ Report, a 1990 benchmark of public opinion on these issues is not available. Nevertheless, a study that asked victims' group representatives, Legal Aid and Legal Services clients, and other court patrons about how fairly they were treated by court system personnel would be likely to point up continuing gender fairness problems in the system that might otherwise be overlooked.

The Committee recommends that the Judicial Council allocate resources to the Gender Fairness Committee to conduct a users poll seeking meaningful current data on the experiences of court system users in the general public in regard

to gender related issues. This will help system policy makers to discover and eliminate any continuing gender fairness problems in dealing with the public, if such problems exist.

X. Conclusion

The members of the Gender Fairness Committee wish to commend the judicial Council for its continuing commitment to achieving the goal of complete gender equity in the justice system. The committee has been deeply impressed and gratified by the scale and intensity of the efforts put forth in the last six years to make gender bias in the justice system a thing of the past. It is hoped that the forward momentum chronicled in this report can be maintained and the remaining serious problems can be vigorously addressed. If the justice system can maintain the energy and commitment displayed in the wake of the first UTFGJ Report, we will move significantly closer to the goal of truly equal justice in Utah.

Appendix #1

UTAH TASK FORCE ON GENDER AND JUSTICE

Chair:

Aileen H. Clyde
Springville

Members:

Diana Allison
Ogden

Lois Baar
Parsons, Behle & Latimer
Salt Lake City

Francine Bennion
Provo

Hon. J. Robert Bullock
Senior Judge
Provo

Michael S. Evans
Cohne, Rappaport & Segal
Salt Lake City

Hon. Pamela T. Greenwood
Utah Court of Appeals
Salt Lake City

Hon. Timothy R. Hanson
Third District Court
Salt Lake City

Norman S. Johnson
VanCott, Bagley, Cornwall
& McCarthy

Prof. Terry Kogan
University of Utah
College of Law

Vice Chair:

Hon. Michael D. Zimmerman
Utah Supreme Court
Salt Lake City

Hon. Sharon P. McCully
Third District Juvenile Court
Salt Lake City

Hon. Robert Newey
Senior Judge
Ogden

Hon. Robert Owens
Fifth Circuit Court
St. George

Grethe Peterson
Salt Lake City

Wanda Santiago
Fourth Circuit Court
Orem

Joanne C. Slotnik
Administrative Office
of the Courts
Salt Lake City

Carolyn Smith
Manila

Hon. Brent West
Second Circuit Court
Ogden

APPENDIX #2

EDUCATION PROGRAMS RELATED TO
GENDER AND JUSTICE ISSUES

<u>PROGRAM</u>	<u>DATE</u>	<u>AUDIENCE</u>
"Gender Bias Issues"	August 1986	Nominating Commissions
"Gender Bias Issues"	June 1988	Nominating Commissions
"Victim Awareness"	September 1991	Circuit Court Judges
"Sexual Harassment"	2-4 times each year since 1989	New Court Employees
"Gender Bias"	2-4 times each year since 1992	New Court Employees
"Gender Bias in the Courts"	1992	2nd District Employees, TCE's, AOC managers
Domestic Relations Workshop	April 1992	District Court Judges Court Commissioners
"Domestic Relations"	April 1992	Circuit Court Judges
"Enhancing Cross Cultural Communications in the Courts "	June 1992	Circuit Court Judges
"Gender Fairness"	September 1992	Court Employees' Annual Conference
"Cultural Diversity"	September 1992	Court Employees' Annual Conference
"Valuing Diversity"	September 1993	Court Employees' Annual Conference
"Valuing Diversity"	September 1993	All Judges and Commissioners, Senior Judges

"The Crucial Nature of Values and Attitudes in Judicial Decision-Making"	April 1993	Juvenile Court Judges, Juvenile Court TCEs
"Child Support Guidelines	April 1994	District Court Judges and Commissioners
"Implications of the Battered Woman Syndrome"	April 1994	District Court Judges and Commissioners
"Alimony Issues"	April 1994	District Court Judges and Commissioners
"Community Service for Visitation or Child Support Violations"	April 1994	District Court Judges and Commissioners
Domestic Violence Workshop "Dynamics of Domestic Violence" Legal and Procedural Aspects of Domestic Violence"	August 1994	Justice Court Judges
"Family Violence: Impact on Children"	September 1994	All Judges and Commissioners, Senior Judges
"Domestic Violence: What Judges Need to Know"	September 1994	All Judges and Commissioners, Senior Judges
"Disproportionate Minority Sentencing"	May 1995	Juvenile Court Judges and Court Executives
"Domestic Violence"	May 1995	Juvenile Court Judges and Court Executives
"Domestic Violence"	April 1995	Justice Court Judges
"Cultural Diversity"	Once each year during 1994 and 1995	Probation Officers
"General Qualities to Look For in Judicial Candidates"	June 1995	Nominating Commissions

"Domestic Issues for Circuit Court Judges and Commissioners"	April 1996	Circuit Court Judges and Commissioners
"Effective Orders for Child Custody"	April 1996	Circuit Court Judges, District Court Judges, and Commissioners
"Legal Issues Relating to Same Sex Partnerships"	May 1996	Appellate Court Judges

Appendix #3

III. EXECUTIVE SUMMARY

Legislation Subcommittee Report to the Gender and Justice Implementation Committee

- Do not adopt the draft rule entitled Domestic Claims Actions which establishes a small claims-like procedure for the enforcement of domestic orders.
- Reduce to Judicial Council rule the current process of motion for order to show cause for enforcement of domestic orders. Develop forms for the use of parties appearing without counsel to institute this process.
- Authorize the local court in its discretion to use judges pro tempore and evening sessions to adjudicate enforcement proceedings.
- ★● Repeal superfluous statutory provisions for the award of attorney fees for the bad faith prosecution or defense of a domestic action and rely exclusively upon §78-27-56 and Rule 11, Utah Rules of Civil Procedure.
- ★● Include in legislation an award of costs and attorney fees to the prevailing party in paternity actions and actions to enforce an order custody, visitation, child support, alimony, or division of property.
- ★● Include in legislation the award of attorney and witness fees in domestic actions in advance of the final judgment to enable a party to prosecute or defend an action, regardless of whether there may be a prevailing party, as recommended by the Gender and Justice Task Force.
- ★● Draft a Judicial Council rule to implement the statute authorizing advance payment of costs and fees that codifies the existing case law.
- ★● Take no further action on the spousal rape law, which has already accomplished the objectives recommended by the Gender and Justice Task Force.
- ★● Amend Rule 4-903 to include abuse of a spouse as a factor in the determination of child custody as recommended by the Gender and Justice Task Force. Make no amendment to §30-3-10.

- ★● Include in legislation the prohibition against cohabitant abuse mutual protective orders unless stipulated by the parties or if supported by the record of the proceedings.
- ★● Include in legislation court authority to order counseling as part of the cohabitant abuse protective order as recommended by the Gender and Justice Task Force.
- ★● Integrate the two parts of the Utah Code providing for cohabitant abuse protective orders, Chapter 6, Title 30 and sections 78-3a-20.5 through 78-3a-20.10 under the former and repeal the latter.
- ★● Provide concurrent jurisdiction of the Juvenile Court over abuse petitions filed on behalf of a minor child by someone other than the parent of a child. Provide jurisdiction of the District Court over all abuse petitions.
- ★● Return the definition of “cohabitant” in the cohabitant abuse act and cohabitant abuse procedures act to its status prior to 1991.
- Develop uniform forms for use by litigants without counsel after final approval of legislation and rules.
- Develop statistical reports that show the effectiveness of the courts in managing domestic violence cases.

Appendix #4**Proposed Questions
Jury Survey**

- | | | |
|---|-----|----|
| 1. Does the judge avoid "playing favorites?" | Yes | No |
| 2. Does the judge's behavior appear to be free from bias? | Yes | No |
| 3. Does the judge conduct proceedings in a fair and impartial manner? | Yes | No |
| 4. Does the judge clearly explain court procedures? | Yes | No |
| 5. Does the judge clearly explain reasons for delay? | Yes | No |
| 6. Does the judge clearly explain responsibilities of the jury? | Yes | No |
| 7. Does the judge behave in a dignified manner? | Yes | No |
| 8. Does the judge behave in a courteous manner? | Yes | No |
| 9. Does the judge avoid arrogance? | Yes | No |
| 10. Does the judge display patience? | Yes | No |
| 11. Does the judge display attentiveness? | Yes | No |
| 12. Does the judge treat people with respect? | Yes | No |
| 13. Does the judge convene court without undue delay? | Yes | No |
| 14. Did you find the recesses to be frequent enough and long enough to attend to your personal needs? | Yes | No |
| 15. Would you be comfortable having your case tried before this judge? | Yes | No |

Please provide any additional, anonymous comments, which will be delivered to the judge.

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