

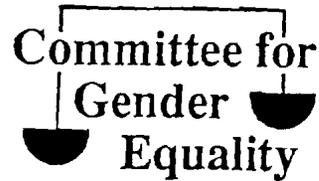
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ANNUAL REPORT  
of the  
COMMITTEE FOR GENDER EQUALITY  
of the  
SUPREME JUDICIAL COURT  
OF MASSACHUSETTS

JUNE 1991



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Chair:

The Honorable Ruth I. Abrams, Supreme Judicial Court

Members:

Hon. Charles M. Grabau, Superior Court  
Hon. Constance M. Sweeney, Superior Court  
Hon. Ernest I. Rotenberg, Probate and Family Court  
Hon. Mary McCauley Manzi, Probate and Family Court  
Hon. Bonnie McLeod-Griffin, District Court  
Hon. Santo Ruma, District Court  
Kay H. Hodge, Esq., Massachusetts Bar Association  
Karen J. Kepler, Esq., Women's Bar Association  
Margaret Marshall, Esq., Boston Bar Association  
Barbara Senecal, Esq., Massachusetts Association of Women Lawyers  
Evelynne Swagerty, Esq., Massachusetts Black Women Attorneys

Ex Officio:

Maureen McGee, Esq., Executive Assistant to the Chief Justice,  
Supreme Judicial Court

Committee for Gender Equality Staff:

Gladys E. Maged, Executive Director  
Lois H. Frankel, Acting Director  
Nancy Collins, Administrative Assistant

## I. INTRODUCTION

The Commonwealth of Massachusetts is in the midst of something remarkable. In times of fiscal crisis, a large community of actors remain clear on the imperative to work for justice for all players in the court system of this state, regardless of gender. At the helm of this movement is the Committee for Gender Equality (Committee), an advisory Committee appointed by the Supreme Judicial Court to ensure that the important lessons learned from over two years of comprehensive investigation are not forgotten.

The Committee has completed its second year of implementing the recommendations contained in the Gender Bias Study of the Court System of Massachusetts. Yet it cannot be implied that the Committee has merely implemented recommendations, for this would ignore the breadth and depth of the activity aimed at eliminating gender bias in the courts. The following Annual Report summarizes the compendium of players, projects, and activities devoted to this process. The intent is to capture the spirit and energy which the dozens of individuals involved have committed to this process, and to give Massachusetts and the Supreme Judicial Court the recognition they deserve for keeping the flame going.

## II. DOMESTIC VIOLENCE

The Task Force on c. 209A Cases of the Committee for Gender Equality has continued to make great strides in addressing the concerns raised in the Gender Bias Study in regards to the handling of domestic violence cases. In addition to participating in trainings described later in this report, the four working groups of the task force have accomplished the following:

### A. Coordination of Court and Ancillary Services

Under the direction of Task Force member Joan Stiles of the Massachusetts Coalition of Battered Women's Service Groups and Committee for Gender Equality Acting Director Lois Frankel, and with the crucial assistance of Harvard Law School student Melissa Kraras, the Task Force has made impressive progress in the project to establish court-based resource centers for battered women. As a pivotal starting point, the Chief Justices of the District Court Department and the Probate and Family Court Department have given the Committee their strong support for expanding this effort in the courts of their Departments.

The Task Force has also obtained generous funding from the Gender and Justice Committee of the Boston Bar Association, the Essex County Bar Association, and the Bar Associations of Fall River, Attleboro, and Taunton. Ms. Kraras has assisted in recruiting volunteer workers, and has documented the process for establishing these centers in order to assist future interns and interested parties in other states to replicate this effort.

This working group also initiated the booklet on model advocacy programs which is described in the Publications section of this report.

### B. Jurisdictional Issues Facing the Probate and District Court Departments

Task Force Chair Chris Butler, Justice Margot Botsford, Justice Martha Grace, and Acting Director Lois Frankel held meetings with judges, clerks, and registers to discuss problems of jurisdiction and to explore solutions with them. The focus of these meetings has been on such issues as child support and visitation. Similar meetings with advocates for battered women are planned for the summer. Based on information obtained in this investigation, the group will work with the court departments to alleviate the difficulties raised.

### C. Service of Orders

Clerk/Magistrate John Connors, Assistant Register Arthur Havey, Boston Police Sergeants Patricia Levitan and Gladys Gaines, and Cynthia Monteiro of the Legal Services Center have been working to improve the service and return of c. 209A orders. The feasibility of using facsimile machines is being considered, and model policies for both the courts and police departments are being drafted. This group's work has been particularly influenced by new legislation which increased the time between the emergency and second hearings from five to ten days.

### D. Use of Sanctions

The Gender Bias Study found that sanctions are not being used for violation of c. 209A orders. Response to this finding obviated the need for additional research into this very complex issue. Under the direction of Task Force Chair Chris Butler and Committee staff, and with the tireless assistance of District Court Department personnel, Harvard Law School student Sarah Curtis devoted her third-year paper to this subject, researching criminal enforcement of restraining orders in four district courts in eastern Massachusetts. The findings of this paper will inform the steps the Task Force will take to respond to the concerns raised in the Study report.

### III. PERSONNEL

#### A. Sexual Harassment

In June of 1990, the Trial Court promulgated the Policy and Procedure for the Elimination of Sexual Harassment in the Workplace. In the Fall of 1990 and the Spring of 1991, the Judicial Institute of the Trial Court, with the guidance and assistance of the Committee for Gender Equality staff, sponsored two training sessions for the group of court employees who have been designated to investigate complaints of sexual harassment. This group learned about the law, Trial Court policy, and ways to support each other during what often turn out to be complicated investigations.

#### B. Affirmative Action

In the Fall of 1990, Acting Director Lois Frankel submitted a completed draft of an update of the Trial Court Affirmative Action Plan, with statistical goals and timetables for each court, to Court Administrator Henry Barr and Acting Affirmative Action Officer Milton Britton. Ms. Frankel worked with personnel in the Affirmative Action Office and the Employee Relations/Personnel, Planning and Development, and Information Systems Departments of the Office of the Chief Administrative Justice.

Ms. Frankel continues to consult with Mr. Britton on the revision of this draft, which is due to be released shortly. This plan, which will be widely distributed throughout the Trial Court, reaffirms the Trial Court's commitment to affirmative action goals and equal employment opportunity, especially in troubled economic times.

Lois Frankel also attended Lesley College's Annual Spring Conference entitled, "Affirmative Action at a Crossroads: Directions for the '90's." This seminar provided well-structured workshops and a forum for networking. The provocative and informative speakers included Committee for Gender Equality member Kay Hodge, who led a workshop entitled "Updates on the Americans with Disabilities Act and AIDS in the Workplace."

#### C. Outreach to Female Personnel

The Gender Bias Study uncovered, and subsequent outreach continues to confirm, that many female employees are discontent with their work situations, with complaints that tend to run deeper than those heard from male employees. Committee

for Gender Equality staff met with Trial Court Labor Counsel Paul Edgar to explore approaches to meeting the needs of the large number of women who work for the Trial Court. This grew into a series of meetings with clerical union officials and members, beginning a process aimed at giving voice to these employees. The goal is to continue to work together to identify constructive, creative approaches to improving the worklives of the women working in the court system.

#### IV. FAMILY LAW

##### A. Family Service Officers/Mediation

The Task Force addressing the issue of mediation in the Probate and Family Court Department concluded from a preliminary inquiry that practices vary so widely from court to court, that a systematic investigation would allow a more informed approach to this issue. The Committee for Gender Equality has approved the Task Force's research proposal, and members Judge Ernest I. Rotenberg and Judge Mary McCauley Manzi are working with the Task Force on behalf of the Committee, reviewing the proposed surveys and providing other technical assistance.

##### B. Subcommittee on Attorneys' Fees

Subcommittee members Retired Justice Mary Beatty Muse, Ruth Budd, Esquire, and Barbara Senecal, Esquire, have made great strides in proposing to the Probate and Family Court Department changes to Probate Rule 406. The recommended changes would facilitate the award of attorneys' fees during the pendency of litigation when an initial showing of financial standing deems this appropriate. The Subcommittee's proposal was revised by the Administrative Committee of the Probate and Family Court Department, which submitted it to the Lawyers Weekly for comment. The Subcommittee circulated its comments on this version to all Probate and Family Court Department justices to inform them of the reasoning behind the proposal.

##### C. Progress of Family Law Legislation

The Women's Bar Association and Representative Susan D. Schur (D-Newton) resubmitted the three bills concerning divorce proceedings which they originally sponsored last year. These bills have been worded in direct response to concerns raised in the Gender Bias Study. Advocates spoke on behalf of the bills at the hearing of the Joint Committee on the Judiciary held on March 25th, and the Gender and Justice Committee of the Boston Bar Association wrote a letter to the Chairs of the Joint Committee in support of the principles embodied in the legislation. These bills are summarized below.

##### H. 3802: An Act Clarifying Modification of Child Support

- deletes the requirement that the court make special findings of fact in temporary modifications of child support orders, while retaining the requirement that

the court determine that injury, harm, or damage might reasonably be expected to occur if temporary relief is denied.

H. 3803: An Act Further Defining the Best Interests of the Child

- spells out eight areas of child care the court must examine to determine the primary caretaker, and defines psychological parent as the one who is most able to place priority on the child's needs and interests as opposed to his or her own.

H. 3804: An Act Adding Considerations for Alimony Determination

- requires judges, when determining alimony and property dispositions in divorce actions, to consider lost career opportunities resulting from child-care responsibilities and the tax consequences to both parties resulting from these dispositions.

As of this writing, it is expected that all three bills will be reported out by the Joint Committee on the Judiciary in the near future.

V. PUBLICATIONS AND PRESS

A. Models of Advocacy Booklet

The Task Force on c. 209A Cases has produced a handbook entitled Opening Doors: Model Projects Providing Advocacy To Victims Of Domestic Violence Seeking Relief In Eastern Massachusetts Courts. This booklet describes models of court, law firm and bar association, academic, and advocacy center programs which provide pro bono advocacy for litigants in domestic violence cases. It will be distributed to court officials and members of the legal and advocacy communities in an effort to inspire them to create additional programs.

B. Court Publications

1. Bay State Briefs

The July, 1990 edition of the Trial Court's Bay State Briefs covered the Committee for Gender Equality's First Year Anniversary Celebration, at which the Court Conduct Handbook was released. Also highlighted was the creation of the first domestic violence resource center in the Essex County Division of the Probate and Family Court Department.

2. Update

The Committee for Gender Equality distributes this monthly report on its activities to court officials, members of the Massachusetts legal and advocacy communities, and others interested in the Committee's work to eliminate gender bias in the court system. This newsletter also informs activists in other states of the accomplishments of the Massachusetts court system in this area.

C. Law Reviews and University Publications

The New England Law Review has reprinted the "Executive Summary," "Family Law," and "Civil Damages" sections of the Gender Bias Study. A copy of this Review is available at a \$5.00 cost by calling (617) 451-0010. The Suffolk University Law Review has reprinted the "Introduction," "Domestic Violence and Sexual Assault," and "Gender Bias in Courthouse Interactions" sections. This Review can be obtained by calling (617) 573-8180.

Boston College Law School Professor Renee M. Landers, a member of the Task Force on c. 209A Cases and a former member of the Gender Bias Study Committee, published an article on the

Gender Bias Study in the December 1990 issue of the Radcliffe Quarterly. While addressing the work and findings of the Study Committee, Professor Landers also highlighted other types of bias and focused attention on the efforts to eliminate bias.

D. North Shore Sunday

Many findings of the Gender Bias Study concerning divorce were detailed in this newspaper's March article, entitled "Fighting Fathers," about men lobbying for changes in family custody laws. In a quote in this article, Acting Director Lois Frankel reiterated the Study's finding that, "Though individual men may experience discriminatory treatment based on gender stereotypes,...the majority of biased treatment tends to disfavor women."

E. National Center for State Courts

The National Center for State Courts's Information Service has compiled an extensive library of information about groups working for gender equality in the courts across the nation. Status reports on these groups, in all stages of activity from initial brainstorming and research gathering through implementation of study recommendations, is updated on a quarterly basis. Publications of the Massachusetts Committee for Gender Equality are available through this service.

## VI. EDUCATION AND OUTREACH

The Committee for Gender Equality continues to hold firmly to the belief that educating people both within and without the court system is crucial to the effort to eliminate gender bias in the courts. This education takes many forms: training programs, educational materials, and active communication with the public and other institutions. The year's extensive educational and outreach activities reflect this commitment.

### A. Educational Programs

Committee for Gender Equality members and staff, task force members, and former members of the Gender Bias Study Committee focused a great deal of attention on organizing, consulting on, and personally providing a range of programs aimed at educating the court community and the public.

#### 1. "Valuing Differences: Gender Issues in the Workplace"

Committee for Gender Equality staff organized a full-day session in June, 1991, entitled "Valuing Differences: Gender Issues in the Workplace." Participants were members of the administrative staffs of the court departments, the Office of the Chief Administrative Justice, and the Commissioners of Probation and the Jury, selected because of their role as complaint handlers for their offices. Jane C. Edmonds and Associates provided an excellent opportunity to explore differences of perception based on personal experience and one's membership in "in" and "out" groups. The Judicial Institute of the Trial Court provided financial and technical support for this program.

#### 2. Probate and Family Court Department Conference

The Spring Conference of the Probate and Family Court Department responded directly to concerns raised in the Gender Bias Study in the area of domestic violence. The morning panel was composed of members proposed by the Committee for Gender Equality, and included a profile of the batterer, an explanation of the experiences of and challenges facing the battered woman, and a report on the recent changes to M.G.L. c. 209A. The Probate and Family Court is to be commended for committing so much time to this important issue.

### 3. Family Service Officers

In October 1990, the Governor's Battered Women's Working Group collaborated with Presiding Justice Sheila E. McGovern of the Middlesex County Division of the Probate and Family Court Department to provide a training for Family Service Officers on the issue of domestic violence. Chris Butler, Chair of the Committee for Gender Equality's Task Force on c. 209A Cases, and Acting Director Lois Frankel were among a series of speakers who addressed such issues as the profile of the batterer, the battered woman, and the role of the courts in confirming to the public that these cases are taken very seriously.

### 4. Speaking Engagements

Representatives of the Committee for Gender Equality continued this year to speak to area groups about the Committee's work. Committee and task force members spoke to such groups as the New England Association of Nurse Attorneys and a local chapter of the National Organization of Women. Staff addressed a seminar on community courts at Harvard Law School, the North Shore Women Attorneys, and the Women's Equity Action League, among others. Former members of the Gender Bias Study Committee also participated in this educational outreach by speaking to such groups as the National Council of Jewish Women and the Needham Congregational Church.

### 5. Boston College Law School Conference

In November of 1990, Boston College Law School hosted a major conference entitled "Gender Bias in the Law." The day brought together experts in a spectrum of issues from "Women in the Criminal Justice System" to "Legislating Against Gender Bias" to "Special Problems Facing Female Minors." Lynn Hecht Schafran, Director of the National Judicial Education Program to Promote Equality for Women and Men in the Courts, and Congresswoman Patricia Schroeder, First Congressional District of Colorado, were guest speakers. The Honorable Ruth I. Abrams and the Honorable John M. Greaney were given awards in appreciation of their contributions as Co-Chairs of the Gender Bias Study Committee.

### 6. International Visitors

Gladys Maged spoke to an international delegation of twenty women representing seventeen countries including Afghanistan, India, Jordan, Morocco, Norway, Poland, and the United Kingdom. She summarized the history and findings of the

Gender Bias Study and the current activities of the Committee for Gender Equality. Child support guidelines were of particular interest.

## B. Bar Association Educational Events

### 1. Massachusetts Bar Association Mid-Year Meeting

Committee for Gender Equality staff and member Kay Hodge devoted a great deal of time and effort to organizing a very successful session at the Massachusetts Bar Association's Mid-Year Meeting in January of 1991. The seminar, sponsored by the Civil Litigation and Law Practice Section, was entitled "Confronted with Gender Bias, What Should You Do?" Panelists, including Committee members Justice Ruth I. Abrams, Justice Charles M. Grabau, and Justice Mary McCauley Manzi, responded to hypothetical situations depicting gender bias, proposing solutions to the challenges raised by these scenarios. The audience actively participated, sharing proposals and similar personal experiences.

### 2. American Bar Association Forum

In November of 1990, the Section of Individual Rights and Responsibilities of the American Bar Association sponsored a Forum on Women's Rights at its Fall Council Meeting. Moderated by the Presidents of the three local women's bar associations, including Committee for Gender Equality member Evelynne Swagerty, speakers addressed such issues as reproductive rights and work-place issues for women lawyers. Speakers included former Gender Bias Study Committee members S. Beville May and Sandra Shapiro, who spoke on the work of the Gender Bias Study.

## C. Court Conduct Handbook Distribution

A major educational activity of the year focused on the distribution of the Court Conduct Handbook: Gender Equality in the Courts, originally released by the Committee in June of 1990. It was the first such booklet in the nation, serving as a guideline for gender-fair behavior in the courts. Since its release, the breadth and diversity of the individuals requesting the Handbook has been astounding. Representatives of state court systems, bar associations, universities, law schools, law firms, governmental institutions, and corporations, among others, have requested copies of the Handbook. These requests have come from over two dozen states and from Canada. Court systems and bar associations from over half a dozen states, including Hawaii, Idaho, and Michigan, have requested permission to copy all or part of the Handbook for use in their states.

The interest in the Court Conduct Handbook in the Commonwealth has been equally impressive. For instance, the Massachusetts Bar Association attached a copy of the booklet to the Massachusetts Law Review. The Committee also gave permission to the Superintendent of the Springfield, Massachusetts School Department to distribute Handbooks to principals and other officials for use throughout that area's school system.

#### D. Outreach to Executive and Legislative Branches

##### 1. Weld Administration

The Committee for Gender Equality has been in communication with Robert J. Cordy, Chief Legal Counsel to Governor William F. Weld, and David E. Place, Chair of the Judicial Nominating Council. The Committee provided them with background information on the study and subsequent activities, and reminded them of its keen interest in promoting gender and racial diversity in court appointments.

##### 2. Legislature

Committee for Gender Equality Executive Director Gladys Maged and Acting Director Lois Frankel attended the networking luncheon sponsored by the Women's Statewide Legislative Network in February to honor the Massachusetts Caucus of Women Legislators. Governor Weld and Mary Lee King, his Chief Policy Advisor, addressed concern for victims of domestic violence.

#### E. Gender Equality Forum

Executive Director Gladys Maged gathers together a diverse group of people who work toward gender equality for regular networking sessions. They share information and ideas in an effort to "re-charge their batteries."

## VII. WORK WITH COMMISSIONS AND ASSOCIATIONS

### A. Supreme Judicial Court Commissions

Committee for Gender Equality Acting Director Lois Frankel met this year with members of both the Commission on the Future of the Courts and the Commission to Study Racial and Ethnic Bias in the Courts to advise them on conducting public hearings and other aspects of their research efforts. Lois Frankel and Anne Roise, Director of the Commission to Study Racial and Ethnic Bias, have formed an ad hoc Personnel Committee to ensure that the interests of female and minority employees continue to be considered during these difficult economic times.

### B. Court Department Committees

In the fall of 1990, Chief Justice Samuel E. Zoll of the District Court Department appointed a Standing Committee for Gender Equality in response to an earlier special District Court Committee report. Lois Frankel met with this new Standing Committee in January to inform them of the Supreme Judicial Court Committee's work, and to assist them in setting priorities for implementing recommendations from their report. They plan a full training agenda for next year, and they will distribute to employees an easily-accessible summary of the Gender Bias Study, to be written by Executive Director Gladys Maged. The District Court Committee is chaired by the Honorable Leah Sprague.

The Probate and Family Court Department has appointed an Anti-Discrimination Committee, chaired by Committee for Gender Equality member the Honorable Ernest I. Rotenberg. This Committee investigates complaints involving allegations of racial, ethnic, or gender bias or discriminatory behavior of people within the Probate Court. It has also gotten involved in policy, receiving and responding to the Committee for Gender Equality's proposed changes to Probate Rule 406.

The Honorable Elizabeth J. Dolan and the Honorable J. Harold Flannery chair the Superior Court Committee for Gender Equality. This Committee was formed to respond to the Gender Bias Study and currently is a liaison to the Supreme Judicial Court Committee. In response to the Study, the Superior Court has been drafting a standard colloquy for use in hearings where minor girls are requesting judicial bypass of parental consent for abortions. The Superior Court has also recently appointed Justice Dolan to sit on the Appellate Division, thus integrating the panel by gender.

### C. Jury Commission

Committee staff reviewed the Juror Handbook, and suggested to the Commissioner a few revisions involving gender-neutral language. The Commissioner readily agreed to include these changes in the next version of the Handbook. Also to be included in the next Handbook, which is produced under the auspices of the Supreme Judicial Court, is a general policy statement on the fair treatment of all jurors. The policy encourages jurors to call the Office of the Commissioner if they experience or observe inappropriate behavior.

### D. Bar Associations

Each of the five bar associations represented on the Committee for Gender Equality has been active in working toward gender equality. The Committee has actively supported much of this work. Highlights of these activities, as presented at a Committee meeting in December, are summarized below.

#### 1. Women's Bar Association (WBA)

The WBA has organized a joint bar committee to publish a monthly column on gender issues in the legal/judicial community, which is soon to debut in Lawyers Weekly. The legislation described in the Family Law section of this report is progressing due to the hard work of the Legislative Policy Committee of the WBA. The WBA also has an active Appointments Committee and a program serving incarcerated women, and has sponsored the Committee for Gender Equality's Second Year Anniversary Celebration.

#### 2. Boston Bar Association (BBA)

This association's Committee on Gender and Justice has drafted changes to the Code of Professional Responsibility and is working on a bar resolution condemning bias. This Committee secured funding of Committee for Gender Equality resource centers for battered women, and actively supported the legislative changes to the Abuse Prevention Law. The BBA published a report proposing model policies for dealing with family-care challenges to people working in the legal profession, and sponsored an afternoon program entitled "Room at the Top: The Future of Women in the Law."

#### 3. Massachusetts Association of Women Lawyers (MAWL)

MAWL's work focuses on support and appointments networks, educational programs, and referrals. In addition, the

organization maintains scholarship funds. This year, the woman they selected to present with the Distinguished Jurist Award, in honor of her vast contribution to the law and, especially, to the cause of women involved with the legal community, was Committee for Gender Equality Chair, the Honorable Ruth I. Abrams, Associate Justice of the Supreme Judicial Court.

4. Massachusetts Black Women Attorneys (MBWA)

This support organization is particularly concerned with career development. They offer seminars, a job and resume bank, and an informal job and bar mentoring program. They also participate in commissions such as the Committee for Gender Equality and the Commission to Study Racial and Ethnic Bias in the Courts.

5. Massachusetts Bar Association (MBA)

At their Mid-Year Meeting, this bar's Civil Litigation and Law Practice Section sponsored a lively and informative seminar entitled, "Confronted with Gender Bias, What Should You Do?" The MBA also conducted a sexual harassment training for their employees, and has been focusing on integrating its educational and other panels. Kay Hodge, the MBA delegate to the Committee for Gender Equality, has been named to the Judicial Nominating Council.

## VIII. CONCLUSION

The extent of activity, the breadth of participation, and the dedication of each of the players is a tribute to the commitment of Massachusetts to fair treatment for all entering its courts. All individuals mentioned in this report, either explicitly or by affiliation, deserve both gratitude and appreciation for their contributions.

The Committee would like to express special appreciation to specific individuals without whose support this work could not continue. The Honorable Paul J. Liacos, Chief Justice of the Supreme Judicial Court, and the Associate Justices of the Supreme Judicial Court continue to stand behind the work of the Committee, understanding that weeding out deeply-held, society-wide bias takes both bold action and generous patience. The Honorable Patricia McGovern (2nd Essex & Middlesex) is a long-standing supporter, whose vision of a fair and efficient court system is inspirational to this and other court-based Committees. Chief Administrative Justice Arthur M. Mason of the Commonwealth of Massachusetts Trial Court continues to provide office space and other resources which also make this effort possible.

Staff and members of the Committee for Gender Equality look forward to the promise of another year at the helm of the movement for gender equality in the courts.