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# **GENDER & JUSTICE IN THE COURTS**

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**WASHINGTON STATE TASK FORCE  
ON GENDER AND JUSTICE IN THE COURTS**



**EXECUTIVE SUMMARY**  
**OF THE**  
**WASHINGTON STATE TASK FORCE**  
**ON GENDER AND JUSTICE IN THE COURTS**  
**FINAL REPORT**  
**1989**

**Chief Judge H. Joseph Coleman,  
Court of Appeals, Division I, Chair**

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The Task Force would like to pay special tribute to those individuals who testified at the Public Hearings, assisted in the arrangements of the hearings, and provided oral or written testimony regarding gender bias in the courts.

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**THE WASHINGTON STATE TASK FORCE  
ON GENDER AND JUSTICE IN THE COURTS  
EXECUTIVE SUMMARY**

The Report of the Washington State Task Force on Gender and Justice in the Courts is the culmination of 20 months of study undertaken at the direction of the Washington State Legislature and under the auspices of the Washington State Supreme Court. The 1987 Legislature mandated that measures be initiated to prevent gender and minority bias in the courts. Such measures were to include a study of the status of women and minorities as litigants, attorneys, judges, and court employees; recommendations for implementing reforms; and attitude awareness training for judges and legal professionals.

The Washington State Supreme Court established two task forces, the Gender and Justice and the Minority and Justice, to review the court system for bias. This summary presents the Gender and Justice Task Force's assessment of the extent and consequences of gender bias in the Washington State Courts together with its recommendations for reforms.

**WHAT IS GENDER BIAS IN THE COURTS?**

Bias is any action or attitude that interferes with impartial judgement. Gender bias exists when decisions are made or actions are taken based on preconceived notions about the nature, roles, and abilities of men and women rather than upon evaluation of each individual situation. Gender bias also is evident in society's perception of the value of women's and men's work, and the myths and misconceptions about the social and economic realities of women's and men's lives. Gender bias can be reflected in individual actions as well as in cultural traditions and institutional practices.

Examples of gender bias in the courts include the attitude that domestic violence is a family matter, custody decisions that assume all mothers are better child care givers than fathers, and the belief that a female witness is less credible than a male witness. Gender bias

is evident in the setting of short term "rehabilitative maintenance" for older women after long-term marriages and ignoring the real costs of child care in setting child support awards. Individual behaviors such as telling jokes that demean women and addressing women in the courtroom by first name while addressing men by title and surname also reflect gender bias. Gender bias, like racial, ethnic, age, handicap, or socioeconomic bias, negatively impacts the fair treatment expected by all people in the court of law.

Since 1980, 27 states have initiated studies of gender bias in the courts. Task force reports have documented that gender bias is a serious problem in the application of the law and the treatment of women litigants, lawyers, judges, and court personnel. These task forces noted that gender bias sometimes works against men, but most often and most negatively impacts women.

In 1988, a resolution was passed at the Conference of Chief Justices and the Conference of Court Administrators calling for the creation, in every state, of gender and minority bias task forces. Their action signaled that gender bias has been recognized by the highest level of the judiciary as a problem worthy of official investigation and reform.

#### **THE TASK FORCE APPROACH**

Supreme Court Chief Justice Vernon R. Pearson, 1987-1989, appointed Court of Appeals Judge H. Joseph Coleman as chair and 33 members to the Washington State Task Force on Gender and Justice in the Courts. The members include judges, legislators, lawyers, law school professors, and representatives of law-related associations. The Task Force accepted the responsibility of studying the court system for the existence and/or extent of gender bias toward women and men in decision-making and in courtroom interaction. Their goals were to identify the problem areas, patterns, and trends of gender bias and to make recommendations for education and reform. The Task Force was not able to investigate individual cases or concerns but considered all testimony as relevant to the perceptions of gender bias in the courts.



Since time and resources precluded full examination of all aspects of the Washington court system, the Task Force limited its focus and worked in three main committees. These committees designed and implemented research projects, analyzed the results, and wrote the final report:

(1) **The Committee on the Status of Litigants** divided into three subcommittees to study the impact of gender bias on litigants:

a. **The Subcommittee on the Consequences of Violence** examined the court's treatment of domestic violence and adult rape victims and the effectiveness of current statutes.

b. **The Subcommittee on the Consequences of Divorce** studied family law issues including divorce, maintenance, property division, child custody, and child support.

c. **The Subcommittee on the Economic Consequences of Other Civil Litigation** reviewed loss of consortium and wrongful death cases, as well as attorney fee awards in discrimination cases.

(2) **The Committee on the Treatment of Lawyers, Litigants, Judges and Court Personnel** studied the courtroom environment including: the courtroom treatment of litigants and legal professionals; the credibility of women in the courtroom; the acceptance of women in the legal and judicial communities; and court personnel practices and procedures.

(3) **The Executive Committee** comprised of the Task Force, committee and subcommittee chairs, two appointed members, and the project director coordinated the Task Force work.

## **RESEARCH METHODOLOGY**

The Task Force resolved to gather information from a broad spectrum of persons involved with the courts. Research specialists worked with the committees to develop and conduct five surveys of the perceptions and experiences of judges, lawyers, and social service personnel (including the directors of domestic violence and sexual assault agencies) regarding gender bias in substantive law decisions and in courtroom interaction. The Task Force

sponsored seven public hearings and received written and oral testimony from almost 200 citizens. Subcommittees conducted substantive case research on 700 dissolution cases finalized in 1987, and wrongful death, loss of consortium and discrimination cases tried from 1984 to 1987. In addition the Task Force reviewed relevant state and national data concerning issues relating to gender bias in the courts.

More than 2,000 individuals - judges, lawyers, litigants, service providers, and other concerned citizens - contributed to this report by testifying at a public hearing, submitting written material, responding to a survey, or communicating directly with Task Force members about their experiences and perceptions of gender bias in the courts.

## **FINDINGS AND RECOMMENDATIONS**

The Gender and Justice Task Force found that gender bias does exist in our culture and is reflected in the Washington State Courts. Survey data, case studies, and testimony from litigants, lawyers, and judges indicate that gender discrimination exists and can negatively impact judicial decision making and affect the outcome of litigation. Task Force committees reported continuing gender-related problems in the areas of domestic violence, sexual assault, and divorce, and the potential for gender bias in other civil litigation. The Task Force found that women face continuing problems of credibility in the courtroom and women, as litigants, lawyers, and judges, are not always treated with respect. Gender bias and gender stereotypes affect men in custody and visitation considerations. Although for the most part the laws are gender neutral, the Task Force found that some laws need clarification or amplification. The specific findings and recommendations are summarized by committee in the following sections.

The Task Force agreed that eliminating gender bias from the courts must become a priority for judges and legal professionals. To that end, the Task Force's first recommendation is that all members of the Washington judiciary and legal profession read this report with the intention of improving the system as a whole.

The Task Force believes that an implementation committee must be established and recommends the following:

***To the Supreme Court:***

Establish a Gender and Justice Implementation Committee composed of judicial, legislative, legal, and lay persons to monitor, encourage, and evaluate efforts to implement the Gender and Justice Task Force recommendations.

***To the Legislature:***

Continue to fund the Gender and Justice Implementation Committee composed of judicial, legislative, legal, and lay persons to monitor, encourage, and evaluate efforts to implement the Gender and Justice Task Force recommendations.

***To the Office of the Administrator for the Courts:***

Provide staff to continue to work with the Gender and Justice Task Force Implementation Committee.

The Task Force urges the Judiciary, the Legislature and the Washington State Bar Association to support efforts to implement the recommendations in this report and to eliminate gender bias from the courts.



**REPORT OF THE COMMITTEE ON THE STATUS OF LITIGANTS  
SUBCOMMITTEE ON THE CONSEQUENCES OF VIOLENCE**

**OBJECTIVES**

The Subcommittee on the Consequences of Violence examined the judicial system's response to two categories of violence against women: domestic violence and adult rape. The Subcommittee wished to examine whether or not gender bias was evident in the implementation of domestic violence and sexual assault laws and in the treatment of victims.

**METHODOLOGY**

The Subcommittee relied on five sources of data to develop its findings and recommendations: the public hearings; the Domestic Violence Service Providers' Survey; the Sexual Assault Service Providers' Survey; the Judicial Survey on Domestic Violence and Rape; and the Lawyers' Survey. Many of the same questions were asked of judges and service providers to allow the Subcommittee to examine the experiences and perceptions of both groups on the same issues.

**FINDINGS AND RECOMMENDATIONS**

The Subcommittee found that, while much progress has been made in the last 15 years, gender bias still operates in the judicial system's handling of domestic violence and rape cases. The findings and recommendations for each of these areas will be presented separately.

**DOMESTIC VIOLENCE - FINDINGS**

In the area of domestic violence, the Task Force discovered problems in the treatment of victims, in the interpretation and application of the laws which affect victims, and in some aspects of the laws themselves. The substantial impact of domestic violence on our society and in the courts is evidenced by the sheer number of filings and hearings. In 1988, more

than 10,000 domestic violence petitions were filed resulting in 6,000 hearings in Washington's Superior Courts and almost 3,500 hearings in District Courts. In addition, respondents to the Domestic Violence Service Providers Survey indicated that more than half of the victims seen by their agencies never or rarely use the court system.

Judges and domestic violence service providers who communicated with the Task Force indicated that the existing laws do provide a framework for handling domestic violence cases. However, that framework needs additional support in strengthening some aspects of the law, additional funding to adequately implement the law, and increased education for the personnel who come in contact with victims.

Domestic violence is a complex problem which requires trained support personnel and advocates to work with victims as well as education and sensitivity training for all personnel who come in contact with victims. Judges indicated the need for additional training for law enforcement and court personnel, and attorneys. Service providers reported that court clerks, commissioners, and judges need additional training to understand the dynamics of domestic violence and more sensitivity to the circumstances of the victim and the batterer.

Both judges and service providers noted that changes are required to improve the process for obtaining and enforcing protection orders. Victims often have difficulty completing the paperwork required to petition for protection orders and do not have access to legal counsel. The courts need additional trained personnel to work with victims.

Survey respondents indicated that prosecution of domestic violence cases and enforcement of the protection orders are not always given serious attention. Judges and service providers agreed that affordable treatment or counseling services for victims and batterers is not available; treatment, when ordered as a condition of pre-trial release or sentencing, is not adequately supervised; and jail sanctions are seldom imposed for violations.

Finally, many respondents criticized the Legislature for failure to provide funds to properly implement the Domestic Violence Prevention Act. Lack of treatment programs and follow-up monitoring for batterers were other funding issues. One judicial survey respondent summarized these concerns in the following statement:

... there was no legislative recognition or funding for the fiscal impact of the domestic violence act -- we need community treatment centers, additional funds for police agencies to serve and arrest domestic violence offenders; court and clerk personnel training; and assistants to help handle the case volume. Statewide we have seen over 5,000 new cases yearly as a result of the RCW 26.50 and no additional resources. The Legislature needs to address this as a priority.

## **DOMESTIC VIOLENCE - RECOMMENDATIONS**

### ***For Judges:***

1. Increase continuing education to judges and court personnel at all court levels about:
  - a. The dynamics of domestic violence;
  - b. The impact on children;
  - c. The need for protective orders in divorce cases; and
  - d. The need for sensitivity when handling domestic violence victims/cases.
2. Order probation supervision to monitor compliance when sentencing the defendant to a domestic violence treatment program. Request increase in the number of probation officers, if necessary, to accomplish this goal.
3. Avoid the issuance of mutual protection orders when respondent has not requested protection and/or when not warranted by the facts of the case.
4. Consider using jail as a sanction for violations of domestic violence protection orders.

### ***For the Legislature.***

1. Establish a state commission or task force on domestic violence to implement this Subcommittee's recommendations and other matters pertaining to domestic violence.
2. Increase funding to the courts for advocates to assist and educate victims of domestic violence both in the civil court process and in the criminal court. Develop resource material for victims of domestic violence that would:
  - a. Encourage the use of the court system in an effort to prevent the violence; and
  - b. Educate victims about the Criminal Justice System and the protection order process. The materials could be used in shelters statewide.
3. Increase the level of support for shelters throughout the state. Currently the state divides \$537,000 among 37 shelters and safe homes statewide. Establish shelters in jurisdictions lacking such service for victims and their children.
4. Legislate funds to support treatment programs for batterers.
5. Enact laws prohibiting the granting of a gun permit to an individual convicted of a domestic violence crime, either misdemeanor or felony.

6. Legislate and fund increased training on domestic violence issues for police recruits at the police academy. Currently the domestic violence training for new recruits is two hours. The Subcommittee agrees it is inadequate and should be increased to 16-20 hours.
7. Establish a statewide statistical data collection system for incidents of domestic violence reported to police departments. Included in the data collection should be the numbers of domestic violence calls, arrests, incident reports, and citations.
8. Establish a statewide statistical data collection system for the offices of the prosecuting attorney, both county and municipal. This would provide a monitoring system for the "rigorous prosecution" of domestic violence cases.
9. Review the Domestic Violence Prevention Act in order to study and correct problem areas in the legislation.

***For the Office of the Administrator for the Courts/Court Administrators:***

Develop standardized forms for protection orders to be used statewide. Analyze whether it is legally possible to use one form for all three civil orders: protection orders; restraining orders; and anti-harassment orders.

***For the Washington Association of Prosecuting Attorneys/Prosecuting Attorneys:***

1. Implement a study to determine whether or not prosecutors are doing the following and documenting the results:
  - a. Notifying victims of filing decisions within five days of receiving a domestic violence police report; and
  - b. Vigorously prosecuting domestic violence cases regardless of pending divorce cases.
2. Assist in developing filing standards on domestic violence cases, both felony and misdemeanor.
3. Develop training material on the technical aspects of prosecuting domestic violence cases.
4. Work with individual prosecutor's offices to provide education to prosecutors about:
  - a. The dynamics of domestic violence;
  - b. The impact on children; and
  - c. The need for sensitivity in handling domestic violence victims/cases.
5. Vigorously prosecute violations of protection orders.

***For Police:***

1. Establish procedures that provide for swift service of protection orders and establish service as a high priority within the department.
2. Increase police training on domestic violence.



## **RAPE - FINDINGS**

The Subcommittee found that while improvements have been made in the handling of rape cases in the last 15 years, problems still exist. Rape victims are still afraid to report to the criminal justice system because they fear they will be disbelieved or viewed as responsible for their own victimization. Victims fear the pre-trial and trial questioning by police and attorneys.

Victims who do make reports to the police are often discouraged by the refusal of police to pursue the case or the failure of prosecutors to file charges. Even when charges are filed, repeated continuances of trial date and poor communication between victims and prosecutors leave victims feeling unsupported. The majority of Sexual Assault Service Providers who were surveyed responded that victims are questioned about their prior sexual experiences pre-trial and more than a third reported such questioning during trial. Service providers reported that rape victims fail to follow through on complaints because of their treatment by the criminal justice system.

Though acquaintance rapes constitute the majority of rapes, handling of these cases by judges and prosecutors indicates a lack of understanding of the dynamics and effects of this crime. Service providers indicated that prosecutors are reluctant to file acquaintance rape cases because those cases tend to be "losers". Thirty-seven percent of the judges and more than two-thirds of the lawyer survey respondents indicated that shorter sentences are at least sometimes given in acquaintance rape cases.

Sexual Assault Service Providers also indicated that the courts are inconsistent in sentencing defendants and sometimes impose only treatment requirements with no accompanying jail sentence. One director of a sexual assault center testified:

- Stiffer sentences should be [imposed] on convicted rapists. The victim feels it is scarcely worthwhile when the rapists escapes with a slap on the wrist.

Rape victims are not always treated with respect and sensitivity. While 74 percent of the judges responded that they have an understanding of the dynamics and impact of

sexual assault, only 12.5 percent of the service providers say that judges are usually so enlightened.

## **RAPE - RECOMMENDATIONS**

### ***For Judges:***

Provide education for judges about:

- a. The substantial current data regarding the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape and the long-term psychological injury to rape victims; and
- b. The difference between vigorous cross-examination that protects the defendant's rights and questioning that includes improper sex stereotyping and harassment of the victim.

### ***For Prosecuting Attorneys:***

1. Provide education for deputy prosecutors about the substantial current data regarding the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape and the long-term psychological injury to rape victims.
2. Establish specialized prosecution units that permit rape victims to deal with only one deputy prosecutor through all stages of the proceeding and which emphasize communication between victims and prosecutors.
3. Ensure that acquaintance rape cases are treated with the same seriousness as stranger rape cases.
4. Oppose continuances in rape cases unless there is compelling necessity for such continuance.

### ***For Police:***

1. Establish specialized units to deal with sex offenses.
2. Provide education for police officers about the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape and the immediate and long-term psychological injury to rape victims.
3. Ensure that acquaintance rape complaints are treated with the same seriousness as complaints of stranger rape.

## **SUBCOMMITTEE ON THE CONSEQUENCES OF DIVORCE**

### **OBJECTIVES**

The Subcommittee on the Consequences of Divorce studied gender bias as it relates to economic and child custody decisions during divorce. Their concerns included whether women and children were economically disadvantaged post-dissolution because of inadequate maintenance, property division, and child support awards and whether there was gender bias against fathers in child custody decisions.

### **RESEARCH METHODOLOGY**

The Subcommittee reviewed national and state data on the economic status of women and children, maintenance and child support awards, and custody decisions. They conducted a case file study of 700 dissolutions finalized in 11 Washington counties during a three month period, September - November 1987, which provided limited data on maintenance, child support awards and custody decisions. Subcommittee members attended the public hearings and reviewed the oral and written testimony submitted to the Task Force. In addition, the Subcommittee included 34 questions on fairness and gender bias in family law issues in the Task Force surveys of Washington State judges and lawyers.

### **FINDINGS**

The Subcommittee's study indicates the existence of strong cultural traditions tending to minimize the role of women as economic producers and to minimize the role of men as fathers. Women may not always be treated fairly in economic decisions and men may not receive equal consideration in custody decisions. The Subcommittee discovered that data on the consequences of divorce in Washington has not been uniformly recorded. The Subcommittee's key findings regarding property division, maintenance, child support, child custody, and legal assistance are followed by its recommendations.

## **PROPERTY DIVISION**

It is apparent from public testimony that women feel aggrieved in property division during divorce. They claim husbands often have superior knowledge of family finances and may be in a position to hide assets. Wives fault the courts for failure to recognize the opportunity cost of homemaking and how long the difference in economic circumstances between the parties will prevail after divorce. Because of inadequate maintenance and income, women are often forced to sell the property they receive.

Judges and lawyer survey respondents reported that they were aware of situations in which women conceded property to avoid child custody battles. Such compromising may have significant long-term economic impact on the female headed household.

The committee concluded that the area of property division is deserving of future case study to test the gender bias issues raised.

## **MAINTENANCE**

Gender bias was indicated in maintenance awards. Maintenance awards, if ordered, are of limited duration and generally only available to women of very long-term marriages. In the Washington dissolution case study, for example, only 10 percent of the wives were awarded maintenance and the average duration of the awards was 2.6 years. Maintenance awards are primarily transitional or rehabilitative in nature. Limited maintenance awards of two to four years to allow a woman to complete a higher education or training program indicate that the courts are not sensitive to the economic realities facing women, particularly those who are still raising children or are reentering the job market after long-term marriages.

The Subcommittee concluded that maintenance does not adequately address inequities in spouses' post-dissolution earning capacity due to lost economic or career opportunities. The law does not explicitly recognize that maintenance should address disparities in post-divorce income caused by unequal earning power. The term "rehabilitative" maintenance, with its negative connotation, should be replaced by "compensatory" maintenance.

Public testimony raised the issues of the lack of low cost legal assistance for men and women; problems with military pensions; and the inequality of the clause terminating maintenance after remarriage. Subsequent remarriage should be irrelevant except as an occasion to reconsider the relative standard of living of the parties and make adjustments as may be indicated.

## **CHILD CUSTODY**

Custody and visitation concerns were voiced by fathers and mothers at the public hearings. Fathers testified that they are not given equal consideration in custody determinations and their visitation rights are not enforced. Mothers perceived that judicial personnel did not give sufficient attention to the issues of domestic violence and allegations of child sexual abuse in custody and visitation determinations.

Judicial and lawyer survey respondents indicate a perception of bias in favor of maternal custody even in those cases in which fathers have been equally involved in attending to their children's needs. Fathers are less likely to receive custody of children under the age of five.

Since the most important factor in determining custody is which spouse is the primary caretaker of the children when the marriage was intact, for those couples who continue to structure their relationships so the mother is the primary caretaker, custody trends will continue to reflect that pattern. The Subcommittee believes that child custody decisions may be impacted by stereotypical thinking about traditional family roles and recommends that judges and lawyers conscientiously assess each family situation presented in the light of the factors required by the 1988 Parenting Act, without assumptions based solely on gender.

Serious consideration must be given to the perception expressed that mothers' allegations of child sexual abuse are not believed or treated seriously. Testimony from litigants, lawyers, and expert witnesses indicate that mothers' testimony is given less credence by the court.

## **CHILD SUPPORT**

Inadequate child support orders and lack of enforcement of those orders reinforce the cycle of poverty for women and children after divorce. Although complete data were not available in all records reviewed during the dissolution case study, indications are that the average monthly child support award in Washington, \$198, is below the national average, \$218.

Enforcement of child support orders has been a continuing problem. Ninety-four percent of the lawyers' survey respondents answered that judges never or only occasionally jail respondents for failure to pay child support.

An issue of particular concern is the fact that mothers barter child support in order to avoid child custody disputes. More than half of the lawyers said they had represented mothers who agreed to less child support than the father's income called for in exchange for the father's agreement not to contest custody. Almost half of the judges responded that they were aware of situations in which mothers concede more than half the property to avoid a custody dispute.

Washington recently instituted new policies regarding child support and enforcement following reports of the Child Support Guidelines Commission and the Executive Task Force on Support Enforcement. The effectiveness of these changes and the impact on women and children should be evaluated in the future.

## **LEGAL ASSISTANCE**

Testimony indicated that affordable legal assistance is not available for men or women in family law matters. Speakers throughout the state testified that it was their belief that women, in particular, were being denied equal access to the legal system because they lacked money to pay attorneys' fees. Other testimony pointed to a need for developing alternative methods for resolving marital disputes.

## **RECOMMENDATIONS**

### ***For Judges:***

1. The Superior Court Judges' Association and the Legislature should jointly study maintenance and property division to recommend changes which will achieve greater economic equality among family members following dissolution.
2. The Superior Court Judges should consider whether maintenance guidelines or a maintenance schedule should be developed, and if so, develop one for use by the trial courts statewide.
3. Judges should require and enforce dissolution decrees to explicitly address the following:
  - a. Security for the child support obligation, such as maintenance of life insurance with a particular named beneficiary;
  - b. The responsibility for maintaining medical insurance on behalf of the children, as required by statute;
  - c. The responsibility for educational support of children beyond high school; and
  - d. A specific provision for the allocation of employment related day-care expenses between the parents, as required by statute.
4. Develop education programs for judges in the area of custody, to reinforce the concept of addressing each case on its merits, avoiding percentage goals and presumptions, and recognizing the diversity of the families who present themselves. Both judges and lawyers should conscientiously assess each family situation presented in the light of the factors required by the Parenting Act, without assumptions based solely on gender.

### ***For the Legislature:***

1. Enact legislation which makes the issue of a spouse's earning capacity a specific statutory factor in awarding maintenance or property division.
2. Consider replacing the term "rehabilitative" maintenance, with its negative connotation, with "compensatory" maintenance, reflecting the importance of evaluating the respective standard of living each party will experience after divorce in light of the contributions each has made to the marriage, whether financial or otherwise.
3. Reevaluate that portion of RCW 26.09.170 which automatically terminates maintenance upon the remarriage of the party receiving maintenance.
4. Amend RCW 26.18.010 et seq. (or ch. 26.18 RCW) to authorize mandatory wage assignments for maintenance payments to the same extent as is currently provided for child support obligations.
5. Immediately address the need for reasonably affordable quality day-care for working parents. Consider incentives for public and private sector employer sponsored day-care facilities.

6. Consider alternative dispute resolution methods for addressing marital dissolutions in appropriate cases.
7. Review the issue of divided military benefits and the McCarty decision to determine if case law adequately addresses the problem or if additional legislative action is necessary.
8. The Superior Court Judges' Association and the Legislature should jointly study maintenance and property division to recommend changes which will achieve greater economic equality among family members following dissolution.

***For the Washington State Bar Association:***

1. Develop continuing education programs on the effects of gender stereotyping in family law matters and the need for lawyers to provide adequate economic data and expert witnesses to the judges in marital dissolution cases.
2. Develop more programs for free or low cost counsel and use of expert witnesses in family law areas.

***For Judges, the Legislature, County Government, and Bar Associations:***

Address the barriers to court access which may significantly bar meaningful and equal participation by litigants, including:

- a. The lack of adequate legal assistance in family law matters;
- b. The high cost of attorney fees;
- c. The lack of alternative methods for addressing marital dissolutions;
- d. The lack of child care at courthouses; and
- e. Transportation difficulties for litigants in getting to the county courthouse.

***For The Gender and Justice Implementation Committee:***

1. Work with the Board for Trial Court Education and the Bar to develop and provide further education for judges and lawyers about the economic consequences for families following dissolution.
2. Develop a standard economic data form for inclusion in all dissolution decrees which the Supreme Court should require be filed by adoption of court rule.
3. Implement a prospective study of contested dissolution cases which will gather data on property division which could not be done in the retrospective dissolution case study.
4. Study and make recommendations for the court's use of contempt powers to enforce family law decrees.
5. Review the effects of the Parenting Act on maintenance and child support awards.



**SUBCOMMITTEE ON THE ECONOMIC CONSEQUENCES  
OF OTHER CIVIL LITIGATION**

**OBJECTIVE**

The Subcommittee on the Economic Consequences of Other Civil Litigation limited the scope of its initial research to topics that did not involve issues related to divorce or violence against women. The Subcommittee decided to review wrongful death, loss of consortium, and attorneys' fees awarded by the courts pursuant to the Washington Law Against Discrimination (RCW 49.60) to determine whether gender bias has influenced the outcome of cases and the awarding of attorney fees.

**RESEARCH METHODOLOGY**

The subcommittee reviewed *Jury Verdicts Northwest*, *Washington Arbitration Reports*, Superior Court Management Information System (SCOMIS) computer-generated reports, and individual court case files, where necessary, for wrongful death, loss of consortium, and discrimination case verdicts from 1984 - 1987. Some attorneys who handled these cases were also interviewed. In addition, the subcommittee prepared questions related to these three issues for inclusion in surveys of the Bench and Bar. At least one member of the Subcommittee attended each public hearing to record any testimony addressing the Subcommittee's three issues.

**FINDINGS**

Without a much more comprehensive study, definitive answers regarding gender bias in the case outcome of wrongful death and loss of consortium cases and in attorney fee awards are impossible. What the Subcommittee has attempted to do is identify problem areas, perceptions of litigants, advocates and judges, and, where possible, suggestions for solutions or further study.

## **WRONGFUL DEATH**

Case studies on wrongful death awards suggest that survivors of males receive higher verdict awards than survivors of females but gender can not be identified as the chief determinant for those awards. Seventy-two percent of the lawyer survey respondents indicated that larger wrongful death awards are received by survivors of deceased men than deceased women. Both lawyers and judges indicated that wrongful death verdict awards are higher for employed persons than for homemakers, male or female.

Analysis of wrongful death cases for indications of gender bias is complicated by other variables such as the age, employment, and earning potential of the decedent, and the relationship of the decedent to the plaintiff. While objective data does not prove that there is demonstrable gender bias in wrongful death awards, neither can the Subcommittee conclude that gender bias does not exist in these cases without further in-depth study.

## **LOSS OF CONSORTIUM**

Case studies regarding loss of consortium were similarly inconclusive. Jury awards in the period from 1984-87 show a slight average disparity in favor of male claimants. Arbitration awards show a slightly larger disparity in favor of female claimants. A review of the data provides no easy answers as to what role, if any, gender bias plays in the differences in awards to male and female claimants. The single significant conclusion that may be reached is that lawyers, as a group, are not sufficiently mindful of the changes in the law affected by *Lundgren v. Whitney's, Inc.*, 94 Wn.2d 91, 614 P.2d 1272 (1980), and its progeny, in terms of the availability of a claim for loss of consortium for female plaintiffs.

## **ATTORNEY FEES**

The Washington Law Against Discrimination (RCW 49.60) provides that successful litigants may apply to the court for an award of "reasonable" attorneys' fees. Reasonable attorneys' fees are calculated by determining the reasonable amount of time required for the case based on the complexity of the issues and multiplying the hours by the prevailing market

rate for attorneys in the area where the judgment is rendered. The judge may consider enhancing or reducing this basic amount.

The small number of discrimination cases (26 cases litigated from 1984-1987) and limited lawyer and judges survey responses makes generalizations with respect to attorneys' fee awards difficult. The requested amount of attorneys' fees in discrimination cases and the awarded fees do reflect broad judicial discretion. It is unclear, in the cases reviewed, if reductions in fees were based on the gender of the plaintiff or attorney. Although none of the attorneys interviewed felt the reductions were based on gender bias, in only two cases was the amount requested by the attorney awarded, and only once was a multiplier given. However, the broad discretion given to the trial judge regarding reduction and enhancement of the attorney fee is susceptible to gender bias.

## **RECOMMENDATIONS**

### ***For Judges and Attorneys***

1. Include workshops at judicial conferences on discrimination cases and the public policy reasons for awarding fees to alleviate some of the concerns, particularly of practitioners in the field. Some discussion of the current costs of doing business, overhead, and market rates would also be helpful. Use of multipliers should also be discussed.
2. Consider using experts to provide insights on "reasonability." A court-appointed expert could conduct informal market surveys on hourly rates based on experience only and on number of hours typically expended on civil litigation of comparable longevity and complexity. Such information could diminish the subjectivity and resulting susceptibility to gender bias inherent in the discretionary fee-setting process.

### ***For Court Administrators:***

Require that attorneys complete docket sheets describing the nature of the case, as the federal courts and some superior courts do. All superior courts should request such docket information, and include a specific category for discrimination, wrongful death, and loss of consortium cases. That information should then be recorded on SCOMIS for easy retrieval.

### ***For the Implementation Committee:***

1. As more discrete information becomes available on the SCOMIS system, the committee should review awards for wrongful death and loss of consortium.
2. As discrimination cases continue to be tried and fees awarded, further study should be conducted.



**COMMITTEE ON THE TREATMENT OF LAWYERS,  
LITIGANTS, JUDGES, AND COURT PERSONNEL**

**OBJECTIVE**

The Committee on the Treatment of Lawyers, Litigants, Judges, and Court Personnel reviewed the court system for the existence and effects of gender bias in the treatment of women in the courtroom environment. Their concerns included the professional acceptance and credibility of women in the courts, the effect of gender biased treatment on case outcome, and gender bias in employment practices and procedures.

**METHODOLOGY**

The Committee utilized five sources of information in compiling this report: a review of reports from other state gender bias task forces and the American Bar Association's Commission on Women in the Profession, testimony from the public hearings, the survey of Washington lawyers, the survey of the Washington judiciary, and a review of personnel policies and procedures in the Washington Courts. The surveys designed to measure lawyers' and judges' perceptions of gender bias in the courts provided the main sources of data for this report. Parallel questions were asked of lawyers and judges so that responses could be compared. More than 1,500 lawyers and 220 judges, commissioners, and magistrates responded to the surveys.

**FINDINGS**

The Committee found that gender bias still exists in the Washington State Court system as a result of cultural and societal influences. The bias tends to be more subtle than overt and is more a problem of individuals within the system than the system as a whole. Lawyers are more likely to engage in gender biased behavior in the courtroom than judges or court personnel. Women more than men are subject to gender biased behavior and,

therefore, are more aware of its existence. In custody cases, men appear to be detrimentally impacted by their gender. For litigants and witnesses, the perceptions of credibility are sometimes affected by their sex. Case outcome is at least occasionally affected by gender biased conduct, yet judges, counsel or others intervene in only a minority of cases where gender biased behavior occurs.

The Committee found that a significant number of judges and lawyers perceived that gender bias does exist in the Washington State court system at least to some degree. More than 70 percent of the lawyers and 60 percent of the judges perceived that gender discrimination exists towards litigants, witnesses, and lawyers. Almost half of the judges and 54 percent of the lawyers noted gender discrimination toward judges.

Survey results indicate that some judges and attorneys do not treat women with the same respect and dignity with which they treat men. The inappropriate use of first names, terms of endearment, or compliments may undermine the confidence and credibility of witnesses, attorneys, and clients. At least a quarter of attorney respondents had seen the following behavior directed at women:

- Remarks or jokes demeaning to women were made, either in court or in chambers, by judges and lawyers;
- Lawyers addressed female litigants/witnesses by first name when those of the opposite gender were addressed by surnames;
- Female litigants/witnesses were addressed in familiar terms by judges and lawyers;
- Female litigants were regarded as less credible because of their gender by judges of the opposite gender and lawyers of the opposite gender;
- Opposing counsel and court personnel addressed female lawyers by first name when lawyers of the opposite gender were addressed by surname;
- Judges and opposing counsel addressed female lawyers by familiar terms (e.g., "dear," "young lady," "girls");
- Judges, lawyers and court personnel complimented female lawyers on their personal appearance;
- Opposing counsel and court personnel asked female attorneys if they were lawyers, when lawyers of the opposite gender were not asked;
- Women judges were addressed by first name by other judges and by lawyers;
- Affidavits of prejudice were used to disqualify a woman judge primarily because of her gender.

The Task Force asked attorneys and judges whether they thought that conduct such as use of first names, familiar terms, compliments, sexual advances, demeaning remarks and jokes, or biases as to credibility had an effect on case outcome. Thirty-four percent of all lawyer survey respondents, who had observed such conduct, thought that it did affect case outcome. More than 50 percent of the female lawyers and almost that many of the female judge respondents reported that case outcome was at least occasionally affected.

The Committee was concerned that only 19 percent of lawyer survey respondents had seen a judge intervene to correct gender biased behavior and only 20 percent of the judges said they had ever intervened or seen others intervene. The harm of inappropriate behavior is compounded when it is witnessed by jurists, counsel, or others who do not take action to correct the problem.

Most survey respondents acknowledged that the court system had a responsibility to strive for fairness and commended the Task Force for their efforts to improve the system. Some respondents noted that they had personally never witnessed the types of behavior described in the survey but did not deny that those behaviors might exist. Some respondents, however, thought gender bias did not exist or that it was justified when it occurred.

The Committee worked with the Minority and Justice Task Force to initiate a study of gender and minority bias in regards to court personnel. The first stage of the study was a review of the existing personnel policies and procedures for equal opportunity, affirmative action, and sexual harassment policies. The Committee found that not all Washington State Courts had specific court personnel policies. Some courts operated under city or county personnel policies, some had specific court policies, and some had no established policies. The Committee agreed that all courts should develop a sexual harassment policy and establish procedures for handling complaints of sexual harassment or gender bias.

The Minority and Justice Task Force anticipates implementing additional study of the issues of gender and minority bias including a demographic survey of court personnel which will identify the numbers, percentages, and positions of court employees by gender, race and ethnic origin. The Minority and Justice report will be completed in 1990.

## **RECOMMENDATIONS**

### ***For the Supreme Court:***

1. Issue a declaration that gender-biased conduct by the bench, bar, or court personnel is unprofessional and should be corrected.
2. Develop a procedure for reporting and taking action on complaints of gender bias by judges.
3. Modify the Code of Judicial Conduct to specify that judges must refrain from gender biased behavior and have an obligation to intervene and correct any biased behavior, whether based on gender, race, or creed.
4. Review the Code of Judicial Conduct and place greater restrictions upon judicial memberships in service and social organizations which discriminate on the basis of gender.

### ***For Judges:***

1. Monitor behavior in the courtroom and intervene to correct gender biased conduct against lawyers, litigants/witnesses, and other judges.
2. Participate in periodic refresher courses on the need for awareness of and avoidance of gender biased behavior.
3. Ensure that all judicial officers, including pro-tem judges, commissioners, and magistrates, are aware of the existence and effects of gender bias in the courts.
4. Continue funding through the Board for Trial Court Education for the implementation of judicial education specifically relating to issues of gender bias in the courts.

### ***For the Legislature:***

Amend RCW 4.12.040 et seq. to prohibit the use of affidavits of prejudice based upon considerations of a judge's race, creed, or gender.

### ***For the Washington State Bar Association:***

1. Develop and conduct regular education programs for attorneys on the existence and effects of gender biased behavior in the courtroom.
2. Establish a procedure for reporting and taking action on complaints of gender bias against judges and lawyers.



3. **Endorse changes in the Rules of Professional Conduct prohibiting the use of affidavits of prejudice based upon considerations of the gender, race, or creed of the judge.**
4. **Direct the Law School Liaison Committee to work with the Washington law schools to include information about gender bias in the curriculum.**

***For All Law Schools in Washington State***

**Develop and include in the required curriculum instruction on the existence and effects of gender bias in the courts and in the profession.**

***For the Office of the Administrator for the Courts:***

1. **Develop and conduct regular education programs for judicial officers and court personnel on the existence and effects of gender biased behavior in the courtroom. The development of a training videotape is highly recommended.**
2. **Direct all courts to review their equal opportunity and affirmative action programs and implement a sexual harassment policy.**
3. **Ensure that all forms, correspondence, and revisions to codes of law employ gender-neutral language.**

## CONCLUSION

The Gender and Justice Task Force has concluded that gender bias is a societal problem which does exist in the institutions and among the members of our society, including the court system. Gender bias, whether deliberate or an unconscious manifestation of cultural and traditional ways of thinking and acting toward women and men, has influenced judicial decision-making and has affected the fair treatment of women and men in the Washington State Courts.

The Committee on the Status of Women as Litigants reported gender bias in the treatment of domestic violence and sexual assault victims and in decisions made in family law matters, including the economic consequences of divorce for women and children and fathers' rights in custody. Although data from the case studies of other civil litigation were inconclusive, there were indications that gender bias concerns, particularly regarding the award of attorney fees, require additional research. The study confirmed that, for the most part, our laws are gender neutral but also indicated that some laws need clarification, amplification, or stricter enforcement.

The Committee on the Treatment of Lawyers, Litigants, Judges, and Court Personnel discovered that lawyers and judges do not always treat female and male litigants, witnesses, lawyers, and judges with the same respect in the courtroom. Women are afforded less credibility than their male peers, and case outcome is sometimes affected by gender-biased behaviors.

The Task Force also found that a significant effort has already been undertaken to educate the judiciary about the existence and effects of gender bias in the courts. Recent judicial seminars and workshops have included courses on domestic violence and the battered woman's syndrome, the economic impact of divorce on women and children, and the effects of gender bias on judicial decision making. The Task Force commends these efforts and encourages continuing education for all judicial officers and legal professionals.

The Task Force believes that eliminating gender bias from the courts must become a priority for the Bench, the Bar, and the Legislature. Change can be implemented through education, attitude awareness training, and a commitment to the highest standards of fairness. To achieve that end, the Task Force has proposed 75 recommendations for education, evaluation, and action. Institutionalizing and implementing these recommendations will be the task of the Gender and Justice Implementation Committee. With the support of the Supreme Court, the Legislature, and the Washington State Bar Association the legal community will be sensitized to the issues of gender bias in the courts and our court system will exemplify the highest standards of fairness for men and for women.



**FINAL REPORT**  
**OF THE**  
**WASHINGTON STATE TASK FORCE**  
**ON GENDER AND JUSTICE IN THE COURTS**  
**1989**

**Chief Judge H. Joseph Coleman,  
Court of Appeals, Division I, Chair**

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**THE WASHINGTON STATE TASK FORCE  
ON GENDER AND JUSTICE IN THE COURTS  
EXECUTIVE SUMMARY**

The Report of the Washington State Task Force on Gender and Justice in the Courts is the culmination of 20 months of study undertaken at the direction of the Washington State Legislature and under the auspices of the Washington State Supreme Court. The 1987 Legislature mandated that measures be initiated to prevent gender and minority bias in the courts. Such measures were to include a study of the status of women and minorities as litigants, attorneys, judges, and court employees; recommendations for implementing reforms; and attitude awareness training for judges and legal professionals.

The Washington State Supreme Court established two task forces, the Gender and Justice and the Minority and Justice, to review the court system for bias. This summary presents the Gender and Justice Task Force's assessment of the extent and consequences of gender bias in the Washington State Courts together with its recommendations for reforms.

**WHAT IS GENDER BIAS IN THE COURTS?**

Bias is any action or attitude that interferes with impartial judgement. Gender bias exists when decisions are made or actions are taken based on preconceived notions about the nature, roles, and abilities of men and women rather than upon evaluation of each individual situation. Gender bias also is evident in society's perception of the value of women's and men's work, and the myths and misconceptions about the social and economic realities of women's and men's lives. Gender bias can be reflected in individual actions as well as in cultural traditions and institutional practices.

Examples of gender bias in the courts include the attitude that domestic violence is a family matter, custody decisions that assume all mothers are better child care givers than fathers, and the belief that a female witness is less credible than a male witness. Gender

bias is evident in the setting of short term "rehabilitative maintenance" for older women after long-term marriages and ignoring the real costs of child care in setting child support awards. Individual behaviors such as telling jokes that demean women and addressing women in the courtroom by first name while addressing men by title and surname also reflect gender bias. Gender bias, like racial, ethnic, age, handicap, or socioeconomic bias, negatively impacts the fair treatment expected by all people in the court of law.

Since 1980, 27 states have initiated studies of gender bias in the courts. Task force reports have documented that gender bias is a serious problem in the application of the law and the treatment of women litigants, lawyers, judges, and court personnel. These task forces noted that gender bias sometimes works against men, but most often and most negatively impacts women.

In 1988, a resolution was passed at the Conference of Chief Justices and the Conference of Court Administrators calling for the creation, in every state, of gender and minority bias task forces. Their action signaled that gender bias has been recognized by the highest level of the judiciary as a problem worthy of official investigation and reform.

#### **THE TASK FORCE APPROACH**

Supreme Court Chief Justice Vernon R. Pearson, 1987-1989, appointed Court of Appeals Judge H. Joseph Coleman as chair and 33 members to the Washington State Task Force on Gender and Justice in the Courts. The members include judges, legislators, lawyers, law school professors, and representatives of law-related associations. The Task Force accepted the responsibility of studying the court system for the existence and/or extent of gender bias toward women and men in decision-making and in courtroom interaction. Their goals were to identify the problem areas, patterns, and trends of gender bias and to make recommendations for education and reform. The Task Force was not able to investigate individual cases or concerns but considered all testimony as relevant to the perceptions of gender bias in the courts.

Since time and resources precluded full examination of all aspects of the Washington court system, the Task Force limited its focus and worked in three main committees. These committees designed and implemented research projects, analyzed the results, and wrote the final report:

(1) **The Committee on the Status of Litigants** divided into three subcommittees to study the impact of gender bias on litigants:

a. **The Subcommittee on the Consequences of Violence** examined the court's treatment of domestic violence and adult rape victims and the effectiveness of current statutes.

b. **The Subcommittee on the Consequences of Divorce** studied family law issues including divorce, maintenance, property division, child custody, and child support.

c. **The Subcommittee on the Economic Consequences of Other Civil Litigation** reviewed loss of consortium and wrongful death cases, as well as attorney fee awards in discrimination cases.

(2) **The Committee on the Treatment of Lawyers, Litigants, Judges and Court Personnel** studied the courtroom environment including: the courtroom treatment of litigants and legal professionals; the credibility of women in the courtroom; the acceptance of women in the legal and judicial communities; and court personnel practices and procedures.

(3) **The Executive Committee** comprised of the Task Force, committee and subcommittee chairs, two appointed members, and the project director coordinated the Task Force work.

## **RESEARCH METHODOLOGY**

The Task Force resolved to gather information from a broad spectrum of persons involved with the courts. Research specialists worked with the committees to develop and conduct five surveys of the perceptions and experiences of judges, lawyers, and social service personnel (including the directors of domestic violence and sexual assault agencies) regarding gender bias in substantive law decisions and in courtroom interaction. The Task Force

sponsored seven public hearings and received written and oral testimony from almost 200 citizens. Subcommittees conducted substantive case research on 700 dissolution cases finalized in 1987, and wrongful death, loss of consortium and discrimination cases tried from 1984 to 1987. In addition the Task Force reviewed relevant state and national data concerning issues relating to gender bias in the courts.

More than 2,000 individuals - judges, lawyers, litigants, service providers, and other concerned citizens - contributed to this report by testifying at a public hearing, submitting written material, responding to a survey, or communicating directly with Task Force members about their experiences and perceptions of gender bias in the courts.

## **FINDINGS AND RECOMMENDATIONS**

The Gender and Justice Task Force found that gender bias does exist in our culture and is reflected in the Washington State Courts. Survey data, case studies, and testimony from litigants, lawyers, and judges indicate that gender discrimination exists and can negatively impact judicial decision making and affect the outcome of litigation. Task Force committees reported continuing gender-related problems in the areas of domestic violence, sexual assault, and divorce, and the potential for gender bias in other civil litigation. The Task Force found that women face continuing problems of credibility in the courtroom and women, as litigants, lawyers, and judges, are not always treated with respect. Gender bias and gender stereotypes affect men in custody and visitation considerations. Although for the most part the laws are gender neutral, the Task Force found that some laws need clarification or amplification. The specific findings and recommendations are summarized by committee in the following sections.

The Task Force agreed that eliminating gender bias from the courts must become a priority for judges and legal professionals. To that end, the Task Force's first recommendation is that all members of the Washington judiciary and legal profession read this report with the intention of improving the system as a whole.

**The Task Force believes that an implementation committee must be established and recommends the following:**

***To the Supreme Court:***

**Establish a Gender and Justice Implementation Committee composed of judicial, legislative, legal, and lay persons to monitor, encourage, and evaluate efforts to implement the Gender and Justice Task Force recommendations.**

***To the Legislature:***

**Continue to fund the Gender and Justice Implementation Committee composed of judicial, legislative, legal, and lay persons to monitor, encourage, and evaluate efforts to implement the Gender and Justice Task Force recommendations.**

**To the Office of the Administrator for the Courts:**

**Provide staff to continue to work with the Gender and Justice Task Force Implementation Committee.**

**The Task Force urges the Judiciary, the Legislature and the Washington State Bar Association to support efforts to implement the recommendations in this report and to eliminate gender bias from the courts.**



**REPORT OF THE COMMITTEE ON THE STATUS OF LITIGANTS  
SUBCOMMITTEE ON THE CONSEQUENCES OF VIOLENCE**

**OBJECTIVES**

The Subcommittee on the Consequences of Violence examined the judicial system's response to two categories of violence against women: domestic violence and adult rape. The Subcommittee wished to examine whether or not gender bias was evident in the implementation of domestic violence and sexual assault laws and in the treatment of victims.

**METHODOLOGY**

The Subcommittee relied on five sources of data to develop its findings and recommendations: the public hearings; the Domestic Violence Service Providers' Survey; the Sexual Assault Service Providers' Survey; the Judicial Survey on Domestic Violence and Rape; and the Lawyers' Survey. Many of the same questions were asked of judges and service providers to allow the Subcommittee to examine the experiences and perceptions of both groups on the same issues.

**FINDINGS AND RECOMMENDATIONS**

The Subcommittee found that, while much progress has been made in the last 15 years, gender bias still operates in the judicial system's handling of domestic violence and rape cases. The findings and recommendations for each of these areas will be presented separately.

**DOMESTIC VIOLENCE - FINDINGS**

In the area of domestic violence, the Task Force discovered problems in the treatment of victims, in the interpretation and application of the laws which affect victims, and in some aspects of the laws themselves. The substantial impact of domestic violence on our society and in the courts is evidenced by the sheer number of filings and hearings. In 1988,

more than 10,000 domestic violence petitions were filed resulting in 6,000 hearings in Washington's Superior Courts and almost 3,500 hearings in District Courts. In addition, respondents to the Domestic Violence Service Providers Survey indicated that more than half of the victims seen by their agencies never or rarely use the court system.

Judges and domestic violence service providers who communicated with the Task Force indicated that the existing laws do provide a framework for handling domestic violence cases. However, that framework needs additional support in strengthening some aspects of the law, additional funding to adequately implement the law, and increased education for the personnel who come in contact with victims.

Domestic violence is a complex problem which requires trained support personnel and advocates to work with victims as well as education and sensitivity training for all personnel who come in contact with victims. Judges indicated the need for additional training for law enforcement and court personnel, and attorneys. Service providers reported that court clerks, commissioners, and judges need additional training to understand the dynamics of domestic violence and more sensitivity to the circumstances of the victim and the batterer.

Both judges and service providers noted that changes are required to improve the process for obtaining and enforcing protection orders. Victims often have difficulty completing the paperwork required to petition for protection orders and do not have access to legal counsel. The courts need additional trained personnel to work with victims.

Survey respondents indicated that prosecution of domestic violence cases and enforcement of the protection orders are not always given serious attention. Judges and service providers agreed that affordable treatment or counseling services for victims and batterers is not available; treatment, when ordered as a condition of pre-trial release or sentencing, is not adequately supervised; and jail sanctions are seldom imposed for violations.

Finally, many respondents criticized the Legislature for failure to provide funds to properly implement the Domestic Violence Prevention Act. Lack of treatment programs and follow-up monitoring for batterers were other funding issues. One judicial survey respondent summarized these concerns in the following statement:



... there was no legislative recognition or funding for the fiscal impact of the domestic violence act -- we need community treatment centers, additional funds for police agencies to serve and arrest domestic violence offenders; court and clerk personnel training; and assistants to help handle the case volume. Statewide we have seen over 5,000 new cases yearly as a result of the RCW 26.50 and no additional resources. The Legislature needs to address this as a priority.

## **DOMESTIC VIOLENCE - RECOMMENDATIONS**

### ***For Judges:***

1. Increase continuing education to judges and court personnel at all court levels about:
  - a. The dynamics of domestic violence;
  - b. The impact on children;
  - c. The need for protective orders in divorce cases; and
  - d. The need for sensitivity when handling domestic violence victims/cases.
2. Order probation supervision to monitor compliance when sentencing the defendant to a domestic violence treatment program. Request increase in the number of probation officers, if necessary, to accomplish this goal.
3. Avoid the issuance of mutual protection orders when respondent has not requested protection and/or when not warranted by the facts of the case.
4. Consider using jail as a sanction for violations of domestic violence protection orders.

### ***For the Legislature:***

1. Establish a state commission or task force on domestic violence to implement this Subcommittee's recommendations and other matters pertaining to domestic violence.
2. Increase funding to the courts for advocates to assist and educate victims of domestic violence both in the civil court process and in the criminal court. Develop resource material for victims of domestic violence that would:
  - a. Encourage the use of the court system in an effort to prevent the violence; and
  - b. Educate victims about the Criminal Justice System and the protection order process. The materials could be used in shelters statewide.
3. Increase the level of support for shelters throughout the state. Currently the state divides \$537,000 among 37 shelters and safe homes statewide. Establish shelters in jurisdictions lacking such service for victims and their children.
4. Legislate funds to support treatment programs for batterers.
5. Enact laws prohibiting the granting of a gun permit to an individual convicted of a domestic violence crime, either misdemeanor or felony.

6. Legislate and fund increased training on domestic violence issues for police recruits at the police academy. Currently the domestic violence training for new recruits is two hours. The Subcommittee agrees it is inadequate and should be increased to 16-20 hours.
7. Establish a statewide statistical data collection system for incidents of domestic violence reported to police departments. Included in the data collection should be the numbers of domestic violence calls, arrests, incident reports, and citations.
8. Establish a statewide statistical data collection system for the offices of the prosecuting attorney, both county and municipal. This would provide a monitoring system for the "rigorous prosecution" of domestic violence cases.
9. Review the Domestic Violence Prevention Act in order to study and correct problem areas in the legislation.

***For the Office of the Administrator for the Courts/Court Administrators:***

Develop standardized forms for protection orders to be used statewide. Analyze whether it is legally possible to use one form for all three civil orders: protection orders; restraining orders; and anti-harassment orders.

***For the Washington Association of Prosecuting Attorneys/Prosecuting Attorneys:***

1. Implement a study to determine whether or not prosecutors are doing the following and documenting the results:
  - a. Notifying victims of filing decisions within five days of receiving a domestic violence police report; and
  - b. Vigorously prosecuting domestic violence cases regardless of pending divorce cases.
2. Assist in developing filing standards on domestic violence cases, both felony and misdemeanor.
3. Develop training material on the technical aspects of prosecuting domestic violence cases.
4. Work with individual prosecutor's offices to provide education to prosecutors about:
  - a. The dynamics of domestic violence;
  - b. The impact on children; and
  - c. The need for sensitivity in handling domestic violence victims/cases.
5. Vigorously prosecute violations of protection orders.

***For Police:***

1. Establish procedures that provide for swift service of protection orders and establish service as a high priority within the department.
2. Increase police training on domestic violence.

## **RAPE - FINDINGS**

The Subcommittee found that while improvements have been made in the handling of rape cases in the last 15 years, problems still exist. Rape victims are still afraid to report to the criminal justice system because they fear they will be disbelieved or viewed as responsible for their own victimization. Victims fear the pre-trial and trial questioning by police and attorneys.

Victims who do make reports to the police are often discouraged by the refusal of police to pursue the case or the failure of prosecutors to file charges. Even when charges are filed, repeated continuances of trial date and poor communication between victims and prosecutors leave victims feeling unsupported. The majority of Sexual Assault Service Providers who were surveyed responded that victims are questioned about their prior sexual experiences pre-trial and more than a third reported such questioning during trial. Service providers reported that rape victims fail to follow through on complaints because of their treatment by the criminal justice system.

Though acquaintance rapes constitute the majority of rapes, handling of these cases by judges and prosecutors indicates a lack of understanding of the dynamics and effects of this crime. Service providers indicated that prosecutors are reluctant to file acquaintance rape cases because those cases tend to be "losers". Thirty-seven percent of the judges and more than two-thirds of the lawyer survey respondents indicated that shorter sentences are at least sometimes given in acquaintance rape cases.

Sexual Assault Service Providers also indicated that the courts are inconsistent in sentencing defendants and sometimes impose only treatment requirements with no accompanying jail sentence. One director of a sexual assault center testified:

- Stiffer sentences should be [imposed] on convicted rapists. The victim feels it is scarcely worthwhile when the rapist escapes with a slap on the wrist.

Rape victims are not always treated with respect and sensitivity. While 74 percent of the judges responded that they have an understanding of the dynamics and impact of

sexual assault, only 12.5 percent of the service providers say that judges are usually so enlightened.

## **RAPE - RECOMMENDATIONS**

### ***For Judges:***

Provide education for judges about:

- a. The substantial current data regarding the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape and the long-term psychological injury to rape victims; and
- b. The difference between vigorous cross-examination that protects the defendant's rights and questioning that includes improper sex stereotyping and harassment of the victim.

### ***For Prosecuting Attorneys:***

1. Provide education for deputy prosecutors about the substantial current data regarding the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape and the long-term psychological injury to rape victims.
2. Establish specialized prosecution units that permit rape victims to deal with only one deputy prosecutor through all stages of the proceeding and which emphasize communication between victims and prosecutors.
3. Ensure that acquaintance rape cases are treated with the same seriousness as stranger rape cases.
4. Oppose continuances in rape cases unless there is compelling necessity for such continuance.

### ***For Police:***

1. Establish specialized units to deal with sex offenses.
2. Provide education for police officers about the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape and the immediate and long-term psychological injury to rape victims.
3. Ensure that acquaintance rape complaints are treated with the same seriousness as complaints of stranger rape.

## **SUBCOMMITTEE ON THE CONSEQUENCES OF DIVORCE**

### **OBJECTIVES**

The Subcommittee on the Consequences of Divorce studied gender bias as it relates to economic and child custody decisions during divorce. Their concerns included whether women and children were economically disadvantaged post-dissolution because of inadequate maintenance, property division, and child support awards and whether there was gender bias against fathers in child custody decisions.

### **RESEARCH METHODOLOGY**

The Subcommittee reviewed national and state data on the economic status of women and children, maintenance and child support awards, and custody decisions. They conducted a case file study of 700 dissolutions finalized in 11 Washington counties during a three month period, September - November 1987, which provided limited data on maintenance, child support awards and custody decisions. Subcommittee members attended the public hearings and reviewed the oral and written testimony submitted to the Task Force. In addition, the Subcommittee included 34 questions on fairness and gender bias in family law issues in the Task Force surveys of Washington State judges and lawyers.

### **FINDINGS**

The Subcommittee's study indicates the existence of strong cultural traditions tending to minimize the role of women as economic producers and to minimize the role of men as fathers. Women may not always be treated fairly in economic decisions and men may not receive equal consideration in custody decisions. The Subcommittee discovered that data on the consequences of divorce in Washington has not been uniformly recorded. The Subcommittee's key findings in regards to property division, maintenance, child support, child custody, and legal assistance are followed by its recommendations.

## **PROPERTY DIVISION**

It is apparent from public testimony that women feel aggrieved in property division during divorce. They claim husbands often have superior knowledge of family finances and may be in a position to hide assets. Wives fault the courts for failure to recognize the opportunity cost of homemaking and how long the difference in economic circumstances between the parties will prevail after divorce. Because of inadequate maintenance and income, women are often forced to sell the property they receive.

Judges and lawyer survey respondents reported that they were aware of situations in which women conceded property to avoid child custody battles. Such compromising may have significant long-term economic impact on the female headed household.

The committee concluded that the area of property division is deserving of future case study to test the gender bias issues raised.

## **MAINTENANCE**

Gender bias was indicated in maintenance awards. Maintenance awards, if ordered, are of limited duration and generally only available to women of very long-term marriages. In the Washington dissolution case study, for example, only 10 percent of the wives were awarded maintenance and the average duration of the awards was 2.6 years. Maintenance awards are primarily transitional or rehabilitative in nature. Limited maintenance awards of two to four years to allow a woman to complete a higher education or training program indicate that the courts are not sensitive to the economic realities facing women, particularly those who are still raising children or are reentering the job market after long-term marriages.

The Subcommittee concluded that maintenance does not adequately address inequities in spouses' post-dissolution earning capacity due to lost economic or career opportunities. The law does not explicitly recognize that maintenance should address disparities in post-divorce income caused by unequal earning power. The term "rehabilitative" maintenance, with its negative connotation, should be replaced by "compensatory" maintenance.

Public testimony raised the issues of the lack of low cost legal assistance for men and women; problems with military pensions; and the inequality of the clause terminating maintenance after remarriage. Subsequent remarriage should be irrelevant except as an occasion to reconsider the relative standard of living of the parties and make adjustments as may be indicated.

## **CHILD CUSTODY**

Custody and visitation concerns were voiced by fathers and mothers at the public hearings. Fathers testified that they are not given equal consideration in custody determinations and their visitation rights are not enforced. Mothers perceived that judicial personnel did not give sufficient attention to the issues of domestic violence and allegations of child sexual abuse in custody and visitation determinations.

Judicial and lawyer survey respondents indicate a perception of bias in favor of maternal custody even in those cases in which fathers have been equally involved in attending to their children's needs. Fathers are less likely to receive custody of children under the age of five.

Since the most important factor in determining custody is which spouse is the primary caretaker of the children when the marriage was intact, for those couples who continue to structure their relationships so the mother is the primary caretaker, custody trends will continue to reflect that pattern. The Subcommittee believes that child custody decisions may be impacted by stereotypical thinking about traditional family roles and recommends that judges and lawyers conscientiously assess each family situation presented in the light of the factors required by the 1988 Parenting Act, without assumptions based solely on gender.

Serious consideration must be given to the perception expressed that mothers' allegations of child sexual abuse are not believed or treated seriously. Testimony from litigants, lawyers, and expert witnesses indicate that mothers' testimony is given less credence by the court.

## **CHILD SUPPORT**

Inadequate child support orders and lack of enforcement of those orders reinforce the cycle of poverty for women and children after divorce. Although complete data were not available in all records reviewed during the dissolution case study, indications are that the average monthly child support award in Washington, \$198, is below the national average, \$218.

Enforcement of child support orders has been a continuing problem. Ninety-four percent of the lawyers' survey respondents answered that judges never or only occasionally jail respondents for failure to pay child support.

An issue of particular concern is the fact that mothers barter child support in order to avoid child custody disputes. More than half of the lawyers said they had represented mothers who agreed to less child support than the father's income called for in exchange for the father's agreement not to contest custody. Almost half of the judges responded that they were aware of situations in which mothers concede more than half the property to avoid a custody dispute.

Washington recently instituted new policies regarding child support and enforcement following reports of the Child Support Guidelines Commission and the Executive Task Force on Support Enforcement. The effectiveness of these changes and the impact on women and children should be evaluated in the future.

## **LEGAL ASSISTANCE**

Testimony indicated that affordable legal assistance is not available for men or women in family law matters. Speakers throughout the state testified that it was their belief that women, in particular, were being denied equal access to the legal system because they lacked money to pay attorneys' fees. Other testimony pointed to a need for developing alternative methods for resolving marital disputes.



## **RECOMMENDATIONS**

### ***For Judges:***

1. The Superior Court Judges' Association and the Legislature should jointly study maintenance and property division to recommend changes which will achieve greater economic equality among family members following dissolution.
2. The Superior Court Judges should consider whether maintenance guidelines or a maintenance schedule should be developed, and if so, develop one for use by the trial courts statewide.
3. Judges should require and enforce dissolution decrees to explicitly address the following:
  - a. Security for the child support obligation, such as maintenance of life insurance with a particular named beneficiary;
  - b. The responsibility for maintaining medical insurance on behalf of the children, as required by statute;
  - c. The responsibility for educational support of children beyond high school; and
  - d. A specific provision for the allocation of employment related day-care expenses between the parents, as required by statute.
4. Develop education programs for judges in the area of custody, to reinforce the concept of addressing each case on its merits, avoiding percentage goals and presumptions, and recognizing the diversity of the families who present themselves. Both judges and lawyers should conscientiously assess each family situation presented in the light of the factors required by the Parenting Act, without assumptions based solely on gender.

### ***For the Legislature:***

1. Enact legislation which makes the issue of a spouse's earning capacity a specific statutory factor in awarding maintenance or property division.
2. Consider replacing the term "rehabilitative" maintenance, with its negative connotation, with "compensatory" maintenance, reflecting the importance of evaluating the respective standard of living each party will experience after divorce in light of the contributions each has made to the marriage, whether financial or otherwise.
3. Reevaluate that portion of RCW 26.09.170 which automatically terminates maintenance upon the remarriage of the party receiving maintenance.
4. Amend RCW 26.18.010 et seq. (or ch. 26.18 RCW) to authorize mandatory wage assignments for maintenance payments to the same extent as is currently provided for child support obligations.
5. Immediately address the need for reasonably affordable quality day-care for working parents. Consider incentives for public and private sector employer sponsored day-care facilities.

6. Consider alternative dispute resolution methods for addressing marital dissolutions in appropriate cases.
7. Review the issue of divided military benefits and the McCarty decision to determine if case law adequately addresses the problem or if additional legislative action is necessary.
8. The Superior Court Judges' Association and the Legislature should jointly study maintenance and property division to recommend changes which will achieve greater economic equality among family members following dissolution.

***For the Washington State Bar Association:***

1. Develop continuing education programs on the effects of gender stereotyping in family law matters and the need for lawyers to provide adequate economic data and expert witnesses to the judges in marital dissolution cases.
2. Develop more programs for free or low cost counsel and use of expert witnesses in family law areas.

***For Judges, the Legislature, County Government, and Bar Associations:***

Address the barriers to court access which may significantly bar meaningful and equal participation by litigants, including:

- a. The lack of adequate legal assistance in family law matters;
- b. The high cost of attorney fees;
- c. The lack of alternative methods for addressing marital dissolutions;
- d. The lack of child care at courthouses; and
- e. Transportation difficulties for litigants in getting to the county courthouse.

***For The Gender and Justice Implementation Committee:***

1. Work with the Board for Trial Court Education and the Bar to develop and provide further education for judges and lawyers about the economic consequences for families following dissolution.
2. Develop a standard economic data form for inclusion in all dissolution decrees which the Supreme Court should require be filed by adoption of court rule.
3. Implement a prospective study of contested dissolution cases which will gather data on property division which could not be done in the retrospective dissolution case study.
4. Study and make recommendations for the court's use of contempt powers to enforce family law decrees.
5. Review the effects of the Parenting Act on maintenance and child support awards.

## **SUBCOMMITTEE ON THE ECONOMIC CONSEQUENCES OF OTHER CIVIL LITIGATION**

### **OBJECTIVE**

The Subcommittee on the Economic Consequences of Other Civil Litigation limited the scope of its initial research to topics that did not involve issues related to divorce or violence against women. The Subcommittee decided to review wrongful death, loss of consortium, and attorneys' fees awarded by the courts pursuant to the Washington Law Against Discrimination (RCW 49.60) to determine whether gender bias has influenced the outcome of cases and the awarding of attorney fees.

### **RESEARCH METHODOLOGY**

The subcommittee reviewed *Jury Verdicts Northwest*, *Washington Arbitration Reports*, Superior Court Management Information System (SCOMIS) computer-generated reports, and individual court case files, where necessary, for wrongful death, loss of consortium, and discrimination case verdicts from 1984 - 1987. Some attorneys who handled these cases were also interviewed. In addition, the subcommittee prepared questions related to these three issues for inclusion in surveys of the Bench and Bar. At least one member of the Subcommittee attended each public hearing to record any testimony addressing the Subcommittee's three issues.

### **FINDINGS**

Without a much more comprehensive study, definitive answers regarding gender bias in the case outcome of wrongful death and loss of consortium cases and in attorney fee awards are impossible. What the Subcommittee has attempted to do is identify problem areas, perceptions of litigants, advocates and judges, and, where possible, suggestions for solutions or further study.

## **WRONGFUL DEATH**

Case studies on wrongful death awards suggest that survivors of males receive higher verdict awards than survivors of females but gender can not be identified as the chief determinant for those awards. Seventy-two percent of the lawyer survey respondents indicated that larger wrongful death awards are received by survivors of deceased men than deceased women. Both lawyers and judges indicated that wrongful death verdict awards are higher for employed persons than for homemakers, male or female.

Analysis of wrongful death cases for indications of gender bias is complicated by other variables such as the age, employment, and earning potential of the decedent, and the relationship of the decedent to the plaintiff. While objective data does not prove that there is demonstrable gender bias in wrongful death awards, neither can the Subcommittee conclude that gender bias does not exist in these cases without further in-depth study.

## **LOSS OF CONSORTIUM**

Case studies regarding loss of consortium were similarly inconclusive. Jury awards in the period from 1984-87 show a slight average disparity in favor of male claimants. Arbitration awards show a slightly larger disparity in favor of female claimants. A review of the data provides no easy answers as to what role, if any, gender bias plays in the differences in awards to male and female claimants. The single significant conclusion that may be reached is that lawyers, as a group, are not sufficiently mindful of the changes in the law affected by *Lundgren v. Whitney's, Inc.*, 94 Wn.2d 91, 614 P.2d 1272 (1980), and its progeny, in terms of the availability of a claim for loss of consortium for female plaintiffs.

## **ATTORNEY FEES**

The Washington Law Against Discrimination (RCW 49.60) provides that successful litigants may apply to the court for an award of "reasonable" attorneys' fees. Reasonable attorneys' fees are calculated by determining the reasonable amount of time required for the case based on the complexity of the issues and multiplying the hours by the prevailing

market rate for attorneys in the area where the judgment is rendered. The judge may consider enhancing or reducing this basic amount.

The small number of discrimination cases (26 cases litigated from 1984-1987) and limited lawyer and judges survey responses makes generalizations with respect to attorneys' fee awards difficult. The requested amount of attorneys' fees in discrimination cases and the awarded fees do reflect broad judicial discretion. It is unclear, in the cases reviewed, if reductions in fees were based on the gender of the plaintiff or attorney. Although none of the attorneys interviewed felt the reductions were based on gender bias, in only two cases was the amount requested by the attorney awarded, and only once was a multiplier given. However, the broad discretion given to the trial judge regarding reduction and enhancement of the attorney fee is susceptible to gender bias.

## **RECOMMENDATIONS**

### ***For Judges and Attorneys***

1. Include workshops at judicial conferences on discrimination cases and the public policy reasons for awarding fees to alleviate some of the concerns, particularly of practitioners in the field. Some discussion of the current costs of doing business, overhead, and market rates would also be helpful. Use of multipliers should also be discussed.
2. Consider using experts to provide insights on "reasonability." A court-appointed expert could conduct informal market surveys on hourly rates based on experience only and on number of hours typically expended on civil litigation of comparable longevity and complexity. Such information could diminish the subjectivity and resulting susceptibility to gender bias inherent in the discretionary fee-setting process.

### ***For Court Administrators:***

Require that attorneys complete docket sheets describing the nature of the case, as the federal courts and some superior courts do. All superior courts should request such docket information, and include a specific category for discrimination, wrongful death, and loss of consortium cases. That information should then be recorded on SCOMIS for easy retrieval.

### ***For the Implementation Committee:***

1. As more discrete information becomes available on the SCOMIS system, the committee should review awards for wrongful death and loss of consortium.
2. As discrimination cases continue to be tried and fees awarded, further study should be conducted.



**COMMITTEE ON THE TREATMENT OF LAWYERS,  
LITIGANTS, JUDGES, AND COURT PERSONNEL**

**OBJECTIVE**

The Committee on the Treatment of Lawyers, Litigants, Judges, and Court Personnel reviewed the court system for the existence and effects of gender bias in the treatment of women in the courtroom environment. Their concerns included the professional acceptance and credibility of women in the courts, the effect of gender biased treatment on case outcome, and gender bias in employment practices and procedures.

**METHODOLOGY**

The Committee utilized five sources of information in compiling this report: a review of reports from other state gender bias task forces and the American Bar Association's Commission on Women in the Profession, testimony from the public hearings, the survey of Washington lawyers, the survey of the Washington judiciary, and a review of personnel policies and procedures in the Washington Courts. The surveys designed to measure lawyers' and judges' perceptions of gender bias in the courts provided the main sources of data for this report. Parallel questions were asked of lawyers and judges so that responses could be compared. More than 1,500 lawyers and 220 judges, commissioners, and magistrates responded to the surveys.

**FINDINGS**

The Committee found that gender bias still exists in the Washington State Court system as a result of cultural and societal influences. The bias tends to be more subtle than overt and is more a problem of individuals within the system than the system as a whole. Lawyers are more likely to engage in gender biased behavior in the courtroom than judges or court personnel. Women more than men are subject to gender biased behavior and,

therefore, are more aware of its existence. In custody cases, men appear to be detrimentally impacted by their gender. For litigants and witnesses, the perceptions of credibility are sometimes affected by their sex. Case outcome is at least occasionally affected by gender biased conduct, yet judges, counsel or others intervene in only a minority of cases where gender biased behavior occurs.

The Committee found that a significant number of judges and lawyers perceived that gender bias does exist in the Washington State court system at least to some degree. More than 70 percent of the lawyers and 60 percent of the judges perceived that gender discrimination exists towards litigants, witnesses, and lawyers. Almost half of the judges and 54 percent of the lawyers noted gender discrimination toward judges.

Survey results indicate that some judges and attorneys do not treat women with the same respect and dignity with which they treat men. The inappropriate use of first names, terms of endearment, or compliments may undermine the confidence and credibility of witnesses, attorneys, and clients. At least a quarter of attorney respondents had seen the following behavior directed at women:

- Remarks or jokes demeaning to women were made, either in court or in chambers, by judges and lawyers;
- Lawyers addressed female litigants/witnesses by first name when those of the opposite gender were addressed by surnames;
- Female litigants/witnesses were addressed in familiar terms by judges and lawyers;
- Female litigants were regarded as less credible because of their gender by judges of the opposite gender and lawyers of the opposite gender;
- Opposing counsel and court personnel addressed female lawyers by first name when lawyers of the opposite gender were addressed by surname;
- Judges and opposing counsel addressed female lawyers by familiar terms (e.g., "dear," "young lady," "girls");
- Judges, lawyers and court personnel complimented female lawyers on their personal appearance;
- Opposing counsel and court personnel asked female attorneys if they were lawyers, when lawyers of the opposite gender were not asked;
- Women judges were addressed by first name by other judges and by lawyers;
- Affidavits of prejudice were used to disqualify a woman judge primarily because of her gender.



The Task Force asked attorneys and judges whether they thought that conduct such as use of first names, familiar terms, compliments, sexual advances, demeaning remarks and jokes, or biases as to credibility had an effect on case outcome. Thirty-four percent of all lawyer survey respondents, who had observed such conduct, thought that it did affect case outcome. More than 50 percent of the female lawyers and almost that many of the female judge respondents reported that case outcome was at least occasionally affected.

The Committee was concerned that only 19 percent of lawyer survey respondents had seen a judge intervene to correct gender biased behavior and only 20 percent of the judges said they had ever intervened or seen others intervene. The harm of inappropriate behavior is compounded when it is witnessed by jurists, counsel, or others who do not take action to correct the problem.

Most survey respondents acknowledged that the court system had a responsibility to strive for fairness and commended the Task Force for their efforts to improve the system. Some respondents noted that they had personally never witnessed the types of behavior described in the survey but did not deny that those behaviors might exist. Some respondents, however, thought gender bias did not exist or that it was justified when it occurred.

The Committee worked with the Minority and Justice Task Force to initiate a study of gender and minority bias in regards to court personnel. The first stage of the study was a review of the existing personnel policies and procedures for equal opportunity, affirmative action, and sexual harassment policies. The Committee found that not all Washington State Courts had specific court personnel policies. Some courts operated under city or county personnel policies, some had specific court policies, and some had no established policies. The Committee agreed that all courts should develop a sexual harassment policy and establish procedures for handling complaints of sexual harassment or gender bias.

The Minority and Justice Task Force anticipates implementing additional study of the issues of gender and minority bias including a demographic survey of court personnel which will identify the numbers, percentages, and positions of court employees by gender, race and ethnic origin. The Minority and Justice report will be completed in 1990.

## **RECOMMENDATIONS**

### ***For the Supreme Court:***

1. Issue a declaration that gender-biased conduct by the bench, bar, or court personnel is unprofessional and should be corrected.
2. Develop a procedure for reporting and taking action on complaints of gender bias by judges.
3. Modify the Code of Judicial Conduct to specify that judges must refrain from gender biased behavior and have an obligation to intervene and correct any biased behavior, whether based on gender, race, or creed.
4. Review the Code of Judicial Conduct and place greater restrictions upon judicial memberships in service and social organizations which discriminate on the basis of gender.

### ***For Judges:***

1. Monitor behavior in the courtroom and intervene to correct gender biased conduct against lawyers, litigants/witnesses, and other judges.
2. Participate in periodic refresher courses on the need for awareness of and avoidance of gender biased behavior.
3. Ensure that all judicial officers, including pro-tem judges, commissioners, and magistrates, are aware of the existence and effects of gender bias in the courts.
4. Continue funding through the Board for Trial Court Education for the implementation of judicial education specifically relating to issues of gender bias in the courts.

### ***For the Legislature:***

Amend RCW 4.12.040 et seq. to prohibit the use of affidavits of prejudice based upon considerations of a judge's race, creed, or gender.

### ***For the Washington State Bar Association:***

1. Develop and conduct regular education programs for attorneys on the existence and effects of gender biased behavior in the courtroom.
2. Establish a procedure for reporting and taking action on complaints of gender bias against judges and lawyers.

3. **Endorse changes in the Rules of Professional Conduct prohibiting the use of affidavits of prejudice based upon considerations of the gender, race, or creed of the judge.**
4. **Direct the Law School Liaison Committee to work with the Washington law schools to include information about gender bias in the curriculum.**

***For All Law Schools in Washington State***

**Develop and include in the required curriculum instruction on the existence and effects of gender bias in the courts and in the profession.**

***For the Office of the Administrator for the Courts:***

1. **Develop and conduct regular education programs for judicial officers and court personnel on the existence and effects of gender biased behavior in the courtroom. The development of a training videotape is highly recommended.**
2. **Direct all courts to review their equal opportunity and affirmative action programs and implement a sexual harassment policy.**
3. **Ensure that all forms, correspondence, and revisions to codes of law employ gender-neutral language.**

## CONCLUSION

The Gender and Justice Task Force has concluded that gender bias is a societal problem which does exist in the institutions and among the members of our society, including the court system. Gender bias, whether deliberate or an unconscious manifestation of cultural and traditional ways of thinking and acting toward women and men, has influenced judicial decision-making and has affected the fair treatment of women and men in the Washington State Courts.

The Committee on the Status of Women as Litigants reported gender bias in the treatment of domestic violence and sexual assault victims and in decisions made in family law matters, including the economic consequences of divorce for women and children and fathers' rights in custody. Although data from the case studies of other civil litigation were inconclusive, there were indications that gender bias concerns, particularly regarding the award of attorney fees, require additional research. The study confirmed that, for the most part, our laws are gender neutral but also indicated that some laws need clarification, amplification, or stricter enforcement.

The Committee on the Treatment of Lawyers, Litigants, Judges, and Court Personnel discovered that lawyers and judges do not always treat female and male litigants, witnesses, lawyers, and judges with the same respect in the courtroom. Women are afforded less credibility than their male peers, and case outcome is sometimes affected by gender-biased behaviors.

The Task Force also found that a significant effort has already been undertaken to educate the judiciary about the existence and effects of gender bias in the courts. Recent judicial seminars and workshops have included courses on domestic violence and the battered woman's syndrome, the economic impact of divorce on women and children, and the effects of gender bias on judicial decision making. The Task Force commends these efforts and encourages continuing education for all judicial officers and legal professionals.

The Task Force believes that eliminating gender bias from the courts must become a priority for the Bench, the Bar, and the Legislature. Change can be implemented through education, attitude awareness training, and a commitment to the highest standards of fairness. To achieve that end, the Task Force has proposed 75 recommendations for education, evaluation, and action. Institutionalizing and implementing these recommendations will be the task of the Gender and Justice Implementation Committee. With the support of the Supreme Court, the Legislature, and the Washington State Bar Association the legal community will be sensitized to the issues of gender bias in the courts and our court system will exemplify the highest standards of fairness for men and for women.



**THE WASHINGTON STATE TASK FORCE  
ON GENDER AND JUSTICE IN THE COURTS**

**FINAL REPORT**

The Washington State Task Force on Gender and Justice in the Courts recognizes the progressive action taken by the legislature, the judiciary and the legal profession to promote the highest standards of law and justice in our state. Washington has taken positive steps to ensure equality for its citizens through legislation and judicial education. Nevertheless, the Task Force has concluded that gender bias, the predisposition to think about and act toward others based upon preconceived, or stereotypical notions about the nature, role, or abilities of women and men, rather than upon independent evaluation of each person or situation, does exist in our culture and is reflected in our courts.

The Task Force believes that neither the isolated instance nor the traditional practice which is based on gender stereotypes, myths, or misconceptions has a place in the Washington Courts. The Task Force urges the Judiciary, the Legislature, and the Bar to examine the findings of the Gender and Justice study, to make their members aware of the nature and scope of the problem of gender bias in the courts, and to implement the recommendations of the Task Force.





## I. INTRODUCTION

The Report of the Washington State Task Force on Gender and Justice in the Courts is the culmination of 20 months of study undertaken at the direction of the Washington State Legislature and under the auspices of the Washington State Supreme Court. In 1987 the Legislature mandated that measures be initiated to prevent gender and minority bias in the courts. Such measures were to include a study of the status of women and minorities as litigants, attorneys, judges, and court employees; recommendations for implementing reforms; and providing attitude awareness training for judges and legal professionals.<sup>1</sup>

Two task forces, the Gender and Justice and the Minority and Justice, were appointed to examine the court system for bias. This report presents the Gender and Justice Task Force's assessment of the extent and consequences of gender bias toward women and men in the Washington State Courts together with relevant factual information and recommendations for implementing reforms.

### A. GENDER BIAS IN THE COURTS

The Task Force defined gender bias as actions or attitudes that negatively impact an individual or group primarily because of gender. Gender bias exists when decisions are made or actions taken based on preconceived notions about the nature, roles, and abilities of men and women. Gender bias also is evident in society's perception of the value of women's and men's work, and the myths and misconceptions about the social and economic realities of women's and men's lives. Gender bias can be reflected in individual decisions and actions as well as in cultural traditions, institutional practices, and laws themselves. Gender bias, like racial, ethnic, handicap, age, or socioeconomic bias, destroys the concept of equality for all people under the law.

Gender bias which works against women in the courts has a long tradition in our society. It is reflected in the "founding father's" omission of women's rights from the Constitution; in the

common law acceptance of wife abuse, which directed that a husband could beat his wife with a rod "no thicker than his thumb"<sup>2</sup>; and in the United States Supreme Court's decision that Myra Bradwell should not practice law:

- . . . The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator . . . and, in my opinion, in view of the peculiar characteristics, destiny, and mission of woman, it is within the providence of the legislature to ordain what offices, positions, and callings shall be filled and discharged by men, and shall receive the benefit of those energies and responsibilities and that decision and firmness which are presumed to predominate in the sterner sex. Bradwell v. Illinois, 83 U.S. (16 Wall) at 141-142 (1873).

In Washington State, steady progress has been made to enact legislation to promote equal treatment and equal opportunity for women and men in the courts. In 1914, when women in 45 other states did not have the right to vote, Washington State had a woman judge in the Seattle Precinct, Justice of the Peace, Reah Whitehead.<sup>3</sup> It was not until 50 years later, however, that a woman was elected to the Superior Court. Legislation has been enacted in areas of particular concern for women - comparable worth, domestic violence, child support enforcement, and sexual assault. In 1972, Washington passed the Equal Rights Amendment and remains one of only 16 states to acknowledge women's rights in this way.<sup>4</sup>

Progress depends, however, not only on enactment of law but also on its implementation. The decisions and behaviors of those persons who interpret and enforce the statutes often reflect bias based on gender stereotypes, myths, and misconceptions. For example, domestic violence legislation does not help the female victim of abuse if the judge does not understand the battered woman's syndrome. Today, female lawyers and judges are no longer a novelty in the courtroom. In 1988 women comprised approximately 11 percent of the state's judiciary; 20 percent of the state's attorneys; and 41 percent of the state's law school graduates,<sup>5</sup> yet female legal professionals reported that they are still subject to demeaning and discrediting behavior in the courts.

Since 1980, 27 states have initiated studies of gender bias in the courts. The first two gender bias task forces, those in New Jersey and New York, published findings in 1984 and 1986

respectively that although most laws are gender neutral, gender bias in the application of law and the treatment of litigants, lawyers and court personnel "is a pervasive problem with grave consequences."<sup>6</sup> The task forces noted that gender bias sometimes works against men, but most often and most severely impacts women.

## **B. THE TASK FORCE APPROACH AND ACTIVITIES**

At the Washington Judicial Conference in August 1987, the Honorable Vernon R. Pearson, then Chief Justice of the Washington Supreme Court, announced the creation of the Gender and Justice Task Force and the appointment of Court of Appeals Judge H. Joseph Coleman as chair. Thirty-three members, including judges, legislators, lawyers, law school professors, and representatives of law-related associations, were appointed to the Task Force. The Task Force was charged with examining the state court system for the existence and/or extent of gender bias and with making recommendations for education and reforms.

### **1. STRUCTURE OF THE STUDY**

The Task Force determined to review the court system for the existence and/or extent of gender bias toward women and men in substantive decision-making and in courtroom interaction. Its purpose was to identify the problem areas, patterns, and trends of bias against women and men and to make recommendations for reform. The Task Force was not able to investigate individual concerns or cases but it considered all testimony relevant to the perception of gender bias in the courts.

Since time and resources precluded full examination of all aspects of the Washington court system, the Task Force limited its focus and worked through committees to complete its work. The Task Force recognizes that there are other concerns and aspects of the court system which are worthy of future study. The committee structure and their objectives included:

(1) **The Committee on the Status of Litigants** divided into three subcommittees to study the impact of gender bias on litigants:

- a. **The Subcommittee on the Consequences of Violence** examined the courts' treatment of domestic violence and adult rape victims and the effectiveness of current statutes.
- b. **The Subcommittee on the Consequences of Divorce** studied family law issues including divorce, maintenance, property division, child custody, and child support.
- c. **The Subcommittee on the Economic Consequences of Other Civil Litigation** reviewed loss of consortium and wrongful death cases; as well as attorney fee awards in discrimination cases.

(2) **The Committee on the Treatment of Lawyers, Litigants, Judges and Court Personnel** studied the courtroom environment including: the courtroom treatment of litigants and legal professionals; the credibility of women in the courtroom; the acceptance of women in the legal and judicial communities; and court personnel practices and procedures.

(3) **The Executive Committee** comprised of the Task Force, committee and subcommittee chairs, two appointed members, and the project director coordinated the Task Force work.

## 2. METHODOLOGY

The Task Force conducted a multifaceted investigation which included surveying the perceptions and experiences of judicial, legal and social service personnel; soliciting public and private testimony; conducting substantive case research; and reviewing relevant state and national data concerning gender bias in the courts.<sup>7</sup> Consultants and research specialists worked with the Task Force to design, implement, and analyze the surveys and case studies. The major fact-finding projects of the Task Force are summarized below. Additional details are included in the body of this report and in the Appendix.

a. **REVIEW OF RESEARCH AND LITERATURE**

The Task Force reviewed literature in legal, judicial, and social science publications on gender bias in general and on those areas of concern to the committees - domestic violence, rape, divorce, child custody and support, and courtroom interaction. The Task Force also reviewed final and status reports from other state gender bias studies, including New Jersey, New York, Rhode Island, Arizona, Maryland, and California.

b. **PUBLIC HEARINGS**

The Task Force sponsored seven public hearings throughout the state in the spring of 1988 to identify citizen concerns relating to gender bias in the courts and to obtain information from a broad spectrum of civic, legal, and social service organizations.

More than 275 persons attended the hearings and 109 individuals provided testimony. Those testifying represented the views of litigants, lawyers, and 30 identified legal, social service, and advocacy groups. Their testimony included concerns that women do not have access to legal representation; women were viewed as less credible; women experience gender bias in domestic violence, divorce, custody and child support decisions; and female litigants and lawyers are disadvantaged in the courts in general because of the strong traditions of male dominance in the law. Concern regarding gender bias against men was heard in repeated testimony that fathers face gender bias in custody and visitation considerations.<sup>8</sup>

c. **SURVEYS**

The Task Force designed and implemented five separate surveys to gather data on the perceptions and experiences of judges, lawyers, and service providers on issues related to gender bias in the courts. The Judges' Survey and the Lawyers' Survey contained parallel questions on gender bias in courtroom interaction and in specific areas of law of interest to the subcommittees. Questionnaires used in the Judicial Survey of Domestic Violence and Rape; Survey of Providers

of Services to Domestic Violence Victims; and Survey of Providers of Services to Sexual Assault Victims were designed by Dr. Donna Schram to address the specific issues of domestic violence and rape.<sup>9</sup>

The Task Force sent out more than 5,000 surveys to judges, lawyers, and service providers between May and September 1988. In addition to surveying a random sample of the Washington State Bar Association, the Task Force targeted specific groups of law practitioners who were considered to be experienced in trial and family law. Details of the sampling methodology and response rates are included in the Appendix. The response rates from the targeted populations ranged from 31.5 percent to 65 percent.

The data gathered from the responding practitioners reflect the patterns of bias they observed in the court system. For example, judges and lawyers who had no direct experience in domestic violence cases did not answer questions on this issue. By eliciting the views of target groups the Task Force obtained informed data on perceived patterns of gender bias in the courts.

**d. OTHER RESEARCH**

Task Force Committees conducted case studies and a review of court personnel policies and procedures. The case studies examined loss of consortium and wrongful death verdicts, and attorney fee awards in discrimination cases from 1984 to 1987. Another study analyzed data from 700 dissolution decrees finalized in 11 counties from September to November 1987. The limitations of time and budget precluded additional case research.

The Gender and Justice Task Force worked with the Minority and Justice Task Force to implement the first phase of the court personnel study: a review of existing affirmative action, equal opportunity, and sexual harassment policies. The Minority and Justice Task Force is currently planning to conduct a demographic study of the gender, racial, and ethnic distribution of court personnel. Their report in 1990 will include the results of that study.

### C. FINDINGS AND RECOMMENDATIONS

More than 2,000 individuals - judges, lawyers, litigants, service providers, and other concerned citizens - contributed to this report by testifying at a public hearing, submitting written material, responding to a survey, or communicating directly with Task Force members. Their experiences and perceptions of gender bias in the courts ranged from personal experiences with biased behaviors to cynicism that this type of study was taking place at all.

After reviewing all the data, the Task Force concluded that gender bias is a societal problem and does exist in the institutions and among the members of our society, including the court system. Gender bias in substantive decision making, in the implementation of the law, as well as in the courtroom treatment of individuals was noted by survey respondents and witnesses at the public hearings. The Task Force found that lawyers and judges were affected by stereotyped beliefs about men and women and did not always treat female litigants, witnesses, lawyers, and judges with equal respect or afford them equal credibility in the courtroom. Although for the most part the laws are gender neutral, the Task Force found that some laws need clarification or amplification.

The Task Force believes that an implementation committee must be established to continue the work of this Task Force and recommends the following:

*To the Supreme Court:*

Establish a Gender and Justice Implementation Committee composed of judicial, legal, and lay persons to monitor, encourage, and evaluate efforts to implement the recommendations of the Gender and Justice Task Force.

*To the Legislature:*

Continue to fund the Gender and Justice Implementation Committee composed of judicial, legal, and lay persons to monitor, encourage, and evaluate efforts to implement the recommendations of the Gender and Justice Task Force.

*To the Office of the Administrator for the Courts:*

Provide staff to continue to work with the Gender and Justice Task Force Implementation Committee.

The Task Force recognizes that a significant effort has already been undertaken to educate judges and lawyers about the existence and effects of gender bias in the courts. The Task Force commends those efforts and encourages all members of the judicial and legal system to read this report and consider the recommendations with the intention of improving the court system as a whole.

The full report of the Task Force follows. Each committee has written a section of this report detailing its research, findings, and recommendations. A summary list of all Task Force recommendations, arranged by the group to which the recommendations are addressed, follows the report.



## **II. REPORT OF THE COMMITTEE ON THE STATUS OF LITIGANTS**

**Judge Susan R. Agid, Chair**

The Committee on the Status of Litigants was concerned about gender bias in the implementation of the law, the treatment of litigants, and its effects on case outcome. Reports from other task force studies showed that gender bias was a serious problem that affected judicial decision making and the treatment of litigants. Women were being treated unfairly because the courts did not understand the economic aspects of divorce, did not enforce domestic violence legislation, and continued to show bias against women victims of rape. The New York Task Force pointed out:

- Cultural stereotypes of women's roles in marriage and in society daily distort courts' application of substantive law. Women uniquely, disproportionately, and with unacceptable frequency must endure a climate of condescension, indifference, and hostility.<sup>10</sup>

This Committee focused its investigation on three major areas of concern and completed its work through subcommittees:

- 1) The Subcommittee on the Consequences of Violence,
- 2) The Subcommittee on the Consequences of Divorce, and
- 3) The Subcommittee on the Economic Consequences of Other Civil Litigation.

These subcommittees found that evidence of gender bias does exist in the treatment of women in domestic violence and rape cases. Women and men do face gender bias in divorce and child custody proceedings. Although the results of the civil litigation study was not conclusive, the potential for gender bias is evident. The reports of each subcommittee's research, findings, and recommendations follow.



**III. REPORT OF THE SUBCOMMITTEE  
ON THE CONSEQUENCES OF VIOLENCE:  
DOMESTIC VIOLENCE AND RAPE**

**Mary Kay Barbieri, Chair**

**Honorable Norma Huggins**

**Honorable Charles V. Johnson**

**Honorable Steven G. Scott**

**Honorable Duane E. Taber**

**Representative Harriet Spanel**

**Commissioner Kathryn Trumbull**

**Joanne Tulonen**

**Donna Schram, Ph.D., Consultant**



## **A. INTRODUCTION**

The mandate of the Subcommittee on the Consequences of Violence was to determine whether gender bias is manifested in the judicial system's response to violence against women. Two categories of violence were singled out for study: domestic violence and rape. These categories were chosen because in each the victims are overwhelmingly women and there has been a long history of societal bias, tradition, and belief which has depicted women as deserving of the violence or as lying about it.<sup>11</sup> Moreover, in each of these categories of violence, legislation has been passed in the last 10 to 15 years in order to address and remedy centuries of gender bias.<sup>12</sup> The Subcommittee wished to examine whether or not the attitudes and practices of the court system still reflect gender bias in these areas despite legislative attempts to eliminate it.

The Subcommittee found that, while much progress has been made in the last 15 years, gender bias still operates in the judicial system's handling of domestic violence and rape cases. This report will address each of these areas separately.

## **B. DOMESTIC VIOLENCE**

### **1. INFORMATION SOURCES AND DATA COLLECTION PROCEDURES**

The Subcommittee relied upon four sources of information and data to develop its findings and recommendations.

- 1) Public Hearings.
- 2) Domestic Violence Service Provider (DVSP) Survey. A ten page survey was developed to survey the directors of shelters and other organizations who work directly with victims of domestic violence. Of the 197 surveys sent to targeted agencies, a total of 84 were completed for a response rate of 43 percent. Thirty (61 percent of that group) of the 49 directors of shelters who were listed in The Directory of Services to Battered Women and Their Children in Washington responded. Forty-two surveys were completed by other agencies, including police departments and victim witness units and 12 had no identification. (The survey can be found at Appendix D.)

3) Judicial Survey on Domestic Violence and Rape. A nine page survey was developed to survey judicial experiences with domestic violence and rape cases and to explore judicial attitudes toward victims of these crimes. A total of 195 judges completed and returned the surveys. Judicial respondents consisted of the following: Superior Court Judge or Commissioner (N = 107); District Court Judge or Commissioner (N = 55); Municipal Court Judge, Commissioner or Magistrate (N = 31); and Unknown (N = 2). The total response rate was 43 percent. (The Judicial Survey can be found at Appendix C.)

The domestic violence service provider survey and the judicial survey contained many common questions to allow the Subcommittee to examine the perceptions and experiences of judges and service providers on the same issues. In addition, the surveys were designed with the same format. For example, respondents were asked to base their answers on direct experiences with domestic violence cases/victims during the last year. Most questions could be answered by indicating the frequency of occurrence on a seven point scale described below:

- 1 = Never
- 2 = Rarely (Less than 25% of the time)
- 3 = Sometimes (26% to 50% of the time)
- 4 = Frequently (51% to 75% of the time)
- 5 = Usually (More than 76% of the time)
- 6 = Always
- 7 = Not Applicable or Don't Know

4) Lawyers' Survey. Questions about rape and domestic violence were included in the survey of lawyers that was prepared by the Committee on the Treatment of Lawyers, Litigants, Judges, and Court Personnel. (The survey can be found at Appendix A.)

The Subcommittee also developed an extensive questionnaire to survey the experiences and perceptions of domestic violence victims who were exposed to the civil and/or criminal court systems. Given, however, the complexity of the system and the amount of data that a thorough questionnaire would require, it became apparent that victim interviews would have to be conducted personally by trained interviewers. Unfortunately, this type of approach was beyond both the time line and budget of the Task Force. Consequently, no statistical data was obtained from victims.

## **2. BACKGROUND INFORMATION**

### **a. CHARACTERISTICS AND TYPES OF DOMESTIC VIOLENCE**

Domestic violence is a problem of great magnitude and complexity throughout the county. The United States Surgeon General has said that domestic violence is the leading cause of injury to women in the United States.<sup>13</sup> The complexity of the problem is evident in the types of abuse identified by researchers.<sup>14</sup>

1) Psychological/Emotional Abuse is the systematic dismantling of the victim's self-esteem through words or actions that cause humiliation. For example, a victim may be isolated from her family or friends, threats may be made against the victim or other family members, money or food may be withheld forcing her to beg or perform humiliating acts.

2) Physical Abuse usually starts with a slap, a kick, a push and escalates to broken bones, lacerations, miscarriages, burns, rapes, and in some cases, death. The beatings increase in frequency and severity the longer the abuse is allowed to go on.

3) Sexual Abuse is forced sex under threat of assault, or during an assault, or directly after an assault.

4) Property Destruction usually involves the destruction of something personal like clothing, jewelry, furniture, and pets.

These types of abuse are experienced in what is often referred to as the "cycle of violence".<sup>15</sup> This cycle consists of three phases: (1) tension building; (2) acute battering incident; and (3) the "honeymoon" phase. During the "honeymoon" phase the victim may be given gifts, lots of attention, and promises never to do it again. However, as the violence continues the "honeymoon" phase may fade from the cycle and the batterer may go from tension to acute battering.

Although victims of domestic violence may be male or female, judges and service providers surveyed by the Subcommittee agreed that domestic violence victims are overwhelmingly adult women<sup>16</sup> and that one-half or more of the victims were physically injured during the domestic violence incident.<sup>17</sup> More than 50 percent of the respondents said weapons were used or threatened at least sometimes.<sup>18</sup>

**b. GENDER-BIASED BELIEFS AND MYTHS**

Societal attitudes towards the problem of domestic violence have long reflected gender bias. Some of these gender-biased beliefs (and responses to them) have been identified by the National Institute of Justice and are described here as "myths" about domestic violence.<sup>19</sup>

1) The belief that domestic violence is a private "family matter". The belief that the sanctity of the family is more important than addressing the violent, often criminal, behavior is false. A man has no right under existing law to beat his wife. This type of behavior constitutes a crime.

2) The belief that domestic violence is usually precipitated by the victims provocations. This myth stems from a belief that, on some level, men still have the right to chastise their wives for behavior that men do not like.

3) The belief that she must like it or she would leave. Battered women face enormous pressures to remain in an abusive relationship including economic dependency, fear of increased violence, pressure to "keep the family together" from the church, family, and friends. This myth denies the role the larger society plays in maintaining the violent relationship and not giving the batterer a consistent message that the violent behavior is unacceptable. These gender-biased beliefs and myths are still operating in the judicial system's handling of domestic violence.

**c. WASHINGTON'S LAWS**

In 1979 Washington passed legislation establishing criminal prosecution of domestic violence as a priority. It also addressed administrative issues concerning domestic violence within the court system: both police reports and court dockets had to be identified as "domestic violence"; time lines were developed for police and prosecutors' offices; criminal no contact orders could be issued and entered into a statewide computer system; and mandatory reporting of all domestic violence calls was required of police departments throughout the state.



In 1983 a statewide study found the 1979 law inadequate. In 1984 the Domestic Violence Prevention Act was passed. This new Act has been recognized nationally as one of the toughest domestic violence laws in the country. The 1984 law has two main focus points.

First, the law contains a mandatory arrest provision for the criminal act and any violation of court orders. Under the mandatory arrest provision a police officer must arrest if there is probable cause to believe an assault was committed within the last four hours. Failure to do so on the part of the police officer could result in a civil law suit.

Second, the law provides for orders of protection granting civil relief to victims of domestic violence. Under the provisions of this statute a person may file a petition with a court that alleges that he/she has been a victim of domestic violence committed by a named respondent. The petition can request either an *ex parte* temporary order for protection or a full order for protection (up to one year). A request for a temporary order must allege that "irreparable injury" could result if an order is not issued immediately and without prior notice to the respondent. The effective period of a temporary order cannot exceed 14 days from the date of issuance. The request for an order of protection for a period of one year requires notice to the respondent and hearing before the court. The petition forms can be filled out *pro se* (without legal counsel) and the filing fee can be waived if petitioners are unable to pay.

A judge can order one or more of the following as part of the order of protection: prohibit any further acts of violence; order the abuser out of the shared residence or to stay away from the victim's residence and employment; award temporary custody and establish visitation of any minor children; order the abuser to seek counseling; and order law enforcement to enforce the provisions of the order and enter the order into a statewide computer system.

The balance of the report on domestic violence will examine how the laws are working and how victims of domestic violence are faring in civil and criminal courts.

### **3. CURRENT STATUS: APPLICATION OF THE DOMESTIC VIOLENCE LAW**

Despite recent legislative efforts to provide victims with additional legal remedies to stop the violence in their relationships, incidents of domestic violence are still believed to be among the most under-reported of all criminal offenses. Survey responses from domestic violence service providers tended to confirm this belief. According to these respondents, most victims do not report for one or more of the following reasons: fear of retaliation from their abusers (76 percent); financial or emotional dependence on their abusers; fear of the police and legal system (44 percent); shame and embarrassment (23 percent); and lack of information about alternatives, resources, services or places to go (13 percent).<sup>20</sup>

Service providers were also asked to identify the frequency with which the victims utilized the civil and/or criminal courts to obtain relief from the violence in their relationships. Based upon their experiences during the preceding year, the service providers indicated that one-half or more of the victims seen by them pursued civil remedies through petitions for an order of protection, child custody or visitation, property settlements, etc. In contrast, less than one-half of the victims sought relief through the criminal courts. Some victims used neither court system.<sup>21</sup>

According to the respondents, these latter victims avoided the courts for some of the same reasons that they refused to report offenses to the police, that is, fear of retaliation (55 percent), and emotional/economic dependence on their abusers (25 percent). Respondents also indicated that some victims (24 percent) avoided the court systems because of their fear that they wouldn't be believed or that nothing would happen to the offenders.<sup>22</sup>

#### **a. CIVIL COURT PROCESS**

Survey respondents were queried with regard to the use and application of civil processes in cases alleging domestic violence. According to DVSP respondents, more than half of all victims seen during the last year petitioned for ex parte temporary orders of protection.<sup>23</sup> Both judges and service providers agreed that these petitions were usually or always granted in their respective jurisdictions.<sup>24</sup> (See Figure 1.)

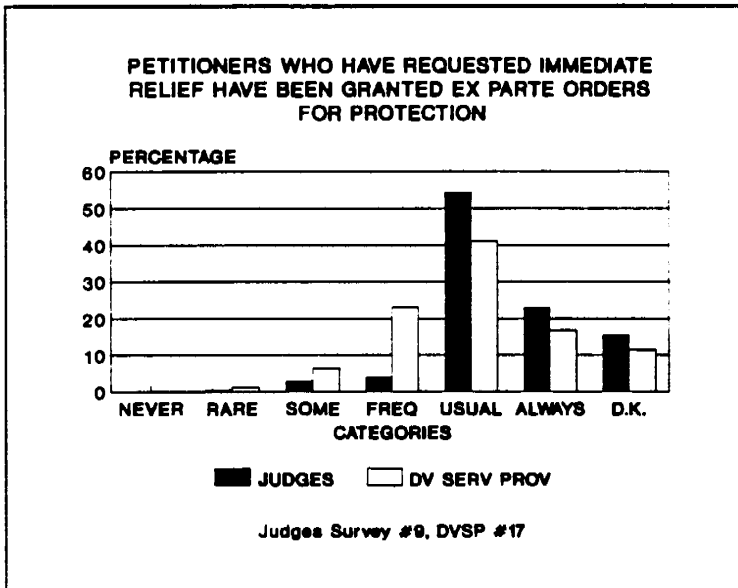


Figure 1 Granted Ex Parte Orders

protection.<sup>26</sup>

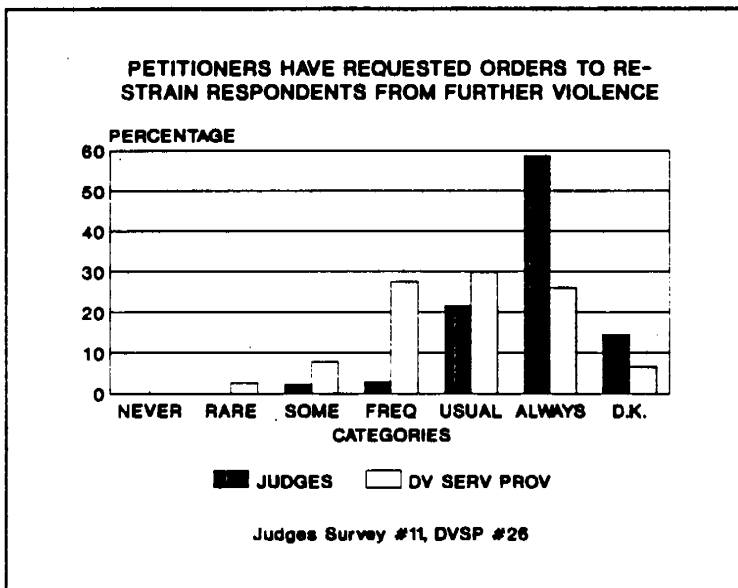


Figure 2 Requested Orders to Restrain

The Domestic Violence Service Providers indicated that petitioners and respondents were "rarely" represented by legal counsel at show cause hearings regarding orders of protection.<sup>25</sup> However, service providers indicated that one-half or more of all petitioners used victim advocates or legal counsel to help them prepare their petitions for orders of

The contents of the petition requests were also explored in relation to the frequency with which they were granted. According to the survey participants, most petitioners "usually" or "always" requested and were granted orders to restrain respondents from further acts of violence.<sup>27</sup>

(See Figures 2 and 3.)

Similarly, petitioners commonly requested and were "usually" granted the following:

- Orders directing respondents to leave the petitioner's house.
- Orders preventing respondents from entering the petitioner's residence, school, business, or place of employment.

- Orders awarding custody of children to petitioners;
- Orders requiring supervised visits between respondents and their children; and
- Orders restraining respondents from molesting or interfering with children in the petitioner's custody.<sup>28</sup>

The judges and service providers survey participants indicated that petitioners rarely requested that respondents participate in mental health counseling or treatment. In accordance with the low frequency of such requests, judges only "sometimes" or "rarely" ordered treatment or counseling services.<sup>29</sup>

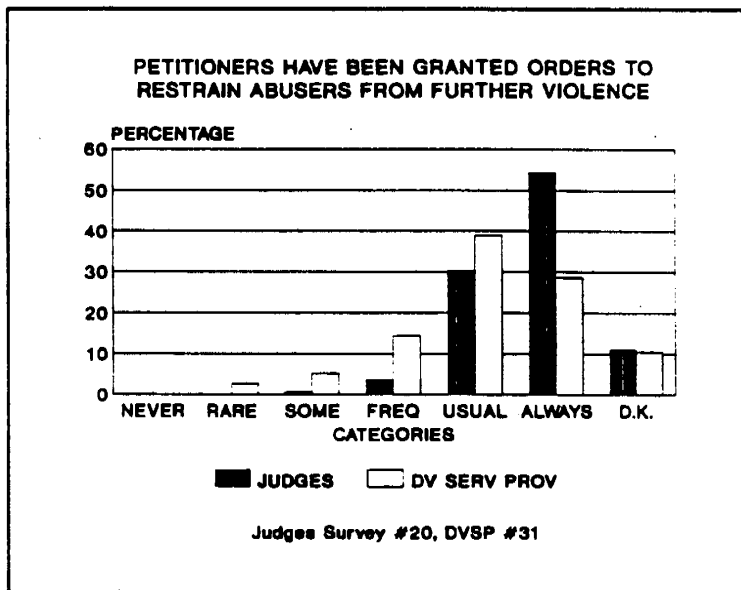


Figure 3 Granted Orders to Restrain

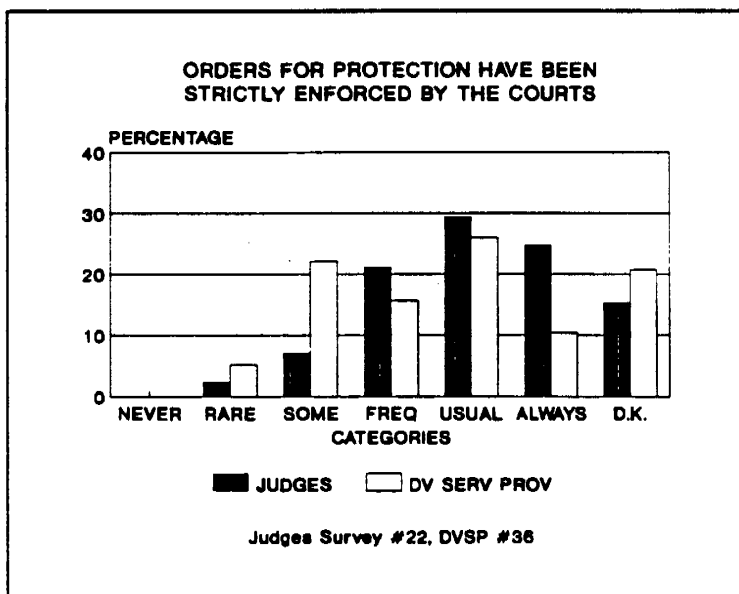


Figure 4 Enforced Orders for Protection

When survey participants were asked whether protection orders have been strictly enforced by the courts, differences in response patterns were noted between judges and service providers. Judicial respondents indicated higher levels of court enforcement than did service providers. Even among judicial respondents,

however, only one-quarter indicated that protection orders were "always" enforced by the courts in their jurisdictions.<sup>30</sup>

The Subcommittee examined a number of areas in which system barriers, lack of sensitivity to victims' needs, and/or gender bias might affect the process of obtaining and enforcing protection orders. Seven areas emerged as sufficiently problematic to require attention. Each of these areas is discussed in relation to the judges' and service providers' survey findings.

(1) Lack of Funds to File Petitions

All courts require petitioners to pay a filing fee when they request protection orders. While courts do have procedures for waiving these fees (petition to proceed in forma pauperis), the survey findings suggest that the mere presence of the fee requirement is a deterrent to some potential petitioners. Fourteen percent of the service provider respondents indicated that victims "frequently" or "usually" did not apply for protection orders because they lacked the funds to file petitions.<sup>31</sup>

(2) Difficulty Preparing Petitions

Nearly one third (30 percent) of the service providers indicated that victims "usually" or "frequently" had difficulty completing the paperwork required to petition for protection orders.<sup>32</sup> This finding is not surprising, since the petition forms are often lengthy and complex. The paperwork is cumbersome for victims who are literate and capable of filling out forms; it is impossible for those who are illiterate or for whom English is a second language.

Additional problems in preparing the petitions were cited by one county clerk during the public hearings. She pointed out the difficulties facing citizens who are seeking assistance:

- The first thing that happens is that they are given a packet of information and told we don't have time to help you fill it out. But, if you go to either the community action or the rape crisis center, they'll help you . . . Then they have to go find a court commissioner, which is in two different locations, if they're available, and get the orders signed. Then they have to bring them [the forms] back to our office, and then they have to go to the sheriff's office. It's such a run-around for these people that it makes you feel guilty as a person who is supposed to be serving the public.<sup>33</sup>

**(3) Lack of Legal Counsel or Advocates**

Petitions for protection orders often contain requests similar to those found in many divorce petitions. For example, it is not uncommon for petitioners to ask for custody of their children, property divisions, or limitations on respondents' access to joint residences. Despite the magnitude of these issues, many petitioners proceed without the benefit of legal counsel. Twenty-one percent of the service provider survey respondents indicated that petitioners in their respective communities had "never" or "rarely" used attorneys and/or victim advocates to prepare their petitions for protection orders.<sup>34</sup>

**(4) Lack of Service of Notice to Respondents**

The Subcommittee received a number of complaints from petitioners about the lack of service to respondents regarding show cause hearings, necessitating multiple court appearances to renew requests for temporary (14 day) protection orders. Although most service providers and judges who participated in the survey believed that service to respondents was "frequently" or "usually" a high priority among local law enforcement agencies, many jurisdictions limit the number of times that police will attempt service.<sup>35</sup> Once that limit is reached, the burden of service reverts to the petitioners.

**(5) Issuance of Mutual Orders of Protection**

Eight percent of the service providers and four percent of the judges indicated that mutual protection orders were issued "frequently" or "usually", even when respondents did not file petitions.<sup>36</sup> Apparently, those judges who issue mutual protection orders do so in an attempt to "equalize" the requests for protection orders, or they treat them much like "no fault" divorce actions.

Mutual protection orders can and are used against victims/petitioners. For example, in criminal proceedings where respondents are charged with the originating offenses, defense attorneys may introduce the mutual protection orders as evidence that civil courts have found the victims to be equally at fault. In addition, victims who request police assistance to enforce protection orders may themselves be arrested or find that the orders are unenforceable because they are "mutual".

(6) Lack of Compliance with Protection Orders

Some victims of domestic violence complained to the Subcommittee that protection orders "aren't worth the paper they are written on" because respondents often failed to comply. Many survey respondents agreed. Forty-five percent of the service providers indicated that respondents "frequently" or "usually" violated the "no contact" provisions of the orders for protection.<sup>37</sup> This information, coupled with the perceived infrequent enforcement of violations by law enforcement agencies, suggests that many petitioners with protection orders continue to be vulnerable to their abusers.

(7) Refusal to Grant Protection Orders While Divorce Actions Are Pending

Ten percent of the service providers and 18 percent of the judicial survey respondents indicated that judges "never" or "rarely" granted orders for protection in cases where there was a pending divorce action.<sup>38</sup> These findings suggest that some judges still do not take seriously the violence in relationships or do not view petitioners as victims who require and deserve the protection of the courts.

There was general agreement among most judges and service providers that changes were required to improve the process for obtaining protection orders. The most commonly noted suggestions consisted of additional services to victims/petitioners. Specific suggestions in this category included advocacy programs to assist and guide petitioners through the protection order process (76 respondents), and the provision of child care and transportation services to enable petitioners to participate in court proceedings (6 respondents).<sup>39</sup>

Judges and service providers also agreed on the need for a number of procedural changes, including the development of simplified forms (12 respondents) and expanded or modified access to the courts (9 respondents). Both groups of respondents also agreed on the need for more public education regarding family violence in general, and the civil protection order process in particular (19 respondents). While some judges suggested the need for additional training on domestic violence for law enforcement personnel and attorneys (7 respondents), service providers believed that court clerks and judges/commissioners required

more training (22 respondents).<sup>40</sup> Finally, many respondents criticized the Legislature for failure to provide funds to properly implement the Domestic Violence Prevention Act. One judge echoed these concerns in the following statement:

... there was no legislative recognition or funding for the fiscal impact of the domestic violence act -- we need community treatment centers, additional funds for police agencies to serve and arrest domestic violence offenders; court and clerk personnel training and assistants to help handle the case volume. Statewide we have seen over 5,000 new cases yearly as a result of the RCW 26.50 and no additional resources. The Legislature needs to address this as a priority.<sup>41</sup>

Judges and service providers also offered suggestions to improve the process of enforcing protection orders. The most frequently noted improvements mentioned by judges consisted of the following: 1) Additional prosecutors, advocates, police officers, and court personnel to monitor and enforce protection orders (12 respondents); 2) Increase penalties for violations and/or simplify the contempt process (9 respondents); and 3) Amend the legislation or modify procedures to reduce confusion and improve compliance with protection orders (8 respondents).<sup>42</sup>

Many service providers also believed that penalties for violations should be increased (22 respondents), but they also noted that police agencies should give enforcement of protection orders a higher priority (17 respondents). In addition, service providers suggested more training of law enforcement officers and court personnel on domestic violence issues (13 respondents), more education of victims re: the law and their responsibilities (6 respondents), and abolition of mutual protection orders (5 respondents).

In the civil court process, judges and service providers agree that certain changes are necessary to improve the process for obtaining and enforcing protection orders. In the criminal court process, the survey respondents also agree that changes will improve the system but they differ on the types of changes needed.

#### **b. CRIMINAL COURT PROCESSING**

Historically, common law and court precedent largely ignored the problem of victims (usually women) of domestic violence. Agents of the criminal justice system justified their



indifference through adherence to the tenets of male prerogative and through victim blaming. The enactment of the Domestic Violence Prevention Act (1984) sent a clear signal to the citizens of Washington, to police, and to the courts that domestic violence was to be taken seriously and that offenders were to be held accountable for their violent acts.

To determine how the law was working in Washington the Subcommittee asked survey respondents a series of questions regarding the application of its statutory provisions in their respective jurisdictions. The Subcommittee first determined that many victims were reluctant to use the criminal process to stop the violence in their relationships. According to 47 percent of the service providers who participated in the survey, victims "rarely" or only "sometimes" reported incidents of domestic violence to the police.<sup>43</sup> These respondents indicated three primary reasons why victims don't report:

- 1) Fear of retaliation from the abusers; belief that reporting will only make the situation worse;
- 2) Victims are financially and/or emotionally dependent on the abusers; and
- 3) Victims don't believe the legal system is responsive, nor do they trust the police.<sup>44</sup>

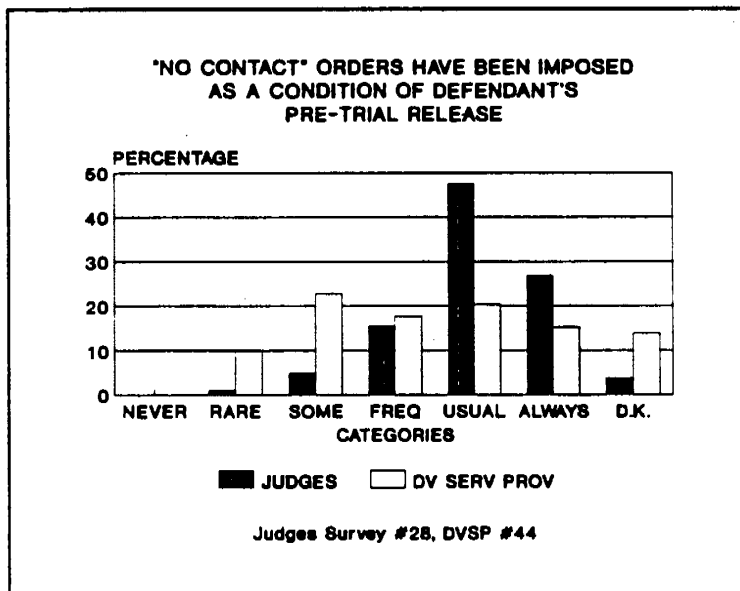
While some, perhaps most, victims of domestic violence fail to report incidents of domestic violence because of fear or dependence on their abusers, others do request a police response.

Much has been written about the police response to domestic violence incidents. Prior to 1984, for example, law enforcement officers rarely arrested the abusers and, according to many victims, the police were often indifferent or hostile to their complaints.<sup>45</sup> Because it is widely believed that the attitudes and behaviors of the police often influence whether or not victims are willing to proceed with prosecution, the Subcommittee examined this issue in considerable detail.

Survey respondents were asked a series of questions to determine whether law enforcement officers in their jurisdictions behaved in accordance with the statutory requirements of the Domestic Violence Prevention Act. The survey responses were encouraging. According to most service providers, police officers "rarely" or "never" handled incidents informally. In most instances, abusers were either arrested or cited. In addition,

officers "usually" or "always" advised victims of the availability of shelter or other services in the community and notified them of the legal rights and remedies available to them.<sup>46</sup> Most service providers also indicated that law enforcement "usually" or "always" forwarded domestic violence offense reports to the prosecutor within the 10 day period prescribed by law.<sup>47</sup> In sum, most police agencies received relatively high marks on their handling of domestic violence cases. It appears, however, that certain legislative changes to the Domestic Violence Prevention Act might enhance the ability of police to intervene in these cases and such amendments should be studied.<sup>48</sup>

These same respondents were less charitable in their ratings of prosecutor compliance. According to more than a third of the service providers, prosecutors "never", "rarely" or only "sometimes" advised victims of their decision to prosecute within the five day period mandated by statute.<sup>49</sup> Fifty-seven percent of the service providers indicated that only "rarely" or "sometimes" were crimes involving domestic violence prosecuted vigorously in the jurisdictions served by their agencies.<sup>50</sup>



**Figure 5 No-Contact Orders**

Judges and service providers had somewhat differing views about the performance of the judiciary in a variety of areas. First of all, judges and service providers disagreed on the frequency with which "no contact" orders were imposed on defendants as a condition of their pre-trial release from custody. Judges indicated "no contact" orders

were "usually" or "always" made a condition of release. Service providers responded that "no contact" orders were imposed much less often.<sup>51</sup> (See Figure 5.)

More correspondence was found between respondent groups regarding the monitoring of court-ordered conditions of pre-trial release or sentencing. Most judges and service providers agreed that defendant's compliance with such conditions was only rarely or sometimes monitored by a supervising authority.<sup>52</sup> (See Figure 6.)

Despite the infrequent use of supervision to monitor compliance, most judicial respondents indicated that jail sanctions were "frequently" or "usually" imposed on abusers

who violated "No contact" orders. In contrast, the majority of the service providers believed that jail sanctions were imposed only "rarely" or "sometimes" for such violations.<sup>53</sup> (See Figure 7.)

The majority of the judicial respondents indicated that this discrepancy may be explained, in part, because of the different experiences of the two respondent groups. Judges see only those violations that reach the court, whereas service providers are more aware of the actual incidence of the violations.

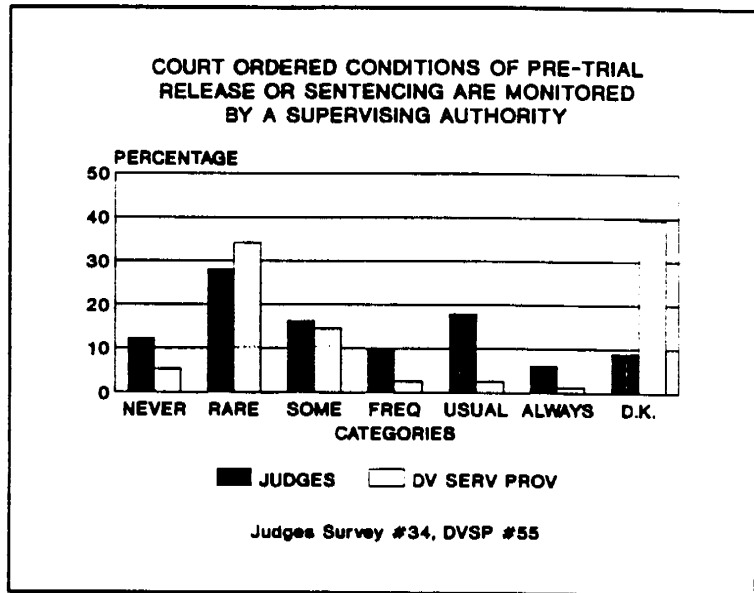


Figure 6 Supervising Authority

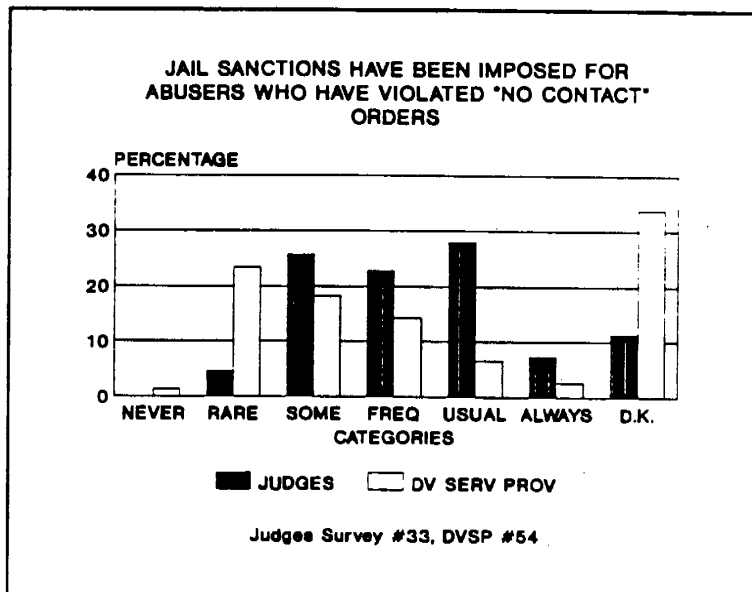


Figure 7 Jail Sanctions for Abusers

Judicial respondents were asked a series of questions to explore the charging and sentencing practices in their respective jurisdictions. The majority of these respondents noted that prosecutions were "sometimes" or "frequently" deferred if defendants offered to participate in counseling or therapy.<sup>54</sup> Similarly, sentencing was "sometimes" or "frequently" deferred for the same reason.<sup>55</sup>

The apparent frequent use of deferred prosecutions and sentences is of concern to the Subcommittee. Such practices permit defendants/abusers to avoid the full range of penalties available to the court as sanctions for crimes of domestic violence. Batterers are extremely manipulative and, according to service providers, often fail to comply with treatment orders. Such violations go largely unreported, since court ordered conditions are "rarely" monitored by supervising authorities, such as probation officers.<sup>56</sup> Some judges and members of the Subcommittee expressed a belief that a legislated and approved system of deferred prosecution and treatment for first time offenders in misdemeanor domestic violence cases would be an effective tool for dealing with domestic violence cases that otherwise never reach the courts.

Both judicial and service provider respondents agreed that victims have "frequently" withdrawn their complaints or failed to follow through with criminal proceedings against their abusers.<sup>57</sup> When respondents were asked why they believed this occurred, service providers gave the following reasons:

- Fear of retaliation by the abuser;
- Legal system is intimidating, confusing, and too slow; and
- Victim reconciles with abuser and is discouraged from testifying.<sup>58</sup>

Judges gave the following reasons why victims fail to follow through with criminal proceedings:

- Reconciliation with the abuser;
- Fear of retaliation by the abuser; and
- Economic dependency.<sup>59</sup>

The Subcommittee believes that all of the above reasons are valid. There is good cause for a victim to be afraid. There is risk that violence will increase if the victim attempts to change or leave the violent relationship. The reality for most women in this country who raise children on their own is economic impoverishment. Those women who attempt to leave a violent situation are faced with few options. Shelters, if they exist in the community, are usually filled to capacity and offer time limits of two weeks to a month. Welfare can be a humiliating experience for even the most assertive person. A battered woman in crisis may find the process overwhelming. The victim may also face the pressure of family, religious beliefs, and traditions in her decision to reconcile with the abuser. The decision to reconcile is not made freely, especially in a violent relationship.

Members of the Subcommittee also believe that the system cannot develop its policies and procedures on the basis of whether or not victims withdraw their complaints. Rather, the system must remove all barriers of access to the courts and give as much support as possible to those victims who want to exercise their legal rights to protection and to a hearing in a court of law.

Survey respondents were asked to suggest changes to improve the handling of domestic violence cases in criminal court. Judges noted these recommendations most frequently:

- 1) Additional funds to support treatment programs for abusers in the areas of anger management and substance abuse (24 respondents);
- 2) Legislative amendments and/or new policies to modify police and court procedures (30 respondents); and
- 3) Additional funds for staff, advocates, and counselors to assist victims before, during and after trial (8 respondents).<sup>60</sup>

Service providers suggested very different kinds of improvements, including:

- 1) Require training of judges, police, and court personnel on domestic violence issues (35 respondents);
- 2) Advocacy, education, and support for victims (21 respondents);
- 3) More rigorous prosecution of domestic violence cases (11 respondents);
- 4) Decrease the time between arrest and prosecution (11 respondents); and
- 5) More court ordered counseling and better monitoring of abusers (7 respondents).<sup>61</sup>

#### 4. ATTITUDES TOWARD DOMESTIC VIOLENCE VICTIMS

The Subcommittee was also concerned about the treatment of domestic violence victims in the courts and the attitudes of court personnel toward victims. One lawyer survey respondent described the attitudes facing domestic violence victims in the courtroom:

- I work in the criminal law area, particularly in the area of domestic violence. Generally, the victims are women who are viewed as vindictive, non-credible, over-emotional, and deserving of what they got by not leaving the defendant. Jurors are the worst in this respect than opposing counsel, clerical staff, and finally judges.<sup>62</sup>

The Subcommittee included in the surveys of judges and service providers several questions intended to gather information on gender bias in the attitudes and behaviors of those court personnel who come in contact with domestic violence victims.

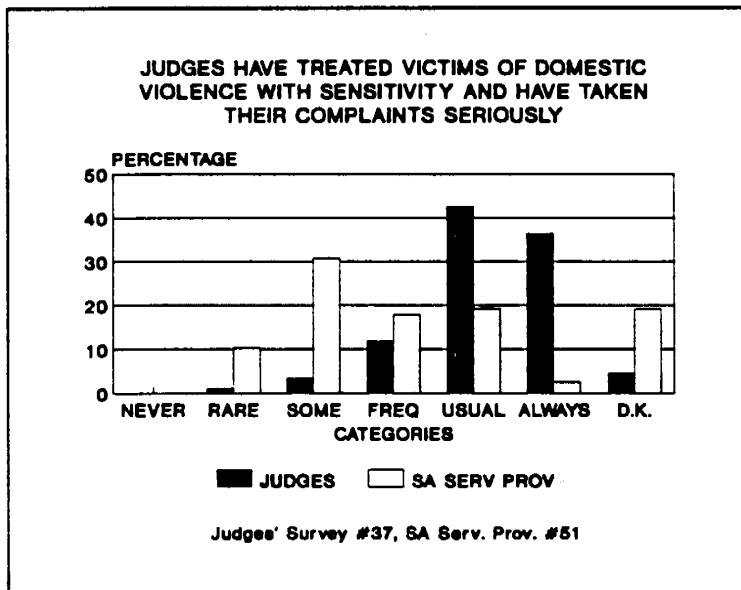


Figure 8 Treatment of Victims

Both groups were specifically asked whether or not civil and criminal court judges have taken victim's complaints seriously. Eighty-four percent of the judges responded that the courts "usually" or "always" did so.<sup>63</sup>

Significantly fewer service providers responded that judges "usually" or "always" have treated victims of domestic

violence with sensitivity and have taken their complaints seriously in civil court (36 percent) and in criminal court (22 percent).<sup>64</sup> (See Figure 8.)

There were also differences between service providers and judges regarding the level of understanding of domestic violence issues. Seventy-seven percent of the judges said that judges in their jurisdiction "usually," or "always" have a thorough understanding of the dynamics of domestic violence and the impact of domestic violence on children in the home.

Only 26 percent of the service providers responded that the judges in civil court "usually" or "always" have this understanding of the dynamics of domestic violence and the impact on children.<sup>65</sup> (See Figure 9.)

Sixty-two percent of the judges responded that judges in their jurisdiction "usually" or "always" have a thorough understanding of the dynamics of battering and the concept of the "cycle of violence."<sup>66</sup> Only 11 percent of the service providers answered that criminal court judges understand the dynamics of battering.<sup>67</sup>

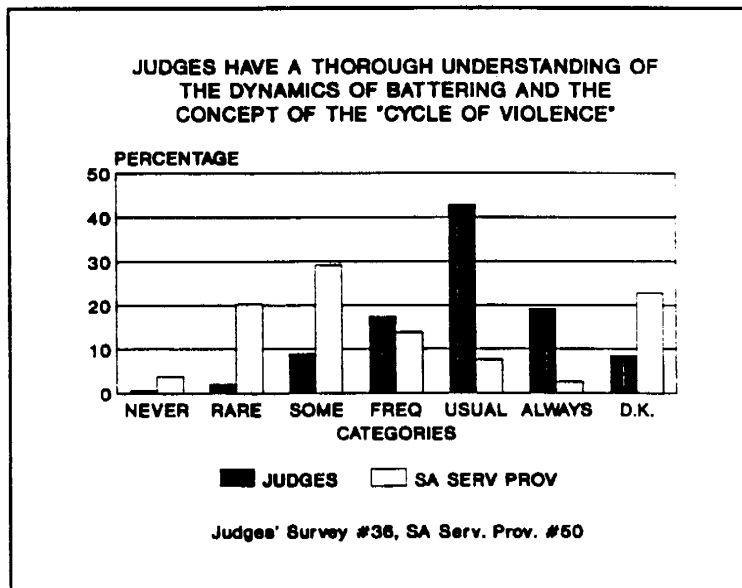


Figure 9 Dynamics of Battering

A member of the Family Law Section of the Bar noted on the lawyers' survey that not all judges understand the problem faced by domestic violence victims:

- Certain aspects of domestic violence issues, e.g., battered woman[']s syndrome, remain beyond the comprehension of some district court judges who hear many assault and simple assault cases. Their failure to understand why a battered woman strikes out when she does allows them to see wives and husbands as equals when they are not.<sup>68</sup>

A public defender described one judge's lack of understanding of domestic violence:

- In one [case], we had just tried a domestic violence case to the bench. Afterwards, in the chambers, the judge told me and a probation officer that these domestic violence cases are difficult when the man claims self-defense because there is nothing so difficult as an angry woman when she starts biting and scratching. The probation officer (who was a man, as was the judge) confronted the judge as being ludicrous when speaking of rather small women and rather large men, and that there was no need for men to belt women. The judge commented that in his day men were taught never to hit women and they never did.<sup>69</sup>

Although the majority of judges who responded to the survey indicated that they believed domestic violence victims were treated with sensitivity and understanding in court, service providers and lawyers report that victims are not always treated that way.

## **5. CONCLUSIONS**

Most judges and service providers indicated that the existing laws do provide a framework for handling domestic violence cases, but that framework needs additional support both in strengthening some aspects of the law and in educating the personnel who come in contact with victims. Domestic violence is a complex problem which requires trained support personnel and advocates to work with victims, education and sensitivity training for all personnel who come in contact with victims, and treatment programs and follow-up monitoring for batterers. The Subcommittee on the Consequences of Violence believes that although progress has been made in the state of Washington there is room for improvement in the treatment of domestic violence victims. The Subcommittee presents the following recommendations.

## **6. RECOMMENDATIONS**

### ***For Judges:***

1. Increase continuing education to judges and court personnel at all court levels about:
  - a. The dynamics of domestic violence;
  - b. The impact on children;
  - c. The need for protective orders in divorce cases; and
  - d. The need for sensitivity when handling domestic violence victims/cases.
2. Order probation supervision to monitor compliance when sentencing the defendant to a domestic violence treatment program. Request increase in the number of probation officers, if necessary, to accomplish this goal.
3. Avoid the issuance of mutual protection orders when respondent has not requested protection and/or when not warranted by the facts of the case.
4. Consider using jail as a sanction for violations of domestic violence protection orders.



***For the Legislature.***

1. Establish a state commission or task force on domestic violence to implement this Subcommittee's recommendations and other matters pertaining to domestic violence.
2. Increase funding to the courts for advocates to assist and educate victims of domestic violence both in the civil court process and in the criminal court. Develop resource material for victims of domestic violence that would:
  - a. Encourage the use of the court system in an effort to prevent the violence; and
  - b. Educate victims about the Criminal Justice System and the protection order process. The materials could be used in shelters statewide.
3. Increase the level of support for shelters throughout the state. Currently the state divides \$537,000 among 37 shelters and safe homes statewide. Establish shelters in jurisdictions lacking such service for victims and their children.
4. Legislate funds to support treatment programs for batterers.
5. Enact laws prohibiting the granting of a gun permit to an individual convicted of a domestic violence crime, either misdemeanor or felony.
6. Legislate and fund increased training on domestic violence issues for police recruits at the police academy. Currently the domestic violence training for new recruits is two hours. The Subcommittee agrees it is inadequate and should be increased to 16-20 hours.
7. Establish a statewide statistical data collection system for incidents of domestic violence reported to police departments. Included in the data collection should be the numbers of domestic violence calls, arrests, incident reports, and citations.
8. Establish a statewide statistical data collection system for the offices of the prosecuting attorney, both county and municipal. This would provide a monitoring system for the "rigorous prosecution" of domestic violence cases.
9. Review the Domestic Violence Prevention Act in order to study and correct problem areas in the legislation.

***For the Office of the Administrator for the Courts/Court Administrators:***

Develop standardized forms for protection orders to be used statewide. Analyze whether it is legally possible to use one form for all three civil orders: protection orders; restraining orders; and anti-harassment orders.

***For The Washington Association of Prosecuting Attorneys/Prosecuting Attorneys.***

1. Implement a study to determine whether or not prosecutors are doing the following and documenting the results:
  - a. Notifying victims of filing decisions within five days of receiving a domestic violence police report; and
  - b. Vigorously prosecuting domestic violence cases regardless of pending divorce cases.
2. Assist in developing filing standards on domestic violence cases, both felony and misdemeanor.
3. Develop training material on the technical aspects of prosecuting domestic violence cases.
4. Work with individual prosecutor's offices to provide education to prosecutors about:
  - a. The dynamics of domestic violence;
  - b. The impact on children; and
  - c. The need for sensitivity in handling domestic violence victims/ cases.
5. Vigorously prosecute violations of protection orders.

***For Police:***

1. Establish procedures that provide for swift service of protection orders and establish service as a high priority within the department.
2. Increase police training on domestic violence.

## **C. RAPE**

The Subcommittee on the Consequences of Violence also examined the issue of whether the judicial system's handling of rape cases is influenced by gender bias. The Subcommittee was concerned about issues such as the treatment of rape victims in the courts; the credibility of rape victims; and the prosecution and sentencing of rapists.

### **1. INFORMATION SOURCES AND DATA COLLECTION PROCEDURES**

For purposes of this study, the Subcommittee limited its inquiry to rape (as opposed to other sex crimes such as forcible indecent liberties) and to rape of adults (rather than including sex crimes against children). These choices were made not because the Subcommittee failed to acknowledge the importance of these other acts of sexual assault, but rather because the Subcommittee felt that such limitations would enhance clarity and would not in any way minimize or obscure potential gender bias issues. In other words, if gender bias exists in the system's handling of sex crimes, that bias would be discoverable in an examination of the handling of rape cases.

The Subcommittee relied upon four sources of information and data:

(1) Public Hearings.

(2) Sexual Assault Service Provider Questionnaire. An eight page questionnaire was developed to survey the directors of sexual assault programs who work directly with victims of rape and sexual abuse. Of the 43 questionnaires sent to targeted agencies, 26 were completed and returned for a response rate of 65 percent. (The questionnaire can be found at Appendix E.)

(3) Judicial Survey on Domestic Violence and Rape. This survey, described in the Domestic Violence section of this report, contained questions about rape as well as domestic violence. (See Appendix C.)

(4) Lawyers' Survey. The Task Force's Lawyer Survey contained questions about rape and written comments from lawyers. (The survey can be found at Appendix A.)

The Subcommittee was unable to conduct methodologically acceptable interviews with rape victims because of time and budget constraints.

## **2. BACKGROUND INFORMATION**

In 1975 the state of Washington completely revised its rape statutes.<sup>70</sup> The definition of sexual intercourse was broadened beyond its ordinary meaning to include a variety of sexual acts.<sup>71</sup> The definition of force required for forcible rape was expanded to include certain types of threats.<sup>72</sup> A degree of rape was added for rapes which occurred without overt force but after the victim clearly expressed lack of consent.<sup>73</sup> A "rape shield" statute was added which provides that evidence of the victim's prior sexual history is inadmissible on the issue of credibility and is admissible on the issue of consent only if a judge so rules after an *in camera* (closed) hearing and after specific criteria for relevance are met.<sup>74</sup> In 1981 a law was passed providing that records of rape crisis centers cannot be discoverable by defense attorneys in rape cases except after an *in camera* hearing in which the judge finds that specific criteria for relevance are met.<sup>75</sup>

Each of these revisions of and additions to the rape laws was brought about because activists both within and without the legal system felt that rape victims were not being adequately protected by the law. The Subcommittee on the Consequences of Violence examined how the judicial system is handling rape cases in light of these reforms.

## **3. CURRENT STATUS: APPLICATION OF THE LAW IN RAPE CASES**

Results of surveys suggest that, while considerable progress has been made in the system's handling of rape in the last 15 years, many of the old problems still persist. On the bright side, 46 percent of the service providers responded that police officers take rape complaints seriously "frequently," "usually" or "always" and 63 percent report that police "frequently," "usually" or "always" treat rape victims with sensitivity and respect.<sup>76</sup> The statistics for prosecuting attorneys are close to those of police, with 43 percent of the service providers reporting that prosecutors take rape cases seriously "frequently," "usually" or

"always"<sup>77</sup> and 67 percent responding that prosecutors treat rape victims with sensitivity and respect "frequently," "usually" or "always."<sup>78</sup>

Though statistics are unavailable from 15 years ago, this percentage of sensitive and respectful treatment of rape victims appears to be an improvement. However, improvement or not, one must ask why it is that over half the police and prosecutors are viewed as taking rape complaints seriously only "sometimes," "rarely" or "never" and why over one-third of them are viewed as treating rape victims with sensitivity and respect only "sometimes," "rarely" or "never."

The comments of service providers shed some light on this issue. Twenty-one percent of the service providers indicate that rape victims "frequently," "usually" or "always" report their rapes to the police.<sup>79</sup> Of the 28 service provider agencies answering the questionnaire, 23 answered that rape victims' fear of the criminal justice system (as opposed, for example, to fear of the rapist) is directly responsible for the victim's decision not to make a police report.<sup>80</sup> Even when victims do report to the police, 31 percent of the service providers report that victims "frequently" or "usually" fail to follow through with the prosecution.<sup>81</sup> Again, 23 of the 28 service agencies listed as reasons the treatment of victims by the criminal justice system as a reason for the failure to follow through.<sup>82</sup>

A system that so frequently discourages victims from reporting and prosecuting an act of personal violence has serious problems. According to the service providers, rape victims fear that they will not be believed and/or that they will be blamed for their own victimization.<sup>83</sup> This, of course, is not news. Our society has had a long tradition of blaming rape victims and doubting their credibility; a tradition which has been fully reflected in the courts.<sup>84</sup> One might ask, then, whether rape victims and rape service providers are merely fearful of past practices which have, by now, been replaced with more enlightened ones.

Several attorneys commented on the surveys regarding the credibility problems facing rape victims in court. A member of the Washington State Bar Association noted:

- . . . I believe the woman witness is viewed as less credible than a male witness by jurors and judges (regardless of their gender). Rape victims and mothers of victims of sexual assault are viewed far too harshly

because of their gender. If they are upset, they are "vindictive and catty". If they aren't upset, they are lying.<sup>85</sup>

Another attorney noted that some judges are reluctant to believe rape victims:

- The male judges (in district court) I have had cases with involving sexual crimes have been very hesitant or reluctant to believe female victims. (One of these judges has also stated that he has a hard time believing children who are victims.) . . .<sup>86</sup>

Sadly, the surveys also suggest that victims' fears are not unfounded. In response to the judicial survey, 24 percent of judges responded that victims have "sometimes" or "frequently" "precipitated their sexual assaults because of their dress and/or actions preceding the incidents."<sup>87</sup> This very revealing response bears closer examination. One might ask what exactly does it mean that a victim "precipitates" a rape. By definition, a rape is sexual intercourse that is forced or coerced. This means that whether or not the victim wore "sexy" clothing, whether or not she hitchhiked, whether or not she dated her assailant, the sexual intercourse was accomplished without her consent and by force or coercion. One wonders, then, how she can be viewed by nearly one quarter of responding judges as "sometimes" or "frequently" precipitating the rape by her own actions. It is small wonder that rape victims fear they might be blamed in the judicial system for their own rapes.

Besides fearing that they will be blamed for their own rapes, victims express fears (according to their service providers) that they will not be believed about the rape or, to put it more bluntly, that they will be viewed as fabricating complaints against defendants, making false accusations for spite, revenge, blackmail, or some other despicable motive.<sup>88</sup>

One prosecuting attorney commented:

- I've seen lawyers make arguments to the jury like, "Hell hath no fury like a woman scorned" in rape cases where defense is consent. Other similar type arguments and innuendo often lurk below the surface in sexual assault cases.<sup>89</sup>

Historically, the credibility of rape victims has been undermined in court by attacking the victim's character, personal life, lifestyle and prior sexual history. While the 1975 "rape shield" statute<sup>90</sup> has certainly reduced the incidence of victims being subjected to improper

questions about prior sexual history, it has not eliminated it from the process. While it is understandable that defense attorneys try to take advantage of societal biases in defending their clients, this does not mean that such biases should go unexamined or unchallenged.

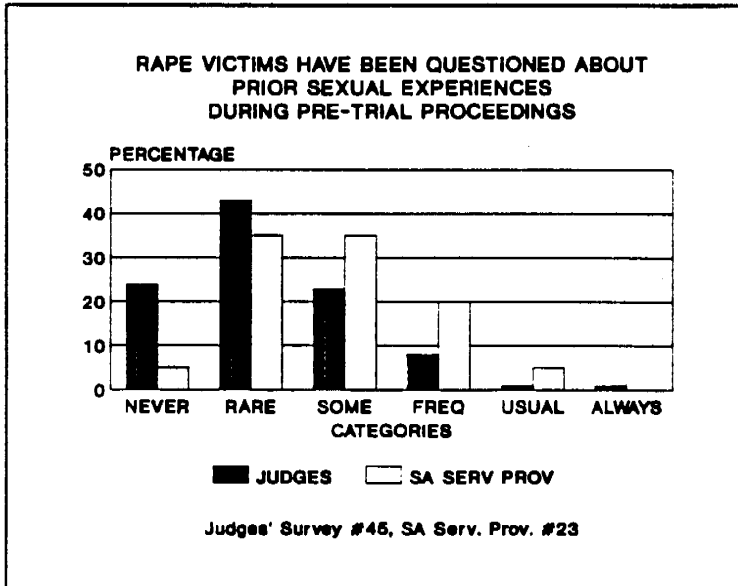


Figure 10 Rape Victims Prior Sexual Experiences

Survey results show that judges and providers of services to victims have different views of the extent to which victims are questioned about prior sexual history. Thirty-four percent of the judges indicate that rape victims are "sometimes," "frequently," "usually" or "always" questioned about prior sexual history during pre-trial proceedings.<sup>91</sup>

Two thirds of the service providers answered that rape victims are at least sometimes questioned about their sexual history during pre-trial proceedings.<sup>92</sup> (See Figure 10.) The difference may be due to judges' ignorance about what takes place in pre-trial interviews or depositions between defense attorneys and rape victims.

A recent case, *State v. Gonzalez*, 110 Wn.2d 738, 757 P.2d 925 (1988), illustrates the situation in which questioning about prior sexual history might arise. In a rape prosecution where the defense was claiming consent, the defense attorney asked the complaining witness in a pre-trial deposition to reveal the names of all prior sex partners. When the victim refused to answer the question, the trial judge ordered her to answer it. When she continued to refuse, the trial judge ordered her testimony suppressed. The Washington Supreme Court reversed holding that, though the rape shield statute did not apply to pre-trial discovery, the defense had not shown the materiality of the information sought.

Whether victims risk pre-trial questioning about their sexual history one third of the time (as judges think) or two-thirds of the time (as providers think), the figure is still high enough to make the victims' reluctance understandable.

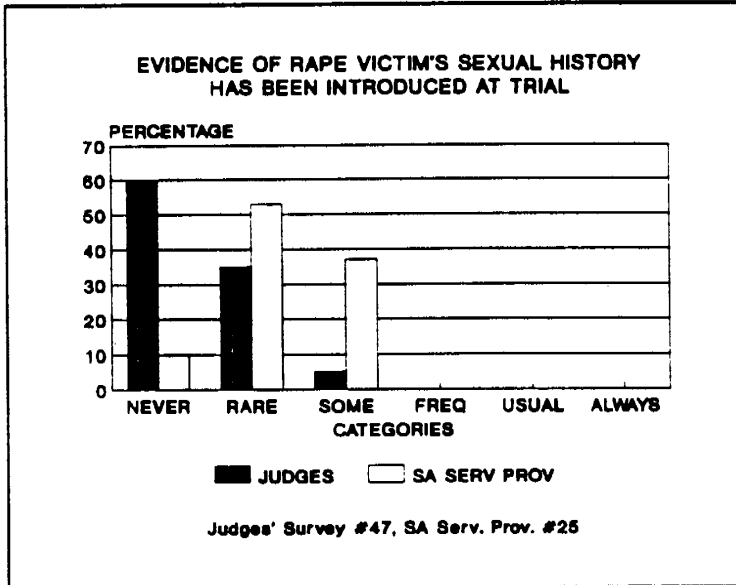


Figure 11 Rape Victims' Sexual History

Moreover, victims may also face questioning about prior sexual history at trial. While only four percent of judges think that victims are questioned at trial about prior sexual history,<sup>93</sup> 37 percent of service providers believe that such questioning takes place at trial.<sup>94</sup> (See Figure 11.)

In every category of crime there is the potential for complaining witnesses to falsifying the complaint for purposes of hate, revenge, greed, etc. If this is possible in crimes like robbery, burglary, theft and assault, the question arises why is it so commonly a defense only in sexual assault cases. It is notable that cases where victims are commonly blamed for their victimization or accused of lying about it are cases--such as sexual assault and domestic violence--where the victims are usually women. The very fact that a rape shield law is necessary suggests historical gender bias. Such bias is unfortunately still operating in the judicial system. The responses of the providers of services to rape victims indicate that such biases still keep victims from making reports to police and from following through with prosecutions.

Repeatedly, in public testimony and survey comments, the need for education was cited. In their responses to the question of what changes should be made in criminal courts' handling of rape cases, service providers suggested that judges, prosecutors and police need more education on the dynamics of sexual assault. Indeed, there is a large discrepancy



between the way judges view themselves in this area and the way they are viewed by service providers working with victims.

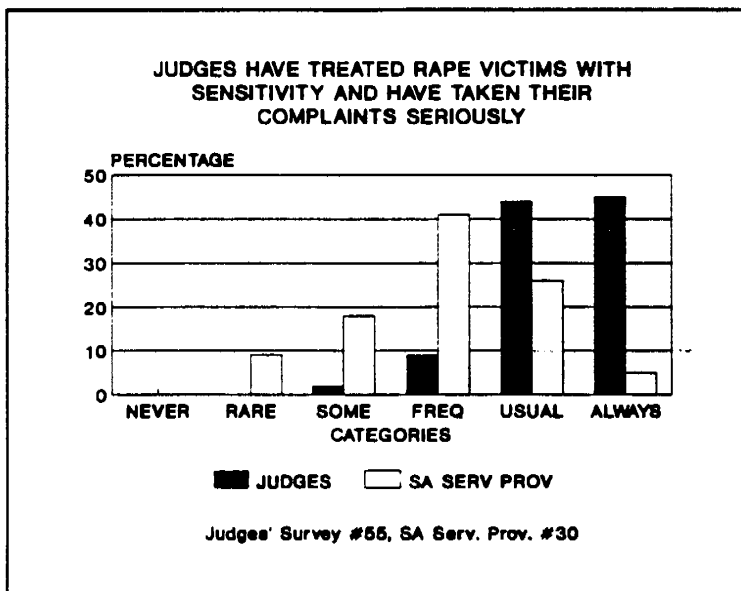


Figure 12 Victims of Rape

Eighty-nine percent of the judges responded that their peers "usually" or "always" treat rape victims with sensitivity and respect,<sup>95</sup> while only 32 percent of the service providers say that judges do so.<sup>96</sup> (See Figure 12.)

Likewise, 74 percent of the judges say that they "usually" or "always" have an understanding of the dynamics and impact of sexual assault.<sup>97</sup>

Only 12.5 percent of service providers say that judges are usually or always enlightened.<sup>98</sup> (See Figure 13.)

A common complaint of rape service providers is that judges and prosecuting attorneys treat cases of acquaintance rape less seriously than those of rape by a stranger. Thirty-seven percent of judges indicated that defendants are "sometimes," "frequently" or "usually" given shorter sentences in cases where the victim and defendant know each other than in cases where

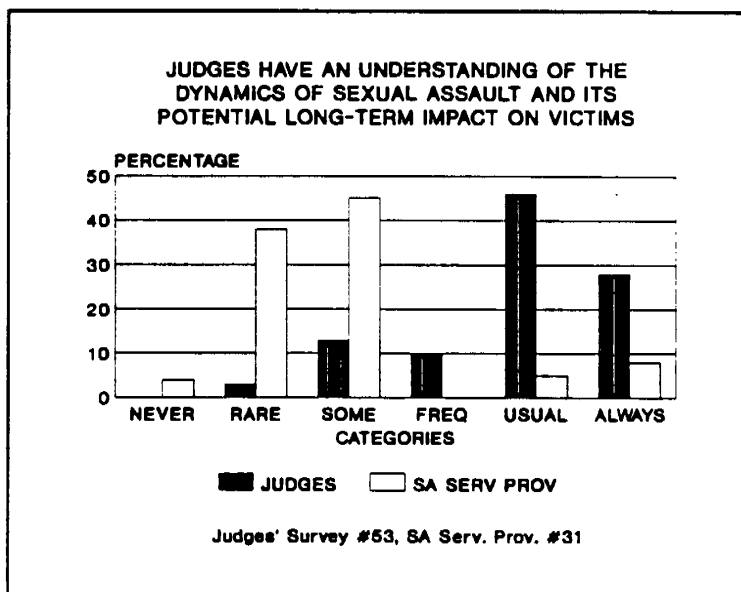


Figure 13 Sexual Assault

they are strangers.<sup>99</sup> The attorney survey indicates that 68 percent of the attorneys believe that judges give shorter sentences in acquaintance rape cases.<sup>100</sup> A prosecuting attorney commented on the survey:

- . . . One judge after sentencing a defendant (charged with simple assault although evidence indicated the victim had been sexually assaulted - victim refused to testify about sexual assault. Victim met defendant at a bar and she and a friend took him and another male home) stated that he believed the victim had it coming to her and deserved assault because she met defendant in a bar. Defendant received a lenient sentence.<sup>101</sup>

Service providers suggest that giving lowered sentences in acquaintance rape cases demonstrates a lack of understanding on the part of judges of the dynamics and serious psychological aftermath of acquaintance rape. Service providers also complain that many deputy prosecutors refuse to file acquaintance rape cases because they, too, fail to understand the dynamics of acquaintance rape and are unwilling to risk filing cases that strike them as "losers."<sup>102</sup> This issue of the treatment of acquaintance rape by judges and prosecutors is a serious one in light of the fact that 77 percent of the service providers estimate that rapes are "frequently" or "usually" committed by a friend or an acquaintance.<sup>103</sup>

Service providers also noted that deputy prosecutors in rape cases agree to defense requests for continuances of trial dates without considering the enormous stress such continuances place on rape victims. Many service providers cite this as a reason for victim "drop-out" during the pre-trial period.<sup>104</sup> Service providers also indicated that prosecutors could reduce this drop-out rate if they would work more closely and cooperatively with rape relief or victim-witness advocates during the pre-trial process.<sup>105</sup> Such advocates can aid in helping the victim to understand the process and to feel that the system cares about the victim.

Service providers also complained that judges' sentences of rapists were too lenient. One provider wrote:

- Stiffer sentences should be [imposed] on convicted rapists. The victim feels it is scarcely worthwhile when the rapist escapes with a slap on the wrist.<sup>106</sup>

Another service provider testified at the public hearings that judges were inconsistent in sentencing defendants in rape cases:

- From one judge giving 11 years for a rape case to other judges allowing plea bargaining down to indecent liberties and people walking the streets with two years probation.<sup>107</sup>

A particularly sensitive issue for rape victims is the imposition of a sentence that includes only treatment requirements with no accompanying jail sentence. It is the position of the Subcommittee that treatment and punishment are two different sentencing goals and that appropriate punishment should always be imposed in addition to treatment orders.

#### **4. CONCLUSIONS**

While improvements have been made in the handling of rape cases in the last 15 years, problems still exist. Rape victims are still afraid to report to the criminal justice system because they fear they will be disbelieved or viewed as responsible for their own victimization. These fears are supported both by stated attitudes of judges and by the type of questioning victims undergo at the hands of police and attorneys. Victims who do make reports to the police are often discouraged by the refusal of police to pursue the case or of prosecutors to file charges. Even when charges are filed, repeated continuances of trial date and poor communication between victims and prosecutors leave victims feeling unsupported. Though acquaintance rapes constitute the majority of rapes, handling of these cases by judges and prosecutors indicates a lack of understanding of the dynamics and effects of this crime.

## 5. RECOMMENDATIONS

### *For Judges:*

Provide education for judges about:

- a. The substantial current data regarding the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape and the long-term psychological injury to rape victims; and
- b. The difference between vigorous cross-examination that protects the defendant's rights and questioning that includes improper sex stereotyping and harassment of the victim.

### *For Prosecuting Attorneys:*

1. Provide education for deputy prosecutors about the substantial current data regarding the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape and the long-term psychological injury to rape victims.
2. Establish specialized prosecution units that permit rape victims to deal with only one deputy prosecutor through all stages of the proceeding and which emphasize communication between victims and prosecutors.
3. Ensure that acquaintance rape cases are treated with the same seriousness as stranger rape cases.
4. Oppose continuances in rape cases unless there is compelling necessity for such continuance.

### *For Police:*

1. Establish specialized units to deal with sex offenses.
2. Provide education for police officers about the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape and the immediate and long-term psychological injury to rape victims.
3. Ensure that acquaintance rape complaints are treated with the same seriousness as complaints of stranger rape.

**IV. REPORT OF THE SUBCOMMITTEE  
ON THE CONSEQUENCES OF DIVORCE**

**Judge Michael E. Donohue, Chair**

**Judge Faith Enyeart**

**Judge W. Edward Allan**

**Mary Kay Becker, Esq.**

**Judith A. Bendor, Esq.**

**Commissioner Joan DuBuque**

**Professor Jane Ellis**

**Representative Louise Miller**



## A. INTRODUCTION

To adequately address the issue of gender and justice in the Washington Court System, it is important to understand how women, men, and children fare in the economy as a whole. The adverse economic consequences of marital dissolutions on women and children are a matter of significant national and statewide concern.

- Twenty-five percent of white women and 55 percent of black women in the United States have in recent years fallen below the poverty line after their marriages ended.<sup>108</sup>
- Between 1970 and 1980 the percentage of Washington families below the poverty line and headed by women grew from 32 percent to 41 percent.<sup>109</sup>
- In 1987, 51.5 percent of all poor families in the United States were headed by a woman with no husband present. In 4.8 percent of poor families, the householder was a man. Among all families with a female householder, 46.1 percent of those with children were in poverty.<sup>110</sup>

There is a growing public concern about this feminization of poverty - the increasing number of female-headed households with incomes below the poverty line.<sup>111</sup> Welfare rolls, swelling with divorced women unable to escape the trap of inadequate support or dead-end jobs, cost the taxpayers and waste valuable human resources. In addition, issues of child-rearing responsibilities following dissolution are of great concern to both fathers and mothers.

Washington's community property laws and dissolution statutes reflect a stated public policy of fair and equitable treatment of spouses upon dissolution of the marital relationship. Women's legal rights in Washington compare favorably to any other state in the country.<sup>112</sup>

The Subcommittee was concerned that in the implementation of the laws, judges and attorneys might be influenced by gender-based cultural myths and stereotypes about the roles of men and women.

A professor from Fairhaven College, Western Washington University, who testified at the public hearings described three of these stereotypes which can affect women's lives in terms of divorce decrees:

- (1) The idea that women have equal access to jobs and earning power. Women do not. Fact sheet #85-7, July 1985 of the United States Department of Labor, the Women's Bureau, states that women on the

average earn less than 2/3 as much as men although there was a slight narrowing of the earnings differences during the past ten years; in fact, college educated women did not receive as much as a man with only a high school diploma.

(2) The notion that spousal maintenance is akin to welfare and perpetuates female dependency. [A] stereotype affecting judges, is that alimony or spousal support is somewhat like welfare--it makes the woman dependent. We have myths of independence in our culture that people should be self-sufficient and that if a woman isn't sent out on her own quickly, she will simply become dependent. Some judges seem to have the attitude . . . stop wallowing in your misery, get out there and get to work, and then you'll be all right. If we give you money and let you stay home, then you'll just perpetuate a situation of dependence, and you will never get out and take care of yourself.

(3) The belief that an attractive young woman will remarry . . . One woman told me that a judge said to her in open court, "You're young and attractive and you'll be remarried again in three years so there's no reason for you to worry about your economic future." If that judge perhaps knew the economic facts about female heads of households and the possibilities that await her, perhaps that statement would not have been made.<sup>113</sup>

It has been the purpose of this Subcommittee on the Consequences of Divorce to explore how the legal system carries out the statutes and deals with those persons involved in marital dissolutions.

## 1. INFORMATION SOURCES AND DATA COLLECTION PROCEDURES

The Subcommittee limited its inquiry to the consequences of divorce and the impact of gender bias on property division, maintenance awards, custody, visitation and child support, and legal assistance. The Subcommittee relied upon five sources of information and data.<sup>114</sup>

(1) Public Hearings were held throughout the state to focus public dialogue on the issues of gender and justice in dissolution cases.<sup>115</sup>

(2) The Lawyers' Survey, which contained 34 questions about divorce and custody, was sent to over 4,000 Washington State lawyers, including a random sample of the Family Law Section of Bar. Percentages referred to in this report are based on the number of lawyers who responded to those 34 questions. (See Appendix A.)

(3) The Judicial Survey, which was sent to all members of Washington's judiciary,



paralleled the questions asked of lawyers. Percentages referred to in this report are based on the number of judges who responded. (See Appendix B.)

(4) The Washington State Dissolution Case Study was designed to review a sample of 700 marriage dissolution case files in a representative group of 11 Washington counties. In this random sample of cases studied, the majority of dissolutions were the result of either default or agreed decrees. Only five percent of the cases were contested. (See Appendix F.)

(5) Other State and National Studies provided economic data on women's earnings, amounts of maintenance and child support, and custody decisions.

## 2. SUMMARY OF FINDINGS

A disturbing picture has emerged concerning the economic status of women and children following dissolutions in Washington. Indications are that maintenance awards, if ordered, are of limited duration and generally only available to women of very long-term marriages. Women traditionally have been disadvantaged in property awards when the courts and attorneys fail to address the disparate earning capacities of the spouses in making such divisions. Child support orders appear to be inadequate. Affordable legal representation is often not available for low and middle income persons with family law problems. Child custody decisions, though not economic decisions per se, are also of enormous importance in shaping the economic lives of the parties after divorce and may be impacted by stereotypical thinking about traditional family roles.

This report represents the first step in the study of the consequences of divorce in Washington State. Public testimony and the survey results revealed widespread perceptions that gender stereotyping in divorce proceedings does exist to an extent which frustrates the goal of equal justice under law. Hard data to validate such perceptions is not as complete as is desired. State and national data were available to the task force to substantiate the economic realities that disadvantage women following dissolutions. The case study completed by the task force provided information on maintenance, child support, and custody in a representative group of Washington counties. The court records, however,

contained scant data on the parties' incomes, employment situations, education, or property distributions.

### 3. ECONOMIC BACKGROUND: NATIONAL AND STATE DATA

The subcommittee's findings indicate that women are disadvantaged economically in general in our society and in particular following dissolutions. State and national data illustrate the disparity between the earning power of men and women. The judicial system cannot address the problems of women without confronting these economic realities.

#### National Data

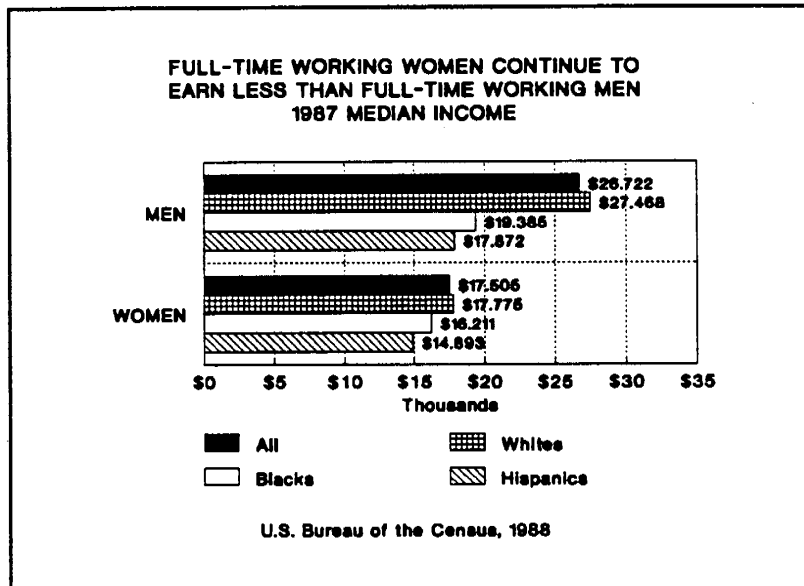


Figure 14 1987 Median Total Money Income for Year Round Working Women and Men

- Full-time, year-round women workers earned 65 cents for every dollar earned by men in 1987.<sup>116</sup>
- The median income for year round workers in 1987 was \$16,809 for women compared to \$26,003 for men.<sup>117</sup>
- Among men, workers in executive, administrative, and managerial occupations had the highest median earnings (\$686), followed by those in professional specialties (\$661), technicians (\$512), and sales workers (\$507). For women, median weekly earnings were highest for professionals (\$493), followed by those in executive, administrative, and managerial jobs (\$442).<sup>118</sup>
- In 1987, 51.5 percent of all poor families were headed by women. Forty-six percent of the children in female-headed families are living on incomes below the poverty level.<sup>119</sup>

- Half of the Nation's poor in 1987 were either children under 18 years (40 percent) or elderly (10.7 percent).<sup>120</sup>
- Sixteen percent of women over 65 have social security as their only source of income. Seventy-eight percent of older Americans with annual incomes below \$5,000 are women.<sup>121</sup>

#### Washington Data

- In 1983, women comprised 42.7 percent of Washington's civilian labor force.<sup>122</sup>
- More than 50 percent of Washington women with children under age six are in the paid work force; 71 percent of all Washington single mothers are so employed. (1983-4 Census Data)<sup>123</sup>
- Three out of five full-time female workers earn less than \$10,000 per year.<sup>124</sup>
- Full time child care costs in Washington range from \$200 to \$600 per month.<sup>125</sup>
- The median income for Washington women over 65 was \$4,887, one-half the median income for men 65 and older.<sup>126</sup>

#### Other States

Studies have reported that divorced men experience an improvement in their standard of living while divorced women and their children experience a decline.

- A 1986 study of the economic consequences of divorce in Alaska reported that divorced women and children experienced a 33 percent decline in per capita income resulting in a downward shift of their standard of living while divorced men experienced an improvement in their standard of living as a result of a 17 percent rise in their per capita incomes.<sup>127</sup>
- A 1970's study of California families approximately one year after legal divorce reported divorced men experienced a 42 percent increase in standard of living while divorced women experienced a 73 percent decline in standard of living.<sup>128</sup>

#### Washington Case Study

Data from the Washington dissolution case study of 11 counties in 1987 was compared to data from studies conducted in Connecticut, California, Vermont, and by the United States Census Bureau Survey. This table reports the amounts awarded for maintenance and child support, not the amounts which are actually collected. Note that the Washington study

reflects a sample of 700 cases in 11 counties. The data reveals the following:

- Washington women are awarded maintenance less often than the national average.
- Maintenance awards are for a limited duration and for only 10 percent of the divorced spouses.
- The percentage of Washington fathers who have sole child custody exceeds the national average.
- Child support orders are less than the national average.

**Table 1 Comparative Table - Maintenance, Child Support, and Custody**

Year Data Collected	WA (1987)	CA (1977)	CT (‘82-83)	VT (‘82-83)	U.S. (‘85) <sup>1</sup>
<b>Maintenance</b>					
% Cases Awarded <sup>2</sup>	10%	17%	30%	7%	15%
Mean Amount Awarded Monthly <sup>3</sup>	\$432	\$378	\$181	\$277 <sup>4</sup>	\$329
Limited in Duration	84%	67%	40%	98%	N/A
<b>Child Support</b>					
Mean Amount Awarded Monthly	\$197	\$143	\$266	\$114	\$218
<b>Child Custody - Residential</b>					
Sole Mother	79%	90% <sup>5</sup>	86%	79%	90% <sup>6</sup>
Sole Father	18%	7%	8%	11%	10%
Joint/Shared	3%	2%	3%	5%	
<b>Child Custody - Legal</b>					
Sole Mother	61%	88% <sup>7</sup>	N/A <sup>8</sup>	N/A <sup>7</sup>	N/A
Sole Father	13%	5%	N/A	N/A	N/A
Joint	24%	3%	12%	N/A	N/A

1. All U.S. data is based on the 19.2 million ever-divorced or currently separated women as of spring 1986. U.S. Bureau of the Census, Current Population Reports, series P-23, No. 154, Child Support and Alimony: 1985, (Supplemental Report), 1989.
2. All percentages have been rounded.
3. The table is adjusted per CPI, Consumer Price Index, to bring other states up to 1988 dollars. Note: California, Connecticut, and Vermont figures were adjusted from 1985 dollars.
4. Wishik (1986), p. 87, figure is based on data from only 10 cases.
5. Weitzman (1985), table 21, p. 232, combined San Francisco and Los Angeles Counties.
6. Data from McLindon (1987), p. 366, footnote 103, based on 1980 data.
7. Weitzman (1985), table 20, p. 228 using figures for Los Angeles county on studies conducted 1968-72. Weitzman figures for San Francisco were: sole legal mother (72.4%); father (8.1%); joint legal (16.7%)
8. Neither McLindon nor Wishik reported data in comparable categories, with the exception of McLindon on joint legal custody (McLindon, Table 9, p.367). Each emphasized the residential award rather than "legal" designation.

While the judicial system cannot end poverty for women and children, it can through understanding avoid contributing to it. The balance of this report will address in more detail the data provided to the subcommittee on the issues of property division, maintenance awards, custody and visitation, child support, and attorney fees in dissolution cases.

## **B. AREAS OF CONCERN**

### **1. PROPERTY DIVISION**

Public hearings' testimony, lawyers' survey responses, and testimony from individuals who directly contacted the Task Force noted inequality and long-term negative economic effects for women resulting from division of property during divorce. The Subcommittee did not collect property award and debt allocation information in the dissolution case study because the case records did not consistently contain this data. The Subcommittee review found that many decrees did not place a value on the assets divided between the parties nor did they contain information about the amount of debts to be allocated between the spouses. Moreover, there is no uniform requirement for filing pretrial financial affidavits or summaries which might contain this information.

Although the Subcommittee had limited hard data on property awards, both public testimony and survey results indicate that problems do exist in property awards. The Subcommittee found that the ability of one or both spouses to earn income, developed through the course of the marriage, often represents one of the family's most important economic assets - one not easily equalized by property division. Where a couple has structured their marriage so as to allow one spouse to develop the skills, experience or education creating a greater income-earning ability than the other spouse, the awards of property and maintenance ought to be recognized as a proper tool to address the imbalance.

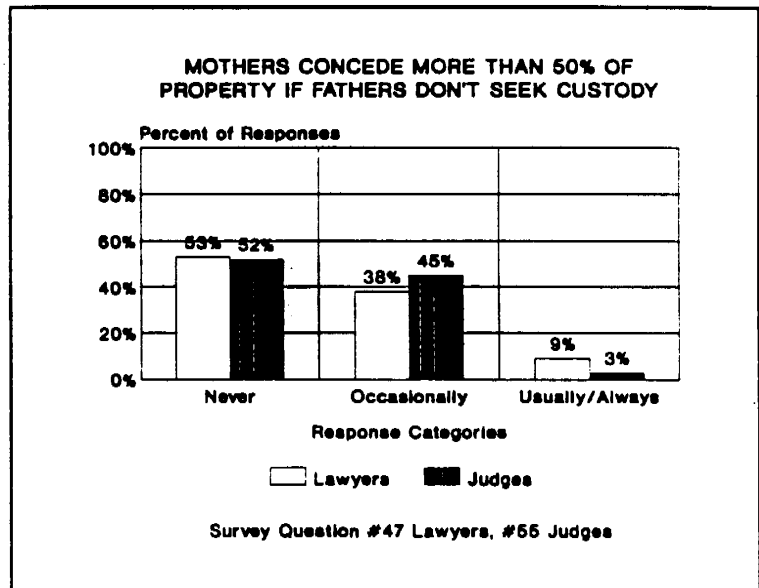
For example, if a husband after ten years of steady employment can earn \$15 per hour, while a wife after ten years of steady homemaking can earn \$4.50, he can earn \$20,000 each year more than she can after the divorce. This difference cannot be fairly remedied by increasing the wife's share in home equity by \$10,000. Nor is it cured by child support,

which is for an entirely different purpose.

**a. LAWYERS' AND JUDGES' SURVEYS**

In response to survey questions on property division, both lawyers and judges reported that they were aware of cases in which women gave up community property to avoid custody battles. Almost half (47 percent) of the lawyers responding to the survey have represented at least "occasionally" female clients who conceded property in order to avoid a child custody dispute. Nine percent (9 percent) of the lawyers report their female clients usually or always compromised on property division in exchange for their husband's agreement not to seek custody.<sup>129</sup>

A significant number of judges (48 percent) also responded that at least "occasionally" they were aware of situations in which mothers conceded more than 50 percent of the community assets in exchange for the father's agreement not to seek custody.<sup>130</sup> Such compromising may have significant economic impact on the female headed household.



**Figure 15 Mothers Concede Property**

Thirty-one percent of the lawyers noted that judges at least "occasionally" consider the likelihood of a wife remarrying when dividing property; while 13 percent of the lawyers perceived that judges sometimes consider the husband's future marital status.<sup>131</sup> Approximately one-fifth of the judges indicated that they sometimes consider the likelihood of remarriage by the wife (22 percent) or the husband (18 percent) when awarding property.

When asked whether property awards have reflected a judicial attitude that property belongs to the wage earner, more lawyers reported that attitude to be present when the husband is the primary wage earner (39 percent) than when the wife earns the bulk of the income (23 percent). The majority of the attorney respondents felt that judges do not consider property to belong to the primary wage earner.<sup>132</sup> More than half (52 percent) of the judges reported that they sometimes awarded over half the property to wives who were the primary wage earners. Forty-five percent awarded a larger share to husbands who earned the bulk of the income.<sup>133</sup>

One attorney commented on the problem of property division and the older woman:

- I would urge that the court generate guidelines for distribution where parties are over 55 as to minimum standards. Specifically, where the unfavored spouse with little separate property has not made provision for savings, relying on a traditional marriage. Then the Court should give [the] majority of community property - even awarding separate property, to avoid creating generations of bag ladies (or gentlemen). [I] find "enlightened" judges in their 40's most callous - appear to have little experience with the employment market or realities of social security. (Member of Family Law Section of Washington State Bar Association.)<sup>134</sup>

#### b. PUBLIC TESTIMONY

At the public hearings, individuals testified about their personal experiences with inadequate and inequitable property awards and representatives of legal and service organizations addressed the need for judges to give greater recognition to the economic value as well as the lost opportunity cost to the homemaker/spouse who is ill-equipped to compete in the work force. A professor from the University of Washington School of Law testified that the enhanced earning capacity of one spouse should be considered property and divided fairly at dissolution.<sup>135</sup> In Wenatchee, a woman testified that in awarding property the court failed to recognize the true difference in economic circumstances between the parties because of her ex-husband's superior earning capacity.

- After a 21-year marriage, I walked away, supposedly, with a 60-40 cut. The judge made the decision on the community property settlement. I really feel that one thing important that wasn't taken into consideration was my ex-husband's earning ability. I was a housewife and mother through all those years. I was left with nothing--how do I earn a living? I really feel that nothing was taken into consideration

like the cost of living and the fact that I had to educate myself in mid-years. If I didn't educate myself, my maintenance would have been taken away from me. Several weeks after the divorce, my ex-husband was remarried and took on a new family. That is expensive in itself. He now has two homes, and one of them is over a \$200,000 home; the other one is in a very exclusive area. My daughter and I are sinking into poverty level. I got no breaks--I don't get to claim her on income tax, I have to share in all her medical expenses, I just got socked, and I really feel that was gender bias as far as the judge was concerned. I don't feel that the equity of the situation was taken into consideration.<sup>136</sup>

Several witnesses also spoke of the problem of women being defrauded out of hidden community assets. In addition, a Bellingham attorney testified about her experience with a judge relying on the husband's rather than the wife's estimate of the value of particular property.

- . . . the opinion of the wife, the woman in the action, may not be given the credibility or the weight that it should be given mainly because there's a perception floating around that she . . . doesn't know very much about it because she's a woman. She doesn't know about boats or cars or tools or guns . . . women . . . frequently come away feeling that they just weren't listened to by the judge.<sup>137</sup>

A speaker in Seattle spoke of the dire situation of women divorced from military men whose dissolutions became final during the period of time between the McCarty decision, which held that military retirement benefits were not community property, and the Congressional Act which declared that such benefits were community property. These women lost their fair share of those benefits.<sup>138</sup> A representative for EXPOSE -- Ex-Partners of Service Men and Women for Equality -- testified about numerous problems faced by women divorcing men in the military and remarked that the military does nothing to help them.<sup>139</sup>

Other witnesses described the problems facing women who are forced by inadequate maintenance awards or inadequate income from wages to sell off the property they receive. A tax and divorce consultant from Olympia testified that judges don't take into consideration the economic circumstances that force women to sell their homes when the property is awarded to them in order to pay off the lien attached to the property.<sup>140</sup> One of her clients, who is facing this problem, testified in Seattle:

- So now, I am divorced after 18 years. My husband left with his salary



of \$42,000. . . I am a teacher's assistant. I have a salary of \$10,000 a year. I also have a \$20,000 lien against my house. I am 62 years old. My husband is five years younger than me [sic]. He will probably not retire for another eight years, and therefore, I can't retire, . . . which will probably put me around 70 years old . . . I was awarded maintenance for 2 1/2 years.<sup>141</sup>

The issues of enhanced earning capacity, compromising property settlements in exchange for child custody, and the problems faced by wives divorcing military men deserve further study.

## **2. MAINTENANCE AWARDS**

Problems with the amount and duration of maintenance awards, particularly for older spouses in long term marriages, were noted in the survey responses, public testimony, and the dissolution case study. Even the term "rehabilitative maintenance" was criticized as gender biased by one older spouse who stated she felt like a criminal who had to be taught how to live in society rather than a partner in an equitable settlement.<sup>142</sup>

### **a. LAWYERS' AND JUDGES' SURVEYS**

Sixty-four percent of the lawyers say there is no readily determinable rule-of-thumb regarding eligibility for maintenance.<sup>143</sup> Lawyers reported that older displaced homemakers, with little chance of obtaining above minimum wage employment, after long-term marriages are "never" (26 percent) or only "occasionally" (46 percent) awarded permanent maintenance.<sup>144</sup> In determining the amount of maintenance to be awarded, lawyers think judges consider foremost the financial need of the person seeking the award; second the job skills of the person seeking the award; third the length of the marriage; and fourth the ability of the obligor-spouse to pay.<sup>145</sup> Lawyers report the duration of maintenance is related to the length of marriage but awards tend to range from 0-5 years regardless of the duration of the marriage.<sup>146</sup> Typical duration of maintenance is brief:

- Marriages less than 10 years, 0-3 years of maintenance
- Marriages 10-20 years, 1-3 years of maintenance
- Marriages 21-30 years, 1-5 years of maintenance
- Marriages greater than 30 years, maintenance likely to be limited to 1-10 years and most probably 5 years or less.

The individual written comments of the lawyers are largely consistent with the above tabulated results. Lawyers stress that most awards are very limited in duration. Several attorneys commented on the problem of the older woman:

- The worst case I've handled was a doctor's wife who, after 25 years of marriage, and a high school education, was given \$500 a month for one year and denied a modification after that year because the judge said in open court (a highly respected judge at that) that she was sure to remarry. She came close to suicide. . . . One judge said the problem of a middle-aged, minimum wage, no employment benefits woman was a problem for society, not for the courts. (Member of Family Law Section of Washington State Bar Association.)<sup>147</sup>
- Too often the courts ignore all but the short term "rehabilitation" aspects of maintenance, when 2 years at a community college can never "rehabilitate" a homemaker of 30 years duration. (Member of Family Law Section of Washington State Bar Association.)<sup>148</sup>
- The very difficult case is the wife, over 50, after raising a family and with no skills. In a majority of these cases, the courts expect her to become productive within three years. There is a lot of insensitivity in these cases. (Member of Washington State Bar Association.)<sup>149</sup>

Many lawyers cite need for a very long-term marriage and children as well as disproportionate income before a woman will be awarded maintenance. Lawyers emphasize the need to present a "return-to-work" plan "as part of a package". One attorney noted:

- I practice in three counties, with experience on this issue in two. I advise my clients - it [maintenance] won't be enough in duration or amount, even for displaced homemakers of long marriages, that they will do better in the award if they have some job retraining plan, not to count on more than 2 years even if they have no work history. (Member of Washington Women Lawyers.)<sup>150</sup>

In determining maintenance, the judges ranked the following factors in order of importance: financial need of seeker, job skills of seeker, payor's ability to pay, length of marriage, and conduct of seeker during marriage.<sup>151</sup> Most judges concluded that there is no custom in determining the duration of maintenance awarded compared to the duration of the marriage. For judges who identified a custom exists, the results were:

- Marriages 10 years or less, 2 years or less maintenance
- Marriages 10-20 years, 3 years or less maintenance
- Marriages 21-30 years, 5 years or less maintenance
- Marriages greater than 30 years, permanent maintenance.<sup>152</sup>

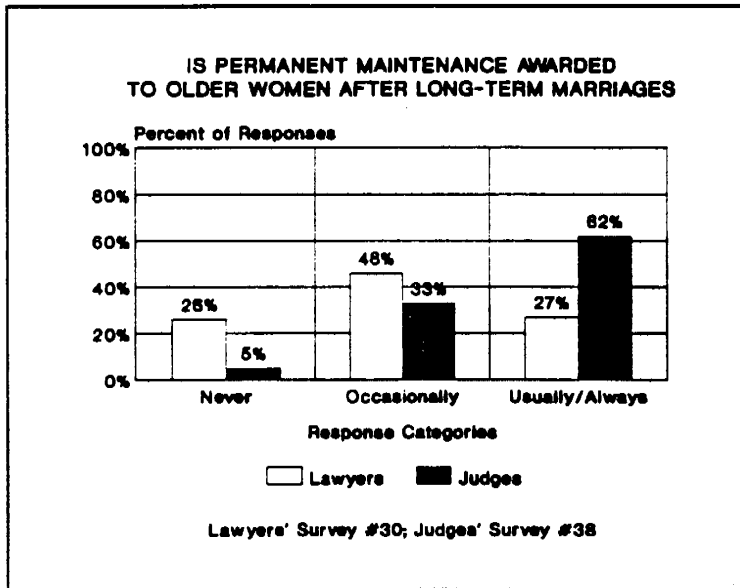


Figure 16 Permanent Maintenance

A majority of judges (62 percent) responded that older women do receive permanent maintenance.<sup>153</sup> As noted in Figure 16, there is a low correlation between how judges perceived their awards of maintenance and how attorneys perceived the judges awards of permanent maintenance.

Most judges stated that men get serious consideration when seeking maintenance. Attorneys surveyed believe judges do not usually take husband's requests for maintenance seriously.<sup>154</sup> One attorney commented, "Husbands will not get maintenance and are told to look for work."<sup>155</sup>

Lawyers said decrees generally provide a wage assignment in the event of maintenance arrears.<sup>156</sup> However, they noted judges rarely jail respondents for failure to pay maintenance.<sup>157</sup> Judges replied that a person who, without sufficient cause, does not pay court-ordered maintenance, may be jailed, yet only seven percent of the judges in such circumstances "usually" or "always" jail such non-payers.<sup>158</sup>

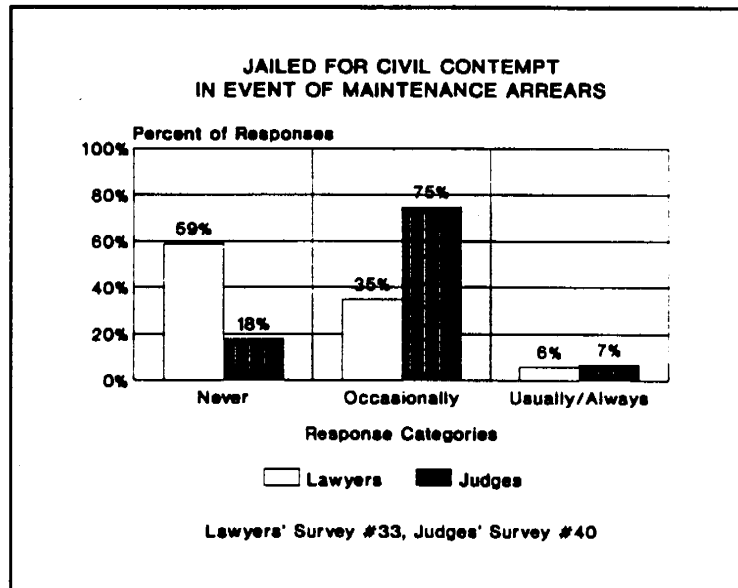


Figure 17 Jail for Civil Contempt

**b. DISSOLUTION CASE STUDY**

Data about the number of women or men initially requesting maintenance was not available. This information is essential to assess whether requests for maintenance are being given adequate consideration by the legal system. Data from the case study of 700 Washington dissolutions indicates that women in those 11 counties did not receive maintenance as frequently as women in the other states studied, except Vermont.<sup>159</sup> (See Table 1.) In the 11 counties, maintenance was received in only ten percent of cases. It must be noted that the majority of these cases were settled and not tried to the court. For women who were awarded maintenance, 84 percent received awards of limited duration. Only 16 percent of the women on whom data was available received permanent maintenance. Of the 71 recipients of maintenance only one was male.

For those receiving limited or nonpermanent maintenance, the mean duration of maintenance was 2.6 years. In the few cases in which permanent maintenance was received by women, the mean length of marriage was 29 years. The mean duration of marriage for all women receiving maintenance was 16 years. (See Appendix F, Tables 8 and 26.) The Washington study shows a mean monthly maintenance of \$432 which is higher than that reflected in other studies. However, given the significantly lower number of women who receive maintenance and the extremely limited duration of maintenance, women in these Washington counties most probably receive less total maintenance than women in the other states studied.

**c. PUBLIC TESTIMONY**

Attorneys, representatives of womens organizations, counselors, and individual women reported problems with inadequate maintenance particularly for women who have been out of the work force for a substantial period of time. One attorney who specializes in family law illustrated the problem:

- The very real and frightening economic consequences of divorce that other speakers have spelled out, make it clear that gender bias does exist in this state. Maintenance awards, child support awards, and divisions of property all very clearly favor many husbands in many cases. I have seen in the Law Center many cases in which long-term

marriages have terminated and maintenance is given for a very short duration. It is discrimination to fail to recognize in value the contribution of women in the traditional one-wage-earner family. Property settlements that are 50-50 or even a 60-40 split of property do not adequately provide for a woman who is 40 or 50 years of age, has to enter the work force at the bottom of the wage scale with no hopes of moving up very far when it's compared to the husband in that family who at 40 or 50 is at the prime of his financial capability.<sup>160</sup>

In Pasco, a 70 year old woman testified about the inadequacy of the awarded maintenance after her 44 year marriage and the inequality of the provision that if she remarries, it will be terminated. She stated that this remarriage clause (Title 26 RCW 26.09.170) is gender biased because there were no restrictions placed upon her former husband. She noted the economic effects of inadequate maintenance:

- "My husband's living standards have gone up at least 70 percent and I've gone down to where I'm below the poverty level."<sup>161</sup>

A woman, now 63 years old, who was awarded "rehabilitative maintenance" after a 22 year marriage described her problem in written testimony to the Task Force:

- My job hunting expenses were exceeding my income. I ask [sic] for an increase to help with job hunting expenses. The case finally came before the court in 1986. The Judge Pro-tem raised it to \$750.00 until my birthday in 1987; and told me to draw SSI (which is for the blind and dying) or any other public assistance I could find. - and if I received any Public Assistance over \$300.00 it was to be paid back to Husband. Common sense will tell you that I had no excess money. And since August of 1987 my only income has been my social security check for \$235.00 and whatever else I could beg or borrow. Through no fault of my own, I am destitute.<sup>162</sup>

A speaker from Spokane described her work with displaced homemakers and their long term economic problems. According to this speaker, "Money is being pulled out of women's pockets during their productive years." Many such women end up in "retirement poverty" while their husbands add to retirement with high income earning years following the dissolution.<sup>163</sup>

In Bellingham, a family law attorney pointed out that awarding three or four years of maintenance in order for a woman to finish college may be inadequate when a woman has children to raise or is older and may require a longer time to finish her studies.

- In this particular case . . . the husband has gone all the way through a doctoral program . . . [h]is perception is that three years of maintenance

ought to do it. She can get through her bachelor's program and go out and get a job . . . But the bottom line is that first of all she is going to be raising these three children while she's going to school and there doesn't seem to be any consideration to that at all. . . . I think it's been simplified by society in general and perhaps by the courts. I think there's a general feeling that if we get somebody through, you know, give them enough money to get them through the month they graduate from college, that we're doing everything we can do. The bottom line is we're not. These women end up in a situation where they may not be even able to get work, and they still have children to support. A bachelor's degree is no guarantee, I think as we all know, of being employed.<sup>164</sup>

### 3. CUSTODY AND VISITATION

Custody and visitation concerns were voiced by both fathers and mothers at the public hearings. Individuals testified regarding gender bias against men who sought custody and against women who perceived their concerns for the safety of their children were being disregarded. Attorneys commented on their surveys about perceived bias against both parents, most notably when traditional family roles had not been followed. In this area in particular, gender biased stereotypes appeared to disadvantage fathers.

#### a. LAWYERS' AND JUDGES' SURVEYS

A majority of lawyers (69 percent) and an overwhelming percentage of judges (95 percent) responded that past child-rearing responsibility when the marriage was intact is the most persuasive factor in determining which parent should get custody.<sup>165</sup> (See Figure 18.) Financial status of each parent was seen as much less important than either child-

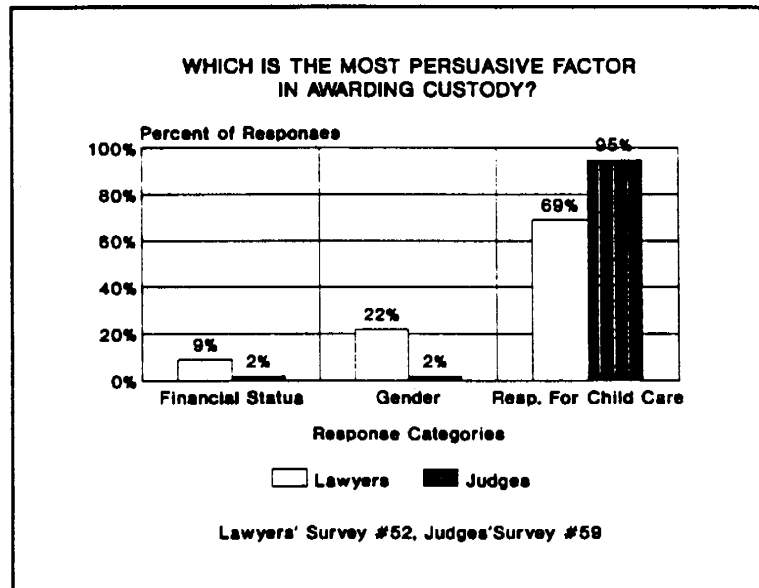


Figure 18 Factors in Determining Custody

rearing history or gender.<sup>166</sup>

Seventy-five percent of judges said they have never indicated to the parties, through action or statement, that custody was awarded to the mother on the basis that children belong with their mothers. Twenty-two percent of those answering say they have "occasionally" so indicated, and only four percent say they have "usually" or "always" so indicated.<sup>167</sup>

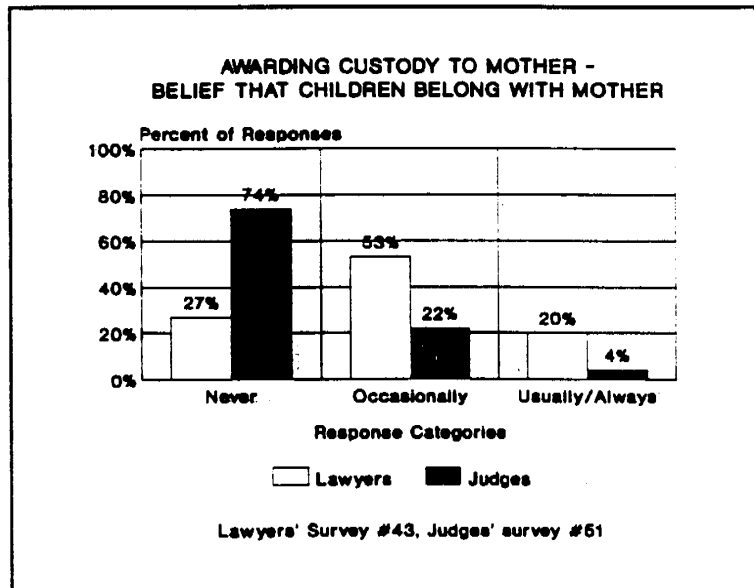


Figure 19 Children Belong with Mother

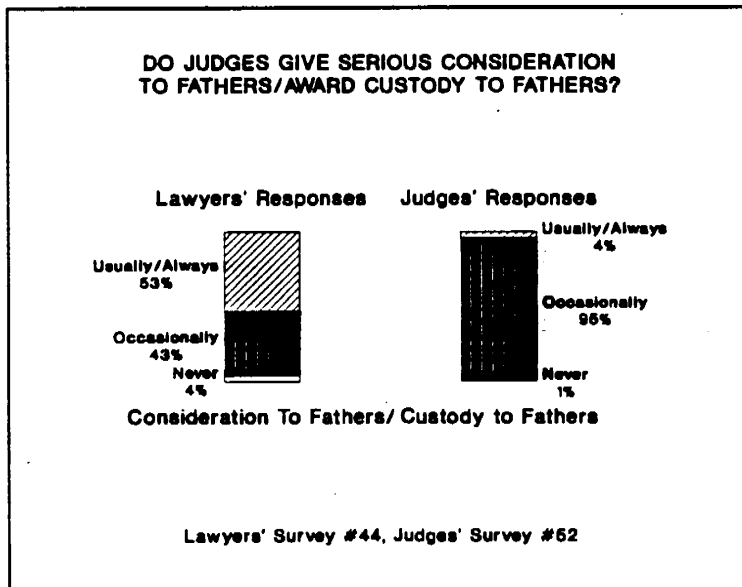


Figure 20 Custody to Fathers

Fifty-three percent of the lawyers noted that judges "usually" give serious consideration to fathers who seek custody.<sup>168</sup> Ninety-five percent of the judges responded that they have "occasionally" awarded custody to fathers who actively sought custody.<sup>169</sup> (See Figure 20.)

However, 65 percent of lawyers responded that they have sometimes dissuaded fathers from seeking custody because their experience suggests that, even when all other factors are equal, judges will not give fathers' petitions fair consideration.<sup>170</sup> (See Figure 21.)

More than half of the attorneys and judges responded that when other factors are equal, fathers are less likely to receive custody of children under the age of five.<sup>171</sup> This may be due to vestiges of the "tender years" doctrine.

A majority of lawyers and judges agreed that judges "usually" or "always" give due consideration to violence

whether by father or mother in an award of custody.<sup>172</sup>

Attorneys responded that judges rarely condition custody on not working outside the home.<sup>173</sup> More than half the judges state that either parent's employment outside the house has "occasionally" been a disadvantage when seeking custody.<sup>174</sup> Working outside the home is sometimes a disadvantage (nearly equal to mother or father) in seeking custody.

Lawyers believe that judges may sometimes condition a custody award on limitations of social relationships or activities. Where this occurs, a condition is more likely to be imposed on the mother (56 percent) than the father (47 percent).<sup>175</sup> Lawyers also believed that joint custody is more likely to be awarded over the objection of the mother (57 percent), than the father (46 percent).<sup>176</sup>

Where the decree provides for joint custody, 83 percent of lawyers claim the actual responsibility is only "occasionally" or "never" shared equally.<sup>177</sup>

**b. DISSOLUTION CASE STUDY**

Data from the case study must be considered in the context of what information was available to the Subcommittee. Data about the number of fathers or mothers initially

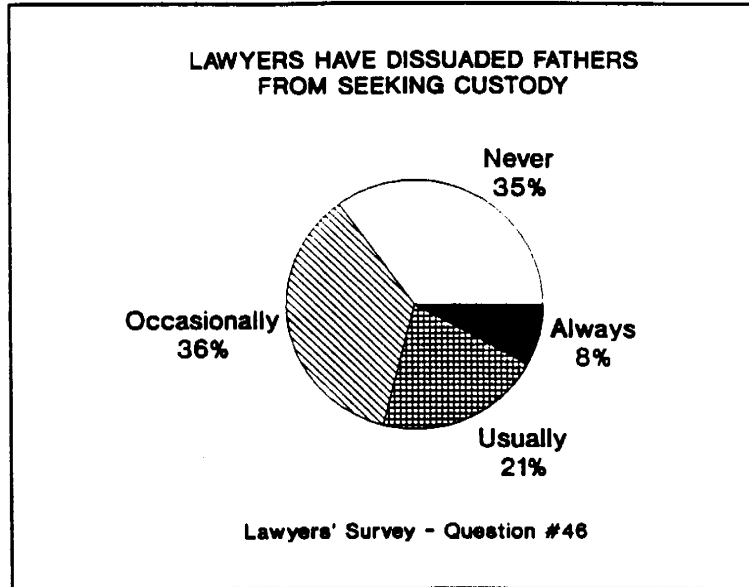


Figure 21 Dissuading Fathers



requesting child custody (legal and/or physical) was not available. This information is essential to assess whether fathers' requests for legal and residential care of the children are being given adequate consideration by the legal system. In the 11 county dissolution case study, custody decisions were settled by the parties or by default in the majority of cases. A maximum of five out of the 700 cases were contested custody cases.

Information relating to the residential arrangements for children was available for 675 out of 681 children (99 percent) of the 700 dissolution cases. Mothers received the residential care of 79 percent of the children. Fathers received the residential care of 18 percent of the children. Joint residential care was provided for three percent of the children. The case study showed mothers received sole legal custody of 61 percent of the children, joint legal custody was provided for 27 percent of the children and fathers received sole legal custody of 13 percent of the children.

This data indicates that men in the 11 Washington counties surveyed received sole legal or joint legal custody more often than did men in the other states studied. Men received residential custody of 18 percent of children in Washington compared to six percent in California, eight percent in Connecticut and 11 percent in Vermont. The national average was ten percent. (See Table 1.)

**c. PUBLIC TESTIMONY**

Both men and women expressed concerns about their treatment in the court system regarding custody and visitation. Although Washington's new Parenting Act replaces the terms "custody" and "visitation" with the concept of "residential time", most speakers referred to the more familiar terms used in the past. Mothers expressed concern that the courts did not give sufficient attention to issues of domestic violence and sexual abuse in custody and visitation determinations. Fathers perceived that requests for child custody were not given adequate consideration by the courts; that attorneys discouraged them from seeking custody; and that the courts did not enforce their visitation rights via contempt proceeding

At six of the public hearings men described the problems facing fathers who seek custody. In Pasco, one father testified that the "tender years doctrine" discriminates against fathers who seek custody. He testified that even though the mother was considered unfit, the judge in his case told his attorney, ". . . if the child was under five years old, the child would go with the mother, period."<sup>178</sup>

In Longview a representative of United Fathers and Mothers noted:

- . . . [I]n Cowlitz County approximately 90% of all custody awards . . . go to the mothers . . . [this] philosophy is blatant discrimination. It presumes that nine out of ten fathers as a class are not worthy or not capable of bonding [with] and/or parenting their children.<sup>179</sup>

At the Seattle hearing, one father commented not only on gender bias but also on the time and expense involved in a custody suit:

- This is not a women's issue; this is not a men's issue . . . There is [sic] injustices on both sides . . . I'd like to be left alone to raise my own child instead of going back to court year after year, month after month. I've got one more year to go, and after ten years, it's cost me well over \$50,000.<sup>180</sup>

An attorney at the Bellingham hearing reported that fathers are beginning to receive more consideration in custody cases:

- . . . I think one of the changes I've seen is there's a lot more consideration given to men in custody decisions than [there] used to be . . . I think a lot more attorneys instead of saying to the father, "You don't have a chance, these are young kids and the judge is going to award them to their mother." . . . people are taking that before the court and having a full hearing on it . . . because some changes are perceived.<sup>181</sup>

The campaign director for an initiative seeking gender neutrality in child custody noted this problem in a newspaper interview:

- There is rampant and recurring gender bias throughout Washington State in family and superior courts, despite the Equal Rights Amendment to the State Constitution . . . Both sexes, women as well as men, fathers as well as mothers, should have an opportunity to petition the courts for custody of their own children.<sup>182</sup>

From the mothers' perspective, witnesses felt that the courts gave less credence to the testimony of mothers on domestic violence and sexual abuse allegations in custody and

visitation determinations. One Seattle attorney related a case in which a judge set aside a commissioner's order requiring supervised visitation to a father:

- His [the judge's] sole act to protect the child was to yell across the courtroom to the father . . . "Don't do it again." This case represents gender bias in two forms. First, the mother's concern over her child's safety was totally disregarded, while the father's statements were simply blindly trusted. . . . [S]econd, . . . that this female child's needs for safety were ignored in favor of the father's rights for visitation.<sup>183</sup>

A physician submitted written testimony regarding another case in which a mother's concern for her child was disregarded where there was an allegation of sexual abuse by the father:

- The judge ordered visitation with the child supervised by a family friend. He then made a statement to the effect that he hoped the parties were happy with the arrangement to which the mother's attorney replied that he was but there were women outside chambers (myself, a C.P.S. [Child Protective Service] caseworker, the child's grandmother and aunt) who were not, to which the judge replied, "Then tell them this is a court of law, not a shopping mall."<sup>184</sup>

#### 4. CHILD SUPPORT

Parents, attorneys, and social workers testified regarding inadequate child support orders, the economic consequences for the residential parent, and enforcement problems. A particularly disturbing issue was the acknowledgement of attorneys and judges alike that they were aware of situations in which mothers agreed to less support if fathers did not contest custody.

The economic difficulties of women and children post-dissolution are compounded when awarded child support is not paid. The 1985 U.S. Bureau of the Census data indicated that of the mothers ordered child support, nearly 40 percent received payment irregularly or not at all. In Washington, the magnitude of the problem is evident in the amount of money that goes uncollected. For example, from July to December 1987, the Office of Support Enforcement reported an average caseload of around 168,000 active cases, with a combined total delinquent support debt balance of \$415 million. Of that total \$311 million was owed on public assistance cases and \$104 million was owed to parents who were not seeking public assistance.<sup>185</sup>

a. **LAWYERS' AND JUDGES' SURVEYS**

Attorneys perceived that mothers occasionally compromise either property division or child support in order to avoid a custody dispute by the father.<sup>186</sup> Almost half the judges believe that situations exist where mothers concede more than half the property to fathers in exchange for the fathers' agreement not to seek custody.<sup>187</sup>

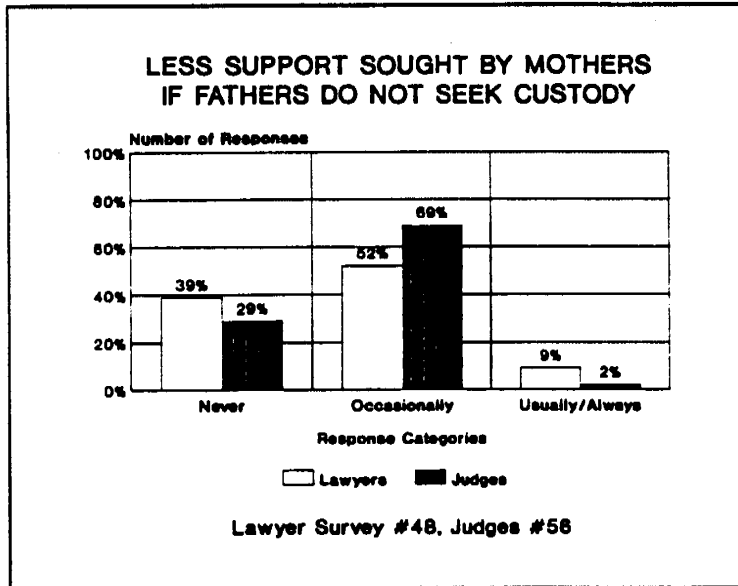


Figure 22 Barter Support for Custody

Sixty-one percent of the lawyers said they had occasionally represented mothers who accepted less child support than the father's income would call for in exchange for the father's agreement not to contest custody. More than two-thirds of the judges (71 percent) believe that situations exist where mothers agree to accept less child support in exchange

for fathers' agreement not to seek custody.<sup>188</sup> This bartering of support in exchange for custody may have serious negative economic consequences for both the mothers and the children post dissolution.

Seventy-five percent of the lawyers surveyed answered that judges "usually or always" use uniform child support guidelines consistently and address the realistic income and earning capacity of the custodial and non-custodial parents.<sup>189</sup>

More than 45 percent of the attorneys stated judges' orders "usually" or "always" reflect a realistic understanding of the costs of raising children and the actual needs of particular children.<sup>190</sup> Most judges view child support orders as "usually or always" reflecting a realistic understanding of child-rearing costs (70 percent) and the needs of particular children (71 percent).<sup>191</sup>

One judge disagreed and commented that his colleagues have a limited view of the true costs of child rearing, and are prone simply to accept the parties' agreements, rather than independently assess needs and abilities.<sup>192</sup> One attorney described a judge's lack of understanding in this response to a request for additional child support for two children:

- [the] judge . . . denied the mother's request that child support continue beyond majority to cover post high school education costs. Judge . . . reasoned that the son would probably go into business with his father and therefore not need a college education and, regarding the daughter, stated, "the only reason girls go to college is to find a husband and get married anyway." (Member of Washington State Bar Association.)<sup>193</sup>

Most judges (82 percent) believe that child support orders realistically reflect the non-custodial parent's earning capacity. However, only 48 percent of the lawyers agreed with them.<sup>194</sup> Nearly all responding judges (90 percent) and lawyers (91 percent) believe women who are employed outside the home have been ordered to pay child support when their ex-husbands are awarded custody.<sup>195</sup> However, one lawyer wrote:

- When fathers do have custody of the children, getting child support ordered from the mothers, even when the mothers have good jobs, is inconsistent, can't be predicted, frequently isn't done, or is less than what a similarly situated father would have to pay. (Member of Washington Women Lawyers.)<sup>196</sup>

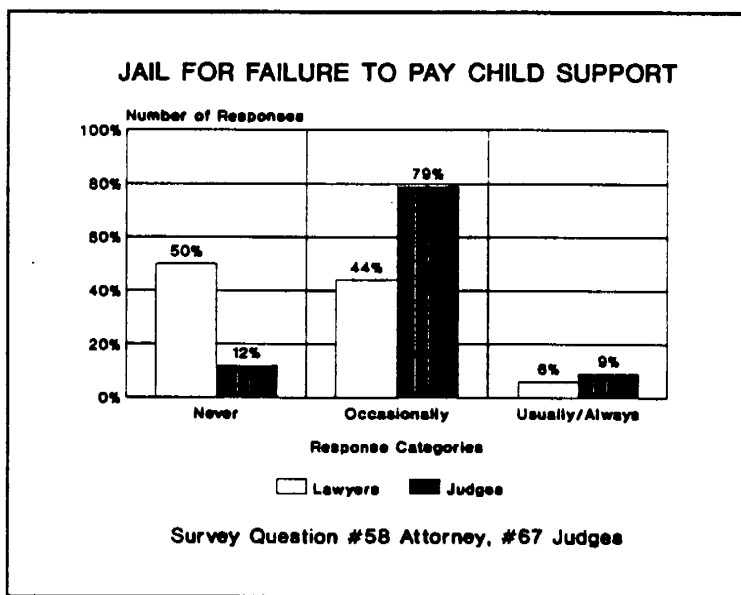


Figure 23 Failure to Pay Child Support

Judges are seen by 94 percent of responding lawyers as "never" or "rarely" punishing a parent with jail for failure to pay child support.<sup>197</sup> Seventy-nine percent of judges responding believe that parents who fail to abide a child support order have been occasionally jailed for civil contempt.<sup>198</sup>

Less than ten percent of judges think non-payers have "usually"

or "always" been jailed. (See Figure 23.)

**b. PUBLIC TESTIMONY**

Many speakers protested the inadequate child support orders and lack of enforcement procedures, including interstate enforcement problems. The coordinator of a volunteer lawyer program for civil legal representation of low income people described several specific problems women have with obtaining and enforcing child support orders:

- -Fear of abuse from an ex-husband if an attempt was made to collect support;  
-Threats from fathers to sue for custody if they're asked to pay child support;  
and  
-Willingness of women to forego support and deny visitation to protect children against abusive fathers<sup>199</sup>

A representative of Evergreen Legal Services testified that he sees hundreds of women each year with problems relating to welfare:

- The vast majority of those women are all on welfare because their child support was originally set too low or it is not being enforced. It was originally set too low because there was an informal deal cut before the divorce occurred that swapped off custody for child support because women weren't represented in court and because there was a historical bias against establishing support at realistic levels.<sup>200</sup>

Other speakers testified regarding problems with the Office of Support Enforcement (OSE) in modifying support orders, starting paternity actions against a mother's wishes, subjecting a mother and her child to contact with a man she fears/dislikes, and requiring her to give up her public assistance money. A Bellingham woman related problems with contacting and getting action from the Office of Support Enforcement. She said she only got a response from OSE after she made a personal visit to her local Congressman's office.<sup>201</sup>

The Regional Administrator for the U.S. Department of Health and Human Services, Family Support Administration, and the Regional Representative for the Office of Child Support Enforcement for Region X testified in Seattle that if realistic child support orders were imposed, annual nationwide support would increase from the current \$10 billion to \$26 billion.<sup>202</sup>

Washington State has been actively working to improve the situation with inadequate and unpaid child support. The Washington Support Registry, which went into effect on January 1, 1988, was created to improve the collection and payment of child support. Its primary function is to allow a payroll deduction to be initiated for collecting child support when a parent is more than 15 days late on a payment. Washington has also instituted a new Child Support Schedule which is presumptive, may not be varied by private agreement alone, and is subject in all cases to court review. Courts do have discretion, however, to depart from the schedule if they make findings as to the reason.

**c. DISSOLUTION CASE STUDY**

The case study attempted to discover some basic information regarding child support and support related provisions. While 384 cases out of the 700 surveyed involved minor children, complete data on child support and related provisions was not available in all cases or surveys. The information provided here is based upon those cases for which data was available. (See Appendix F for the detailed tables.)

Of particular concern is the finding in the case study that the mean average monthly amount of child support ordered per child in Washington in 1987 falls below the mean amount, \$218, awarded nationwide in 1985. In the 1987 Washington cases studied, the mean child support awarded on a monthly basis per child was only \$197. Fathers were ordered to pay a mean monthly amount of child support of \$206 (median = \$215). Mothers were ordered to pay a mean monthly amount of \$86.95 per month (median = \$75). Information on the level of child support was available in 80 percent of the cases involving minor children. (See Appendix F, Table 13.)

The difficulty of obtaining reliable income information for husbands and wives has been addressed earlier in the report. From the available data in those cases in which some income information was available, husbands had a mean monthly income of \$1,646.38 (median = \$1,500.00) while wives had a mean monthly income of \$903.48 (median = \$750.00). (See Appendix F., Tables 2 and 3.)

Closely related to the issue of adequate basic child support orders is the extent to which the court provides for day-care expenses, health insurance, life insurance policies to secure the support obligation, allocation of the dependency exemption, and the duration of the support obligation. Many of the decrees made some provision for health insurance (79 percent of all cases) and the allocation of the IRS dependency exemption (51 percent of all children). Much less frequently provisions were made concerning life insurance (28 percent of all cases).

Most disturbing is that only nine percent of the decrees surveyed made any provision for the allocation of day-care expenses. In those few cases in which day-care expense were addressed both parents were ordered to contribute to the cost in 72 percent of the cases. The husband was solely ordered to pay the cost in 22 percent of the cases and the wife was solely ordered to assume the expense in six percent of the cases.

Given the substantial and rising cost of day-care, the failure to provide for this expense via support provisions is likely to significantly disadvantage the residential parents who are predominantly women. According to the case study women have residential care of 79 percent of the minor children. When this failure to provide for day-care is coupled with the income disparity between husbands and wives and the mean monthly child support of \$198, it is evident that women are assuming a disproportionate share of the real costs of raising children.

The case study data reflects that in the majority of cases (71 percent) the child support obligation terminates when the child reaches age 18, graduates from high school or is emancipated. In only 15 percent of the cases was the support awarded for children after they turned 18 for post-secondary education and/or continued dependency. In 14 percent of the cases the duration of the support obligation was categorized as "other." In this category two cases were unspecified as to the duration of the support obligation; two cases continued the support obligation until the spouse remarried; 20 cases provided for a re-evaluation when the child reached age 18; and three provided for the support obligation to terminate at age 18 and then for the noncustodial parent to pay one half of higher education.



Seven other cases set forth a specified termination date beyond age 18. (See Appendix F., Table 15.)

In 79 percent of the cases, health insurance was addressed. In these cases both spouses were required to maintain it in 55 percent of the cases; the husband only in 39 percent of the cases; and the wife was solely responsible in 5 percent of the cases. In the 28 percent of the cases that provided for maintaining life insurance, the husband was ordered to do so in 65 percent of the cases, both spouses in 33 percent of the cases, and the wife in three percent of the cases.

Husbands were awarded the income tax dependency exemption for 60 percent of the children on whom this data was available (51 percent of all children involved in the survey). Wives were allocated the exemption for 33 percent of the children. In the remaining cases (seven percent), the exemption was alternated.

## **5. LEGAL SERVICES**

A particular problem facing both women and men is the lack of affordable legal assistance in family law matters. Women in many divorce situations are unprepared to face their spouses in court because they do not have the money to hire an attorney or expert witnesses. Throughout the state speakers at the public hearings said in no uncertain terms that it was their belief that women were being denied equal access to the justice system because they lacked money to pay an attorney (five speakers in Seattle; two in Spokane; two in Bellingham; one in Longview). Most of these speakers were representatives of groups who come in contact with large numbers of women (e.g., Northwest Women's Law Center, Equal Justice Coalition, EXPOSE, Displaced Homemakers of Spokane, The Opportunity Counsel, Whatcom County Volunteer Lawyer Program, and Washington Women Lawyers).

The problem of lack of legal representation (and thus lack of equal access to the legal system) appears to be considerably greater for women than for men and was demonstrated by, among others, a representative of Whatcom County Volunteer Lawyer Program. She testified that from mid-March 1987 to mid-March 1988, 411 of the 530 calls requesting a

volunteer attorney were family law cases. An examination of 188 calls asking for help on dissolution petitions showed that 85 percent of the calls were received from women and 15 percent from men.<sup>203</sup> A concern was expressed that the new Parenting Act with its required Parenting Plan, will only increase the already dire need for free or low-cost legal help with dissolutions.

Some data was obtained on the awarding of attorney's fees from the dissolution case study. (See Appendix F, Table 25.) Indications are that women are disadvantaged in terms of affordable legal representation to protect their interests in dissolution proceedings. In the 700 dissolution cases studied, in only 85 cases, the husband was ordered to pay the wife's attorney's fees. In no case was a wife ordered to pay attorney's fees for the husband. Data on how many husbands or wives requested that attorney's fees be paid was not available.

### C. CONCLUSIONS

The economic facts of life discussed in the first section of this report indicate the existence of strong cultural traditions tending to minimize the role of women as economic producers and to minimize the role of men as fathers. The outcome of dissolutions is influenced at least as much by these cultural influences as by the legal system. The Subcommittee believes that education regarding the effects of gender stereotyping and changes in the law and the courts should be implemented.

The Subcommittee believes that above all else, further study on the economic consequences of divorce is warranted. The issues of enhanced earning capacity, compromising property settlements and support in exchange for child custody, and the adequacy of maintenance awards after long term marriages and if the receiving spouse is to be responsible for raising children deserve further study. The need for fairness is continuing. The citizens of Washington would be well served by the judicial system requiring that the data necessary to measure its performance be collected and be available as a resource for future study of the economic consequences of dissolution. The summary of property division, maintenance, child custody and support, and legal assistance is followed

by the Subcommittee's recommendations.

## PROPERTY DIVISION

Property division provides one of the most troubling aspects of the family law area. It is an area which could not be properly studied because of the lack of uniformity in decrees and no ready way to assign value or percentages to how property was divided. It is apparent from public testimony that women, especially, feel aggrieved in this area. They claim husbands often have superior knowledge of family finances and may be in a position to hide assets. Wives fault the courts for failure to recognize the opportunity cost of homemaking and how long the difference in economic circumstances between the parties will prevail. The committee concludes that this is a vital area of concern and is deserving of a prospective study which will provide adequate information on actual cases to test the gender bias issues raised.

## MAINTENANCE

The responses from the surveys, the public testimony and data collected in the dissolution case study suggests that maintenance awards are primarily transitional or rehabilitative in nature. In cases such as *In re Marriage of Washburn*, 101 Wn.2d 168, 677 P.2d 152 (1984) and *In re Marriage of Morrow*, 53 Wn. App. 579, 770 P.2d 197 (1989), courts are recognizing maintenance as a flexible tool to redress inequities in spouses' earning capacity post-dissolution due to lost economic or career opportunities.

In Washburn, two cases were consolidated where one spouse had supported another through professional schooling but the marriage was dissolved before the marital community could enjoy the financial benefit flowing from the degree. The court held that where assets are insufficient to permit compensation through property division maintenance is appropriate. . . . "Under the extremely flexible provisions of RCW 26.09.090 a demonstrated capacity of self support does not automatically preclude an award of maintenance." In the consolidated case the court approved a lump sum award denominated as "equitable

restitution" but characterized it as maintenance since it was to be paid in installments. "Our concern is not the particular label . . . but rather its fairness as determined by those factors set out in RCW 26.09.090."

In Morrow, the court considered similar factors as well as a wife's "forfeited economic opportunities" and a husband's "dissipation and probable concealment of assets" as additional factors to sustain a maintenance award.

The Subcommittee concluded that substantial educational efforts for lawyers and judges need to be undertaken system-wide to increase awareness of the use of maintenance as a flexible tool to achieve fair results in dissolution cases. This education effort needs to heighten the awareness and consideration by the courts and attorneys of the economic data on women referenced in this report. It should include a reconsideration of the concept of maintenance as rehabilitative versus the overall economic equities the spouses face post-dissolution.

Awards of maintenance should not presumptively terminate upon the remarriage of a receiving spouse. This presumption has been, since 1972, embodied in statute RCW 26.09.170. Recipients of maintenance, thereby, automatically incur an economic penalty upon remarriage. In contrast, the payor spouse's ability to remarry is not burdened in this way. Subsequent remarriage should be irrelevant except as an occasion to reconsider the relative standard of living of the parties and make adjustments as may be indicated. The law should explicitly recognize that maintenance has as one of its purposes to address disparities in post-divorce income caused by unequal earning power.

The term "rehabilitative" maintenance, with its negative connotation, should be replaced by "compensatory" maintenance, reflecting the importance of evaluating the respective standard of living each party will experience after divorce in light of the contributions each has made to the marriage, whether financial or otherwise. The courts should also be sensitive to possible inequity if maintenance is limited to what is considered to be the average or normal period of time for acquiring higher education, particularly if the receiving spouse is to be responsible for raising children during this period. Awards should,

therefore, often be for larger sums and for longer periods than they are at present, even when child support is awarded at the same time.

## **CUSTODY**

As to custody, there are no simple formulas to make the bias, or perception of bias, disappear. For example, 79 percent of the children in our case study went to live with their mothers after divorce. Some observers believe that this is evidence of a bias against fathers. Yet, in our surveys, judges and lawyers both agreed that the most important factor in determining custody is determining which spouse is the primary caretaker of the children when the marriage was intact. Indeed, this factor is now required by the new Parenting Act to be the paramount consideration. Therefore, for those couples who continue to structure their relationships so the mother is the primary caretaker, custody trends will continue to reflect that pattern.

The surveys and public testimony do indicate a perception of bias in favor of maternal custody even in those cases in which fathers have been equally involved in attending to their children's needs. Such bias may be perpetuated by assumptions lawyers make about what a judge will do in placing custody. The committee's most important recommendation in this regard is that both judges and lawyers conscientiously assess each family situation presented in the light of the factors required by the Parenting Act, without assumptions based solely on gender.

Other serious consideration must be given to educating the judiciary regarding the perceptions expressed that mother's allegations of child sexual abuse are not believed or treated seriously and that judges and attorneys are aware of the bartering of property and support orders in exchange for custody.

## **CHILD SUPPORT**

The public expressed heightened concern about the inadequacy of child support awards and the lack of enforcement when payment is not made. The mean average monthly

child support, \$198, according to case study data in Washington State is below the 1985 national average of \$218. Most of the decrees surveyed provided for health care for the child. Few provided specific allocations for child care. In the majority of cases, support obligations terminated at age 18, graduation from high school, or majority.

Both judges and lawyers believe that mothers "occasionally" requested less child support in order to avoid child custody disputes. The role that property has in terms of providing financial support for children is unclear. The legal system needs to develop methods for collecting accurate data in the context of dissolution.

The new Child Support Schedules are presumptive. The judges do have the discretion to depart from the schedules if they make findings in support. It remains to be determined how this exercise of power will affect the amount of the awards. (The law took effect in July 1988). If the law has the effect of raising the amount of child support awarded and received, women and children are likely to benefit. Enforcement problems, however, are likely to remain. Moreover, if maintenance awards were to be reduced while child support is increased, it is unclear whether families would improve financially.

The legal system has to make a greater commitment to ensure that child support payments are made. The statistics on the percentage of women and their children in poverty make this clear. There needs to be more security obtained to promote child support payments. There is currently a lack of affordable child care and awards made have generally not been adequate to cover child care costs, re-enforcing the cycle of poverty.

## **LEGAL ASSISTANCE**

The Subcommittee is concerned that the lack of affordable legal assistance in family law matters denies women and men equal access to the justice system. Testimony that women, in particular, were disadvantaged in court because they lacked money to pay attorneys affects the fair administration of the law. There is need for developing alternative methods for resolving marital disputes as well as additional resources for providing legal assistance.

## **D. RECOMMENDATIONS**

### ***For Judges:***

1. The Superior Court Judges' Association and the Legislature should jointly study maintenance and property division to recommend changes which will achieve greater economic equality among family members following dissolution.
2. The Superior Court Judges should consider whether maintenance guidelines or a maintenance schedule should be developed, and if so, develop one for use by the trial courts statewide.
3. Judges should require and enforce dissolution decrees to explicitly address the following:
  - a. Security for the child support obligation, such as maintenance of life insurance with a particular named beneficiary;
  - b. The responsibility for maintaining medical insurance on behalf of the children, as required by statute;
  - c. The responsibility for educational support of children beyond high school; and
  - d. A specific provision for the allocation of employment related day-care expenses between the parents, as required by statute.
4. Develop education programs for judges in the area of custody, to reinforce the concept of addressing each case on its merits, avoiding percentage goals and presumptions, and recognizing the diversity of the families who present themselves. Both judges and lawyers should conscientiously assess each family situation presented in the light of the factors required by the Parenting Act, without assumptions based solely on gender.

### ***For the Legislature:***

1. Enact legislation which makes the issue of a spouse's earning capacity a specific statutory factor in awarding maintenance or property division.
2. Consider replacing the term "rehabilitative" maintenance, with its negative connotation, with "compensatory" maintenance, reflecting the importance of evaluating the respective standard of living each party will experience after divorce in light of the contributions each has made to the marriage, whether financial or otherwise.
3. Reevaluate that portion of RCW 26.09.170 which automatically terminates maintenance upon the remarriage of the party receiving maintenance.
4. Amend RCW 26.18.010 et seq. (or ch. 26.18 RCW) to authorize mandatory wage assignments for maintenance payments to the same extent as is currently provided for child support obligations.
5. Immediately address the need for reasonably affordable quality day-care for working parents. Consider incentives for public and private sector employer sponsored day-care facilities.
6. Consider alternative dispute resolution methods for addressing marital dissolutions in appropriate cases.

7. Review the issue of divided military benefits and the McCarty decision to determine if case law adequately addresses the problem or if additional legislative action is necessary.
8. The Superior Court Judges' Association and the Legislature should jointly study maintenance and property division to recommend changes which will achieve greater economic equality among family members following dissolution.

***For the Washington State Bar Association:***

1. Develop continuing education programs on the effects of gender stereotyping in family law matters and the need for lawyers to provide adequate economic data and expert witnesses to the judges in marital dissolution cases.
2. Develop more programs for free or low cost counsel and use of expert witnesses in family law areas.

***For Judges, the Legislature, County Government, and Bar Associations:***

Address the barriers to court access which may significantly bar meaningful and equal participation by litigants, including:

- a. The lack of adequate legal assistance in family law matters;
- b. The high cost of attorney fees;
- c. The lack of alternative methods for addressing marital dissolutions;
- d. The lack of child care at courthouses; and
- e. Transportation difficulties for litigants in getting to the county courthouse.

***For The Gender and Justice Implementation Committee:***

1. Work with the Board for Trial Court Education and the Bar to develop and provide further education for judges and lawyers about the economic consequences for families following dissolution.
2. Develop a standard economic data form for inclusion in all dissolution decrees which the Supreme Court should require be filed by adoption of court rule.
3. Implement a prospective study of contested dissolution cases which will gather data on property division which could not be done in the retrospective dissolution case study.
4. Study and make recommendations for the court's use of contempt powers to enforce family law decrees.
5. Review the effects of the Parenting Act on maintenance and child support awards.



**V. REPORT OF THE SUBCOMMITTEE  
ON THE ECONOMIC CONSEQUENCES  
OF OTHER CIVIL LITIGATION**

**Judith A. Lonnquist, Esq., Chair**

**Elizabeth J. Bracelin, Esq.**

**Honorable Dale M. Green**

**Professor James R. McCurdy**

**Senator Janice Niemi**

**Paul L. Stritmatter, Esq.**

**Senator Phil Talmadge**



## A. INTRODUCTION

As a Subcommittee of the Committee on the Status of Litigants, the Subcommittee on the Economic Consequences of Other Civil Litigation limited the scope of its initial research to topics that did not involve issues related to divorce or violence against women. These issues were being reviewed by other subcommittees. The Subcommittee discussed seven areas of civil litigation for possible study:

- consumer protection
- personal injury
- civil rights
- other torts such as defamation or invasion of privacy
- loss of consortium
- wrongful death
- court-awarded attorneys' fees

Because of the numerous variables other than bias inherent in consumer protection, personal injury, and other torts litigation, it was determined that judgments in those issue areas would afford no clear picture of potential sex bias. Thus, the Subcommittee decided to review wrongful death, loss of consortium, and attorneys' fees awarded by the courts pursuant to the Washington Law Against Discrimination (RCW 49.60). Specifically, it was decided that interns would be employed to review *Jury Verdicts Northwest*, computer-generated reports on the Superior Court Management Information System (SCOMIS), and individual court case files, where necessary. Attorneys who had handled such cases would be contacted for further information.

In addition the Subcommittee prepared questions related to these three issue areas for inclusion in surveys of the Bench and Bar. At least one member of the Subcommittee attended each public hearing to record any testimony addressing the Subcommittee's three issues.

Once the data was compiled the Subcommittee divided into three parts to review and analyze it. Each working group felt limited by insufficient data because of the scarcity of cases that went to trial on these issues, the many factual variables among cases, and the unavailability of detailed information unless each court file was reviewed. Time and resources precluded the latter.

The discussion that follows does not purport to give definitive answers to the question of whether gender bias has influenced the outcome of wrongful death and loss of consortium litigation or the award of attorneys' fees in discrimination cases. Without a much more comprehensive study, definitive answers are impossible. What the Subcommittee has attempted to do is to identify problem areas, perceptions of litigants, advocates and judges, and, where possible, suggestions for solutions or further study.

## **B. WRONGFUL DEATH**

Wrongful Death is a civil court cause of action in which the personal representative or family member of a decedent may sue for recompense if the death was caused by the wrongful act of another. The intent of the wrongful death case study was to determine if the gender of the decedent in a wrongful death case affected the number and amounts of verdict awards to the plaintiff. If gender was a significant variable, it would be argued that the differences in awards reflect gender bias.

Members of the Subcommittee hypothesized that plaintiffs seeking monetary awards for the wrongful deaths of women receive lower awards than plaintiffs seeking awards for the wrongful deaths of men. They noted, however, that it would be difficult to separate gender from the other factors, including age, marital status, work experience, earning potential, and number of dependents, to be considered in computing wrongful death awards.

### **1. BACKGROUND**

The first statute providing for recovery for wrongful death in the Washington territory appeared in 1854. It was restricted to providing compensation to the widow when her husband was killed in a duel. *Civil Practice Act* § 496 [1854] Wash. Terr. Sess. Laws 220.

Since that time, the legislature and judiciary have enlarged the scope of available remedies to those suffering losses resulting from the wrongful death of a relative. Judge Weaver points this out in *Warner v. McCaughan*, 77 Wn.2d 179, 183, 460 P.2d 272, 274 (1969) where he states: "From common law to present theory of survival of actions for damages to

persons and property and wrongful death has been a long and tedious legislative and judicial journey.<sup>204</sup>

The Legislature in 1985 clarified who the beneficiaries of a wrongful death action are. These beneficiaries can include spouses, children, step-children, or heirs, parents, sisters, and brothers who are dependent on the decedent. An action for personal injury survives the decedent and can be prosecuted on behalf of the surviving personal representative. In 1986, the Tort Reform Act required juries to segregate pecuniary loss into economic and noneconomic elements and determine each individual beneficiary's pecuniary loss.

The Washington Supreme Court held that the measure of damages under these statutes is limited to "actual pecuniary loss" suffered by the beneficiary.<sup>205</sup> Pecuniary loss, however, has not been restricted to the meaning of economic loss. It has generally been held that loss to the survivor includes such intangible losses as loss of support, companionship, care, attention, protection, advice, love, guidance, society, and consortium. See *Parish v. Jones*, 44 Wn. App. 449, 722 P.2d 878 (1986); *Meyers v. Harter*, 76 Wn.2d 772, 459 P.2d 25 (1969); *Hinton v. Carmody*, 182 Wash. 123, 45 P.2d 32 (1935).

A significant factor in analyzing the wrongful death awards to male decedents versus those to female decedents is the real difference in the earnings of men and women. For example, the RAND Accident Survey calculations, using United States Current Population Survey (CPS) data for the years 1968-1985 to estimate salary levels for decedents, on average, assigned women full time earnings only 70 percent of men's earnings. In addition, women's expected incomes were only one-fourth as high as men's, partly reflecting women's lower rates of participation in the labor force. However, even when accounting for this difference in participation, the estimated wages for female decedents are only 37 percent of male wages.<sup>206</sup>

Another consideration is the fact that working life tables for women are based on current labor force participation rates and may underestimate future work life durations.<sup>207</sup> Despite the fact that there are federal statutes prohibiting discrimination in pay on the basis of sex, data indicate that women workers, generally earn less per year than men, even though

employed in the same occupations.<sup>208</sup> Thus the economic value of women may be considered less than that of men in determining damages in wrongful death cases. One attorney on the Task Force noted that although juries take into consideration loss of services, they are more inclined to base their award on loss of income rather than on loss of services. Washington law does not specifically address the compensation for the value of a homemaker's services.

## **2. DATA COMPILATION**

### **a. CASE STUDY**

The case study reviewed data on 100 wrongful death actions in the Washington courts from 1984 through June 1988. Data was limited to available records from two sources: the Superior Court Management Information System (SCOMIS) and *Jury Verdicts Northwest*.

Neither source was able to provide a complete record of all wrongful death cases during that time period. In SCOMIS, wrongful death actions could be recorded under the WDE, wrongful death, code or included in other civil actions such as PIN, personal injury, or TMV, tort-motor vehicle. Because of the time constraints for this study, it was not feasible to search all other case records for wrongful death actions. Although *Jury Verdicts Northwest* could not provide a complete record of cases, since reports are submitted on a voluntary basis by trial attorneys, staff of the publication indicated that 65 to 80 percent of state jury trial verdicts are reported.<sup>209</sup>

The 100 cases studied were from 20 of the 39 counties in Washington. The cases involved more deceased males than deceased females. Decedents ranged in age from pre-term infants to age 85. Cause for wrongful death included claims of negligence by individuals and corporate bodies in medical malpractice, machine failure, automobile accidents, child care, and negligence by state and municipal bodies in police actions, fire department actions, and road care. For this study settlement amounts, separately or in addition to verdict awards, were not analyzed.

For data analysis, each monetary verdict award was considered separately. Of the 100 cases, there were 98 separate verdicts involving 68 claims for male decedents and 30 for

female decedents. Four cases involving multiple decedents did not separate the awards to individual decedents. Those cases have not been included in further analysis.

Although more than twice as many cases involved male decedents as female decedents, a higher percentage of the cases for female decedents (63 percent, N = 19) than for male decedents (47 percent, N = 32) won verdict awards for the plaintiffs. Figure 24 shows the percentage of verdicts to plaintiffs, to defendants, and settlements.

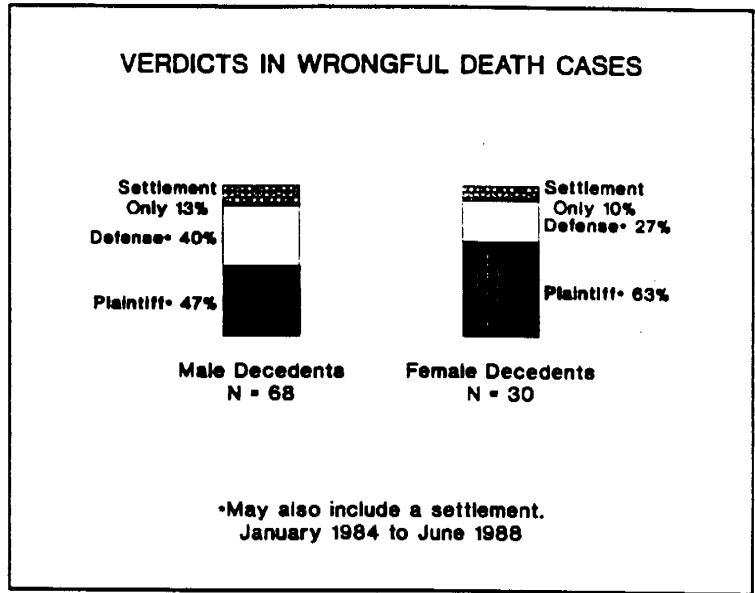


Figure 24 Wrongful Death Verdict Awards

The proportion of adult decedents (age 18 and older) to minors (pre-term infant to age 17) is comparable: 56 percent adult males and 44 percent minor males; 57 percent adult females and 43 percent minor females. Since the total number of verdict awards to plaintiffs is relatively small (female decedents = 19; male decedents=32) the awards to adults and minors are combined for analysis of the mean, midpoint, and range.

Table 2 Range, Mean and Midpoint of Verdict Awards

Verdict Awards	Male Decedents (Number = 32)	Female Decedents (Number = 19)
Range	\$1,248-\$1,047,117	\$20,000-\$503,000
Mean	\$332,166	\$214,923
Midpoint	\$243,000	\$200,000

The range, mean, and midpoint of verdict awards to the plaintiffs were greater for male decedents than for female decedents. The mean award in cases with male decedents

was \$332,166. The mean award in cases with female decedents was \$214,923.

When the awards are analyzed by year, the mean verdict amount to male decedents is consistently greater than the mean verdict amount to female decedents. (See Figure 25.)

The awards were also analyzed according to the relationship of the plaintiff to the decedent. Plaintiff/decendent relationships are grouped into three categories: spouse, parent/child, and other.

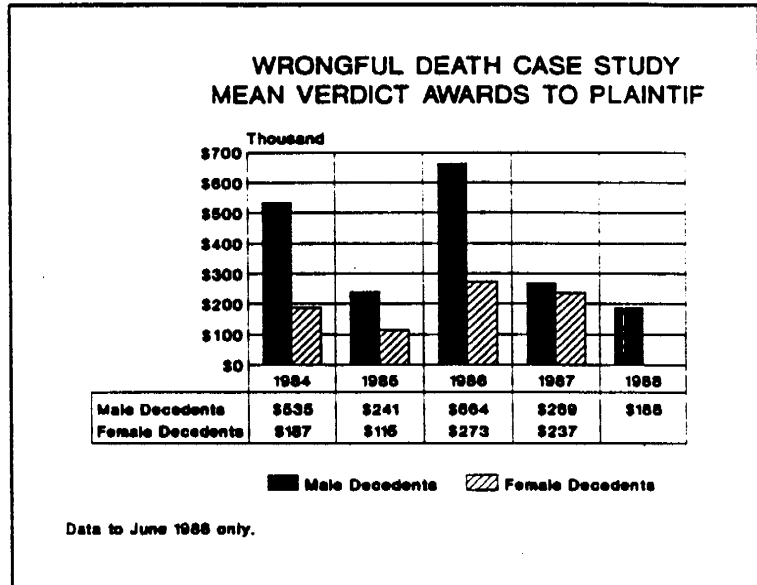


Figure 25 Mean Verdict Amounts by Year

Table 3 Mean Verdict Awards, Gender and Relationship of Plaintiff to Decedent

Plaintiff/Decedent Relationship	N	Male Decedents		Female Decedents		
		%	Mean Award	N	%	Mean Award
<u>Spouse/Spouse</u>	14	44%	\$436,980	4	21%	\$276,415
<u>Parent/Child</u>						
Parent/Minor Child	6	19%	152,303	7	37%	130,142
Parent/Adult Child	1	3%	500,000	2	11%	466,000
Adult Child/Parent	2	6%	154,302	2	11%	54,405
Minor Child/Parent	1	3%	1,248	2	11%	239,000
<u>Female Other/NA</u>	6	19%	388,489	1	5%	477,000
<u>Male Other/NA</u>	2	6%	379,028	1	5%	80,000
<u>Total</u>	32	100%	\$332,166	19	100%	\$214,923



The parent/ child category includes parents as plaintiffs for either an adult or minor deceased child and parents as decedents with one or more adult or minor children as plaintiffs. The "other" category includes all plaintiffs for which no clear identification could be found. Since some of the plaintiffs in the "other" category had the same surname as the decedent, spouses or parents could be included in this category.

Table 3 outlines the various relationship categories and the mean verdict awards to the plaintiffs. In 44 percent of the cases involving male decedents, the plaintiffs were spouses and the mean verdict award was \$436,980. In 21 percent of the cases with female decedents, a mean award of \$276,415 went to spouses.

**b. LAWYERS' AND JUDGES' SURVEYS**

Lawyers and judges were asked to respond only to those sections of the surveys in which they had experience in the last three years. Approximately 35 percent of the judges and 15 percent of the attorneys answered the three questions on wrongful death cases. In most cases their perceptions are similar, however, the judges were more inclined to see verdict awards as being comparable for male and female decedents.

The first question asked:  
 In similar wrongful death cases, have larger awards been received by survivors of (1) Men, (2) Women, (3) Neither (that is, awards are comparable).  
 In response, 72 percent of the lawyers and 43 percent of the judges noted that in similar wrongful death cases, larger awards have been received by survivors of men. Fifty-six

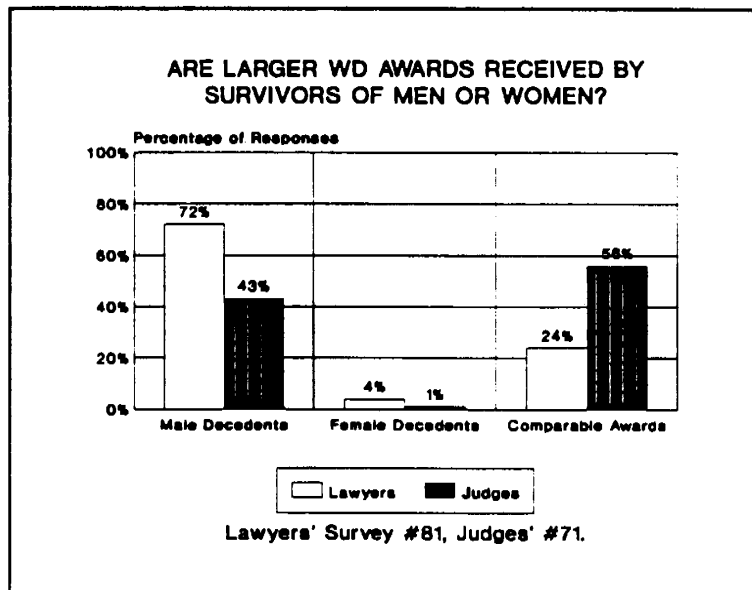
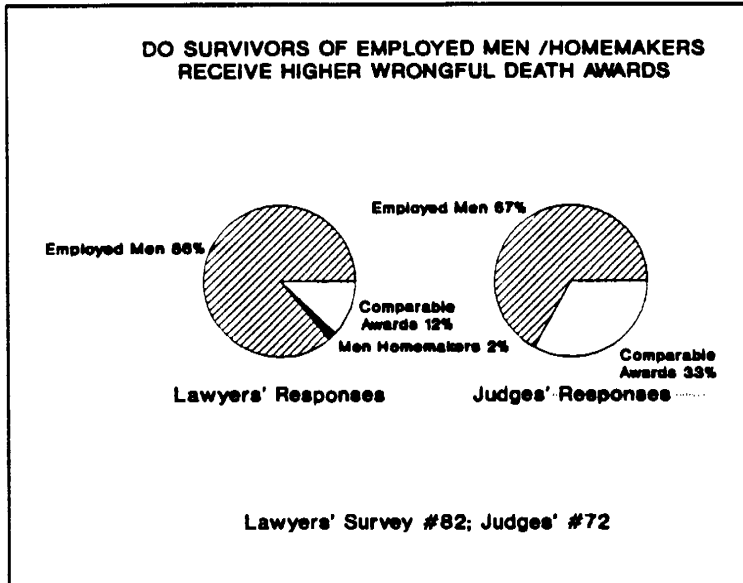


Figure 26 Survey Responses - Wrongful Death

percent of the judges said that awards are comparable to men and women.

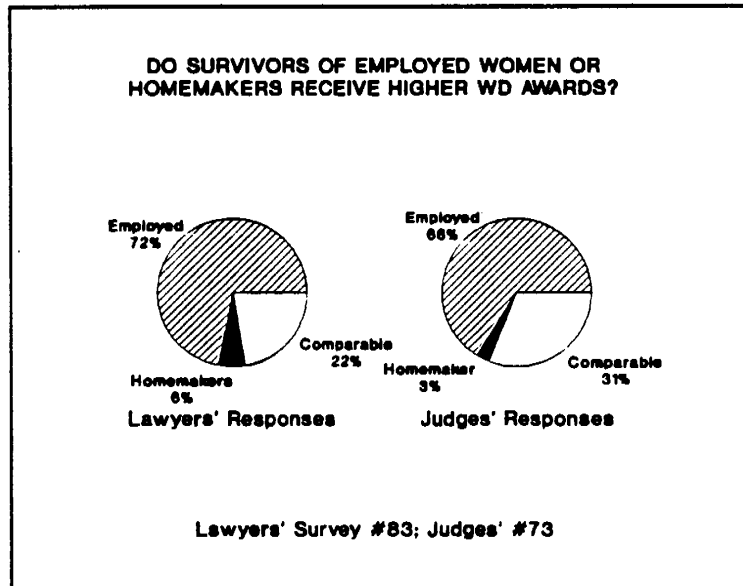


**Figure 27 Survey Responses - Wrongful Death (Men)**

The second question asked: In similar wrongful death cases, have larger awards been received by survivors of (1) Men who were employed outside the home, (2) Men who were homemakers, (3) Neither (that is, awards are comparable).

In response, a majority of both attorneys (86 percent) and judges (67 percent) agreed that in similar wrongful death

cases, larger awards have been received by survivors of men who were employed outside the home than by men who were homemakers.



**Figure 28 Survey Responses - Wrongful Death (Women)**

Some difference between judges and lawyers was seen in the responses to the third question: In similar wrongful death cases, have larger awards been received by survivors of (1) Women who were employed outside the home, (2) Women who were homemakers, (3) Neither (that is, awards are comparable).

Lawyers (74 percent) noted that in similar wrongful death cases, larger awards have been received by survivors of women who were employed outside the home than by women who were homemakers. Fifty-five percent of the judges responded that larger awards have been received by survivors of women who were employed outside the home; 45 percent noted the awards were comparable. None of the judges said that larger awards were received by women who were homemakers.

### c. JURY INSTRUCTIONS

As it is impossible to determine individual biases of jurors, this study reviewed jury instructions. In 1988, the Office of the Administrator for the Courts completed a revision to *Washington Pattern Jury Instructions*, Sections 31.00 to 31.06 regarding jury instructions in wrongful death actions. The revisions incorporated statutory provisions of the 1986 Tort Reform Act and included specific instructions with respect to apportioning damages between multiple beneficiaries and to segregating pecuniary loss into economic and noneconomic elements. The jury instructions are gender neutral in language.

## 3. ANALYSIS OF THE DATA/CONCLUSIONS

The wrongful death case study does not clearly support a hypothesis that gender bias exists in verdict awards in wrongful death cases. The results of the study indicate that plaintiffs for male decedents do win greater awards. There is no evidence to prove that gender is the determining factor in the size of the verdict award. Because there are multiple variables to be considered in each wrongful death action, gender could not be isolated as the sole cause for award determinations.

A summary of the 98 wrongful death verdicts indicates the following:

- A higher percentage of the 98 wrongful death cases involved male decedents (69 percent) than female decedents (31 percent).
- A higher percentage of the cases involving female decedents (63 percent) than cases involving male decedents (47 percent) won verdict awards.
- The mean verdict award for male decedents (\$332,166) was greater than the mean for female decedents (\$214,923).

- The available data suggests that the highest percentage of verdict awards for male decedents was awarded to female spouses (44 percent); for female decedents the highest percentage was awarded to parents (37 percent).

The lawyer and judges' surveys and the public hearing testimony provided no specific testimony relating to gender bias in wrongful death cases. Neither lawyers nor judges specifically noted any gender bias in wrongful death verdicts although both groups of respondents indicated that employed persons of either gender received higher awards than homemaker. While objective data does not indicate gender bias in awards, the study can not conclude that gender bias does not exist in these cases because of the subjective nature of the question.

## C. LOSS OF CONSORTIUM

### 1. BACKGROUND

As early as 1892, the Washington State Supreme Court recognized a husband's right to damages for loss of an injured wife's services in the household. *Hawkins v. Front St. Cable Ry.*, 3 Wash. 592, 595, 28 P. 1021 (1892). But in *Ash v. S. S. Mullen, Inc.*, 43 Wn.2d 345, 261 P.2d 118 (1953), the court denied loss of consortium damages to a wife whose husband had been injured. The court's ruling rested on the rationale that a wife had no right to such damages at common law and that any change in the law should be made by the legislature.

In 1980, however, the case of *Lundgren v. Whitney's, Inc.*, 94 Wn.2d 91, 614 P.2d 1272 (1980), overruled *Ash*, and established a cause of action to a wife for loss of consortium when her husband is injured by the negligence of a third party. The court found that the previous classification, by sex, violated the equal protection clause of the Fourteenth Amendment to the Constitution of the United States and Washington's Equal Rights Amendment, Const. art. 31, § 1.

The court has gone on in subsequent decisions to amplify the independent nature of the claim. In *Lund v. Caple*, 100 Wn.2d 739, 675 P.2d 226 (1984), the court ruled that a consortium action need not be joined in a lawsuit with the spouse who sustained the primary injuries, but may be maintained as an independent suit. In *Reichelt v. Johns-Manville Corp.*,

107 Wn.2d 761, 733 P.2d 530 (1987), the court ruled that a loss of consortium claim does not necessarily accrue when the primarily injured spouse's claim accrues, and so the statute of limitations may be different on each claim. In *Christie v. Maxwell*, 40 Wn. App. 40, 696 P.2d 1256 (1985), the Court of Appeals ruled that the negligence of the primarily injured person would not reduce a loss of consortium claim by the spouse. This ruling has since, however, been overturned by the legislature. RCW 4.22.020.

The question remains as to how consortium claims are treated in the courts based on the gender of the spouse presenting the claim.

## 2. DATA COMPILATION

The Gender and Justice Task Force Subcommittee on Civil Issues selected loss of consortium as an area of law to review for gender bias. Because of the recent change in law authorizing wives to bring claims for loss of consortium, the trial data was limited to the years 1984 through 1987. *Jury Verdicts Northwest* was the most complete source of statewide information available in a format easily retrievable, since SCOMIS does not list loss of consortium claims by a separate code.

**Table 4 Tried Loss of Consortium Claims**

Year	Claimants		Total
	Female	Male	
1984	11	13	24
1985	11	13	24
1986	4	7	11
1987	9	17	26
Totals	35	50	85

Three charts present the trial data compiled based on the sex of the claimant.

Each chart presents the data by year and includes a four year average: Table 4 shows the number of consortium claims that were tried. A breakdown of the trial results is presented in Table 5. Table 6

shows the average amount awarded each year compared by the sex of the claimant.<sup>210</sup>

Loss of consortium claims that were reported in *Washington Arbitration Reports* were also compiled. This publication includes only arbitrations conducted in Pierce, King and Snohomish Counties and is limited to data available for the years 1985 through 1987. The Subcommittee was unable to secure any significant data for consortium claims that were

settled before trial or arbitration.<sup>211</sup>

**Table 5**                      **Loss of Consortium Claims Found by Juries**

Year	Female Claimants		Unsure	Male Claimants		Unsure
	Award	No Award		Award	No Award	
1984	5	4	2	9	4	0
1985	6	5	0	7	7	0
1986	2	2	0	4	3	0
1987	4	3	2	11	6	0
<b>Totals</b>	<b>17</b>	<b>14</b>	<b>4</b>	<b>31</b>	<b>20</b>	<b>0</b>

**Table 6**                      **Average Jury Awards for Loss of Consortium**

Year	Female Claimants	Male Claimants
1984	\$7,840	\$ 7,877
1985	6,590	7,214
1986	9,000	14,375
1987	9,167	7,078
<b>Average</b>	<b>\$7,843</b>	<b>\$ 8,337</b>

**Table 7**                      **Loss of Consortium Awarded by Arbitrators**

Year	Female Claimants		Male Claimants		Total
	Award	No Award	Award	No Award	
1985	1	0	3	1	5
1986	3	1	10	5	19
1987	9	0	14	4	27



**CHART A CONSORTIUM SURVEY QUESTION OF ATTORNEYS**

In similar personal injury cases, have higher awards for loss of consortium been awarded when the disabled/deceased party is:

	<u>Lawyer Respondents</u>		Total
	<u>Women</u>	<u>Men</u>	
Disabled/deceased man	40 (42%)	48 (33%)	88 (37%)
Disabled/deceased woman	17 (18%)	22 (15%)	39 (16%)
Awards are comparable	38 (40%)	76 (52%)	114 (47%)
Column Totals	95 (100%)	146 (100%)	241 (100%)
No Answer			1267

**CHART B CONSORTIUM SURVEY QUESTION OF JUDGES**

In similar personal injury cases, have higher awards for loss of consortium been awarded when the disabled/deceased party is:

	<u>Judicial Respondents</u>		Total
	<u>Women</u>	<u>Men</u>	
Disabled/deceased man	2 (25%)	10 (17%)	12 (18%)
Disabled/deceased woman	2 (25%)	3 (5%)	5 (7%)
Awards are comparable	4 (50%)	46 (78%)	50 (75%)
Column Totals	8 (100%)	59 (100%)	67 (100%)
No Answer			155



### **3. ANALYSIS OF THE DATA**

A review of the data presented here provides no easy answers as to what role, if any, gender bias plays in the differences in awards to male and female claimants. The single significant conclusion that may be reached is that lawyers, as a group, are not sufficiently mindful of the changes in the law affected by *Lundgren v. Whitney's, Inc., supra* and its progeny, in terms of the availability of a claim for loss of consortium for female plaintiffs.

As the data indicates, in cases tried to jury verdicts male claimants seek damages for loss of consortium more frequently than do women claimants (men = 60 percent, number = 50; women = 40 percent, number = 35). Similarly, in arbitrations, men still claim loss of consortium more frequently than do women (men = 72 percent, number = 37; women = 28 percent, number = 14). Further study is required to determine whether the male and female claimant cohorts bear roughly the same characteristics with respect to marital status to determine whether lawyers in Washington State need greater training regarding the right of a woman to make a claim for loss of consortium.

Although differences were reported in average amounts awarded to male and female claimants in jury trials (males obtaining approximately \$500 more per claim) and in arbitrations (females obtaining approximately \$1,316 more per claim) no determination can be made from the raw data provided here as to whether the differences are statistically significant. Variables dealing with the length and stability of the relationship, the age of the injured party, etc., must be reviewed before any conclusion can be reached about the statistical significance of the difference in the amount of awards. The data gives no indications of gender bias in loss of consortium awards.

### **D. COURT-AWARDED ATTORNEYS' FEES**

#### **1. BACKGROUND**

The Washington Law Against Discrimination (RCW 49.60) provides that successful litigants may apply to the court for an award of "reasonable" attorneys' fees. Reasonable attorneys' fees are calculated by determining the reasonable amount of time required for the

case based on the complexity of the issues and multiplying the hours by the prevailing market rate for attorneys in the area where the judgment is rendered. This amount is the so-called "lodestar": the appropriate amount to be awarded unless other factors justify an enhancement. The judge may consider the "exceptional performance by counsel and for contingency factors" in deciding to enhance the basic "lodestar". *Blum v. Stenson*, 104 S. Ct. 1541 (1984).

## 2. DATA COMPILATION

### a. CASE STUDY

Discrimination cases reported in *Jury Verdicts Northwest* provided the data for this report. Between January 1, 1984, and December 1987, 26 cases of discrimination were litigated in Washington State Superior Courts; in only 10 did the plaintiff prevail.

**Table 9 Successful Discrimination Cases**

Type of Claim	Sex of Claimant	Sex of Attorney
Age	F/M	M
Age	F	M
Age	M	M
Handicap	F	F
Handicap	M	M
Religious/ National Origin	M	M
Race	M	M
Race	M	M
Race	M	-
Sex	F	M

Table 9 shows the type of discrimination claimed and the sex of the claimant and the attorney. As the table shows, only four of the plaintiffs were women.

Table 10 lists the amount of the plaintiff's award and the amount of attorney's fees awarded. (In one case, since the plaintiff proceeded *pro se*, attorney's fees were not considered, and in another case the parties settled the issue of attorney's

fees.) Table 10 also shows whether the amount requested was reduced by the trial court judge or whether a multiplier was awarded

In addition to analysis of *Jury Verdicts Northwest*, each of the attorneys were briefly interviewed to determine if the hourly rate or the number of hours requested had been reduced and whether a multiplier had been awarded. During the interviews, the attorneys were asked generally their sense of how attorney's fees were awarded in discrimination cases

and whether they identified any problems.

**Table 10 Attorney Fee Awards in Discrimination Cases**

Plaintiff	Attorney	Plaintiff Award	Attorney Fee
F	F	\$ 5,000	\$54,000 <sup>3</sup>
F	M	68,400	0
F	M	35,787	75,906 <sup>1</sup>
M	F	12,000	34,850 <sup>1</sup>
M	M	9,054	4,500 <sup>1</sup>
M	M	150,000	30,600 <sup>1,2</sup>
M	M	168,300	90,000 <sup>3</sup>
M	M	160,000	Settled
F/M	M	2,500/42,500	21,000 <sup>1</sup>

1. Fees Reduced                      2. Multiplier Awarded                      3. No Fees Reduced

**b. PUBLIC HEARINGS**

Public Hearing's testimony suggested that where the judge had substantial discretion, such as in hourly fee or hours reduction or enhancement, bias may have affected the award. The example given was *Blair v. Washington State University*, a sex discrimination case brought by the Northwest Women's Law center on behalf of female students and coaches alleging patterns of systemic sex discrimination in the University's athletic program. Seven attorneys, six women and one man, worked on various aspects of the case.

In awarding fees, the trial judge reduced the hourly rates and/or the number of hours of the women attorneys, but left intact the full rate and hours of the male attorney. The fee award was appealed to the Washington Supreme Court on the grounds that the trial court had used an impermissible basis for determination, *i.e.*, that plaintiffs' attorneys were provided by a nonprofit organization. The Supreme Court reversed and remanded that issue to the trial judge for reconsideration. On remand, fees for three of the female attorneys were adjusted, but the sex disparity still remained. While the many variables considered in judicial determination of court-awarded attorney's fees make it difficult to prove that low or disparate awards result from gender bias, cases such as *Blair* strongly suggest that gender bias is sometimes a significant factor. One Seattle attorney commented about attorney's fees:

- One area . . . that I feel needs to be explored is in the area of attorney fee awards. . . . As if what you charge when you're a

woman is not an accurate assessment of what you are worth.<sup>212</sup>

b. LAWYERS AND JUDGES SURVEYS

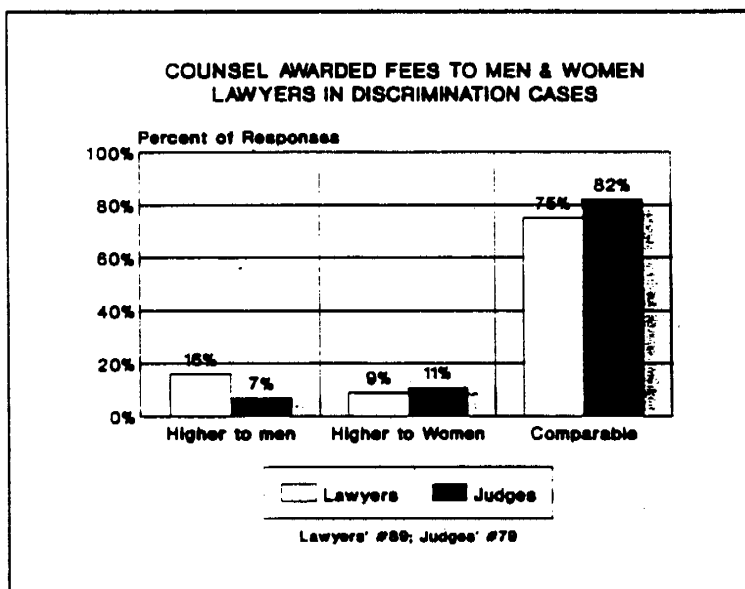


Figure 29 Counsel Awarded Fees

Surveys of judges and attorneys revealed a general perception that plaintiff awards under RCW 49.60 and attorney's fees awards to male and female attorneys in discrimination cases were comparable. As Figures 29 and 30 show, awards are generally perceived to be comparable to men and women plaintiffs and attorneys. A significant percentage of female

attorneys, 31 percent, and 16 percent of all attorneys, however, perceived that male attorneys received higher awards than female attorneys.

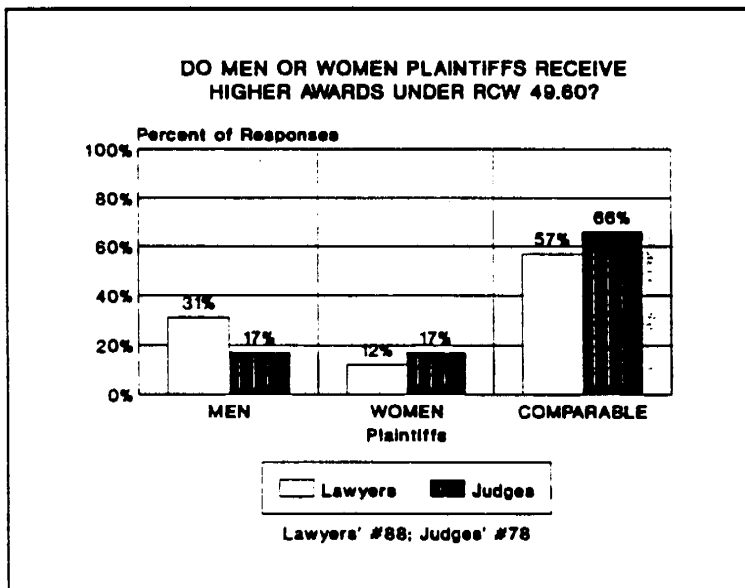


Figure 30 Plaintiff Awards - RCW 49.60

Charts C and D display the survey questions and responses from lawyers and judges. It should be noted that since responses were elicited only from those with experience in the field, the number of judges and attorneys who did not respond to these questions exceeded ninety percent (90 percent) of those surveyed.

**CHART C**

**LAWYER SURVEY - DISCRIMINATION CLAIMS AND COUNSEL FEES UNDER RCW 49.60**

	<u>Lawyer Respondents</u>		
	<u>Women</u>	<u>Men</u>	<u>Total</u>
<b>88. How have awards received by women plaintiffs suing under RCW 49.60 generally compared to awards received by men plaintiffs?</b>			
Women receive higher awards	8 (20%)	23 (39%)	31 (31%)
Men receive higher awards	7 (18%)	5 (8%)	12 (12%)
Women and men receive comparable awards	25 (62%)	31 (53%)	56 (57%)
Column Totals	40 (100%)	59 (100%)	99 (100%)
No Answer			1410

99 attorneys answered this question. This question had the second widest range of answers. 57 percent said fee awards were comparable; 39 percent of the men said that women plaintiffs received higher awards than men.

<b>89. How have counsel-awarded fees for discrimination cases generally compared to those received by an attorney of the opposite gender for similar work?</b>			
Fees awarded to men attorneys were higher	10 (31%)	3 (6%)	13 (16%)
Fees awarded to women attorneys were higher	0 (0%)	7 (15%)	7 (9%)
Fees were comparable	22 (69%)	38 (79%)	60 (75%)
Column Totals	32 (100%)	48 (100%)	80 (100%)
No Answer			1429

80 attorneys answered this question. 75 percent of them said that fees awarded to men and women attorneys were comparable. 31 percent of the women said men attorneys received higher fees.

**CHART D**

**JUDICIAL SURVEY - DISCRIMINATION CLAIMS AND COUNSEL FEES UNDER RCW 49.60**

	<u>Judicial Respondents</u>		
	<u>Women</u>	<u>Men</u>	<u>Total</u>
<b>78. How have awards received by women plaintiffs suing under RCW 49.60 generally compared to awards received by men plaintiffs?</b>			
Women receive higher awards	0 (0%)	4 (19%)	4 (17%)
Men receive higher awards	0 (0%)	4 (19%)	4 (17%)
Women and men receive comparable awards	2 <u>(100%)</u>	13 <u>(62%)</u>	15 <u>(66%)</u>
Column Total	2 (100%)	21 (100%)	23 (100%)
No Answer			199

23 judges answer this question. 66 percent responded that awards received by women plaintiffs were comparable to those received by men plaintiffs.

<b>79. How have counsel-awarded fees for discrimination cases generally compared to those received by a lawyer of the opposite gender for similar work?</b>			
Fees awarded to men lawyers were higher	0 (0%)	2 (8%)	2 (7%)
Fees awarded to women lawyers were higher	0 (0%)	3 (11%)	3 (11%)
Fees were comparable	2 <u>(100%)</u>	21 <u>(81%)</u>	23 <u>(82%)</u>
Column Total	2 (100%)	26 (100%)	28 (100%)
No Answer			194

28 judges responded to this question. 82 percent of them responded that awards to women and men lawyers were comparable.

## E. CONCLUSIONS

Case studies on wrongful death awards suggest that survivors of males receive higher verdicts than survivors of females. Surveys of lawyers and judges indicated that both groups have similar perceptions. While objective data does not prove that there is demonstrable gender bias in wrongful death awards, the Subcommittee cannot conclude, due to the subjective issues inherent in such awards, that gender bias does not exist in wrongful death cases.

Case studies regarding loss of consortium were similarly inconclusive. Jury awards in the period from 1984-87 show a slight average disparity in favor of male claimants. Arbitration awards show a slightly larger disparity in favor of female claimants. As with wrongful death cases, analysis of loss of consortium cases for indicia of gender bias is complicated by other variables such as length and stability of the relationship, age of the claimant, etc. Without further, in-depth study, the Subcommittee cannot make any findings with respect to gender bias in this area.

With respect to attorney fee awards, the small number of cases and survey responses makes generalizations difficult. Table 9 does show that only four of the prevailing parties were women and that only one sex discrimination case was successfully litigated. Thus, male plaintiffs prevailed more frequently than did women.

In five cases, the requested amount of attorney's fees was reduced by the trial court judge. In one instance, no standard for the reduction was given, while in another the judge awarded fees equal to half of the plaintiff's award. In another case, a Seattle area attorney's hourly rate was reduced to the prevailing Snohomish County rate; two others were reduced for unsuccessful claims. In two cases, a woman was either the plaintiff or the attorney. It is unclear if the reductions were based on the sex of the plaintiff or attorney, although none of the attorneys felt the reductions were based on gender bias. In only two cases was the amount requested by the attorney awarded, and only once was a multiplier given.

While most attorneys personally interviewed did not identify gender bias in the award of fees, a sense of frustration and reluctance to take on discrimination cases was evident in

their comments:

- One attorney stated that civil rights law is not alive and well in Washington State.
- Another shared that a Superior Court Judge said he did not like civil rights cases and hoped he never had to hear another one in his court.
- Several attorneys stated that the award of attorney's fees were not accomplishing the intent of the statute, to wit: to encourage litigation of discrimination cases.
- Several attorneys stated that they were reluctant to litigate cases and screened their cases very carefully, turning down all but the most clear-cut cases.

It should be noted that the award of attorney's fees is not the only factor making discrimination cases difficult to pursue. Shifts in the law on the issue of disparate impact and the burden of proof, as well as the willingness of employers to pursue heavy litigation, were identified as factors. Nonetheless, the statistical data, the public testimony, and the survey responses all suggest that this is an area of substantial concern. The broad discretion given to the trial judge regarding reduction and enhancement of the lodestar figure is susceptible to gender bias.

Although, the Subcommittee on the Economic Consequences of Civil Litigation cannot make definitive claims that gender bias exists in wrongful death, loss of consortium, and attorney fee awards in discrimination cases, it does recognize the potential for gender bias in these areas. Therefore, the Subcommittee proposes recommendations for education, record keeping, and further study.



## **F. RECOMMENDATIONS**

### ***For Judges:***

Include workshops at judicial conferences on discrimination cases and the public policy reasons for awarded fees to alleviate some of the concerns, particularly of practitioners in the field. Some discussion of the current costs of doing business, overhead, and market rates would also be helpful. Use of multipliers should also be discussed.

### ***For Attorneys:***

Consider using experts to provide insights on "reasonability." A court-appointed expert could conduct informal market surveys on hourly rates based on experience only and on number of hours typically expended on civil litigation of comparable longevity and complexity. Such information could diminish the subjectivity and resulting susceptibility to gender bias inherent in the discretionary fee-setting process.

### ***For Court Administrators:***

Require that attorneys complete docket sheets describing the nature of the case, as the federal courts and some superior courts do. All superior courts should request such docket information, and include a specific category for discrimination, wrongful death, and loss of consortium cases. That information should then be recorded on SCOMIS for easy retrieval.

### ***For the Implementation Committee:***

1. As more discrete information becomes available on the SCOMIS system, the committee should review awards for wrongful death and loss of consortium.
2. As discrimination cases continue to be tried and fees awarded, further study should be conducted.



**VI. REPORT OF THE COMMITTEE ON THE TREATMENT OF  
LAWYERS, LITIGANTS, JUDGES, AND COURT PERSONNEL**

**William W. Baker, Esq., Chair**

**Janet L. Gaunt, Esq., Vice-chair**

**Judge Rosanne Buckner**

**Judge Christine Cary**

**Judith D. Jeffers, Esq.**

**Frank H. Johnson, Esq.**

**Mary C. McQueen**

**Senator Gary A. Nelson**

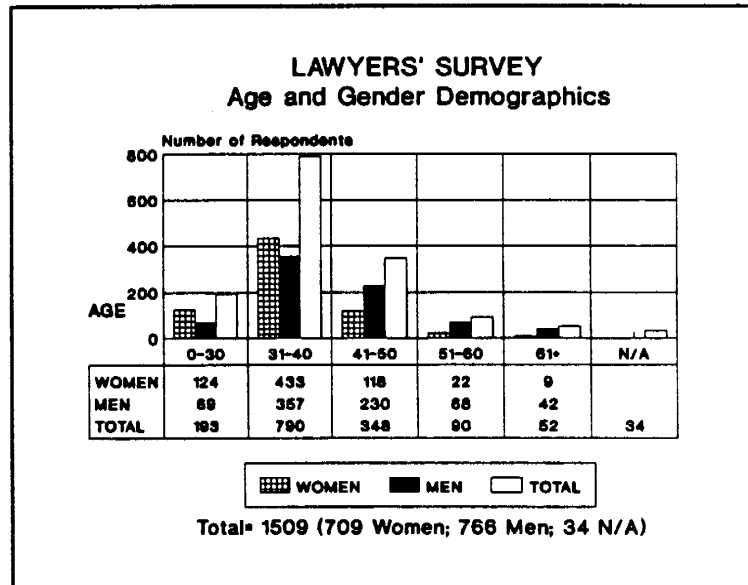
**Judge Barbara J. Rothstein**



**A. INTRODUCTION/METHODOLOGY**

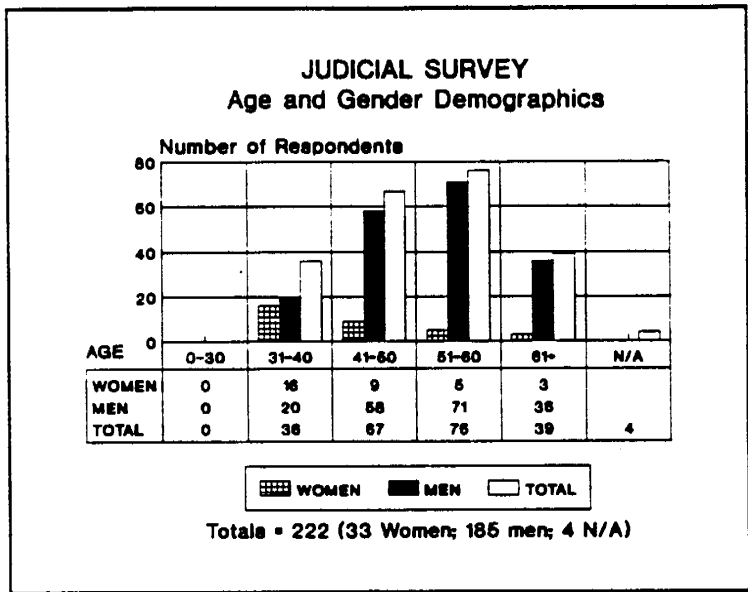
The Committee on the Treatment of Lawyers, Litigants, Judges, and Court Personnel determined to review the court system for the existence and effects of gender bias in the treatment of women in the courtroom, professional acceptance, credibility, and employment practices and procedures. This report will first present the overall findings of the survey research. Subsequent sections will summarize the specific findings on the treatment of lawyers, litigants/witnesses and judges. The report will conclude with the Committee's recommendations.

The Committee utilized five sources of information in compiling this report: a review of reports from other state gender bias task forces and the American Bar Association's Commission on Women in the Profession, testimony from the public hearings, a survey of Washington lawyers, a survey of the Washington judiciary, and a review of personnel policies and procedures in the Washington Courts.



**Figure 31 Lawyer Survey Demographics**

Two surveys, which were designed to measure lawyers' and judges' perceptions of gender bias in the courts, provided the main sources of data for this report.<sup>213</sup> Parallel questions were asked of lawyers and judicial officers (including judges, commissioners, and magistrates) so that responses could be compared. Among the 1,509 lawyer respondents were 766 men, 709 women, and 34 unidentified lawyers. Respondents included a random sample of the Washington State Bar Association, the Family Law Section, and Trial Practice Section.



**Figure 32 Judicial Survey Demographics**

Members of the Defenders' Association, the Prosecuting Attorneys' Association, and Washington Women Lawyers were also surveyed.

There were 222 judicial respondents: 185 men, 33 women, and 4 unidentified respondents. The 177 judges, 38 commissioners, and 3 magistrates are referred to as judges in this report. Figures

31 and 32 show the age and gender demographics of the respondents.

**B. SURVEY RESULTS**

A majority of the 1,500 lawyers (74 percent) and 220 judges (54 percent) who responded to the survey believe gender-based discrimination exists to some degree in the Washington Courts. A significant minority of the total respondents (25% or more) had witnessed most of the specific types of behavior described by the Task Force on the surveys. The kind of biased behavior most frequently reported was remarks or jokes demeaning to women made by attorneys in court or chambers. Other types of behavior, although not witnessed by a majority of respondents (unless responses are segregated by sex), were nevertheless witnessed by a significant minority. Attorneys, rather than judges or court personnel, were most likely to be the offending parties. A higher percentage of women respondents than men noted gender biased behavior and many survey respondents described in detail personal experiences in the courts and the impact bias had on their professional acceptance, credibility, and case outcome.

## 1. GENERAL PERCEPTION OF GENDER DISCRIMINATION IN THE COURTS

When asked their overall perception of whether gender discrimination exists in Washington State Courts, both lawyers and judges indicated they believe gender discrimination does exist to some degree in the courts.

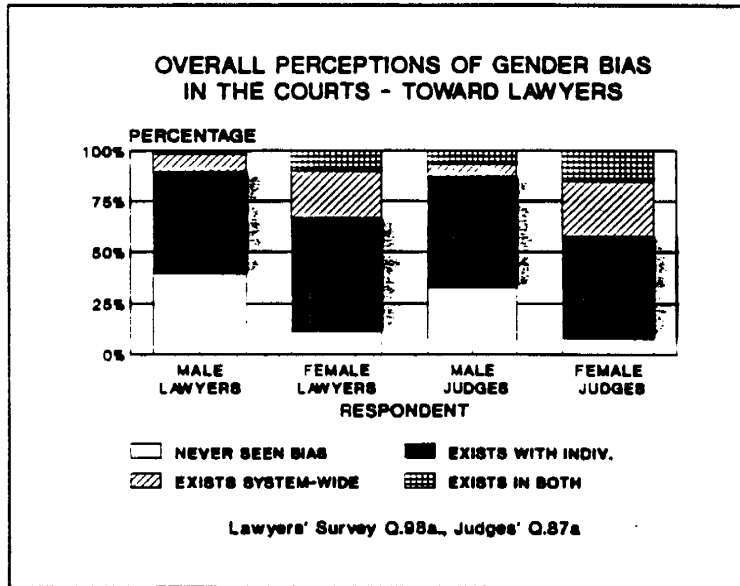


Figure 33 Gender Discrimination Toward Lawyers

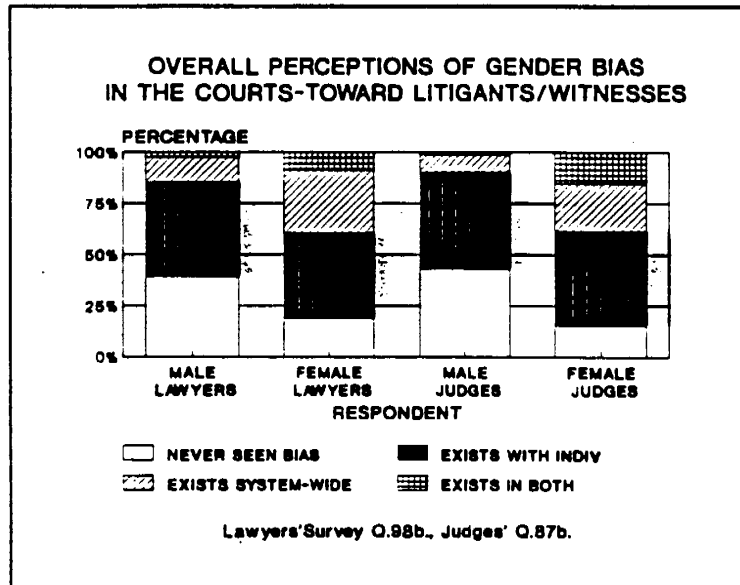


Figure 34 Gender Discrimination Toward Litigants/Witnesses

Seventy-four percent of responding attorneys perceived that gender discrimination does exist towards lawyers, litigants and witnesses. Fifty-four percent of the attorneys perceived the existence of gender discrimination toward judges.

More than 60 percent of responding judges concurred that gender discrimination exists against attorneys, litigants or witnesses.

Forty-eight percent of the judges perceived discrimination directed at the judiciary.<sup>214</sup>

The graphs in Figures 33, 34, and 35 show by sex of the respondents, lawyers and judges, the percentages of each group who indicated they believe gender discrimination exists.

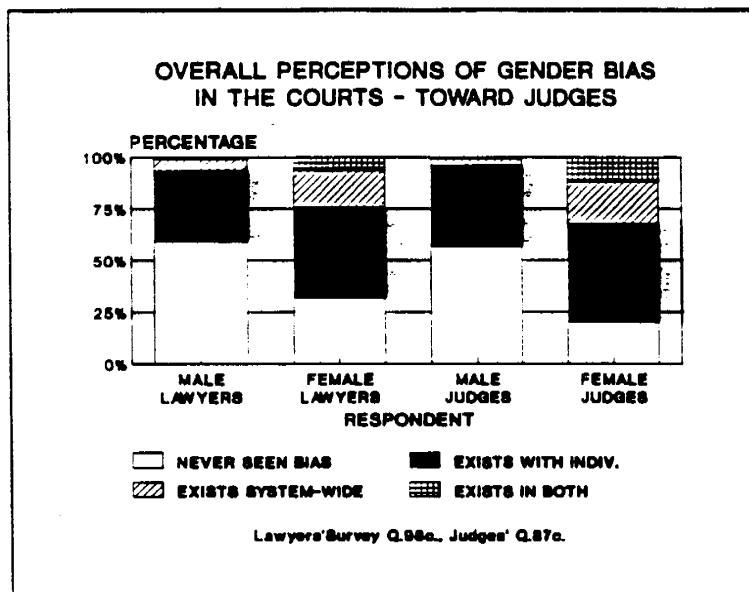


Figure 35 Gender Discrimination Toward Judges

The survey revealed that male and female respondents often had different perceptions of the existence and frequency of gender biased behavior. In general, female attorneys and judges saw gender bias occurring more frequently than did their male colleagues.

Of those respondents who perceived the existence of gender discrimination, most felt

it was a problem isolated to individual offenders not an institutional one.<sup>215</sup> Higher percentages of women than men, however, perceived gender discrimination as an institutional problem. That was especially true of discrimination against litigants or witnesses.<sup>216</sup>

## 2. SPECIFIC GENDER BIASED BEHAVIOR IN THE COURTROOM

Gender bias can be manifested in many ways in the courtroom. Some judges and attorneys do not treat women with the same respect and dignity with which they treat men. The inappropriate use of first names, terms of endearment, or compliments may undermine the confidence and credibility of witnesses, attorneys, and clients. When attorneys were asked about specific behavior in the Washington Courts in the last three years, a majority of respondents (58 percent) had personally observed remarks or jokes by attorneys in court or chambers that were demeaning to women. In addition, at least a quarter of attorney respondents had seen the following behavior directed at women (percentages refer to the percent of attorneys who responded to that survey question and had witnessed that behavior):

- Opposing counsel (45 percent) and court personnel (37 percent) addressed female lawyers by first name when lawyers of the opposite gender were addressed by surname.<sup>217</sup>
- Judges (26 percent) and opposing counsel (38 percent) addressed female lawyers



by familiar terms (e.g., "dear," "young lady," "girls");<sup>218</sup>

- Judges (26 percent), lawyers (49 percent) and court personnel (39 percent) complimented female lawyers on their personal appearance;<sup>219</sup>
- Opposing counsel (39 percent) and court personnel (38 percent) asked female attorneys if they were lawyers, when lawyers of the opposite gender were not asked;<sup>220</sup>
- Lawyers (43 percent) addressed female litigants/witnesses by first name when those of the opposite gender were addressed by surnames;<sup>221</sup>
- Female litigants/witnesses were addressed in familiar terms by judges (25 percent) and lawyers (31 percent);<sup>222</sup>
- Female litigants were regarded as less credible because of their gender by judges of the opposite gender (29 percent) and lawyers of the opposite gender (36 percent);<sup>223</sup>
- Women judges were addressed by first name by other judges (42 percent) and by lawyers (35 percent);<sup>224</sup>
- Affidavits of prejudice were used to disqualify a woman judge primarily because of her gender (29 percent);<sup>225</sup>
- Remarks or jokes demeaning to women were made, either in court or in chambers, by judges (38 percent) and lawyers (58 percent).<sup>226</sup>

Although fewer examples of this type of behavior were directed toward men, as many as a quarter of the attorney respondents witnessed the following:

- Opposing counsel (37 percent) and court personnel (29 percent) addressed male attorneys by first name when lawyers of the opposite gender were addressed by surnames;<sup>227</sup>
- Male attorneys were complimented on their personal appearance by opposing counsel (30 percent) and court personnel (26 percent);<sup>228</sup>
- Lawyers (30 percent) addressed male litigants/witnesses by first name when those of the opposite gender were addressed by surname;<sup>229</sup>
- Male judges were addressed by first name by judges (47 percent) and lawyers (41 percent);<sup>230</sup>
- Remarks or jokes demeaning to men were made by lawyers (26 percent) either in court or in chambers.<sup>231</sup>

**a. BEHAVIOR TOWARD WOMEN ATTORNEYS**

The manner in which attorneys are treated and perceived by judges, other attorneys and court personnel has a critical impact on their status in court, their credibility and

effectiveness as advocates. Behavior demeaning or discreditable in nature distracts attention from the merits of a particular case. Forms of address are not just a matter of social etiquette; they can affect not only the appearance of fairness but potentially affect the actual outcome of cases.

- A perception of credibility depends on the manner in which attorneys are addressed by the court in front of the jury. The ability to effectively negotiate settlement is diminished if opposing counsel views a female or male attorney as less competent or credible based solely on sex. When male bailiffs put their arms around young female attorneys in front of a crowded courtroom and oh so paternally steer them to a docket sheet after answering the same question posed by a male quickly and respectfully, a clear message of bias is delivered. (Member of Washington State Bar Association.)<sup>232</sup>

Many survey respondents expressed the view that some judges routinely treat women attorneys condescendingly and with less tolerance than their male counterparts.

- In my experience, judges address female counsel by their last names. Yet, female counsel is more frequently interrupted than male counsel, is more frequently subject to subtle facial expressions indicating a condescending attitudes, and sometimes, judges will just stare off into space during the female lawyer's arguments, while appearing pert and interested in . . . male counsel. . . . In other words, up front things look fairly even-handed, but underneath discrimination still exercises a subtle but significant influence. I believe that as a female attorney you have to work harder, develop a reputation for being "dogged" and "tough," and be aware of possible discrimination in order to operate on an equal basis with male counsel. (Member of the Washington State Bar Association.)<sup>233</sup>
- I observed one trial . . . where the court would not so much as entertain any objection or argument from the woman attorney. She was competent and representing her client well. Her co-defense counsel, a man, began to make objections on behalf of the woman's client and took over all [oral] argument on motions and evidentiary rulings. It was the only way the client could be well represented given the judge's attitude. (Member of Washington State Bar Association.)<sup>234</sup>

One lawyer noted how behavior can impact the jury and affect case outcome:

- A pro tem judge told me after a trial that a "person of my stature and demeanor was at a disadvantage in court." Through the trial he had sustained every objection made by the male defense counsel (about 50 objections), regardless of how extreme and ridiculous, and overruled every objection of mine. His demeaning attitude throughout the trial was very apparent. Even though it was a case I should have lost easily, the jury took 5 1/2 hours to acquit the defendant. There was no question in my mind that the jurors were deeply offended by the judge's demeaning attitude towards the prosecution. (Member of Family Law Section of Washington State Bar Association.)<sup>235</sup>

## 1) USE OF DEMEANING REMARKS

Individuals who make remarks demeaning to one sex either in court or chambers show disrespect and an insensitivity to individual differences. This type of behavior may indicate other biases as well. Thus, it is significant that the behavior observed by the highest percentage of respondents was the making of remarks or jokes demeaning to women.<sup>236</sup> The differing motivations behind demeaning remarks were described by the following survey respondents:

- The belittling remarks made to women lawyers are of two types. One type is the unconscious remark not intended to be insulting, but rather the expression of deeply ingrained attitudes towards women. One gets this from one's own clients too. The other type is the conscious, intended-to-be-offensive remark often said as a "joke." While the latter may also reflect the speaker's beliefs, the remark is made as a power play to "get" the opponent, to throw her off base and unsettle her in the litigation battle. (Member of Family Law Section of Washington State Bar Association.)<sup>237</sup>
- Some of the gender-based remarks often viewed as discriminatory (forms of address, compliments, etc.) are viewed by men of certain generations as "courtly behavior" and not intended or thought of by them as discriminatory. Other degrading behavior usually comes from persons who would use the same techniques on anyone they perceive as being less powerful than themselves, regardless of gender. (Member of Washington Association of Prosecuting Attorneys.)<sup>238</sup>

Survey respondents agreed that sexist remarks were more often directed at women than at men, and that lawyers were most likely to make such remarks. Victims of a type of discrimination are also more likely to be sensitized to that discrimination in its more subtle forms. This is demonstrated by the fact that women perceived a much greater disparity between how often remarks were demeaning to women as women and how often they were demeaning to men because they are men.<sup>239</sup>

Attorneys responding to the survey commented on the impact of demeaning comments to women and the general acceptance of this kind of behavior. Survey respondents described incidents in which comments in court demean the professionalism and competence of women attorneys:

- The court system is afflicted with the same problems which occur throughout the work place. Male attorneys and court staff often tell sexually derogatory jokes and make comments which are demeaning to

women. This often takes place in court, when not in session and in court offices. I have seldom heard it in chambers and never by a judge in my presence. (Member of Washington Women Lawyers.)<sup>240</sup>

- For example, in one situation, I was in Presiding waiting for a trial assignment. When our case was called, opposing counsel pinched my cheek, called me a "feisty little thing", and suggested to Judge [deleted] that he not assign us to a woman judge because we would "gang up on him". Unfortunately, the Presiding Judge treated this as a joke, laughing the whole thing off. In my opinion, such behavior demeans the bench and the bar and is inappropriate. Counsel, of course, simply ignored my comments, characterizing me as a "humorless feminist." (Member of the Trial Law Section of Washington State Bar Association.)<sup>241</sup>

Consider the effects of this type of comment in open court:

- . . . [A] woman being committed told [the] judge (older superior court judge, now retired) she would like to be a lawyer. Judge commented, in open court, that if opposing counsel, a woman, could be a lawyer that there was no reason this clearly incompetent woman couldn't be one as well. (Member of Trial Practice Section of Washington State Bar Association.)<sup>242</sup>

## 2). USE OF FIRST NAMES

One of the ways in which a lack of respect or unequal status may be manifested is by using differential forms of address. Use of first names may be customary in some courts, either because of the size of the county or the informality of a particular proceeding (e.g., docket hearing with no jury present). If both male and female counsel are addressed in the same fashion, gender bias does not result. Bias is indicated, however, when members of one sex are addressed by first name while surnames are used for the opposite sex.

- When male judges call male attorneys by first name, it usually indicates favoritism to [a] member of [the] "old boys network". When male judges call female attorneys by first name, it usually indicates lack of status in the judge's view. These observations exclude circumstances when the judge and attorney are old friends. (Member of Washington State Bar Association.)<sup>243</sup>

Drawing any distinctions in form of address always runs the risk that one side will appear disadvantaged, either because greater informality conveys a lack of respect or because it creates an appearance of greater friendship with one party's counsel. Perceptions are as important as actuality. Regardless of how well-intentioned, if conduct creates an impression

of unequal status public faith in the judicial process is diminished.

One of the questions posed to attorneys and judges in Washington State was whether lawyers were addressed by first name when lawyers of the opposite sex were addressed by surname. This question excludes situations where both counsel are addressed by surname or both by first name. It focuses on the differential nature of the form of address.

According to survey respondents, when distinctions are made in how counsel are addressed, women attorneys are more likely to be addressed by first name than are men attorneys. Opposing counsel are most likely to address women in this fashion.<sup>244</sup> Greater percentages of female respondents reported that women attorneys were addressed by first name than male attorneys. Male respondents felt the differential treatment occurred as often to men as to women.<sup>245</sup>

### 3) USE OF FAMILIAR TERMS

If a woman attorney is called "dear," "young lady" or "girl," her stature and credibility before a judge or jury is diminished. The following survey comments illustrate the personal and professional impact of what some regard as "harmless" forms of address.

- Credibility [is] affected when female counsel has been referred to as "young lady" in front of jury. [I] have been singled out as butt [sic] of lady lawyer jokes during motion. Argument objections have been sustained against me with a depreciating tone . . . "now, my dear, I really don't think that's relevant." Or overruled . . . "now, young lady[,] let's let Mr. X continue." Paternalistic attitude expressed in oral decisions. (Member of Washington State Bar Association.)<sup>246</sup>
- [In] one case involving complex accounting [the] judge indicated that as a woman attorney, I knew or understood less about numbers. [The judge] also addressed me as "young lady" in front of the jury. I won, but some jurors indicated it affected the amount I won. (Member of Trial Practice Section of Washington State Bar Association.)<sup>247</sup>
- I have been practicing litigation for 15 years, and was quite surprised in a recent trial to be called a "girl" by the superior court judge, and to be treated like one. My motions and objections were denied and overruled in a bemused fashion. When jury instructions were argued it became apparent the judge would listen to my male associate (three years experience) but not to me, so I left the courtroom discreetly so that we might have a chance of getting decent instructions given. My clients, my associate and opposing counsel, all noticed the obvious gender bias and commented independently to me about it. . . . If the occasion arises again, I will advise my clients that I cannot adequately

represent them before this particular judge, due to my gender.  
(Member of Washington Women Lawyers.)<sup>248</sup>

- It's very degrading to be referred to as "honey" by a trial judge.  
(Member of the Washington State Bar Association.)<sup>249</sup>

The percentage of attorneys (85 percent) reporting that women lawyers had been addressed in familiar terms was approximately three times as great as the percentage (26 percent) reporting men had been addressed in this fashion.<sup>250</sup> Judges, to a lesser extent, also perceived that women were often addressed in familiar terms, at least by opposing counsel (36 percent for women compared to 3 percent for men).<sup>251</sup> There was a definite difference in perspective between the sexes. Male respondents reported use of familiar terms towards women only slightly more than they reported use towards men. Women on the other hand reported that women were addressed in familiar terms to a much greater extent than men.<sup>252</sup>

#### 4) COMMENTS ABOUT PERSONAL APPEARANCE

In addition to more often being addressed in familiar terms, women attorneys are also more likely to receive unsolicited comments on their personal appearance. Even assuming such comments are well-intentioned, they can nevertheless undercut an attorney's effectiveness, especially that of a woman attorney. When female counsel is engaged in representing a client, comments directed at that attorney's physical appearance have the effect of suggesting that looks matter more than brains or competence. Attention is diverted from counsel's professional expertise and shifted instead to her looks. As two attorneys noted:

- Occasionally, I have seen where comments about a female attorney's appearance have been used to intimidate younger female attorneys - this is done by older male attorneys. (Member of the Washington State Bar Association.)<sup>253</sup>
- In voir dire, a male attorney asked a juror if the decision would be based on/affected by the fact that I was "young and prettier." This happened repeatedly. When I objected (repeatedly), the judge compounded the problem first by smiling and saying that I was younger and prettier, then by laughing and finally by frowning at my objection. I clearly wasn't being a good sport. (Member of the Washington Association of Prosecuting Attorneys.)<sup>254</sup>

One judge who noted he has spent a lifetime complimenting attractive females and would find it difficult to change, nevertheless was quick to observe: "I would never pay a compliment if litigants and jurors were present."<sup>255</sup> That comment reflects the growing awareness that there is a time and place for compliments and the courtroom is not an appropriate place.

Survey respondents were asked if they had observed comments on personal appearance being given in courtroom situations. Of those who had, a higher percentage had seen the comment directed at a female attorney rather than at male counsel.<sup>256</sup> Women judges were the group perceiving this to the greatest extent. Female respondents, as a whole, perceived a greater disparity than men did as to the frequency with which comments were directed at women attorneys. Male respondents reported comments being given to male attorneys only slightly less than to female attorneys.<sup>257</sup>

## 5) SEXUAL ADVANCES

Sexual advances (verbal or physical) were reported by relatively few survey respondents, however, one survey respondent noted:

- In one major case a [deleted] County superior court judge pro tem made verbal sexual advances to me (opposite sex judge) and when ignored proceeded to be very hard on my client, assess[ing] an enormous award against my client directly contrary to law. The Supreme Court reversed and granted a directed verdict to my client. This was early in my career and very disconcerting! (Member of Washington State Bar Association.)<sup>258</sup>

The type of sexual advance reported by the largest percentage of respondents was verbal advances towards women lawyers by male attorneys. Such behavior was reported by 16 percent of attorneys and four percent of judges. Physical advances towards women attorneys by male attorneys ranked next highest (noted by five percent of attorneys and two percent of judges). Fewer than five percent of survey respondents reported advances, either verbal or physical, by judges or court personnel.<sup>259</sup>

6) "ARE YOU AN ATTORNEY?"

One form of belittling behavior is to ask lawyers of one gender if they are lawyers when not directing the same question to lawyers of the opposite gender. The perceived impact was described by some respondents as follows:

- By asking whether I am an attorney because I am female and look young, I feel a certain tone is set in the proceeding, i.e., that I am inexperienced or need more help in presenting my case than the other counsel. (Member of Washington State Bar Association.)<sup>260</sup>
- I have had the problem of judges asking if I am an attorney--then doubting my word--then making it more difficult to get through the motions calendar. With opposing counsel they attempt to insinuate with clients (say in a settlement conference where both parties are male) that young female attorneys are inadequate, incompetent, etc. . . (Member of Washington State Bar Association.)<sup>261</sup>
- It appears as if the judges who call an attorney dear, or honey or ask if she is an attorney[,] do not take that attorney's argument as seriously and therefore create a greater burden for that attorney. It does not happen often but the few times it does, are very unsettling. (Member of Washington Women Lawyers.)<sup>262</sup>

Survey respondents agreed this inquiry was more often directed at women attorneys than it was to their male colleagues. Responding attorneys as a group perceived judges, attorneys and court personnel as all more likely to ask a woman if she was an attorney than to ask a man. Less than 20 percent of the judges noted that opposing counsel and court personnel were more likely to ask women than men if they were attorneys.<sup>263</sup>

Perceptions differed markedly depending on the sex of the survey respondent. While 60 percent of the female attorneys and 43 percent of female judges reported that female attorneys had "occasionally," "usually," or "always" been asked by opposing counsel if they were lawyers (while men were not being asked), 79 percent of male attorneys and 88 percent of male judges reported this "never" occurred. The pattern of responses was similar as to court personnel making such inquiries. In general, male respondents perceived women to be asked if they were attorneys as often as the reverse occurred. Female attorneys and to a lesser extent female judges perceived women to be asked much more often than men whether they were attorneys.<sup>264</sup>



**b. BEHAVIOR TOWARD LITIGANTS/WITNESSES**

The attitudes of judges, opposing counsel, and court personnel do not go unnoticed by jurors. Conduct which indicates a lack of respect or unequal status may subtly manifest itself in denial of a litigant's substantive rights. Two attorneys observed:

- If there is a problem that requires attention, it is in my opinion, in the area of the treatment of the litigant (the public) by "the system." (Member of the Trial Practice Section of Washington State Bar Association.)<sup>265</sup>
- Comments, I believe, are a true indicator of how much respect and credibility is awarded. (Member of Washington State Bar Association.)<sup>266</sup>

If treated condescendingly like children, litigants stand less of a chance of prevailing on the merits of their cases. If treated disrespectfully, at the very least their confidence in the integrity and impartiality of the judicial process is diminished. One attorney noted how this type of behavior impacts the jury:

- [The] judge expresses his attitude toward women witnesses through facial expressions, inattention, impatience (demonstrated by tapping pencil on the bench) and outward display of irritation - all of which impacts upon the jury. (Member of the Trial Law Section of Washington State Bar Association.)<sup>267</sup>

Attorneys and judges were asked about the perceived frequency of conduct which no matter how well intended can often have a demeaning or belittling effect on litigants and witnesses themselves and on the outcome of their cases.

**1) EFFECT UPON WITNESS CREDIBILITY**

The New York Task Force on Women In The Courts concluded that "one of the most insidious manifestations of gender bias against women - one that pervades every issue respecting the status of women litigants - is the tendency of some judges and attorneys to accord less credibility to the claims and testimony of women because they are women."<sup>268</sup>

While the majority of survey respondents perceived that gender had no impact on credibility, a significant minority disagreed, at least as to women litigants/witnesses.

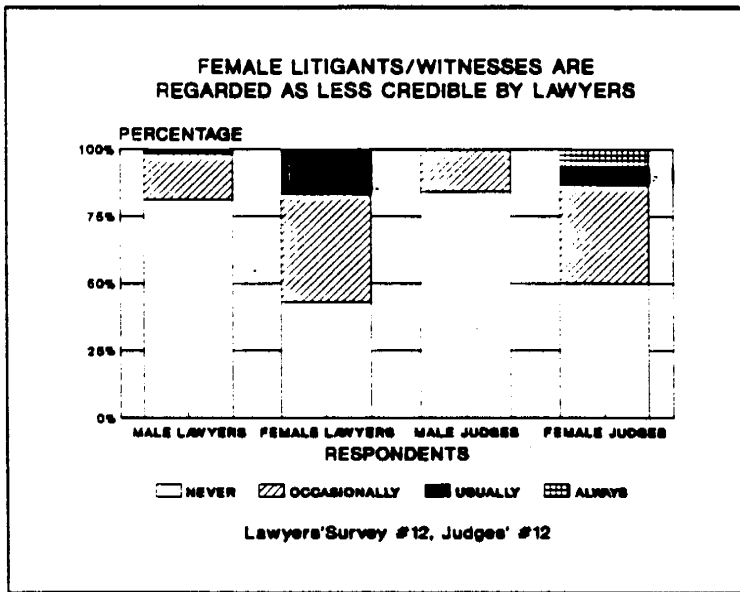


Figure 36 Credibility - Lawyers' Perceptions

Twenty-nine percent of attorneys reported female litigants or witnesses were "occasionally", "usually", or "always" deemed less credible by male judges because of their gender. The percentages were even higher as to whether male attorneys deemed female litigants or witnesses less credible. Thirty-six percent of attorneys felt this had occurred

at least occasionally. The percentage of judges agreeing was smaller (21 percent). The respective percentages of reporting instances when male litigants were deemed less credible because of sex were less in every category.<sup>269</sup>

The perceptions of male and female respondents did not differ markedly as to how frequently gender impacted the credibility of male witnesses. There was a significant difference in perception, however, as to female litigants/witnesses. Fifty-seven percent of responding female attorneys reported instances when female litigants/witnesses

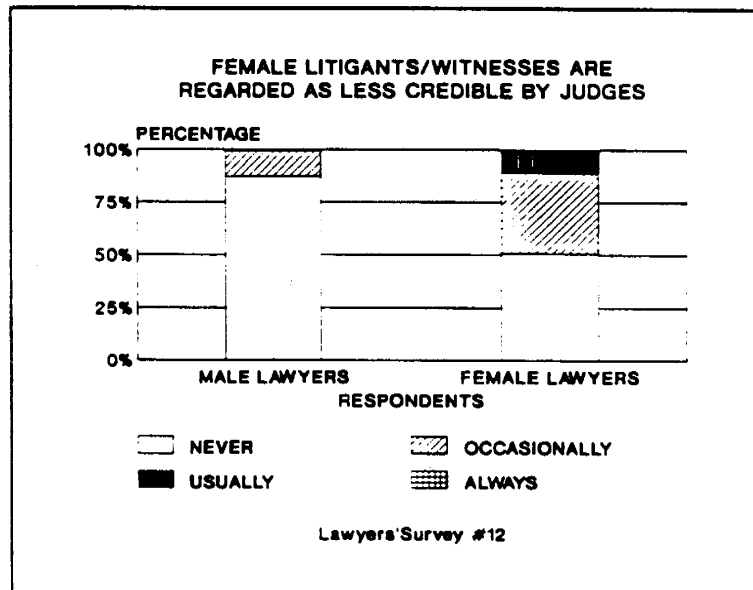


Figure 37 Credibility - Judges Perceptions

had been regarded as less credible by male lawyers because of their gender. Close to a

majority (49 percent) reported instances when judges had regarded female litigants/witnesses as less credible. In comparison, responding male attorneys reported judges (87 percent) and lawyers (81 percent) "never" considered female litigants/witnesses as less credible.<sup>270</sup>

Credibility is the most important attribute a litigant or witness can bring to the courtroom. According to many survey respondents, perceptions of credibility are sometimes affected by the sex of a litigant or witness.

- I've had several cases where alibi and other witnesses who were women were disbelieved. Especially when a man testifies for the prosecution. The [court and the] prosecutor implied that mothers and girlfriends will always lie to cover for someone. They believe that the women can be easily pressured by the defendant to give false testimony by being made to feel guilty. (Member of Public Defenders' Association.)<sup>271</sup>
- I have seen attorneys attack the credibility of a witness or litigant on a sex basis because the area of testimony was beyond the stereotypical knowledge of a female - or that "her emotions" have clouded her perception. (Member of Public Defenders' Association.)<sup>272</sup>
- In domestic cases, some judges, I believe[,] give less credibility to the testimony of a woman if she is testifying in an area which has been traditionally the province of men, e.g., property management, investments, valuation. I have observed this to be true even in circumstances where, in the particular marriage in question, the woman had managed the couple's financial decision making. (Member of Washington Women Lawyers.)<sup>273</sup>

Male litigants also can be detrimentally affected by sex-based credibility judgments.

Attorneys have noted these problem areas:

- I have witnessed a number of situations where men were accorded less credibility vis-a-vis parenting of young children. The outcome was that children remained with the mother. In at least one case it seemed that there was a good case for the father to be the residential parent. The judge was/is female. (Member of Family Law Section of Washington State Bar Association.)<sup>274</sup>
- In custody or spouse abuse cases the woman is still believed over the man in many cases. I believe many older male judges tend to side with the woman over the man in a directly conflicting testimony situation. This, however, can change if the woman is "tough" rather than "sweet." (Member of Family Law Section of Washington State Bar Association.)<sup>275</sup>

## **2) Use of First Names**

Differential use of first names can subtly convey an impression that a witness addressed less formally is being taken less seriously than one addressed by surname. Attorneys and judges were asked, therefore, whether they had observed adult litigants or witnesses addressed by first name when those of the opposite gender were addressed by surname. A minority of respondents had seen this occur with female litigants/witnesses and male litigants/witnesses. As to both, attorneys were the group most often using differential forms of address.<sup>276</sup>

Female litigants/witnesses were perceived as being addressed by first name more than male litigants. Responding male attorneys perceived only a slight difference, however, and male judges perceived essentially none. Responding female attorneys and judges perceived a greater disparity in the frequency with which female litigants were addressed by first name compared to the frequency for male litigants/witnesses.<sup>277</sup>

## **3) Use of Familiar Terms**

A judge is obliged to treat litigants who appear in his or her court with courtesy and respect. Expressions such as "little girl," "sweetheart," "young lady," "honey," etc., are belittling and inappropriate. Litigants or witnesses were less likely to be addressed in familiar terms than attorneys, but a significant percentage of respondents nevertheless reported this occurred.

Asked whether adult litigants or witnesses were addressed by familiar terms like "dear," "young lady," "girls," and "son," the pattern of responses was similar to that for first names. Judges, attorneys, and court personnel were perceived as more likely to address female litigants in such terms than they were with male litigants. Attorneys were the group most likely to address litigants in this fashion.<sup>278</sup> Higher percentages of male respondents than female respondents reported instances where male litigants or witnesses had been addressed in familiar terms. The reverse was true of female respondents and female litigants or witnesses.<sup>279</sup>

#### 4) **Comments About Personal Appearance**

Relatively small percentages of survey respondents reported occasions when litigants or witnesses were complimented on their personal appearance in a courtroom situation. The largest reported incidence was female litigants/witnesses being complimented by lawyers. Twenty-three percent of responding attorneys and 21 percent of responding judges had seen this occur.<sup>280</sup> Both male and female respondents perceived judges, lawyers, and court personnel as all more likely to direct compliments at female litigants.<sup>281</sup>

#### 5) **Sexual Advances**

Respondents were aware of even fewer sexual advances (verbal or physical) directed towards litigants than were reported toward attorneys. The only behavior observed by even as few as five percent of the attorney respondents was verbal advances by male attorneys towards female litigants. Judges observed such behavior even less than attorneys.<sup>282</sup>

#### c. **BEHAVIOR TOWARD JUDGES**

With the exception of being addressed by first names, relatively small percentages of respondents perceived gender-based behavior directed at judges in the courtroom setting. Most of the behavior that was reported was directed nearly as often at male judges as female judges. Female judges were perceived as less likely than male judges to be addressed by first name than male judges were, but slightly more likely to be addressed in familiar terms or to receive compliments about their personal appearance.<sup>283</sup> One judge commented upon the effect of compliments:

- I pointed out in a friendly way to a fellow judge (male; I'm female) that we women start thinking that our looks matter more than our brains when he always tells us how "pretty" we are . . . I finally had an opportunity to tell him this "we women . . ." comment when he launched into a string of compliments toward one of the "pretty gals in the OAC office [Office of the Administrator for the Courts]."<sup>284</sup>

Very few instances of verbal or physical sexual advances directed at a judge were reported by survey respondents. Responding attorneys were largely unaware of such behavior. Women judges were more likely to receive advances from male attorneys and male

male judges more likely to receive them from court personnel.<sup>285</sup>

1) Affidavits of Prejudice/Poll Results

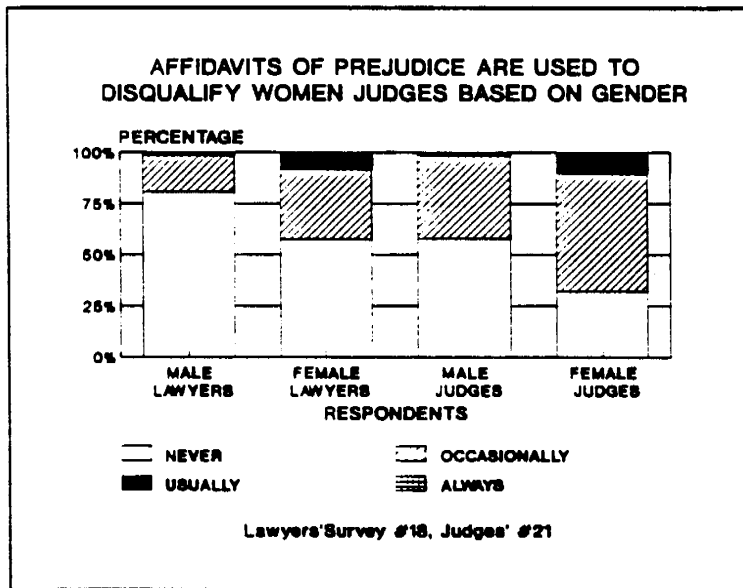


Figure 38 Affidavits of Prejudice for Women Judges

The most striking survey results as to judges had to do with affidavits of prejudice and judicial poll results. Almost half the responding judges (47 percent) believed affidavits of prejudice had been used to disqualify a woman judge because of her gender. Almost half as many (24 percent) believed affidavits of prejudice had been used against male

judges because of gender.

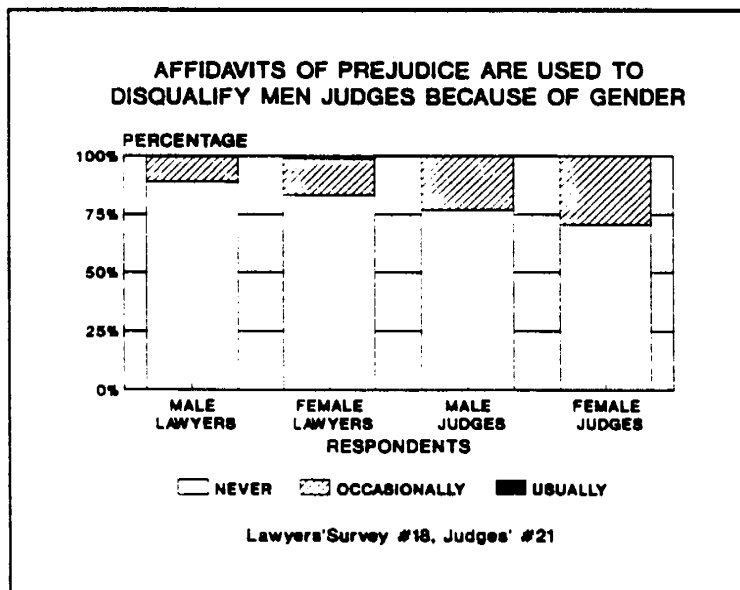


Figure 39 Affidavits of Prejudice for Men Judges

To a lesser degree attorney respondents believed judges had been disqualified primarily because of gender, but they concurred that women judges were more likely to be disqualified on this basis. Twice as many responding attorneys (29 percent) felt affidavits of prejudice had been used against women judges because of gender as the

percentage (13 percent) reporting use against men judges.<sup>286</sup>

Judges of both sexes and female attorneys perceived a much higher use of affidavits of prejudice to discriminate against a woman judge than male attorneys did. A smaller percentage of male respondents reported use of affidavits because of a judge's gender. Male respondents did agree that to the extent such use occurred, it was directed at female judges more than at male judges.<sup>287</sup>

The judicial survey also asked judges if they believed Judicial Poll results have been lower for judges primarily because of gender. Forty-one percent believed that had been true for women judges, and 14 percent believed it was true for men judges. Again, women perceived bias to be directed at women more often than men did. Over two-thirds (69 percent) of female respondents believed that poll results for women judges had been lower because of their gender. The same percentage of female and male respondents (14 percent) believed poll results were lower for men because of their gender. It is noteworthy that 34 percent of male judges believed that the poll results for female judges had been affected by gender more than those for male judges.<sup>288</sup>

## **2) Professional Meetings, Conferences, Seminars**

In one case described by a survey respondent, the introductions of male jurists on a seminar panel focused on their credentials. The sole woman jurist was introduced with a comment that she did not look like she had been on the bench 20 years. The person making the introductions intended that latter remark as a compliment but its unintended effect was to shift attention from her credentials to her appearance. Comments regarding a woman's attractiveness, clothes, or the fact that she looks too young to be a judge all have a similar effect. They suggest that a woman is being recognized not because she is a professional but because she is a woman.

In order to determine whether gender-focused behavior is affecting the professional acceptance of women judges, judges were asked a series of questions about interaction among judges and between judges and attorneys at professional meetings, conferences, seminars, etc.

The responses indicate that in such settings judges are (1) sometimes addressed by first name when judges of the opposite sex are addressed by title; (2) sometimes addressed by familiar terms; (3) sometimes complimented on personal appearance; and (4) rarely subjected to verbal or physical advances.<sup>289</sup> When such behavior occurs, responding female judges felt it is more often directed at female judges. Male judges agreed that was the case as to compliments and familiar terms. By a slight margin they perceived judges and attorneys to more often be addressing male judges by first names.<sup>290</sup>

**d. DOES GENDER BIAS AFFECT CASE RESULTS?**

The Task Force asked attorneys and judges whether they thought that conduct such as use of first names, familiar terms, compliments, sexual advances, demeaning remarks and jokes, or biases as to credibility had an effect on case outcome. Thirty-four percent of attorneys who had observed such conduct thought that it did affect case outcome, at least "occasionally."

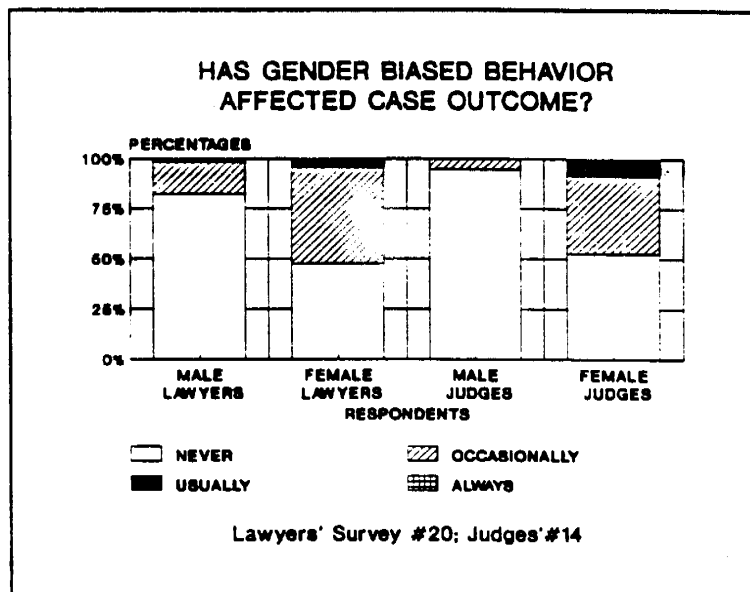


Figure 40 Case Outcome

The percentage of women reporting an effect on case outcome was significantly higher than the percentage of men.<sup>291</sup> In Figure 40, the responses from male and female lawyers and judges are compared. The majority of male lawyers and male judges responded that gender biased behavior "never" affected case outcome. More than 50 percent of female lawyers and almost that many female judges reported that case outcome was at least "occasionally" affected.



The following comments from lawyer survey respondents provide examples of where gender-based behavior was perceived to have affected the outcome of a case:

- Senior male attorney (opposing counsel) in a construction case made remarks demeaning female attorney's experience in construction-related litigation. [The] judge referred to female attorney as young lady. Outcome of case may have been related to perception of strength of male attorney. (Member of Washington State Bar Association.)<sup>292</sup>
- Occasionally it has an effect on the outcome of motions that I have observed - women attorneys have had their arguments cut off more often and seem to be given less credence by some judges. (Member of Washington State Bar Association.)<sup>293</sup>
- I argued a 3.5 and a suppression motion before a judge, and all of my witnesses were female. I am female, and opposing counsel and the witness on the opposite side were male. I lost the motions, and the judge's reasoning was self-contradictory and not supported by the case laws. (On cross-appeal, the judge was reversed.) I had the abiding impression that the only reason I lost was that I and my witnesses are female. I later discovered that this judge has a reputation of sexist behavior. (Member of Washington Women Lawyers.)<sup>294</sup>
- In two cases in which judge, opposing counsel and court personnel made demeaning remarks and addressed female attorney familiarly, outcome was for opposing side represented by male counsel. (Member of Washington State Bar Association.)<sup>295</sup>

As some respondents noted, the outcome is not always adverse to the party discriminated against; at least not if the discriminatory behavior is blatant enough to trigger a sympathetic response.

- Most of my cases are jury trials, so the effect of these things is limited. In one case that I particularly remember, the judge was very condescending to a young female witness of mine. His attitude was blatant and offensive. I think the jury felt very sympathetic for that witness and the outcome of the case was affected by that sympathy. (Member of Washington Association of Prosecuting Attorneys.)<sup>296</sup>
- Some older male judges persist in their old-fashioned paternalistic patronizing of female lawyers (usually younger females). However, they do the same (with less frequency) to young or inexperienced male lawyers. The effect is unpredictable, but in my experience as both a recipient and observer, most jurors are put off by it and tend to want to "help" the attorney. (Member of Public Defenders' Association.)<sup>297</sup>

Even if the ultimate outcome of a case is not affected, many respondents

acknowledged that the litigation process is nevertheless affected detrimentally.

- It affects the whole tenor of a case. When a judge remarks jokingly, "but can she cook?" to the jury, how can the counsel have credibility in persuading the jury in favor of your client? If a judge says, "this is how you take exceptions to instructions in my court, little girl", the other attorneys, smelling blood, also join into the unprofessional feeding frenzy (like father, like son?). If a judge cuts you off disallowing objections, offers of proof, etc., how can a record be made? (Family Law Section of Washington State Bar Association.)<sup>298</sup>
- It disrupts the attorney's trial strategy by requiring the attorney to try her gender rather than the case. Also the comments either by the judge or unchecked by the judge lead to a purposeful manipulation by counsel - a kind of "we" all know her case isn't important, women are less credible, etc. - these "hysterical" women lawyers. It's difficult for women attorneys to know how to confront the sexism in trial with grace, aplomb and yet firmness, and still try the case, not their sex. (Family Law Section of Washington State Bar Association.)<sup>299</sup>
- Opposing counsel (male) advised me after the trial that during it he became so concerned over the gender bias that he contacted a female lawyer friend and asked her if he should bring the matter to the trial judge's attention. His friend advised him that his first duty was to his client, and that he should not risk offending the judge, and [I] do not fault opposing counsel for following this advice, for he too was in a tough situation. (Member of Washington Women Lawyers.)<sup>300</sup>

e. **THE NEED FOR CORRECTIVE INTERVENTION**

Concurrence is implied by tacit acceptance. The harm created by inappropriate behavior is compounded, therefore, when it is witnessed by jurists, counsel or others who do not intervene. Because they must consider whether intervention would jeopardize a client's case, counsel are often reluctant to confront objectionable behavior directly. It is essential, therefore, that judges not only refrain from biased behavior but become more sensitive to its occurrence in front of them and intervene *sua sponte* when it occurs.

Judging from survey responses, it would appear that judges, counsel or others intervene in only a minority of cases where gender-based behavior occurs. Nineteen percent of responding attorneys had witnessed such intervention. Twenty percent of responding judges reported they had intervened or had seen others intervene. Female judges (38 percent) were more likely to respond that way than male judges (17 percent).<sup>301</sup>

The following comments provide examples of effective intervention.

- In one case a male attorney continuously referred to the judge as "ma'am" [sic] in a sarcastic tone. After the third remark the judge simply said: Counsel, in this courtroom you refer to the court as your honor or judge. He immediately stopped. In other cases I've seen judges direct counsel to address litigants by their surname or professional title rather than "Mary" . . . (Member of Family Law Section of Washington State Bar Association.)<sup>302</sup>
- A witness and examining counsel repeatedly referred to a mature woman as "girl" and finally "the honey". The judge instructed both male participants to use appropriate, respectful language when discussing the woman. These events occurred in a lien foreclosure action. (Member of Washington Women Lawyers.)<sup>303</sup>
- [Re:] a gang rape case, female prosecutor and three male defense lawyers, male judge. Defense Lawyer: "Oh, Ms. [deleted] is going to take us all on" with a broad smile and a loud voice. I admonished him quickly indicating that we would have no more of it. He apologized. The remainder of the trial was without any further attempts at intimidating humor. (Judicial Respondent.)<sup>304</sup>

### C. PUBLIC HEARING COMMENTS

Another source of information for the committee came from the public hearings. Washington State judges, attorneys, and court personnel were invited to provide testimony, oral or written, to the Gender and Justice Task Force at seven public hearings in 1988. The attorneys who testified before the task force emphasized the court's treatment of women in dissolution, custody, and domestic violence cases. They were reluctant to publicly discuss particular instances of bias. In Seattle one attorney commented:

- When I was preparing for this hearing, I talked to a number of women . . . I was struck, unfortunately, by the understanding that there are an awful lot of people who cannot come here tonight to tell you their stories. Either they are attorneys who tell me that they couldn't come here [tonight] because they might have to come back in front of the judges that they would talk about, or they're women who still have pending cases and are afraid to come forward.<sup>305</sup>

Some attorneys who did testify noted that female attorneys are at a disadvantage in the courts. They have to work harder and prove their abilities not only to judges and other attorneys but also to their clients. An attorney in Spokane commented on the subtle bias toward female advocates. She described an incident at a law school advocacy competition in 1983 which portrays persistent gender-oriented attitudes:

- . . . My teammates and I were women, and we argued our second round

against another team of women. Three local attorneys were our judges. Two of the judges were in their late 50's or early 60's; the third was a younger attorney, . . . After we argued and the judges were getting ready to announce their decision, the two senior men complimented us on our "appropriately modest" presentations, and noted that "no one likes a strident woman." They went on to say that they wished the four of us well in our careers, but they wanted us to realize it would be very difficult for us. They said the reason we would have a difficult time as attorneys was that we were laboring under the same handicap as black attorneys in that we were not white males.<sup>306</sup>

An attorney at the Bellingham hearing commended the bar and judicial organizations for seeking the input of women attorneys but also noted that she had to prove abilities in court:

- I've practiced before 50 judges in about 13 counties in [the past] 10 year period . . . My observations were that as a new woman lawyer in counties that did not have many women lawyers, I did experience a great deal of reticence from the court in making the presentations that I did, and I found that because I represented the state, the state usually wins because they don't have enough resources to bring cases that we can't win, . . . I established a sense of confidence that allowed me to overcome some of what I perceived as being barriers or handicaps to being a woman in the courtroom.<sup>307</sup>

#### **D. COURT PERSONNEL**

The Committee considered various methods for studying the treatment of women as court personnel. Since both the Gender and Justice and the Minority and Justice Task Forces were interested in possible bias in the status of court personnel, a joint project was planned. The first step was to gather information on existing court level personnel policies and procedures. Court administrators/clerks were asked whether the courts had policies; if the policies were court, county or city policies; and if there were specific Equal Opportunity, Affirmative Action, and Sexual Harassment policies.

Of the 66 courts responding, four superior courts reported that they had specific court policies (King, Pierce, Spokane, and Thurston.) King County District Courts (4 courts responded -all with the same handbook) and Island County District Court reported that they had court level policies. Some responding courts noted that they operated under city or county personnel policies but had no specific court level policies. Two Superior Courts

responded that they had no policies; one sent a copy of policies that had never been adopted. Five Municipal Courts said they had no specific policies. Forty-three courts had equal opportunity or affirmative action statements; 15 of them had defined Affirmative Action Programs. Twenty-seven courts included specific sexual harassment policies.

Responses were received from 66 courts at the following levels:

**Table 11 Court Personnel Policies and Procedures**

<u>Court Level</u>	<u>Number of Courts</u>	<u>Responses</u>	<u>% Responding</u>
Superior	30	18	60%
District	66	21	32%
Municipal	131	27	21%
Total	227	66	29%

The Minority and Justice Task Force expects to conduct the second phase of the project in 1989. Their plans include a demographic survey of court personnel which will request each court to identify the numbers, percentages, and positions of employees by gender, race, and ethnic origin. The results of this survey should be available in early 1990.

#### **E. CONCLUSIONS**

The Committee on the Treatment of Lawyers, Litigants, Judges, and Court Personnel concludes that some aspects of gender bias, as a result of cultural and societal influences, exist in the Washington State Court system. The bias tends to be more subtle than overt and is more a problem of individuals than the system as a whole. Women more than men are subject to biased behavior and, therefore, are more aware of its existence. As one attorney noted on the lawyer survey:

- Sexism is becoming more subtle and therefore, more difficult for non-members of the victim class to perceive. (Member of Washington Women Lawyers.)<sup>308</sup>

- Because my practice has been for nearly 30 years, I have observed a considerable decrease in overt gender-based discrimination from very frequent in the 60's and early 70's to infrequent in any overt way. I do believe it continues to exist. It is subtle and that much of it is cultural. As such, it is real difficult to deal with. Further, it can be complicated by age discrimination against the very young and the past middle age - most often against the female. (Member of the Washington State Bar Association.)<sup>309</sup>

Survey data and public hearings testimony support the conclusions that women attorneys, litigants, witnesses, and judges are sometimes treated disrespectfully in the courts because of their gender. The end result of these types of gender biased behavior includes loss of respect, credibility, and possible adverse case outcome.

Survey respondents generally acknowledged that the court system had a responsibility to strive for gender neutrality. Most respondents noted the importance of studies like this in making people examine their own attitudes and biases. Some respondents noted that they had personally never witnessed the types of behavior described in the survey but did not deny that those behaviors might exist. There were other respondents, however, who thought gender bias did not exist or that it was justified when it occurred.

- I think worrying about gender related behavior is a waste of time. Men and women are not the same and everyone knows that. Women do better on divorces and are treated better at criminal sentencings. If a man gets killed, his estate will get more because he lost more income. All of these facts should surprise no one. . . . I hope that whoever tallies these results gives up his or her crusade and finds some honest work. As George Nathan once observed: "Anyone who has reformed himself has done quite enough for the community." (Member of the Washington State Bar Association.)<sup>310</sup>
- It is axiomatic that a pile of barnyard manure does not become offensive until someone with pitchfork takes occasion to stir it up.<sup>311</sup>
- I believe I am guilty of some gender bias toward female lawyers and judges - in many cases it's deserved. Probably the most . . . annoying behavior of female lawyers is hostile exaggerated self assertion that I, as a 50 year old lawyer (male) observe. (Member of the Washington State Bar Association.)<sup>312</sup>

The Committee believes that continuing education and attitude awareness training are necessary to eliminating gender bias in the treatment of lawyers, litigants/witnesses, and

judges. With regard to court personnel, the Committee concluded that all courts should have personnel policies that are models of equal opportunity and affirmative action, and should have clearly defined sexual harassment policies. The Minority and Justice Task Force study will provide further information regarding the status of women as court employees.

## **F. RECOMMENDATIONS**

The Committee believes that all elements of the judicial and legal system must recognize that gender biased behavior is unprofessional and detrimental to the fair administration of justice and must take affirmative action to eliminate it. The Committee, therefore, submits the following recommendations:

### ***For the Supreme Court:***

1. Issue a declaration that gender-biased conduct by the bench, bar, or court personnel is unprofessional and should be corrected.
2. Develop a procedure for reporting and taking action on complaints of gender bias by judges.
3. Modify the Code of Judicial Conduct to specify that judges must refrain from gender biased behavior and have an obligation to intervene and correct any biased behavior, whether based on gender, race, or creed.
4. Review the Code of Judicial Conduct and place greater restrictions upon judicial memberships in service and social organizations which discriminate on the basis of gender.

### ***For Judges:***

1. Monitor behavior in the courtroom and intervene to correct gender biased conduct against lawyers, litigants/witnesses, and other judges.
2. Participate in periodic refresher courses on the need for awareness of and avoidance of gender biased behavior.
3. Ensure that all judicial officers, including pro-tem judges, commissioners, and magistrates, are aware of the existence and effects of gender bias in the courts.
4. Continue funding through the Board for Trial Court Education for the implementation of judicial education specifically relating to issues of gender bias in the courts.

***For the Legislature.***

Amend RCW 4.12.040 et seq. to prohibit the use of affidavits of prejudice based upon considerations of a judge's race, creed, or gender.

***For the Washington State Bar Association:***

1. Develop and conduct regular education programs for attorneys on the existence and effects of gender biased behavior in the courtroom.
2. Establish a procedure for reporting and taking action on complaints of gender bias against judges and lawyers.
3. Endorse changes in the Rules of Professional Conduct prohibiting the use of affidavits of prejudice based upon considerations of the gender, race, or creed of the judge.
4. Direct the Law School Liaison Committee to work with the Washington law schools to include information about gender bias in the curriculum.

***For the Office of the Administrator for the Courts:***

1. Develop and conduct regular education programs for judicial officers and court personnel on the existence and effects of gender biased behavior in the courtroom. The development of a training videotape is highly recommended.
2. Direct all courts to review their equal opportunity and affirmative action programs and implement a sexual harassment policy.
3. Ensure that all forms, correspondence, and revisions to codes of law employ gender-neutral language.

***For All Law Schools in Washington State***

Develop and include in the required curriculum instruction on the existence and effects of gender bias in the courts and in the profession.



## VII. CONCLUSION

After almost two years of study, seven public hearings, review of thousands of surveys and hundreds of case files, the Task Force is convinced that gender bias does exist and has a negative impact on the Washington State Courts. Gender bias, whether deliberate or an unconscious manifestation of cultural and traditional ways of thinking and acting toward women and men, has influenced judicial decision making, has affected courtroom interaction, and has impacted the fair treatment of women and sometimes men in the Washington State Courts.

The Committee on the Status of Litigants reported continuing gender bias in the treatment of domestic violence and sexual assault victims. Gender bias was also indicated in decisions made in family law matters, including the economic consequences of divorce for women and children and fathers' rights in custody and visitation. Although data from the case studies of other civil litigation was inconclusive, there were indications that gender bias concerns, particularly regarding the award of attorney's fees, require additional research. The study confirmed that, for the most part, our laws are gender neutral but also indicated that some laws need clarification, amplification, or stricter enforcement.

The Committee on the Treatment of Lawyers, Litigants, Judges, and Court Personnel discovered that lawyers and judges do not always treat female and male litigants, witnesses, lawyers, and judges with the same respect in the courtroom. Affidavits of prejudice are more often used to disqualify a female judge because of her gender than a male judge. For litigants or witnesses, perceptions of credibility are sometimes affected by their sex. Case outcome is at least occasionally affected by gender biased conduct; yet judges, counsel or others intervene in only a minority of cases where gender biased behavior occurs.

The Task Force believes that eliminating gender bias from the courts must become a priority for the Bench, the Bar, and the Legislature. Change can be implemented through education, attitude awareness training, and a commitment to the highest standards of fairness.

To achieve that end, the Task Force has proposed 75 recommendations for education, evaluation, and action. The complete list of recommendations, listed by the group to which each is addressed, follows.

Institutionalizing and implementing these recommendations will be the task of all members of the court system. Individuals as well as identified groups must demonstrate that gender biased behaviors are inappropriate. The Gender and Justice Implementation Committee will be working with the Supreme Court, the Legislature, and the Bar Association to monitor, encourage, and evaluate the implementation of the Task Force's recommendations and the elimination of gender bias from the Washington State Courts.

## **VIII. RECOMMENDATION SUMMARY**



**GENDER AND JUSTICE TASK FORCE - RECOMMENDATION SUMMARY  
LISTED BY GROUP TO WHICH THE RECOMMENDATION IS ADDRESSED**

*For the Supreme Court:*

1. Establish a Gender and Justice Implementation committee composed of judicial, legal, and lay persons to monitor, encourage, and evaluate efforts to implement the recommendations of the Gender and Justice Task Force.
2. Issue a declaration that gender-biased conduct by the bench, bar, or court personnel is unprofessional and should be corrected.
3. Develop a procedure for reporting and taking action on complaints of gender bias by judges.
4. Modify the Code of Judicial Conduct to specify that judges must refrain from gender biased behavior and have an obligation to intervene and correct any biased behavior, whether based on gender, race, or creed.
5. Review the Code of Judicial Conduct and place greater restrictions upon judicial memberships in service and social organizations which discriminate on the basis of gender.

*For Judges:*

1. The Superior Court Judges' Association and the Legislature should jointly study maintenance and property division to recommend changes which will achieve greater economic equality among family members following dissolution.
2. Continue funding through the Board for Trial Court Education for the implementation of judicial education specifically relating to issues of gender bias in the courts.
3. The Superior Court Judges should consider whether maintenance guidelines or a maintenance schedule should be developed, and if so, develop one for use by the trial courts statewide.
4. Judges should require and enforce dissolution decrees to explicitly address the following:
  - a. Security for the child support obligation, such as maintenance of life insurance with a particular named beneficiary;
  - b. The responsibility for maintaining medical insurance on behalf of the children as required by statute;
  - c. The responsibility for educational support of children beyond high school; and
  - d. A specific provision for the allocation of employment related day-care expenses between the parents, as required by statute.

5. **Develop education programs for judges in the area of custody, to reinforce the concept of addressing each case on its merits, avoiding percentage goals and presumptions, and recognizing the diversity of the families who present themselves. Both judges and lawyers should conscientiously assess each family situation presented in the light of the factors required by the Parenting Act, without assumptions based solely on gender.**
6. **Increase continuing education to judges and court personnel at all court levels about:**
  - a. **The dynamics of domestic violence;**
  - b. **The impact on children;**
  - c. **The need for protective order in divorce cases; and**
  - d. **The need for sensitivity when handling domestic violence victims/cases.**
7. **Order probation supervision to monitor compliance when sentencing the defendant to a domestic violence treatment program. Request increase in the number of probation officers, if necessary, to accomplish this goal.**
8. **Avoid the issuance of mutual protection orders when respondent has not requested protection and/or when not warranted by the facts of the case.**
9. **Consider using jail as a sanction for violations of domestic violence protection orders.**
10. **Provide education for judges about:**
  - a. **The substantial current data regarding the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape and the long-term psychological injury to rape victims; and**
  - b. **The difference between vigorous cross-examination that protects the defendant's rights and questioning that includes improper sex stereotyping and harassment of the victim.**
11. **Include workshops at judicial conferences on discrimination cases and the public policy reasons for awarding fees to alleviate some of the concerns, particularly of practitioners in the field. Some discussion of the current costs of doing business, overhead, and market rates would also be helpful. Use of multipliers should also be discussed.**
12. **Consider using experts to provide insights on "reasonability." A court-appointed expert could conduct informal market surveys on hourly rates based on experience only and on number of hours typically expended on civil litigation of comparable longevity and complexity. Such information could diminish the subjectivity and resulting susceptibility to gender bias inherent in the discretionary fee-setting process.**
13. **Monitor behavior in the courtroom and intervene to correct gender biased conduct against lawyers, litigants/witnesses, and other judges.**
14. **Participate in periodic refresher courses on the need for awareness of and avoidance of gender biased behavior.**
15. **Ensure that all judicial officers, including pro-tem judges, commissioners, and magistrates, are aware of the existence and effects of gender bias in the courts.**

*For the Legislature:*

1. Continue to fund a Gender and Justice Implementation committee composed of judicial, legal, and lay persons to monitor, encourage, and evaluate efforts to implement the recommendations of the Gender and Justice Task Force.
2. Enact legislation which makes the issue of a spouse's earning capacity a specific statutory factor in awarding maintenance or property division.
3. Consider replacing the term "rehabilitative" maintenance, with its negative connotation, with "compensatory" maintenance, reflecting the importance of evaluating the respective standard of living each party will experience after divorce in light of the contributions each has made to the marriage, whether financial or otherwise.
4. Reevaluate that portion of RCW 26.09.170 which automatically terminates maintenance upon the remarriage of the party receiving maintenance.
5. Amend RCW 26.18.010, et seq. (or ch. 26.18 RCW) to authorize mandatory wage assignments for maintenance payments to the same extent as is currently provided for child support obligations.
6. Immediately address the need for reasonably affordable quality day-care for working parents. Consider incentives for public and private sector employer sponsored day-care facilities.
7. Consider alternative dispute resolution methods for addressing marital dissolutions in appropriate cases.
8. Review the issue of divided military benefits and the McCarty decision to determine if case law adequately addresses the problem or if additional legislative action is necessary.
9. Establish a state commission or task force on domestic violence to implement this Subcommittee's recommendations and other matters pertaining to domestic violence.
10. Increase funding to the courts for advocates to assist and educate victims of domestic violence both in the civil court process and in the criminal court. Develop resource material for victims of domestic violence that would:
  - a. Encourage the use of the court system in an effort to prevent violence; and
  - b. Educate victims about the Criminal Justice System and the protection order process. The materials could be used in shelters statewide.
11. Increase the level of support for shelters throughout the state. Currently the state divides \$537,000 among 37 shelters and safe homes statewide. Establish shelters in jurisdictions lacking such service for victims and their children.
12. Legislate funds to support treatment programs for batterers.
13. Enact laws prohibiting the granting of a gun permit to an individual convicted of a domestic violence crime, either misdemeanor or felony.
14. Legislate and fund increased training on domestic violence issues for police recruits at the police academy. Currently the domestic violence training for new recruits is two hours. The Subcommittee agrees it is inadequate and should be increased to 16-20 hours.

***For the Legislature, continued:***

15. Establish a statewide statistical data collection system for incidents of domestic violence reported to police departments. Included in the data collection should be the numbers of domestic violence calls, arrests, incident reports, and citations.
16. Establish a statewide statistical data collection system for the offices of the prosecuting attorney, both county and municipal. This would provide a monitoring system for the "rigorous prosecution" of domestic violence cases.
17. Review the Domestic Violence Prevention Act in order to study and correct problem areas in the legislation.
18. Amend RCW 4.12.040 et seq. to prohibit the use of affidavits of prejudice based upon considerations of a judge's race, creed, or gender.
19. The Superior Court Judges' Association and the Legislature should jointly study maintenance and property division to recommend changes which will achieve greater economic equality among family members following dissolution.

***For the Washington State Bar Association:***

1. Develop continuing education programs on the effects of gender stereotyping in family law matters and the need for lawyers to provide adequate economic data and expert witnesses to the judges in marital dissolution cases.
2. Develop more programs for free or low cost counsel and use of expert witnesses in family law areas.
3. Develop and conduct regular education programs for attorneys on the existence and effects of gender biased behavior in the courtroom.
4. Establish a procedure for reporting and taking action on complaints of gender bias against judges and lawyers.
5. Endorse changes in the Rules of Professional Conduct prohibiting the use of affidavits of prejudice based upon considerations of the gender, race, or creed of the judge.
6. Direct the Law School Liaison Committee to work with the Washington law schools to include information about gender bias in the curriculum.
7. Consider using experts to provide insights on "reasonability". A court-appointed expert could conduct informal market surveys on hourly rates based on experience only and on number of hours typically expended on civil litigation of comparable longevity and complexity. Such information could diminish the subjectivity and resulting susceptibility to gender bias inherent in the discretionary fee-setting process.



***For Judges, the Legislature, County Government, and Bar Associations:***

Address the barriers to court access which may significantly bar meaningful and equal participation by litigants, including:

- a. The lack of adequate legal assistance in family law matters;
- b. The high cost of attorney's fees;
- c. The lack of alternative methods for addressing marital dissolutions;
- d. The lack of child care at courthouses; and
- e. Transportation difficulties for litigants in getting to the county courthouse.

***For the Washington Association of Prosecuting Attorneys/Prosecuting Attorneys:***

1. Implement a study to determine whether or not prosecutors are doing the following and documenting the results:
  - a. Notifying victims of filing decisions within five days of receiving a domestic violence police report; and
  - b. Vigorously prosecuting domestic violence cases regardless of pending divorce cases.
2. Assist in developing filing standards on domestic violence cases, both felony and misdemeanor.
3. Develop training material on the technical aspects of prosecuting domestic violence cases.
4. Work with individual prosecutor's offices to provide education to prosecutors about:
  - a. The dynamics of domestic violence;
  - b. The impact on children; and
  - c. The need for sensitivity in handling domestic violence victims/cases.
5. Vigorously prosecute violations of protection orders.
6. Provide education for deputy prosecutors about the substantial current data regarding the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape and the long-term psychological injury to rape victims.
7. Establish specialized prosecution units that permit rape victims to deal with only one deputy prosecutor through all stages of the proceeding and which emphasize communication between victims and prosecutors.
8. Ensure that acquaintance rape cases are treated with the same seriousness as stranger rape cases.
9. Oppose continuances in rape cases unless there is compelling necessity for such continuance.

***For the Office of the Administrator for the Courts and Court Administrators:***

1. Develop and conduct regular education programs for judicial officers and court personnel on the existence and effects of gender biased behavior in the courtroom. The development of a training videotape is highly recommended.
2. Direct all courts to review their equal opportunity and affirmative action programs and implement a sexual harassment policy.
3. Ensure that all forms, correspondence, and revisions to codes of law employ gender-neutral language.
4. Develop standardized forms for protection orders to be used statewide. Analyze whether it is legally possible to use one form for all three civil orders: protection orders, restraining orders, and anti-harassment orders.
5. Require that attorneys complete docket sheets describing the nature of the case, as the federal courts and some superior courts do. All superior courts should request such docket information, and include a specific category for discrimination, wrongful death, and loss of consortium cases. That information should then be recorded on SCOMIS for easy retrieval.
6. Provide staff to continue to work with the Gender and Justice Task Force Implementation Committee.

***For Police:***

1. Establish procedures that provide for swift service of protection orders and establish service as a high priority within the department.
2. Increase police training on domestic violence.
3. Establish specialized units to deal with sex offenses.
4. Provide education for police officers about the nature of the crime of rape, the psychology of offenders, the prevalence and seriousness of acquaintance rape and the immediate and long-term psychological injury to rape victims.
5. Ensure that acquaintance rape complaints are treated with the same seriousness as complaints of stranger rape.

***For All Law Schools in Washington State:***

Develop and include in the required curriculum instruction on the existence and effects of gender bias in the courts and in the profession.

*For the Gender and Justice Implementation Committee.*

1. Work with the Board for Trial Court Education, and the Bar to develop and provide further education for judges and lawyers about the economic consequences for families following dissolution.
2. Develop a standard economic data form for inclusion in all dissolution decrees which the Supreme Court should require be filed by adoption of court rule.
3. Implement a prospective study of contested dissolution cases which will gather data on property division which could not be done in the retrospective dissolution case study.
4. Study and make recommendations for the court's use of contempt powers to enforce family law decrees.
5. Review the effects of the Parenting Act on maintenance and child support awards.
6. As more discrete information becomes available on the SCOMIS system, the committee should review awards for wrongful death and loss of consortium.
7. As discrimination cases continue to be tried and fees awarded, further study should be conducted.



## NOTES

1. Substitute House Bill 1221, State of Washington, Section 110 (3), effective date July 1, 1987.
2. Laura L. Crites, "Wife Abuse: The Judicial Record," Women, The Courts, and Equality, Newberry Park: Sage Publications, 1987, p. 38.
3. Dr. Susan Starbuck, "Yesterday's Women Judges: Role Models For Today," Judiciary, Winter/Spring 1985, p. 7.
4. NOW Legal Defense and Education Fund and Dr. Renee Cherow-O'Leary, The State-by-State Guide to Women's Legal Rights, New York: McGraw-Hill Book Company, 1987.
5. Data on judges was obtained from the Office of the Administrator for the Courts; for attorneys by hand counting the number of attorneys with female first names in the Washington State Bar Association Resources Directory for 1987; and for 1988 law school graduates by contacting law school placement offices at the University of Washington (44.5% female graduates), University of Puget Sound (44% female graduates), and Gonzaga University (35% female graduates).
6. New Jersey Supreme Court Task Force on Women in the Courts: Report of the First Year, June 1984, p. 1, and "Report of the New York Task Force on Women in the Courts," Fordham Urban Law Journal, XV, 1986-1987, p. 17.
7. All materials that comprise the record of the Task Force are available for inspection at the Office of the Administrator for the Courts, 1206 S. Quince, Olympia, Washington 98504.
8. Hearings were held in Seattle, Spokane, Pasco, Bellingham, Wenatchee, Longview, and Tacoma during March and May 1988. Transcripts of the public hearings are available in the Task Force record at the Office of the Administrator for the Courts.
9. Survey instruments and responses are included in the Appendix.
10. Lynn Hecht Schafran, "Documenting Gender Bias in the Courts: The Task Force Approach," Judicature, 70, February-March 1987, p. 281-3.
11. For a general background of Domestic Violence see:
  - a) Emerson R. Dobash and Russell Dobash, Violence Against Wives: A Case Against Patriarchy, N.Y.: The Free Press, 1979.
  - b) David Finkelbor, Richard J. Gelles, Gerald T. Hotaling, and Murray A. Straus, editors, The Dark Side of Families: Current Family Violence Research, CA: Sage Publications, Inc., 1983.
  - c) Murray A. Straus, Richard J. Gelles and Suzanne Steinnetz, Behind Closed Doors: Violence in the American Family, N.Y.: Anchor Press, 1980.
  - d) Dr. Lenore E. Walker, The Battered Woman, N.Y.: Harper and Row, 1979.

**e) The United States Attorney General's Task Force on Family Violence: Final Report, 1984.**

12. See the Domestic Violence Protection Act 1984 in RCW 26.50 and the rape statutes in RCW 9A.44.010-.060.
13. C. Edward Koop, U.S. Surgeon General, Speech, "Violence and Public Health", October 27, 1985, Atlanta, GA.
14. Dr. Lenore E. Walker, pp 71-165.
15. Ibid., pp.55-70.
16. Domestic Violence Service Providers' Survey (DVSP), Appendix D, question 3; Judicial Survey on Domestic Violence and Rape (Judicial Survey), Appendix C, question 5.
17. DVSP Survey, question 6; Judicial Survey, question 7.
18. DVSP Survey, question 5; Judicial Survey, question 6.
19. Confronting Domestic Violence: A Guide for Criminal Justice Agencies, National Institute of Justice: Issues and Practices, U.S. Department of Justice Publication, May 1986, p. 2-3.
20. DVSP Survey, question 11. Responses to question 11 follow the survey in Appendix D. Categories have been collapsed.
21. Ibid., question 12.
22. Ibid., question 13. Responses to question 13 follow the survey in Appendix D. Categories have been collapsed.
23. Ibid., question 16.
24. DVSP Survey, question 17; Judicial Survey, question 9.
25. DVSP Survey, question 24.
26. Ibid., question 19.
27. DVSP Survey, questions 26 and 31; Judicial Survey, questions 11 and 20.
28. DVSP Survey, question 31; Judicial Survey, question 20.
29. DVSP Survey, question 32; Judicial Survey, question 21.
30. DVSP Survey, question 36; Judicial Survey, question 22.
31. DVSP Survey, question 15.
32. Ibid., question 18.
33. Siri Woods, Chelan County Clerk, Wenatchee Public Hearing, p.27-28.

34. DVSP Survey, question 19.
35. DVSP survey, question 21, Judicial Survey, question 12.
36. Ibid., questions 29 and 18.
37. Ibid., questions 33 and 35.
38. Ibid., questions 27 and 17.
39. DVSP Survey, question 40; Judicial Survey, question 26. Responses to questions 40 and 26 follow the survey results in Appendix D and Appendix C.
40. Ibid.
41. Judicial Survey respondent #S34, question 26.
42. DVSP Survey, question 41; Judicial Survey, question 27. Responses to question 41 follow the survey results in Appendix D and Appendix C.
43. DVSP Survey, question 10.
44. Ibid., question 11. Responses to question 11 follow the survey results in Appendix D.
45. Testimony from the director of the Seattle Family Violence Project.
46. DVSP Survey, question 42.
47. Ibid., question 45.
48. For example: (1) Many abusers are not arrested because they evade police during the mandatory 4-hour arrest period of the DVPA. This period should be extended to 24 hours. (2) Victims under 18 years of age are not covered by the DVPA even though they often are emancipated and live with battering husbands or boyfriends. (3) "Social partners" who have not been named to or live with the batterer should be covered by the DVPA. (4) Clear language setting forth the powers of the court to issue "no contact" orders needs to be added to the DVPA. (5) The language of RCW 26.50.110 pertaining to violation of orders of protection should be changed to read that the respondent has constructive knowledge of the order of protection if he has been served with a copy of the temporary order of protection and notice of the hearing for the protection order and has failed to appear for that hearing.
49. DVSP Survey, question 46.
50. Ibid., question 47.
51. DVSP Survey, question 44; Judicial Survey, question 28.
52. Ibid., questions 55 and 34.
53. Ibid., questions 54 and 33.
54. Judicial Survey, question 30.
55. Ibid., question 31.

56. DVSP Survey, question 55; Judicial Survey, question 34.
57. Ibid., questions 56 and 35.
58. DVSP Survey, question 57. Responses to question 57 follow the survey results in Appendix D.
59. Judicial Survey, question 38. Responses to question 38 follow the survey results in Appendix C.
60. Judicial Survey, question 39. Responses to question 39 follow the survey results in Appendix C.
61. DVSP Survey, question 58. Responses to question 58 follow the survey results in Appendix D.
62. Lawyer Survey, Washington Woman Lawyer Respondent #W176, question 21. See Appendix A.
63. Judicial Survey, question 24.
64. DVSP Survey, questions 39 and 51.
65. DVSP Survey, question 38, Judicial Survey, question 25.
66. Judicial Survey, question 36.
67. DVSP Survey, question 50.
68. Lawyers Survey, Family Law Respondent #F6, question 99.
69. Lawyer Survey, Public Defender Respondent #D2, question 21.
70. These laws are now codified as RCW 9A.44.010-.060.
71. RCW 9A.44.010(1).
72. RCW 9A.44.010(5).
73. RCW 9A.44.040-.060.
74. RCW 9A.44.020(2).
75. RCW 70.125.065.
76. The percentages cited are of service providers who responded to the question, excluding those who responded "don't know" or "not applicable." Sexual Assault Service Provider (SASP) Questionnaire, Appendix E, questions 13 and 15.
77. Ibid., question 20.
78. Ibid., questions 18 and 20.
79. Ibid., question 10.



80. Ibid., question 11. Responses to question 11 follow the survey in Appendix E.
81. Ibid., question 21.
82. Ibid., question 22.
83. Ibid., questions 11 and 22. Responses to questions 11 and 22 follow the survey in Appendix E.
84. Rape law in the United States is rooted in the English common law which focused attention on the conduct of the complainant rather than the defendant. *See Berger, Man's Trial, Woman's Tribulation: Rape Cases in the Courtroom*, 77 *Columbia Law Review* 1, 10 (1977). The 17th century jury charge of Lord Chief Justice Sir Matthew Hale, which became standard throughout the United States, provides that a rape accusation "is one which is easily made and, once made, difficult to defend against, even if the person accused is innocent." *Id.* Therefore, "the law requires caution." *Id.* Other samples of the views of prominent legal authorities are: "Prosecuting attorneys must continually be on guard for the charge of sex offense brought by the spurned female that has as its underlying basis a desire for revenge, or a blackmail or shakedown scheme." Ploscowe, *Sex Offenses: The American Legal Context*, 25 *Law & Contemporary Problems*, 217, 223 (1960); *see* 3A *J. Wigmore, Evidence* § 924a, at 737 (advocating that every complainant of sexual offense be examined by a psychiatrist to determine whether she fantasized the attack).
85. Lawyer Survey, Washington State Bar Association Respondent #B430, question 21.
86. Lawyer Survey, Prosecuting Attorney Respondent #P35, question 21.
87. The percentages cited are of judges who responded to the question, excluding those who answered "don't know" or "not applicable. Percentages in Appendix C do not reflect this change. "Judicial Survey, question 48.
88. SASP, question 11.
89. Lawyer Survey, Prosecuting Attorney Respondent #P19, question 21.
90. RCW 9A.44.020.
91. Judicial Survey, question 45.
92. SASP, question 23.
93. Judicial Survey, question 47.
94. SASP, question 25.
95. Judicial Survey, question 55.
96. SASP, question 30.
97. Judicial Survey, question 54.
98. SASP, question 31.
99. Judicial Survey, question 53.

100. Lawyer Survey, question 74.
101. Lawyer Survey, Prosecuting Attorney Respondent #P35, question 21.
102. SASP, questions 22 and 32. Responses to questions 22 and 32 follow the survey in Appendix E.
103. Ibid., question 7.
104. Ibid., question 22. Responses to question 22 follow the survey in Appendix E.
105. Ibid., question 32. Responses to question 32 follow the survey in Appendix E.
106. SASP, Survey Respondent #R5, Question 32.
107. Sharon Fisher, Executive Director of the Wenatchee Rape Crisis and Domestic Violence Center, Wenatchee Public Hearing, p.17.
108. Nelson, Kim. Women, Their Families, and Work: A Washington Report on the Economic Status of Women, 1986, p. 23. Poverty is defined as a family of four making less than \$10,000 per year, p. 29.
109. Ibid., p. 24. Near poverty is defined as 125% or less of the poverty level income, p. 29.
110. U.S. Bureau of the Census, Current Population Reports, Series P-60, No. 161, Money Income and Poverty Status in the United States: 1987. Advance data from the March 1988 Current Population Survey, p.10.
111. For a discussion of the feminization of poverty see the following:
- Jessica Pearson, Ph.D. and Nancy Thoeness, Ph.D.: "Supporting Children After Divorce: The Influence of Custody on Support Levels and Payment", Vol. XXII, #3, Family Law Quarterly, Fall 1988.
- Lenore Weitzman: The Divorce Revolution: The Unexpected Social and Economic Consequences for Women and Children in America; The Free Press, New York 1985.
- James B. McLindon, J.D.: "Separate But Unequal: The Economic Disaster of Divorce for Women and Children", Vol. XXI, #3, Family Law Quarterly, Fall 1987.
- Heather R. Wishik, J.D.: "Economics of Divorce: An Exploratory Study", Vol. XX, #1, Family Law Quarterly, Spring 1986.
- Child Support and Alimony: 1985 (Supplemental Report) Series p. 23, #154; United States Commerce Department Census Bureau Survey (U.S. Government Printing Office, Washington, D.C. 20402), March 1989.
- Child Support, Vol. 36, #3, Juvenile & Family Court Journal, Fall 1985.
112. The State-By-State Guide to Women's Legal Rights, 1987.
113. Professor Dana Jack, Bellingham Hearing, p. 45.

114. Detailed descriptions of the methodology and results of each of these endeavors are found in the technical appendix.
115. The speakers reported concerns over custody and visitation, child support and spousal maintenance, property division, and attorney fees. The statements of the speakers are reported here as given; none of the factual, including statistical claims made by speakers, have been confirmed by the Task Force.
116. Money Income and Poverty Status in the United States: 1987, pp.19-20.
117. Ibid.
118. United States Department of Labor, Bureau of Labor Statistics, News Report -USDL 89-50, January 31, 1989.
119. Money, Income and Poverty Status in the United States: 1987, p. 10.
120. Ibid., p.8
121. Frances Leonard, "Gray Paper: Divorce and Older Women." Older Women's League, Washington D.C., 1987.
122. Nelson, p. 58.
123. Ibid., p. 23.
124. Ibid., p. 33.
125. Ibid.
126. "The Needs of Women and Girls," The Women's Funding Alliance, 1987.
127. "Family Equity at Issue," Research Summary, Alaska Women's Commission, October 1987.
128. "Sex and Economic Discrimination in Child Custody Awards", National Center on Women and Family Law, Clearing House Review, April 1983, p. 1131.
129. Lawyers' Survey, question 47.
130. Judges' Survey, question 55.
131. Lawyers' Survey, question 26.
132. Ibid., question 28.
133. Judges' Survey, question 36.
134. Lawyers' Survey, Family Law Section Respondent #F104, question 99.
135. Professor Linda Hume, Esq., Seattle Hearing, Exhibit C.
136. Connie Saracino, Wenatchee Hearing, p. 12.
137. Denise Brennan, Esq., Bellingham Hearing, p. 24.

138. Beverly Doty, Seattle Public Hearing, p. 46.
139. Elizabeth Goodman, Northwest Chapter of Expose, Ex-Partners of servicemen and women for equality. Seattle Hearing, p. 38.
140. Kathy Coombs, Tax and Divorce Consultant, Seattle Hearing, Exhibit E.
141. Wanda Lahn, Seattle Hearing, pp. 31 and 32.
142. Testimony from an unidentified older female during a telephone conversation, March, 1987.
143. Lawyers' Survey, question 34.
144. Ibid., question 30.
145. Ibid., question 37.
146. Ibid., questions 35 and 36.
147. Lawyers' Survey, Family Law Section Respondent #F66, question 99.
148. Lawyers' Survey, Family Law Section Respondent #F152, question 99.
149. Lawyers' Survey, Washington State Bar Respondent #B122, question 34.
150. Lawyers' Survey, Washington Women Lawyers Respondent #W132, question 34.
151. Judges' Survey, question 43.
152. Ibid., questions 41 and 42.
153. Ibid., question 38.
154. Lawyers' Survey, question 29.
155. Lawyers' Survey, Public Defender Respondent #D41, question 34.
156. Lawyers' Survey, question 32.
157. Ibid., question 33.
158. Judges Survey, question 40.
159. Since the Vermont data was based upon only 10 cases available to the Vermont study's author, it is not considered a reliable sample.
160. Nancy Hawkins, Esq., Northwest Women's Law Center, Seattle Hearing, p. 14.
161. Grace Rowan, Pasco Hearing, p. 18.
162. Written testimony from Harriet Bajoraitis submitted to the Task Force March 1989.

163. Joan Denoo Smith, Displaced Homemaker Program Outreach Service, Spokane Hearing, p. 11.
164. Denise Brennan, Esq., Bellingham Hearing, p. 21.
165. Lawyers' Survey, question 52; Judges' Survey, question 59.
166. Lawyers' Survey, question 52.
167. Judges' Survey, question 51.
168. Lawyers' Survey, question 44.
169. Judges' Survey, question 52.
170. Lawyers' Survey, question 46.
171. Lawyers' Survey, question 51; Judges' Survey, question 58.
172. Ibid., questions 42 and 50.
173. Lawyers' Survey, question 38.
174. Judges' Survey, question 47.
175. Lawyers' Survey, question 40.
176. Ibid., question 41.
177. Ibid., question 49.
178. D. Steve Yerian, Pasco Hearing, p. 6.
179. Alan Rudberg, Longview Hearing, pp. 8 and 9.
180. Terry Ducheane, Seattle Hearing, pp. 11 and 12.
181. Brennan, Bellingham Hearing, p. 27.
182. Bill Harrington, quoted in "Civil Rights Battle of the 1990's: Dads' Rights in Custody Cases," The Olympian, April 13, 1989.
183. Hawkins, Seattle Hearing, p. 16.
184. Written testimony from May Ellen Shields, M.D., Bellingham Hearing, Exhibit E.
185. Carol Welch, Monica Zazworsky and Jean Irlbeck, Employer Reporting Demonstration Project: Final Report, Presented to the Washington State Legislature January 1989, Office of Support Enforcement, Olympia, Washington.
186. Lawyers' Survey, questions 47 and 48.
187. Judges' Survey, question 55.

188. Ibid., question 56.
189. Lawyers' Survey, questions 55, 56, and 59.
190. Ibid., questions 53 and 54.
191. Judges' Survey, questions 62 and 63.
192. Judges' Survey, Respondent #J102, question 70.
193. Lawyers' Survey, Washington State Bar Association Respondent #B132, question 99.
194. Lawyers' Survey, question 56; Judges' Survey, question 65.
195. Ibid., questions 57 and 66.
196. Lawyers' Survey, Washington Women Lawyers Respondent #W64, question 99.
197. Lawyers' Survey, question 58.
198. Judges' Survey, question 67.
199. Cheryl Boal, Coordinator, Whatcom County Volunter Lawyer Program, Bellingham Hearing, pp. 14 and 15.
200. Tom Ashton, Directing Attorney, Evergreen Legal Services Program for Whatcom, Skagit, Island, and San Juan Counties, Bellingham Hearing, p. 37.
201. Brenda Wilbee, Bellingham Hearing, Exhibit D.
202. Natalie Dethloff, Regional Administrator for U.S. Department of Health and Human Services Family Support Administration, Seattle Hearing, Exhibit D.
203. Boal, Bellingham Hearing, p. 13.
204. J. Gregory Casey, "Washington Wrongful Death and Survival Actions," Gonzaga Law Review, 6 (1971).
205. Ibid.
206. Elizabeth M. King and James P. Smith, Computing Economic Loss in Cases of Wrongful Death, 1988.
207. Ibid.
208. Stuart Speiser, Recovery for Wrongful Death: Economic Handbook, 1988, p. 7.
209. Bobbi Greisel, Staff Director, Jury Verdicts Northwest, 1988.
210. The figure used for the average is the mean, which was determined by adding award amounts together and dividing by the number of awards. Four large award amounts (\$600,000 and \$50,000 for men and \$100,000 and \$48,700 for women) were excluded to prevent a skewed average.

211. Averages for the arbitration awards were formulated in the same manner previously described.

212. Hawkins, Seattle Public hearing, p. 13-14.

213. A description of the research methodology for the surveys is contained in the Appendix along with the survey results. See Appendix A for the Lawyers' Survey and Appendix B for the Judicial Survey (hereafter called the Judges' Survey).

214. The percentages are based on the number of attorneys and judges who responded to the survey. Percentages are a combination of responses to the categories "occasionally," "usually," and "always". All percentages have been rounded. See Lawyers' Survey, question 98; Judges' Survey, question 87.

215. Asked whether perceived discrimination was (1) isolated to individual offenders, (2) an institutional problem, or (3) both an individual and institutional problem, respondents (Lawyers' survey #98/Judges' survey #87) answered as follows. The 1st percentage refers to lawyer respondents/the second percentage refers to judicial respondents:

**Discrimination directed at:**

<u>Problem of:</u>	<u>Lawyers</u>	<u>Litigants Witnesses</u>	<u>Judges</u>
indiv. offenders	54%/57%	44%/48%	39%/41%
instit. problem	16%/9%	21%/10%	11%/5%
<u>instit. &amp; indiv.</u>	<u>5%/2%</u>	<u>5%/3%</u>	<u>4%/2%</u>
total	74%/68%	70%/61%	54%/48%

216. The perceptions of women respondents (Lawyers' Survey #98/Judges' Survey #87) were as follows:

**Discrimination directed at:**

<u>Problem of:</u>	<u>Lawyers</u>	<u>Litigants/ Witnesses</u>	<u>Judges</u>
indiv. offenders	56%/50%	42%/46%	44%/48%
instit. problem	23%/27%	31%/23%	17%/20%
<u>instit. &amp; indiv.</u>	<u>10%/15%</u>	<u>9%/15%</u>	<u>7%/12%</u>
total	89%/92%	82%/84%	68%/80%

The perceptions of male respondents (Lawyers' Survey #98/Judges Survey #87) were as follows:

**Discrimination directed at:**

<u>Problem of:</u>	<u>Lawyers</u>	<u>Litigants/ Witnesses</u>	<u>Judges</u>
indiv. offenders	50%/58%	46%/48%	35%/39%
instit. problem	9%/7%	12%/8%	5%/3%
<u>instit. &amp; indiv.</u>	<u>1%/1%</u>	<u>3%/1%</u>	<u>1%/1%</u>
total	60%/66%	61%/57%	41%/43%

- 217. Lawyers' Survey, question 1.
- 218. Ibid., question 2.
- 219. Ibid., question 3.
- 220. Ibid., question 6.
- 221. Ibid., question 7.
- 222. Ibid., question 8.
- 223. Ibid., question 12.
- 224. Ibid., question 13.
- 225. Ibid., question 18.
- 226. Ibid., question 19.
- 227. Ibid., question 1.
- 228. Ibid., question 3.
- 229. Ibid., question 7.
- 230. Ibid., question 13.
- 231. Ibid., question 19.
- 232. Lawyers' Survey, Washington State Bar Association Respondent #B174, question 21.
- 233. Lawyers' Survey, Washington State Bar Association Respondent #B367, question 99.
- 234. Lawyers' Survey, Washington State Bar Association Respondent #B559, question 23.
- 235. Lawyers' Survey, Family Law Section Respondent #F105, question 21.
- 236. The following percentage of respondents (Lawyers' Survey #19/Judges Survey #13) reported instances where remarks or jokes demeaning to one gender were made in court or chambers.

	<u>Demeaning to Women</u>	<u>Demeaning to Men</u>
by judges	38%/27%	13%/19%
by lawyers	58%/48%	26%/33%
by court personnel	23%/25%	14%/22%

- 237. Lawyers' Survey, Family Law Section Respondent #F54, question 99.
- 238. Lawyers' Survey, Public Defender Respondent #P69, question 99.



239. Female respondents (Lawyers' Survey #19/Judges' Survey #13) reported demeaning remarks as follows:

	<u>Demeaning to Women</u>	<u>Demeaning to Men</u>
by judges	52%/47%	10%/24%
by lawyers	71%/65%	20%/27%
by court personnel	27%/32%	12%/23%

Male respondents (Lawyers' Survey #19/Judges' Survey #13) reported demeaning remarks as follows:

	<u>Demeaning to Women</u>	<u>Demeaning to Men</u>
by judges	27%/24%	16%/19%
by lawyers	47%/46%	30%/34%
by court personnel	19%/24%	15%/21%

240. Lawyers' Survey, Washington Women Lawyer Respondent #W146, question 21.

241. Lawyers' Survey, Trial Law Section Respondent #T57, question 99.

242. Lawyers' Survey, Trial Law Section Respondent #T32, question 21.

243. Lawyers' Survey, Washington State Bar Association Respondent #B65, question 99.

244. The following percentages of respondents (Lawyers' Survey #1/Judges' Survey #1) reported that lawyers were "occasionally," "usually," or "always" addressed by first name when lawyers of the opposite sex were addressed by surname:

<u>Counsel Addressed by First Name:</u>	<u>Women Lawyers</u>	<u>Men Lawyers</u>
by judges	24%/--	21%/--
by opposing counsel	45%/40%	37%/38%
by court personnel	37%/31%	29%/29%

"--" indicates this question was not asked.

245. Female respondents (Lawyers' Survey #1/Judges' Survey #1) reported first names were used as follows:

<u>Counsel Addressed by First Name:</u>	<u>Women Lawyers</u>	<u>Men Lawyers</u>
by judges	34%/--	27%/--
by opposing counsel	59%/55%	42%/41%
by court personnel	53%/44%	37%/31%

The corresponding percentages for male respondents (Lawyers' Survey #1/Judges' Survey #1) is as follows:

<u>Counsel Addressed by First Name:</u>	<u>Women Lawyers</u>	<u>Men Lawyers</u>
by judges	15%/--	16%/--
by opposing counsel	32%/38%	32%/38%
by court personnel	23%/29%	23%/29%

246. Lawyers' Survey, Washington State Bar Association Respondent #B237, question 21.

247. Lawyers' Survey, Trial Law Section Respondent #T107, question 21.

248. Lawyers' Survey, Washington Women Lawyer Respondent #W18, question 21.

249. Lawyers' Survey, Washington State Bar Association Respondent #B37, question 99.

250. Lawyers' Survey, question 2.

251. The following percentages of respondents (Lawyers' Survey #2/Judges' Survey #2) reported instances where lawyers were "occasionally," "usually" or "always" addressed by familiar terms:

<u>Sex of Counsel Addressed:</u>	<u>Women Lawyers</u>	<u>Men Lawyers</u>
by judges	26%/--	7%/--
by lawyers	38%/18%	11%/12%
by court personnel	21%/8%	8%/8%

252. Female respondents (Lawyers' Survey #2/Judges' Survey #2) reported occasions when lawyers had been addressed by familiar terms as follows:

<u>Sex of Counsel Addressed:</u>	<u>Female Lawyers</u>	<u>Male Lawyers</u>
by judges	40%/--	5%/--
by opposing counsel	57%/36%	9%/3%
by court personnel	34%/18%	10%/4%

Male respondents (Lawyers' Survey #2/Judges' Survey #2) reported occasions when lawyers had been addressed in familiar terms as follows:

<u>Sex of Counsel Addressed:</u>	<u>Female Lawyers</u>	<u>Male Lawyers</u>
by judges	13%/--	9%/--
by opposing counsel	20%/15%	13%/14%
by court personnel	9%/6%	7%/9%

253. Lawyers' Survey, Washington State Bar Association Respondent #B292, question 21.

254. Lawyers' Survey, Prosecuting Attorney Respondent #P88, question 23.

255. Judges' Survey, Respondent #J184, question 15.

256. The following percentages of respondents (Lawyers' Survey #3/Judges' Survey #3) reported instances where attorneys were "occasionally," "usually" or "always" complimented on personal appearance:

<u>Sex of Counsel Addressed:</u>	<u>Female Lawyers</u>	<u>Male Lawyers</u>
by judges	26%/--	13%/--
by lawyers	49%/41%	30%/33%
by court personnel	39%/46%	26%/40%

257. Female respondents (Lawyers' Survey #3/Judges' Survey #3) reported occasions when attorneys had been complimented on personal appearance as follows:

<u>Sex of Counsel Complimented:</u>	<u>Female Lawyers</u>	<u>Male Lawyers</u>
by judges	34%/--	11%/--
by opposing counsel	61%/69%	27%/45%
by court personnel	50%/67%	22%/46%

Male respondents (Lawyers' Survey #3/Judges' Survey #3) reported occasions when attorneys had been complimented on personal appearance as follows:

<u>Sex of Counsel Complimented:</u>	<u>Female Lawyers</u>	<u>Male Lawyers</u>
by judges	18%/--	15%--
by opposing counsel	38%/36%	33%/31%
by court personnel	30%/42%	29%/38%

258. Lawyers' Survey, Washington State Bar Association Respondent #B327, question 21.

259. The following percentages of survey respondents (Lawyers' Survey #4/Judges' Survey #4) reported knowing of verbal advances towards attorneys of the opposite sex:

<u>Advance directed at:</u>	<u>Female Lawyers</u>	<u>Male Lawyers</u>
by judges	4%/--	*/--
by opposing counsel	16%/4%	4%/2%
by court personnel	3%/1%	2%/3%

The following percentages of respondents (Lawyers' Survey #5/Judges' Survey #5) reported knowing of physical sexual advances towards attorneys of the opposite sex:

<u>Advance directed at:</u>	<u>Female Lawyers</u>	<u>Male Lawyers</u>
by judges	1%/--	*/--
by opposing counsel	5%/2%	*/0
by court personnel	*/1%	*/*

\* = Less than 1%

0 = no reported occurrence

260. Lawyers' Survey, Washington State Bar Association Respondent #B380, question 21.

261. Lawyers' Survey, Washington State Bar Association Respondent #B55, question 21.

262. Lawyers' Survey, Washington Women Lawyer Respondent #W99, question 21.

263. The following percentages of respondents (Lawyers' Survey #6/Judges' Survey #6) reported instances where lawyers of one gender were asked if they were lawyers while of the opposite gender were not asked:

<u>Sex of Lawyer Asked:</u>	<u>Female Lawyer</u>	<u>Male Lawyer</u>
by judges	24%/--	6%/--
by opposing counsel	39%/17%	8%/11%
by court personnel	38%/18%	10%/13%

264. The following percentages of respondents (female %/male %) reported instances where female lawyers were asked if they were attorneys when male lawyers were not being asked:

	<u>Lawyers' Survey</u>	<u>Judges' Survey</u>
by judges	40%/11%	--/--
by opposing counsel	60%/21%	43%/12%
by court personnel	61%/18%	39%/14%

The following percentages of respondents (female %/male %) reported instances where male lawyers were asked if they were attorneys when female lawyers were not being asked:

	<u>Lawyers' Survey</u>	<u>Judges' Survey</u>
by judges	3%/8%	--/--
by opposing counsel	6%/10%	21%/10%
by court personnel	10%/11%	21%/11%

265. Lawyers' Survey, Trial Law Section Respondent #T135, question 99.

266. Lawyers' Survey, Washington State Bar Association Respondent #B87, question 21.

267. Lawyers' Survey, Trial Law Section Respondent #T138, question 21.

268. "Report of the New York Task Force on Women in the Courts," p. 114 (1986-87).

269. The following percentages of respondents (Lawyers' Survey #12/Judges' Survey #12) reported instances where adult litigants or witnesses were regarded as less credible because of their gender:

Female Male

	<u>Litigants/Witnesses</u>	<u>Litigants/Witnesses</u>
by judges*	29%/--	10%/--
by lawyers*	36%/21%	15%/10%
by court personnel*	17%/--	6%/--

\* of opposite gender

270. Female respondents (Lawyers' Survey #12/Judges' Survey #12) reported seeing litigants deemed less credible because of their gender as follows:

	<u>Female Litigants/Witnesses</u>	<u>Male Litigants/Witnesses</u>
by judges	49%/--	11%/--
by lawyers	57%/50%	18%/7%
by court personnel	31%/--	8%/--

Male respondents (Lawyers' Survey #12/Judges' Survey #12) reported seeing litigants deemed less credible because of gender as follows:

	<u>Female Litigants/Witnesses</u>	<u>Male Litigants/Witnesses</u>
by judges	13%/--	10%/--
by lawyers	19%/16%	13%/10%
by court personnel	6%/--	5%/--

271. Lawyers' Survey, Public Defender Respondent #D107, question 21.

272. Lawyers' Survey, Public Defender Respondent #D23, question 21.

273. Lawyers' Survey, Washington Women Lawyer Respondent #W124, question 21.

274. Lawyers' Survey, Family Law Section Respondent #F142, question 21.

275. Lawyers' Survey, Family Law Section Respondent #F102, question 21.

276. The following percentages of respondents reported that female litigants/witnesses were addressed at least occasionally by first name when male litigants were being addressed by surname:

	<u>Lawyers' Survey #7</u>	<u>Judges' Survey #7</u>
by judges	20%	--
by lawyers	43%	46%
by court personnel	18%	20%

The following percentages reported that male litigants were addressed by first name while female litigants/witnesses were addressed by surname:

	<u>Lawyers' Survey #7</u>	<u>Judges' Survey #7</u>
by judges	9%	--

by lawyers	30%	42%
by court personnel	11%	19%

277. The following percentages of female respondents (Lawyers' Survey #7/Judges' Survey #7) reported seeing litigants of one sex addressed by first name when those of the opposite sex were addressed by surname:

	<u>Female Litigants/Witnesses</u>	<u>Male Litigants/Witnesses</u>
by judges	33%/--	11%/--
by lawyers	59%/58%	32%/33%
by court personnel	28%/26%	13%/17%

The respective percentages for male respondents were as follows:

	<u>Female Litigants/Witnesses</u>	<u>Male Litigants/Witnesses</u>
by judges	9%/--	8%/--
by lawyers	30%/44%	28%/44%
by court personnel	11%/19%	10%/20%

278. The following percentages of respondents (Lawyers' Survey #8/Judges' Survey #8) had observed litigants/witnesses addressed in familiar terms:

	<u>Female Litigants/Witnesses</u>	<u>Male Litigants/Witnesses</u>
by judges	25%/--	11%/--
by lawyers	31%/25%	14%/17%
by court personnel	17%/13%	8%/11%

279. The following percentages of female respondents (Lawyers' Survey #8/Judges' Survey #8) reported seeing litigants addressed by familiar terms:

	<u>Female Litigants/Witnesses</u>	<u>Male Litigants/Witnesses</u>
by judges	36%/--	9%/--
by lawyers	43%/52%	11%/17%
by court personnel	24%/13%	6%/7%

The respective percentages for male respondents were:

	<u>Female Litigants/Witnesses</u>	<u>Male Litigants/Witnesses</u>
by judges	17%/--	12%/--
by lawyers	22%/20%	17%/17%
by court personnel	12%/13%	10%/12%

280. The following percentages of respondents (Lawyers' Survey #9/Judges' Survey #9) had observed litigants complimented on their personal appearance in a courtroom situation:

	<u>Female Litigants/Witnesses</u>	<u>Male Litigants/Witnesses</u>
by judges	8%/--	3%/--
by lawyers	23%/21%	12%/13%
by court personnel	12%/14%	7%/11%

281. The following percentages of female respondents (Lawyers' Survey #9/Judges' Survey #9) reported seeing litigants complimented on their personal appearance.

	<u>Female Litigants/Witnesses</u>	<u>Male Litigants/Witnesses</u>
by judges	12%/--	3%/--
by lawyers	28%/37%	9%/14%
by court personnel	15%/23%	6%/20%

The respective percentage for male respondents were:

	<u>Female Litigants/Witnesses</u>	<u>Male Litigants/Witnesses</u>
by judges	5%/--	4%/--
by lawyers	19%/18%	15%/13%
by court personnel	9%/13%	7%/9%

282. The following percentages of respondents (Lawyers' Survey #10/Judges' Survey #10) reported knowing of verbal advances towards litigants of witnesses by persons of the opposite gender:

	<u>Female Litigants/Witnesses</u>	<u>Male Litigants/Witnesses</u>
by judges	*/--	*/--
by lawyers	5%/3%	1%/1%
by court personnel	1%/2%	*/*

The following percentages of respondents (Lawyers' Survey #11/Judges' Survey #11) reported knowing of physical sexual advances towards litigants or witnesses:

	<u>Female Litigants/Witnesses</u>	<u>Male Litigants/Witnesses</u>
by judges	*/--	*/--
by lawyers	28%/*	*/0
by court personnel	*/0	*/0

\* = less than 1%

0 = no reported occurrences

283. The percentage of respondents (Lawyers' Survey #13-#17/Judges' Survey #16-#20) reporting the listed behavior as follows:

	<b>Behavior directed at:</b>	
	<b>Female</b>	<b>Male</b>
<b>Use of</b>	<b><u>Judges</u></b>	<b><u>Judges</u></b>
<b><u>First name:</u></b>		
by judges	42%/--	47%/--
by attorneys	35%/43%	41%/62%
by court personnel	17%/41%	16%/45%
<b>Use of</b>		
<b><u>Familiar terms</u></b>		
by judges	4%/--	2%/--
by attorneys	3%/5%	2%/3%
by court personnel	2%/4%	* /3%
<b>Use of</b>		
<b><u>Compliments</u></b>		
by judges	12%/--	9%/--
by attorneys	17%/37%	12%/36%
by court personnel	11%/47%	9%/52%
<b>Use of</b>		
<b><u>Verbal advances</u></b>		
by judges	1%/--	*/--
by attorneys	1%/5%	*/1%
by court personnel	*/2%	*/2%
<b>Use of</b>		
<b><u>Physical advances</u></b>		
by judges	*/--	*/--
by attorneys	*/2%	*/*
by court personnel	*/0	*/1%

284. Judges' Survey, Respondent #J36, question 29.

285. See Endnote #283.

286. The following percentages of respondents reported they believed affidavits of prejudice had been used to disqualify a judge primarily because of gender:

	<b>Women</b>	<b>Men</b>
	<b><u>Judges</u></b>	<b><u>Judges</u></b>
Attorney survey	29%	13%
Judicial survey	47%	24%

287. Shown by sex of the respondents, the following percentages of each sex (Lawyers' Survey #18/Judges' Survey #21) reported they believed affidavits of prejudice had been used to disqualify a judge primarily because of gender:

	<b>Women</b>	<b>Men</b>
	<b><u>Judges</u></b>	<b><u>Judges</u></b>
Female respondents	43%/68%	17%/30%
Male respondents	19%/42%	11%/23%



288. Shown by sex of the respondent, the following percentages of each sex believed Judicial Poll results have been lower for judges primarily because of gender (Judges' Survey #22):

	<u>Women Judges</u>	<u>Men Judges</u>
Female respondents	69%	14%
Male respondents	34%	14%
Overall	41%	14%

289. The percentages of judges reporting the listed behavior was as follows (Judges' Survey #23-#27):

	<b>Behavior directed at:</b>	
<u>Type of behavior:</u>	<u>Female Judges</u>	<u>Male Judges</u>
first names		
by judges	33%	30%
by attorneys	27%	24%
familiar terms		
by judges	25%	16%
by attorneys	13%	10%
compliments		
by judges	54%	41%
by attorneys	35%	29%
verbal advances		
by judges	5%	2%
by attorneys	2%	2%
physical advances		
by judges	2%	2%
by attorneys	2%	2%

290. Shown by sex of the respondent (female %/male %), the following percentages reported the listed behavior:

	<b>Behavior directed at:</b>	
<u>Type of behavior:</u>	<u>Female Judges</u>	<u>Male Judges</u>
first names		
by judges	57%/29%	35%/30%
by attorneys	47%/23%	24%/24%
familiar terms		
by judges	47%/20%	7%/18%
by attorneys	20%/12%	0/12%
compliments		

by judges	63%/53%	41%/41%
by attorneys	47%/33%	31%/29%
verbal advances		
by judges	13%/4%	0/3%
by attorneys	3%/2%	3%/1%
physical advances		
by judges	0/2%	3%/2%
by attorneys	0/2%	3%/1%

291. Shown by sex of respondent, the following percentages reported they believed observed conduct had affected case outcome:

	<u>Lawyers'</u> <u>Survey</u>	<u>Judges'</u> <u>Survey</u>
Female respondents	53%	48%
Male respondents	18%	6%
Overall	34%	11%

292. Lawyers' Survey, Washington State Bar Association Respondent #B366, question 21.
293. Lawyers' Survey, Washington State Bar Association Respondent #B245, question 21.
294. Lawyers' Survey, Washington Women Lawyer Respondent #W104, question 21.
295. Lawyers' Survey, Washington State Bar Association Respondent #B97, question 21.
296. Lawyers' Survey, Prosecuting Attorney Respondent #P12, question 21.
297. Lawyers' Survey, Public Defender Respondent #D113, question 21.
298. Lawyers' Survey, Family Law Section Respondent #F141, question 21.
299. Lawyers' Survey, Family Law Section Respondent #F179, question 21.
300. Lawyers' Survey, Washington Women Lawyer Respondent #W18, question 23.
301. Lawyers' Survey, question 20; Judges' Survey, question 28.
302. Lawyers' Survey, Family Law Section Respondent #F179, question 23.
303. Lawyers' Survey, Washington Women Lawyer Respondent #W15, question 23.
304. Judges' Survey, Judicial Respondent #J178, question 29.
305. Hawkins, Seattle Hearing, p. 13.
306. Susan Gasch, Esq., Spokane Hearing, pp. 42-43.
307. Wendy Bohlke, Assistant Attorney General for the State of Washington, Bellingham Hearing, p. 51.

308. **Lawyers' Survey, Washington Women Lawyer Respondent #W15, question 99.**
309. **Lawyers' Survey, Washington State Bar Association Respondent #B403, question 99.**
310. **Lawyers' Survey, Washington State Bar Association Respondent #B248, question 99.**
311. **Comment on a memo from an attorney who did not complete the survey.**
312. **Lawyers' Survey, Washington State Bar Association Respondent #B295, question 99.**



**APPENDIX A**

**GENDER AND JUSTICE TASK FORCE LAWYERS' SURVEY**



## APPENDIX A

### Gender and Justice Task Force Lawyers' Survey

#### I. Purpose

After reviewing survey instruments used by three other states, the Task Force designed a questionnaire to survey the experiences and perceptions of lawyers regarding gender bias in courtroom interaction and in certain areas of substantive law of particular interest to the Task Force. The questionnaire contained ninety-nine survey questions, both closed and open ended. Respondents were asked to answer only those sections in which they had courtroom experience in the last three years.

#### II. Methodology

##### A. Sampling

The lawyer survey was intended to gather information from a representative sample of Washington State lawyers. Samples representing the integrated bar, the family law and trial practice sections of the bar, and the women lawyers association were initially targeted. The family law and trial practice groups were included because their members would have court room experience in the areas of law of concern to the Task Force. Prosecuting attorneys and public defenders were included to obtain representative views from public sector attorneys.

The sampling strategy shown below was designed to select samples within a 5% accuracy and 95% confidence level for the integrated bar, family law and trial practice bar sections and women lawyers sampling groups. For the prosecuting attorneys and defense attorneys, the entire membership of two associations was targeted to receive the survey.

##### Random Sampling Strategy.

Population	Necessary Completion Rate	Sample Size	Required Response Rate	Percent of Population
<b>Integrated Bar:</b>				
Males	370	1,110	33%	10.8%
Females	332	996	33%	40.6%
Subtotal	702	2,106	33%	
<b>Bar Sections:</b>				
Family Law	245	539	45%	80.1%
Trial Practice	319	702	45%	37.6%
Subtotal	564	1,241	45%	
<b>Washington Women Lawyers</b>				
Random Sample	255	561	45%	74.5%
<b>SubTotal</b>	<b>1,521</b>	<b>3,908</b>		
Prosecutors	NA	459	NA	100%
Defense Lawyers	NA	424	NA	100%
<b>Total</b>		<b>4,791</b>		

To implement the integrated BAR sampling strategy a random sample of 6000 names including age and geographic distribution was obtained from the Washington State Bar Association (WSBA) membership list. The sample size required by the sampling strategy for male and female lawyers was obtained by hand sorting the 6,000 names, identifying gender by first name. Next one out of every ten names was selected from the bar association pool. A total of 2,106 names were drawn. Random samples of members were also obtained from the family law and trial practice sections of the bar. The Washington Women Lawyers' Association list was cross referenced with the random sample to eliminate duplicates. A total of 3,908 names were identified in this manner.

Membership lists of prosecuting attorneys and public defenders were obtained from the Washington State Association of Prosecuting Attorneys and the Washington Defender's Association. The members of the prosecuting attorney association and public defenders association increased the survey sample size to 4,791.

**B. Response Rates**

Populations	Sample Size	Number Responding	Percent Responding
<b>Integrated Bar:</b>			
Males	1,110	295	26.6%
Females	996	294	29.5%
<b>Bar Sections:</b>			
Family Law	539	192	35.6%
Trial Practice	702	189	26.9%
<b>Washington Women Lawyers</b>			
Lawyers	561	206	36.7%
Prosecutors	459	147	32.0%
Defense Lawyers	424	152	35.9%
Missing Identification		34	
<b>Total</b>	<b>4,791</b>	<b>1,509</b>	<b>31.5%</b>

A total of 1509 lawyers returned completed surveys for a response rate of 31.50%.

A comparison of the survey response obtained to the sample sizes for two levels of accuracy is presented below. While the actual numbers obtained are below those required for 5% accuracy with 95% confidence, they are above the sample sizes needed for 10% accuracy with 95% confidence.

Populations	5% Accuracy Requirement	Sample Obtained	10% Accuracy Requirement
<b>Integrated Bar:</b>			
Males	370	295	95
Females	332	294	92
<b>Bar Sections:</b>			
Family Law	245	192	84
Trial Practice	319	189	91
<b>Washington Women Lawyers</b>			
Women Lawyers	255	206	85
<b>Total</b>	<b>1,521</b>	<b>1,176</b>	<b>447</b>



### III. Demographics of the Respondents

The lawyer survey contains more demographic information describing respondents than the other surveys implemented. The following tables display the respondent characteristics which include age, sex, race, type of practice, number of years in practice, and number of judges in county of practice.

#### A. Demographics Summary

- Slightly less than one half (48.1%) of the respondents were females.
- Average age of respondents was 37.6 years.
- Most of the respondents (53.6%) are in the 31 - 40 years age range.
- The majority of the respondents were Caucasian (94.1%).
- All of the main minority groups were represented, although few in number.
- More than one half of the respondents (67.8%) have had ten or less years of law practice in Washington state; 35.1% have 1-5 years practice and 32.7% have 6-10 years practice.
- More than half of the respondents work for law firms (51.5%); only 18.4% worked as government lawyers or prosecutors.
- Based on the number of superior judges respondents indicated in their county of primary practice, 45.8% practice in the one county (King) which has more than 21 superior court judges; 30.9% practice in counties with less than 7 judges; 23.3% practice in the 3 larger counties (Pierce, Snohomish, and Spokane) with 8-20 judges.

#### B. Respondent Distribution by Gender and Age

Gender	Number	Percent
Female	709	48.1%
Male	766	51.9%
Total	1,475	100.0%

Missing = 34

#### C. Respondent Distribution by Age

Age	Number	Percent
21 - 30	194	13.1%
31 - 40	793	53.6%
41 - 50	352	23.8%
51 - 60	90	6.1%
61 - 70	39	2.6%
71 - 80	12	0.8%
Total	1480	100.0%

Missing = 29

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		34	
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41 - 50	352	23.8%
51 - 60	90	6.1%
61 - 70	39	2.6%
71 - 80	12	0.8%
Total	1480	100.0%

Missing = 29

**D. Respondent Distribution by Gender and Ethnicity**

Ethnicity	Female	Male	Total	Percent
American Indian	1	5	6	.4%
Asian	26	14	40	2.8%
Black	6	6	12	.8%
Caucasian	663	706	1,369	94.2%
Hispanic	2	7	9	.6%
Other	3	15	18	1.2%
Total	701	753	1,454	100.0%
Missing = 55				

**E. Respondent Distribution by Years in Washington Practice**

Years in Practice	Number	Percent
1 - 5	517	35.1%
6 - 1	482	32.7%
11 - 15	238	16.1%
16 - 20	105	7.1%
21 or more	133	9.0%
Total	1,475	100.0%
Missing = 34		

**F. Respondent Distribution by Type of Practice**

Type of Practice	Number	Percent
Sole practitioner	271	18.5%
Law Firm	754	51.5%
Corporate/House Counsel	42	2.9%
Government Lawyer	130	8.9%
Prosecutor	139	9.5%
Public Defender	74	5.1%
Public Agency Counsel	10	0.7%
Other	43	2.9%
Total	1,463	100.0%
Missing = 46		

**G. Respondent Distribution by Number of Judges In County**

To ensure confidentiality, the Task Force did not ask for the names of the counties in which attorneys practiced. Rather it asked for the number of superior court judges in the attorney's county of primary practice in order to obtain some indication of the relative distribution of respondents by size of judicial district.

Number of SC Judges	Judicial Districts in 1988	Percent	Number of Respondents	Percent
1	10	33.3%	42	3.4%
2-3	11	36.7%	126	10.2%
4-7	5	16.7%	213	17.3%
8-20	3	10.0%	288	23.3%
21+	1	3.0%	565	45.8%
Total	30	100.0%	1,234	100.0%
Missing = 275				

#### H. Survey Code Letters

Surveys were coded with a letter and number as they were received. The letters refer to the targeted group; surveys were numbered consecutive ly in each group.

- B = Washington State Bar Association (WSBA) Random Sample
- D = Public Defender's Association
- F = Family Law Section of WSBA
- P = Washington Association of Prosecuting Attorneys
- T = Trial Law Section of WSBA
- W = Washington Women Lawyers

#### IV. Survey Data

Complete survey results are contained in Appendix A. Since the Task Force was interested in the differences in perception of female and male lawyers, responses are separated by gender. Please note that the percentages listed in each chart are based on the percentage of those lawyers who answered that question. Percentages show the percent of women respondents; percent of men respondents; and percent of the total number of respondents. Written comments to the open ended questions, numbers 21, 23, 25, 34, 87, and 99 were transcribed and are included in the Task Force record.

GENDER AND JUSTICE TASK FORCE  
LAWYER SURVEY - GENDER BIAS IN THE COURTS

COURT INTERACTION

LAWYERS

1. Lawyers were addressed by first name when Lawyers of opposite gender were addressed by surname

		<u>Women Lawyers</u>					NR	<u>Men Lawyers</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Judges	**F	379	180	12	3	574		372	123	15	1	511	
		66.0%	31.4%	2.1%	0.5%	100%		72.8%	24.1%	2.9%	0.2%	100%	
	M	566	92	7	1	666		576	104	7	1	688	
		85.0%	13.8%	1.1%	0.2%	100%		83.7%	15.1%	1.0%	0.1%	100%	
	T	945	272	19	4	1240	269	948	227	22	2	1199	310
		76.2%	21.9%	1.5%	0.3	100%		79.1%	18.9%	1.8%	0.2%	100%	
By Opposing Counsel	F	236	280	59	4	579		294	184	29	2	509	
		40.8%	48.4%	10.2%	0.7%	100%		57.8%	36.2%	5.7%	0.4%	100%	
	M	448	169	35	4	656		459	175	40	5	679	
		68.3%	25.8%	5.3%	0.6%	100%		67.6%	25.8%	5.9%	0.7%	100%	
	T	684	449	94	8	1235	274	753	359	69	7	1188	321
		55.4%	36.4%	7.6%	0.7%	100%		63.4%	30.2%	5.8%	0.6%	100%	
By Court/Clerk Personnel	F	268	225	59	14	566		313	160	20	5	498	
		47.4%	39.8%	10.4%	2.5%	100%		62.9%	32.1%	4.0%	1.0%	100%	
	M	496	116	27	5	644		515	122	26	4	667	
		77.0%	18.0%	4.2%	0.8%	100%		77.2%	18.3%	3.9%	0.6%	100%	
	T	764	341	86	19	1210	299	828	282	46	9	1165	344
		63.1%	28.2%	7.1%	1.6%	100%		71.1%	24.2%	4.0%	0.8%	100%	

2. Lawyers were addressed by familiar terms (e.g., dear, young lady, girls, son)

		<u>Women Lawyers</u>					NR	<u>Men Lawyers</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Judges	**F	360	220	19		599		492	23	1		516	
		60.1%	36.7%	3.2%		100%		95.4%	4.5%	0.2%		100%	
	M	594	85	4		683		639	57	3		699	
		87.0%	12.5%	0.6%		100%		91.4%	8.2%	0.4%		100%	
	T	954	305	23		1282	227	1131	80	4		1215	294
		74.4%	23.8%	1.8%		100%		93.1%	6.6%	0.3%		100%	
By Opposing Counsel	F	258	309	36	3	606		470	38	7	1	516	
		42.6%	51.0%	5.9%	0.5%	100%		91.1%	7.4%	1.4%	0.2%	100%	
	M	539	131	4	0	674		603	85	2	0	690	
		80.0%	19.4%	0.6%		100%		87.4%	12.3%	0.3%		100%	
	T	797	440	40	3	1280	229	1073	123	9	1	1206	303
		62.3%	34.4%	3.1%	0.2%	100%		89.0%	10.2%	0.8%	0.1%	100%	

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

COURT INTERACTION (Continued)

LAWYERS (Continued)

2. (Continued)

		<u>Women</u> <u>Lawyers</u>					NR	<u>Men</u> <u>Lawyers</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Court/Clerk Personnel	**F	391	176	22	4	593		459	42	4	2	507	
		65.9%	29.7%	3.7%	0.7%	100%		90.5%	8.3%	0.8%	0.4%	100%	
	M	598	57	4	1	660		629	44	5	1	679	
		90.6%	8.6%	0.6%	0.2%	100%		92.6%	6.5%	0.7%	0.2%	100%	
	T	989	233	26	5	1253	256	1088	86	9	3	1186	323
		78.9%	18.6%	2.1%	0.4%	100%		91.7%	7.3%	0.8%	0.3%	100%	

3. Lawyers were complimented on personal appearance

		<u>Women</u> <u>Lawyers</u>					NR	<u>Men</u> <u>Lawyers</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Judges	**F	387	180	19	1	587		458	53	2	0	513	
		65.9%	30.7%	3.2%	0.2%	100%		89.3%	10.3%	0.4%		100%	
	M	545	114	7	0	666		585	100	0	1	686	
		81.8%	17.1%	1.1%		100%		85.3%	14.6%		0.2%	100%	
	T	932	294	26	1	1253	256	1043	153	2	1	1199	310
		74.4%	23.5%	2.1%	0.1%	100%		87.0%	12.8%	0.2%	0.1%	100%	
By Opposing Counsel	F	232	309	53	2	596		377	136	4	1	518	
		38.9%	51.9%	8.9%	0.3%	100%		72.8%	26.3%	0.8%	0.2%	100%	
	M	411	236	15	2	664		462	218	4	2	686	
		61.9%	35.5%	2.3%	0.3%	100%		67.4%	31.8%	0.6%	0.3%	100%	
	T	643	545	68	4	1260	249	839	354	8	3	1204	305
		51.0%	43.3%	5.4%	0.3%	100%		69.7%	29.4%	0.7%	0.3%	100%	
By Court/Clerk Personnel	F	287	239	46	6	578		393	106	4	1	504	
		49.7%	41.4%	8.0%	1.0%	100%		78.0%	21.0%	0.8%	0.2%	100%	
	M	457	179	11	2	649		481	186	6	2	675	
		70.4%	27.6%	1.7%	0.3%	100%		71.3%	27.6%	0.9%	0.3%	100%	
	T	744	418	57	8	1227	282	874	292	10	3	1179	330
		60.6%	34.1%	4.7%	0.7%	100%		74.1%	24.8%	0.9%	0.3%	100%	

4. Lawyers were subjected to verbal sexual advances

		<u>Women</u> <u>Lawyers</u>					NR	<u>Men</u> <u>Lawyers</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Judges of Opposite Gender	**F	538	32	1	2	573		473	2		1	476	
		93.9%	5.6%	0.2%	0.4%	100%		99.4%	0.4%		0.2%	100%	
	M	661	8	1	0	670		684	3		1	688	
		98.7%	1.2%	0.2%		100%		99.4%	0.4%		0.2%	100%	
	T	1199	40	2	2	1243	266	1157	5		2	1164	345
		96.5%	3.2%	0.2%	0.2%	100%		99.4%	0.4%		0.2%	100%	

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

COURT INTERACTION (Continued)

LAWYERS (Continued)

4. (Continued)

		<u>Women</u> <u>Lawyers</u>					NR	<u>Men</u> <u>Lawyers</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Opposing Counsel of Opposite Gender	**F	426	140	11	1	578		454	13		1	468	
		73.7%	24.2%	1.9%	0.2%	100%		97.0%	2.8%		0.2%	100%	
	M	618	48	1	0	667		657	27		1	685	
		92.7%	7.2%	0.2%		100%		95.9%	3.9%		0.2%	100%	
	T	1044	188	12	1	1245	264	1111	40		2	1153	356
		83.9%	15.0%	1.0%	0.1%	100%		96.4%	3.5%		0.2%	100%	
By Court/Clerk Personnel of Opposite Gender	F	532	23	4	2	561		453	10		1	464	
		94.8%	4.1%	0.7%	0.4%	100%		97.6%	2.2%		0.2%	100%	
	M	646	10	0	1	657		664	12		2	678	
		98.3%	1.5%		0.2%	100%		97.9%	1.8%		0.3%	100%	
	T	1178	33	4	3	1218	291	1117	22		3	1142	367
		96.7%	2.7%	0.3%	0.3%	100%		97.8%	1.9%		0.3%	100%	

5. Lawyers were subjected to physical sexual advances

		<u>Women</u> <u>Lawyers</u>					NR	<u>Men</u> <u>Lawyers</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Judges of Opposite Gender	**F	554	13		1	568		461			0	461	
		97.5%	2.3%		0.2%	100%		100%				100%	
	M	662	3		0	665		685			1	686	
		99.6%	0.5%			100%		99.9%			0.2%	100%	
	T	1216	16		1	1233	276	1146			1	1147	362
		98.6%	1.3%		0.1%	100%		99.9%			0.1%	100%	
By Opposing Counsel of Opposite Gender	F	521	48	1	1	571		458	0		0	458	
		91.2%	8.4%	0.2%	0.2%	100%		100%				100%	
	M	651	9	0	0	660		676	6		1	683	
		98.6%	1.4%			100%		99.0%	0.9%		0.2%	100%	
	T	1172	57	1	1	1231	278	1134	6		1	1141	368
		95.2%	4.6%	0.1%	0.1%	100%		99.4%	0.5%		0.1%	100%	
By Court/Clerk Personnel of Opposite Gender	F	553	6		1	560		458	2		0	460	
		98.8%	1.1%		0.2%	100%		99.6%	0.4%			100%	
	M	654	3		1	658		674	6		2	682	
		99.4%	0.5%		0.2%	100%		98.8%	0.9%		0.3%	100%	
	T	1207	9		2	1218	291	1132	8		2	1142	367
		99.0%	0.7%		0.2%	100%		99.0%	0.7%		0.2%	100%	

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 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses



COURT INTERACTION (Continued)

LAWYERS (Continued)

6. Lawyers of one gender were asked if they were lawyers, when lawyers of the opposite gender were not asked

		<u>Women Lawyers</u>					T	NR	<u>Men Lawyers</u>					T	NR
		*1	2	3	4				1	2	3	4			
By Judges	**F	351 60.3%	197 33.9%	32 5.5%	2 0.3%	582 100%		469 96.7%	14 2.9%	1 0.2%	1 0.2%	485 100%			
	M	590 89.3%	68 10.3%	3 0.5%	0	661 100%		625 91.6%	53 7.8%	3 0.4%	1 0.2%	682 100%			
	T	941 75.7%	265 21.3%	35 2.8%	2 0.2%	1243 100%	266	1094 93.7%	67 5.7%	4 0.3%	2 0.2%	1167 100%	342		
By Opposing Counsel	F	238 40.3%	287 48.6%	63 10.7%	3 0.5%	591 100%		461 94.1%	26 5.3%	2 0.4%	1 0.2%	490 100%			
	M	520 79.2%	129 19.6%	8 1.2%	0	657 100%		610 90.4%	62 9.2%	2 0.3%	1 0.2%	675 100%			
	T	758 60.7%	416 33.3%	71 5.7%	3 0.2%	1248 100%	261	1071 91.9%	88 7.6%	4 0.3%	2 0.2%	1165 100%	344		
By Court/Clerk Personnel	F	226 38.6%	273 46.7%	78 13.3%	8 1.4%	585 100%		435 90.4%	44 9.2%	1 0.2%	1 0.2%	481 100%			
	M	534 82.3%	107 16.5%	7 1.1%	1 0.2%	649 100%		593 88.9%	69 10.3%	3 0.5%	2 0.3%	667 100%			
	T	760 61.6%	380 30.8%	85 6.9%	9 0.7%	1234 100%	275	1028 89.6%	113 9.8%	4 0.4%	3 0.3%	1148 100%	361		

LITIGANTS OR WITNESSES

7. Adult litigants or witnesses were addressed by first name when those of opposite gender were addressed by surnames

		<u>Women Litigants/ Witnesses</u>					T	NR	<u>Men Litigants/ Witnesses</u>					T	NR
		*1	2	3	4				1	2	3	4			
By Judges	**F	352 66.8%	151 28.7%	22 4.2%	2 0.4%	527 100%		420 88.8%	50 10.6%	1 0.2%	2 0.4%	473 100%			
	M	605 91.3%	54 8.1%	4 0.6%	0	663 100%		619 91.8%	51 7.6%	4 0.6%	0	674 100%			
	T	957 80.4%	205 17.2%	26 2.2%	2 0.2%	1190 100%	319	1039 90.6%	101 8.8%	5 0.4%	2 0.2%	1147 100%	362		
By Lawyers	F	213 40.6%	229 43.6%	77 14.7%	6 1.1%	525 100%		318 67.8%	142 30.3%	8 1.7%	1 0.2%	469 100%			
	M	460 69.9%	178 27.1%	20 3.0%	0	658 100%		484 72.2%	170 25.4%	16 2.4%	0	670 100%			
	T	673 56.9%	407 34.4%	97 8.2%	6 0.5%	1183 100%	326	802 70.4%	312 27.4%	24 2.1%	1 0.1%	1139 100%	370		

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

COURT INTERACTION (Continued)

LITIGANTS OR WITNESSES (Continued)

7. (Continued)

	<u>Women</u>						<u>Men</u>					
	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>
	*1	2	3	4	T	NR	1	2	3	4	T	NR
By Court/Clerk Personnel **F	354	115	17	3	489		387	55	1	1	444	
	72.4%	23.5%	3.5%	0.6%	100%		87.2%	12.4%	0.2%	0.2%	100%	
M	572	67	3	1	643		585	64	3	1	653	
	89.0%	10.4%	0.5%	0.2%	100%		89.6%	9.8%	0.5%	0.2%	100%	
T	926	182	20	4	1132	377	972	119	4	2	1097	412
	81.8%	16.1%	1.8%	0.4%	100%		88.6%	10.9%	0.4%	0.2%	100%	

8. Adult litigants or witnesses were addressed by familiar terms (e.g., young lady, girls, son)

	<u>Women</u>						<u>Men</u>						
	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	
	*1	2	3	4	T	NR	1	2	3	4	T	NR	
By Judges	**F	337	173	16	1	527		425	40	2	1	468	
		64.0%	32.8%	3.0%	0.2%	100%		90.8%	8.6%	0.4%	0.2%	100%	
	M	557	105	5	0	667		596	76	5	0	677	
		83.5%	15.7%	0.8%		100%		88.0%	11.2%	0.7%		100%	
	T	894	278	21	1	1194	315	1021	116	7	1	1145	364
		74.9%	23.3%	1.8%	0.1%	100%		89.2%	10.1%	0.6%	0.1%	100%	
By Lawyers	F	303	192	31	3	529		417	46	3	1	467	
		57.3%	36.3%	5.9%	0.6%	100%		89.3%	9.9%	0.6%	0.2%	100%	
	M	521	137	6	0	664		562	109	4	0	675	
		78.5%	20.6%	0.9%		100%		83.3%	16.2%	0.6%		100%	
	T	824	329	37	3	1193	316	979	155	7	1	1142	367
		69.1%	27.6%	3.1%	0.3%	100%		85.7%	13.6%	0.6%	0.1%	100%	
By Court/Clerk Personnel	F	380	109	11	1	501		416	26	1	1	444	
		75.9%	21.8%	2.2%	0.2%	100%		93.7%	5.9%	0.2%	0.2%	100%	
	M	571	74	4	1	650		594	59	4	1	658	
		87.9%	11.4%	0.6%	0.2%	100%		90.3%	9.0%	0.6%	0.2%	100%	
	T	951	183	15	2	1151	358	1010	85	5	2	1102	407
		82.6%	15.9%	1.3%	0.2%	100%		91.7%	7.7%	0.5%	0.2%	100%	

9. Adult litigants or witnesses were complimented on personal appearance

	<u>Women</u>						<u>Men</u>						
	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	
	*1	2	3	4	T	NR	1	2	3	4	T	NR	
By Judges	**F	449	53	6	1	509		444	11	0	1	456	
		88.2%	10.4%	1.2%	0.2%	100%		97.4%	2.4%		0.2%	100%	
	M	631	32	0	0	663		650	26	1	0	677	
		95.2%	4.8%			100%		96.0%	3.8%	0.2%		100%	
	T	1080	85	6	1	1172	337	1094	37	1	1	1133	376
		92.2%	7.3%	0.5%	0.1%	100%		96.6%	3.3%	0.1%	0.1%	100%	

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COURT INTERACTION (Continued)

LITIGANTS OR WITNESSES (Continued)

9. (Continued)

		<u>Women</u>					<u>Men</u>					NR	NR
		<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>		
		*1	2	3	4	T	NR	1	2	3	4	T	NR
By Lawyers	**F	371	125	17	1	514		417	40	0	1	458	
		72.2%	24.3%	3.3%	0.2%	100%		91.1%	8.7%		0.2%	100%	
	M	539	120	6	0	665		577	98	3	0	678	
		81.1%	18.1%	0.9%		100%		85.1%	14.5%	0.4%		100%	
	T	910	245	23	1	1179	330	994	138	3	1	1136	373
		77.2%	20.8%	2.0%	0.1%	100%		87.5%	12.2%	0.3%	0.1%	100%	
By Court/Clerk Personnel	F	422	67	7	1	497		420	24	0	1	445	
		84.9%	13.5%	1.4%	0.2%	100%		94.4%	5.4%		0.2%		
	M	592	56	2	1	651		615	46	1	1	663	
		90.9%	8.6%	0.3%	0.2%	100%		92.8%	6.9%	0.2%	0.2%	100%	
	T	1014	123	9	2	1148	361	1035	70	1	2	1108	401
		88.3%	10.7%	0.8%	0.2%	100%		93.4%	6.3%	0.1%	0.2%	100%	

10. Adult litigants or witnesses were subjected to verbal sexual advances

		<u>Women</u>					<u>Men</u>					NR	NR
		<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>	<u>Litigants/</u>	<u>Witnesses</u>		
		*1	2	3	4	T	NR	1	2	3	4	T	NR
By Judges of Opposite Gender	**F	487	4	2	1	494		443	0		1	444	
		98.6%	0.8%	0.4%	0.2%	100%		99.8%			0.2%	100%	
	M	659	2	0	1	662		672	1		1	674	
		99.6%	0.3%		0.2%	100%		99.7%	0.2%		0.2%	100%	
	T	1146	6	2	2	1156	353	1115	1		2	1118	391
		99.1%	0.5%	0.2%	0.2%	100%		99.7%	0.1%		0.2%	100%	
By Lawyers of Opposite Gender	F	454	31	4	1	490		436	2	0	1	439	
		92.7%	6.3%	0.8%	0.2%	100%		99.3%	0.5%		0.2%	100%	
	M	638	21	0	1	660		664	7	1	0	672	
		96.7%	3.2%		0.2%	100%		98.8%	1.0%	0.2%		100%	
	T	1092	52	4	2	1150	359	1100	9	1	1	1111	398
		95.0%	4.5%	0.4%	0.2%	100%		99.0%	0.8%	0.1%	0.1%	100%	
By Court/Clerk Personnel of Opposite Gender	F	473	5		1	479		429	0		1	430	
		98.8%	1.0%		0.2%	100%		99.8%			0.2%	100%	
	M	645	5		2	652		659	3		2	664	
		98.9%	0.8%		0.3%	100%		99.3%	0.5%		0.3%	100%	
	T	1118	10		3	1131	378	1088	3		3	1094	415
		98.9%	0.9%		0.3%	100%		99.5%	0.3%		0.3%	100%	

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COURT INTERACTION (Continued)

LITIGANTS OR WITNESSES (Continued)

11. Adult litigants or witnesses were subjected to physical sexual advances

		<u>Women</u> <u>Litigants/</u> <u>Witnesses</u>					<u>Men</u> <u>Litigants/</u> <u>Witnesses</u>					NR
		*1	2	3	4	T	1	2	3	4	T	
By Judges of Opposite Gender	**F	490			1	491	440			1	441	
		99.8%			0.2%	100%	99.8%			0.2%	100%	
	M	662			0	662	673			0	673	
		100.0%			100%	100.0%				100%		
	T	1152			1	1153	356	1113		1	1114	395
		99.9%			0.1%	100%		99.9%		0.1%	100%	
By Lawyers of Opposite Gender	F	477	8	3	1	489	437	0	1	438		
		97.6%	1.6%	0.6%	0.2%	100%	99.8%		0.2%	100%		
	M	655	5	0	0	660	668	3	0	671		
		99.2%	0.8%		100%	99.6%	0.5%		100%			
	T	1132	13	3	1	1149	360	1105	3	1	1109	400
		98.5%	1.1%	0.3%	0.1%	100%		99.6%	0.3%	0.1%	100%	
By Court/Clerk Personnel of Opposite Gender	F	476	1		1	478	429	1	1	431		
		99.6%	0.2%		0.2%	100%	99.5%	0.2%	0.2%	100%		
	M	649	2		1	652	660	2	1	663		
		99.5%	0.3%		0.2%	100%	99.6%	0.3%	0.2%	100%		
	T	1125	3		2	1130	379	1089	3	2	1094	415
		99.6%	0.3%		0.2%	100%		99.5%	0.3%	0.2%	100%	

12. Adult litigants or witnesses were regarded as less credible because of their gender

		<u>Women</u> <u>Litigants/</u> <u>Witnesses</u>					<u>Men</u> <u>Litigants/</u> <u>Witnesses</u>					NR	
		*1	2	3	4	T	1	2	3	4	T		
By Judges of Opposite Gender	**F	253	188	54	3	498	386	45	2	0	433		
		50.8%	37.8%	10.8%	0.6%	100%	89.2%	10.4%	0.5%		100%		
	M	555	76	5	0	636	585	55	6	1	647		
		87.3%	12.0%	0.8%		100%	90.4%	8.5%	0.9%	0.2%	100%		
	T	808	264	59	3	1134	375	971	100	8	1	1080	429
		71.3%	23.3%	5.2%	0.3%	100%		89.9%	9.3%	0.7%	0.1%	100%	
By Lawyers of Opposite Gender	F	216	201	82	3	502	358	73	6	0	437		
		43.0%	40.0%	16.3%	0.6%	100%	81.9%	16.7%	1.4%		100%		
	M	518	110	10	1	639	568	78	3	1	650		
		81.1%	17.2%	1.6%	0.2%	100%	87.4%	12.0%	0.5%	0.2%	100%		
	T	734	311	92	4	1141	368	926	151	9	1	1087	422
		64.3%	27.3%	8.1%	0.4%	100%		85.2%	13.9%	0.8%	0.1%	100%	

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 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

COURT INTERACTION (Continued)

LITIGANTS OR WITNESSES (Continued)

12. (Continued)

	<u>Women</u> <u>Litigants/</u> <u>Witnesses</u>						<u>Men</u> <u>Litigants/</u> <u>Witnesses</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
By Court/Clerk Personnel**F of Opposite Gender	305	112	20	2	439		369	32	1	0	402	
	69.5%	25.5%	4.6%	0.5%	100%		91.8%	8.0%	0.3%		100%	
M	566	34	4	1	605		587	24	4	1	616	
	93.6%	5.6%	0.7%	0.2%	100%		95.3%	3.9%	0.7%	0.2%	100%	
T	871	146	24	3	1044	465	956	56	5	1	1018	491
	83.4%	14.0%	2.3%	0.3%	100%		93.9%	5.5%	0.5%	0.1%	100%	

JUDGES

13. Judges were addressed by first name

	<u>Women</u> <u>Judges</u>						<u>Men</u> <u>Judges</u>						
	*1	2	3	4	T	NR	1	2	3	4	T	NR	
By Judges	**F	240	116	59	11	426		257	125	57	17	456	
		56.3%	27.2%	13.9%	2.6%	100%		56.4%	27.4%	12.5%	3.7%	100%	
	M	328	130	77	21	556		323	181	102	25	631	
		59.0%	23.4%	13.9%	3.8%	100%		51.2%	28.7%	16.2%	4.0%	100%	
	T	568	246	136	32	982	527	580	306	159	42	1087	422
		57.8%	25.1%	13.9%	3.3%	100%		53.4%	28.2%	14.6%	3.9%	100%	
By Lawyers	F	299	155	32	0	486		317	174	24	1	516	
		61.5%	31.9%	6.6%		100%		61.4%	33.7%	4.7%	0.2%	100%	
	M	417	173	21	2	613		396	259	27	3	685	
		68.0%	28.2%	3.4%	0.3%	100%		57.8%	37.8%	3.9%	0.4%	100%	
	T	716	328	53	2	1099	410	713	433	51	4	1201	308
		65.2%	29.9%	4.8%	0.2%	100%		59.4%	36.1%	4.3%	0.3%	100%	
By Court/Clerk	F	372	76	14	1	463		421	47	16	0	484	
		80.4%	16.4%	3.0%	0.2%	100%		87.0%	9.7%	3.3%		100%	
	M	508	76	4	6	594		538	100	11	9	658	
		85.5%	12.8%	0.7%	1.0%	100%		81.8%	15.2%	1.7%	1.4%	100%	
	T	880	152	18	7	1057	452	959	147	27	9	1142	367
		83.3%	14.4%	1.7%	0.7%	100%		84.0%	12.9%	2.4%	0.8%	100%	

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

COURT INTERACTION (Continued)

JUDGES (Continued)

14. Judges were addressed by familiar terms (e.g., dear, young lady, girls, son)

		<u>Women Judges</u>					T	NR	<u>Men Judges</u>					T	NR
		*1	2	3	4				1	2	3	4			
By Other Judges	**F	419	14	6	0	439		447	7	1	0	455			
		95.4%	3.2%	1.4%		100%		98.2%	1.5%	0.2%		100%			
	M	571	15	0	1	587		624	17	0	1	642			
		97.3%	2.6%		0.2%	100%		97.2%	2.7%		0.2%	100%			
	T	990	29	6	1	1026	483	1071	24	1	1	1097	412		
		96.5%	2.8%	0.6%	0.1%	100%		97.6%	2.2%	0.1%	0.1%	100%			
By Lawyers	F	448	19	5	0	472		481	10		0	491			
		94.9%	4.0%	1.1%		100%		98.0%	2.0%			100%			
	M	608	9	0	1	618		661	10		1	672			
		98.4%	1.5%		0.2%	100%		98.4%	1.5%		0.2%	100%			
	T	1056	28	5	1	1090	419	1142	20		1	1163	346		
		96.9%	2.6%	0.5%	0.1%	100%		98.2%	1.7%		0.1%	100%			
By Court/Clerk Personnel	F	448	7	2	0	457		476	1		0	477			
		98.0%	1.5%	0.4%		100%		99.8%	0.2%			100%			
	M	597	7	0	1	605		648	7		1	656			
		98.7%	1.2%		0.2%	100%		98.8%	1.1%		0.2%	100%			
	T	1045	14	2	1	1062	447	1124	8		1	1133	376		
		98.4%	1.3%	0.2%	0.1%	100%		99.2%	0.7%		0.1%	100%			

15. Judges were complimented on personal appearance

		<u>Women Judges</u>					T	NR	<u>Men Judges</u>					T	NR
		*1	2	3	4				1	2	3	4			
By Other Judges	**F	344	52	7		403		387	32	1	0	420			
		85.4%	12.9%	1.7%		100%		92.1%	7.6%	0.2%		100%			
	M	494	56	1		551		535	61	2	1	599			
		89.7%	10.2%	0.2%		100%		89.3%	10.2%	0.3%	0.2%	100%			
	T	838	108	8		954	555	922	93	3	1	1019	490		
		87.8%	11.3%	0.8%		100%		90.5%	9.1%	0.3%	0.1%	100%			
By Lawyers	F	356	90	12		458		425	48	2	0	475			
		77.7%	19.7%	2.6%		100%		89.5%	10.1%	0.4%		100%			
	M	527	75	1		603		563	88	2	1	654			
		87.4%	12.4%	0.2%		100%		86.1%	13.5%	0.3%	0.2%	100%			
	T	883	165	13		1061	448	988	136	4	1	1129	380		
		83.2%	15.6%	1.2%		100%		87.5%	12.1%	0.4%	0.1%	100%			

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

COURT INTERACTION (Continued)

JUDGES (Continued)

15. (Continued)

		<u>Women Judges</u>					NR	<u>Men Judges</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Court/Clerk Personnel **F		372	49	8	1	430		411	35	2	1	449	
		86.5%	11.4%	1.9%	0.2%	100%		91.5%	7.8%	0.5%	0.2%	100%	
M		520	51	1	1	573		559	60	3	1	623	
		90.8%	8.9%	0.2%	0.2%	100%		89.7%	9.6%	0.5%	0.2%	100%	
T		892	100	9	2	1003	506	970	95	5	2	1072	437
		88.9%	10.0%	0.9%	0.2%	100%		90.5%	8.9%	0.5%	0.2%	100%	

16. Judges were subjected to verbal sexual advances

		<u>Women Judges</u>					NR	<u>Men Judges</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Other Judges of Opposite Gender	**F	365	4		0	369		383	0		0	383	
		98.9%	1.1%			100%		100.0%				100%	
M		555	4		1	560		604	3		1	608	
		99.1%	0.7%		0.2%	100%		99.3%	0.5%		0.2%	100%	
T		920	8		1	929	580	987	3		1	991	518
		99.0%	0.9%		0.1%	100%		99.6%	0.3%		0.1%	100%	
By Lawyers of Opposite Gender	F	389	4	1	0	394		410	0		0	410	
		98.7%	1.0%	0.3%		100%		100.0%				100%	
M		592	3	0	1	596		642	2		1	645	
		99.3%	0.5%		0.2%	100%		99.5%	0.3%		0.2%	100%	
T		981	7	1	1	990	519	1052	2		1	1055	454
		99.1%	0.7%	0.1%	0.1%	100%		99.7%	0.2%		0.1%	100%	
By Court/Clerk Personnel of Opposite Gender	F	380	1		0	381		396	1		0	397	
		99.7%	0.3%			100%		99.8%	0.3%			100%	
M		575	1		1	577		623	1		1	625	
		99.7%	0.2%		0.2%	100%		99.7%	0.2%		0.2%	100%	
T		955	2		1	958	551	1019	2		1	1022	487
		99.7%	0.2%		0.1%	100%		99.7%	0.2%		0.1%	100%	

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

COURT INTERACTION (Continued)

JUDGES (Continued)

17. Judges were subjected to physical sexual advances

		<u>Women Judges</u>					<u>Men Judges</u>					NR	
		*1	2	3	4	T	1	2	3	4	T		
By Other Judges of Opposite Gender	**F	363			0	363					0	380	
		100.0%				100%						100%	
	M	558			1	559					1	606	
		99.8%			0.2%	100%				0.2%	100%		
	T	921			1	922	587			1	986	523	
		99.9%			0.1%	100%				0.1%	100%		
By Lawyers of Opposite Gender	F	385	1		0	386				0	404		
		99.7%	0.3%			100%					100%		
	M	590	0		1	591				1	639		
		99.8%			0.2%	100%				0.2%	100%		
	T	975	1		1	977	532			1	1043	466	
		99.8%	0.1%		0.1%	100%				0.1%	100%		
By Court/Clerk Personnel of Opposite Gender	F	372	1		0	373				0	391		
		99.7%	0.3%			100%					100%		
	M	572	0		1	573				1	621		
		99.8%			0.2%	100%				0.2%	100%		
	T	944	1		1	946	563			1	1012	497	
		99.8%	0.1%		0.1%	100%				0.1%	100%		

18. Affidavits of prejudice have been used to disqualify a judge primarily because of gender

		<u>Women Judges</u>				T	NR	<u>Men Judges</u>				T	NR
		*1	2	3	4			1	2	3	4		
	**F	221	132	28	4	385		324	62	4	0	390	
		57.4%	34.3%	7.3%	1.0%	100%		83.1%	15.9%	1.0%		100%	
	M	466	104	6	2	578		544	66	2	1	613	
		80.6%	18.0%	1.0%	0.4%	100%		88.7%	10.8%	0.3%	0.2%	100%	
	T	687	236	34	6	963	546	868	128	6	1	1003	506
		71.3%	24.5%	3.5%	0.6%	100%		86.5%	12.8%	0.6%	0.1%		

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses



COURT INTERACTION (Continued)

DEMEANING REMARKS

19. Remarks or jokes were made either in court or in chambers, that are demeaning to one gender

		<u>Demeaning To</u>					T	NR	<u>Demeaning To</u>					T	NR
		<u>Women</u>							<u>Men</u>						
		*1	2	3	4			1	2	3	4				
By Judges	**F	272	254	34	4	564		469	48	2	0	519			
		48.2%	45.0%	6.0%	0.7%	100%		90.4%	9.3%	0.4%		100%			
	M	503	174	8	2	687		577	103	4	1	685			
		73.2%	25.3%	1.2%	0.3%	100%		84.2%	15.0%	0.6%	0.2%	100%			
	T	775	428	42	6	1251	258	1046	151	6	1	1204	305		
		62.0%	34.2%	3.4%	0.5%	100%		86.9%	12.5%	0.5%	0.1%	100%			
By Lawyers	F	167	300	95	11	573		416	100	3	0	519			
		29.1%	52.4%	16.6%	1.9%	100%		80.2%	19.3%	0.6%		100%			
	M	367	295	29	1	692		482	200	9	1	692			
		53.0%	42.6%	4.2%	0.1%	100%		69.7%	28.9%	1.3%	0.1%	100%			
	T	534	595	124	12	1265	244	898	300	12	1	1211	298		
		42.2%	47.0%	9.8%	1.0%	100%		74.2%	24.8%	1.0%	0.1%	100%			
By Court/Clerk Personnel	F	384	128	14	2	528		440	56	2	1	499			
		72.7%	24.2%	2.7%	0.4%	100%		88.2%	11.2%	0.4%	0.2%	100%			
	M	541	120	7	1	669		570	95	4	1	670			
		80.9%	17.9%	1.1%	0.2%	100%		85.1%	14.2%	0.6%	0.2%	100%			
	T	925	248	21	3	1197	312	1010	151	6	2	1169	340		
		77.3%	20.7%	1.8%	0.3%	100%		86.4%	12.9%	0.5%	0.2%	100%			

20. If you have directly observed any of the conduct described in questions 1-19, how frequently do you believe it had an effect on case outcome?

		*1	2	3	4	T	NR
**F		228	231	18	4	481	
		47.4%	48.0%	3.7%	0.8%	100%	
M		443	87	6	4	540	
		82.0%	16.1%	1.1%	0.7%	100%	
T		671	318	24	8	1021	488
		65.7%	31.2%	2.4%	0.8%	100%	

21. If occasionally, usually, or always, please explain: (Attach sheet if necessary)\*\*\*

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

COURT INTERACTION (Continued)

DEMEANING REMARKS (Continued)

22. Have judges, counsel, or others intervened to correct any of the situations described in questions 1-19?

	*1	2	T	NR
**F	66 20.8%	251 79.2%	317 100%	
M	25 14.3%	150 85.7%	175 100%	
T	91 18.5%	401 81.5%	492 100%	1017

23. IF YES, please describe the situation and the way it was handled?\*\*\*

24. In your role as legal counsel, are there particular types of cases in which you believe you have an advantage due to your gender?

	*1	2	T	NR
**F	164 37.8%	270 62.2%	434 100%	
M	101 18.5%	444 81.5%	545 100%	
T	265 27.1%	714 72.9%	979 100%	530

\*1 - Yes, 2 - No, T - Total, NR - No Response

\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

25. If yes, name the types of cases:\*\*\*

DIVORCE: MAINTENANCE AND SETTLEMENT

In marital disposition cases you have directly observed during the last three years, indicate the frequency of each of the following. If you have not directly observed any dissolution cases, please go to question 38.

26. Have judges indicated through action or statement that awards of maintenance distribution are based on likelihood of wife's remarriage? Husband's remarriage?

	<u>Wives</u>					T	NR	<u>Husbands</u>					T	NR
	*1	2	3	4				1	2	3	4			
**F	97 51.1%	74 39.0%	14 7.4%	5 2.6%	190 100%	156 87.2%	22 12.3%	1 0.6%	0	179 100%				
M	179 62.8%	87 30.5%	16 5.6%	3 1.1%	285 100%	223 81.4%	46 16.8%	4 1.5%	1 0.4%	274 100%				
T	276 58.1%	161 33.9%	30 6.3%	8 1.7%	475 100%	1034 100%	379 83.7%	68 15.0%	5 1.1%	1 0.2%	453 100%	1056		

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response

\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

**DIVORCE: MAINTENANCE AND SETTLEMENT (Continued)**

27. Have judges indicated through action or statement that awards of property distribution are based on likelihood of wife's remarriage? Husband's remarriage?

	<u>Wives</u>						<u>Husbands</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	120	61	9	2	192		166	20	2	0	188	
	62.5%	31.8%	4.7%	1.0%	100%		88.3%	10.6%	1.1%		100%	
M	210	61	12	2	285		243	33	6	1	283	
	73.7%	21.4%	4.2%	0.7%	100%		85.9%	11.7%	2.1%	0.4%	100%	
T	330	122	21	4	477	1032	409	53	8	1	471	1038
	69.2%	25.6%	4.4%	0.8%	100%		86.8%	11.3%	1.7%	0.2%	100%	

28. Have property distribution awards reflected a judicial attitude that property belongs to the wife as wage earner? To the husband as wage earner?

	<u>Wives</u>						<u>Husbands</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	151	33	9	1	194		92	62	33	13	200	
	77.8%	17.0%	4.6%	0.5%	100%		46.0%	31.0%	16.5%	6.5%	100%	
M	216	56	9	3	284		206	66	9	4	285	
	76.1%	19.7%	3.2%	1.1%	100%		72.3%	23.2%	3.2%	1.4%	100%	
T	367	89	18	4	478	1031	298	128	42	17	485	1024
	76.8%	18.6%	3.8%	0.8%	100%		61.4%	26.4%	8.7%	3.5%	100%	1024

29. How often have judges given serious consideration to men who file for maintenance?

	*1	2	3	4	T	NR
**F	41	52	12	6	111	
	36.9%	46.9%	10.8%	5.4%	100%	
M	98	73	17	6	194	
	50.5%	37.6%	8.8%	3.1%	100%	
T	139	125	29	12	305	1204
	45.6%	41.0%	9.5%	3.9%	100%	

30. Have older displaced homemakers, with little change of obtaining employment above minimum wage, been awarded permanent maintenance after long-term marriages?

	*1	2	3	4	T	NR
**F	69	88	22	11	190	
	36.3%	46.3%	11.6%	5.8%	100%	
M	46	114	81	12	253	
	18.2%	45.1%	32.0%	4.7%	100%	
T	115	202	103	23	443	1066
	26.0%	45.6%	23.3%	5.2%	100%	

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

DIVORCE: MAINTENANCE AND SETTLEMENT (Continued)

31. How often has temporary maintenance been granted on show cause during the pendency of the action?

	*1	2	3	4	T	NR
**F	7 3.3%	96 45.5%	99 46.9%	9 4.3%	211 100%	
M	2 0.7%	110 36.8%	159 53.2%	28 9.4%	299 100%	
T	9 1.8%	206 40.4%	258 50.6%	37 7.3%	510 100%	999

32. Do decrees provide for mandatory wage assignments in the event of maintenance arrears?

	*1	2	3	4	T	NR
**F	68 36.8%	55 29.7%	31 16.8%	31 16.8%	185 100%	
M	58 21.6%	79 29.4%	59 21.9%	73 27.1%	269 100%	
T	126 27.8%	134 29.5%	90 19.8%	104 22.9%	454 100%	1055

33. How often have respondents who fail to abide by court orders for maintenance (without demonstrated sufficient cause) been jailed for civil contempt?

	*1	2	3	4	T	NR
**F	132 74.6%	36 20.3%	3 1.7%	6 3.4%	177 100%	
M	123 47.7%	117 45.4%	10 3.9%	8 3.1%	258 100%	
T	255 58.6%	153 35.2%	13 3.0%	14 3.2%	435 100%	1074

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response

34. Is there a rule-of-thumb in your county regarding eligibility for maintenance award?

	*1	2	T	NR
**F	70 47.0%	79 53.0%	149 100%	
M	65 28.6%	162 71.4%	227 100%	
T	135 35.9%	241 64.1%	376 100%	1133

\*1 - Yes, 2 - No, T - Total, NR - No Response

\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

**DIVORCE: MAINTENANCE AND SETTLEMENT (Continued)**

35. What is the usual duration of maintenance awards after marriages of less than 10 years?

\_\_\_\_\_ Years of maintenance (indicate number of years)

	*0	1	2	3	4	5	6+	NT	T	NR
**F	10 6.8%	51 34.4%	22 14.9%	9 6.1%	1 0.7%	1 0.7%	2 1.4%	52 35.1%	148	100%
M	7 3.1%	60 26.4%	33 14.5%	15 6.6%	0	3 1.3%	2 0.9%	107 47.1%	227	100%
T	17 4.5%	111 29.6%	55 14.7%	24 6.4%	1 0.3%	4 1.1%	4 1.1%	159 42.4%	375	1134

\*0 - 6+ = Years of Maintenance, NT = No Trend, T = Total, NR = No Response

36. What is the rule-of-thumb in your county regarding the number of years for which maintenance other than a jurisdictional award is granted for each of the following categories:

10-20 years of marriage: \_\_\_\_\_ years of maintenance

	*0	1	2	3	4	5	6+	NT	T	NR
**F	4 2.4%	20 12.2%	28 17.1%	15 9.1%	0	2 1.2%	2 1.2%	93 56.7%	164	100%
M	0	15 5.8%	31 12.0%	25 9.7%	1 0.4%	10 3.9%	1 0.4%	176 68.0%	259	100%
T	4 0.9%	35 8.3%	59 13.9%	40 9.5%	1 0.2%	12 2.8%	3 0.7%	269 63.6%	423	1086

21-30 years of marriage: \_\_\_\_\_ years of maintenance

	*1	2	3	4	5	6-9	10+	NT	T	NR
**F	5 3.2%	15 9.6%	15 9.6%	3 1.9%	22 14.0%	2 1.3%	2 1.3%	93 59.2%	157	100%
M	1 0.4%	16 6.3%	15 5.9%	7 2.8%	30 11.9%	3 1.2%	5 2.0%	176 69.6%	253	100%
T	6 1.5%	31 7.6%	30 7.3%	10 2.4%	52 12.7%	5 1.2%	7 1.7%	269 65.6%	410	1099

\*0-10+ = Years of Maintenance, NT = No Trend, T = Total, NR = No Response

Over 30 years: \_\_\_\_\_ years of maintenance

	*1	2	3	4	5	6-9	10	11+	NT	T	NR
**F	1 0.8%	5 3.8%	9 6.8%	1 0.8%	14 10.5%	5 3.8%	4 3.0%	1 0.8%	93 69.9%	133	100%
M	1 0.5%	6 2.8%	7 3.2%	1 0.5%	16 7.3%	26 0.9%	3 2.8%	1 1.4%	76 80.7%	218	100%
T	2 0.6%	11 3.1%	16 4.6%	2 0.6%	30 8.5%	7 2.0%	10 2.8%	4 1.1%	269 76.6%	351	1158

\*1-11+ = Years of Maintenance, NT = No Trend, T = Total, NR = No Response

\*\*F = Female Responses, M = Male Responses, T = Total, Female and Male Responses

DIVORCE: MAINTENANCE AND SETTLEMENT (Continued)

37. How have judges ranked the following factors in deciding the amount of maintenance to be awarded?

		<u>Female</u>	<u>Male</u>
1	Length of marriage	3	3
2	Conduct (of person seeking award) during marriage	5	5
3	Age of person seeking award	6	6
4	Job skills of person seeking award	2	2
5	Financial need of person seeking award	1	1
6	Obligor spouse's ability to pay	4	4
7	Other	7	7

CUSTODY

38. Has a parent been granted custody on the condition that she or he not work outside the home?

	<u>Mother</u>						<u>Father</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	179	21	3	1	204		192	5		1	198	
	87.8%	10.3%	1.5%	0.5%	100%		97.0%	2.5%		0.5%	100%	
M	241	15	2	4	262		250	5		3	258	
	92.0%	5.7%	0.8%	1.5%	100%		96.9%	1.9%		1.2%	100%	
T	420	36	5	5	466	1043	442	10		4	456	1053
	90.1%	7.7%	1.1%	1.1%	100%		96.9%	2.2%		0.9%	100%	

39. Has a parent's employment outside the home been a disadvantage when seeking custody?

	<u>Mother</u>						<u>Father</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	69	111	30	2	212		102	73	33	3	211	
	32.6%	52.4%	14.2%	0.9%	100%		48.3%	34.6%	15.6%	1.4%	100%	
M	126	118	23	5	272		82	97	62	30	271	
	46.3%	43.4%	8.5%	1.8%	100%		30.3%	35.8%	22.9%	11.1%	100%	
T	195	229	53	7	484	1025	184	170	95	33	482	1027
	40.3%	47.3%	11.0%	1.5%	100%		38.2%	35.3%	19.7%	6.9%	100%	

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

CUSTODY (Continued)

40. Have custody awards been conditioned on limitations of social relationships or activities?

	<u>Mother</u>						<u>Father</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	84	114	14	2	214		116	91	3	0	210	
	39.3%	53.3%	6.5%	0.9%	100%		55.2%	43.3%	1.4%		100%	
M	129	128	10	5	272		136	109	17	4	266	
	47.4%	47.1%	3.7%	1.8%	100%		51.1%	41.0%	6.4%	1.5%	100%	
T	213	242	24	7	486	1023	252	200	20	4	476	1033
	43.8%	49.8%	4.9%	1.4%	100%		53.0%	42.0%	4.2%	0.8%	100%	

41. Has joint custody been imposed over the objections of the mother? Over objections of the father?

	<u>Mother</u>						<u>Father</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	69	96	25	2	192		96	73	7	0	176	
	35.9%	50.0%	13.0%	1.0%	100%		54.6%	41.5%	4.0%		100%	
M	121	107	14	5	247		129	96	11	4	240	
	49.0%	43.3%	5.7%	2.0%	100%		53.8%	40.0%	4.6%	1.7%	100%	
T	190	203	39	7	439	1070	225	169	18	4	416	1093
	43.3%	46.2%	8.9%	1.6%	100%		54.1%	40.6%	4.3%	1.0%	100%	

42. Have custody awards been given due consideration to violence by each spouse?

	<u>Mother</u>						<u>Father</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	18	84	62	31	195		22	72	64	33	191	
	9.2%	43.1%	31.8%	15.9%	100%		11.5%	37.7%	33.5%	17.3%	100%	
M	21	82	97	48	248		8	63	117	59	247	
	8.5%	33.1%	39.1%	19.4%	100%		3.2%	25.5%	47.4%	23.9%	100%	
T	39	166	159	79	443	1066	30	135	181	92	438	1071
	8.8%	37.5%	35.9%	17.8%	100%		6.9%	30.8%	41.3%	21.0%	100%	

43. Have judges indicated through action or statement that their decisions to award custody to mothers was based on a belief that children belong with their mothers?

	*1	2	3	4	T	NR
**F	68	116	25	3	212	
	32.1%	54.7%	11.8%	1.4%	100%	
M	67	146	63	5	281	
	23.8%	52.0%	22.4%	1.8%	100%	
T	135	262	88	8	493	1016
	27.4%	53.1%	17.9%	1.6%	100%	

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

CUSTODY (Continued)

44. Have judges given fair and serious consideration to fathers who actively sought custody?

	*1	2	3	4	T	NR
**F	4 1.9%	86 40.6%	76 35.9%	46 21.7%	212 100%	
M	15 5.4%	127 45.7%	109 39.2%	27 9.7%	278 100%	
T	19 3.9%	213 43.5%	185 37.8%	73 14.9%	490 100%	1019

45. Have mothers, all other factors being equal, had an advantage in seeking temporary custody?

	*1	2	3	4	T	NR
**F	18 8.5%	68 32.2%	78 37.0%	47 22.3%	211 100%	
M	11 3.9%	45 16.0%	108 38.3%	118 41.8%	282 100%	
T	29 5.9%	113 22.9%	186 37.7%	165 33.5%	493 100%	1016

46. Have you dissuaded fathers from seeking custody because your experience suggests that, even when all other factors are equal, judges will not give fathers' petitions fair consideration?

	*1	2	3	4	T	NR
**F	94 46.3%	70 34.5%	28 13.8%	11 5.4%	203 100%	
M	75 27.5%	101 37.0%	70 25.6%	27 9.9%	273 100%	
T	169 35.5%	171 35.9%	98 20.6%	38 8.0%	476 100%	1033

47. Have you represented mothers who conceded more than 50% of the property in exchange for the fathers' agreement not to seek custody?

	*1	2	3	4	T	NR
**F	84 44.4%	79 41.8%	22 11.6%	4 2.1%	189 100%	
M	149 58.7%	91 35.8%	9 3.5%	5 2.0%	254 100%	
T	233 52.6%	170 38.4%	31 7.0%	9 2.0%	443 100%	1066

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses



CUSTODY (Continued)

48. Have you represented mothers who agreed to accept less child support than the father's income would call for in exchange for father's agreement not to contest custody?

	*1	2	3	4	T	NR
**F	63 31.7%	107 53.8%	27 13.6%	2 1.0%	199 100%	
M	114 44.0%	133 51.4%	9 3.5%	3 1.2%	259 100%	
T	177 38.7%	240 52.4%	36 7.9%	5 1.1%	458 100%	1051

49. In circumstances where the decree provides for shared custody, how often, in your experience, is the actual responsibility for custodial care equally shared?

	*1	2	3	4	T	NR
**F	60 31.3%	105 54.7%	21 10.9%	6 3.1%	192 100%	
M	57 22.9%	143 57.4%	38 15.3%	11 4.4%	249 100%	
T	117 26.5%	248 56.2%	59 13.4%	17 3.9%	441 100%	1068

50. Is there a rule of thumb that judges follow that other things being equal, custody should go to the parent of the same sex as the child?

	*1	2	3	4	T	NR
**F	86 54.4%	61 38.6%	10 6.3%	1 0.6%	158 100%	
M	133 58.3%	76 33.3%	18 7.9%	1 0.4%	228 100%	
T	219 56.7%	137 35.5%	28 7.3%	2 0.5%	386 100%	1123

51. Are fathers less likely to be awarded custody of children under five than if the children are older, other factors being equal?

	*1	2	3	4	T	NR
**F	18 9.1%	67 34.0%	88 44.7%	24 12.2%	197 100%	
M	10 3.8%	56 21.1%	125 47.0%	75 28.2%	266 100%	
T	28 6.0%	123 26.6%	213 46.0%	99 21.4%	463 100%	1046

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

CUSTODY (Continued)

52. In the custody cases you have directly observed in the last 36 months, which one of the following criteria has generally been the more persuasive factor in judges' decisions regarding custody awards?

	*1	2	3	4	T	NR
**F	18 8.9%	148 72.9%	35 17.2%	2 1.0%	203 100%	
M	24 9.0%	175 65.8%	66 24.8%	1 0.4%	266 100%	
T	42 9.0%	323 68.9%	101 21.5%	3 0.6%	469 100%	1040

\*1 - Financial position of each petitioner, 2 - Division of child-care responsibility when marriage was intact, 3 - Gender of the parent, 4 - N/A--no direct experience in last three years, T - Total, NR - No Response

\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

CHILD SUPPORT

53. Child support orders have reflected a realistic understanding of the costs of child rearing

	*1	2	3	4	T	NR
**F	35 14.5%	123 51.0%	75 31.1%	8 3.3%	241 100%	
M	23 7.1%	125 38.6%	157 48.5%	19 5.9%	324 100%	
T	58 10.3%	248 43.9%	232 41.1%	27 4.8%	565 100%	944

54. Child support orders have reflected a realistic understanding of needs of particular children

	*1	2	3	4	T	NR
**F	22 9.4%	132 56.2%	74 31.5%	7 3.0%	235 100%	
M	15 4.7%	136 42.6%	149 46.7%	19 6.0%	319 100%	
T	37 6.7%	268 48.4%	223 40.3%	26 4.7%	554 100%	955

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response

\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

CHILD SUPPORT (Continued)

55. Child support orders have reflected a realistic understanding of the earning capacity of the custodial parent

	*1	2	3	4	T	NR
**F	18 7.5%	127 52.9%	88 36.7%	7 2.9%	240 100%	
M	11 3.4%	132 41.3%	164 51.3%	13 4.1%	320 100%	
T	29 5.2%	259 46.3%	252 45.0%	20 3.6%	560 100%	949

56. Child support orders have reflected a realistic understanding of the earning capacity of the non-custodial parent

	*1	2	3	4	T	NR
**F	13 5.3%	132 53.7%	90 36.6%	11 4.5%	246 100%	
M	11 3.4%	139 43.0%	159 49.2%	14 4.3%	323 100%	
T	24 4.2%	271 47.6%	249 43.8%	25 4.4%	569 100%	940

57. Women employed outside the home have been ordered to provide child support when their ex-husbands were awarded custody

	*1	2	3	4	T	NR
**F	10 4.8%	69 32.9%	87 41.4%	44 21.0%	210 100%	
M	35 13.0%	92 34.1%	105 38.9%	38 14.1%	270 100%	
T	45 9.4%	161 33.5%	192 40.0%	82 17.1%	480 100%	1029

58. Respondents who failed to abide by court orders for child support have been jailed for civil contempt

	*1	2	3	4	T	NR
**F	122 57.0%	84 39.3%	6 2.8%	2 0.9%	214 100%	
M	129 44.8%	138 47.9%	17 5.9%	4 1.4%	288 100%	
T	251 50.0%	222 44.2%	23 4.6%	6 1.2%	502 100%	1007

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

CHILD SUPPORT (Continued)

59. Have judges consistently and predictably used uniform child support guidelines, setting child support on the basis of a formula addressing the income of the two parents and the ages of the children?

	*1	2	3	4	T	NR
**F	7 2.9%	57 23.8%	112 46.7%	64 26.7%	240 100%	
M	16 5.0%	57 17.7%	177 55.0%	72 22.4%	322 100%	
T	23 4.1%	114 20.3%	289 51.4%	136 24.2%	562 100%	947

DOMESTIC VIOLENCE -- CIVIL

60. When petitioners are endangered, orders of protection that direct respondents to stay away from the home have been granted

	*1	2	3	4	T	NR
**F	6 2.5%	10 4.1%	96 39.3%	132 54.1%	244 100%	
M	17 5.4%	7 2.2%	86 27.1%	207 65.3%	317 100%	
T	23 4.1%	17 3.0%	182 32.4%	339 60.4%	561 100%	948

61. When a petitioner is in a shelter or otherwise out of the marital home because of violence, judges have issued orders of protection that direct the respondent to leave the marital home so as to enable the petitioner and children to return

	*1	2	3	4	T	NR
**F	7 4.0%	49 28.0%	92 52.6%	27 15.4%	175 100%	
M	8 3.4%	48 20.3%	119 50.4%	61 25.9%	236 100%	
T	15 3.7%	97 23.6%	211 51.3%	88 21.4%	411 100%	1098

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

DOMESTIC VIOLENCE -- CIVIL (Continued)

62. Petitioners have been discouraged by Family Court or Probation personnel from seeking Orders of Protection

	*1	2	3	4	T	NR
**F	132 73.7%	36 20.1%	2 1.1%	9 5.0%	179 100%	
M	235 89.0%	18 6.8%	5 1.9%	6 2.3%	264 100%	
T	367 82.8%	54 12.2%	7 1.6%	15 3.4%	443 100%	1066

63. Superior Court has granted Orders of Protection in cases where there was a pending matrimonial action

	*1	2	3	4	T	NR
**F	12 6.8%	55 31.1%	75 42.4%	35 19.8%	177 100%	
M	19 7.8%	87 35.7%	99 40.6%	39 16.0%	244 100%	
T	31 7.4%	142 33.7%	174 41.3%	74 17.6%	421 100%	1088

64. Family court has granted petitioners ex parte temporary Orders of Protection

	*1	2	3	4	T	NR
**F	8 4.2%	32 16.8%	90 47.4%	60 31.6%	190 100%	
M	18 6.9%	33 12.6%	122 46.7%	88 33.7%	261 100%	
T	26 5.8%	65 14.4%	212 47.0%	88 32.8%	451 100%	1058

65. Prosecuting attorneys have declined to prosecute domestic violence complaints in criminal courts

	*1	2	3	4	T	NR
**F	41 23.0%	103 57.9%	28 15.7%	6 3.4%	178 100%	
M	91 36.6%	133 53.4%	20 8.0%	5 2.0%	249 100%	
T	132 30.9%	236 55.3%	48 11.2%	11 2.6%	427 100%	1082

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

DOMESTIC VIOLENCE -- CIVIL (Continued)

66. Mutual Orders of Protection have been issued even when respondents have not filed petitions

	*1	2	3	4	T	NR
**F	27 16.9%	65 40.6%	53 33.1%	15 9.4%	160 100%	
M	55 24.2%	104 45.8%	54 23.8%	14 6.2%	227 100%	
T	82 21.2%	169 43.7%	107 27.7%	29 7.5%	387 100%	1122

67. Domestic violence petitioners have been asked why they have no visible injuries

	*1	2	3	4	T	NR
**F	115 62.5%	55 29.9%	12 6.5%	2 1.1%	184 100%	
M	148 61.7%	73 30.4%	10 4.2%	9 3.8%	240 100%	
T	263 62.0%	128 30.2%	22 5.2%	11 2.6%	424 100%	1085

68. Adequate support has been awarded for domestic violence victims living apart from respondents under Orders of Protection

	*1	2	3	4	T	NR
**F	53 37.6%	66 46.8%	21 14.9%	1 0.7%	141 100%	
M	42 25.6%	57 34.8%	61 37.2%	4 2.4%	164 100%	
T	95 31.2%	123 40.3%	82 26.9%	5 1.6%	305 100%	1204

69. When appropriate, courts have ordered respondents with a history of violence to attend treatment and/or education programs

	*1	2	3	4	T	NR
**F	14 6.5%	88 41.1%	92 43.0%	20 9.4%	214 100%	
M	20 7.3%	88 32.0%	122 44.4%	45 16.4%	275 100%	
T	34 7.0%	176 36.0%	214 43.8%	65 13.3%	489 100%	1020

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

RAPE/DOMESTIC VIOLENCE—CRIMINAL

70. Bail has generally been set lower in rape cases than in other B felony offenses

	*1	2	3	4	T	NR
**F	44 53.0%	33 39.8%	6 7.2%	0	83 100%	
M	133 71.1%	46 24.6%	6 3.2%	2 1.1%	187 100%	
T	177 65.6%	79 29.3%	12 4.4%	2 0.7%	270 100%	1239

71. Defendants in rape cases have been released on their own recognizance more often than defendants charged with other B felony offenses

	*1	2	3	4	T	NR
**F	48 53.3%	33 36.7%	9 10.0%	0	90 100%	
M	139 73.2%	42 22.1%	6 3.2%	3 1.6%	190 100%	
T	187 66.8%	75 26.8%	15 5.4%	3 1.1%	280 100%	1229

72. Sentences in rape cases have been shorter than in other B felony offenses

	*1	2	3	4	T	NR
**F	40 45.5%	36 40.9%	12 13.6%	0	88 100%	
M	138 75.0%	38 20.7%	4 2.2%	4 2.2%	184 100%	
T	178 65.4%	74 27.2%	16 5.9%	4 1.5%	272 100%	1237

73. Bail has been set lower in rape cases in which parties had previously known each other than where parties were strangers

	*1	2	3	4	T	NR
**F	16 20.5%	29 37.2%	27 34.6%	6 7.7%	78 100%	
M	46 27.5%	76 45.5%	37 22.2%	8 4.8%	167 100%	
T	62 25.3%	105 42.9%	64 26.1%	14 5.7%	245 100%	1264

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

RAPE/DOMESTIC VIOLENCE -- CRIMINAL (Continued)

74. Sentences have been shorter in rape cases in which parties had previously known each other than where parties were strangers

	*1	2	3	4	T	NR
**F	22 26.2%	34 40.5%	23 27.4%	5 6.0%	84 100%	
M	57 34.6%	77 46.7%	26 15.8%	5 3.0%	165 100%	
T	79 31.7%	111 44.6%	49 19.7%	10 4.0%	249 100%	1260

75. Bail has generally been set lower in domestic violence cases than in other misdemeanor offenses

	*1	2	3	4	T	NR
**F	52 36.4%	58 40.6%	26 18.2%	7 4.9%	143 100%	
M	107 44.6%	89 37.1%	34 14.2%	10 4.2%	240 100%	
T	159 41.5%	147 38.4%	60 15.7%	17 4.4%	383 100%	1126

76. Bail has generally been set lower in domestic violence cases than in other B felony offenses

	*1	2	3	4	T	NR
**F	30 26.6%	50 44.3%	28 24.8%	5 4.4%	113 100%	
M	63 33.2%	69 36.3%	45 23.7%	13 6.8%	190 100%	
T	93 30.7%	119 39.3%	73 24.1%	18 5.9%	303 100%	1206

77. Defendants in domestic violence cases have been released on their own recognizance more often than defendants charged with other misdemeanor offenses

	*1	2	3	4	T	NR
**F	49 34.3%	49 34.3%	38 26.6%	7 4.9%	143 100%	
M	101 41.7%	91 37.6%	41 16.9%	9 3.7%	242 100%	
T	150 39.0%	140 36.4%	79 20.5%	16 4.1%	385 100%	1124

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses



RAPE/DOMESTIC VIOLENCE -- CRIMINAL (Continued)

78. Defendants in domestic violence cases have been released on their own recognizance more often than defendants charged with other B felony offenses

	*1	2	3	4	T	NR
**F	36 31.9%	41 36.3%	28 24.8%	8 7.1%	113 100%	
M	64 33.9%	73 38.6%	39 20.6%	13 6.9%	189 100%	
T	100 33.1%	114 37.8%	67 22.2%	21 7.0%	302 100%	1207

79. Sentences in domestic violence cases have been shorter than in other B felony offenses

	*1	2	3	4	T	NR
**F	25 23.2%	44 40.7%	29 26.9%	10 9.3%	108 100%	
M	67 36.4%	73 39.7%	30 16.3%	14 7.6%	184 100%	
T	92 31.5%	117 40.1%	59 20.2%	24 8.2%	292 100%	1217

80. Sentences in domestic violence cases have been shorter than in other misdemeanor offenses

	*1	2	3	4	T	NR
**F	36 25.2%	55 38.5%	39 27.3%	13 9.1%	143 100%	
M	82 34.5%	111 46.6%	36 15.1%	9 3.8%	238 100%	
T	118 31.0%	166 43.6%	75 19.7%	22 5.8%	381 100%	1128

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

CIVIL LITIGATION - PERSONAL INJURY AND WRONGFUL DEATH

81. In similar wrongful death cases, have larger awards been received by survivors of:

	*W	M	T	NR
Men	77 80.2%	119 67.2%	196 71.8%	
Women	2 2.1%	8 4.5%	10 3.7%	
No difference overall between awards to men and women	17 17.7%	50 28.3%	67 24.5%	
Total	96 100%	177 100%	273 100%	1236

82. In similar wrongful death cases, have larger awards been received by survivors of:

	*W	M	T	NR
Men who were employed outside the home	64 86.5%	121 85.2%	185 85.7%	
Men who were homemakers	2 2.7%	2 1.4%	4 1.9%	
Neither (that is, awards are comparable)	8 10.8%	19 13.4%	27 12.5%	
Total	74 100%	142 100%	216 100%	1293

83. In similar wrongful death cases, have larger awards been received by survivors of:

	*W	M	T	NR
Women who were employed outside the home	56 78.9%	98 71.5%	154 74.0%	
Women who were homemakers	4 5.6%	8 5.8%	12 5.8%	
Neither (that is, awards are comparable)	11 15.5%	31 22.6%	42 20.2%	
Total	71 100%	137 100%	208 100%	1301

\*W - Women, M - Men, T - Total, NR - No Response

CIVIL LITIGATION - PERSONAL INJURY AND WRONGFUL DEATH (Continued)

84. In similar personal injury cases, have higher awards for loss of consortium been awarded when the disabled/deceased party is:

	*W	M	T	NR
Disabled/deceased man	40 42.1%	48 32.9%	88 36.5%	
Disabled/deceased woman	17 17.9%	22 15.1%	39 16.2%	
No difference overall between awards to men and women	38 40.0%	76 52.1%	114 47.3%	
Total	95 100%	146 100%	241 100%	1268

85. In similar personal injury cases, have women employed outside the home received higher awards than women who were homemakers?

	*W	M	T	NR
Disabled women homemakers receive higher awards	7 6.3%	3 1.5%	10 3.2%	
Disabled women employed outside the home receive higher awards	93 83.0%	174 86.1%	267 85.0%	
Neither (that is, awards are comparable)	12 10.7%	25 12.4%	37 11.8%	
Total	112 100%	202 100%	314 100%	1195

86. In similar personal injury cases, have men employed outside the home received higher awards than men who were homemakers?

	*W	M	T	NR
Disabled men homemakers receive higher awards	2 2.7%	6 4.1%	8 3.6%	
Disabled men employed outside the home receive higher awards	66 88.0%	130 88.4%	196 88.3%	
Neither (that is, the awards are comparable)	7 9.3%	11 7.5%	18 8.1%	
Total	75 100%	147 100%	222 100%	1287

\*W - Women, M - Men, T - Total, NR - No Response

CIVIL LITIGATION - PERSONAL INJURY AND WRONGFUL DEATH (Continued)

87. Please describe the nature of discrimination claims under RCW 49.60 (Washington's law on discrimination) with which you have had direct experience in the past three years:\*\*\*

88. Based on this experience, how have awards received by woman plaintiffs suing under RCW 49.60 generally compared to awards received by men plaintiffs?

	*W	M	T	NR
Women receive higher awards	8 20.0%	23 39.0%	31 31.3%	
Men receive higher awards	7 17.5%	5 8.5%	12 12.1%	
Women and men receive comparable awards	25 62.5%	31 52.5%	56 56.6%	
Total	40 100%	59 100%	99 100%	1410

89. How have counsel-awarded fees for discrimination cases generally compared to those received by a lawyer of the opposite gender for similar work?

	*W	M	T	NR
Counsel-awarded fees awarded to men lawyers were higher	10 31.3%	3 6.3%	13 16.3%	
Counsel-awarded fees awarded to women lawyers were higher	0	7 14.6%	7 8.8%	
Fees were comparable	22 68.8%	38 79.2%	60 75.0%	
Total	32 100%	48 100%	80 100%	1429

\*W - Women, M - Men, T - Total, NR - No Response

DEMOGRAPHIC INFORMATION

90. Age:

	*1	2	3	4	5	6	T	NR
**F	124 17.6%	433 61.3%	118 16.7%	22 3.1%	5 0.7%	4 0.6%	706	100%
M	69 9.0%	357 46.6%	230 30.0%	68 8.9%	34 4.4%	8 1.0%	766	100%
T	193 13.1%	790 53.7%	348 23.6%	90 6.1%	39 2.7%	12 0.8%	1472	37

\*1 - 30 years or younger, 2 - 31-40 years, 3 - 41-50 years, 4 - 51-60 years, 5 - 61-70 years, 6 - 71 years or older, T - Total, NR - No Response

\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

DEMOGRAPHIC INFORMATION (Continued)

91. Gender:

	Number	%
Female	709	48.1%
Male	766	51.9%
Total	1475	100%

92. Race/Ethnicity:

	*1	2	3	4	5	6	T	NR
**F	1 0.1%	26 3.7%	6 0.9%	663 94.6%	2 0.3%	3 0.4%	701	100%
M	5 0.7%	14 1.9%	6 0.8%	706 93.8%	7 0.9%	15 2.0%	753	100%
T	6 0.4%	40 2.8%	12 0.8%	1369 94.2%	9 0.6%	18 1.2%	1454	100% 55

\*1 - American Indian, 2 - Asian, 3 - Black, 4 - Caucasian, 5 - Hispanic, 6 - Other, T - Total, NR - No Response

\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

93. Number of years practicing in Washington:

	*W	M	T	NR
10 Years	604 85.2%	395 51.6%	999 67.7%	
20 Years	95 13.4%	248 32.4%	343 23.3%	
30 Years	10 1.4%	123 16.1%	133 9.0%	
Total	709 100%	766 100%	1475 100%	34

\*W - Women, M - Men, T - Total, NR - No Response

DEMOGRAPHIC INFORMATION (Continued)

94. Number of Superior Court judges in the county in which you primarily practice:

	*W	M	T	NR
1 Judge	13 2.4%	29 4.2%	42 3.4%	
2 - 3 Judges	49 9.1%	77 11.1%	126 10.2%	
4 - 7 Judges	82 15.2%	131 18.9%	213 17.3%	
8 - 20 Judges	127 23.5%	161 23.2%	288 23.3%	
21+ Judges	269 49.8%	296 42.7%	565 45.8%	
Total	540 100%	694 100%	1234 100%	275

\*W - Women, M - Men, T - Total, NR - No Response

95. Primary Area of Practice:\*

A. Appellate Law B. Business Law C. Civil Litigation D. Criminal Law E. Family Law

**F	39 5.6%	75 10.7%	199 28.5%	96 13.8%	101 14.5%
M	32 4.2%	98 12.8%	261 34.1%	145 19.0%	61 8.0%
T	71 4.9%	173 11.8%	460 31.4%	241 16.5%	162 11.1%

F. General Practice G. Government Law H. Juvenile Law I. Labor Law J. Tax Law K. Other

**F	55 7.9%	39 5.6%	5 0.7%	19 2.7%	11 1.6%	59 8.5%
M	97 12.7%	28 3.7%	1 0.1%	7 0.9%	0	35 4.6%
T	152 10.4%	67 4.6%	6 0.4%	26 1.8%	11 0.8%	94 6.4%
NR	46					

\*Data is indicative of major areas of practice but is not conclusive of primary areas of practice since many respondents marked more than one category.

\*\*F - Female Responses, M - Male Responses, T - Total, NR - No Response

DEMOGRAPHIC INFORMATION (Continued)

96. Type of Practices:

	*W	M	T	NR
Sole Practitioner	105 15.0%	166 21.8%	271 18.5%	
Law Firm	350 50.0%	404 53.0%	754 51.5%	
Corporate/House Counsel	28 4.0%	14 1.8%	42 2.9%	
Government Lawyer	83 11.9%	47 6.2%	130 8.9%	
Prosecutor	48 6.9%	91 11.9%	139 9.5%	
Public Defender	43 6.1%	31 4.1%	74 5.1%	
Public Agency Counsel	10 1.4%	0	10 0.7%	
Other	33 4.7%	10 1.3%	43 2.9%	
Total	700 100%	763 100%	1463 100%	46

97. On the average, how many days per year do you appear in court?

	*W	M	T	NR
Never appear in court	64 9.2%	23 3.0%	87 5.9%	
1 - 20 days per year	167 23.9%	139 18.2%	306 20.9%	
21 - 50 days per year	207 29.6%	257 33.6%	464 31.7%	
51 - 100 days per year	138 19.7%	183 23.9%	321 21.9%	
101 days or more per year	123 17.6%	164 21.4%	287 19.6%	
Total	699 100%	766 100%	1465 100%	44

\*W - Women, M - Men, T - Total, NR - No Response

DEMOGRAPHIC INFORMATION (Continued)

98. In each section, which one of the following best describes your overall perception of gender discrimination in Washington state courts?

a. Toward Lawyers:

	*W	M	T	NR
I have never seen discrimination in practice in the courts	72 11.2%	290 39.5%	362 26.3%	
It exists but only with certain individual offenders	357 55.7%	370 50.3%	727 52.8%	
It exists system-wide and is subtle--more a problem of institutions than individuals	148 23.1%	65 8.8%	213 15.5%	
It exists to a high degree and is apparent in both individual behavior and institutional procedures	64 10.0%	10 1.4%	74 5.4%	
Total	641 100%	735 100%	1376 100%	133

b. Toward Litigants or Witnesses:

	*W	M	T	NR
I have never seen discrimination in practice in the courts	118 18.8%	285 39.2%	403 29.8%	
It exists but only with certain individual offenders	262 41.8%	335 46.1%	597 44.1%	
It exists system-wide and is subtle--more a problem of institutions than individuals	193 30.8%	88 12.1%	281 20.8%	
It exists to a high degree and is apparent in both individual behavior and institutional procedures	54 8.6%	19 2.6%	73 5.4%	
Total	627 100%	727 100%	1354 100%	155

c. Toward Judges:

	*W	M	T	NR
I have never seen discrimination in practice in the courts	199 32.0%	430 59.2%	629 46.6%	
It exists but only with certain individual offenders	275 44.2%	252 34.7%	527 39.1%	
It exists system-wide and is subtle--more a problem of institutions than individuals	107 17.2%	39 5.4%	146 10.8%	
It exists to a high degree and is apparent in both individual behavior and institutional procedures	41 6.6%	6 0.8%	47 3.5%	
Total	622 100%	727 100%	1349 100%	160

\*W - Women, M - Men, T - Total, NR - No Response

99. Do you have any further observations or suggestions regarding gender-related behavior, events, or problems in the courts? (If necessary, attach an extra sheet, transcripts, or other relevant material)\*\*\*







**APPENDIX B**  
**GENDER AND JUSTICE TASK FORCE JUDGES' SURVEY**



## APPENDIX B

### Gender and Justice Task Force Judicial Survey

#### I. Purpose

The Task Force designed a questionnaire with both closed and open ended questions to survey the experiences and perceptions of judicial personnel, judges, commissioners, and magistrates, regarding gender bias in courtroom interaction and in certain areas of substantive law of particular interest to the Task Force. Survey questions parallel those on the lawyers' survey so that the responses could be compared. Respondents were asked to answer only those sections in which they had courtroom experience in the last three years.

#### II. Methodology

The survey was distributed to Washington State judicial officers at the State Judicial Conference in August 1988. Surveys were mailed to judges, commissioners, and magistrates who did not attend the conference. A second letter and survey were sent to all judicial officers in September.

Analysis was conducted by the Task Force research specialist.

#### III. Demographics of the Respondents

Two hundred and twenty-two surveys were returned, representing a 48.5 percent total response rate. Four surveys contained no demographic information.

##### A. Response Rates:

Judicial Office	Population	Number Responding	Percent Responding
Supreme Court	9	0	0.0%
Court of Appeals	16	6	37.5%
Superior Court	133	90	67.7%
District/Municipal	<u>199</u>	<u>81</u>	<u>40.7%</u>
Subtotal	357	177	49.8%
Commissioners	93*	38	40.9%
Magistrates:	8	3	37.5%
Missing identification	—	<u>4</u>	—
<b>Totals</b>	<b>458</b>	<b>222</b>	<b>48.5%</b>
<b>Court Levels</b>			
Supreme Court	10	0	0.0%
Court of Appeals	22	8	38.3%
Superior Court	196	119	60.7%
District/Municipal	230	91	39.5%
Missing identification	—	<u>4</u>	—
<b>Totals</b>	<b>458</b>	<b>222</b>	<b>48.5%</b>

\*13 of the court commissioners who are also judges are not included in this figure.

The judges have the highest response rate (49.8%). Although more judicial officers are found in the District/Municipal Courts (230) than in the Superior Courts (196), more judicial officers responded from the Superior Courts. There were 119 or 60.7% of the Superior court population who responded, compared to 91 or 39.5% of the District/Municipal Court officials.

**B. Judicial Respondents by Gender and Position**

Position	Gender		Total
	Female	Male	
Judge	25	152	177
Commissioner	8	30	38
Magistrate	0	3	3
Total	33 (15.1%)	185 (84.9%)	218 (100%)
Missing = 4			

Thirty-three or 15.1 percent of the respondents are women. Since approximately 11 percent of the judges in the state are female, a slightly higher percentage of the total population of women than men judges responded to the survey.

**C. Judicial Respondents by Age.**

Age	Female	Male	Total	Percent
31 - 40	16	20	36	16.5%
41 - 50	9	58	67	30.7%
51 - 60	5	71	76	34.9%
61 - 70	3	32	35	16.1%
71 - 80		4	4	1.8%
Totals	33	185	218	100.0%

Missing = 4

The average age of all respondents is approximately 52.5 years. Seventy-five percent of the female judges are less than 50 years old.

**IV. Survey Data**

Complete survey results are contained in Appendix B. Since the Task Force was interested in the differences in perception of female and male judges, responses are separated by gender. Please note that the percentages listed in each chart are based on the percentage of those judges who answered that question. Percentages show the percent of women respondents; percent of men respondents; and percent of the total number of respondents. Written comments to the open ended questions have been compiled and are available by request at the Office of the Administrator for the Courts.

WASHINGTON STATE TASK FORCE ON GENDER AND JUSTICE IN THE COURTS  
JUDICIAL SURVEY

COURTROOM AND PROFESSIONAL INTERACTION

LAWYERS - IN COURT OR IN CHAMBERS

1. Lawyers were addressed by first name when lawyers of opposite gender were addressed by surname

		<u>Women Lawyers</u>					<u>Men Lawyers</u>						
		*1	2	3	4	T	NR	1	2	3	4	T	NR
By Opposing Counsel	**F	13 44.8%	15 51.7%	1 3.5%	0	29 100%		17 58.6%	12 41.4%	0	0	29 100%	
	M	110 62.5%	57 32.4%	8 4.6%	1 0.6%	176 100%		106 62.0%	55 32.2%	9 5.3%	1 0.6%	171 100%	
	T	123 60.0%	72 35.1%	9 4.4%	1 0.5%	205 100%	17	123 61.5%	67 33.5%	9 4.5%	1 0.5%	200 100%	22
By Court Personnel or Clerk Personnel	F	15 55.6%	9 33.3%	3 11.1%	0	27 100%		18 69.2%	7 26.9%	1 3.9%	0	26 100%	
	M	113 71.5%	37 23.4%	7 4.4%	1 0.6%	158 100%		109 71.2%	37 24.2%	6 3.9%	1 0.7%	153 100%	
	T	128 69.2%	46 24.9%	10 5.4%	1 0.5%	185 100%	37	127 71.0%	44 24.6%	7 3.9%	1 0.6%	179 100%	43

2. Lawyers were addressed by familiar terms (e.g., dear, young lady, girls, son).

		<u>Women Lawyers</u>					<u>Men Lawyers</u>						
		*1	2	3	4	T	NR	1	2	3	4	T	NR
By Opposing Counsel	**F	20 64.5%	11 35.5%	0		31 100%		29 96.7%	0	1 3.3%		30 100%	
	M	150 84.8%	26 14.7%	1 0.6%		177 100%		147 86.0%	23 13.5%	1 0.6%		171 100%	
	T	170 81.7%	37 17.8%	1 0.5%		208 100%	14	176 87.6%	23 11.4%	2 1.0%		201 100%	21
By Court Personnel or Clerk Personnel	F	23 82.1%	5 17.9%			28 100%		26 96.3%	0	1 3.7%		27 100%	
	M	157 94.0%	10 6.0%			167 100%		148 91.4%	14 8.6%	0		162 100%	
	T	180 92.3%	15 7.7%			195 100%	27	174 92.1%	14 7.4%	1 0.5%		189 100%	33

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

COURTROOM AND PROFESSIONAL INTERACTION (Continued)

LAWYERS - IN COURT OR IN CHAMBERS (Continued)

3. Lawyers were complimented on personal appearance.

		<u>Women</u> <u>Lawyers</u>					NR	<u>Men</u> <u>Lawyers</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Opposing Counsel	**F	9 31.0%	16 55.2%	4 13.8%	0	29 100%		16 55.2%	13 44.8%	0		29 100%	
	M	111 63.8%	58 33.3%	4 2.3%	1 0.6%	174 100%		117 69.2%	51 30.2%	1 0.6%		169 100%	
	T	120 59.1%	74 36.5%	8 3.9%	1 0.5%	203 100%	19	133 67.2%	64 32.3%	1 0.5%		198 100%	24
By Court Personnel or Clerk Personnel	F	10 33.3%	15 50.0%	5 16.7%		30 100%		15 53.6%	12 42.9%	1 3.6%		28 100%	
	M	95 57.6%	67 40.6%	3 1.8%		165 100%		98 61.6%	60 37.7%	1 0.6%		159 100%	
	T	105 53.9%	82 42.1%	8 4.1%		195 100%	27	113 60.4%	72 38.5%	2 1.1%		187 100%	35

4. Lawyers were subjected to verbal sexual advances.

		<u>Women</u> <u>Lawyers</u>					NR	<u>Men</u> <u>Lawyers</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Opposing Counsel of Opposite Gender	**F	24 80.0%	5 16.7%	1 3.3%		30 100%		28 96.6%	1 3.5%			29 100%	
	M	174 98.3%	3 1.7%	0		177 100%		171 98.8%	2 1.2%			173 100%	
	T	198 95.7%	8 3.9%	1 0.5%		207 100%	15	199 98.5%	3 1.5%			202 100%	20
By Court Personnel or Clerk Personnel of Opposite Gender	F	29 93.6%	1 3.2%	1 3.2%		31 100%		30 100%	0			30 100%	
	M	173 99.4%	1 0.6%	0		174 100%		165 96.5%	6 3.5%			171 100%	
	T	202 98.5%	2 1.0%	1 0.5%		205 100%	17	195 97.0%	6 3.0%			201 100%	21

5. Lawyers were subjected to physical sexual advances.

		<u>Women</u> <u>Lawyers</u>					NR	<u>Men</u> <u>Lawyers</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Opposing Counsel of of Opposite Gender	**F	27 93.1%	2 6.9%			29 100%		28 100%				28 100%	
	M	177 98.9%	2 1.1%			179 100%		176 100%				176 100%	
	T	204 98.1%	4 1.9%			208 100%	14	204 100%				204 100%	18

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses



COURTROOM AND PROFESSIONAL INTERACTION (Continued)

LAWYERS - IN COURT OR IN CHAMBERS (Continued)

5. (Continued)

		<u>Women</u> <u>Lawyers</u>					NR	<u>Men</u> <u>Lawyers</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Court Personnel or Clerk Personnel of Opposite Gender	**F	30	1			31		29	0				29
		96.8%	3.2%			100%		100%					100%
	M	175	1			176		172	1				173
		99.4%	0.6%			100%		99.4%	0.6%				100%
	T	205	2			207	15	201	1				202
		99.0%	1.0%			100%		99.5%	0.5%				100%

6. Lawyers of one gender were asked if they were lawyers, when lawyers of the opposite gender were not asked.

		<u>Women</u> <u>Lawyers</u>					NR	<u>Men</u> <u>Lawyers</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Opposing Counsel	**F	17	11	2		30		23	5	1			29
		59.7%	36.7%	6.7%		100%		79.3%	17.2%	3.5%			100%
	M	156	22	0		178		156	17	0			173
		87.6%	12.4%			100%		90.2%	9.8%				100%
	T	173	33	2		208	14	179	22	1			202
		83.2%	15.9%	1.0%		100%		88.6%	10.9%	0.5%			100%
By Court Personnel or Clerk Personnel	F	19	11	1		31		23	6				29
		61.3%	35.5%	3.2%		100%		79.3%	20.7%				100%
	M	147	24	0		171		148	19				167
		86.0%	14.0%			100%		88.6%	11.4%				100%
	T	166	35	1		202	20	171	25				196
		82.2%	17.3%	0.5%		100%		87.2%	12.8%				100%

LITIGANTS OR WITNESSES

7. Adult litigants or witnesses were addressed by first name when those of opposite gender were addressed by surname.

		<u>Women</u> <u>Litigants/</u> <u>Witnesses</u>					NR	<u>Men</u> <u>Litigants/</u> <u>Witnesses</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Lawyers	**F	13	12	6	0	31		20	10	0	0		30
		41.9%	38.7%	19.4%		100%		66.7%	33.3%				100%
	M	98	73	4	1	176		98	72	4	1		175
		55.7%	41.5%	2.3%	0.6%	100%		56.0%	41.1%	2.3%	0.6%		100%
	T	111	85	10	1	207	15	118	82	4	1		205
		53.6%	41.1%	4.8%	0.5%	100%		57.6%	40.0%	2.0%	0.5%		100%

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

**COURTROOM AND PROFESSIONAL INTERACTION (Continued)**

**LITIGANTS OR WITNESSES (Continued)**

7. (Continued)

		<u>Women</u>					<u>Men</u>					NR
		*1	2	3	4	T	1	2	3	4	T	
By Court Personnel or Clerk Personnel	**F	23	7	1		31		25	5		30	
		74.2%	22.6%	3.2%		100%		83.3%	16.7%		100%	
	M	141	34	0		175		138	34		172	
		80.6%	19.4%			100%		80.2%	19.8%		100%	
	T	164	41	1		206	16	163	39		202	20
		79.6%	19.9%	0.5%		100%		80.7%	19.3%		100%	

8. Adult litigants or witnesses were addressed by familiar terms (e.g., dear, young lady, girls, son).

		<u>Women</u>					<u>Men</u>					NR
		*1	2	3	4	T	1	2	3	4	T	
By Lawyers	**F	15	14	2		31		24	5		29	
		48.4%	45.2%	6.5%		100%		82.8%	17.2%		100%	
	M	141	34	1		176		144	30		174	
		80.1%	19.3%	0.6%		100%		82.8%	17.2%		100%	
	T	156	48	3		207	15	168	35		203	19
		75.4%	23.2%	1.5%		100%		82.8%	17.2%		100%	
By Court Personnel	F	27	4			31		27	2		29	
		87.1%	12.9%			100%		93.1%	6.9%		100%	
	M	153	22			175		152	20		172	
		87.4%	12.6%			100%		88.4%	11.6%		100%	
	T	180	26			206	16	179	22		201	21
		87.4%	12.6%			100%		89.1%	11.0%		100%	

9. Adult litigants or witnesses were complimented on personal appearance.

		<u>Women</u>					<u>Men</u>					NR
		*1	2	3	4	T	1	2	3	4	T	
By Lawyers	**F	19	10	1		30		25	4		29	
		63.3%	33.3%	3.3%		100%		86.2%	13.8%		100%	
	M	145	31	1		177		152	23		175	
		81.9%	17.5%	0.6%		100%		86.9%	13.1%		100%	
	T	164	41	2		207	15	177	27		204	18
		79.2%	19.8%	1.0%		100%		86.8%	13.2%		100%	
By Court Personnel or Clerk Personnel	F	24	6	1		31		24	6		30	
		77.4%	19.4%	3.2%		100%		80.0%	20.0%		100%	
	M	153	22	0		175		156	16		172	
		87.4%	12.6%			100%		90.7%	9.3%		100%	
	T	177	28	1		206	16	180	22		202	20
		85.9%	13.6%	0.5%		100%		89.1%	10.9%		100%	

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

**COURTROOM AND PROFESSIONAL INTERACTION (Continued)**

**LITIGANTS OR WITNESSES (Continued)**

10. Adult litigants or witnesses were subjected to verbal sexual advances.

		<u>Women</u> <u>Litigants/</u> <u>Witnesses</u>				T	NR	<u>Men</u> <u>Litigants/</u> <u>Witnesses</u>				T	NR
		*1	2	3	4			1	2	3	4		
By Lawyers of Opposite Gender	**F	26	3			29		28	0			28	
		89.7%	10.3%			100%		100.0%				100%	
	M	173	2			175		172	2			174	
		98.9%	1.1%			100%		98.9%	1.2%			100%	
	T	199	5			204	18	200	2			202	20
		97.6%	2.5%			100%		99.0%	1.0%			100%	
By Court Personnel or Clerk Personnel of Opposite Gender	F	29	2			31		30	0			30	
		93.6%	6.5%			100%		100.0%				100%	
	M	172	1			173		171	1			172	
		99.4%	0.6%			100%		99.4%	0.6%			100%	
	T	201	3			204	18	201	1			202	20
		98.5%	1.5%			100%		99.5%	0.5%			100%	

11. Adult litigants or witnesses were subjected to physical sexual advances.

		<u>Women</u> <u>Litigants/</u> <u>Witnesses</u>				T	NR	<u>Men</u> <u>Litigants/</u> <u>Witnesses</u>				T	NR
		*1	2	3	4			1	2	3	4		
By Lawyers of Opposite Gender	**F	28	1			29		28				28	
		96.6%	3.5%			100%		100.0%				100%	
	M	176	0			176		175				175	
		100.0%				100%		100.0%				100%	
	T	204	1			205	17	203				203	19
		99.5%	0.5%			100%		100.0%				100%	
By Court Personnel or Clerk Personnel of Opposite Gender	F	30				30		29				29	
		100.0%				100%		100.0%				100%	
	M	175				175		174				174	
		100.0%				100%		100.0%				100%	
	T	205				205	17	203				203	19
		100.0%				100%		100.0%				100%	

12. Adult litigants/witnesses were regarded as less credible because of their gender.

		<u>Women</u> <u>Litigants/</u> <u>Witnesses</u>				T	NR	<u>Men</u> <u>Litigants/</u> <u>Witnesses</u>				T	NR
		*1	2	3	4			1	2	3	4		
By Lawyers	**F	15	11	2	2	30		27	1	1		29	
		50.0%	36.7%	6.7%	6.7%	100%		93.1%	3.5%	3.5%		100%	
	M	144	27	0	0	171		153	17	0		170	
		84.2%	15.8%			100%		90.0%	10.0%			100%	
	T	159	38	2	2	201	21	180	18	1		199	23
		79.1%	18.9%	1.0%	1.0%	100%		90.5%	9.1%	0.5%		100%	

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

**COURTROOM AND PROFESSIONAL INTERACTION (Continued)**

**DEMEANING REMARKS**

13. Remarks or jokes were made, either in court or in chambers, which were demeaning to one gender.

		<u>Demeaning To Women</u>					NR	<u>Demeaning To Men</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By a Judge	**F	16	12	2		30		22	7				29
		53.3%	40.0%	6.7%		100%		75.9%	24.1%				100%
	M	135	40	2		177		144	30	3			177
		76.3%	22.6%	1.1%		100%		81.4%	16.9%	1.7%			100%
	T	151	52	4		207	15	166	37	3			206
		72.9%	25.1%	1.9%		100%		80.6%	18.0%	1.5%			100%
By Lawyers	F	11	17	3		31		22	8				30
		35.5%	54.8%	9.7%		100%		73.3%	26.7%				100%
	M	97	78	3		178		117	58	1	1		177
		54.5%	43.8%	1.7%		100%		66.1%	32.8%	0.6%	0.6%		100%
	T	108	95	6		209	13	139	66	1	1		207
		51.7%	45.5%	2.9%		100%		67.1%	31.9%	0.5%	0.5%		100%
By Court Personnel or Clark Personnel	F	21	8	2		31		23	7	0	0		30
		67.7%	25.8%	6.5%		100%		76.7%	23.3%				100%
	M	133	40	2		175		137	34	2	1		174
		76.0%	22.9%	1.1%		100%		78.7%	19.5%	1.2%	0.6%		100%
	T	154	48	4		206	16	160	41	2	1		204
		74.8%	23.3%	1.9%		100%		78.4%	20.1%	1.0%	.5%		100%

**CASE OUTCOME**

14. If you have directly observed any of the conduct described in questions 1-13, how frequently do you believe it had an effect on case outcome?

	*1	2	3	4	T	NR
**F	12	9	2		23	
	52.2%	39.1%	8.7%		100%	
M	137	8	0		145	
	94.5%	5.5%			86.3%	
T	149	17	2		168	54
	88.7%	10.1%	1.2%		100%	

15. If occasionally, usually, or always, please explain.\*\*\*

**JUDGES - IN COURT OR CHAMBERS**

16. Judges were addressed by first name.

		<u>Women Judges</u>					NR	<u>Men Judges</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Lawyers	**F	14	11	5	1	31		16	11	2			29
		45.2%	35.5%	16.1%	3.2%	100%		55.2%	37.9%	6.9%			100%
	M	59	37	0	0	96		61	110	4			175
		61.5%	38.5%			100%		34.9%	62.9%	2.3%			100%
	T	73	48	5	1	127	95	77	121	6			204
		57.5%	37.8%	3.9%	0.8%	100%		37.8%	59.3%	2.9%			100%

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

COURTROOM AND PROFESSIONAL INTERACTION (Continued)

JUDGES - IN COURT OR CHAMBERS (Continued)

16. (Continued)

		<u>Women Judges</u>					<u>Men Judges</u>						
		*1	2	3	4	T	NR	1	2	3	4	T	NR
By Court Personnel or Clerk Personnel	F	14 45.2%	10 32.3%	5 16.1%	2 6.5%	31 100%		20 69.0%	7 24.1%	2 6.9%	0	29 100%	
	M	58 63.0%	29 31.5%	4 4.4%	1 1.1%	92 100%		88 52.1%	69 40.8%	10 5.9%	2 1.2%	169 100%	
	T	72 58.5%	39 31.7%	9 7.3%	3 2.4%	123 100%	99	108 54.6%	76 38.4%	12 6.1%	2 1.0%	198 100%	24

17. Judges were addressed by familiar rather than professional terms (e.g., dear, ladies, girls, son).

		<u>Women Judges</u>					<u>Men Judges</u>						
		*1	2	3	4	T	NR	1	2	3	4	T	NR
By Lawyers	**F	26 86.7%	4 13.3%			30 100%		29 100.0%	0			29 100%	
	M	100 97.1%	3 2.9%			103 100%		171 96.6%	6 3.4%			177 100%	
	T	126 94.7%	7 5.3%			133 100%	89	200 97.1%	6 2.9%			206 100%	16
By Court Personnel or Clerk Personnel	F	27 90.0%	3 10.0%	0		30 100%		29 100.0%	0	0		29 100%	
	M	99 98.0%	1 1.0%	1 1.0%		101 100%		167 96.5%	5 2.9%	1 0.6%		173 100%	
	T	126 96.2%	4 3.1%	1 0.8%		131 100%	91	196 97.0%	5 2.5%	1 0.5%		202 100%	20

18. Judges were complimented on personal appearance.

		<u>Women Judges</u>					<u>Men Judges</u>						
		*1	2	3	4	T	NR	1	2	3	4	T	NR
By Lawyers	**F	10 33.3%	17 56.7%	3 10.0%		30 100%		18 62.1%	10 34.5%	1 3.5%		29 100%	
	M	69 72.6%	24 25.3%	2 2.1%		95 100%		113 64.2%	63 35.8%	0		176 100%	
	T	79 63.2%	41 32.8%	5 4.0%		125 100%	97	131 63.9%	73 35.6%	1 0.5%		205 100%	17
By Court Personnel or Clerk Personnel	F	9 30.0%	15 50.0%	6 20.0%		30 100%		14 48.3%	14 48.3%	1 3.5%		29 100%	
	M	58 60.4%	37 38.5%	1 1.0%		96 100%		83 48.3%	87 50.6%	2 1.2%		172 100%	
	T	67 53.2%	52 41.3%	7 5.6%		126 100%	96	97 48.3%	101 50.3%	3 1.5%		201 100%	21

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

COURTROOM AND PROFESSIONAL INTERACTION (Continued)

JUDGES - IN COURT OR CHAMBERS (Continued)

19. Judges were subject to verbal sexual advances.

	<u>Women Judges</u>						<u>Men Judges</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
By Lawyers of Opposite Gender	25	5			30		27	1			28	
	83.3%	16.7%			100%		96.4%	3.6%			100%	
M	98	2			100		175	1			176	
	98.0%	2.0%			100%		99.4%	0.6%			100%	
T	123	7			130	92	202	2			204	18
	94.6%	5.4%			100%		99.0%	1.0%			100%	
By Court Personnel or Clerk Personnel of Opposite Gender	28	2			30		28	0			28	
	93.3%	6.7%			100%		100.0%				100%	
M	99	0			99		170	5			175	
	100.0%				100.0%		97.1%	2.9%			100%	
T	127	2			129	93	198	5			203	19
	98.5%	1.6%			100%		97.5%	2.5%			100%	

20. Judges were subject to physical sexual abuse.

	<u>Women Judges</u>						<u>Men Judges</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
By Lawyers of Opposite Gender	29	1			30		28	0			28	
	96.7%	3.3%			100%		100.0%				100%	
M	99	2			101		177	1			178	
	98.0%	2.0%			100%		99.4%	0.6%			100%	
T	128	3			131	91	205	1			206	16
	97.7%	2.3%			100%		99.5%	0.5%			100%	
By Court Personnel or Clerk Personnel of Opposite Gender	30				30		28	0			28	
	100.0%				100%		100.0%				100%	
M	100				100		173	2			175	
	100.0%				100%		98.9%	1.1%			100%	
T	130				130	92	201	2			203	19
	100.0%				100%		99.0%	1.0%			100%	

AFFIDAVITS OF PREJUDICE AND JUDICIAL POLLS

21. Do you believe that affidavits of prejudice have been used to disqualify judges primarily because of gender?

	<u>Women Judges</u>						<u>Men Judges</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	9	16	3		28		19	8			27	
	32.1%	57.1%	10.7%		100%		70.4%	29.6%			100%	
M	71	50	2		123		129	39			168	
	57.7%	40.7%	1.6%		100%		76.8%	23.2%			100%	
T	80	66	5		151	71	148	47			195	27
	53.0%	43.7%	3.3%		100%		75.9%	24.1%			100%	

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

COURTROOM AND PROFESSIONAL INTERACTION (Continued)

AFFIDAVITS OF PREJUDICE AND JUDICIAL POLLS (Continued)

22. Do you believe that Judicial Poll results have been lower for judges primarily because of gender?

	<u>Women Judges</u>					NR	<u>Men Judges</u>					NR
	*1	2	3	4	T		1	2	3	4	T	
**F	9 31.0%	9 31.0%	10 34.5%	1 3.5%	29 100%		24 85.7%	4 14.3%			28 100%	
M	77 65.8%	35 29.9%	4 3.4%	1 0.9%	117 100%		127 85.8%	21 14.2%			148 100%	
T	86 58.9%	44 30.1%	14 9.6%	2 1.4%	146 100%	76	151 85.8%	25 14.2%			176 100%	46

JUDGES - PROFESSIONAL MEETINGS, CONFERENCES, SEMINARS, etc.

23. Judges were addressed by first name when judges of opposite gender were addressed by title.

	<u>Women Judges</u>					NR	<u>Men Judges</u>					NR
	*1	2	3	4	T		1	2	3	4	T	
By Other Judges												
**F	13 43.3%	11 36.7%	6 20.0%	0	30 100%		19 65.5%	10 34.5%	0	0	29 100%	
M	112 71.3%	39 24.8%	5 3.2%	1 0.6%	157 100%		116 70.3%	41 24.9%	7 4.2%	1 0.6%	165 100%	
T	125 66.8%	50 26.7%	11 5.9%	1 0.5%	187 100%	35	135 69.6%	51 26.3%	7 3.6%	1 0.5%	194 100%	28
By Lawyers												
F	16 53.3%	13 43.3%	1 3.3%	0	30 100%		22 75.9%	7 24.1%	0		29 100%	
M	113 77.4%	32 21.9%	0	1 0.7%	146 100%		119 76.3%	36 23.1%	1 0.6%		156 100%	
T	129 73.3%	45 25.6%	1 0.6%	1 0.6%	176 100%	46	141 76.2%	43 23.2%	1 0.5%		185 100%	37

24. Judges were addressed by familiar rather than professional terms (e.g., dear, ladies, girls, son).

	<u>Women Judges</u>					NR	<u>Men Judges</u>					NR
	*1	2	3	4	T		1	2	3	4	T	
By Other Judges												
**F	16 53.3%	13 43.3%	1 3.3%		30 100%		27 93.1%	2 6.9%	0		29 100%	
M	125 79.6%	27 17.2%	5 3.2%		157 100%		137 82.0%	24 14/4%	6 3.6%		167 100%	
T	141 75.4%	40 21.4%	6 3.2%		187 100%	35	164 83.7%	26 13.3%	6 3.1%		196 100%	26
By Lawyers												
F	24 80.0%	6 20.0%			30 100%		29 100.0%	0			29 100%	
M	130 88.4%	17 11.6%			147 100%		139 88.5%	18 11.5%			157 100%	
T	154 87.0%	23 13.0%			177 100%	45	168 90.3%	18 9.7%			186 100%	36

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

**COURTROOM AND PROFESSIONAL INTERACTION (Continued)**

**JUDGES - PROFESSIONAL MEETINGS, CONFERENCES, SEMINARS, etc. (Continued)**

25. Judges were complimented on personal appearance.

		<u>Women Judges</u>					NR	<u>Men Judges</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Other Judges	**F	11 36.7%	13 43.3%	5 16.7%	1 3.3%	30 100%		17 58.6%	11 37.9%	1 3.5%		29 100%	
	M	74 47.4%	80 51.3%	2 1.3%	0	156 100%		97 59.2%	66 40.2%	1 0.6%		164 100%	
	T	85 45.7%	93 50.0%	7 3.8%	1 0.5%	186 100%	36	114 59.1%	77 39.9%	2 1.0%		193 100%	29
By Lawyers	F	16 53.3%	11 36.7%	3 10.0%		30 100%		20 69.0%	8 27.6%	1 3.5%		29 100%	
	M	94 67.1%	46 32.9%	0		140 100%		107 71.3%	43 28.7%	0		150 100%	
	T	110 64.7%	57 33.5%	3 1.8%		170 100%	52	127 71.0%	51 28.5%	1 0.6%		179 100%	43

26. Judges were subjected to verbal sexual advances.

		<u>Women Judges</u>					NR	<u>Men Judges</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Other Judges	**F	26 86.7%	4 13.3%			30 100%		29 100.0%	0			29 100%	
	M	154 96.3%	6 3.8%			160 100%		163 97.0%	5 3.0%		168 100%		
	T	180 94.7%	10 5.3%			190 100%	32	192 97.5%	5 2.5%		197 100%	25	
By Lawyers	F	29 96.7%	1 3.3%			30 100%		28 96.6%	1 3.5%		29 100%		
	M	150 98.0%	3 2.0%			153 100%		160 98.8%	2 1.2%		162 100%		
	T	179 97.8%	4 2.2%			183 100%	39	188 98.4%	3 1.6%		191 100%	31	

27. Judges were subjected to physical sexual advances.

		<u>Women Judges</u>					NR	<u>Men Judges</u>					NR
		*1	2	3	4	T		1	2	3	4	T	
By Other Judges	**F	30 100.0%	0			30 100%		28 96.6%	1 3.5%		29 100%		
	M	158 98.1%	3 1.9%			161 100%		166 98.2%	3 1.8%		169 100%		
	T	188 98.4%	3 1.6%			191 100%	31	194 98.0%	4 2.0%		198 100%	24	

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses



COURTROOM AND PROFESSIONAL INTERACTION (Continued)

JUDGES - PROFESSIONAL MEETINGS, CONFERENCES, SEMINARS, etc. (Continued)

27. (Continued)

		<u>Women</u> <u>Judges</u>					<u>Men</u> <u>Judges</u>						
		*1	2	3	4	T	NR	1	2	3	4	T	NR
By Lawyers	F	30	0			30		28	1			29	
		100.0%				100%		96.6%	3.5%			100%	
	M	152	3			155		162	2			164	
		98.1%	1.9%			100%		98.8%	1.2%			100%	
	T	182	3			185	37	190	3			193	29
		98.4%	1.6%			100%		98.5%	1.6%			100%	

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response

\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

28. Have you, other judges, counsel, or others intervened to correct any of the situations described in questions 1-27?

		*1	2	T	NR
**F		8	13	21	
		38.1%	61.9%	100%	
M		20	99	119	
		16.8%	83.2%	100%	
T		28	112	140	82
		20.0%	80.0%	100%	

29. IF YES, please describe the situation and the way it was handled. How should it have been handled?\*\*\*

30. In your experience as a judge, have you noted particular types of cases in which lawyers have an advantage due to their gender?

		*1	2	T	NR
**F		5	23	28	
		17.9%	82.1%	100%	
M		27	141	168	
		16.1%	83.9%	100%	
T		32	164	196	26
		16.3%	83.7%	100%	

31. If yes, names the types of cases and describe the perceived advantage.\*\*\*

\*1 - Yes, 2 - No, T - Total, NR - No Response

\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

COURTROOM AND PROFESSIONAL INTERACTION (Continued)

JUDGES - PROFESSIONAL MEETINGS, CONFERENCES, SEMINARS, etc. (Continued)

32. Do you believe that your perceptions of the influence of gender on the treatment of lawyers, litigants/witnesses, and judges are representative of the other judges in your jurisdiction?

	*1	2	T	NR
**F	17 60.7%	11 39.3%	28 100%	
M	128 87.7%	18 12.3%	146 100%	
T	145 83.3%	29 16.7%	174 100%	48

\*1 - Yes, 2 - No, T - Total, NR - No Response

\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

33. If no, explain how your views differ from the other judges in your jurisdiction.\*\*\*

DIVORCE: MAINTENANCE AND SETTLEMENT

34. How often are awards of maintenance based on the likelihood of remarriage?

	<u>Wives</u>						<u>Husbands</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	5 41.7%	6 50.0%	1 8.3%	0	12 100%		7 58.3%	5 41.7%	0		12 100%	
M	53 57.0%	38 40.9%	1 1.1%	1 1.1%	93 100%		65 75.6%	20 23.3%	1 1.2%		86 100%	
T	58 55.2%	44 41.9%	2 1.9%	1 1.0%	105 100%	117	72 73.5%	25 25.5%	1 1.0%		98 100%	124

35. How often are awards of property based on the likelihood of remarriage?

	<u>Wives</u>						<u>Husbands</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	8 66.7%	4 33.3%	0		12 100%		9 75.0%	3 25.0%			12 100%	
M	73 79.4%	18 19.6%	1 1.1%		92 100%		75 82.4%	16 17.6%			91 100%	
T	81 77.9%	22 21.2%	1 1.0%		104 100%	118	84 81.6%	19 18.5%			103 100%	119

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response

\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

**DIVORCE: MAINTENANCE AND SETTLEMENT (Continued)**

36. How often is the primary wage earner generally awarded more than half the property? Wife as primary wage earner? Husband as primary wage earner?

	<u>Wives</u>						<u>Husbands</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	9 81.8%	2 18.2%	0		11 100%		8 72.7%	2 18.2%	1 9.1%		11 100%	
M	39 44.3%	45 51.1%	4 4.6%		88 100%		46 52.3%	40 45.5%	2 2.3%		88 100%	
T	48 48.5%	47 47.5%	4 4.0%		99 100%	123	54 54.6%	42 42.4%	3 3.0%		99 100%	123

37. Men who file for maintenance get serious consideration.

	*1	2	3	4	T	NR
**F	1 8.33	4 33.3%	5 41.7%	2 16.7%	12 100%	
M	9 11.3%	38 47.5%	16 20.0%	17 21.3%	80 100%	
T	10 10.9%	42 45.7%	21 22.8%	19 20.7%	92 100%	130

38. Have older displaced homemakers, with little chance of obtaining employment above minimum wage, been awarded permanent maintenance after long-term marriages?

	*1	2	3	4	T	NR
**F	1 7.7%	7 53.9%	3 23.1%	2 15.4%	13 100%	
M	4 4.5%	27 30.3%	46 51.7%	12 13.5%	89 100%	
T	5 4.9%	34 33.3%	49 48.0%	14 13.7%	102 100%	120

39. How often has temporary maintenance been granted on show cause during the pendency of the action?

	*1	2	3	4	T	NR
**F		4 30.8%	9 69.2%	0	13 100%	
M		27 30.7%	55 62.5%	6 6.8%	88 100%	
T		31 30.7%	64 63.4%	6 5.9%	101 100%	121

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

**DIVORCE: MAINTENANCE AND SETTLEMENT (Continued)**

40. How often have respondents who fail to abide by court orders for maintenance (without demonstrated sufficient cause) been jailed for civil contempt?

	*1	2	3	4	T	NR
**F	2 16.7%	9 75.0%	1 8.3%	0	12 100%	
M	15 17.7%	64 75.3%	5 5.9%	1 1.2%	85 100%	
T	17 17.5%	73 75.3%	6 6.2%	1 1.0%	97 100%	125

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

41. What is the usual duration of maintenance awards after marriages of less than 10 years? Write the number of years or check "No Trend."

	*1	2	3	5	NT	T	NR
**F	1 7.1%	4 28.6%	0	1 7.1%	8 57.1%	14 100%	
M	6 6.3%	24 25.3%	8 8.4%	0	57 60.0%	95 100%	
T	7 6.4%	28 25.7%	8 7.3%	1 0.9%	65 59.6%	109 100%	113

\*1-5 - Years of Maintenance, NT - No Trend, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

42. What is the custom in your county regarding the number of years for which maintenance other than a jurisdictional award is granted for each of the following categories?

**10-20 Years of Marriage**

	*1	2	3	4	5	6	NT	T	NR
**F	0	3 20.0%	1 6.7%	0	0	0	11 73.3%	15 100%	
M	1 1.1%	7 7.4%	7 7.4%	1 1.1%	7 7.4%	1 1.1%	71 74.7%	95 100%	
T	1 0.9%	10 9.1%	8 7.3%	1 0.9%	7 6.4%	1 0.9%	82 74.6%	110 100%	112

\*1-6 - Years of Maintenance, NT - No Trend, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

**21-30 Years of Marriage**

	*2	3	5	6	7	8	10	PM	NT	T	NR
**F	0	0	2 13.3%	0	0	0	0	3 20.0%	10 66.7%	15 100%	
M	1 1.1%	2 2.1%	11 11.6%	2 2.1%	1 1.1%	2 2.1%	2 2.1%	4 4.2%	70 73.7%	95 100%	
T	1 0.9%	2 1.8%	13 11.8%	2 1.8%	1 0.9%	2 1.8%	2 1.8%	7 6.4%	80 72.7%	110 100%	112

\*2-10 - Years of Marriage, PM - Permanent Maintenance, NT - No Trend, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

DIVORCE: MAINTENANCE AND SETTLEMENT (Continued)

42. (Continued)

Over 30 Years of Marriage

	*2	5	7	8	10	15	PM	NT	T	NR
**F	0	1 6.7%	0	0	0	1 6.7%	3 20.0%	10 66.7%	15 100%	
M	1	3 1.1%	1 3.2%	2 1.1%	2 2.1%	0	16 16.8%	70 73.7%	95 100%	
T	1	4 0.9%	1 3.6%	2 0.9%	2 1.8%	1 1.8%	19 17.3%	80 72.7%	110 100%	112

\*2-15 = Years of Marriage, PM = Permanent Maintenance, NT = No Trend, T = Total, NR = No Response  
 \*\*F = Female Responses, M = Male Responses, T = Total, Female and Male Responses

43. How do you rank the following factors in deciding the amount of maintenance to be awarded?

		<u>Female</u>	<u>Male</u>
1	Length of marriage	3	4
2	Conduct (of person seeking award) during marriage	6	6
3	Age of person seeking award	5	5
4	Job skills of person seeking award	2	2
5	Financial need of person seeking award	1	1
6	Obligor spouse's ability to pay	4	3
7	Other	7	7

44. Do you believe that your decisions in divorce, maintenance, and settlement cases are representative of the other judges in your jurisdiction?

	*1	2	T	NR
**F	10 90.9%	1 9.1%	11 100%	
M	74 93.7%	5 6.3%	79 100%	
T	84 93.3%	6 6.7%	90 100%	132

\*1 = Yes, 2 = No, T = Total, NR = No Response  
 \*\*F = Female Responses, M = Male Responses, T = Total, Female and Male Responses

45. If no, explain how your views differ from the other judges in your jurisdiction.\*\*\*

CUSTODY

46. A parent has been granted custody on the condition that she or he not work outside the home.

	<u>Mother</u>						<u>Father</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	14	0			14		14				14	
	100.0%				100%		100.0%				100%	
M	91	1			92		91				91	
	98.9%	1.1%			100%		100.0%				100%	
T	105	1			106	116	105				105	117
	99.1%	0.9%			100%		100.0%				100%	

47. A parent's employment outside the home has been a disadvantage when seeking custody.

	<u>Mother</u>						<u>Father</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	7	7	0		14		8	4	2	0	14	
	50.0%	50.0%			100%		57.1%	28.6%	14.3%		100%	
M	35	54	5		94		26	52	14	2	94	
	37.2%	57.5%	5.3%		100%		27.7%	55.3%	14.9%	2.1%	100%	
T	42	61	5		108	114	34	56	16	2	108	114
	38.9%	56.5%	4.6%		100%		31.5%	51.9%	14.8%	1.9%	100%	

48. Have custody awards been conditioned on limitations of social relationships or activities?

	<u>Mother</u>						<u>Father</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	4	9			13		4	9	0		13	
	30.8%	69.2%			100%		30.8%	69.2%			100%	
M	38	55			93		39	53	1		93	
	40.9%	59.1%			100%		41.9%	57.0%	1.1%		100%	
T	42	64			106	116	43	62	1		106	116
	39.6%	60.4%			100%		40.6%	58.5%	0.9%		100%	

49. Has joint custody been imposed over the objections of either parent?

	<u>Mother</u>						<u>Father</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	9	5	0		14		9	5	0		14	
	64.3%	35.7%			100%		64.3%	35.7%			100%	
M	55	36	1		92		58	33	1		92	
	59.8%	39.1%	1.1%		100%		63.0%	35.9%	1.1%		100%	
T	64	41	1		106	116	67	38	1		106	116
	60.4%	38.7%	0.9%		100%		63.2%	35.9%	0.9%		100%	

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

CUSTODY (Continued)

50. Has violence by each spouse been considered in awarding custody?

	<u>Mother</u>						<u>Father</u>					
	*1	2	3	4	T	NR	1	2	3	4	T	NR
**F	1 7.1%	6 42.9%	3 21.4%	4 28.6%	14 100%		0	6 42.9%	4 28.6%	4 28.6%	14 100%	
M	2 2.2%	37 40.7%	27 29.7%	25 27.5%	91 100%		2 2.2%	36 39.1%	27 29.4%	27 29.4%	92 100%	
T	3 2.9%	43 41.0%	30 28.6%	29 27.6%	105 100%	117	2 1.9%	42 39.6%	31 29.3%	31 29.3%	106 100%	116

51. Have you indicated through action or statement that the decisions to award custody to mothers was based on a belief that children belong with their mothers?

	*1	2	3	4	T	NR
**F	13 92.9%	1 7.1%	0	0	14 100%	
M	66 71.7%	22 23.9%	2 2.2%	2 2.2%	92 100%	
T	79 74.5%	23 21.7%	2 1.9%	2 1.9%	106 100%	116

52. How often have you awarded custody to fathers who actively sought custody?

	*1	2	3	4	T	NR
**F	0	11 91.7%	1 8.3%		12 100%	
M	1 1.1%	86 95.6%	3 3.3%		90 100%	
T	1 1.0%	97 95.1%	4 3.9%		102 100%	120

53. How often have you awarded temporary custody to mothers?

	*1	2	3	4	T	NR
**F		4 40.0%	6 60.0%		10 100%	
M		18 21.2%	67 78.8%		85 100%	
T		22 23.2%	73 76.8%		95 100%	127

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

CUSTODY (Continued)

54. How often have you awarded temporary custody to fathers?

	*1	2	3	4	T	NR
**F	0	9 90.0%	1 10.0%		10 100%	
M	1 1.2%	82 96.5%	2 2.4%		85 100%	
T	1 1.1%	91 95.8%	3 3.2%		95 100%	127

55. Have you been aware of situations in which mothers conceded more than 50% of the community assets in exchange for the father's agreement not to seek custody?

	*1	2	3	4	T	NR
**F	5 35.7%	8 57.1%	1 7.1%		14 100%	
M	48 55.2%	37 42.5%	2 2.3%		87 100%	
T	53 52.5%	45 44.6%	3 3.0%		101 100%	121

56. Have you been aware of mothers who agreed to accept less child support than the father's income would call for in exchange for father's agreement not to contest custody?

	*1	2	3	4	T	NR
**F	3 21.4%	10 71.4%	1 7.1%		14 100%	
M	27 30.7%	60 68.2%	1 1.1%		88 100%	
T	30 29.4%	70 68.6%	2 2.0%		102 100%	120

57. Other factors being equal, should custody go to the parent of the same sex as the child?

	*1	2	3	4	T	NR
**F	5 41.7%	6 50.0%	1 8.3%	0	12 100%	
M	25 32.5%	44 57.1%	7 9.1%	1 1.3%	77 100%	
T	30 33.7%	50 56.2%	8 9.0%	1 1.1%	89 100%	133

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses



CUSTODY (Continued)

58. Are fathers less likely to be awarded custody of children under five than older children, other factors being equal?

	*1	2	3	4	T	NR
**F	0	4 33.3%	8 66.7%	0	12 100%	
M	10 11.0%	29 31.9%	45 49.5%	7 7.7%	91 100%	
T	10 9.7%	33 32.0%	53 51.5%	7 6.8%	103 100%	119

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

59. In the custody cases you have decided in the last three years, which one of the following criteria has generally been the most persuasive factor in decisions regarding custody awards? Check one.

	*1	2	3	T	NR
**F	0	11 100.0%	0	11 100%	
M	2 2.7%	71 94.7%	2 2.7%	75 100%	
T	2 2.3%	82 95.4%	2 2.3%	86 100%	136

\*1 - Financial Position of Each Petitioner, 2 - Division of Child-care Responsibility When Marriage was Intact, 3 - Gender of the Parent, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

60. Do you believe that your decisions in custody cases are representative of the other judges in your jurisdiction?

	*1	2	T	NR
**F	10 83.3%	2 16.7%	12 100%	
M	75 94.9%	4 5.1%	79 100%	
T	85 93.4%	6 6.6%	91 100%	131

\*1 - Yes, 2 - No, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

61. If no, explain how your views differ from the other judges in your jurisdiction.\*\*\*

CHILD SUPPORT

62. In your opinion, have child support orders reflected a realistic understanding of the costs of child rearing?

	*1	2	3	4	T	NR
**F	0	9 69.2%	4 30.8%	0	13 100%	
M	2 2.2%	20 22.0%	60 65.9%	9 9.9%	91 100%	
T	2 1.9%	29 27.9%	64 61.5%	9 8.7%	104 100%	118

63. In your opinion, have child support orders reflected a realistic understanding of needs of particular children?

	*1	2	3	4	T	NR
**F		7 53.9%	6 46.2%	0	13 100%	
M		22 24.2%	62 68.1%	7 7.7%	91 100%	
T		29 27.9%	68 65.4%	7 6.7%	104 100%	118

64. In your opinion, have child support orders reflected a realistic understanding of the earning capacity of the custodial parent?

	*1	2	3	4	T	NR
**F		4 30.8%	9 69.2%	0	13 100%	
M		16 17.8%	65 72.2%	9 10.0%	90 100%	
T		20 19.4%	74 71.8%	9 8.7%	103 100%	119

65. In your opinion, have child support orders reflected a realistic understanding of the earning capacity of the non-custodial parent?

	*1	2	3	4	T	NR
**F	1 7.7%	3 23.1%	9 69.2%	0	13 100%	
M	0	14 15.4%	65 71.4%	12 13.2%	91 100%	
T	1 1.0%	17 16.4%	74 71.2%	12 11.5%	104 100%	118

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

CHILD SUPPORT (Continued)

66. Have women employed outside the home been ordered to provide child support when their ex-husbands were awarded custody?

	*1	2	3	4	T	NR
**F	0	2 15.4%	7 53.9%	4 30.8%	13 100%	
M	1 1.1%	33 36.7%	39 43.3%	17 18.9%	90 100%	
T	1 1.0%	35 34.0%	46 44.7%	21 20.4%	103 100%	119

67. Have respondents who failed to abide by court orders for child support been jailed for civil contempt?

	*1	2	3	4	T	NR
**F	0	10 100.0%	0	0	10 100%	
M	11 12.9%	65 76.5%	7 8.2%	2 2.4%	85 100%	
T	11 11.6%	75 79.0%	7 7.4%	2 2.1%	95 100%	127

\*1 - Never, 2 - Occasionally, 3 - Usually, 4 - Always, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

68. Have you consistently and predictably used uniform child support guidelines, setting child support on a formula addressing the income of the two parents and the ages of the children?

	*1	2	T	NR
**F	11 84.6%	2 15.4%	13 100%	
M	89 96.7%	3 3.3%	92 100%	
T	100 95.2%	5 4.8%	105 100%	117

69. Do you believe that your decisions in child support are representative of the other judges in your jurisdiction?

	*1	2	T	NR
**F	13 100.0%	0	13 100%	
M	85 98.8%	1 1.2%	86 100%	
T	98 99.0%	1 1.0%	99 100%	123

\*1 - Yes, 2 - No, T - Total, NR - No Response  
 \*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

70. If no, explain how your views differ from the other judges in your jurisdiction?\*\*\*

CIVIL LITIGATION - PERSONAL INJURY AND WRONGFUL DEATH

71. In similar wrongful death cases, have larger awards been received by survivors of:

	*W	M	T	NR
Men	5 55.6%	28 41.2%	33 42.9%	
Women	0	1 1.5%	1 1.3%	
Neither (that is, awards are comparable)	4 44.4%	39 57.4%	43 55.8%	
Total	9 100%	68 100%	77 100%	145

72. In similar wrongful death cases, have larger awards been received by survivors of:

	*W	M	T	NR
Men who were employed outside the home	4 57.1%	42 67.7%	46 66.7%	
Men who were homemakers				
Neither (that is, awards are comparable)	3 42.9%	20 32.3%	23 33.3%	
Total	7 100%	62 100%	69 100%	153

73. In similar wrongful death cases, have larger awards been received by survivors of:

	*W	M	T	NR
Women who were employed outside the home	5 62.5%	32 54.2%	37 55.2%	
Women who were homemakers				
Neither (that is, awards are comparable)	3 37.5%	27 45.8%	30 44.8%	
Total	8 100%	59 100%	67 100%	155

\*W - Women, M - Men, T - Total, NR - No Response

CIVIL LITIGATION - PERSONAL INJURY AND WRONGFUL DEATH (Continued)

74. In similar personal injury cases, have higher awards for loss of consortium been awarded when the disabled/deceased party is:

	*W	M	T	NR
Disabled/deceased man	2 25.0%	10 17.0%	12 17.9%	
Disabled/deceased woman	2 25.0%	3 5.1%	5 7.5%	
Neither (that is, awards are comparable)	4 50.0%	46 78.0%	50 74.6%	
Total	8 100%	59 100%	67 100%	155

75. In similar personal injury cases, have women employed outside the home received higher awards than women who were homemakers?

	*W	M	T	NR
Injured women employed outside the home receive higher awards	6 66.7%	41 66.1%	47 66.2%	
Injured women homemakers receive higher awards	0	2 3.2%	2 2.8%	
Neither (that is, the awards are comparable)	3 33.3%	19 30.7%	22 31.0%	
Total	9 100%	62 100%	71 100%	151

76. In similar personal injury cases, have men employed outside the home received higher awards than men who were homemakers?

	*W	M	T	NR
Injured men employed outside the home receive higher awards	5 62.5%	47 75.8%	52 74.3%	
Injured men homemakers receive higher awards				
Neither (that is, the awards are comparable)	3 37.5%	15 24.2%	18 25.7%	
Total	8 100%	62 100%	70 100%	152

\*W - Women, M - Men, T - Total, NR - No Response

DISCRIMINATION CLAIMS AND COUNSEL FEES UNDER RCW 49.60

77. Please describe the nature of discrimination claims under RCW 49.60 (Washington's law on discrimination) with which you have had direct experience in the past three years:\*\*\*

78. Based on this experience, how have awards received by women plaintiffs suing under RCW 49.60 generally compared to awards received by men plaintiffs?

	*W	M	T	NR
Women receive higher awards	0	4 19.0%	4 17.4%	
Men receive higher awards	0	4 19.0%	4 17.4%	
Women and men receive comparable awards	2 100.0%	13 61.9%	15 65.2%	
Total	2 100%	21 100%	23 100%	199

79. How have counsel-awarded fees for discrimination cases generally compared to those received by a lawyer of the opposite gender for similar work?

	*W	M	T	NR
Counsel-awarded fees to men lawyers were higher	0	2 7.7%	2 7.1%	
Counsel-awarded fees to women lawyers were higher	0	3 11.5%	3 10.7%	
Fees were comparable	2 100.0%	21 80.8%	23 82.1%	
Total	2 100%	26 100%	28 100%	194

\*W - Women, M - Men, T - Total, NR - No Response

80. Do you believe that your perceptions of the effect of gender on wrongful death, personal injury, discrimination claims, and attorney fee awards are representative of the other judges in your jurisdiction?

	*1	2	T	NR
**F	6 85.7%	1 14.3%	7 100%	
M	47 92.2%	4 7.8%	51 100%	
T	53 91.4%	5 8.6%	58 100%	164

\*1 - Yes, 2 - No, T - Total, NR - No Response

\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

81. If no, explain how your views differ from the other judges in your jurisdiction.\*\*\*

DEMOGRAPHIC INFORMATION

82. Age:

	31-40	41-50	51-60	61-70	71+	T	NR
**F	16 48.5%	9 27.3%	5 15.2%	3 9.1%	0	33 100%	
M	20 10.8%	58 31.4%	71 38.4%	32 17.3%	4 2.2%	185 100%	
T	36 16.5%	67 30.7%	76 34.9%	35 16.1%	4 1.8%	218 100%	4

\*\*F - Female Responses, M - Male Responses, T - Total, Female and Male Responses

83. Gender:

	Number	%	NR
Female	33	15.1%	
Male	185	84.9%	
Total	218	100.0%	4

NR - No Response

84. Current judicial positions:

	*W	M	T	NR
Judge	25 75.8%	152 82.2%	177 81.2%	
Commissioner	8 24.2%	30 16.2%	38 17.4%	
Magistrate	0	3 1.6%	3 1.4%	
Total	33 100%	185 100%	218 100%	4

\*W - Women, M - Men, T - Total, NR - No Response

DEMOGRAPHIC INFORMATION (Continued)

85. Total number of years in the judiciary in Washington:

	*W	M	T	NR
10 Years	26 78.8%	103 55.6%	129 59.2%	
20 Years	4 12.1%	63 34.1%	67 30.7%	
30 Years	1 3.0%	13 7.0%	14 6.4%	
40 Years	0	3 1.6%	3 1.4%	
41+ Years	2 6.1%	3 1.6%	5 2.3%	
Total	33 100%	185 100%	218 100%	4

86. Current court level:

Level 1	*W	M	T	NR
Appellate Court	0	8 4.3%	8 3.7%	
Superior Court	16 48.5%	103 55.7%	119 54.6%	
District Court	10 30.3%	39 21.1%	49 22.5%	
Municipal Court	5 15.2%	21 11.4%	26 11.9%	
District/Municipal	2 6.1%	14 7.6%	16 7.3%	
Total	33 100%	185 100%	218 100%	4

\*W - Women, M - Men, T - Total, NR - No Response



COMMENTS

87. In each section, which statement best describes your overall perception of gender discrimination in the Washington State Court System?

a. Toward Lawyers

	*W	M	T	NR
I have never seen gender discrimination in the courts	2 7.7%	62 34.4%	64 31.1%	
It exists but only with certain individuals	13 50.0%	105 58.3%	118 57.3%	
It exists system-wide and is subtle--more a problem of institutions than individuals	7 26.9%	12 6.7%	19 9.2%	
It exists to a high degree and is apparent in both individual behavior and institutional procedures	4 15.4%	1 0.6%	5 2.4%	
Total	26 100%	180 100%	206 100%	16

b. Toward Litigants or Witnesses

	*W	M	T	NR
I have never seen gender discrimination in the courts	4 15.4%	76 42.7%	80 39.2%	
It exists but only with certain individuals	12 46.2%	85 47.8%	97 47.6%	
It exists system-wide and is subtle--more a problem of institutions than individuals	6 23.1%	15 8.4%	21 10.3%	
It exists to a high degree and is apparent in both individual behavior and institutional procedures	4 15.4%	2 1.1%	6 2.9%	
Total	26 100%	178 100%	204 100%	18

c. Toward Judges

	*W	M	T	NR
I have never seen gender discrimination in the courts	5 20.0%	102 56.7%	107 52.2%	
It exists but only with certain individuals	12 48.0%	71 39.4%	83 40.5%	
It exists system-wide and is subtle--more a problem of institutions than individuals	5 20.0%	6 3.3%	11 5.4%	
It exists to a high degree and is apparent in both individual behavior and institutional procedures	3 12.0%	1 0.6%	4 2.0%	
Total	25 100%	180 100%	205 100%	17

\*W - Women, M - Men, T - Total, NR - No Response

88. Do you have any further observations or suggestions regarding gender-related behavior, events, or problems in the courts?\*\*\*



**APPENDIX C**  
**GENDER AND JUSTICE TASK FORCE**  
**JUDICIAL SURVEY ON DOMESTIC VIOLENCE AND RAPE**



## APPENDIX C

### Gender and Justice Task Force Judicial Survey on Domestic Violence and Rape

#### I. Purpose

The Subcommittee on Women and Violence working with Dr. Donna Schram, Director of Urban Policy Research, designed a questionnaire to examine judicial officers' experience with victims of domestic violence and sexual assault and to obtain their assessment of the effectiveness of current statutes. Survey questions parallel those on the domestic violence and sexual assault service providers' surveys so that the responses could be compared. Respondents were asked to answer only those sections in which they had courtroom experience in the last three years.

#### II. Methodology

The survey was distributed along with the general judicial survey to Washington State judicial officers at the State Judicial Conference in August 1988. Surveys were mailed to judges, commissioners, and magistrates who did not attend the conference. A second letter and survey were sent to all judicial officers in September.

Analysis was conducted by the Task Force research specialist.

The distribution of the targeted population and the response from each group in the target population is displayed below.

Response Rates Judicial Officers	Population	Number Responding	Percent Responding
Judges:			
Supreme Court	9	0	0.0%
Court of Appeals	16	0	0.0%
Superior Court	133	77	57.9%
District/Municipal	<u>199</u>	<u>74</u>	<u>37.2%</u>
Sub-total	357	151	42.3%
Commissioners	93	36	38.7%
Magistrates:	8	6	75%
Missing identification	_____	<u>2</u>	_____
<b>Total</b>	<b>458</b>	<b>195</b>	<b>42.6%</b>

One hundred and ninety five (195) judges, commissioners, and magistrates responded for a 42.6% total response rate. Only two of the respondents did not identify whether they were judges, commissioners, or magistrates.

**GENDER AND JUSTICE TASK FORCE**  
**1988 JUDGES' SURVEY - DOMESTIC VIOLENCE & RAPE**

**DESCRIPTIVE INFORMATION**

1. Please indicate your position.

	F	M	Total	
(1)	8	59	77	Superior Court Judge
(2)	5	25	30	Superior Court Commissioner
(3)	8	43	51	District Court Judge
(4)	1	3	4	District Court Commissioner
(5)	4	19	23	Municipal Court Judge
(6)	0	2	2	Municipal Court Commissioner
(7)	0	6	6	District/Municipal Court Magistrate
(8)			2	Missing
	26	167	195	Total

2. Number of years of experience in your current position.

YEARS	0-5	6-10	11-15	16-20	21+	TOTAL
FEMALE	13	10	1	1	1	26
MALE	55	58	28	19	7	167
TOTAL	68	68	29	20	8	193
%	35.2	35.2	15.0	10.4	4.2	100%

Frequency Missing = 2

3. Gender.

MALE	167	85.6%
FEMALE	26	13.3%
MISSING	2	1.1%
TOTAL	195	

4. Please estimate the number of cases that you have heard during the last year in each of the following areas:

- 1) Estimated number of civil cases involving domestic violence (e.g., petitions for orders for protection, and orders regarding child custody/visitation or dissolution).

Mean number heard by female judges = 88.5  
by male judges = 81.1

	0-20	21-60	61-100	100+	TOTAL
FEMALE	14	5	2	5	26
MALE	87	42	16	22	167
TOTAL	104	47	18	24	193
%	53.3	24.4	9.3	14	100%

Frequency Missing = 2

- 2) Estimated number of criminal cases involving domestic violence.

Mean number heard by female judges = 102.7  
by male judges = 67.4

	0-20	21-60	61-100	100+	TOTAL
FEMALE	12	7	2	5	26
MALE	98	32	17	20	167
TOTAL	110	39	19	25	193
%	57	20.2	9.8	12.9	100%

Frequency Missing = 2

- 3) Estimated number of criminal cases involving sexual violence (e.g., rape, indecent liberties, and statutory rape).

Mean number heard by female judges = 10  
by male judges = 15

	0-20	21-60	61-100	100+	TOTAL
FEMALE	21	5	0	0	26
MALE	136	21	9	1	167
TOTAL	157	26	9	1	193
%	81.3	13.5	4.7	.5	100%

Frequency Missing = 2

**DOMESTIC VIOLENCE**

Among the civil and criminal domestic violence cases heard by you during the last year, please indicate the frequency of each of the following items using the following scale:

1=NEVER 2=RARELY 3=SOMETIMES 4=FREQUENTLY 5=USUALLY 6=ALWAYS  
7=NOT APPLICABLE

5. Victims were adult women

	1	2	3	4	5	6	7	Total
FEMALE	0	1	0	4	19	2	0	26
MALE	3	3	5	24	110	16	3	164
TOTAL	3	4	5	28	129	18	3	190
%	1.6	2.1	2.6	14.7	67.9	9.5	1.6	100%

Frequency Missing = 5

6. Weapons were used or threatened during the incidents

	1	2	3	4	5	6	7	Total
FEMALE	0	5	15	6	0	0	0	26
MALE	9	63	61	25	3	0	3	164
TOTAL	9	68	76	31	3	0	3	190
%	4.7	35.8	40.0	16.3	1.6	0.0	1.6	100%

Frequency Missing = 5

7. Victims were physically injured

	1	2	3	4	5	6	7	Total
FEMALE	1	0	12	8	3	2	0	26
MALE	1	10	63	57	29	2	2	164
TOTAL	2	10	75	65	32	4	2	190
%	1	5.3	39.5	34.2	16.8	2.1	1.1	100%

Frequency Missing = 5

8. Victims reported the incidents to police

	1	2	3	4	5	6	7	Total
FEMALE	0	0	6	7	12	1	0	26
MALE	0	2	30	61	50	18	3	164
TOTAL	0	2	36	68	62	19	3	190
%	0.0	1.1	18.9	35.8	32.6	10.0	1.6	100%

Frequency Missing = 5



**VIOLENCE - CIVIL COURT PROCEDURES**

Questions 9 through 27 relate to victims' use of the civil courts to petition for orders for protection, or to seek orders regarding child custody/visitation or dissolution. The Task Force on Gender and Justice in the Courts is particularly interested in how the Domestic Violence Prevention Act has been utilized and applied in jurisdictions throughout the State of Washington. Based upon your experience with domestic violence cases during the last year, please indicate the frequency of each of the following items.

9. Petitioners who have requested immediate relief have been granted ex parte orders for protection

	1	2	3	4	5	6	7	Total
FEMALE	0	0	0	0	12	6	3	21
MALE	0	1	5	7	83	34	24	154
TOTAL	0	1	5	7	95	40	27	175
%	0.0	0.6	2.9	4.0	54.3	22.9	15.4	100%

Frequency Missing = 20

10. Victim advocates are available to assist in the preparation of petitions for orders for protection

	1	2	3	4	5	6	7	Total
FEMALE	3	3	3	3	4	2	2	20
MALE	20	32	25	14	22	16	23	152
TOTAL	23	35	28	17	26	18	25	172
%	13.4	20.3	16.3	9.9	15.1	10.5	14.5	100%

Frequency Missing = 23

11. Petitions for permanent orders for protection have requested orders that:

- A. Restrain respondents from further acts of violence

	1	2	3	4	5	6	7	Total
FEMALE	0	0	0	1	2	15	2	20
MALE	0	0	4	4	35	86	23	152
TOTAL	0	0	4	5	37	101	25	172
%	0.0	0.0	2.3	2.9	21.5	58.7	14.6	100%

Frequency Missing = 23

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

B. Direct respondents to leave the households

	1	2	3	4	5	6	7	Total
FEMALE	0	1	2	5	8	2	2	20
MALE	0	2	23	33	57	13	24	152
TOTAL	0	3	25	38	65	15	26	172
%	0.0	1.7	14.5	22.1	37.8	8.7	15.1	100%

Frequency Missing = 23

C. Prevent respondents from entering the petitioners' residence, school, business or place of employment

	1	2	3	4	5	6	7	Total
FEMALE	0	0	2	3	6	7	2	20
MALE	0	2	13	24	69	20	24	152
TOTAL	0	2	15	27	75	27	26	172
%	0.0	1.2	8.7	15.7	43.6	15.7	15.1	100%

Frequency Missing = 23

D. Award custody of children to the petitioners

	1	2	3	4	5	6	7	Total
FEMALE	2	0	2	6	6	2	2	20
MALE	4	5	29	26	48	6	33	151
TOTAL	6	5	31	32	54	8	35	171
%	3.5	2.9	18.1	18.7	31.6	4.7	20.5	100%

Frequency Missing = 24

E. Require supervised visits between respondents and children

	1	2	3	4	5	6	7	Total
FEMALE	1	2	8	3	3	1	2	20
MALE	8	28	39	30	13	2	32	152
TOTAL	9	30	47	33	16	3	34	172
%	5.2	17.4	27.3	19.2	9.3	1.7	19.8	100%

Frequency Missing = 23

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

F. Restrain abusers from molesting or interfering with children in the petitioners' custody

	1	2	3	4	5	6	7	Total
FEMALE	0	0	3	3	4	7	3	20
MALE	3	6	22	26	44	25	24	150
TOTAL	3	6	25	29	48	32	27	170
%	1.8	3.5	14.7	17.1	28.2	18.8	15.9	100%

Frequency Missing = 25

12. Service of notice to respondents is a high priority among law enforcement agencies within the jurisdiction of your court

	1	2	3	4	5	6	7	Total
FEMALE	0	1	0	1	10	3	4	19
MALE	0	3	11	29	51	27	26	147
TOTAL	0	4	11	30	61	30	30	166
%	0.0	2.4	6.6	18.1	36.7	18.1	18.1	100%

Frequency Missing = 29

13. Petitioners have had to make repeated court appearances to request re-issuance of temporary orders for protection because respondents have not been served with notice

	1	2	3	4	5	6	7	Total
FEMALE	0	8	6	3	0	0	3	20
MALE	9	52	53	13	0	0	23	150
TOTAL	9	60	59	16	0	0	26	170
%	5.3	35.3	34.7	9.4	0.0	0.0	15.3	100%

Frequency Missing = 25

14. Petitioners have failed to appear for court hearings on their requests for orders for protection

	1	2	3	4	5	6	7	Total
FEMALE	0	2	6	8	2	0	2	20
MALE	3	21	65	36	5	0	21	151
TOTAL	3	23	71	44	7	0	23	171
%	1.8	13.5	41.5	25.7	4.1	0.0	13.5	100%

Frequency Missing = 24

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

15. Petitioners have been represented by legal counsel at hearings requesting orders for protection

	1	2	3	4	5	6	7	Total
FEMALE	3	11	4	1	0	0	2	21
MALE	6	96	22	5	1	1	20	151
TOTAL	9	107	26	6	1	1	22	172
%	5.2	62.2	15.1	3.5	0.6	0.6	12.8	100%

Frequency Missing = 23

16. Respondents have been represented by legal counsel at hearings in which petitioners have requested orders for protection

	1	2	3	4	5	6	7	Total
FEMALE	2	14	2	1	0	0	2	21
MALE	8	79	37	4	2	1	20	151
TOTAL	10	93	39	5	2	1	22	172
%	5.8	54.1	22.7	2.9	1.1	0.6	12.8	100%

Frequency Missing = 23

17. Orders for protection have been granted in cases where there was a pending divorce action

	1	2	3	4	5	6	7	Total
FEMALE	0	1	5	4	7	0	3	20
MALE	8	22	51	32	11	0	26	150
TOTAL	8	23	56	36	18	0	29	170
%	4.7	13.5	32.9	21.2	10.6	0.0	17.1	100%

Frequency Missing = 25

18. Mutual orders for protection have been issued even when respondents have not filed petitions

	1	2	3	4	5	6	7	Total
FEMALE	3	6	6	0	1	0	4	20
MALE	26	42	41	15	4	2	21	151
TOTAL	29	48	47	15	5	2	25	171
%	17.0	28.1	27.5	8.8	2.9	1.2	14.6	100%

Frequency Missing = 24

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

19. Petitioners have been required to participate in joint interviews or mediation sessions with respondents

	1	2	3	4	5	6	7	Total
FEMALE	10	4	4	0	0	0	2	20
MALE	58	49	21	1	1	0	21	151
TOTAL	68	53	25	1	1	0	23	171
%	39.8	31.0	14.6	0.6	0.6	0.0	13.4	100%

Frequency Missing = 24

20. When requested, petitioners have been granted orders for protection that:

A. Restrain respondents from further acts of violence

	1	2	3	4	5	6	7	Total
FEMALE	0	0	0	1	4	14	1	20
MALE	0	0	1	5	48	79	18	151
TOTAL	0	0	1	6	52	93	19	171
%	0.0	0.0	0.6	3.5	30.4	54.4	11.1	100%

Frequency Missing = 24

B. Direct respondents to leave the household

	1	2	3	4	5	6	7	Total
FEMALE	0	2	2	4	9	1	2	20
MALE	1	1	20	35	56	18	20	151
TOTAL	1	3	22	39	65	19	22	171
%	0.6	1.8	12.9	22.8	38	11.1	12.9	100%

Frequency Missing = 24

C. Prevent respondents from entering the petitioners' residence, school, business or place of employment

	1	2	3	4	5	6	7	Total
FEMALE	0	0	0	3	7	8	2	20
MALE	1	4	6	31	60	30	19	151
TOTAL	1	4	6	34	67	38	21	171
%	0.6	2.3	3.5	19.9	39.2	22.2	12.3	100%

Frequency Missing = 24

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

D. Award custody of children to the petitioners

	1	2	3	4	5	6	7	Total
FEMALE	1	0	2	7	6	1	3	20
MALE	4	8	18	40	43	3	33	149
TOTAL	5	8	20	47	49	4	36	169
%	3.0	4.7	11.8	27.8	29.0	2.4	21.3	100%

Frequency Missing = 26

E. Require supervised visits between respondents and children

	1	2	3	4	5	6	7	Total
FEMALE	0	3	8	3	3	1	2	20
MALE	8	22	38	26	16	4	34	148
TOTAL	8	25	46	29	19	5	36	168
%	4.7	14.9	27.4	17.3	11.3	3.0	21.4	100%

Frequency Missing = 27

F. Restrain abusers from molesting or interfering with children in the petitioners' custody

	1	2	3	4	5	6	7	Total
FEMALE	0	1	1	2	6	8	2	20
MALE	1	8	16	19	42	40	23	149
TOTAL	1	9	17	21	48	48	25	169
%	0.6	5.3	10.1	12.4	28.4	28.4	14.8	100%

Frequency Missing = 26

21. Respondents have been ordered to participate in treatment or counseling services under the provisions of the orders for protection

	1	2	3	4	5	6	7	Total
FEMALE	2	6	3	5	2	0	1	19
MALE	18	56	39	11	4	0	21	149
TOTAL	20	62	42	16	6	0	22	168
%	11.9	36.9	25.0	9.5	3.6	0.0	13.1	100%

Frequency Missing = 27

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

22. Orders for protection have been strictly enforced by the courts

	1	2	3	4	5	6	7	Total
FEMALE	0	0	4	6	5	3	2	20
MALE	0	4	8	30	45	39	24	150
TOTAL	0	4	12	36	50	42	26	170
%	0.0	2.4	7.1	21.2	29.4	24.7	15.3	100%

Frequency Missing = 25

23. Petitioners have fabricated incidents of domestic violence to obtain favorable awards regarding child custody, visitation or support

	1	2	3	4	5	6	7	Total
FEMALE	2	8	5	2	0	0	2	19
MALE	9	46	58	5	2	0	28	148
TOTAL	11	54	63	7	2	0	30	167
%	6.6	32.3	37.7	4.2	1.2	0.0	18.0	100%

Frequency Missing = 28

24. Petitions for orders for protection have been taken seriously by the courts

	1	2	3	4	5	6	7	Total
FEMALE	0	0	0	1	4	13	2	20
MALE	0	0	0	7	32	94	18	151
TOTAL	0	0	0	8	36	107	20	171
%	0.0	0.0	0.0	4.7	21.1	62.6	11.7	100%

Frequency Missing = 24

25. Judges in your jurisdiction have demonstrated an understanding of the dynamics of domestic violence and the impact of domestic violence on children in the home

	1	2	3	4	5	6	7	Total
FEMALE	0	3	0	1	10	6	1	21
MALE	0	1	4	8	70	44	21	148
TOTAL	0	4	4	9	80	50	22	169
%	0.0	2.4	2.4	5.3	47.3	29.6	13.0	100%

Frequency Missing = 26

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

26. Based upon your experience, what procedural or legislative changes should be made to assist petitioners in obtaining orders for protection?

See summary of comments.

27. Based upon your experience, what procedural or legislative changes should be made to improve enforcement of orders for protection?

See summary of comments.

Questions 28 through 39 relate to the use of criminal courts to adjudicate acts of domestic violations or orders for protection. Based upon your experience with domestic violence cases during the last year, please indicate the frequency of each of the following items using the scale described previously.

28. Persons arrested for a crime involving domestic violence have been prohibited from having contact with their victims as a condition of their pre-trial release ("no contact" order)

	1	2	3	4	5	6	7	Total
FEMALE	0	1	0	3	8	11	0	23
MALE	0	1	9	25	77	37	7	156
TOTAL	0	2	9	28	85	48	7	179
%	0.0	1.1	5.0	15.6	47.5	26.8	3.9	100%

Frequency Missing = 16

29. Crimes involving domestic violence have been vigorously prosecuted in the jurisdiction served by your court

	1	2	3	4	5	6	7	Total
FEMALE	0	4	1	3	11	3	1	23
MALE	0	3	21	29	66	25	11	155
TOTAL	0	7	22	32	77	28	12	178
%	0.0	3.9	12.4	18.0	43.3	15.7	6.7	100%

Frequency Missing = 17

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable



30. Prosecution has been deferred if defendants have agreed to participate in counseling or therapy

	1	2	3	4	5	6	7	Total
FEMALE	3	5	6	4	3	0	2	23
MALE	14	19	59	32	7	0	24	155
TOTAL	17	24	65	36	10	0	26	178
%	9.6	13.5	36.5	20.2	5.6	0.0	14.6	100%

Frequency Missing = 17

31. Sentencing has been deferred if defendants have agreed to participate in counseling or therapy

	1	2	3	4	5	6	7	Total
FEMALE	4	4	5	6	4	0	0	23
MALE	23	18	52	31	9	2	19	154
TOTAL	27	22	57	37	13	2	19	177
%	15.3	12.4	32.2	20.9	7.4	1.1	10.7	100%

Frequency Missing = 18

32. The court has dismissed criminal charges or delayed disposition in domestic violence cases because of pending civil proceedings involving dissolution, child custody or visitation, support or protection orders

	1	2	3	4	5	6	7	Total
FEMALE	5	11	4	1	0	0	1	22
MALE	51	48	34	3	2	2	17	157
TOTAL	56	59	38	4	2	2	18	179
%	31.3	33.0	21.2	2.2	1.1	1.1	10.1	100%

Frequency Missing = 16

33. Jail sanctions have been imposed for abusers who have violated "no contact" orders

	1	2	3	4	5	6	7	Total
FEMALE	0	1	8	6	6	1	1	23
MALE	0	7	37	34	43	12	19	152
TOTAL	0	8	45	40	49	13	20	175
%	0.0	4.6	25.7	22.9	28.0	7.4	11.4	100%

Frequency Missing = 20

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

34. Court ordered conditions of pre-trial release or sentencing are monitored by supervising authorities, such as probation officers, etc.

	1	2	3	4	5	6	7	Total
FEMALE	4	6	4	1	3	3	1	22
MALE	18	44	25	17	29	8	15	156
TOTAL	22	50	29	18	32	11	16	178
%	12.3	28.1	16.3	10.1	18	6.2	9.0	100%

Frequency Missing = 17

35. Victims have withdrawn their complaints or failed to follow through with criminal proceedings against their abusers

	1	2	3	4	5	6	7	Total
FEMALE	1	0	5	9	7	0	0	22
MALE	3	12	48	65	17	1	10	156
TOTAL	4	12	53	74	24	1	10	178
%	2.3	6.7	29.8	41.6	13.5	0.5	5.6	100%

Frequency Missing = 17

36. Judges in your jurisdiction have an understanding of the dynamics of battering and the concept of the "cycle of violence"

	1	2	3	4	5	6	7	Total
FEMALE	1	30	5	5	6	2	0	22
MALE	0	1	11	26	70	32	15	155
TOTAL	1	4	16	31	76	34	15	177
%	0.6	2.2	9.0	17.5	42.9	19.2	8.5	100%

Frequency Missing = 18

37. Judges in your jurisdiction have treated victims of domestic violence with sensitivity and have taken their complaints seriously

	1	2	3	4	5	6	7	Total
FEMALE	0	2	4	5	5	4	0	20
MALE	0	0	2	16	70	60	8	156
TOTAL	0	2	6	21	75	64	8	176
%	0.0	1.1	3.4	11.9	42.6	36.4	4.6	100%

Frequency Missing = 19

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

38. Based upon your experience, what are the primary reasons that victims have failed to follow through with criminal proceedings against their abusers?

See summary of comments.

39. Based upon your experience, what procedural or legislative changes should be made to improve the handling of domestic violence cases in the courts?

See summary of comments.

**RAPE**

Among the rape cases heard by you during the last year, please indicate the frequency of each of the following items using the 7-point scale.

40. Victims were adult women

	1	2	3	4	5	6	7	Total
FEMALE	0	1	1	4	3	0	5	14
MALE	6	4	14	20	23	10	59	136
TOTAL	6	5	15	24	26	10	64	150
%	4.0	3.3	10.0	16.0	17.3	6.7	42.7	100%

Frequency Missing = 45

41. Weapons were used or threatened

	1	2	3	4	5	6	7	Total
FEMALE	0	0	5	4	0	0	5	14
MALE	4	17	32	16	7	1	59	136
TOTAL	4	17	37	20	7	1	64	150
%	2.7	11.3	24.6	13.3	4.7	0.7	42.7	100%

Frequency Missing = 45

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

42. Victims were physically injured

	1	2	3	4	5	6	7	Total
FEMALE	0	1	3	4	1	0	5	14
MALE	1	12	35	18	7	4	59	136
TOTAL	1	13	38	22	8	4	64	150
%	0.7	8.7	25.3	14.6	5.3	2.7	42.7	100%

Frequency Missing = 45

Please answer the following questions based upon the rape cases heard by you during the last year that involved adult women victims only.

43. Prosecutors have required victims to undergo polygraph examinations

	1	2	3	4	5	6	7	Total
FEMALE	5	1	1	0	0	0	6	13
MALE	22	16	9	0	3	0	77	127
TOTAL	27	17	10	0	3	0	83	140
%	19.3	12.1	7.1	0.0	2.2	0.0	59.3	100%

Frequency Missing = 55

44. Victims have withdrawn their complaints or failed to follow through with criminal proceedings against defendants

	1	2	3	4	5	6	7	Total
FEMALE	2	1	3	1	0	0	6	13
MALE	8	26	15	3	1	0	75	128
TOTAL	10	27	18	4	1	0	81	141
%	7.1	19.2	12.8	2.8	0.7	0.0	57.4	100%

Frequency Missing = 54

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

45. Victims have been questioned about their prior sexual experiences during pre-trial proceedings

	1	2	3	4	5	6	7	Total
FEMALE	3	2	0	1	0	0	6	12
MALE	13	26	16	4	1	1	70	131
TOTAL	16	28	16	5	1	1	76	143
%	11.2	19.6	11.2	3.5	0.7	0.7	53.1	100%

Frequency Missing = 52

46. Prosecution has been deferred if defendants have agreed to participate in therapy or counseling

	1	2	3	4	5	6	7	Total
FEMALE	2	2	0	1	0	0	6	11
MALE	23	15	11	0	0	0	80	129
TOTAL	25	17	11	1	0	0	86	140
%	17.9	12.1	7.9	0.7	0.0	0.0	61.4	100%

Frequency Missing = 55

47. Evidence of victims' sexual history has been introduced at trial

	1	2	3	4	5	6	7	Total
FEMALE	5	3	0	0	0	0	5	13
MALE	39	22	3	0	0	0	67	131
TOTAL	44	25	3	0	0	0	72	144
%	30.6	17.4	2.0	0.0	0.0	0.0	50.0	100%

Frequency Missing = 51

48. Victims have precipitated their sexual assaults because of their dress and/or actions preceding the incidents

	1	2	3	4	5	6	7	Total
FEMALE	4	3	1	0	0	0	5	13
MALE	26	19	14	1	0	0	69	129
TOTAL	30	22	15	1	0	0	74	142
%	21.1	15.5	10.6	0.7	0.0	0.0	52.1	100%

Frequency Missing = 53

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

49. Offenders have received sentences under the provisions of the Special Sexual Offender Sentencing Alternative (SSOSA)

	1	2	3	4	5	6	7	Total
FEMALE	0	1	2	4	1	0	5	13
MALE	3	10	28	18	4	1	68	132
TOTAL	3	11	30	22	5	1	73	145
%	2.1	7.6	20.7	15.2	3.4	0.7	50.3	100%

Frequency Missing = 50

50. As a condition of a SSOSA sentence, offenders have been required to participate in sex offender treatment

	1	2	3	4	5	6	7	Total
FEMALE	0	0	1	1	2	4	5	13
MALE	2	0	4	2	13	40	70	131
TOTAL	2	0	5	3	15	44	75	144
%	1.4	0.0	3.5	2.1	10.4	30.5	52.1	100%

Frequency Missing = 51

51. Offenders have failed to participate in court ordered sex offender treatment

	1	2	3	4	5	6	7	Total
FEMALE	1	1	6	0	0	0	5	13
MALE	5	13	31	11	3	0	69	132
TOTAL	6	14	37	11	3	0	74	145
%	4.1	9.7	25.5	7.6	2.1	0.0	51.0	100%

Frequency Missing = 50

52. Alleged rape victims have fabricated complaints against defendants

	1	2	3	4	5	6	7	Total
FEMALE	3	4	0	0	0	0	6	13
MALE	13	35	14	0	0	0	67	129
TOTAL	16	39	14	0	0	0	73	142
%	11.3	27.4	9.9	0.0	0.0	0.0	51.4	100%

Frequency Missing

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

53. Sentence lengths have been shorter in rape cases in which the parties were known to each other than in cases where the parties were strangers

	1	2	3	4	5	6	7	Total
FEMALE	6	0	1	0	0	0	6	13
MALE	16	15	14	5	2	0	76	128
TOTAL	22	15	15	5	2	0	82	141
%	15.6	10.6	10.6	3.6	1.4	0.0	58.2	100%

Frequency Missing = 54

54. Judges in your jurisdiction have an understanding of the dynamics of sexual assault and the potential long-term impact of rape on its victims

	1	2	3	4	5	6	7	Total
FEMALE	0	0	4	2	1	1	5	13
MALE	0	2	5	5	32	19	65	128
TOTAL	0	2	9	7	33	20	70	141
%	0.0	1.4	6.4	5.0	23.4	14.2	49.6	100%

Frequency Missing = 54

55. Judges in your jurisdiction have treated victims of rape with sensitivity and have taken their complaints seriously

	1	2	3	4	5	6	7	Total
FEMALE	0	0	1	2	4	2	4	13
MALE	0	0	0	5	29	32	61	127
TOTAL	0	0	1	7	33	34	65	140
%	0.0	0.0	0.7	5.0	23.6	24.3	46.4	100%

Frequency Missing = 55

56. Based upon your experience, what procedural or legislative changes should be made to improve the handling of rape cases in criminal courts?

See summary of contents.

**NUMERIC RESPONSE KEY:**

1=Never 2=Rarely 3=Sometimes 4=Frequently 5=Usually 6=Always  
7=Not Applicable

JUDICIAL SURVEY ON DOMESTIC VIOLENCE AND RAPE

SUMMARY OF WRITTEN COMMENTS

QUESTION 26: Based upon your experience, what procedural or legislative changes should be made to assist petitioners in obtaining orders for protection?

(81 written responses \*)

(1) FUNDING TO ASSIST VICTIMS (42 Comments)

- Legislative, specific, additional, funding to provide assistance to victims/petitioners in preparation and presentation of papers
- More advocates, victim assistance organizations, legal aid, expanded victim-witness programs, assistance from personnel outside the clerk's office
- Specific trained personnel in county clerk's office
- State paid attorneys for petitioners
- Central agency for coordinating victim assistance

(2) NO CHANGE (18 Comments)

- None
- No more laws needed
- We need stability
- It's working, don't fix it

(3) OTHER ASSISTANCE FOR THE VICTIM (7 Comments)

- Involve the prosecuting attorneys to assist victims and enforce orders
- Reimburse transportation costs
- Better courtroom security outside and inside the courtroom

(4) CHANGES IN COURT (7 Comments)

- More access to courts - a full time DV court
- Do them in District Court (4)
- Require filing during specified hours; when a judge is available (2)

\*Some respondents offered more than one suggestion.



Judges' Comments  
Question 26

(5) EDUCATION (6 Comments)

- For the public, law enforcement personnel, and the Bar regarding domestic violence, the laws, and the forms

(6) CHANGES IN THE ORDER/FORM/LANGUAGE (7 Comments)

- Simply forms to one page
- Allow orders to last longer than 2 weeks
- All order should be mutually restraining and for protection
- Omit reference to counseling, or provide a reasonable way to implement requirement.
- Allow order to protect other family members and friends
- Omit requirement of service of certified copies
- Clarify language regarding temporary custody, property, "threats", prohibiting entry into place of work, school, etc.

(7) OTHER COMMENTS (9 Comments)

- Effective sanctions for abuse of process (2)
- Should be more difficult to obtain ex-parte
- Ensure greater due process before orders are issued
- Courts should be careful-ordering respondent from home and contact with children creates a major crisis
- Parties should not be allowed to mutually modify without notifying the court
- Should not be used after dissolution commences
  
- Process should be abolished, orders are meaningless
- "They try my patience"

QUESTION 27 Based upon your experience, what procedural or legislative changes should be made to improve enforcement of orders for protection?

(57 Written responses)

(1) NONE (26 Comments)

- No suggestions; don't know of any
- System seems to be working; satisfactory
- Not aware of any victim complaints in this area

(2) VICTIM ASSISTANCE (11 Comments)

- Funds for additional prosecutors, victim advocates, law enforcement officers, clerks, court personnel
- Mandatory representation by DA when respondent has an attorney

(3) CHANGES IN SERVING/ENFORCING (11 Comments)

- Higher priority on serving respondent; special trained units to deal with enforcement; process servers/not police to serve orders
- More involvement of prosecutors
- Add provisions for contempt, fines, criminal sanctions; higher fines, mandatory jail
- Simplify contempt procedure
- Allow officers to arrest respondents even if petitioners say they are back together
- Co-op agreements with sister states

(4) CHANGES IN ORDERS/PROCEDURES (9 Comments)

- Extend orders for longer than 2 weeks
- Have parallel language in No Contact Orders, Orders for protection, and Restraining Orders
- Clarify civil-criminal distinction for police
- Require personal appearance before judge
- Set cases on a separate calendar
- Involve DSHS to advise Court of impacts on children
- Mandatory counseling

(5) MANDATORY EDUCATION/TRAINING (6 Comments)

- Education for prosecutors; law enforcement personnel training; special units to deal with enforcement

Judges' Comments  
Question 27

(6) OTHER COMMENTS (3 Comments)

- Ensure greater due process before orders are issued
- Clarify what respondents are allowed to take with them from residence

QUESTION 38 Based on your experience, what are the primary reasons that victims have failed to follow through with criminal proceedings against their abusers?

( 120 Written responses )

(1) RECONCILIATION (76 Comments)

- They reconcile, reunite, forgive (30)
- "Honeymoon phase" of the cycle of violence; caught in cycle, don't understand cycle (18)
- They "love" the batterer; feel sorry for abuser, don't want him punished (10)
- Believe it won't happen again (8)
- Co-dependent, symbiotic relationships(7)
- "Kiss and make up" (3)

(2) FEAR (40 Comments)

- Fear (16)
- Fear of abuser - retribution, coercion, reprisal (16)
- Fear of destroying the relationship (4)
- Concern for children (3)
- Concern for child-parent relationships (1)

(3) ECONOMIC DEPENDENCY ( 20 Comments)

- Economic hardship; lack of resources; financial dependence; if the provider goes to jail the family suffers

(4) PROBLEMS WITH THE COMPLAINTS (19 Comments)

- Complaints were groundless; irresponsible
- Used as a ploy to gain custody advantage; to get attention; to manipulate
- Use act as a "weapon to whip other party into line"
- Didn't initiate proceedings; police arrested without victim request; an isolated incident; not as serious as arresting officer indicated (7)

(5) OTHER REASONS (26 Comments)

- Victim intimidated by the process; Lack of help from law enforcement; some failure to proceed by officers and prosecutors (5)
- Victims have no options (5)

Judges' Comments  
Question 38

- Pressure from family, friends; Hispanic culture; childhood training (5)
- Leave the area (3)
- Concern for public exposure; shame (2)
- Want to forget the incident (2)
- Feel guilt associated with participation (2)
- Effort made by the defendant to change; counseling (1)
- Divorce (1)

QUESTION 39 Based upon your experience, what procedural or legislative changes should be made to improve the handling of domestic violence cases in criminal courts?

(73 Written responses)

(1) FUNDS FOR PROGRAMS/COUNSELING/PERSONNEL (24 Comments)

- Legislative approved system of deferred prosecution and funding of treatment programs; authority for pre-counseling as a condition of release (5)
- Counseling for both individuals, families
- Alcohol and drug rehabilitation, anger management/ state certified
- Electronic supervision
- Funds for enforcement, prosecutors, probation officers, judges, staff, legal assistance

(2) NONE (15 comments)

- None practical; don't know; can't legislate common sense; "how do you fix judges and prosecutors?"
- Need to seriously apply existing law.

(3) VICTIM RESPONSIBILITY ( 13 Comments)

- Admissibility of victim's statement at time of incident; taped affidavit
- Personal service of subpoenas; victims provide contact address
- Stricter sanctions against failing to appear; perjury law; victims should be forced to testify; lack of cooperation is the major problem
- Fewer continuances for dismissal; 30-60 "cooling-off period"
- Penalties for abuse of right to petition
- State should take "heat off the complainant"; remove responsibility for charges being dropped from victim

(4) CHANGES/CLARIFICATIONS (9 Comments)

- Legislative clarification of the relationship between DV Protection Order, Anti-Harassment Law, and Dissolution Act.
- Eliminate child custody from DV cases
- Combine NCO and Orders of Protection
- Mandatory No Contact Orders

Judges' Comments  
Question 39

- Extend 14 day time limit
- Include in summons an opportunity to consent to a permanent order
- Clarification/guidelines/more discretion for police officers to arrest or not arrest
- Respondents should be able to obtain their belongings from the family home

(5) VICTIM ASSISTANCE ( 8 Comments )

- Money for staff, advocates, counselors to assist, support and protect victims before, during and after trial
- Mandatory representation by the DA when respondent is represented

(6) CHANGES IN COURTS (7 Comments)

- Have a full time DV court; Family Court could be a requirement
- Better coordination between District and Superior Courts
- District Court handle all ex-parte petitions, conduct hearings; Superior Court do return dates involving custody/visitation; criminal court only when there is physical violence

(7) OTHER COMMENTS (5 Comments)

- Greater accountability; mandatory jail sentences, increased and collected fines for violations
- Closer monitoring by police
- Gun control

QUESTION 56 Based upon your experience, what procedural or legislative changes should be made to improve the handling of rape cases in criminal courts?

(19 Written responses)

(1) SENTENCING CHANGES (5 Comments)

- Increased sentencing/SRA ranges; more judicial discretion with possible minimum sentences only (5)

(2) VICTIM ASSISTANCE (4 Comments)

- Funding for well trained victim advocates; victim/witness units; adequate funding of existing agencies

(3) EDUCATION (4 Comments)

- Education on the entire subject of sexual offenses for everyone; sensitivity training for prosecutors
- Judicial training on how to handle abusive trial tactics of private counsel

(4) OTHER COMMENTS (7 Comments)

- Funding for SOSA supervision, monitoring, counseling (3)
- Reputation of victim or assailant should not be part of the trial
- Clarification of courtroom confrontation requirements for victim and accused
- More prosecutors
- Video testimony from youthful victim/witnesses







**APPENDIX D**  
**GENDER AND JUSTICE TASK FORCE**  
**DOMESTIC VIOLENCE SERVICE PROVIDERS' SURVEY**



## APPENDIX D

### Gender and Justice Task Force Domestic Violence Service Providers' Survey

#### I. Purpose

The survey was designed by Dr. Donna Schram, Director of Urban Policy Research, in coordination with the Subcommittee on the Consequences of Violence to gather data on whether gender bias exists in the judicial system's treatment of victims of domestic violence. The intent of the survey was to gather information from the directors of shelters and other organizations who work directly with victims of domestic violence. Questions centered on three main concerns:

1. Whether various components of the judicial system demonstrate an understanding of the dynamics of domestic violence.
2. Whether victims of domestic violence have adequate access to courts and what factors impede access.
3. Whether the state of Washington's domestic violence statutes are adequate and are being effectively implemented.

#### II. Methodology

The "Directory of Services to Battered Women and their Children in Washington, September 1987" was used as a source list of shelters. It contained the names of forty nine (49) agencies. The Subcommittee on Women and Violence later included "other possible sources" of domestic violence information to expand the data gathering effort. These included agencies such as Police Departments, Victim/Witness Units, and DSHS Division of Children and Family Services in various locations. One hundred and forty eight (148) of these other sources were added to the list of domestic violence shelters. A total of one hundred ninety seven (197) agencies were sent survey forms. One month later a follow-up postcard was sent.

#### III. Demographics of the Respondents

The overall response rate, for the 197 agencies is 43 percent. Among the forty nine shelters, thirty shelters, 61 percent of that group, responded to the survey. Of the 148 other sources, 28 percent responded to the survey. Twelve surveys contained no identifying information. Although shelters had a higher response rate, the survey obtained numerically more responses from the other agencies (42) than from the shelters (30).

##### Response Rate:

Agency	Sample Size	Number Responding	Percent of Group	Percent of Total
Shelters	49	30	61%	36%
Other agencies	148	42	28%	50%
Missing		12		14%
Total	197	84	43%	100%

#### **IV. Survey Data**

The frequency, or number of times each answer was recorded, is noted in the answer column for each question on the attached, expanded survey form. The percentage beneath each number refers to the percentage of total answers which were recorded for that question.

Written responses to the open ended questions have been compiled and are available on request from the Office of the Administrator for the Courts.

# DOMESTIC VIOLENCE SERVICE PROVIDERS' SURVEY

## AGENCY SERVICE INFORMATION

1. Please identify the primary services provided to victims of domestic violence by your agency.

32	Shelter
50	Legal Assistance or Advocacy
18	Medical Assistance
48	Victim Counseling
14	Batterer Counseling
9	Financial Assistance
42	Other
_____	No Answer

(Note: Each respondent was allowed more than one selection, thus there is overlap in the numbers per category.)

2. Estimate the number of adult victims of domestic violence who were served by your agency during the last year.

(46.0%)	29	1-100	(1.6%)	1	401-500	(4.8%)	0	801-900
(15.9%)	10	101-200	(3.2%)	2	501-600	(9.5%)	3	901-1000
(9.5%)	6	201-300	(1.6%)	0	601-700		6	1001+
(7.9%)	5	301-400		1	701-800		21	No Answer

**VICTIM INFORMATION**

(Note: Percent indicates the percent of those with answers)

	NEVER	RARELY	SOMETIMES	FREQUENTLY	USUALLY	ALWAYS	DON'T KNOW	MISSING
3. Victims were adult women	1 1.3%	1 1.3%	3 3.8%	4 5.1%	52 66.7%	17 21.8%	0	7
4. Victims had dependent children	0	1 1.3%	4 5.1%	29 36.7%	34 43.0%	7 8.9%	4 5.1%	6
5. Weapons were used or threatened during incident	1 1.3%	13 16.5%	46 58.2%	15 19.0%	0	1 1.3%	3 3.8%	6
6. Victims were physically injured	0	1 1.3%	27 34.2%	30 38.0%	19 24.1%	1 1.3%	1 1.3%	6
7. Victims' injuries required medical attention	0	15 19.2%	48 61.5%	9 11.5%	4 5.1%	0	2 2.6%	7
8. Victims' relationship to abuser								
Spouse	2 2.6%	1 1.3%	15 19.2%	36 46.2%	22 28.2%	0	2 2.6%	7
Former Spouse	3 4.0%	19 25.3%	32 42.7%	18 24.0%	1 1.3%	0	2 2.7%	10
Resided Together at Time of Incident	0	6 7.7%	16 20.5%	24 30.8%	30 38.5%	1 1.3%	1 1.3%	7
Resided Together in Past	3 3.9%	16 20.8%	28 36.4%	17 22.1%	8 10.4%	2 2.6%	3 3.9%	8



VICTIM INFORMATION (Continued)

(Note: Percent indicates the percent of those with answers)

	NEVER	RARELY	SOMETIMES	FREQUENTLY	USUALLY	ALWAYS	DON'T KNOW	MISSING
9. Victims (and children) required shelter or place of residence after incident	2 2.5%	16 20.3%	33 41.8%	10 12.7%	5 6.3%	6 7.6%	7 8.9%	6
10. Victims reported the incident to police	0	5 6.5%	31 40.3%	21 27.3%	10 13.0%	7 9.1%	3 3.9%	8

COURT SYSTEMS

(Note: Percent indicates the percent of those with answers)

	NEVER	RARELY	SOMETIMES	FREQUENTLY	USUALLY	ALWAYS	DON'T KNOW	MISSING
12. Court systems used by victims	4 5.9%	6 8.8%	26 38.2%	14 20.6%	6 8.8%	1 1.5%	11 16.2%	16
None	1 1.3%	3 3.8%	26 33.3%	26 33.3%	18 23.1%	2 2.6%	2 2.6%	6
Civil Courts	0	17 21.8%	36 46.2%	14 17.9%	6 7.7%	3 3.8%	2 2.6%	6
Criminal Courts	0	17 21.8%	36 46.2%	14 17.9%	6 7.7%	3 3.8%	2 2.6%	6

CIVIL COURT PROCEEDINGS

(Note: Percent indicates the percent of those with answers)

	NEVER	RARELY	SOMETIMES	FREQUENTLY	USUALLY	ALWAYS	UNKNOWN	MISSING
14. Victims have not petitioned for orders for protection because they feared retaliation from the respondents abusers	0 0	1 1.3%	11 14.3%	36 46.8%	14 18.2%	8 10.4%	7 9.1%	7
15. Victims have not applied for orders for protection because they lacked the funds to file the petitions	14 18.2%	32 41.6%	16 20.8%	9 11.7%	2 2.6%	0 0	4 5.2%	7
16. Victims have petitioned for <u>ex parte</u> temporary orders for protection in an effort to obtain immediate relief from the court	1 1.3%	6 7.7%	24 30.8%	17 21.8%	15 19.2%	9 11.5%	6 7.7%	6
17. Victims who have petitioned for immediate relief from the court have been granted <u>ex parte</u> temporary	0 0	1 1.3%	5 6.4%	18 23.1%	32 41.0%	13 16.7%	9 11.5%	6
18. Victims have had difficulty completing the paperwork required to petition for orders for protection	3 3.9%	12 15.6%	27 35.1%	16 20.8%	7 9.1%	1 1.3%	11 14.3%	7
19. Victims have used legal counsel and/or victim advocates to prepare their petitions for orders for protection	1 1.3%	15 19.2%	18 23.1%	17 21.8%	15 19.2%	3 3.8%	9 11.5%	6
20. Respondents have attempted to avoid service of the notice informing them of the court hearing	1 1.3%	13 16.9%	34 44.2%	12 15.6%	2 2.6%	0 0	15 19.5%	7

CIVIL COURT PROCEEDINGS (Continued)

(Note: Percent indicates the percent of those with answers)

	NEVER	RARELY	SOMETIMES	FREQUENTLY	USUALLY	ALWAYS	DON'T KNOW	MISSING
21.	0	9	14	12	13	16	14	7
	0	11.5%	17.9%	15.4%	16.7%	20.5%	17.9%	
22.	3	30	18	8	1	0	18	6
	3.8%	38.5%	23.1%	10.3%	1.3%	0	23.1%	
23.	1	22	26	11	1	1	16	6
	1.3%	28.2%	33.3%	14.1%	1.3%	1.3%	20.5%	
24.	6	41	16	1	0	0	14	6
	7.7%	52.6%	20.5%	1.3%	0	0	17.9%	
25.	3	20	24	8	3	0	20	6
	3.8%	25.6%	30.8%	10.3%	3.8	0	25.6	

21. Service of notice to respondents is a high priority among law enforcement agencies in the jurisdiction(s) served by your agency

22. Victims have had to make repeated court appearances to request reissuance of temporary orders for protection because respondents have not been served with notice of the hearing

23. Victims have failed to appear for court hearings on their requests for orders for protection

24. Victims have been represented by legal counsel at hearings petitioning for orders for protection

25. Respondents have been represented by legal counsel at hearings in which victims have petitioned for orders for protection

CIVIL COURT PROCEEDINGS (Continued)

(Note: Percent indicates the percent of those with answers)

	NEVER	RARELY	SOMETIMES	FREQUENTLY	USUALLY	ALWAYS	DON'T KNOW	MISSING
26. Victims have petitioned civil court for orders to:								
1. Restrain abusers from further acts of violence	0 0	2 2.6%	6 7.8%	21 27.3%	23 29.9%	20 26.0%	5 6.5%	7
2. Direct abusers to leave victims' household	0 0	7 9.2%	17 22.4%	27 35.5%	17 22.4%	3 3.9%	5 6.6%	8
3. Prevent abusers from entering the victims' residence, school, business or place of employment ("no contact" order)	1 1.3%	3 3.9%	6 7.9%	27 35.5%	24 31.6%	11 14.5%	4 5.3	8
4. Award custody of children to them	0 0	1 1.3%	13 16.9%	24 31.2%	20 26.0%	10 13.0%	9 11.7%	7
5. Require supervised visits between respondents and children	1 1.3%	14 18.2%	22 28.6%	23 29.9%	5 6.5%	1 1.3%	11 14.3%	7
6. Restrain abusers from molesting or interfering with children in the victims' custody	0 0	2 2.6%	17 22.1%	27 35.1%	16 20.8%	8 10.4%	7 9.1%	7
27. Judges have granted orders for protection in cases where there was a pending divorce action	3 3.9%	5 6.5%	22 28.6%	20 26.0%	7 9.1%	1 1.3%	19 24.7%	7
28. Victims with proceedings in civil courts have been discouraged by court personnel from pursuing criminal complaints against their abusers	17 22.1%	18 23.4%	9 11.7%	2 2.6%	1 1.3%	0 0	30 39.0%	7

26. Victims have petitioned civil court for orders to:

1. Restrain abusers from further acts of violence
  2. Direct abusers to leave victims' household
  3. Prevent abusers from entering the victims' residence, school, business or place of employment ("no contact" order)
  4. Award custody of children to them
  5. Require supervised visits between respondents and children
  6. Restrain abusers from molesting or interfering with children in the victims' custody
27. Judges have granted orders for protection in cases where there was a pending divorce action
28. Victims with proceedings in civil courts have been discouraged by court personnel from pursuing criminal complaints against their abusers

CIVIL COURT PROCEEDINGS (Continued)

(Note: Percent indicates the percent of those with answers)

	NEVER	RARELY	SOMETIMES	FREQUENTLY	USUALLY	ALWAYS	DON'T KNOW	MISSING
29. Mutual orders for protection have been issued even when respondents have not filed petitions	12 15.4%	23 29.5%	13 16.7%	5 6.4%	1 1.3%	0 0	24 30.8%	6
30. Victims have been required to participate in joint interviews or mediation with their abusers	15 19.2%	21 26.9%	14 17.9%	3 3.8%	0 0	0 0	25 32.1	6
31. When victims have petitioned for orders for protection, civil courts have granted orders to:								
1. Restrain abusers from further acts of violence	0 0	2 2.6%	4 5.2%	11 14.3%	30 39.0%	22 28.6%	8 10.4%	7
2. Direct abusers to leave victims' household	0 0	5 6.5%	12 15.6%	20 26.0%	26 33.8%	5 6.5%	9 11.7%	7
3. Prevent abusers from entering the victims' residence, school, business or place of employment	2 2.6%	1 1.3%	11 14.1%	16 20.5%	30 38.5%	10 12.8%	8 10.3%	6
4. Award custody of children to them	0 0	3 3.9%	15 19.5%	16 20.8%	22 28.6%	5 6.5%	16 20.8%	7
5. Require supervised visits between respondents and children	2 2.6%	16 20.8%	19 24.7%	15 19.5%	12 15.6%	0 0	13 16.9%	7
6. Restrain abusers from molesting or interfering with children in the victims' custody	0 0	2 2.6%	11 14.3%	18 23.4%	24 31.2%	10 13.0%	12 15.6%	7

29. Mutual orders for protection have been issued even when respondents have not filed petitions
30. Victims have been required to participate in joint interviews or mediation with their abusers
31. When victims have petitioned for orders for protection, civil courts have granted orders to:
  1. Restrain abusers from further acts of violence
  2. Direct abusers to leave victims' household
  3. Prevent abusers from entering the victims' residence, school, business or place of employment
  4. Award custody of children to them
  5. Require supervised visits between respondents and children
  6. Restrain abusers from molesting or interfering with children in the victims' custody

CIVIL COURT PROCEEDINGS (Continued)

(Note: Percent indicates the percent of those with answers)

	NEVER	RARELY	SOMETIMES	FREQUENTLY	USUALLY	ALWAYS	DON'T KNOW	MISSING
32. Judges have ordered respondents (abusers) to participate in treatment or counseling services under the provisions of the orders for protection	5 6.3%	29 36.7%	18 22.8%	4 5.1%	8 10.1%	1 1.3%	14 17.7%	5
33. Respondents have violated the "no contact" provisions of the orders for protection	0	5 6.4%	33 42.3%	30 38.5%	5 6.4%	0	5 6.4%	6
34. Respondents have failed to participate in court-ordered treatment or counseling	1 1.3%	2 2.6%	16 21.1%	17 22.4%	9 11.8%	0	31 40.8%	8
35. Police officers have arrested respondents when there was cause to believe that the abusers had violated orders for protection	1 1.3%	10 12.8%	31 39.7%	11 14.1%	9 11.5%	10 12.8%	6 7.7%	6
36. Orders for protection are strictly enforced by the courts	0	4 5.2%	17 22.1%	12 15.6%	20 26.0%	8 10.4%	16 20.8%	7
37. Clients of your agency have fabricated incidents of domestic violence in an effort to obtain favorable awards regarding child custody,	16 20.8%	39 50.6%	9 11.7%	0	0	0	13 16.9%	7
38. Civil court judges have a thorough understanding of the dynamics of domestic violence and the impact of domestic violence on children in the home	1 1.3%	19 24.7%	13 16.9%	9 11.7%	14 18.2%	6 7.8%	15 19.5%	7
39. Civil court judges have treated victims of domestic violence with sensitivity and have taken their complaints seriously	0	7 9.3%	16 21.3%	10 13.3%	22 29.3%	5 6.7%	15 20.0%	9

CRIMINAL COURT PROCEEDINGS

(Note: Percent indicates the percent of those with answers)

	NEVER	RARELY	SOMETIMES	FREQUENTLY	USUALLY	ALWAYS	DON'T KNOW	MISSING
42. When police have been contacted to stop the violence in domestic incidents, the officers have:								
Arrested the abusers	0	3	15	26	24	9	2	5
	0	3.8%	19.0%	32.9%	30.4%	11.4%	2.5%	
Arrested the abusers and victims	3	32	36	4	0	0	4	5
	3.8%	40.5%	45.6%	5.1%	0	0	5.1%	
Cited the abusers	3	18	17	10	15	8	8	5
	3.8%	22.8%	21.5%	12.7%	19.0%	10.1%	10.1%	
Completed an offense report, but did not arrest or cite the abusers	3	21	25	9	4	0	17	5
	3.8%	26.6%	31.6%	11.4%	5.1%	0	21.5%	
Handled the incident informally; made no report	15	33	12	4	3	0	12	5
	19.0%	41.8%	15.2%	5.1%	3.8%	0	15.2%	
43. Police officers responding to incidents of domestic violence have advised victims of the availability of shelter or other services in the community and have notified them of the legal rights and remedies available to them								
	0	2	14	16	24	15	8	5
	0	2.5%	17.7%	20.3%	30.4%	19.0%	10.1%	
44. Persons (abusers) who were arrested for a crime involving domestic violence have been prohibited from having any contact with their victims as a condition of their release (no contact order)								
	0	8	18	14	16	12	11	5
	0	10.1%	22.8%	17.7%	20.3%	15.2%	13.9%	

CRIMINAL COURT PROCEEDINGS (Continued)

(Note: Percent indicates the percent of those with answers)

	NEVER	RARELY	SOMETIMES	FREQUENTLY	USUALLY	ALWAYS	DON'T KNOW	MISSING
45. Law enforcement agencies have forwarded the offense reports to the prosecutor within 10 days of making the report, as required by law	0 0	1 1.3%	6 7.7%	2 2.6%	21 26.9%	17 21.8%	31 39.7%	6
46. Prosecutors have advised victims of the decision to prosecute or not within 5 days of receipt of the offense reports from law enforcement agencies	3 3.8%	17 21.8%	6 7.7%	3 3.8%	9 11.5%	4 5.1%	36 46.2%	6
47. Crimes involving domestic violence have been vigorously prosecuted	1 1.3%	19 24.1%	26 32.9%	9 11.4%	11 13.9%	3 3.8%	10 12.7%	5
48. Prosecution or sentencing has been deferred if defendants (abusers) have agreed to participate in counseling or therapy	1 1.3%	2 2.5%	25 31.6%	16 20.3%	13 16.5%	1 1.3%	21 26.6%	5
49. The court has dismissed criminal charges or delayed disposition in domestic violence cases because of pending civil proceedings involving dissolution, child custody or visitation, support, or protection orders	4 5.2%	8 10.4%	20 26.0%	3 3.9%	1 1.3%	0	41 53.2%	7
50. Criminal court judges have a thorough understanding of the dynamics of battering and the concept of the "cycle of violence"	3 3.8%	16 20.3%	23 29.1%	11 13.9%	6 7.6%	2 2.5%	18 22.8%	5

45. Law enforcement agencies have forwarded the offense reports to the prosecutor within 10 days of making the report, as required by law

46. Prosecutors have advised victims of the decision to prosecute or not within 5 days of receipt of the offense reports from law enforcement agencies

47. Crimes involving domestic violence have been vigorously prosecuted

48. Prosecution or sentencing has been deferred if defendants (abusers) have agreed to participate in counseling or therapy

49. The court has dismissed criminal charges or delayed disposition in domestic violence cases because of pending civil proceedings involving dissolution, child custody or visitation, support, or protection orders

50. Criminal court judges have a thorough understanding of the dynamics of battering and the concept of the "cycle of violence"



CRIMINAL COURT PROCEEDINGS (Continued)

(Note: Percent indicates the percent of those with answers)

	NEVER	RARELY	SOMETIMES	FREQUENTLY	USUALLY	ALWAYS	DON'T KNOW	MISSING
51. Criminal court judges have treated victims of domestic violence with sensitivity and have taken their complaints seriously	0 0	8 10.3%	24 30.8%	14 17.9%	15 19.2%	2 2.6%	15 19.2%	6
52. Advocates have been made available to victims of domestic violence to assist them during the criminal proceedings	1 1.3%	12 15.2%	11 13.9%	12 15.2%	18 22.8%	10 12.7%	15 19.0%	5
53. Violations of no contact orders have been strictly enforced	0 0	8 10.1%	23 29.1%	9 11.4%	17 21.5%	8 10.1%	14 17.7%	5
54. Judges imposed jail sanctions for abusers who have violated no contact orders	1 1.3%	18 23.4%	14 18.2%	11 14.3%	5 6.5%	2 2.6%	26 33.8%	7
55. Court ordered conditions of pre-trial release or sentencing are carefully monitored by a supervising authority (probation officers, etc.)	4 5.3%	26 34.2%	11 14.5%	2 2.6%	2 2.6%	1 1.3%	30 39.5%	9
56. Victims have withdrawn their complaints or failed to follow through with criminal proceedings against their abusers	0 0	5 6.5%	26 33.8%	33 42.9%	6 7.8%	1 1.3%	6 7.8%	7

51. Criminal court judges have treated victims of domestic violence with sensitivity and have taken their complaints seriously

52. Advocates have been made available to victims of domestic violence to assist them during the criminal proceedings

53. Violations of no contact orders have been strictly enforced

54. Judges imposed jail sanctions for abusers who have violated no contact orders

55. Court ordered conditions of pre-trial release or sentencing are carefully monitored by a supervising authority (probation officers, etc.)

56. Victims have withdrawn their complaints or failed to follow through with criminal proceedings against their abusers

## DOMESTIC VIOLENCE SERVICE PROVIDERS' SURVEY

**QUESTION #11** What are the primary reasons that victims don't report incidents of domestic violence to police?

- (1) Fear of retaliation from the abuser, belief that reporting will only make the situation worse. (64)
- (2) Victims are dependent on the abuser (financially, emotionally, etc.) Don't want abuser to go to jail, they want to protect the abuser. (46)
- (3) Victims don't believe the legal system is responsive, they don't trust the police and are fearful of the whole experience. (37)
- (4) Victims are ashamed and embarrassed, fear exposure. (19)
- (5) Lack of information about alternatives, resources, services. No place to go. (11)

### OTHER REASONS

- (1) Many victims believe that they deserved it, violence is an accepted part of the relationship, habitual victimization, learned helplessness. (7)
- (2) Denial, victims believe it won't happen again, they minimize the incident. (5)
- (3) Victims don't believe they are emotionally strong enough to go through the whole process. (3)
- (4) Suspect prevents victim from calling. (1)
- (5) Lack of sensitivity, don't think they will be believed. (1)
- (6) Don't want children to see parent arrested, custody issues. (1)
- (7) Effect on abuser's job. (1)
- (8) Victims believe they can correct the situation themselves. (1)

## DOMESTIC VIOLENCE SERVICE PROVIDERS' SURVEY

**QUESTION #13** Reasons that victims use no court system(s) to help stop violence in their relationships?

- (1) Fear of retaliation from the abuser. (46)
- (2) Financial considerations: cost of fees, financial dependence on spouse, court costs, etc. (21)
- (3) Don't trust the legal system, nothing happens to offender, victim not believed. (20)
- (4) Victim not aware of available services, ignorance of the law. (16)
- (5) Mixed feelings about spouse, fear of losing spouse, emotional dependency, don't want to see spouse arrested or jailed, love-hate. (15)

### OTHER REASONS

- (1) Shame, guilt, humiliation, feels it is their fault. (7)
- (2) Denial of severity, belief it won't happen again, or violence may be accepted way of life. (5)
- (3) Lack of physical access to the courts. (5)
- (4) Don't want to deal with it, takes too great an effort. (4)
- (5) Change their mind, talked out of it by abuser. (4)
- (6) Culturally inappropriate. (2)
- (7) Custody problems. (1)

## DOMESTIC VIOLENCE SERVICE PROVIDERS' SURVEY

**QUESTION #40** Based upon your experience, what improvements should be made to assist victims in obtaining orders for protection?

- (1) Need an advocacy program: assist in paper work, prepare for court, accompany to court, provide information and referral, monitor and follow-up. Increase funding so such a program is possible. (34)
- (2) Properly train court personnel about domestic violence, provide non-judgmental atmosphere among clerks, more sensitivity. Have a clerk available to help victims fill out civil orders. (14)
- (3) Need for more public education of legal system, domestic violence law, victim's rights and the effects of domestic violence. Provide basic information in community. Provide a protection order tape and pamphlets in all courts. (13)
- (4) Better designed form, make the paper work easier, quicker process, uniform process. (11)
- (5) Properly train judges and commissioners in domestic violence issues. Need consistency regarding interpretation of the law, custody, visitation. (8)

### OTHER SUGGESTIONS

- (1) More cooperation on the part of law enforcement agencies, let the victim know she/he will be protected while in court. (4)
- (2) Need available child care, transportation. (4)
- (3) Make it a no-cost procedure. (3)
- (4) Judges and Commissioners made available for longer periods of time to sign orders of protection. Provide some after hours service. (2)
- (5) More compensation awards to victims. (1)
- (6) Improved computer programming so abuser isn't allowed to file an order of protection when victim has already done so. (1)
- (7) Serve respondent at place of work. (1)

## DOMESTIC VIOLENCE SERVICE PROVIDERS' SURVEY

**QUESTION #41** Based on your experience, what improvements should be made in enforcing orders for protection?

- (1) Make the penalty for violation of protection order much stiffer - immediate arrest, mandatory jail time/fines, community service, etc. (22)
- (2) Police should give protection orders higher priority. Penalty to police department and officers who ignore protection orders. Need more officers to serve papers, more jail space, better service, 24 hour hotline, remove the technicalities. (17)
- (3) Require more training of law enforcement officers and court personnel on domestic violence. Recognize victim's rights. (13)
- (4) More education and information about the agencies involved, the laws, victim's responsibilities in order for the protection order to be enforced, etc. (6)
- (5) Abolish mutual restraining orders, don't issue restraining orders that allow couples to live together but they can't fight. Make penalty for abused person for violation of the order, do not continue to issue orders if victims continue to let suspects return to live with them. (5)

### OTHER IMPROVEMENTS

- (1) More/better monitoring of abusers to court-ordered counseling, probation, exclusion from businesses, schools, etc. (4)
- (2) Need forms with consistent and clear language used throughout the state. (2)
- (3) Improve the living conditions at the shelters. (1)
- (4) Extend period for making arrest from 4 to 24 hours. (1)

## DOMESTIC VIOLENCE SERVICE PROVIDERS' SURVEY

**QUESTION #57** Based upon your experience, what are the primary reasons victims have failed to follow through with criminal proceedings against abusers?

- (1) Fear of retaliation from the abuser. (34)
- (2) Victims don't trust the legal system, bad experience in the past. Legal system is intimidating, confusing and too slow to respond. (31)
- (3) Victims reconcile with abuser before trial. Emotional dependency on spouse, don't want to take the chance that they will go to jail, don't want to harm the relationship. Victim believes it won't happen again. (29)
- (4) Suspect talks victim out of it, promises never to do it again, promises to seek counseling. Family talks victim into letting abuser come back. (12)
- (5) Financial considerations. Financial dependency on spouse, cost of attorney fees, court costs, etc. (12)

### OTHER REASONS

- (1) Humiliation, guilt, low self esteem, feel it was their own fault. (7)
- (2) Lack of information about the law, alternatives, available resources, services, support, etc. (7)
- (3) Victims don't have any where else to go, don't want to be left alone. (3)
- (4) Fear of being blamed and/or not believed. Fear of being put on trial instead of abuser. (3)
- (5) Believe problem will go away without outside intervention. Too much trouble to through with it. (1)

## DOMESTIC VIOLENCE SERVICE PROVIDERS' SURVEY

### QUESTION #58

What changes should be made in the criminal courts to improve the handling of cases involving domestic violence?

- (1) Required training of judges, police and court personnel in domestic violence issues. (35)
- (2) Advocacy, education and support for victims. (21)
- (3) More rigorous prosecution of domestic violence cases, increase penalties/sentences, treat it like an assault. (16)
- (4) Speed up process. Less time between arrest and prosecution, more consistency among judges, prosecutors, clerks and police regarding decisions and understanding of domestic violence laws. Coordination of courts and services. (11)
- (5) More court ordered counseling and better monitoring of individuals. Require counseling for first time offenders. Better follow-up. (7)

### OTHER SUGGESTED CHANGES

- (1) Treat the victim like a victim and not as the abuser. Treat women with more respect. (3)
- (2) Better protection for victims, enforce no contact orders upon release. Better police response. (3)
- (3) Require prosecuting attorney to be present during any contact the defense counsel has with victim, consistent response from the prosecutors, less switching of prosecutors. (3)
- (4) Smaller case loads for judges, prosecutors. (2)
- (5) Nullify order if victim allows respondent to return or otherwise violate the order. Require that order cannot be changed for X amount of days - getting the same people over and over again. (2)
- (6) Easier forms, bilingual services, child care provided by court when individual is in court. (2)
- (7) Child victim's Bill of Rights. (1)
- (8) Adopt the Domestic Violence Prevention Act. (1)





**APPENDIX E**  
**GENDER AND JUSTICE TASK FORCE**  
**SEXUAL ASSAULT SERVICE PROVIDERS' SURVEY**

## APPENDIX E

### Gender and Justice Task Force Sexual Assault Service Providers' Survey

#### I. Purpose

This survey was designed to identify possible gender bias in the treatment of adult victims of rape and to assess the effectiveness of current rape statutes. The survey was designed by Dr. Donna Schram, Director of Urban Policy Research, in coordination with the Subcommittee on the Consequences of Violence to gather data on whether gender bias exists in the judicial system's treatment of victims of rape. The intent of the survey was to gather information from the directors of shelters and other organizations who work directly with victims of rape.

#### II. Methodology

Washington State Sexual Assault Program list of service providers from the "Directory of Services to Battered Women and their Children in Washington, 1987" was the source for the names of the agencies. All forty three (43) service providers were sent survey forms.

Response Rate County	Agencies Targeted	Agencies Responding
Asotin	1	1
Benton	1	1
Chelan	1	1
Clark	1	1
Clallam	2	2
Ferry	1	0
Grant	1	0
Grays Harbor	1	0
Island	1	0
Jefferson	1	1
King	6	4
Kitsap	4	2
Kittitas	1	0
Lewis	1	1
Mason	1	1
Okanogan	1	1
Pacific	1	1
Pend Oreille	1	1
Pierce	2	1
San Juan	1	0
Skagit	1	1
Skamania	1	1
Snohomish	1	1
Spokane	1	1
Stevens	1	1
Thurston	2	1
Walla Walla	2	1
Whatcom	2	1
Yakima	2	1
Total	43	28

Twenty eight of the 43 agencies completed the survey for an overall response rate of 65%. Of the 28 responding agencies four were from King county, two each were from Kitsap and Clallam counties, while the remaining agencies represented individual counties.

SURVEY OF DIRECTORS OF WASHINGTON STATE SEXUAL ASSAULT PROGRAMS

1. Please identify the primary services provided by your agency to rape victims. (Mark all relevant)

- 1 26 Victim counseling
- 2 24 Legal assistance or advocacy
- 3 19 Medical Assistance
- 4 15 Family Counseling
- 5 5 Financial assistance
- 6 11 Other (Specify):

2. Estimate the total number of rape victims who were served by your agency during the last year.

3317 Total number from the 28 agencies responding.

127.6 Average number from the 28 agencies responding.

VICTIM INFORMATION

Among the adult rape victims served by your agency during the last year, please indicate the frequency of each of the following items using the scale described below.\*

3. Victims were women

1	2	3	4	5	6	7	Total
0	0	0	3	16	8	1	28
0	0	0	10.7%	57.1%	28.6%	3.6%	100%

4. Weapons were used or threatened during incident

1	2	3	4	5	6	7	Total
0	6	13	6	0	2	1	28
0	21.4%	46.4%	21.4%	0	7.1%	3.6%	100%

\*RESPONSE KEY:

1 = NEVER; 2 = RARELY; 3 = SOMETIMES; 4 = FREQUENTLY;  
5 = USUALLY; 6 = ALWAYS; 7 = NOT APPLICABLE

5. Victims were physically injured

1	2	3	4	5	6	7	Total
1	5	13	5	0	3	0	27
3.7%	18.5%	48.1%	18.5%	0	11.1%	0	100%

6. Victims' injuries required medical attention

1	2	3	4	5	6	7	Total
1	7	9	5	3	1	0	26
3.8%	26.9%	34.6%	19.2%	11.5%	3.8%	0	100%

7. Victims relationship to rapist:

Spouse

1	2	3	4	5	6	7	Total
2	11	7	2	1	1	0	24
8.3%	45.8%	29.2%	8.3%	4.2%	4.2%	0	100%

Former Spouse

1	2	3	4	5	6	7	Total
2	8	10	4	0	0	0	24
8.3%	33.3%	41.7%	16.7%	0	0	0	100%

Relative

1	2	3	4	5	6	7	Total
0	6	10	7	0	0	0	23
0	26.1%	43.5%	30.4%	0	0	0	100%

Friend

1	2	3	4	5	6	7	Total
5	5	12	3	0	0	0	25
20%	20%	48%	12%	0	0	0	100%

\*RESPONSE KEY:

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5 = USUALLY; 6 = ALWAYS; 7 = NOT APPLICABLE

Acquaintance

1	2	3	4	5	6	7	Total
0	0	9	10	7	0	0	26
0	0	34.6%	38.5%	26.9%	0	0	100%

Stranger

1	2	3	4	5	6	7	Total
1	8	13	3	1	0	0	26
3.8%	30.8%	50%	11.5%	3.8%	0	0	100%

8. Victims attempted to verbally resist the rape

1	2	3	4	5	6	7	Total
0	1	4	3	12	5	2	27
0	3.7%	14.8%	11.1%	44.4%	18.5%	7.4%	100%

9. Victims attempted to physically resist the rape

1	2	3	4	5	6	7	Total
0	2	10	7	5	1	2	27
0	7.4%	37%	25.9%	18.5%	3.7%	7.4%	100%

10. Victims reported the rape to police

1	2	3	4	5	6	7	Total
0	8	14	3	2	1	0	28
0	28.6%	50%	10.7%	7.1%	3.7%	0	100%

11. Based upon your experience, what are the primary reasons that victims don't report incidents of rape to the police?

SEE SUMMARY OF COMMENTS

\*RESPONSE KEY:

1 = NEVER; 2 = RARELY; 3 = SOMETIMES; 4 = FREQUENTLY;

5 = USUALLY; 6 = ALWAYS; 7 = NOT APPLICABLE

Among the adult rape victims served by your agency during the last year, please indicate the frequency of each of the following items

12. Rape victims have used advocates to assist them through the legal process

1	2	3	4	5	6	7	Total
0	2	6	7	8	4	0	27
0	7.4%	22.2%	25.9%	29.6%	14.8%	0	100%

13. Police in the jurisdictions served by your agency have taken rape complaints seriously and have investigated them thoroughly

1	2	3	4	5	6	7	Total
0	2	13	5	6	2	0	28
0	7.1%	46.4%	17.9%	21.4%	7.1%	0	100%

14. Police have arrested suspects in rape cases

1	2	3	4	5	6	7	Total
0	8	11	4	4	0	1	28
0	28.6%	39.3%	14.3%	14.3%	0	3.6%	100%

15. Police officers and detectives have treated rape victims with sensitivity and respect

1	2	3	4	5	6	7	Total
0	2	8	5	10	2	1	28
0	7.1%	28.6%	17.9%	35.7%	7.1%	3.6%	100%

**\*RESPONSE KEY:**

1 = NEVER; 2 = RARELY; 3 = SOMETIMES; 4 = FREQUENTLY;  
5 = USUALLY; 6 = ALWAYS; 7 = NOT APPLICABLE

16. Prosecution of rape cases has been deferred if defendants have agreed to participate in therapy or counseling

1	2	3	4	5	6	7	Total
2	9	5	3	2	5	1	27
7.4%	33.3%	18.5%	11.1%	7.4%	18.5%	3.7%	100%

17. Prosecutors in the jurisdictions served by your agency have required rape victims to undergo polygraph examinations

1	2	3	4	5	6	7	Total
9	10	4	0	0	0	2	25
36%	40%	16%	0	0	0	8%	100%

18. Prosecutors have treated rape victims with sensitivity and respect

1	2	3	4	5	6	7	Total
1	1	7	5	10	3	1	28
3.6%	3.6%	25%	17.9%	35.7%	10.7%	3.6%	100%

19. Prosecutors in your area have an understanding of the dynamics of sexual assault and the potential long-term impact of rape on victims

1	2	3	4	5	6	7	Total
1	3	9	5	3	2	2	25
4%	12%	36%	20%	12%	8%	8%	100%

20. Prosecutors have taken rape complaints seriously and have prosecuted cases vigorously

1	2	3	4	5	6	7	Total
1	4	11	5	7	0	0	28
3.6%	14.3%	39.3%	17.9%	25%	0	0	100%

**\*RESPONSE KEY:**

1 = NEVER; 2 = RARELY; 3 = SOMETIMES; 4 = FREQUENTLY;  
5 = USUALLY; 6 = ALWAYS; 7 = NOT APPLICABLE



21. Rape victims have withdrawn their complaints or failed to follow through with criminal proceedings against defendants

1	2	3	4	5	6	7	Total
0	8	10	7	1	0	1	27
0	29.6%	37%	25.9%	3.7%	0	3.7%	100%

22. Based upon your experience, what are the primary reasons that rape victims have failed to follow through with criminal proceedings against their assailants?

SEE COMMENTS

23. Rape victims have been questioned about their prior sexual experiences during pre-trial proceedings

1	2	3	4	5	6	7	Total
1	7	7	4	1	0	3	21
4.3%	30.4%	30.4%	17.4%	4.3%	0	13%	100%

24. When prosecutors have filed rape charges, defendants have:

1) Pleaded guilty to the rape charges

1	2	3	4	5	6	7	Total
2	10	8	0	1	0	1	22
9.1%	45.5%	36.4%	0	4.5%	0	4.5%	100%

2) Pleaded guilty to lesser charges

1	2	3	4	5	6	7	Total
1	1	7	12	2	1	1	25
4%	4%	28%	48%	8%	4%	4%	100%

\*RESPONSE KEY:

1 = NEVER; 2 = RARELY; 3 = SOMETIMES; 4 = FREQUENTLY;  
5 = USUALLY; 6 = ALWAYS; 7 = NOT APPLICABLE

3) Requested jury trials

1	2	3	4	5	6	7	Total
0	0	7	3	7	2	3	22
0	0	31.8%	13.6%	31.8%	9.1%	13.6%	100%

4) Requested bench trials before judges

1	2	3	4	5	6	7	Total
2	9	5	0	0	0	5	21
9.5%	42.9%	23.8%	0	0	0	23.8%	100%

25. Evidence of rape victims' sexual history has been introduced at the trial

1	2	3	4	5	6	7	Total
2	10	7	0	0	0	1	21
9.5%	47.6%	33.3%	0	0	0	9.5%	100%

26. The credibility of victims has been attacked at trial

1	2	3	4	5	6	7	Total
0	3	5	6	2	6	2	24
0	12.5%	20.8%	25%	8.3%	25%	8.3%	100%

27. Rape victims have been afraid to testify against their assailants

1	2	3	4	5	6	7	Total
0	3	5	7	10	0	1	26
0	11.5%	19.2%	26.9%	38.5%	0	3.8%	100%

\*RESPONSE KEY:

1 = NEVER; 2 = RARELY; 3 = SOMETIMES; 4 = FREQUENTLY;  
5 = USUALLY; 6 = ALWAYS; 7 = NOT APPLICABLE

28. Alleged victims have fabricated complaints against defendants

<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>Total</u>
8	15	1	1	0	0	1	26
30.8%	57.7%	3.8%	3.8%	0	0	3.8%	100%

29. Juries have returned guilty findings in rape trials

<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>Total</u>
0	3	10	5	3	1	2	24
0	12.5%	41.7%	20.8%	12.5%	4.2%	8.3%	100%

30. Judges in the jurisdictions served by your agency have treated rape victims with sensitivity and respect

<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>Total</u>
0	2	4	9	6	1	2	24
0	8.3%	16.7%	37.5%	25%	4.2%	8.3%	100%

31. Judges in your area have an understanding of the dynamics of sexual assault and the potential long-term impact of rape on victims

<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>Total</u>
1	9	11	0	1	2	1	25
4%	36%	44%	0	4%	8%	4%	100%

32. Based upon your experience, what changes should be made in the criminal courts to improve the handling of rape cases?

SEE SUMMARY OF COMMENTS

\*RESPONSE KEY:

1 = NEVER; 2 = RARELY; 3 = SOMETIMES; 4 = FREQUENTLY;  
5 = USUALLY; 6 = ALWAYS; 7 = NOT APPLICABLE

**SUMMARY OF SURVEY COMMENTS**  
**PROVIDERS OF SERVICES TO RAPE VICTIMS**

**QUESTION #11**

Based on your experience, what are the primary reasons that victims don't report incidents of rape to the police?

1. **Fear/distrust of the legal/judicial system. (35)**
  - Lack of trust in the system
  - Fear of not being believed or being blamed
  - Fear of adverse treatment, trauma of interrogation and court proceedings
  - Concern over the length of time it takes to go through the justice system
  - Concern that courts do not convict rapists
  - Lack of protection in the court process
  - System not accessible to deaf, deaf/blind
  
2. **Fear of public humiliation, media publicity, invasion of privacy, embarrassment. (14)**
  
3. **Fear of retaliation from the rapist. (12)**
  
4. **Other concerns. (4)**

**SUMMARY OF SURVEY COMMENTS**  
**PROVIDERS OF SERVICES TO RAPE VICTIMS**

**QUESTION #22**

Based on your experience, what are the primary reasons that rape victims have failed to follow through with criminal proceedings against their assailants?

1. **Distrust/fear of the legal/judicial system (34 Comments)**
  - Fear of adverse treatment; being "revictimized"; trauma of interrogation and court proceedings
  - Concern that courts do not convict rapists; prosecutors decline to prosecute or plea bargain
  - Fear of not being believed or being blamed
  - General lack of trust in the system
  - Concern over the length of time it takes to go through the justice system; want to forget about the assault
2. **Fear of retaliation from the rapist (11 Comments)**
3. **Fear of public humiliation, publicity, invasion of privacy, embarrassment. (9)**
4. **Resignation to being victimized, no family or other support (besides the rape advocate). (7)**
5. **Other concerns. (4)**
  - Personal relationships, fear of losing partner
  - Most cases never get this far

**SUMMARY OF SURVEY COMMENTS**  
**PROVIDERS OF SERVICES TO RAPE VICTIMS**

**QUESTION #32**

Based on your experience, what changes should be made in the criminal courts to improve the handling of rape cases?

1. **Education. (23)**

**-Sensitivity training; understanding of the impact and effects of sexual assault on the victim; knowledge of the psychological dynamics of male/female violence**

**-For judges**

**-For prosecutors/attorneys**

**-Law enforcement personnel**

**-For court/clerk staff**

**-For juries**

**-Train more women to work with victims**

2. **Strengthen prosecution and sentencing. (21)**

**-Rape should be a more heavily prosecuted crime**

**-Less plea bargaining**

**-Repeal the Sentencing Reform Act, make sentences tougher and longer**

**-Provide more options for sentencing, monitor compliance**

**-Offenders should pay restitution to the victim, including counseling and medical costs**

**-Criminalize acquaintance rape**

**-Use DNA testing**

3. **Validate and support victim's rights. (10)**

4. **Expedite process of handling rape cases. (7)**

5. **Justice/legal system should acknowledge role and expertise of rape crisis programs. (2)**







**APPENDIX F**  
**GENDER AND JUSTICE TASK FORCE**  
**DISSOLUTION CASE STUDY - SEPT. 1 TO NOV. 30, 1988**



## APPENDIX F

### GENDER AND JUSTICE TASK FORCE DISSOLUTION CASE STUDY - SEPT. 1 TO NOV. 30, 1988

#### I. PURPOSE

The Subcommittee on the Economic Consequences of Divorce designed a study of dissolution cases in Washington State to gather information on the economic decisions made at the time of divorce in Washington State and the possible impact of gender on those decisions. The survey sought information in four major areas: custody and visitation awards, child support provisions, maintenance and attorney fee awards. The subcommittee considered and ultimately decided against attempting to collect data on property awards and debt allocations because of the difficulty in obtaining consistent and reliable information concerning this data. The case study would provide substantive data to compare with the results of the lawyers' and judges' surveys on gender bias in the courts.

#### II. SAMPLING

After reviewing the total number of dissolution decrees granted in the state during 1987, the Subcommittee selected the five counties with the highest number of dissolutions (Clark, King, Pierce, Snohomish and Spokane) and six other counties (Kitsap, Yakima, Clallam, Lewis, Grant, and Franklin) on the basis of their geographical location, rural and urban characteristics and population size.

A disproportional stratified sampling strategy was developed by Professor Wallace Loh, University of Washington School of Law. Seventy-five cases were randomly selected in the larger counties and total populations of cases were reviewed in the four smaller counties for a total of 700 cases. All of the cases involved final dissolution decrees granted during the time period September 1, 1987 through November 30, 1987.

The subcommittee developed a dissolution case study form and data collection was done by trained volunteers in each of the counties. Volunteers included county clerk staff, attorneys, legal assistants, and law students. Statistical analysis of the data was conducted at the University of Washington.

#### III. DATA ANALYSIS

Analysis of the data collected for the Gender & Justice Task Force's investigation of the economic consequences of divorce has been completed. Information was collected from each of the eleven counties listed in Table 1. A total of 700 surveys were collected, out of a proposed sampling base of 712; Appendix A contains a list detailing the reasons for the discrepancy between these two numbers (e.g., two of the cases were sealed files and could not be included in the data base).

Data from the 700 surveys was coded and entered into a computer data base file. A list of the variables entered into the file and a key explaining the scheme employed to code the possible responses to each is available from the Task Force. In some cases there were responses which could not be accurately represented given the existing coding scheme. For example, for one case the amount of child support was listed as "27% of net income" but income was not provided. In this case, no amount was entered for the amount of child support, which does not accurately reflect the information provided on the survey.

Results of the analyses are presented in the following order:

1. The Kinds of People Getting Divorced
2. Maintenance Awards
3. Child Custody
4. Child Support
5. Visitation
6. Attorney Representation

#### IV. RESULTS

##### THE KINDS OF PEOPLE GETTING DIVORCED

###### Descriptive Information

Income Levels (per month) – Mean (the average of all the amounts) income levels were determined for three groups: husbands alone, wives alone, and households (combined incomes). A problem in assessing income levels resulted from the lack of information provided on either the survey or in the case files themselves. Amount of income for one or both parties was often not provided, making it impossible to assess whether the party had no income or whether the information was just not provided. The levels of income reported here are therefore not necessarily an accurate reflection of actual income levels, as persons with no information regarding amount of income were not included in the averages. As many of these people may be unemployed, it is possible that the means of reported income levels are higher than the means of actual income levels would be.

A related problem is that many of the surveys lacked information on the type of income (gross or net) reported. Again, this information may not have been provided in the case file. Therefore, means for each of the three types of income are provided. Overall means which combine the three types of income are also included, but how meaningful these numbers are is difficult to establish.

Table 2 lists the husband's mean level of income for each county by type of income. A count of the number of cases for which this information was provided is also listed, under the heading "N size". Table 3 lists this same information for the wife's income and Table 4 combines these two groups for an estimate of income level for the household overall. For example, the mean overall gross income for husbands was \$2,205.12 per month, for wives was \$1,317.28 per month, and for the households (combined incomes) was \$1,812.42. Overall median incomes for all groups are also listed.

Length of marriage – Table 5 includes means for the average length of marriage (in years) and the average length of separation (in months). The median lengths of marriage and separation for all counties combined are also included. As the N sizes reflect, information regarding lengths of marriage and separation were provided on a majority of the surveys. The mean overall for length of marriage was 9.47 years and the mean duration of separation was 17.18 months.

Number of children – Table 6 lists the means for the average number of minor children (18 and under) per case per county. The first group of means reflects the mean number of minor children for those individuals who have children, the second group reflects the mean number of minor children per case overall (including those individuals who do not have children). The N sizes reflect the number of cases for which this information was included, not the actual number of children. The mean number of children for those couples who have children was 1.77, and the average number of children overall was .97.

Table 7 includes lists of the mean lengths of marriage for cases with minor children, for cases without minor children, and for all cases. Medians for each of these categories

when the counties are combined are also provided.

## MAINTENANCE AWARDS

### Descriptive Information

Amount and duration - Table 8 lists the mean amounts of maintenance paid per month (regardless of duration) for each county and for all counties combined. Also listed are the mean amounts of non-permanent maintenance provided, along with the mean duration of that maintenance (in years). In addition, the mean amounts of permanent (until death or remarriage) maintenance are included. The total number of women provided with maintenance is relatively low (70/700), so the numbers of cases per individual county are quite low. Only one husband out of the entire file was provided with maintenance. This case is listed at the bottom of the table.

Maintenance and Income - Table 9 presents information on the average amounts of maintenance given the wives' average incomes and the husbands' average incomes. The wives' incomes were calculated in two ways: average income overall (including those women with no income information available) and average income for those women for whom income information was provided. Incomes for the one case in which maintenance was provided for the husband are also presented.

Maintenance and Child Support - The number of cases which reported having at least one minor child are listed in Table 10 along with the total numbers of cases overall for which child support was provided (by the husband), and the total number of cases overall for which maintenance was provided. This table breaks down the numbers (and percentages) of those cases with minor children in which child support but no maintenance was provided, child support and maintenance was provided, and maintenance but no child support was provided. The percentage of each of these conditions was calculated by dividing the number of cases per condition by the total number of cases with minor children per county.

Average Length of Marriage and Maintenance - The mean lengths of marriage for those cases in which maintenance was provided are listed in Table 26. Means by county and for all counties combined are listed for those cases in which non-permanent maintenance was provided, for those in which permanent maintenance was provided, and for all cases in which either type of maintenance was provided.

Table 27 contains the numbers of cases for which maintenance was provided by lengths of marriage listed in ten year blocks (e.g, for marriages under 10 years in duration, for those 10-20 years in length, etc.). Maintenance was to be provided in 4% of the cases with a length of marriage under 10 years, in 19% of the cases with a length of marriage from 10-20 years, in 21% of the cases with a length of marriage from 21-30 years, and in 35% of the cases with a marriage lasting 31 years or more.

### Inferential Statistics

Analyses were performed on the following questions pertaining to the provision of maintenance:

1. Is there a correlation between length of marriage and the amount of maintenance awarded? (Table 8)  
No. The results of the analysis indicated a non-significant correlation ( $r = .13$ ) which suggests that there does not appear to be a correlation between length of marriage and amount of maintenance.
2. Is there a correlation between length of marriage and the duration of maintenance?

(Table 8)

Yes. For women receiving non-permanent maintenance, there is a significant correlation ( $r = .59$ ,  $N = 68$ ,  $p < .01$ ) between length of marriage and the duration of maintenance.

For women receiving either permanent or non-permanent maintenance, there is a significant correlation ( $r = .75$ ,  $N = 56$ ,  $p < .01$ ) between length of marriage and the duration of maintenance. In order to compute the correlation for those cases in which maintenance was to be permanent, duration of maintenance was coded as 15 years. Since this is an arbitrary number, the actual degree of correlation between these two variables (length of marriage and duration of maintenance) is impossible to assess.

3. Are persons provided with permanent maintenance more likely to have had longer marriages than persons provided with non-permanent maintenance? (Table 26)

Yes. Comparisons between the mean lengths of marriage for cases with permanent maintenance vs. non-permanent maintenance reveal a significant difference between the two groups ( $t = 6.09$ ,  $p < .01$ , 1 tailed,  $df = 69$ ).

4. Does the percentage of cases for which maintenance is provided increase as the length of the marriage increases? (Table 27)

Yes. Comparisons between the percent of cases awarded maintenance by length of marriage (in 10 year blocks) reveal that the proportion of cases for which maintenance is provided increases significantly as length of marriage increases ( $\chi^2 = 51.91$ ,  $p < .001$ , 1 tailed,  $df = 3$ ).

5. Does the existence of minor children affect the likelihood that maintenance will be provided?

No. There was not a significant difference in the percentages of persons receiving maintenance between those individuals with custody of minor children and those without ( $\chi^2 = .057$ ,  $df = 1$ ).

6. Is there a difference between the proportion of individuals provided with maintenance when child support is also provided and the proportion of individuals provided with maintenance when child support is not provided?

No. The provision of child support (or lack of provision) had no effect on provision of maintenance (whether the couple had children or not) ( $\chi^2 = 1.66$ ,  $df = 1$ ).

7. If there are children of the marriage, does the ages of the children affect the provision of maintenance?

No. A comparison between those who did/did not receive maintenance and those who had children under the age of 6/ 6 years and older did not reveal a significant difference ( $\chi^2 = 1.26$ ,  $df = 1$ ).

## CHILD CUSTODY

### Descriptive Information

The analysis of child custody in the case study must be considered in light of the fact that few of the cases involved contested custody. In only five cases was custody contested. In regards to the other custody awards, the parties agreed on which parent was

to have residential custody, the courts did not award custody.

**Residential** - The total number of minor children (not cases) per county are presented in Table 11 which presents a breakdown of the number of minor children for whom residential custody information was provided. The percentages of minor children for whom the wife received custody, for whom the husband received custody, and for whom both parents jointly received custody were calculated by dividing the number of children received by each parent by the total number of children for whom residential custody information was provided. Table 11 shows that mothers received residential custody of 79% of the children, fathers received custody of 18% of the children, and parents were to jointly receive residential custody of 3% of the children.

**Legal** - Information concerning legal custody of the minor children of these marriages is presented in Table 12, which contains the same types of information as does Table 11. From this table it can be seen that mothers received legal custody of 61% of the children, fathers received legal custody of 13% of the children, and parents jointly received legal custody of 27% of the children.

### Inferential Statistics

Analyses were performed on the following questions pertaining to child custody:

1. Do mothers get residential custody more often than fathers? (Table 11)

Yes: # of children received by mother = 531 (81%)  
# of children received by father = 124 (19%)

2. Is there a difference in the ages of children for whom the mother receives residential custody and those for whom the father receives residential custody?

Yes. A comparison of the mean ages of children for each parent reveals that the average age of children for whom the mother receives custody is significantly lower than the average age of children for whom the father receives custody ( $t = 2.94$ ,  $p < .01$ , 1 tailed,  $df = 632$ ).

Mean age in mother's custody = 7.26 years  
Mean age in father's custody = 8.63 years

3. Are fathers more likely to get custody of male children?

No. A comparison of the proportions of males and females for whom each parent received custody reveals a non-significant difference ( $\chi^2 = .61$ ,  $df = 1$ ).

4. In cases tried by the court, are fathers more likely to get custody?

No. There were a total of 38 (out of 700) tried by a judge. Of those cases, 15 had minor children, for a total number of minor children being 24. Residential custody was awarded to the mothers in these cases for all 24 of the children.

However, only 5 of those cases involved contested custody. In three of those cases, mothers were awarded custody and data on the other cases was unknown.

## CHILD SUPPORT

### Descriptive Information

**Amount Per Child Per Month** - The mean amounts of child support to be paid by the husband, the wife, and overall are shown in Table 13. Husbands pay an overall

average of \$206 per child per month on a total of 286 children, while wives pay an overall average of \$87 per child per month on a total of 19 children. The average amount of child support provided per child per month was \$198. Median amounts of child support paid overall per month are also listed.

**Duration** - The duration of child support is listed in Tables 14 and 15. Table 14 lists the numbers and percentages of cases for which child support is to be provided until the child or children is 18, after 18 (as long as in school), and "other" (these are the categories presented on the surveys). The percentages were calculated by dividing the number of cases per category by the total number of cases for which this information was available. Note that these numbers represent cases, not actual children, and each case may represent more than one child. Duration of child support was to be provided until the child is 18 in 71% of the cases, as long as the child is in school (college) in 15% of the cases, and "other" in 14%. Table 15 contains a list of conditions which specify the "other" category and the number of cases associated with each. Because so few cases were represented in the "other" category it is not listed by county.

**Tax Exemptions** - Table 16 indicates the number of tax exemptions allowed each parent per year or by each parent on alternate years. The percentages were calculated by dividing the number of exemptions allowed by the number of children this information was provided for. Sixty percent of the exemptions were allowed the husband, 33% the wife, and 7% were allowed by each parent on alternate years.

**Health Insurance** - The provider of health insurance for cases with minor children is shown in Table 17. The total numbers of cases for which health insurance was to be provided by the husband, by the wife, or by both parents jointly are shown for each county. Percentages were calculated by dividing the number of cases for each category by the total number of cases for which this information was provided. Husbands were listed as the sole providers of health insurance for 39% of the cases, wives were the sole providers for 5%, and parents share provision of health insurance for 55% of the cases.

Duration of health insurance was provided for very few of the cases. For those cases for which this information was available, the mean duration of health insurance was until the child reaches the age of 18.

**Life Insurance** - The total number of cases for each county for which life insurance was to be provided by the husband, by the wife, or by both parents jointly are listed in Table 18. Husbands provide 65% of life insurance, wives provide 3%, and parents share provision of life insurance for 33% of the cases.

It appeared from the surveys that this question was answered in one of two ways: 1) that insurance was provided for the lives of the children; or 2) that the children were beneficiaries of a life insurance policy on one of the parents. On a per case basis it was almost never clear which of these two cases were applicable, so the results of the data in this condition are unclear.

**Day Care** - The total number of cases for each county for which day care was to be provided by the husband, by the wife, or by both parents jointly are listed in Table 19. Twenty-two percent of husbands are the sole providers of day care, 6% of wives are the sole providers, and 72% share the provision jointly. Percentages were not calculated on a per county basis given the small number of cases for which this information was available. Duration of day care was provided for only one of the cases in the entire file.

**Higher Education** - The parent responsible for the higher education of his/her children is indicated in Table 20. Eighteen percent of husbands are to be the sole providers of higher education, 0% of wives are to be the sole providers, and 82% will share the provision jointly. Percentages were not calculated on a per county basis given



the small number of cases for which this information was available. The duration of the provision of higher education was only provided for a few of the cases overall.

### Inferential Statistics

Analyses were performed on the following questions pertaining to the provision of child support:

1. Does the existence of other minor children not of this marriage affect the amount of child support for minor children of this marriage?

No. For cases in which the father had children of another marriage and the mother had residential custody of the children of their marriage, there was no difference in the proportion of cases for which the father provided child support (chi-square = 2.675, df =1).

There were not enough cases in which either parent had children of another marriage and the father had residential custody of the children of their marriage to make any meaningful comparisons. There were also not enough cases in which the mother had children of another marriage and had custody of the children of their marriage to make any meaningful comparisons.

2. Is the father more likely to provide child support for those minor children in the mother's custody than the mother is for minor children in the father's custody?

Yes. The mother is much less likely to provide child support for children in the father's custody than is the father for children in the mother's custody (chi-square = 241,  $p < .0001$ , 1 tailed, df = 1).

3. Do the ages of the minor children have an affect on the likelihood that child support is provided?

When the mother has residential custody:

Yes. Mothers are more likely to receive support for children under the age of 6 than for children 6 years of age and older (chi-square = 4.48,  $p < .05$ , 1 tailed, df = 1).

When the father has residential custody:

Yes. Fathers are more likely to receive support for children under the age of 6 than for children 6 years of age and older (chi-square = 3.51,  $p < .05$ , 1 tailed, df = 1).

When either parent has residential custody:

Yes. Children under the age of 6 are more likely to receive support than are children 6 years of age and older (chi-square = 7.53,  $p < .01$ , 1 tailed, df = 1).

## VISITATION

### Descriptive Information

Type - The number of cases for which visitation was granted, whether sole or joint custody was received, are indicated in Table 21. The number of total cases for which reasonable, liberal, or specific visitation was granted and their percentages are listed. For each case more than one type of visitation may have been indicated which would have been reflected in the data base. Also included is the number of cases for which a restriction was placed on the visitation rights of one of the parents.

Table 22 provides a breakdown of types of visitation granted the husband, and Table 23 provides a breakdown of types of visitation granted the wife. Reasonable visitation was granted to the husband in 72% of the cases, liberal visitation was granted 13% of the time, and specific visitation was indicated 32% of the time (again, more than one type of visitation may have been granted per case). Reasonable visitation was granted for the wife in 51% of the cases, liberal visitation was granted in 18% of the cases, and specific visitation was indicated in 34% of the cases.

Duration - Duration of the various types of visitation granted to each parent was not specified on any of the surveys and was therefore deleted from the data base as a category.

Restrictions - Table 24 lists the types of restrictions placed on visitation rights of the parents and the number of cases for which each restriction applies. Visitation restrictions were placed on 12% of the total number of cases for which visitation information was provided.

## ATTORNEY REPRESENTATION

### Descriptive Information

Attorney Fees Provided - Table 25 lists the number of wives represented by attorneys, the number and percentages of cases for which attorney fees were provided for the wife, and the mean amounts of attorney fees (to be paid by the husband). Husbands were required to pay the wife's attorney fees in 40% of the cases in which the wife was represented by an attorney. For no case in which the husband was represented by an attorney was the wife required to pay the husband's fees.

### Inferential Statistics

Analyses were performed on the following questions pertaining to attorney representation:

1. Is there a difference in the proportion of wives who receive maintenance when represented by an attorney and the proportion of wives who receive maintenance when they represent themselves (pro-se)?

No. Wives are no more or less likely to receive maintenance when they are represented by attorney than when they represent themselves (chi-square = .607, df = 1).

2. Are there differences in the proportions of wives who receive maintenance between cases in which the wife is pro-se, cases in which the husband is pro-se, and cases in which both are pro-se?

No. The wife is just as likely to receive maintenance in any of the three situations (chi-square = 2.27, df = 2).

3. Is there a difference in the proportions of wives who receive maintenance between cases in which the wife is represented by an attorney (and the husband is not), cases in which the husband is represented by an attorney (and the wife is not), and cases in which they are both represented by attorneys?

Yes. The wife is more likely to receive maintenance when both she and her husband are represented by attorneys than when either she or her husband alone are represented by attorneys (chi-square = 11.81,  $p < .01$ , df = 2).

4. Does attorney vs. self representation by either or both parties have any effect on the provision of child support?

No. Whether or not an individual, his/her spouse, or both were represented by an attorney made no significant difference in the provision of child support.

Analyses were performed on all combinations of attorney vs. self representation and provision of child support to answer this question:

-when husband alone, wife alone, or both had attorney representation, by child support paid by the husband (when wife has custody) or by the wife (when husband has custody);

-when husband alone, wife alone, or both represented themselves (pro-se), by child support paid by the husband (when wife has custody) or by the wife (when husband has custody);

-whether the wife pays support or not (when husband has custody) by whether or not she has an attorney;

-whether husband pays support or not (when wife has custody) by whether or not he has an attorney; etc.

All conditions were non-significant.

TABLE 1  
 GENDER AND JUSTICE TASK FORCE  
 DISSOLUTION CASE STUDY - SEPT. 1 TO NOV. 30, 1988

COUNTY	SCOMIS #	TOTAL DIVORCES SEPT-NOV 1987	# CASES SAMPLE	# CASES USED
KING	07	1,509	75	73
PIERCE	23	862	75	75
SPOKANE	32	488	75	74
SNOHOMISH	31	453	75	74
CLARK	06	321	75	72
KITSAP	18	218	75	71
YAKIMA	39	214	75	75
CLALLAM	21	73	55	55
LEWIS	02	71	55	55
GRANT	14	50	50	50
FRANKLIN	15	27	27	26
			<hr/> Total = 700	

TABLE 2 -- LEVELS OF INCOME - HUSBAND  
MEAN LEVELS PER MONTH

COUNTY	GROSS	N size	NET	N size	UNSPEC.	N size	TOTAL	N size
Lewis	-	0	\$ 950.00	1	\$ 1,548.88	26	\$ 1,526.70	27
Clark	\$ 1,750.00	2	\$ 1,352.20	25	\$ 1,840.00	10	\$ 1,505.54	37
King	\$ 2,816.00	10	\$ 1,617.83	6	\$ 2,157.14	7	\$ 2,302.91	23
Grant	\$ 1,400.00	1	\$ 1,401.29	17	\$ 1,548.80	5	\$ 1,433.30	23
Franklin	\$ 1,708.40	5	\$ 1,690.43	7	\$ 1,274.17	6	\$ 1,556.67	18
Kitsap	-	0	\$ 1,842.25	12	\$ 1,897.24	21	\$ 1,877.24	33
Clallam	\$ 3,433.00	1	\$ 1,667.71	7	\$ 1,443.22	18	\$ 1,580.19	26
Pierce	\$ 2,127.64	14	\$ 1,446.38	13	\$ 1,040.00	5	\$ 1,798.79	33
Snohomish	\$ 2,278.37	19	\$ 1,825.10	10	\$ 1,379.50	10	\$ 1,931.67	39
Spokane	\$ 2,145.33	3	\$ 1,188.86	29	\$ 1,351.00	4	\$ 1,286.58	36
Yakima	\$ 1,116.67	3	\$ 1,188.29	14	\$ 1,233.33	3	\$ 1,184.30	20
Counties Combined:	\$ 2,205.12	58	\$ 1,433.09	141	\$ 1,591.99	115	\$ 1,646.38	315
MEDIAN LEVELS: (315/700=45%)	\$ 2,258.50		\$ 1,384.00		\$ 1,400.00		\$ 1,500.00	

**TABLE 3 - LEVELS OF INCOME - WIFE  
MEAN LEVELS PER MONTH**

COUNTY	GROSS	N size	NET	N size	UNSPEC.	N size	TOTAL	N size
Lewis	-	0	\$ 553.00	4	\$ 975.80	20	\$ 905.33	24
Clark	\$ 1,200.00	2	\$ 898.33	18	\$ 672.57	7	\$ 862.15	27
King	\$ 1,831.83	6	\$ 1,230.12	8	\$ 1,326.60	5	\$ 1,445.53	19
Grant	\$ 1,000.00	1	\$ 835.47	17	\$ 671.75	4	\$ 813.18	22
Franklin	\$ 822.40	5	\$ 938.50	6	\$ 1,138.38	8	\$ 992.11	19
Kitsap	\$ 600.00	1	\$ 560.80	10	\$ 791.39	18	\$ 705.28	29
Clallam	-	0	\$ 502.11	9	\$ 734.89	9	\$ 618.50	18
Pierce	\$ 1,347.25	12	\$ 778.23	13	\$ 796.17	6	\$ 1,001.97	31
Snohomish	\$ 1,583.14	14	\$ 953.89	18	\$ 1,254.57	7	\$ 1,233.74	39
Spokane	\$ 508.00	2	\$ 713.91	32	\$ 763.12	8	\$ 713.48	42
Yakima	\$ 715.00	3	\$ 574.73	15	\$ 736.00	3	\$ 617.81	21
Counties Combined:	\$ 1,317.28	46	\$ 779.58	150	\$ 898.76	95	\$ 903.48	291 (291/700=42%)
MEDIAN LEVELS:	\$ 1,237.50		\$ 650.00		\$ 800.00		\$ 750.00	

**TABLE 4 - LEVELS OF COMBINED INCOME - HUSBAND AND WIFE  
MEAN LEVELS PER MONTH**

COUNTY	GROSS	N size	NET	N size	UNSPEC.	N size	TOTAL	N size
Lewis	-	0	\$ 632.40	5	\$ 1,299.72	46	\$ 1,234.29	51
Clark	\$ 1,475.00	4	\$ 1,162.21	43	\$ 1,359.29	17	\$ 1,234.11	64
King	\$ 2,446.94	16	\$ 1,396.28	14	\$ 1,811.08	12	\$ 1,915.05	42
Grant	\$ 1,200.00	2	\$ 1,118.38	34	\$ 1,159.00	9	\$ 1,130.13	45
Franklin	\$ 1,265.40	10	\$ 1,343.39	13	\$ 1,196.58	14	\$ 1,266.76	37
Kitsap	\$ 600.00	1	\$ 1,259.77	22	\$ 1,423.34	38	\$ 1,329.07	62
Clallam	\$ 3,433.00	1	\$ 1,012.16	16	\$ 1,207.11	27	\$ 1,186.77	44
Pierce	\$ 1,767.46	26	\$ 1,112.31	26	\$ 907.00	11	\$ 1,412.83	64
Snohomish	\$ 1,983.42	33	\$ 1,265.04	28	\$ 1,328.06	17	\$ 1,582.71	78
Spokane	\$ 1,490.40	5	\$ 939.71	61	\$ 959.08	12	\$ 977.99	78
Yakima	\$ 915.80	6	\$ 870.93	29	\$ 984.67	6	\$ 894.15	41
Counties Combined:	\$ 1,812.42	104	\$ 1,096.23	291	\$ 1,278.39	210	\$ 1,289.64	606

TABLE 5  
LENGTH OF MARRIAGE AND SEPARATION

COUNTY	MEAN LENGTH OF MARRIAGE (YEARS)		MEAN LENGTH OF SEPARATION (MONTHS)	
	x	n size	x	n size
Lewis	7.44	55	12.60	52
Clark	9.12	72	19.35	69
King	9.20	73	16.26	69
Grant	11.26	50	14.12	48
Franklin	13.19	26	13.92	25
Kitsap	9.03	69	15.26	61
Clallam	9.89	55	15.62	52
Pierce	9.63	75	18.20	70
Snohomish	8.25	74	11.87	69
Spokane	8.99	74	17.33	70
Yakima	10.67	75	29.71	69
Counties Combined:	9.47	698 698/700 =99.7%	17.18	654 654/700 =93%
MEDIAN LEVELS:	7.00		10.00	



TABLE 6

MEAN NUMBER OF CHILDREN

COUNTY	IF CHILDREN, X # CHILDREN	# OF CASES	X # CHILDREN OVERALL	# OF CASES
Lewis	1.90	30	1.04	55
Clark	2.02	43	1.21	72
King	1.48	31	0.63	73
Grant	1.77	30	1.06	50
Franklin	1.84	19	1.35	26
Kitsap	1.72	39	0.94	71
Clallam	1.93	28	0.98	55
Pierce	1.64	45	0.99	75
Snohomish	1.71	38	0.88	74
Spokane	1.82	39	0.96	74
Yakima	1.71	42	0.96	75
Counties Combined:	1.77	384	0.97	700
MEDIAN NUMBER:	2.00		1.00	

\*These numbers reflect the number of cases for which there is at least one child; it doesn't reflect the actual number of children.

TABLE 7 - LENGTH OF MARRIAGE BY EXISTENCE OF CHILDREN

COUNTY	X LENGTH OF MARRIAGE OVERALL	N SIZE	X LENGTH IF NO CHILDREN	N SIZE	X LENGTH IF CHILDREN	N SIZE
Lewis	7.44	55	6.24	25	8.43	30
Clark	9.12	72	7.38	29	10.30	31
King	9.20	73	8.23	42	10.52	30
Grant	11.26	50	12.10	20	10.70	30
Franklin	13.19	26	20.86	7	10.37	19
Kitsap	9.03	69	8.17	31	9.74	38
Clallam	9.89	55	10.48	27	9.32	28
Pierce	9.63	75	9.33	30	9.82	45
Snohomish	8.25	74	8.19	36	8.30	38
Spokane	8.99	74	8.54	35	9.38	39
Yakima	10.67	75	12.24	33	9.43	42
Counties Combined:	9.47	698*	9.26	315	9.64	383
MEDIAN LENGTH:	7.00		5.00		8.00	

\*Length of marriage was not provided for 2 cases out of the total 700.

**TABLE 8 - MAINTENANCE PROVIDED PER MONTH**

TO WIFE:

COUNTY	X AMOUNT OVERALL	# CASES PROVIDED	X AMOUNT NON-PERM.	# PROVIDED NON-PERM.	X DURATION NON-PERM. (YRS.)	X AMOUNT PERMANENT	# PROVIDE PERMANENT
Lewis	\$ 640.00	5	\$ 640.00	5	2.20	-	0
Clark	\$ 361.25	8	\$ 361.25	8	2.71	-	0
King	\$ 598.38	8	\$ 655.29	7	2.94	\$ 200.00	1
Grant	\$ 244.17	7	\$ 316.25	4	4.00	\$ 100.00	2
Franklin	\$ 465.00	2	\$ 465.00	2	2.50	-	0
Kitsap	\$ 379.71	8	\$ 296.00	5	1.50	\$ 589.00	2
Clallam	\$ 454.12	8	\$ 439.50	6	2.29	\$ 498.00	2
Pierce	\$ 298.57	7	\$ 329.17	6	1.89	\$ 115.00	1
Snohomish	\$ 496.25	8	\$ 428.33	6	3.10	\$ 700.00	2
Spokane	\$ 462.40	5	\$ 462.40	5	3.36	-	0
Yakima	\$ 362.50	4	\$ 283.33	3	1.83	\$ 600.00	1
Counties Combined:	\$ 432.13	70*	\$ 433.26	57*	2.61	\$ 426.27	11 <sup>A</sup>

TO HUSBAND:  
Snohomish

\$ 542.00      1      \$ 542.00      1      5.00      0

\*Information concerning duration of maintenance was not provided for 2 cases (57 + 11 = 68, not 70)

TABLE 9 - INCOME LEVELS WHEN MAINTENANCE PROVIDED

MAINTENANCE PROVIDED TO WIFE:

COUNTY	X WIFE INCOME OVERALL (MONTH)		X WIFE INCOME IF REPORTED (MONTH)		X HUSBAND INC. IF REPORTED (MONTH)	
	N		N		N	
Lewis	5	\$ 350.00	3	\$ 583.33	4	\$1,967.00
Clark	8	\$ 459.38	4	\$ 918.75	5	\$2,107.60
King	8	\$ 513.55	4	\$1,027.00	5	\$3,291.80
Grant	7	\$ 320.29	3	\$ 747.33	3	\$1,780.33
Franklin	2	\$ 336.00	1	\$ 672.00	2	\$3,210.50
Kitsap	8	\$ 295.00	5	\$ 472.00	4	\$2,545.50
Clallam	8	\$ 126.25	3	\$ 336.67	6	\$2,422.50
Pierce	7	\$ 93.14	2	\$ 326.00	6	\$2,338.67
Snohomish	8	\$ 294.50	3	\$ 785.33	8	\$2,661.50
Spokane	5	\$ 134.00	2	\$ 335.00	3	\$2,705.33
Yakima	4	\$ 183.00	2	\$ 366.00	1	\$ 314.00
Counties Combined:	70	\$ 288.96	32	\$ 632.09	47	\$2,448.89

MAINTENANCE AWARDED TO HUSBAND:  
 \$2,569.00 1

TABLE 10 - MAINTENANCE AND CHILD SUPPORT PROVIDED

COUNTY	# CASES WITH CHILDREN	HUSBAND PROVIDES C. SUPPORT (TOTAL) # CASES	HUSBAND PROVIDES MAINT. (TOTAL) # CASES	HUSBAND PROVIDES C.S. & MAIN. # CASES	HUSBAND PROVIDES C.S. & NO MAIN. # CASES	HUSBAND PROVIDES MAIN. & NO C.S. # CASES
Lewis	30	20 (66%) (20/30)	5 (17%) (5/30)	1 (3%) (1/30)	19 (63%) (19/30)	1 (3%) (1/30)
Clark	43	34 (79%)	8 (19%)	3 (7%)	31 (72%)	2 (5%)
King	31	23 (74%)	8 (26%)	5 (16%)	18 (58%)	1 (3%)
Grant	30	22 (73%)	7 (23%)	2 (6%)	19 (63%)	0 (0%)
Franklin	19	15 (79%)	2 (11%)	1 (5%)	14 (74%)	0 (0%)
Kitsap	39	29 (74%)	8 (21%)	4 (10%)	25 (64%)	1 (3%)
Clallam	28	24 (86%)	8 (29%)	3 (11%)	21 (75%)	0 (0%)
Pierce	45	36 (80%)	7 (16%)	5 (11%)	31 (69%)	0 (0%)
Snohomish	38	29 (76%)	8 (21%)	3 (8%)	26 (68%)	1 (3%)
Spokane	39	29 (74%)	5 (13%)	2 (5%)	27 (69%)	0 (0%)
Yakima	42	31 (74%)	4 (10%)	2 (5%)	29 (69%)	0 (0%)
Counties Combined:	384	292 (76%)	70 (18%)	31 (8%)	260 (68%)	6 (2%)

TABLE 11 - CHILD CUSTODY - RESIDENTIAL

COUNTY	TOTAL # OF CHILDREN	# OF CHILDREN FOR WHOM RES. CUST INFO. IS AVAILABLE	RESIDENTIAL CUSTODY			# CHILDREN JOINT
			# CHILDREN TO MOTHER	# CHILDREN TO FATHER	# CHILDREN TO FATHER	
Lewis	57	56	35 (63%) (35/56)	21 (38%) (21/56)	0 (0%) (0/56)	
Clark	87	83	70 (84%)	9 (11%)	4 (5%)	
King	46	46	39 (85%)	6 (13%)	1 (2%)	
Grant	53	53	36 (68%)	16 (30%)	1 (2%)	
Franklin	35	35	27 (77%)	8 (23%)	0 (0%)	
Kitsap	67	67	51 (76%)	12 (18%)	4 (6%)	
Clallam	54	54	48 (89%)	4 (7%)	2 (4%)	
Pierce	74	74	62 (84%)	7 (10%)	5 (7%)	
Snohomish	65	64	48 (75%)	14 (22%)	2 (3%)	
Spokane	71	71	62 (87%)	8 (11%)	1 (1%)	
Yakima	72	72	53 (74%)	19 (26%)	0 (0%)	
Counties Combined:	681	675 675/681=99%	531 (79%)	124 (18%)	20 (3%)	

TABLE 12 - CHILD CUSTODY - LEGAL

COUNTY	TOTAL # OF CHILDREN	# OF CHILDREN FOR WHOM LEG. CUST INFO. IS AVAILABLE	# CHILDREN TO MOTHER	LEGAL CUSTODY		# CHILDREN JOINT
				# CHILDREN TO FATHER	# CHILDREN TO MOTHER	
Lewis	57	53	26 (49%) (26/53)	12 (23%) (12/53)	15 (28%) (15/53)	
Clark	87	71	51 (72%)	5 (7%)	15 (21%)	
King	46	46	27 (59%)	3 (7%)	16 (35%)	
Grant	53	52	27 (52%)	14 (27%)	11 (21%)	
Franklin	35	9	0 (0%)	0 (0%)	9 (100%)	
Kitsap	67	52	34 (65%)	12 (23%)	6 (12%)	
Clallam	54	54	43 (80%)	4 (7%)	7 (13%)	
Pierce	74	74	49 (66%)	4 (5%)	21 (28%)	
Snohomish	65	53	19 (36%)	6 (11%)	28 (53%)	
Spokane	71	67	41 (61%)	6 (9%)	20 (30%)	
Yakima	72	66	44 (67%)	11 (17%)	11 (17%)	
Counties Combined:	681	597 597/681=88%	361 (61%)	77 (13%)	159 (27%)	

TABLE 13 - CHILD SUPPORT PROVIDED

COUNTY	# OF CASES WITH CHILDREN	MEAN AMOUNT PAID BY		# OF CASES*	MEAN AMOUNT PAID BY		# OF CASES*	MEAN AMOUNT PAID OVERALL	# OF CASES*
		FATHER	CHILDREN		MOTHER	CHILDREN			
Lewis	30	\$ 188.90		20	\$ 58.33		3	\$ 171.87	23
Clark	43	\$ 188.03		34	\$ 135.00		1	\$ 186.89	36
King	31	\$ 246.87		23	\$ 125.00		2	\$ 233.54	26
Grant	30	\$ 213.64		22	\$ 25.00		2	\$ 197.92	24
Franklin	19	\$ 196.00		15	\$ 75.00		1	\$ 188.44	16
Kitsap	39	\$ 263.07		29	\$ 56.50		2	\$ 249.74	31
Clallam	28	\$ 198.71		24	\$ 100.00		1	\$ 194.76	25
Pierce	45	\$ 200.81		36	\$ 225.00		1	\$ 201.46	37
Snohomish	38	\$ 220.24		29	\$ 75.00		2	\$ 210.87	31
Spokane	39	\$ 175.93		29	\$ 114.00		2	\$ 171.94	31
Yakima	42	\$ 172.52		25	\$ 75.50		2	\$ 159.46	28**
Counties Combined:	384	\$ 206.01		286 (75%)	\$ 86.95		19 (5%)	\$ 197.78	308 (80%)
MEDIAN AMTS.		\$ 215.00			\$ 75.00			\$ 188.00	

\*These numbers reflect the number of family cases, not children (i.e., there may be more than one child involved per case).

\*\*This # includes one joint custody situation where both parents agreed to pay a set amount of money each month for the child's support.



TABLE 14

DURATION OF CHILD SUPPORT

COUNTY	TOTAL # CASES INFO. ON	# CASES TO 18*	# CASES AFTER 18**	# CASES OTHER***
Lewis	21	18 (86%) (18/21)	1 ( 5%) (1/21)	2 (10%) (2/21)
Clark	35	22 (63%)	8 (23%)	5 (14%)
King	22	18 (82%)	3 (14%)	1 ( 5%)
Grant	22	14 (64%)	7 (32%)	1 ( 5%)
Franklin	14	9 (64%)	4 (29%)	1 ( 7%)
Kitsap	30	23 (77%)	2 ( 7%)	5 (17%)
Clallam	21	19 (91%)	1 ( 5%)	1 ( 5%)
Pierce	31	26 (84%)	4 (13%)	1 ( 3%)
Snohomish	25	16 (64%)	2 ( 8%)	7 (28%)
Spokane	30	16 (53%)	6 (20%)	8 (27%)
Yakima	28	17 (61%)	4 (14%)	7 (25%)
Counties Combined:	279 (73%) (279/384)	198 (71%) (198/279)	42 (15%) (42/279)	39 (14%) (39/279)

\*To 18 = To age 18, high school graduation, or emancipation  
 \*\*After 18 = After age 18, as long as in school (college or vocational) or dependent  
 \*\*\*Other (specify) (see following table)

TABLE 15  
 DURATION OF CHILD SUPPORT - OTHER  
 ALL COUNTIES COMBINED

CATEGORY	# CASES
Unspecified	2
Until Spouse Remarries	2
To Age 22	4
To Age 19	3
Re-evaluate When 18	20
To 18, then 1/2 of Higher Education	3
Other	5
<b>TOTAL</b>	<b>39</b>

**TABLE 16 - TAX EXEMPTIONS ALLOWED FOR CHILDREN**

COUNTY	TOTAL NUMBER OF CHILDREN	NUMBER OF CHILDREN INFO. AVAILABLE ON	# OF EXEMPT. ALLOWED FATHER	# OF EXEMPT. ALLOWED MOTHER	# OF EXEMPT. ALLOWED EACH ON ALTERNATE YEARS
Lewis	57	22	16 (73%) (16/22)	5 (23%) (5/22)	1 (5%) (1/22)
Clark	87	61	33 (54%)	21 (34%)	7 (11%)
King	46	29	14 (48%)	11 (38%)	4 (14%)
Grant	53	36	22 (61%)	14 (39%)	0 (0%)
Franklin	35	19	16 (84%)	3 (16%)	0 (0%)
Kitsap	67	42	31 (74%)	10 (24%)	1 (2%)
Clallam	54	29	20 (69%)	9 (31%)	0 (0%)
Pierce	74	31	17 (55%)	13 (42%)	1 (3%)
Snohomish	65	30	15 (50%)	7 (23%)	8 (27%)
Spokane	71	24	14 (58%)	10 (42%)	0 (0%)
Yakima	72	27	13 (48%)	13 (48%)	1 (4%)
Counties Combined:	681	350 (51%) (350/681)	211 (60%) (211/350)	116 (33%) (116/350)	23 (7%) (23/350)

TABLE 17 - HEALTH INSURANCE PROVIDED

COUNTY	# CASES INFO. AVAILABLE ON	# CASES BY HUS.	# CASES BY WIFE	# CASES BY BOTH
Lewis	18	9 (50%) (9/18)	1 (6%)	8 (44%)
Clark	38	10 (26%)	0 (0%)	28 (74%)
King	27	8 (30%)	6 (22%)	13 (48%)
Grant	25	8 (32%)	1 (4%)	16 (64%)
Franklin	11	4 (9%)	0 (0%)	7 (64%)
Kitsap	32	24 (75%)	1 (3%)	7 (22%)
Clallam	21	3 (14%)	0 (0%)	18 (86%)
Pierce	32	10 (31%)	4 (13%)	18 (56%)
Snohomish	37	12 (32%)	2 (5%)	23 (62%)
Spokane	32	9 (28%)	1 (3%)	22 (69%)
Yakima	29	22 (76%)	0 (0%)	7 (25%)
Counties Combined:	302*	119 (39%)	16 (5%)	167 (55%)
X AGE:	18.20	18.00	18.43	18.00

\*302/384 = 79%. (384 = the total number of cases with children)

TABLE 18 - LIFE INSURANCE PROVIDED

COUNTY	# CASES INFO. AVAILABLE ON	# CASES BY HUS.	# CASES BY WIFE	# CASES BY BOTH
Lewis	2	1 ( 50%)	0 ( 0%)	1 ( 50%)
Clark	22	12 ( 55%)	0 ( 0%)	10 ( 45%)
King	13	9 ( 69%)	1 ( 8%)	3 ( 23%)
Grant	2	1 ( 50%)	1 ( 50%)	0 ( 0%)
Franklin	6	5 ( 83%)	0 ( 0%)	1 ( 17%)
Kitsap	23	17 ( 74%)	1 ( 4%)	5 ( 22%)
Clallam	2	2 (100%)	0 ( 0%)	0 ( 0%)
Pierce	15	11 ( 73%)	0 ( 0%)	4 ( 27%)
Snohomish	8	4 ( 50%)	0 ( 0%)	4 ( 50%)
Spokane	8	4 ( 50%)	0 ( 0%)	4 ( 50%)
Yakima	6	3 ( 50%)	0 ( 0%)	3 ( 50%)

Counties Combined: 107\* 69 ( 65%) 3 ( 3%) 35 ( 33%)

X AGE: 18.46 18.19 18.00 19.14

\*\*107/384 = 28%. (384 = the total number of cases with children)

TABLE 12 - DAY CARE PROVIDED

COUNTY	# CASES INFO. AVAILABLE ON	# CASES BY HUS.	# CASES BY WIFE	# CASES BY BOTH
Lewis	0	0	0	0
Clark	2	1	0	1
King	6	2	1	3
Grant	0	0	0	0
Franklin	2	1	0	1
Kitsap	4	1	0	3
Clallam	2	1	0	1
Pierce	4	0	0	4
Snohomish	13	2	1	10
Spokane	2	0	0	2
Yakima	1	0	0	1

Counties Combined: 36\* 8 (22%) 2 (6%) 26 (72%)

X AGE: 12.00

\*\*36/384 = 9%. (384 = the total number of cases with children)

TABLE 20 - HIGHER EDUCATION PROVIDED

COUNTY	# CASES INFO. AVAILABLE ON	# CASES BY HUS.	# CASES BY WIFE	# CASES BY BOTH
Lewis	0	0	0	0
Clark	6	1	0	5
King	11	1	0	10
Grant	0	0	0	0
Franklin	2	2	0	0
Kitsap	1	1	0	0
Clallam	0	0	0	0
Pierce	4	0	0	4
Snohomish	5	0	0	5
Spokane	3	1	0	2
Yakima	1	0	0	1

Counties Combined: 33\* 6 (18%) 0 (0%) 27 (82%)

X AGE: 23.17

\*33/384 = 9%. (384 = the total number of cases with children)

TABLE 21 - VISITATION ALLOWED EITHER PARENT

COUNTY	# CASES IN WHICH RES. CUSTODY WAS RECEIVED Sole + Joint = Tot.	NUMBER OF TOTAL CASES			# CASES IN WHICH A RESTRICTION WAS PLACED ON VISIT.
		REASONABLE	LIBERAL	SPECIFIC	
Lewis	30 + 0 = 30	26 (87%)	5 (17%)	22 (73%)	5 (17%)
Clark	39 + 2 = 41	26 (63%) (26/41)	8 (20%)	11 (27%)	5 (12%)
King	31 + 1 = 32	29 (91%)	7 (22%)	12 (38%)	2 (6%)
Grant	31 + 1 = 32	29 (91%)	2 (6%)	16 (50%)	3 (9%)
Franklin	19 + 0 = 19	11 (58%)	3 (16%)	5 (26%)	3 (16%)
Kitsap	38 + 3 = 41	17 (42%)	10 (24%)	14 (34%)	3 (7%)
Clallam	28 + 1 = 29	22 (76%)	2 (7%)	4 (14%)	4 (14%)
Pierce	44 + 2 = 44	39 (89%)	2 (5%)	1 (2%)	2 (5%)
Snohomish	37 + 1 = 38	26 (68%)	7 (18%)	15 (40%)	4 (11%)
Spokane	39 + 1 = 40	25 (63%)	5 (13%)	19 (48%)	9 (23%)
Yakima	45 + 0 = 45	25 (56%)	7 (16%)	11 (24%)	6 (13%)
Counties Combined:	380 + 12 = 393*	275 (70%)	58 (15%)	130 (33%)	46 (12%)

\*There are 384 cases with children. The \* number is higher due to the fact that residential custody of children in any given case may have been divided between each parent (e.g., 1 child to mother and 1 child to the father).



TABLE 22 - VISITATION ALLOWED HUSBAND

COUNTY	# CASES WIFE RECEIVED RES. CUSTODY OF A CHILD Sole + Joint = Tot.	# CASES IN WHICH HUSBAND WAS ALLOWED VISITATION		# CASES IN WHICH A RESTRICTION WAS PLACED ON VISIT.	
		REASONABLE	LIBERAL	SPECIFIC	
Lewis	19 + 0 = 19	17 (90%)	4 (21%)	14 (74%)	4
Clark	34 + 2 = 36	23 (64%) (23/36)	7 (19%)	9 (25%)	5
King	27 + 1 = 28	25 (89%)	6 (21%)	11 (31%)	1
Grant	22 + 1 = 23	21 (91%)	1 (4%)	12 (52%)	3
Franklin	14 + 0 = 14	10 (71%)	1 (7%)	3 (21%)	3
Kitsap	31 + 3 = 34	16 (47%)	7 (21%)	11 (32%)	3
Clallam	25 + 1 = 26	19 (73%)	2 (8%)	4 (15%)	3
Pierce	40 + 2 = 42	35 (83%)	2 (5%)	1 (2%)	2
Snohomish	29 + 1 = 30	23 (77%)	5 (17%)	12 (40%)	3
Spokane	35 + 1 = 36	22 (61%)	5 (14%)	17 (47%)	9
Yakima	34 + 0 = 34	22 (65%)	3 (9%)	8 (24%)	5
Counties Combined:	310 + 12 = 322	233 (72%)	43 (13%)	102 (32%)	41

TABLE 23 - VISITATION ALLOWED WIFE

COUNTY	# CASES HUSBAND RECEIVED RES. CUSTODY OF A CHILD Sole + Joint = Tot.	# OF CASES IN WHICH WIFE WAS ALLOWED VISITATION		# CASES IN WHICH A RESTRICTION WAS PLACED ON VISIT.	
		LIBERAL	REASONABLE	SPECIFIC	
Lewis	11 + 0 = 11	9 (82%)	1 (9%)	8 (73%)	1
Clark	5 + 2 = 7	3 (43%) (3/7)	1 (14%)	2 (29%)	0
King	4 + 1 = 5	4 (80%)	1 (20%)	1 (20%)	1
Grant	9 + 1 = 10	8 (80%)	1 (10%)	4 (40%)	0
Franklin	5 + 0 = 5	1 (20%)	2 (40%)	2 (40%)	0
Kitsap	7 + 3 = 10	1 (10%)	3 (30%)	3 (30%)	0
Clallam	3 + 1 = 4	3 (75%)	0 (0%)	0 (0%)	1
Pierce	4 + 2 = 6	4 (67%)	0 (0%)	0 (0%)	0
Snohomish	8 + 1 = 9	3 (33%)	2 (22%)	3 (33%)	1
Spokane	4 + 1 = 5	3 (60%)	0 (0%)	2 (40%)	0
Yakima	11 + 0 = 11	3 (27%)	4 (36%)	3 (27%)	1
Counties Combined:	71 + 12 = 83	42 (51%)	15 (18%)	28 (34%)	5

TABLE 24 - NUMBER OF RESTRICTIONS PLACED ON VISITATION  
FOR ALL COUNTIES COMBINED

RESTRICTION	# PLACED ON HUSBAND (# OF CASES)	# PLACED ON WIFE (# OF CASES)	TOTAL CASES
Not Around Spouse	1	0	1
visitation Denied	8	0	8
Can't Leave County/State	4	1	5
Supervised	8	2	10
Drug/Alcohol Free	9	1	10
After Counseling/ Counseling Must Continue	6	0	6
With Permission of Custodial Parent	2	0	2
Other	3	1	4
Total	41	5	46
# Cases Residential Custody Awarded:			381
To Wife:	310		
To Husband:		71	
Percent of cases with restrictions:			
On Wife:		7%	
On Husband:	13%		
Total:			12%

TABLE 25 - ATTORNEY FEES PROVIDED

COUNTY	# WIVES REPRESENTED BY ATTORNEYS	# ATTORNEY FEES PROVIDED (HUSBAND PAYS WIFE'S FEE)	AVERAGE AMOUNT OF WIFE'S ATTORNEY FEE PAID BY HUSBAND	# HUSBANDS REPRESENTED BY ATTORNEY*
Lewis	16	7 (44%) (7/16)	\$ 300.00	9
Clark	21	13 (62%)	\$ 545.33	19
King	25	7 (28%)	\$ 497.80	10
Grant	12	6 (50%)	\$ 386.67	17
Franklin	6	5 (83%)	\$ 528.00	0
Kitsap	16	8 (50%)	\$ 467.00	14
Clallam	13	11 (85%)	\$ 671.75	5
Pierce	38	5 (13%)	\$ 434.00	6
Snohomish	18	5 (28%)	\$1,044.00	12
Spokane	24	7 (29%)	\$ 700.00	13
Yakima	25	11 (44%)	\$ 437.80	9
Counties Combined:	214 (31%)	85 (40%)	\$ 543.11	114 (16%)
MEDIAN AMT.			\$ 400.00	

\*In no cases were attorney fees awarded to the husband (to be paid by the wife).

TABLE 26 - AVERAGE LENGTH OF MARRIAGE WHEN MAINTENANCE IS PROVIDED

COUNTY	X LENGTH OF MARRIAGE IF PERM. MAIN. X # CASES	X LENGTH OF MARRIAGE IF NON-PERM. MAIN. X # CASES	X LENGTH OF MARRIAGE IF EITHER TYPE PROV. X # CASES
Lewis	-	10.20	10.20
Clark	-	11.38	11.38
King	20.00	19.86	19.88
Grant	35.00	12.80	19.14
Franklin	-	24.00	24.00
Kitsap	24.00	13.17	15.88
Clallam	32.00	11.50	16.62
Pierce	42.00	12.83	17.00
Snohomish	28.50	13.43	16.78
Spokane	-	18.80	18.80
Yakima	16.00	5.33	8.00
Counties Combined:	28.82	13.70	16.04
MEDIAH LENGTH:	27.50	13.00	14.00

TABLE 27 - MAINTENANCE AWARDED BY LENGTH OF MARRIAGE (PER 10 YEAR BLOCKS)

COUNTY	MARRIED <10 YRS		MARRIED 10-20 YRS		MARRIED 21-30 YRS		MARRIED >31 YRS	
	# CASES MAIN.	TOTAL # CASES	# CASES MAIN.	TOTAL # CASES	# CASES MAIN.	TOTAL # CASES	# CASES MAIN.	TOTAL # CASES
Lewis	40	2 ( 5%)	10	3 (30%)	4	0 ( 0%)	0	0 (-)
Clark	43	3 ( 7%)	25	5 (20%)	3	0 ( 0%)	0	0 (-)
King	45	0 ( 0%)	25	6 (24%)	2	0 ( 0%)	2	2 (100%)
Grant	28	1 ( 4%)	14	4 (29%)	6	1 (17%)	2	1 ( 50%)
Franklin	14	0 ( 0%)	6	1 (17%)	4	0 ( 0%)	2	1 ( 50%)
Kitsap	43	3 ( 7%)	22	2 ( 9%)	5	3 (60%)	1	0 ( 0%)
Clallam	33	2 ( 6%)	17	4 (24%)	4	1 (25%)	1	1 (100%)
Pierce	46	2 ( 4%)	20	4 (20%)	7	0 ( 0%)	2	1 ( 50%)
Snohomish	53	2 ( 4%)	17	5 (29%)	2	1 (50%)	2	1 ( 50%)
Spokane	46	0 ( 0%)	20	2 (10%)	6	3 (50%)	2	0 ( 0%)
Yakima	46	3 ( 7%)	22	1 ( 5%)	1	0 ( 0%)	6	0 ( 0%)
Counties Combined:	437	18 ( 4%)	198	37 (19%)	44	9 (21%)	20	7 ( 35%)

**APPENDIX G**  
**GENDER AND JUSTICE TASK FORCE**  
**BIBLIOGRAPHY**





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