

1997 Summary Report on Supreme Court's Efforts to Implement Recommendations of the Citizens Commission to Improve Michigan Courts and the Race/Ethnic and Gender Issues Task Force

In 1986 the Supreme Court issued a report by the Citizens Commission to Improve Michigan Courts in an effort to identify concerns citizens had about the fairness and operation of our trial courts. The report contained 50 recommendations for improving the condition of our judicial system. Recommendation #45 called for the appointment of a successor committee/commission to solicit the views of citizens in a more detailed fashion. As a result, the Court created the Race/Ethnic and Gender Issues Task Forces in 1987.

In December, 1989 the Michigan Supreme Court was presented with two major reports concerning racial/ethnic and gender issues in the courts. Each report contained over 150 recommendations and called for significant changes in the justice system. The recommendations were addressed not only to the judiciary but to law schools, the private bar, county prosecutor operations and other law enforcement agencies, the state legislature, and the executive branch.

A substantial majority of the recommendations made by the Citizens Commission and bias task forces have either been implemented or are in the process of being implemented. Many of the implementation efforts are continuous or ongoing (for example, court rule revision, training, public education, and management assistance). There are some recommendations such as legislative, State Bar, and law schools that the Court has no authority to address.

During the eight years since the issuance of the task force reports, the Supreme Court has made steady progress toward addressing many of the issues identified in the task force recommendations including the following activities:

- The SCAO has created models and guidelines for courts on child support, parenting time, and custody issues. In addition, pro se forms and instructions pertaining to domestic relations issues have been developed for use by litigants in Michigan courts.
- The SCAO staff include/review issues of race and gender bias when conducting management studies and investigations. Steps are currently being taken to revise the management study guides SCAO uses as a part of conducting management assistance to include questions on access, equal treatment, race, and gender bias issues.
- The SCAO developed model policies for courts on sexual harrassment, family leave, equal opportunity employment, and employee performance evaluations.
- The Supreme Court directed chief judges to develop Equal Employment Opportunity (EEO) plans and directed that the plans and other information on

court employment and appointments be provided to the State Court Administrative Office.

- The SCAO created and distributed a poster and brochure on the importance of bias-free behavior in the courts. In addition, SCAO staff conducts in-service training programs for local courts on the importance of a bias-free court system.
- The Supreme Court and the SCAO continue to work with other legal system organizations and associations on issues related to equal justice and access to the courts.
- The SCAO continues an ongoing public education program through the use of brochures, public service announcements, public speaking engagements, etc. to educate citizens on their rights and options available in the legal system. The telephone information system (TeleCourt) represents a major piece of this public information effort. In addition, the Supreme Court has developed a web site that Internet users can use to access basic information about court operations and issues in Michigan.
- The SCAO created pro se forms and instructions for use in circuit courts to allow domestic violence and stalking victims to obtain pro se personal protection orders.
- The SCAO conducted a series of “in-house” training seminars on bias for staff.
- Staff positions within State Court Administrative Office and the Michigan Judicial Institute have been established to continue the process of implementing recommendations of the Citizen’s Commission and Michigan Supreme Court Task Forces on Gender and Racial/Ethnic Issues in the Courts.
- The Supreme Court strengthened the Rules of Professional Conduct and the Code of Judicial Conduct regarding discrimination.
- The SCAO offered a training program for judges and court administrators in 1995 on the use of interpreters in the courts. In addition, the SCAO has issued a model court accommodations policy for use in Michigan courts and has developed forms and procedures citizens with disabilities can use to obtain appropriate access to courts. Public Service messages (PSA’s) will also be issued in conjunction with this project.
- The Supreme Court revised court rules pertaining to mediation (MCR 2.403, 2.404) which calls for the development of process and procedure to monitor and track the mediator appointment process.

- The Supreme Court issued new court rules pertaining to personal protection orders.

The SCAO has also requested general fund money to enable Michigan to join the NCSC Foreign Language Interpretation Consortium which would allow us to begin the process of testing and certification of foreign language interpreters for use in Michigan Courts.

The following represents MJI training efforts that have occurred since the Task Force reports/ recommendations were issued in 1989.

Gender Bias Recommendations V-13, V-15, and V-19

These recommendations addressed the issues of domestic violence and the battered womans syndrome. Here are some examples of our efforts in that area:

In 1989, MJI solicited and developed an article for its judicial journal, COLLEAGUE, on domestic violence. The article, *Domestic Violence & The Courts: One Systematic Approach* discussed the innovative approach used to handle cases involving domestic violence implemented in Ypsilanti Township in 1988. The article, printed in the COLLEAGUE journal, was mailed to all Michigan judges in December 1989.

In 1991 MJI participated in a national project to develop and implement a national judicial education curriculum. Although the focus of the national project was on the crucial role of the criminal court judge; MJI expanded the curriculum for its state presentation so that it covered both criminal and civil matters. MJI served as one of two states to hold a pilot seminar, where the nationally developed curriculum was used in a one-day, state judicial education program on Domestic Violence. MJI also conducted four additional one-day seminars using the refined curriculum from the *Domestic Violence Pilot Seminar* as part of our *Regional Judicial Seminars*.

At all five seminars, judges from the three trial courts, as well as the Court of Appeals, participated. The seminars allowed the judges to participate in discussions on: pretrial release considerations, preliminary hearings, trial considerations, diversion and sentencing, in cases involving domestic violence; issuing ex parte criminal restraining orders, issuing mutual restraining orders, enforcement of criminal restraining orders, and making decisions about joint custody, visitation, and settlement in cases involving domestic violence. For the probate court, a separate presentation was developed that examined the issues in a protective proceedings case involving domestic violence.

In November of 1991, MJI obtained a grant from the State Justice Institute to fund a training seminar for district court magistrates on domestic violence. The seminar focused on pretrial release considerations and conducting an arraignment in cases involving domestic violence. The

seminar was held in May of 1992.

In December of 1991, our issue of COLLEAGUE contained two additional articles on the issue of domestic violence. MJI solicited and developed these articles for use in its judicial journal. The articles discussed the dynamics of domestic violence and the changes Michigan judges made in their courts after participating in an MJI seminar on domestic violence. The articles, were printed in the COLLEAGUE journal, and mailed to all Michigan judges in December 1991.

In February of 1993 , a seminar for District Court Probation Officers contained a specific segment on domestic violence

In October 1993, a seminar for judges addressed scientific evidence issues. This included syndrome evidence such as the battered womans syndrome.

In April 1994, one live seminar session and three video teleconferencing sessions were held for judges on domestic violence.

Joint Recommendation IX-6

This recommendation calls for judicial education related to gender and race/ethnic bias in the courts to be a permanent component of the new judges seminar as well as regional seminars and separate curricula for judges.

Since the report was issued, a permanent component of each *New Judges Seminar* has been a session on Fairness in the Courts which uses as part of the curriculum the recommendations of the Task Forces as well as testimony obtained during the Task Force hearings. In addition to the specific session on Fairness in the Courts, the curriculum, exercises and materials for the procedural and substantive law sessions during the seminar, are designed to examine the issues of race/ethnic and gender bias.

Issues related to gender and race/ethnic bias are regularly incorporated into the Institutes Regional Judicial Seminars. The 1991-92 *Regional Judicial Seminars* included a course on Employment Discrimination Claims Under Elliott-Larson Civil Rights Act and the Handicappers Civil Rights Act. During the 1992-93 Regional Seminars, a session was conducted on Baston v Kentucky: State of the Law on Peremptory Challenges. The current 1994-95 Regional Judicial Seminar contains a course on Ethics which addresses the relationship between ethics and fairness in the courts.

In September 1993, a seminar entitled *ADA and the Courts* was offered to 50 judges and court administrators representing those court personnel responsible for developing and implementing policy and procedure relating to court accessibility and personnel issues. The program was designed to provide an opportunity for them to examine the impact of the Americans with

Disabilities Act on the administrative aspects of court operations.

In December 1994, the Institute conducted a four-day seminar entitled *Judicial Decision Making: Minding the Courts Now and in the Future*. This seminar is designed to challenge judges to examine the impact of their jurisprudential, legal, social, cultural, and psychological orientations on the judicial decision making process.

Joint Recommendation IX 8 and Racial/Ethnic Bias Recommendation V-7

These recommendations call for regular training to be conducted for court employees on the issues of gender and race/ethnic bias and their relation to the proper function of the court. Programs conducted for a broad range of court personnel have components which address these recommendations.

Examples:

Seminars on *Family Counseling and Counseling Diverse Client Populations* are offered every year for juvenile court caseworkers, district court probation officers and friend of the court personnel. The *Friend of the Court New Employee Orientation Seminar* has specific sessions which address Domestic Violence and Related Social Issues, and Concerns About Racial and Gender Sensitivity in Michigan Courts. The *Basic Counseling and Interviewing Techniques Seminar* which is held annually for new juvenile court caseworkers contains specific sessions on Multi-cultural Counseling.

Racial/Ethnic Bias Recommendations V-5, VI-4, VI-5 and Gender Bias Recommendation VII-3.

The Michigan Judicial Institute undertook specific efforts to develop training curricula which could be used by court supervisory personnel to train their employees on issues related to race/ethnic and gender bias. The core of this effort was a project which included the development of a videotape and accompanying instructional materials entitled *The Courts Image: Differences and Perceptions*. This tape presents court-specific scenarios that depicted various interactions between court employees, and between court employees and the public. To encourage the use of these materials in local trial courts, MJI has annually conducted a seminar entitled *Train the Trainer for Supervisory Personnel*. The most recent offering was in September, 1993. This 1993 seminar was designed in response to calls from various courts that requested assistance with implementation of diversity training on the local court level. The focus of the seminar was teaching participants the process of coordinating or designing in-court training programs relating to diversity issues.

In addition, with a grant from the Criminal Justice Training Commission, the Institute undertook a project to conduct seminars for court support employees designed to implement these

recommendations. In 1991, the Institute conducted five, one-day regional seminars entitled *Understanding Diversity in the Courts* for court support staff. 325 court support personnel attended these seminars.

The seminar topics included:

1. Relationship between ones personal value system and ones perceptions.
2. How ones perceptions may lead to prejudices and discriminating behaviors.
3. The origin and effect of offensive verbal and non-verbal communications in the workplace.
4. Preventive strategies and effective response methods for use when biased interactions occur in the workplace.

In 1992, the Institute conducted seven, one-day seminars regionally entitled *Victim and Witness Issues in the Courts*. These seminars were attended by 110 court support personnel. The seminar was designed to help court employees respond to and heighten their awareness of the special needs of citizens who become involved with the Michigan Court System as witnesses or victims of crime.

As part of a current grant, approximately 500 court support staff will attend a seminar entitled “Your Role and the Role of Other in the Justice System”. A portion of this seminar will focus on the court employees role in fairness in the courts.

Racial/Ethnic Bias Recommendations VI-1, VI-4 and Gender Bias Recommendation VII.

These recommendations focus on the administrative functions and administrative personnel in the court systems.

In 1991, MJI received grant funding from the Michigan Council for the Humanities to implement a *Humanities and Humane Courts Seminar*. This was a 2-1/2 day seminar for judges and court administrators, that gave participants the opportunity to examine the judicial process through the mediums of literature, drama and film. All of the texts and films used in the seminar included themes of power and inequity and were related to issues of race, class, gender, etc. Participants used these works to relate the themes to their daily lives and to examine their duties and responsibilities as public servants as well as the overall concept of justice.

In 1992, a series of seminars were conducted entitled *Diversity Training for Court*

Administrators: Humane Court Management . The programs were offered at four locations around the state to some 160 court administrators and supervisors. The seminar was designed to increase the participants awareness, general knowledge of, and sensitivity to, diversity issues as they relate to the day-to-day functions of the court.

In 1994, MJI produced a videotape entitled **Personnel and Your Diverse Workforce**, and conducted two seminars for court administrators focusing on the subject of fair and equitable personnel management in the courts.