

APPENDIX

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**CHARGE
TO THE
TASK FORCE**

IT IS HEREBY ORDERED that the Minnesota Task Force for Gender Fairness in the Courts be, and hereby is, established to:

1. Explore the extent to which gender bias exists in the Minnesota State Court System, by ascertaining whether statutes, rules, practices or conduct work unfairness or undue hardship on women or men in our courts;
2. Document where found the existence of discriminatory treatment of women or men litigants, witnesses, jurors, and of women judicial, legal, and court personnel;
3. Recommend methods to eliminate gender bias in the courts including the development and provision of necessary judicial education, the passage of legislation and the promulgation of court rule and policy revisions;
4. Report the findings of its investigation to this Court by June 30, 1989; and
5. Monitor, thereafter, the implementation of approved reform measures and evaluate their effectiveness in assuring gender fairness in our courts' processes.

From: Order Establishing the Task Force for
Gender Fairness in the Courts (June 8, 1987)

Public Hearings

St. Paul, Minnesota	March 29, 1988 and April 19, 1988
Rochester, Minnesota	April 26, 1988
Duluth, Minnesota	May 10, 1988
Marshall, Minnesota	May 24, 1988
Moorhead, Minnesota	June 7, 1988

Lawyers' Meetings

Minneapolis, Minnesota	April 20, 1988
Rochester, Minnesota	April 26, 1988
Duluth, Minnesota	May 10, 1988
St. Cloud, Minnesota	January 18, 1989

Survey Methodology

Most of the gender fairness task forces in other states surveyed attorneys and, in some states, judges, about their perceptions of gender issues in the courts. These surveys generally had quite low response rates, raising questions about how representative the results were and the extent to which they could be generalized to all attorneys or judges. The Minnesota Task Force elected to employ a somewhat different strategy, in the hopes of maximizing the accuracy of survey results with the resources available.

As in other states, the survey questionnaire was sent to the approximately 13,000 registered attorneys in the state in order to raise awareness of the issues before the Task Force and to give all attorneys the opportunity to comment and to relate their experiences. All narrative comments from these surveys were transcribed and are part of the evidence upon which the report of the Task Force is based.

Coterminously with this effort, 4288 of the attorneys were randomly selected to form a representative sample, stratified by gender and geographic location, of the population of all registered attorneys in the state. The list of registered attorneys were divided into four strata – metro males, metro females, non-metro males, and non-metro females – within which names were randomly selected for inclusion in the sample. Placement in to the male and female categories was done on the basis of first names; indeterminate cases were placed in the larger male categories. Placement in the metro (Twin Cities and suburbs) and non-metro categories was based on the zip code of the address under which the attorney was registered. Attorneys with addresses in distant states were assigned to the metro categories under the assumption that they would most likely practice in the metro area, if at all. Attorneys in bordering states – Iowa, Wisconsin, North and South Dakota – were assigned to the non-metro categories. These placement rules inevitably produced some misplacements and incomparabilities. Some attorneys use home addresses, other business addresses. Attorneys may live outside the metro area but practice in it or vice versa. However, cross-tabulation placement in these strata with the responses attorneys gave us in their completed questionnaire showed a high level of congruity.

The proportions of the population of Minnesota attorneys in the four strata are as follows: metro males, 63%; metro females, 17%; non-metro males, 17%; non-metro females, 3%. In order to obtain sufficient cases for analysis in the smaller strata, the strata were sampled disproportionately. Non-metro females were sampled at four times the rate of metro males; metro females and non-metro males were sampled at twice the rate of metro males. Whenever strata are combined in the analysis in this report, responses were weighted to reflect their appropriate proportions in the population as a whole. Because the percentages in the attorneys' survey are based on these weighted numbers rather than the actual number of responses, the number of cases is not routinely shown in tables.

The sampling error for the total is approximately +/- 2% at the 95% level of confidence. This is a pooled estimate of the sampling error of the four strata, using a finite correction factor to take account of the large and varying sampling fraction in the four strata. Since only subsamples answered most portions of the questionnaire, the sampling error for most reported results is effectively larger than this. For example, the sampling error for results in the family law section is approximately +/- 4%.

The overall response rate for the lawyers' survey was 83.5%. The response rates for the four strata ranged from 82% to 86% with the two non-metro strata having slightly higher rates than the two metro categories. This response rate is very high for mailed questionnaires and the evenness of the response rate across strata is very encouraging. Readers should be aware, however, that any bias introduced by non-responses as well as any problems with the validity or reliability of survey items produces error in addition to sampling error. This additional error, unlike sampling error, cannot be estimated.

The judges' survey was sent to 281 people (all Minnesota district court judges, retired judges, referees, and judicial officers). Ninety-three percent responded, an excellent response rate. Since the entire population of judges was surveyed, there is no issue of sampling error in the judges' survey. However, the 7% non-response rate and any problems of question wording may introduce error in the results. Furthermore, because the number of female judges in the population is so small, percentages based on the number of female judges can be unstable (i.e. the shift of one judge from one response category to another can make a difference of five percentage points).

The "total design method" developed by Don A. Dillman was used in both the lawyers' and judges' surveys to obtain as high a response rate as possible. A cover letter from the Chief Justice was sent with the original mailing, stressing the importance of the issues and asking cooperation. Two waves of follow-up mailings were sent to non-responding attorneys in the probability sample and to judges, encouraging participation.

Copies of the questionnaires used in the lawyers' and judges' surveys are included in this appendix. Many of the questions were taken or modified from surveys done in other states. Other questions were developed by the substantive committees of the Minnesota Task Force and reviewed by the Data Collection Committee. Both questionnaires were pre-tested prior to implementation.

The intention of the surveys was to assess the recent experiences and perceptions of attorneys and judges about areas of the court system with which they were most knowledgeable and familiar. To this end, attorneys and judges were asked to fill out only those parts of the questionnaire dealing with substantive areas in which they presently handle or have handled cases during the last two years. Attorneys who had not appeared in court in the previous two years were asked to complete only personal background information.

Percentages of the total sample of attorneys completing the various portions of the questionnaire are as follows:

	<u>Metro Males</u>	<u>Metro Females</u>	<u>Nonmetro Males</u>	<u>Nonmetro Females</u>
Orders for Protection	13	14	35	37
Criminal domestic violence	12	9	28	21
Criminal sexual conduct	8	6	23	13
Family law	22	24	50	56
Child custody	12	15	35	39
Civil damages	26	17	40	18
Gender discrimination	8	8	9	8
Courtroom interaction	62	56	85	81
Not in court in last 2 years (completed background information only)	34	40	15	19

All judges were asked to complete background information and courtroom interaction sections of the questionnaire as well as those substantive sections in which they had handled cases in the last two years. The percentages of judges who responded to the various substantive sections of the questionnaire are as follows:

% of Judges Responding:

Orders for Protection	79
Domestic violence (criminal)	83
Criminal sexual conduct	80
Family law	73
Civil damages	67
Gender based employment discrimination	23
Adult sentencing	87

Attorneys Survey

Thank you for helping the Minnesota Gender Fairness Task Force by answering this survey. You will need to answer only selected parts of the questionnaire. For example, most attorneys who do not regularly appear in court will answer only Part A (Background). Attorneys who do regularly appear in court will answer Part A, Part G (Access to Representation), Part H (Courtroom interaction), and other parts only if they are involved in that substantive area of the law. As you go through the questionnaire, directions will indicate which parts to complete and which to skip. Questions at the beginning of several sections ask how many times you have "represented a party" in specific types of cases. Please interpret "represented a party" broadly to include first chair, second chair, advised, represented the state, and so on.

Although most questions ask you just to circle a response, please add additional comments wherever you think they would clarify your answer. Some areas of concern to the task force, such as gender fairness in sentencing, are not addressed in this survey because they are being studied by other methods. But if you wish to comment further on any gender-related issue, please do so on the blank pages at the end. You may find that as you go through the questionnaire you wish to change some previous answers or add more comments to a section you have already finished. Please feel free to do so. We're interested in your best thinking on these issues.

All responses will be treated confidentially and no individuals will be identifiable in any reports of the results. Please return the completed questionnaire within one week of its receipt.

Everyone should complete Part A.

A. GENERAL BACKGROUND INFORMATION

Please circle the appropriate response or fill in the information in the space provided

1. Sex:
1 MALE
2 FEMALE
2. Year of birth: _____
3. Year in which you were first admitted to practice (in any state): _____
4. Number of years you have been actively engaged in the practice of law: _____
5. Number of years you have been employed in your current position: _____
6. Number of different jobs you have held in the legal profession (including clerkships): _____
7. Judicial district (or county) in which you primarily practice: _____
8. Number of attorneys in your immediate office: _____
9. Approximately what percentage of your clients are women? _____

10. Which of the following best describes your current employment?

- 1 ACADEMIC
- 2 CORPORATE
- 3 GOVERNMENT/PUBLIC SECTOR
- 4 PRIVATE PRACTICE – SOLO PRACTITIONER
- 5 PRIVATE PRACTICE – LAW FIRM
- 6 LEGAL SERVICES
- 7 OTHER EMPLOYMENT (PLEASE SPECIFY _____)

11. In which area(s) of specialty do you regularly practice? (Circle all that apply)

- 1 GENERAL PRACTICE
- 2 FAMILY LAW
- 3 CIVIL LITIGATION
- 4 LABOR/EMPLOYMENT
- 5 APPELLATE
- 6 CRIMINAL
- 7 CORPORATE
- 8 REAL ESTATE
- 9 OTHER (PLEASE SPECIFY _____)

12. How often were you present in Minnesota state court or in chambers in the last two years?

- 1 DAILY
 - 2 WEEKLY
 - 3 ONCE OR TWICE A MONTH
 - 4 LESS THAN ONCE A MONTH
 - 5 NEVER
- (IF NEVER, IT IS NOT NECESSARY TO FILL OUT THE REMAINDER OF THE QUESTIONNAIRE. PLEASE RETURN IT IN THE ENCLOSED ENVELOPE. THANK YOU FOR YOUR HELP.)

PARTS B THROUGH F DEAL WITH SUBSTANTIVE AREAS OF THE LAW. THE DIRECTIONS WILL INDICATE WHICH OF THESE SECTIONS TO ANSWER. PARTS G AND H SHOULD BE ANSWERED BY ALL ATTORNEYS WHO APPEAR IN COURT OR CHAMBERS.

B. DOMESTIC VIOLENCE (BETWEEN ADULTS)

For purposes of this questionnaire, please consider only domestic violence involving spouses or adult partners -- NOT child abuse. The following questions are divided into two sections, the first concerning civil proceedings for Orders for Protection, the second concerning criminal prosecutions for assault. Please circle the response that comes closest to your own experience or observation of these decisions in Minnesota state trial courts during the last two years. IF A QUESTION REFERS TO AN AREA IN WHICH YOU HAVE NO EXPERIENCE, CIRCLE 'NO BASIS FOR JUDGMENT.'

Domestic Violence (between adults) - Orders for Protection.

B-1. In approximately how many Order for Protection proceedings in Minnesota state courts have you represented a party during the last two years? _____ (IF NONE, PLEASE SKIP TO SECTION B-2)

Approximate no. of cases: _____
No. of male clients: _____
No. of female clients: _____

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
1. Petitioners get assistance from court personnel in understanding how to seek an Order for Protection.	1	2	3	4	5	8
2 Respondents get assistance from court personnel in understanding the nature of the proceedings against them.	1	2	3	4	5	8
3. Domestic assault victims are represented by counsel during proceedings for Orders for Protection.	1	2	3	4	5	8
4. Respondents in proceedings for Orders for Protection are represented by counsel.	1	2	3	4	5	8
5 <u>Mutual</u> Orders for Protection are ordered even when only one party has petitioned for the order.	1	2	3	4	5	8
6 Respondents are given the opportunity to contest <u>ex parte</u> Orders for Protection at their initial court appearance.	1	2	3	4	5	8
7 Judges sentence convicted misdemeanor violators of Orders for Protection to jail.	1	2	3	4	5	8
8 During Order for Protection proceedings, judges give serious consideration to requests for supervised visitation.	1	2	3	4	5	8
9 Court personnel discourage potential petitioners from seeking Orders for Protection.	1	2	3	4	5	8
10 Do you have any examples or illustrations of gender bias or gender-related problems in the use and enforcement of Orders for Protection? If so, please describe.						

Domestic Violence (Between Adults) - Criminal

B-2. In approximately how many criminal domestic violence proceedings in Minnesota have you represented a party during the last two years? _____ (IF NONE, PLEASE SKIP TO SECTION C)

Approximate no. of cases

Served as Prosecutor
 Cases with male victim _____
 Cases with female victim _____

Served as Defense Counsel
 Cases with male client _____
 Cases with female client _____

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
1. The victim's testimony alone is regarded by prosecutors as a sufficient basis for prosecution of a domestic assault charge	1	2	3	4	5	8
2. Mandatory arrest policies result in police charging defendants with domestic assault without probable cause	1	2	3	4	5	8
3. Judges require a statement of reasons by the prosecutor for dismissal of a domestic assault charge prior to trial.	1	2	3	4	5	8
4. Crime victims' rights legislation interferes with the sound exercise of prosecutorial discretion in domestic violence cases.	1	2	3	4	5	8
5. Prosecutors notify victims of domestic assault prior to dismissing criminal charges against the alleged assailant.	1	2	3	4	5	8
6. Judges sentence convicted misdemeanor violators of Orders for Protection to jail.	1	2	3	4	5	8
7. <u>In setting bail or conditions of release,</u> judges take account of the ongoing safety requirements of the victim.	1	2	3	4	5	8
8. <u>In sentencing those convicted of domestic assault,</u> judges take account of the ongoing safety requirements of the victim.	1	2	3	4	5	8
9. The attitudes of <u>law enforcement personnel</u> discourage victim cooperation in domestic assault cases.	1	2	3	4	5	8
10. The attitudes of <u>prosecutors</u> discourage victim cooperation in domestic assault cases.	1	2	3	4	5	8

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
11. The attitudes of <u>judges</u> discourage victim cooperation in domestic assault cases.	1	2	3	4	5	8
12. Prosecutorial offices commit adequate resources to the prosecution of domestic assault cases.	1	2	3	4	5	8
13. Victim advocate programs, such as domestic abuse intervention projects, decrease the rate of dismissals in domestic assault prosecutions.	1	2	3	4	5	8
14. Judges are reluctant to use criminal sanctions as a remedy for domestic violence.	1	2	3	4	5	8
	MALE	FEMALE	NO DIFFERENCE		NO BASIS FOR JUDGMENT	
15. Domestic assault cases are more likely to be <u>charged</u> if the prosecutor is:	1	2	3		8	
16. Domestic assault prosecutions are more likely to be successful if the <u>judge</u> is:	1	2	3		8	
17. Domestic assault prosecutions are more likely to be successful if the <u>prosecutor</u> is:	1	2	3		8	
18. Do you have any examples or illustrations of gender bias or gender-related problems in domestic violence prosecutions? If so, please describe. (Use additional pages if needed)						

C. CRIMINAL SEXUAL CONDUCT

In approximately how many criminal sexual conduct cases in Minnesota state courts have you represented a party during the last two years? _____ (IF NONE, PLEASE SKIP TO SECTION D)

Approximate no. of cases

Served as prosecutor _____
 Served as defense counsel _____

Cases heard by male judge _____
 Cases heard by female judge _____

The following questions refer to judicial decisions at the trial court level in criminal sexual conduct cases. Please circle the response that comes closest to your own experience or observation of such cases in Minnesota state courts during the last two years. IF A QUESTION REFERS TO AN AREA IN WHICH YOU HAVE NO EXPERIENCE, CIRCLE 'NO BASIS FOR JUDGMENT.'

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
1 Other factors being equal, bail in criminal sexual conduct cases where the parties know one another is set lower than in cases where the parties are strangers.	1	2	3	4	5	8
2 When there is improper questioning about complainant's prior sexual conduct, the judge intervenes if the prosecutor does not.	1	2	3	4	5	8
3 Cross-examination of the complainant in "date rape" cases goes beyond what is necessary to present a consent defense.	1	2	3	4	5	8
4 Other factors being equal, judges give more lenient sentences in "date rape" cases than in "stranger rape" cases.	1	2	3	4	5	8
5 Defense attorneys appeal to gender stereotypes (for example, "women say no when they mean yes"; "provocative dress is an invitation") in order to discredit the victim in criminal sexual conduct cases.	1	2	3	4	5	8

	MALE	FEMALE	NO DIFFERENCE	NO BASIS FOR JUDGMENT
6. In criminal sexual conduct cases, when the perpetrator is an adult male and the victim is a juvenile, the sentence is more severe if the victim is:	1	2	3	8
7. In criminal sexual conduct cases, bail is set higher when the judge is:	1	2	3	8
8. Questioning about the past sexual conduct of the victim in criminal sexual conduct cases is more likely to be limited by a judge who is:	1	2	3	8
9. Questioning about the past sexual conduct of the victim in criminal sexual conduct cases is more likely to be limited when the defense counsel is:	1	2	3	8
10. Sentences for criminal sexual conduct convictions are likely to be more lenient if the judge is:	1	2	3	8
11. Do you have any examples or illustrations of gender bias or gender-related problems in judicial decision-making in criminal sexual conduct cases? If so, please describe. (Use additional pages if needed)				

D. FAMILY LAW

In approximately how many family law cases in Minnesota state courts have you represented a party in the last two years? _____ (IF NONE, PLEASE SKIP TO PART E)

The following questions refer to judicial decisions at the trial court level in family law cases in the Minnesota courts. Please circle the response that comes closest to your own experience or observation of these decisions in Minnesota state courts during the last two years. IF A QUESTION REFERS TO AN AREA IN WHICH YOU HAVE NO EXPERIENCE, CIRCLE 'NO BASIS FOR JUDGMENT.'

Marital Property

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
1. When a wife's primary contribution has been as a homemaker, judges view the husband's income producing contribution as entitling him to a larger share of the marital property.	1	2	3	4	5	8
2. When one spouse has built and run a privately owned business, judges consider the contribution of the homemaker spouse as a contribution to the business.	1	2	3	4	5	8
3. When the family business is a farm, judges give preference to the husband in deciding who should get the farm in the distribution of marital property.	1	2	3	4	5	8

Spousal Maintenance

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
4. In awarding <u>rehabilitative maintenance</u> , judges have a realistic understanding of the likelihood of the economically dependent spouse finding employment.	1	2	3	4	5	8
5. Rehabilitative maintenance awards are sufficient to allow retraining of the economically dependent spouse.	1	2	3	4	5	8
6. Judges are willing to grant increases in maintenance awards when increases are warranted.	1	2	3	4	5	8
7. Judges are willing to grant decreases in maintenance awards when decreases are warranted.	1	2	3	4	5	8
8. The courts adequately enforce maintenance awards.	1	2	3	4	5	8
9. In awarding <u>permanent maintenance</u> , judges appear to have a realistic understanding of the likely future earnings of a homemaker who has been out of the labor force for a long period of time.	1	2	3	4	5	8

10. What minimum definition of a "long-term marriage" do judges usually use in deciding to award permanent maintenance?

- 1 UNDER 10 YEARS
- 2 10-15 YEARS
- 3 16-20 YEARS
- 4 21-25 YEARS
- 5 MORE THAN 25 YEARS
- 6 NO BASIS FOR JUDGMENT

11. In deciding the size of spousal maintenance awards, judges are more likely to sacrifice the current life style of the:

- 1 HUSBAND
- 2 WIFE
- 3 BOTH EQUALLY
- 4 NO BASIS FOR JUDGMENT

Child Support

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
12. Judges are willing to grant post-judgment decreases in child support when such decreases are warranted.	1	2	3	4	5	8
13. Judges are willing to grant post-judgment increases in child support when such increases are warranted.	1	2	3	4	5	8
14. Judges deviate upward from the child support guidelines when the ability to pay of the non-custodial parent warrants it.	1	2	3	4	5	8
15. Judges deviate upward from the child support guidelines when special needs of the child warrant it.	1	2	3	4	5	8
16. Judges consider day care expenses when determining the amount of child support.	1	2	3	4	5	8
17. Judges are willing to exercise their civil contempt powers to enforce child support orders.	1	2	3	4	5	8
18. Judges are willing to jail non-payers of child support as a final step in the civil contempt process.	1	2	3	4	5	8
19. When wage withholding is not mandatory, I encourage my clients who are non-custodial parents to use voluntary wage withholding for payment of child support.	1	2	3	4	5	8

Child Custody

Approximate number of child custody cases you have handled in the past two years _____ (IF NONE, PLEASE SKIP TO QUESTION 35)

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
20 In awarding custody, judges seem to assume that children belong with their mother.	1	2	3	4	5	8
21. Custody awards are based on an examination of the factors in the primary caretaker standard.	1	2	3	4	5	8
22 In awarding custody, judges favor the parent in the stronger financial position.	1	2	3	4	5	8
23 In awarding custody, judges take into account the father's violence against the mother.	1	2	3	4	5	8
24 In awarding custody, judges take into account the mother's violence against the father.	1	2	3	4	5	8
25 Joint legal custody is ordered over the objections of one or both parents.	1	2	3	4	5	8
26 Joint physical custody is ordered over the objections of one or both parents.	1	2	3	4	5	8
27 I discourage fathers from seeking custody because judges do not give their petitions fair consideration.	1	2	3	4	5	8
28 Judges order custody mediation in cases where there is a history of domestic violence.	1	2	3	4	5	8
29. Non-custodial mothers get more visitation privileges than non-custodial fathers.	1	2	3	4	5	8
30 A change in custody is granted to a father if the mother is employed and there is now a "stay-at-home" stepmother.	1	2	3	4	5	8
31. In looking at <u>Pikula</u> factors, judges give more credit to fathers for carrying out direct care activities than they give to mothers.	1	2	3	4	5	8
32 In looking at <u>Pikula</u> factors, judges penalize mothers for non-caretaking activities, such as working outside the home.	1	2	3	4	5	8

	MALE	FEMALE	NO DIFFERENCE	NO BASIS FOR JUDGMENT
33 In deciding custody, judges are more likely to penalize a parent for chemical dependency if the parent is:	1	2	3	8
34 In deciding custody, judges are more likely to penalize a parent for having extra-marital affairs if the parent is:	1	2	3	8
35 Do you have any examples or illustrations of gender bias or gender-related problems in judicial decision-making in the area of family law? If so, please describe. (Use additional pages, if needed.)				

36 In public hearings and lawyers meetings some witnesses have suggested that the unequal treatment of men and women in the area of family law is greater when the individuals are members of minority groups or are poor. If you believe that this is so, do you have any examples that illustrate this problem? (Use additional pages as needed.)

E. CIVIL DAMAGE AWARDS

In approximately how many personal injury or wrongful death cases in Minnesota state courts have you represented a party during the last two years? _____ (IF NONE, PLEASE SKIP TO SECTION F)

The following questions refer to personal injury and wrongful death settlements or awards. Please circle the response that comes closest to your own experience or observation of such cases in Minnesota during the last two years. IF A QUESTION REFERS TO AN AREA IN WHICH YOU HAVE NO EXPERIENCE, CIRCLE 'NO BASIS FOR JUDGMENT.'

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
1. In personal injury or other cases involving damages, homemakers recover the economic value of their lost services.	1	2	3	4	5	8
2. Other factors being equal, women employed outside the home receive higher amounts for pain and suffering than homemakers do.	1	2	3	4	5	8
3. Other factors being equal, husbands receive higher amounts for loss of consortium than do wives.	1	2	3	4	5	8
	MALE	FEMALE	NO DIFFERENCE		NO BASIS FOR JUDGMENT	
4. Other factors being equal, plaintiffs receive higher amounts for disfigurement if they are:	1	2	3		8	
5. Other factors being equal, plaintiffs receive higher amounts for pain and suffering if they are:	1	2	3		8	
6. Other factors being equal, plaintiffs in personal injury cases receive higher amounts for loss of future income earning capacity if they are:	1	2	3		8	
7. Other factors being equal, plaintiffs are found to have a greater worklife expectancy if they are:	1	2	3		8	
8. Do you have any examples or illustrations of gender bias or gender-related problems in the area of civil damage awards? If so, please describe. (Use additional pages as needed.)						

F. GENDER-BASED EMPLOYMENT DISCRIMINATION

In approximately how many gender-based employment discrimination cases in Minnesota state courts have you represented a party during the last two years? _____ (IF NONE, PLEASE SKIP TO SECTION G)

The following questions refer to judicial decisions in cases involving gender-based discrimination in employment. Please circle the response that comes closest to your own experience or observation of such cases in Minnesota state courts during the last two years. IF A QUESTION REFERS TO AN AREA IN WHICH YOU HAVE NO EXPERIENCE, CIRCLE 'NO BASIS FOR JUDGMENT.'

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
1. Judges give the same consideration to claims of gender discrimination in employment as they do to other types of civil cases.	1	2	3	4	5	8
2. Judges give the same consideration to claims of sexual harassment in the workplace as they do to other types of civil cases.	1	2	3	4	5	8
3. Defense attorneys appeal to gender-based stereotypes (for example, "women react emotionally"; "women complain a lot") in defending claims of employment discrimination.	1	2	3	4	5	8
4. Sufficient damages are awarded to plaintiffs prevailing in gender-based employment discrimination cases.	1	2	3	4	5	8
5. Sufficient attorney fees are awarded to plaintiffs prevailing in gender-based employment discrimination cases.	1	2	3	4	5	8
6. Do you have any examples or illustrations of gender bias in judicial decision-making in the area of gender-based employment discrimination? If so, please describe. (Use additional pages as needed)						

G. ACCESS TO REPRESENTATION

The following questions refer to possible problems some clients may encounter in gaining access to representation in the Minnesota courts in any area of law. Please circle the response that comes closest to your own experience, observation or opinion about access to representation in the Minnesota state courts during the last two years.

	MALE	FEMALE	NO DIFFERENCE	NO BASIS FOR JUDGMENT		
1. Attorney fee awards are higher if the <u>client</u> is:	1	2	3	8		
2. Attorney fee awards are higher if the <u>attorney</u> is:	1	2	3	8		
	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
3. Attorney fee awards in gender-based employment discrimination cases are high enough to encourage attorneys to take these cases.	1	2	3	4	5	8
4. The reluctance of courts to award <u>temporary</u> attorney fees in family law cases precludes the economically dependent spouse from pursuing the litigation.	1	2	3	4	5	8
5. The reluctance of courts to award <u>temporary</u> attorney fees in family law cases precludes me from taking family law cases	1	2	3	4	5	8
6. Attorney fee awards in family law cases are high enough to allow the economically dependent spouse to pursue the litigation.	1	2	3	4	5	8
7. The reluctance of courts to award attorney fees in litigation to modify child support awards precludes me from taking such cases.	1	2	3	4	5	8
8. In my practice, a retainer fee is required for family law cases.	1	2	3	4	5	8
	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	NO OPINION	
9. Family law is regarded as lower status work.	1	2	3	4	5	
10. The financial rewards are low in family law.	1	2	3	4	5	
11. Judges have negative attitudes toward family law.	1	2	3	4	5	

12. Approximately what percentage of your potential clients are you unable to represent because of their inability to pay a retainer?
- Approximate % of women clients _____
- Approximate % of men clients _____
- Not applicable -- no private clients _____
- Not applicable -- all clients on contingency basis _____
13. Approximately what percentage of cases do you take pro bono or with little expectation of being paid?
- Approximate % of women clients _____
- Approximate % of men clients _____
- Not applicable -- no private clients _____
- Not applicable -- all clients on contingency basis _____
14. Do you have any examples or illustrations of gender bias or gender-related problems that affect access to representation in the Minnesota state courts? If so, please describe. (Use additional pages as needed.)

H. COURTROOM INTERACTION

Witnesses at public hearings and lawyers at regional meetings have testified to various instances of unequal treatment of men and women in courtrooms and chambers. The following questions ask how often you personally have observed or experienced specific types of behavior in the Minnesota state courts in the last two years. Please circle the response that comes closest to your own observation. IF A QUESTION REFERS TO AN AREA IN WHICH YOU HAVE NO EXPERIENCE, CIRCLE 'NO BASIS FOR JUDGMENT.'

1. If you do civil trial work, approximately what percentage of your work is the following:

_____ DOMESTIC RELATIONS
 _____ PERSONAL INJURY
 _____ COMMERCIAL
 _____ OTHER (PLEASE SPECIFY _____)
 _____ NO CIVIL TRIAL WORK

2. If you do civil trial work, approximately what percentage of your work is the following:

_____ FIRST CHAIR
 _____ SECOND CHAIR
 _____ BRIEF WRITING
 _____ NO CIVIL TRIAL WORK

3. If you do criminal trial work, approximately what percentage of your work is the following:

- _____ FIRST CHAIR
- _____ SECOND CHAIR
- _____ CHARGING AND PLEA WORK
- _____ OTHER
- _____ NO CRIMINAL TRIAL WORK

4. In the last two years, in approximately what number of your court appearances were other counsel women? _____

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
5. Women <u>attorneys</u> are addressed by first names or terms of endearment when men attorneys are not.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
6. Women <u>litigants or witnesses</u> are addressed by their first names or terms of endearment when men litigants or witnesses are not.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
7. Women attorneys are asked if they are attorneys when men are not asked.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
8. Comments are made about the physical appearance or apparel of women <u>attorneys</u> when no such comments are made about men.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
9. Comments are made about the physical appearance or apparel of women <u>litigants or witnesses</u> when no such comments are made about men.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
10. Remarks or jokes demeaning to women are made in court or in chambers.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
11. Women <u>attorneys</u> are subjected to <u>physical</u> sexual harassment.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
12. Women <u>attorneys</u> are subjected to <u>verbal</u> sexual harassment.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
13. Women <u>litigants or witnesses</u> are subjected to <u>physical</u> sexual harassment.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
14. Women <u>litigants or witnesses</u> are subjected to <u>verbal</u> sexual harassment.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
15. Women <u>court personnel</u> are subjected to <u>physical</u> sexual harassment.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by other court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
16. Women <u>court personnel</u> are subjected to <u>verbal</u> sexual harassment.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by other court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
17. When gender bias occurs in the courtroom, the judge intervenes to stop it.	1	2	3	4	5	8

	MALE	FEMALE	NO DIFFERENCE	NO BASIS FOR JUDGMENT
18. In my opinion, judges assign more credibility to the arguments of attorneys who are:	1	2	3	8
19. In my opinion, judges assign more credibility to the opinions of experts who are:	1	2	3	8
20. In my opinion, judges assign more credibility to the testimony of witnesses who are:	1	2	3	8

21. Gender bias is most often encountered:

- 1 In the courtroom
- 2 In chambers
- 3 Outside the courtroom during depositions, negotiations, etc.
- 4 Same amount in all settings
- 5 Have seen no instances of gender bias in any setting

22. Which of the following statements best describes your overall perception of gender bias against women in the Minnesota courts at the present time?

- 1 There is no gender bias against women in the Minnesota courts.
- 2 Gender bias against women exists, but only in a few areas and with certain individuals.
- 3 Gender bias against women is widespread, but subtle and hard to detect.
- 4 Gender bias against women is widespread and readily apparent.

23. Which of the following statements best describes your overall perception of gender bias against men in the Minnesota courts at the present time?

- 1 There is no gender bias against men in the Minnesota courts.
- 2 Gender bias against men exists, but only in a few areas and with certain individuals.
- 3 Gender bias against men is widespread, but subtle and hard to detect.
- 4 Gender bias against men is widespread and readily apparent.

24. Which of the following statements best describes your overall perception of gender bias in Minnesota state courts over the past few years?

- 1 There has never been any gender bias, now or in the past.
- 2 There is less gender bias now than in the past.
- 3 There is more gender bias now than in the past.
- 4 There is the same amount of gender bias now as in the past.

25. In the last two years, have you experienced or personally observed any incidents of sexual harassment or discrimination based on gender in the Minnesota courts? If so, please describe the incident(s), without naming specific individuals. Use additional pages, if necessary.

a Did anyone intervene to correct this behavior?

- 1 NO
- 2 YES (If yes, who? – judge, counsel, other _____)

If yes, how? _____

b In your opinion, did this behavior affect the outcome of a case?

- 1 NO
- 2 YES

If yes, how? _____

THANK YOU VERY MUCH FOR YOUR HELP. PLEASE RETURN THE QUESTIONNAIRE IN THE ENCLOSED SELF-ADDRESSED ENVELOPE OR TO:

**Research and Planning
Minnesota Supreme Court
1745 University Ave. Suite 302
St. Paul, MN 55104**

Judges Survey

Thank you for helping the Minnesota Gender Fairness Task Force by answering this survey.

Although most questions ask you just to circle a response, space is provided for you to add comments wherever you think they would clarify your answer. Some areas of concern to the task force are not addressed in this survey because they are being studied by other methods. If you wish to comment further on any gender-related issue, please do so on the blank pages at the end. You may find that as you go through the questionnaire you wish to change some previous answers or add more comments to a section you have already finished. Please feel free to do so. We are interested in your best thinking on these issues.

All responses will be treated confidentially and no individuals will be identifiable in any reports of the results nor will any questionnaire be identified with any individual.

Please return the completed questionnaire within one week of its receipt. Sending back the separate postcard at the same time you return your questionnaire will allow us to follow-up on unreturned questionnaires while maintaining the anonymity of responses.

A. GENERAL BACKGROUND INFORMATION

1. Sex:

- 1 MALE
- 2 FEMALE

2. Age

- 1 UNDER 35 YEARS 5 50 - 54
- 2 35 - 39 6 55 - 59
- 3 40 - 44 7 60 - 64
- 4 45 - 49 8 65 AND OVER

3. Year in which you were first admitted to the practice of law:

- 1 PRIOR TO 1950
- 2 1950 - 1959
- 3 1960 - 1969
- 4 1970 - 1979
- 5 1980 OR LATER

4. Year in which you first became a judge:

- 1 PRIOR TO 1960
- 2 1960 - 1969
- 3 1970 - 1979
- 4 1980 OR LATER

5. Area in which you serve:

- 1 METRO (DISTRICTS 2,4)
- 2 SUBURBAN (DISTRICTS 1,10)
- 3 GREATER MINNESOTA (DISTRICTS 3,5,6,7,8,9)

6. Before you became a judge, in which area(s) of specialty did you regularly practice? (circle all that apply)

- 1 GENERAL PRACTICE
- 2 FAMILY LAW
- 3 CIVIL LITIGATION
- 4 LABOR/EMPLOYMENT
- 5 APPELLATE
- 6 CRIMINAL
- 7 CORPORATE
- 8 REAL ESTATE
- 9 DID NOT PRACTICE LAW PRIOR TO APPOINTMENT
- 10 OTHER (PLEASE SPECIFY _____)

7. In the past year, approximately what percentage of your time has been spent in each of the following areas?

- _____ CRIMINAL
- _____ CIVIL
- _____ FAMILY
- _____ JUVENILE
- _____ PROBATE
- _____ OTHER (PLEASE SPECIFY _____)

8. In which of the following areas do you prefer to work? (PLEASE RANK, 1 = MOST PREFERRED)

- _____ CRIMINAL
- _____ CIVIL
- _____ FAMILY
- _____ JUVENILE
- _____ PROBATE
- _____ OTHER (PLEASE SPECIFY _____)

Some of the following questions ask about your own decision-making in various types of cases, others ask about your observations of what other parties do. Please circle the response that comes closest to your own experience or observation of your own courtroom during the past two years. IF A QUESTION REFERS TO AN AREA IN WHICH YOU HAVE NO EXPERIENCE, CIRCLE 'NO BASIS FOR JUDGMENT.' Please feel free to expand on your answers to any of the questions in the space immediately below the question or on the blank pages at the end.

B. DOMESTIC VIOLENCE: ORDERS FOR PROTECTION

1. Approximately how many Order for Protection proceedings (ex parte orders and hearings) have you presided over in the past two years?

- 1 500 OR MORE
- 2 100 - 499
- 3 25 - 99
- 4 1 - 24
- 5 NONE (IF NONE, PLEASE SKIP TO SECTION C)

- a. Approximate percentage of male petitioners _____
- b. Approximate percentage of female petitioners _____

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
2. Domestic assault victims are represented by counsel during proceedings for Orders for Protection.	1	2	3	4	5	8

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
3. Respondents in proceedings for Orders for Protection are represented by counsel.	1	2	3	4	5	8
4. When asked, I allow victim advocates to speak in court during Order for Protection proceedings even if the advocate is not a lawyer.	1	2	3	4	5	8
5. I grant requests for supervised visitation during Order for Protection proceedings.	1	2	3	4	5	8
6. I grant <u>mutual</u> Orders for Protection when only one party has petitioned for the order.	1	2	3	4	5	8
a. Under what circumstances would you do so?						
7. Forced, non-consensual sexual intercourse between spouses justifies issuance of an Order for Protection.	1	2	3	4	5	8
8. When custody is an issue, I order custody mediation as part of an Order for Protection proceeding.	1	2	3	4	5	8
9. Do you have any examples or illustrations of gender bias or gender-related problems in the use and enforcement of Orders for Protection? If so, please describe. (Use additional pages if needed.)						

10. Are there any topics related to Order for Protection proceedings that you would like to see addressed in judicial education programs? If so, please describe.

C. DOMESTIC VIOLENCE (BETWEEN ADULTS) - CRIMINAL

For purposes of this questionnaire, please consider only domestic violence involving spouses or adult partners -- NOT child abuse.

1. Approximately how many criminal domestic assault proceedings (arraignments, trials, pleas and sentencing) have you presided over during the last two years?

- 1 100 OR MORE
- 2 50 - 99
- 3 25 - 49
- 4 10 - 24
- 5 1 - 9
- 6 NONE (IF NONE, PLEASE SKIP TO SECTION D)

a. Approximate percentage of male defendants: _____

b. Approximate percentage of female defendants: _____

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
2. I require a statement of reasons by the prosecutor for dismissal of a domestic assault charge prior to trial.	1	2	3	4	5	8
3. I sentence convicted domestic assault perpetrators to jail.	1	2	3	4	5	8
4. Credible victim testimony, standing alone, is a sufficient basis for me to deny a motion for a judgment of acquittal.	1	2	3	4	5	8

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
5. I sentence convicted misdemeanor violators of Orders for Protection to jail.	1	2	3	4	5	8
6. The ongoing safety requirements of the alleged victim are a crucial element in setting bail or conditions of release in domestic assault cases.	1	2	3	4	5	8
7. The ongoing safety requirements of the victim are a crucial element in sentencing those convicted of domestic assault.	1	2	3	4	5	8
8. If asked, I allow victim advocates to speak in court, even if the advocate is not a lawyer.	1	2	3	4	5	8

9. On balance, do you think victim advocate programs have been helpful or harmful in criminal domestic violence proceedings?

- 1 VERY HELPFUL
- 2 SOMEWHAT HELPFUL
- 3 SOMEWHAT HARMFUL
- 4 VERY HARMFUL
- 5 NO OPINION OR NO BASIS FOR JUDGMENT

a. Why do you feel that way?

10. Do you have any examples or illustrations of gender bias or gender-related problems in domestic violence prosecutions? If so, please describe. (Use additional pages if needed.)

11. Are there any topics related to domestic violence that you would like to see addressed in judicial education programs? If so, please describe.

D. CRIMINAL SEXUAL CONDUCT

1. Approximately how many criminal sexual conduct cases (first appearances and bail hearings, pleas and sentencings, trials) have you presided over in the last two years? _____ (IF NONE, PLEASE SKIP TO SECTION E).

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
2. Defense attorneys appeal to gender stereotypes (for example, "women say no when they mean yes"; "provocative dress is an invitation") in order to discredit the victim in criminal sexual conduct cases.	1	2	3	4	5	8
3. In criminal sexual conduct cases, I intervene to limit the defense's questioning of the complainant's past sexual conduct.	1	2	3	4	5	8
4. Cross-examination of the complainant in "date rape" cases goes beyond what is necessary to present a consent defense.	1	2	3	4	5	8
5. Whether the parties are strangers or know one another is irrelevant in deciding the severity of the penalty in rape cases.	1	2	3	4	5	8
	MALE	FEMALE	NO DIFFERENCE	NO BASIS FOR JUDGMENT		
6. In criminal sexual conduct cases, when the perpetrator is an adult male and the victim is a juvenile, I would probably give a more severe sentence if the victim is:	1	2	3	8		

7. Do you have any examples or illustrations of gender bias or gender-related problems in judicial decision-making in criminal sexual conduct cases? If so, please describe. (Use additional pages if needed)

8. Are there any topics related to the area of criminal sexual conduct that you would like to see addressed in judicial education programs? If so, please describe.

E. FAMILY LAW

1. Approximately how many family law cases (temporary hearings, motions, final hearings, post-decree modifications) have you presided over during the last two years?

- 1 500 OR MORE
- 2 100 - 499
- 3 25 - 99
- 4 1 - 24
- 5 NONE (IF NONE, PLEASE SKIP TO SECTION F)

Marital Property

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
2. When a wife's primary contribution has been as a homemaker, the husband's income producing contribution entitles him to a larger share of the marital property.	1	2	3	4	5	8
3. When one spouse has built and run a privately owned business during the marriage, the contribution of the homemaker spouse should be considered a contribution to the business.	1	2	3	4	5	8

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
4. When the family business is a farm which was not inherited, the husband should be given preference in deciding who should get the farm in the distribution of marital property, regardless of who works the farm.	1	2	3	4	5	8
5. I award attorney fees at temporary hearings.	1	2	3	4	5	8

Spousal Maintenance

6. What minimum definition of a "long-term marriage" do you use in deciding to award permanent maintenance?

- 1 UNDER 10 YEARS
- 2 10 - 15 YEARS
- 3 16 - 20 YEARS
- 4 21 - 25 YEARS
- 5 MORE THAN 25 YEARS
- 6 NO BASIS FOR JUDGMENT

7. Suppose rehabilitative maintenance is being awarded to a 42-year-old homemaker with a non-specialized B.A. degree (earned 20 years ago) who has never held a job outside the home. What length of time would you consider sufficient to allow for retraining?

- 1 LESS THAN 1 YEAR
- 2 1 YEAR
- 3 2 YEARS
- 4 3 YEARS
- 5 4 YEARS
- 6 5 YEARS
- 7 MORE THAN 5 YEARS
- 8 NO BASIS FOR JUDGMENT

a. What other factors would you consider in making this award?

8. Suppose permanent maintenance is being awarded to a 50-year-old homemaker with a high school education who has been out of the labor market for 25 years. What would you consider to be the likely future annual earning capacity for such a person?

- 1 LESS THAN \$10,000
- 2 \$10,000 - 15,000
- 3 \$16,000 - 20,000
- 4 \$21,000 - 25,000
- 5 \$26,000 - 30,000
- 6 \$31,000 - 35,000
- 7 \$36,000 - 40,000
- 8 OVER \$40,000
- 9 NO BASIS FOR JUDGMENT

a. What other factors would you consider in making this award?

Child Support

9. Under which of the following circumstances would you deviate upward from the child support guidelines? (Circle all that apply)

- 1 WHEN THE INCOME OF THE NON-CUSTODIAL PARENT ALLOWS IT
- 2 WHEN THE CHILD HAS SPECIAL NEEDS
- 3 TO COVER DAY CARE EXPENSES
- 4 OTHER (PLEASE SPECIFY _____)
- 5 NONE OF THE ABOVE

10. In the last two years, in approximately what percentage of cases have you deviated upward from the child support guidelines? _____

11. Mandatory income withholding for those ordered to pay child support is a good policy.

- 1 STRONGLY AGREE
- 2 AGREE
- 3 DISAGREE
- 4 STRONGLY DISAGREE
- 5 NO OPINION

a. Does the judicial district in which you serve have mandatory income withholding for those ordered to pay child support?

- 1 YES
- 2 SOME COUNTIES DO, SOME DO NOT
- 3 NO
- 4 DON'T KNOW

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
12. I exercise the court's civil contempt powers to enforce child support orders.	1	2	3	4	5	8
13. I jail non-payers of child support as a final step in the civil contempt process.	1	2	3	4	5	8

a. In the last two years, approximately how many non-payers of child support have you jailed?

_____ out of _____ who were found in contempt.

Child Custody

	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	NO OPINION	
14. Other things being equal, I believe young children belong with their mother.	1	2	3	4	5	
15. Joint <u>legal</u> custody is sometimes appropriate even if one or both parents object.	1	2	3	4	5	
16. Joint <u>physical</u> custody is sometimes appropriate even if one or both parents object.	1	2	3	4	5	
17. Other things being equal, non-custodial mothers should have more visitation privileges than non-custodial fathers.	1	2	3	4	5	
18. Custody mediation is usually appropriate even in cases where there is a history of family violence.	1	2	3	4	5	
19. Women often use allegations of child sexual abuse as a weapon in divorce cases.	1	2	3	4	5	
	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
20. I follow the recommendation of the court services worker in custody disputes.	1	2	3	4	5	8
21. In general, the child's preference should be taken into consideration in deciding custody if the child is at least _____ years old.						

22. In making custody determinations, are there any factors that you weigh differently depending on whether the parent is a mother or a father? If so, please describe.

23. Do you have any examples or illustrations of gender bias or gender-related problems in the handling of family law cases? If so, please describe. (Use additional pages as needed.)

24. Are there any topics in the area of family law that you would like to see addressed in judicial education programs? If so, please describe.

F. CIVIL DAMAGE AWARDS

Questions in this section concern what you have observed about the decisions of juries or settlements in personal injury or wrongful death cases.

1. During the last two years, approximately how many personal injury or wrongful death trials have you presided over, or settlements have you approved? _____ (IF NONE, PLEASE SKIP TO SECTION G).

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
2. In personal injury or other cases involving damages, homemakers recover the economic value of their lost services.	1	2	3	4	5	8
3. Other factors being equal, women employed outside the home receive higher amounts for pain and suffering than do homemakers.	1	2	3	4	5	8
4. Other factors being equal, husbands receive higher amounts for loss of consortium than do wives.	1	2	3	4	5	8

	MALE	FEMALE	NO DIFFERENCE	NO BASIS FOR JUDGMENT
5. Other factors being equal, plaintiffs receive higher amounts for disfigurement if they are:	1	2	3	8
6. Other factors being equal, plaintiffs receive higher amounts for pain and suffering if they are:	1	2	3	8
7. Other factors being equal, plaintiffs in personal injury cases receive higher amounts for loss of future income earning capacity if they are:	1	2	3	8
8. Other factors being equal, plaintiffs are found to have a greater worklife expectancy if they are:	1	2	3	8

9 Do you have any examples or illustrations of gender bias or gender-related problems in the area of civil damage awards? If so, please describe. (Use additional pages as needed.)

10. Are there any topics in the area of civil damage awards that you would like to see addressed in judicial education programs? If so, please describe.

G. GENDER-BASED EMPLOYMENT DISCRIMINATION

1. Approximately how many gender-based employment discrimination cases (motions, trials, settlements) have you presided over during the last two years? _____ (IF NONE, PLEASE SKIP TO SECTION H).

	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	NO OPINION
2. Defense attorneys appeal to gender-based stereotypes (for example, "women react emotionally"; "women complain a lot") in defending claims of employment discrimination.	1	2	3	4	5
3. Claims of gender discrimination in employment are more difficult to prove in court than other kinds of claims.	1	2	3	4	5
4. Claims of sexual harassment in the workplace are usually just a reflection of other work-related problems the plaintiff is having.	1	2	3	4	5
5. In cases involving a claim of gender-based employment discrimination, the size of the damages awarded should be considered in determining what are reasonable attorneys fees	1	2	3	4	5
6. Plaintiffs' attorneys who are successful in gender-based employment discrimination cases should routinely receive attorneys fees.	1	2	3	4	5

7 Do you have any examples or illustrations of gender bias in the handling of gender-based employment discrimination cases? If so, please describe. (Use additional pages as needed.)

8 Are there any topics in the area of gender-based employment discrimination that you would like to see addressed in judicial education programs? If so, please describe.

H. ADULT SENTENCING

1. Approximately how many sentencing proceedings have you presided over during the last two years?

- 1 500 OR MORE
- 2 100 - 499
- 3 25 - 99
- 4 1 - 24
- 5 NONE (IF NONE, PLEASE SKIP TO SECTION I)

	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	NO OPINION
2. I sentence women to jail less often than similarly situated men because there are too few incarceration facilities for female offenders.	1	2	3	4	5
3. I sentence women to jail less often than similarly situated men because the programs available to incarcerated women are inadequate.	1	2	3	4	5
4. I sentence women with young children to jail less often than similarly situated men because they are needed at home.	1	2	3	4	5

5. In sentencing offenders, are there any factors that you weigh differently depending on whether the offender is a man or a woman? If so, please describe.

6. Do you have any examples or illustrations of gender bias or gender-related problems in the area of sentencing? If so, please describe. (Use additional pages as needed.)

7. Are there any topics in the area of sentencing that you would like to see addressed in judicial education programs? If so, please describe.

I. COURTROOM INTERACTION

Witnesses at public hearings and in regional meetings with lawyers have testified to various instances of unequal treatment of men and women in courtrooms and chambers. The following questions ask how often you personally have observed specific types of behavior in the Minnesota state courts in the last two years. Please circle the response that comes closest to your own observation. IF YOU HAVE NO EXPERIENCE IN A PARTICULAR AREA, CIRCLE THE COLUMN TITLED "NO BASIS FOR JUDGMENT."

1. In the last two years, approximately how many times did women attorneys appear before you in court or chambers?

- 1 100 OR MORE
- 2 50 - 99
- 3 25 - 49
- 4 10 - 24
- 5 FEWER THAN 10

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
2 Women <u>attorneys</u> are addressed by first names or terms of endearment when men attorneys are not.						
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
3 Women <u>litigants or witnesses</u> are addressed by their first names or terms of endearment when men litigants or witnesses are not.						
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
4 Women attorneys are asked if they are attorneys when men are not asked.						
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
5 Comments are made about the physical appearance or apparel of women <u>attorneys</u> when no such comments are made about men.						
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
6. Comments are made about the physical appearance or apparel of women <u>litigants or witnesses</u> when no such comments are made about men.	1	2	3	4	5	8
-- by counsel						
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
7. Remarks or jokes demeaning to women are made in court or in chambers.						
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
8. Women <u>attorneys</u> are subjected to <u>physical</u> or <u>verbal</u> sexual harassment.						
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8

People often have different opinions about what is appropriate behavior in a particular setting. The following questions offer various hypothetical situations and ask you two things: first, whether you would rate the behavior described as objectionable or not objectionable; and second, what you think is the appropriate response for a judge when confronted with this situation. There are no "right" answers to these questions. You are asked only for your opinions about the behavior and the appropriate reaction by a judge in these circumstances.

9. Suppose during a jury trial, an attorney addresses a female witness by her first name (while addressing male witnesses by their titles and last names.) No objection is made by counsel.

a. Using this scale ranging from "NOT OBJECTIONABLE" to "HIGHLY OBJECTIONABLE," how would you rate this behavior? (Circle the number that best fits your opinion).

NOT OBJECTIONABLE		SOMEWHAT OBJECTIONABLE		HIGHLY OBJECTIONABLE
1	2	3	4	5
----- ----- ----- -----				

b. What do you think would be the appropriate response for the presiding judge?

- 1 ADMONISH THE ATTORNEY IMMEDIATELY IN OPEN COURT
- 2 ASK COUNSEL TO APPROACH THE BENCH AND ISSUE A REPRIMAND
- 3 ADMONISH THE ATTORNEY LATER IN CHAMBERS
- 4 IGNORE IT

10. Suppose a male attorney makes a comment in chambers about the "great legs" of a female attorney who is present.

a. Using this scale, how would you rate this behavior?

NOT OBJECTIONABLE		SOMEWHAT OBJECTIONABLE		HIGHLY OBJECTIONABLE
1	2	3	4	5
_____	_____	_____	_____	_____

b. What do you think would be the appropriate response for the presiding judge?

- 1 ADMONISH THE ATTORNEY
- 2 ADMONISH THE ATTORNEY ONLY IF THE FEMALE ATTORNEY OBJECTS
- 3 IGNORE IT

11. Suppose a male attorney addresses an opposing attorney as "honey" during a jury trial. No objection is made by counsel.

a. Using this scale, how would you rate this behavior?

NOT OBJECTIONABLE		SOMEWHAT OBJECTIONABLE		HIGHLY OBJECTIONABLE
1	2	3	4	5
_____	_____	_____	_____	_____

b. What do you think would be the appropriate response for the presiding judge?

- 1 ADMONISH THE ATTORNEY IMMEDIATELY IN OPEN COURT
- 2 ASK COUNSEL TO APPROACH THE BENCH AND ISSUE A REPRIMAND
- 3 ADMONISH THE ATTORNEY LATER IN CHAMBERS
- 4 IGNORE IT

12. Suppose an attorney makes a comment about "bitchy women" in court during a jury trial. No objection is made by counsel.

a. Using this scale, how would you rate this behavior?

NOT OBJECTIONABLE		SOMEWHAT OBJECTIONABLE		HIGHLY OBJECTIONABLE
1	2	3	4	5
_____	_____	_____	_____	_____

b. What do you think would be the appropriate response for the presiding judge?

- 1 ADMONISH THE ATTORNEY IMMEDIATELY IN OPEN COURT
- 2 ASK COUNSEL TO APPROACH THE BENCH AND ISSUE A REPRIMAND
- 3 ADMONISH THE ATTORNEY LATER IN CHAMBERS
- 4 IGNORE IT

13. Suppose an attorney tells a joke demeaning to women in chambers.

a. Using this scale, how would you rate this behavior?

NOT OBJECTIONABLE		SOMEWHAT OBJECTIONABLE		HIGHLY OBJECTIONABLE				
1	_____	2	_____	3	_____	4	_____	5

b. What do you think would be the appropriate response for the presiding judge?

- 1 TELL THE ATTORNEY SUCH A JOKE IS NOT APPROPRIATE
- 2 TELL THE ATTORNEY IT IS NOT APPROPRIATE ONLY IF WOMEN ARE PRESENT
- 3 LAUGH IF IT'S FUNNY
- 4 IGNORE IT

14. Suppose a female court reporter is the subject of repeated unwanted sexual advances from a male attorney.

a. Using this scale, how would you rate this behavior?

NOT OBJECTIONABLE		SOMEWHAT OBJECTIONABLE		HIGHLY OBJECTIONABLE				
1	_____	2	_____	3	_____	4	_____	5

b. If a judge were aware of this, what do you think would be the appropriate response for the judge?

- 1 ADMONISH THE ATTORNEY
- 2 ADMONISH THE ATTORNEY ONLY IF THE COURT REPORTER ASKS FOR ASSISTANCE
- 3 IGNORE IT

15. Suppose a male bailiff makes repeated unwanted sexual advances toward a woman attorney in the courtroom when court is not in session.

a. Using this scale, how would you rate this behavior?

NOT OBJECTIONABLE		SOMEWHAT OBJECTIONABLE		HIGHLY OBJECTIONABLE				
1	_____	2	_____	3	_____	4	_____	5

b. If a judge were aware of this, what do you think is the appropriate response for the judge?

- 1 ADMONISH THE BAILIFF
- 2 ADMONISH THE BAILIFF ONLY IF THE ATTORNEY ASKS FOR ASSISTANCE
- 3 IGNORE IT

16. Suppose a male attorney addresses a 45-year-old female attorney as "young lady" during a jury trial. No objection is made by counsel.

a. Using this scale, how would you rate this behavior?

NOT OBJECTIONABLE		SOMEWHAT OBJECTIONABLE		HIGHLY OBJECTIONABLE
1	2	3	4	5
_____	_____	_____	_____	_____

b. What do you think would be the appropriate response for the presiding judge?

- 1 ADMONISH THE ATTORNEY IMMEDIATELY IN OPEN COURT
- 2 ASK COUNSEL TO APPROACH THE BENCH AND ISSUE A REPRIMAND
- 3 ADMONISH THE ATTORNEY LATER IN CHAMBERS
- 4 IGNORE IT

17. During voir dire, an attorney addresses jurors of one gender by their first names, jurors of the other gender by their last names. No objection is made by counsel.

a. Using this scale, how would you rate this behavior?

NOT OBJECTIONABLE		SOMEWHAT OBJECTIONABLE		HIGHLY OBJECTIONABLE
1	2	3	4	5
_____	_____	_____	_____	_____

b. What do you think would be the appropriate response for the presiding judge?

- 1 ADMONISH THE ATTORNEY IMMEDIATELY IN OPEN COURT
- 2 ASK COUNSEL TO APPROACH THE BENCH AND ISSUE A REPRIMAND
- 3 ADMONISH THE ATTORNEY LATER IN CHAMBERS
- 4 IGNORE IT

18. Suppose a male judge in your district makes the following comment to a male attorney regarding a woman attorney who is present in the courtroom: "I may not like her arguments but I sure like her body."

a. Using this scale, how would you rate this behavior?

NOT OBJECTIONABLE		SOMEWHAT OBJECTIONABLE		HIGHLY OBJECTIONABLE
1	2	3	4	5
_____	_____	_____	_____	_____

b. What do you think would be the appropriate response for a judge who hears about the incident?

- 1 ASK THE JUDGE ABOUT WHAT HAPPENED AND EXPRESS DISAPPROVAL TO HIM
- 2 ASK THE JUDGE ABOUT IT ONLY IF THE JUDGE IS A PERSONAL FRIEND
- 3 MENTION THE INCIDENT TO THE CHIEF JUDGE AND ASK THAT SOMETHING BE DONE ABOUT IT
- 4 IGNORE IT

19. If you have observed any gender-based discrimination in your courtroom or in chambers during the last two years, please briefly describe the most serious such incident.

a. In the incident described above, did you intervene? If so, in what way? If not, what considerations influenced you not to intervene?

20. The necessity of occasionally traveling with courtroom personnel makes me reluctant to choose a law clerk or court reporter of the opposite sex.

- 1 STRONGLY AGREE
- 2 AGREE
- 3 DISAGREE
- 4 STRONGLY DISAGREE
- 5 NO OPINION

21. Which of the following statements best describes your overall perception of gender bias against women in the Minnesota courts at the present time?

- 1 There is no gender bias against women in the Minnesota courts.
- 2 Gender bias against women exists, but only in a few areas and with certain individuals.
- 3 Gender bias against women is widespread, but subtle and hard to detect.
- 4 Gender bias against women is widespread and readily apparent.

22. Which of the following statements best describes your overall perception of gender bias against men in the Minnesota courts at the present time?

- 1 There is no gender bias against men in the Minnesota courts.
- 2 Gender bias against men exists, but only in a few areas and with certain individuals.
- 3 Gender bias against men is widespread, but subtle and hard to detect.
- 4 Gender bias against men is widespread and readily apparent.

23. In your opinion, how has gender bias in the Minnesota state courts changed over the past few years?

- 1 There is less gender bias now than in the past.
- 2 There is more gender bias now than in the past.
- 3 There is the same amount of gender bias now as in the past.
- 4 There has never been any gender bias, now or in the past.

24. Are there any topics related to courtroom interaction that you would like to see addressed in judicial education programs? If so please describe.

THANK YOU VERY MUCH FOR YOUR HELP. PLEASE RETURN THE QUESTIONNAIRE IN THE ENCLOSED PRE-ADDRESSED ENVELOPE OR TO:

Research and Planning
Minnesota Supreme Court
1745 University Ave. Suite 302
St. Paul, MN 55104

PLEASE RETURN THE ENCLOSED POSTCARD SEPARATELY SO THAT YOUR NAME CAN BE REMOVED FROM THE MAILING LIST.

IN-COURT PERSONNEL SURVEY

Thank you for helping the Minnesota Gender Fairness Task Force by answering this survey.

In recent months, a number of public hearings on the treatment of men and women by the Minnesota court system have been held across the state. Various instances of unequal treatment in the courtroom or in chambers have been reported to us.

As a person who is frequently in the courtroom or in chambers, you are in a unique position to help us evaluate how people are treated by the court system. Many of the following questions will ask about your observations of the way men and women are treated in courtroom proceedings. The court system also has a special responsibility to make sure its own employees are treated fairly. Other questions will ask how you, as an employee of the courts, feel you are treated.

Please complete the questionnaire and return it to us within one week. When you mail the questionnaire, please return the enclosed postcard separately. This method allows us to follow-up on surveys which have not been returned, but assures complete anonymity for your individual reply.

A. GENERAL BACKGROUND INFORMATION

1. Sex: 1 Male 2 Female
2. Year of birth: ____
3. Number of years with the court system: ____
4. Are you a:
 - 1 Court administrator
 - 2 Deputy Clerk
 - 3 Law Clerk
 - 4 Court Reporter
 - 5 Electronic Court Recorder
 - 6 Other (please indicate position _____)
5. In which area do you serve:
 - 1 Metro (District 2 or 4)
 - 2 Suburban (District 1 or 10)
 - 3 Greater Minnesota (District 3, 5, 6, 7, 8, or 9)
6. On the average, how many hours per week are you in court?
 - 1 0 hrs/wk
 - 2 1-10 hrs/wk
 - 3 11-20 hrs/wk
 - 4 21-30 hrs/wk
 - 5 31-40 hrs/wk
7. On the average, how many hours per week are you in chambers during official proceedings?
 - 1 0 hrs/wk
 - 2 1-10 hrs/wk
 - 3 11-20 hrs/wk
 - 4 21-30 hrs/wk
 - 5 31-40 hrs/wk

B. COURTROOM INTERACTION

The following questions ask how often you personally have observed or experienced specific types of behavior in the Minnesota state courts in the last two years. Please circle the response that comes closest to your own observation or experience.

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
8. Women <u>attorneys</u> are addressed by first names or terms of endearment when men attorneys are not.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
9. Women <u>litigants or witnesses</u> are addressed by their first names or terms of endearment when men litigants or witnesses are not.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
10. Women attorneys are asked if they are attorneys when men are not asked.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
11. Comments are made about the physical appearance or apparel of women <u>attorneys</u> when no such comments are made about men.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
12. Comments are made about the physical appearance or apparel of women <u>litigants or witnesses</u> when no such comments are made about men.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8

	ALWAYS	OFTEN	SOMETIMES	RARELY	NEVER	NO BASIS FOR JUDGMENT
13. Women <u>attorneys</u> are subjected to <u>physical</u> or <u>verbal</u> sexual harassment.						
--by judges	1	2	3	4	5	8
--by counsel	1	2	3	4	5	8
--by court personnel	1	2	3	4	5	8
--by bailiffs	1	2	3	4	5	8
14. Women <u>litigants</u> or <u>witnesses</u> are subjected to <u>physical</u> or <u>verbal</u> sexual harassment.						
--by judges	1	2	3	4	5	8
--by counsel	1	2	3	4	5	8
--by court personnel	1	2	3	4	5	8
--by bailiffs	1	2	3	4	5	8
15. Women <u>court personnel</u> are subjected to <u>physical</u> or <u>verbal</u> sexual harassment.						
--by judges	1	2	3	4	5	8
--by counsel	1	2	3	4	5	8
--by other court personnel	1	2	3	4	5	8
--by bailiffs	1	2	3	4	5	8
16. Remarks or jokes demeaning to women are made in court or in chambers.						
-- by judges	1	2	3	4	5	8
-- by counsel	1	2	3	4	5	8
-- by court personnel	1	2	3	4	5	8
-- by bailiffs	1	2	3	4	5	8
17. When gender bias occurs in the courtroom, the judge intervenes to stop it.	1	2	3	4	5	8
18. When an <u>attorney</u> makes an offensive gender-based comment, it is the responsibility of the court reporter to make sure the comment is not included in the official transcript.	1	2	3	4	5	8
19. When a <u>litigant</u> makes an offensive gender-based comment, it is the responsibility of the court reporter to make sure the comment is not included in the official transcript.	1	2	3	4	5	8
20. When the <u>judge</u> makes an offensive gender-based comment, it is the responsibility of the court reporter to make sure the comment is not included in the official transcript.	1	2	3	4	5	8
			YES		NO	
21. Has a judge ever requested a court reporter outside the proceedings to remove offensive gender-based material from the official transcript?		1		2		

	MALE	FEMALE	NEITHER
22. In my opinion, judges assign more credibility to the arguments of <u>attorneys</u> who are:	1	2	3
23. In my opinion, judges assign more credibility to the opinions of <u>experts</u> who are:	1	2	3
24. In my opinion, judges assign more credibility to the testimony of <u>witnesses</u> who are:	1	2	3

C. OVERALL PERCEPTION OF GENDER BIAS IN JUDICIAL PROCEEDINGS

25. Gender bias is most often encountered:
- 1 In the courtroom
 - 2 In chambers
 - 3 Same amount in both settings
 - 4 Have seen no instances of gender bias in any setting
26. Which of the following statements best describes your overall perception of gender bias against women in the Minnesota courts at the present time?
- 1 There is no gender bias against women in the Minnesota courts.
 - 2 Gender bias against women exists, but only in a few areas and with certain individuals.
 - 3 Gender bias against women is widespread, but subtle and hard to detect.
 - 4 Gender bias against women is widespread and readily apparent.
27. Which of the following statements best describes your overall perception of gender bias against men in the Minnesota courts at the present time?
- 1 There is no gender bias against men in the Minnesota courts.
 - 2 Gender bias against men exists, but only in a few areas and with certain individuals.
 - 3 Gender bias against men is widespread, but subtle and hard to detect.
 - 4 Gender bias against men is widespread and readily apparent.
28. In your opinion, how has gender bias in the Minnesota state courts changed over the past few years?
- 1 There is less gender bias now than in the past.
 - 2 There is more gender bias now than in the past.
 - 3 There is the same amount of gender bias now as in the past.
 - 4 There has never been any gender bias, now or in the past.

29. If you have observed any gender-biased discrimination in the courtroom or in chambers during the last two years, please briefly describe, without naming any specific individuals, the most serious such incident.

29a. In your opinion, did this behavior affect the outcome of a case?

- 1 NO
- 2 YES If YES, how?

29b. Did anyone intervene to correct this behavior?

- 1 NO
- 2 YES If YES, who? (Judge, opposing counsel, etc.)

29c. If so, in what way?

29d. In your opinion, did this intervention affect the outcome of a case?

- 1 NO
- 2 YES If YES, how?

D. COURT ADMINISTRATION

The following questions ask you about your experiences as an employee of the court system. Please circle the response that comes closest to your own experience.

	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	NO BASIS FOR JUDGMENT
30. I feel I am asked to perform duties that would not be asked of a person of the opposite sex.	1	2	3	4	8
31. I feel that there are duties that I am <u>not</u> allowed to perform because of my gender.	1	2	3	4	8

	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	NO BASIS FOR JUDGMENT
32. Men's opportunities for job advancement in the court system are limited because of gender.	1	2	3	4	8
33. Women's opportunities for job advancement in the court system are limited because of gender.	1	2	3	4	8
34. In my county or district, men are given preference in appointments to supervisory positions in court administration.	1	2	3	4	8
35. In my county or district, women are given preference in appointments to supervisory positions in court administration.	1	2	3	4	8
36. My opinions on work-related matters are given less weight than those of a person of the opposite gender.	1	2	3	4	8
37. Grievance procedures within the court system are adequate for resolving gender-based problems at work.	1	2	3	4	8

38. As an employee of the courts, do you feel you have ever been discriminated against on the basis of gender?

- 1 NO
- 2 YES If YES, please describe the circumstances, without naming any specific individuals.

38a. Did you take any action (e.g., file a complaint) as a result of this?

- 1 NO
- 2 YES If YES, please describe what action you took?

38b. If NO, why did you feel action was not advisable or possible?

THANK YOU VERY MUCH FOR YOUR HELP. PLEASE RETURN THE QUESTIONNAIRE IN THE ENCLOSED PRE-ADDRESSED ENVELOPE OR TO:

Research and Planning
Minnesota Supreme Court
1745 University Ave. Suite 302
St. Paul, MN 55104

PLEASE RETURN THE ENCLOSED POSTCARD SEPARATELY SO THAT YOUR NAME CAN BE REMOVED FROM THE MAILING LIST.

1/17/89

JURY SUMMONS SURVEY

1. County _____
2. From what lists is jury list drawn (check all that apply)?
 - Voter registration _____
 - Driver license registration _____
 - Motor vehicle registration _____
 - Welfare registration _____
 - Other (please specify) _____
3. How often do you update the jury list? every _____ months
4. Does the summons/qualification form you use allow people to be excused from a term of service if they are (check all that apply):
 - Disabled _____
 - Disabled (with doctor's excuse) _____
 - Woman in advanced state of pregnancy _____
 - Parent with small children _____
 - Other _____
5. If a judge is contacted directly by a juror, does a judge ever excuse anyone from a term of service if they are (check all that apply):
 - Disabled _____
 - Disabled (with doctor's excuse) _____
 - Woman in advanced state of pregnancy _____
 - Parent with small children _____
 - Other _____
6. Does the summons/qualification form you use allow people to defer their service until later in the term if they are (check all that apply):
 - Disabled _____
 - Disabled (with doctor's excuse) _____
 - Woman in advanced state of pregnancy _____
 - Parent with small children _____
 - A teacher _____
 - Have business conflicts _____
 - Other _____
7. Do you:
 - a. Summons and then determine qualifications _____ or
 - b. Determine qualifications and then summons? _____
8. When was your most recent call for jurors who have now completed their service?
date: _____
9. What time period of service did that call cover?
From _____ to _____
10. What is the term of service for jurors in your county?
 - _____ days
 - _____ weeks
 - _____ months
11. How many people were initially contacted to determine qualifications or summoned for service during the last term? _____

COURT ADMINISTRATOR'S SURVEY

NAME OF COUNTY _____

1. Population of County
- (1) Under 10,000
 - (2) 10,001-20,000
 - (3) 20,001-30,000
 - (4) 30,001-40,000
 - (5) 40,001-50,000
 - (6) 50,001-100,000
 - (7) 100,001-200,000
 - (8) Over 200,000

SEXUAL HARASSMENT POLICIES AND COMPLAINTS

2. Does your county or district have a formal sexual harassment policy?
- (1) No
 - (2) Yes, county
 - (3) Yes, district
3. Have you had formal sexual harassment complaints filed in the last two years?
- (1) No
 - (2) Yes, but fewer than three times in the last two years
 - (3) Yes, more than three but fewer than ten times in the last two years
 - (4) Yes, more than ten times in the last two years
4. If so, how many complaints have been against:
- (1) Judges? _____
 - (2) Other court personnel? _____
 - (3) Other county personnel involved with the courts? _____
 - (4) Attorneys? _____
 - (5) Others (please specify)? _____
5. If so, how many of the complaints have resulted in:
- (1) Abandonment of the complaint? _____
 - (2) Dismissal of the complaint? _____
 - (3) Warning or reprimand issued? _____
 - (4) Disciplinary proceedings against offender? _____
 - (5) Removal or resignation of offender? _____
6. Have you had informal complaints of sexual harassment which did not result in the filing of a formal complaint in the last two years?
- (1) Yes
 - (2) No
7. If so, how many complaints have been against:
- (1) Judges _____
 - (2) Other court personnel _____
 - (3) Other county personnel involved with the courts _____
 - (4) Attorneys _____
 - (5) Others (please specify) _____

12. How many of these were males? _____
 How many females? _____
13. Of those contacted, how many were not legally qualified for service (e.g. not citizens, not residents, not over 18 years of age...)?
 Males not qualified _____
 Females not qualified _____
14. How many people never responded to the initial contact in any way?
 Male non-responses _____
 Female non-responses _____
15. From the qualified pool how many people were excused from the entire term before the term began?
 Males excused _____ Females excused _____
16. From the qualified pool how many people were granted deferrals during the term (were deferred for service later in the term)?
 Males deferred _____ Females deferred _____
17. How many people actually appeared in response to the summons?
 Males appeared _____ Females appeared _____
18. How many people were granted excuses from the entire term once they appeared?
 Males excused _____ Females excused _____
19. How many people were granted deferrals to serve later in the term once they appeared?
 Males deferred _____ Females deferred _____
20. Overall, how many jurors were granted excuses or deferrals for the following reasons:
- | | excused | | deferred | |
|----------------------------|---------|---------|----------|---------|
| | males | females | males | females |
| medical disability/illness | _____ | _____ | _____ | _____ |
| pregnancy | _____ | _____ | _____ | _____ |
| parent of small children | _____ | _____ | _____ | _____ |
| teachers | _____ | _____ | _____ | _____ |
| business matters | _____ | _____ | _____ | _____ |
| undue hardship | _____ | _____ | _____ | _____ |
| other _____ | _____ | _____ | _____ | _____ |
21. At the time jury service began, how many people were actually available for service?
 Males available _____ Females available _____
22. How many people were sent to courtrooms for possible jury service?
 Males to court _____ Females to court _____
23. How many jurors actually served on juries?
 Males serving _____ Females serving _____

Please return a copy of your qualification, summons, and other pertinent forms with this questionnaire in the enclosed envelope.

PROFILE OF THE LEGAL PROFESSION

Introduction

The Task Force lawyers' survey included a number of questions that provided a demographic profile of the profession in Minnesota. The growing number of women lawyers has a considerable impact on the profession and on the issues raised in this report.

Demographics of the Profession

Women are, on average, newer to the profession than men, more mobile and slightly more likely to be employed in government or education jobs. Women less frequently become partners in the largest law firms and are paid somewhat less than men. Women perceive that they are often treated unfairly by men in the profession while men perceive that gender unfairness is a rare occurrence.

The percentage of women lawyers is substantially less than the percentage of women in the total population, but it is increasing. Currently the percentage of male attorneys is approximately 80%, and the percentage of female attorneys approximately 20%. The group surveyed by the Task Force consisted of 63% metro males, 17% metro females, 17% nonmetro males, and 3% nonmetro females. Female lawyers thus demonstrated a decided preference for the metropolitan areas.

The number of women in the legal profession continues to increase as the percentage of women in law schools increases. In 1982, it was reported that the percentage of women in law school was 37%, while in 1988 it was reported at 40% and 42%¹

The Task Force survey indicated that the female members of the profession are considerably younger on average than the males.

TABLE 8.1
MEDIAN AGE AND MEDIAN YEAR OF ADMITTANCE TO PRACTICE

	<u>Metro Males</u>	<u>Metro Females</u>	<u>Nonmetro Males</u>	<u>Nonmetro Females</u>
Median age (in years)	40	35	41	35
Median year in which first admitted to practice	1976	1982	1974	1982

Thus, on average, metro males are five years older than females and have been in practice for an average of six years longer than females.

¹ L. Gerstman, et al., The Status Of Women in the Legal Profession: A Profile of Minnesota Attorneys 53 (1984); Still a Long Way to Go for Women, Minorities, The Nat'l LJ. (Feb. 8, 1988), 1; The Bench & Bar of Minnesota (Mar. 1989), 5 (quoting figures from the ABA Office on Legal Education).

TABLE 8.1
 MEDIAN AGE AND MEDIAN YEAR OF ADMITTANCE TO PRACTICE

	<u>Metro Males</u>	<u>Metro Females</u>	<u>Nonmetro Males</u>	<u>Nonmetro Females</u>
Median age (in years)	40	35	41	35
Median year in which first admitted to practice	1976	1982	1974	1982

Thus, on average, metro males are five years older than females and have been in practice for an average of six years longer than females.

Employment longevity follows what one would expect based upon a five year difference in average age. Among survey respondents from the metropolitan area, the median number of years in active practice was eleven for metro males and six for females. In the nonmetropolitan areas, the difference was somewhat more pronounced with males in the rural areas practicing a median number of thirteen years, while females had practiced a median number of only five. On average the male population had fewer job changes and more years in the current job.

TABLE 8.2
 MEDIAN NUMBER OF YEARS ON JOB:
 MEDIAN NUMBER OF JOBS

	<u>Metro Males</u>	<u>Metro Females</u>	<u>Nonmetro Males</u>	<u>Nonmetro Females</u>
Median # of years in current job	7	3	10	3
Median # of different jobs	2	3	2	3

The current employment of male and female lawyers among the sample respondents is set forth below.

TABLE 8.3
EMPLOYMENT DISPERSION

	<u>Metro Males</u>	<u>Metro Females</u>	<u>Nonmetro Males</u>	<u>Nonmetro Females</u>
Current employment (%)				
Academic	1%	4%	1%	4%
Corporate	16%	15%	5%	5%
Government/Public	9%	20%	8%	23%
Private Practice/Solo	15%	9%	19%	13%
Private Practice/Firm	51%	40%	61%	44%
Legal Services	1%	3%	2%	8%
Other	7%	9%	4%	6%
TOTAL	100%	100%	100%	100%

Generally, women are employed in significantly higher percentages than men in government and academic positions. Men are employed in significantly higher percentages in private practice.

These Minnesota figures are very similar to the results of other surveys. A recent survey across a number of states reported 52% of the men and 36% of the women in private firms, with the government employing 17% of the women and 12% of the men.² This same study reported a significant difference between the first jobs selected by women and those selected by men. A larger proportion of men accepted jobs in larger law firms, with a larger proportion of women choosing public interest jobs, academic jobs or solo practice.³

The survey did not reveal any significant difference in the gender of clients of male and female lawyers. In the metro area, female and male lawyers both report 30% of their clients are female, while in the nonmetro areas, 40% of male lawyers' clients are female and 50% of female lawyers' clients are female.

There were, however, differences between men and women in areas of legal specialization. Respondents were asked to list their specialties (since many listed more than one, the totals equal more than 100%).

2 L. Liefland, Career Patterns of Male and Female Lawyers, 35; Buffalo Law Review, 601, 606 (1986).

3 Id., 605.

TABLE 8.4
AREAS OF SPECIALTY

Areas of specialty (%)	<u>Metro Males</u>	<u>Metro Females</u>	<u>Nonmetro Males</u>	<u>Nonmetro Females</u>
General	18	10	44	24
Family Law	11	13	27	37
Civil Litigation	34	23	41	25
Labor/Employment	8	10	7	6
Appellate	7	7	10	9
Criminal	11	8	24	18
Corporate	20	13	17	5
Real Estate	17	8	29	14
Other (tax)	4	3	1	2
(probate)	3	4	6	6
TOTAL	133%	89%	206%	146%

Approximately 40% more men report multiple specialties. Only a slightly larger percentage of women than men specialized in family law; however, considering the greater number of specialties reported by men, that difference is greater than is immediately apparent. Significantly fewer women than men report specializing in the area of civil litigation. The same is true in the area of corporate law. Although age may be a factor, while 62% of men report that all their civil trial work is first chair, only 33% of female attorneys make a similar report.

Some Characteristics of Misdemeanor Domestic Assault Prosecution In Six Minnesota Jurisdictions

Beverly Balos¹

Introduction

Domestic violence is a crime of enormous proportions. The Minnesota Department of Corrections estimates that there are approximately 63,000 incidents of domestic violence in Minnesota each year.² Increasingly, the criminal justice system is the arena in which this societal problem is exposed and confronted.

In an effort to begin to discover the characteristics of a misdemeanor domestic assault case as it proceeds through the criminal justice system, the Minnesota Supreme Court Gender Fairness Task Force undertook a study project. The project collected data on defendants arrested for misdemeanor assault in a domestic situation in six Minnesota jurisdictions during 1987.

Data Collection Method

Of the six jurisdictions chosen, two were urban, St Paul and Duluth, two suburban jurisdictions were included, Brooklyn Park and Brooklyn Center, and two rural areas were chosen, Little Falls and Kandiyohi County. These six jurisdictions were chosen not only to obtain diversity in type of area and geography, but also because three of the jurisdictions, St. Paul, Duluth, and Brooklyn Center, had operating intervention projects.³ The study hoped to include information regarding the functioning of the intervention projects. Unfortunately, the data sought were not available. In St. Paul files of the city prosecutor were examined and every eighth case was pulled from the 1987 closed cases. This process resulted in 51 case files for examination. Once the case is completed, the prosecutor's office in St. Paul discards the information in the file except for a one page manifold. In Duluth arrest files maintained by the Domestic Abuse Intervention Project were examined and every third case was selected for a total of 51 cases. Assaults outside the city of Duluth were eliminated. Data was collected in Kandiyohi County by reviewing all police records for domestic assaults charged in 1987. Every file was included since only 16 were found. In Little Falls the police department provided every domestic assault case in 1987, a total of 9. Again every file was included due to the extremely small numbers involved. Finally,

1 Clinical Professor, University of Minnesota Law School.

2 Minnesota Department of Corrections, Program for Battered Women: Summary Data Presentation on Information Obtained from Law Enforcement Agencies, 1984-1985, 2 (Sept. 1987).

3 Intervention projects provide advocacy services to victims of domestic assault. Many of the projects are notified directly by the police department when an arrest for domestic assault occurs. An advocate will then contact the victim as soon as possible after the assault to offer advocacy services during the pendency of the prosecution proceeding.

for the jurisdictions of Brooklyn Park and Brooklyn Center the Court Administration Manager of the Hennepin County District Court provided a computer generated list of all misdemeanor domestic assault prosecutions filed during calendar year 1987. In Brooklyn Center from a total of 79 cases two of every three cases were randomly selected beginning with case number three for a total of 48. In Brooklyn Park from a total of 150 cases every third case was randomly selected beginning with case number two for a total of 50. In both jurisdictions the random selection was generated from a random number chart specifically designed for that purpose. The data gathering procedure described above resulted in a total of 225 misdemeanor domestic assault case files for study from St. Paul, Kandiyohi County, Duluth, Little Falls Brooklyn Park and Brooklyn Center. The files examined sometimes indicated that the defendant was charged with more than one crime. This study focuses on fifth degree assault, and all but one defendant in all regions were first charged with fifth degree assault, a misdemeanor offense unless enhanced. See Minn. Stat. 609.224 (1) and Minn. Stat. § 609.224(2) (1988). Few defendants were charged with more than one crime. Only 32 were charged with two crimes, 4 with three crimes and 1 with four. This study will focus on the outcomes and characteristics of those charged with fifth degree assault.

Characteristics of Defendant and Victim

The collected data revealed a number of common characteristics. The vast majority of defendants were male (88.00%). Victims were mostly female (83.11%). Most defendants were married to (29.56%) or cohabiting with (47.29%) the victim of the crime. (22 observations were missing.)

Nature of the Injury

Data was collected on the nature of the injury and the method of assault. Victims suffered bumps and bruises, swelling and cuts. Injuries occurred most frequently to the face, arms, legs, neck and scalp, with injury to the face being the most common (53% of the first injuries). Of the few victims that sought medical attention, none were hospitalized, rather they were treated on an out patient basis. The attacker typically slapped, punched kicked or squeezed, or hit the victim with an object. Of the 225 files examined, 171 or 76% recorded at least one injury to the victim. Multiple injuries were recorded for numerous victims. Second injuries were sustained by 69 victims and 18 of these had a third injury as well.

The first injury was usually observed by the police and noted in their report (73.99% of first injuries).

Available Evidence

In 125 of the incidents, the victim was the only witness to the assault. Files indicate that only 80 (35.56%) of the incidents occurred in the presence of another person. Of the witnesses, only 11 or 15.28% were strangers to the defendant. Most of the other witnesses knew the defendant in some way, as an acquaintance, blood relative, spouse, or cohabitant. (51 of the 72 observations.) With regard to the relationship between the victim and the witness, 56 or 73.68% of the witnesses knew the victim, only 10 or 13.16% of the witnesses were strangers.

Overall, the number of witnesses interviewed by the police was very high. Files indicate that police interviewed 76.92% of the witnesses. (60 of the 78 person sample where the information was able to be determined.) There was no significant variation in interviewing from jurisdiction to jurisdiction. Three witnesses were not interviewed, and the files did not indicate whether the remaining 15 were interviewed. Witnesses ranged in age from 3 to 55 years of age. The majority of witnesses were between the age of 17 and 24 (22 of 46). Almost one-third of the witnesses, 32.61%, were children ranging in age from 3 to 18. Over one-quarter of the witnesses, 28%, were the children of either the defendant or the victim (11% were children of the defendant, 17% children of the victim).

Other than the presence of an observable physical injury or a witness, no other evidence was noted in the files in 157 or 69.78% of the cases. However, in 35 or 15.56% of the incidents the defendant confessed or admitted the incident. Physical evidence was present in 30 or 13.33% of the cases.

In most cases the prosecutors did not subpoena the victim. Only 68 or 31.05% victims were subpoenaed for pretrial proceedings or for trial. One hundred forty-five (145) or 66.21% of the victims were not subpoenaed. (Information was unavailable about 6 or 2.74% of the cases.) It is important to note that if charges are dropped at an early stage of the proceedings, there may be no need to subpoena the victim.

Arrests

The files examined for this study indicated that defendants were almost always arrested. According to the available data, 201 (92.20%) of those defendants charged with domestic assault were arrested. This is not a surprising statistic in light of the nature of the files selected. Since the study used as its source of files not only police files but prosecutors files and arrest records from an intervention project a high rate of arrest is to be expected. However, whether the arrest occurred at the time of the assaultive incident or pursuant to a subsequent complaint was not determined by the study. The arrest rate of victims is of more interest. Nearly one quarter (22.67%, 51) of the victims were arrested. Of those victims arrested, 47.05% (24) were charged.

Disposition of First Charge

Examining all jurisdictions, (224 files where misdemeanor assault was the first charge) only one file indicated a conviction by the Court (.4%). There were no convictions by jury indicated in any of the files. A guilty plea was obtained in 84 or 37.5% of the cases. A guilty plea to a lesser crime was recorded in 17 or 7.6% of the cases. Seventy (70) or 31.3% were dismissed by the prosecutor and 46 or 20.5% were in the category of acquitted/dismissed which includes continuances for dismissal. Four (4) cases were continued and 2 had some other disposition. (See Appendix A.)

St. Paul obtained guilty pleas to the first charge in 23.5% of the cases and guilty pleas to a lesser crime in 3.9%. Duluth obtained guilty pleas in 31.4% of the cases and guilty pleas to a lesser crime in 9.8%. In Brooklyn Park the rate of guilty pleas was 26% and 4% to a lesser crime. Brooklyn Center had a guilty plea rate of 59.6% and a plea to a lesser crime of 4.3%. It is interesting to note the variability in percentage of guilty pleas, from a

high of 59.6% in Brooklyn Center to a low of 23.5% in St. Paul. (See Appendix A.) These statistics should be kept in mind when examining the rate of case dismissal as well.⁴

Rate of Dismissal

Overall, the rate of dismissal by prosecutor was 31.35 for the initial charge.⁵ However, the rate of dismissal varied considerably from jurisdiction to jurisdiction. In St Paul, the first charges were dismissed in 72.5% of the cases (37 of 51). Duluth had the second highest dismissal rate of 47.1% (24 of 51). In Kandiyohi County the dismissal rate was 25%. However, the small number of cases, only 16 makes the significance of this figure questionable. Brooklyn Park and Brooklyn Center both had dismissal rates of 6.00% and 4.3% respectively. Little Falls had no dismissals of first charge at all. However, as with Kandiyohi County the small number of cases in Little Falls, nine, renders the lack of dismissals insignificant.

Stated Reason for Dismissal

Lack of victim cooperation was indicated as at least one reason for dismissing 39 charges. Files also indicated that insufficient evidence was a factor in only 5 charges. Yet for a substantial number of charges where a reason for dismissing charges was indicated, the reason was something other than lack of victim cooperation or insufficient evidence.

Sentencing

The examined files indicate that 112 initial charges resulted in some type of sentence. Eighty-eight (88) of these sentences were for assault in the fifth degree. Only 11 charges actually resulted in time being served in jail. Actual time served varied from 1 to 30 days in jail. Twenty-five (25) of the sentences were stayed prior to imposition; execution of the sentence was stayed for 56 of the charges.

Probation was ordered for 74 or 66% of the charges. In 16 instances the probation was unsupervised, and the data indicates that probation was supervised in 58 cases. The supervised probation data however, is somewhat ambiguous. Jurisdictions define supervised probation in various ways. Supervised probation in one jurisdiction may be a stay of imposition with conditions in another jurisdiction. The definition simply is not consistent across jurisdictions.

⁴ Due to the small number of cases in Little Falls and Kandiyohi County, the figures regarding percentages of guilty pleas and pleas to a lesser crime are not significant.

⁵ In 1988 the Minnesota legislature passed an act requiring prosecutors to make every reasonable effort to notify a domestic assault victim that the prosecutor has decided to decline prosecution or to dismiss the charges. See Minn. Stat. § 611A.0315 (1988). This statute was not in effect in 1987, the target year of data collection for this study.

Fines/Costs

Persons convicted, or who plead guilty to domestic assault were not often fined. Indeed, only 41 persons were fined, one of which was for a gross misdemeanor charge. Of those 41 fines 19 were stayed. The fines ranged in amounts from \$50 to \$1500, the most common fine was \$100 (10 of 41 were fined \$100). A fine of \$700 was pronounced in 8 cases. Costs were imposed in 30 cases. In half of those cases \$5.00 was the amount imposed.

Orders for Protection

In 8.89% or 20 of the cases an Order for Protection was in effect prior to the assault in question. After the assault, protection orders were instituted for 54 or 24% of victims. The terms of the protection orders varied. In 14 or 25.45% of the cases the defendant was ordered to have no contact with the victim. In 36 instances, 65.45%, the defendant was removed or excluded from the victims home. In the remaining 5 or 9.09% of the cases other terms were included in the Order for Protection.

Length of Time to Dismissal

When the final dismissal data is broken down by the length of time before each dismissal and by jurisdiction, some interesting results exist. In St. Paul there were 44 instances when the elapsed time between the date of the incident to the date of dismissal as well as the date of arrest to the date of dismissal by the prosecutor could be determined. In St. Paul the mean time between the date of the incident and the date when the case is dismissed by the prosecutor is 37.273 days.⁶ The median is 19 days.⁷ The mean and median is about the same when we examine the time period between the date of arrest and the date of dismissal. Here, the mean is 36.682 days and the median is 19.00 days. The slight decrease is understandable because some defendants may not be arrested on the date of the incident. In Brooklyn Center only 6 instances of elapsed time were able to be determined. Here the mean time between the incident and dismissal is 148.667 days. The median is 157.000 days. No data was available on the time between the arrest and dismissal. In Little Falls the mean and median between the incident and dismissal and between arrest and dismissal are identical at 176.00 days. However, this was based on only two cases. In Brooklyn Park the mean from incident to dismissal is 136.00 days. The median is 167.00 days. The time from arrest to dismissal is 27.5 days for both the mean and median. However again, this was based on only two cases. In Kandiyohi County the data was available for only five cases. From incident to dismissal the mean is 36.80 days, and the median 57.00 days respectively. From arrest to dismissal the mean and median were the

6 The mean is the average.

7 The median is the middle value, above and below which lie an equal number of values.

same, 36.00 days and 57.00 days. In Duluth, where 29 instances were determined, the mean elapsed time from arrest to dismissal by the prosecutor is 122.48 days and the median is 96 days.⁸

Cases are dismissed most quickly in St. Paul. The elapsed time data available from Little Falls, Brooklyn Park, Brooklyn Center, and Kandiyohi County was too small to be of significance. For all jurisdictions the mean from incident to dismissal is 70.025 days, the median is 46.00 days. The mean time between arrest and dismissal is 68.9 days the median is 46.00 days. With regard to St. Paul, the rapidity of dismissals should be viewed in conjunction with the dismissal statistics, that is a dismissal rate of 72.5% of the cases. (Thirty-seven (37) initial charges out of 51 cases examined.)

Timing of and Reason for Dismissal

Data was collected on the reasons for dismissal in relation to the timing of the dismissal across all jurisdictions. As noted above it is important to keep in mind the minimal elapsed time data available from Little Falls, Brooklyn Park, Brooklyn Center, and Kandiyohi County. Of those cases dismissed without any indication of the reason, (22 cases) the mean number of days between the incident and the dismissal was 90.182 days; the median was 71.500. A mean of 71.895 and a median of 46.00 days passed from the arrest until the case was dismissed for no indicated reason. Cases dismissed for lack of victim cooperation (44 cases where the data was available) are dismissed at mean of 85.568 days and a median of 65.00 days after the incident, and a mean of 79.200 days and a median of 60.00 days after arrest.

Of the few cases dismissed for "other" reasons with information as to the timing of the dismissal, the mean time period for dismissal was 16.75 days and the median was 2.50 days after the incident. This mean was reduced to 16.25 days after the arrest. The median was also reduced to 2.00 days.

Arrests of Victims

Victims were more likely to be arrested in Duluth and in Brooklyn Center. In Duluth the police arrested the victim in 19 instances out of the 51 files examined. In Brooklyn Center police arrested the victim in 14 of the 48 cases. Duluth charged 8 of the arrested victims. All but 4 of the victims were charged in Brooklyn Center. The remaining jurisdictions had a lower frequency of victim arrest. In St Paul 4 victims or 7.8% were arrested out of the 51 files examined. Of those 4, 2 were charged. In Kandiyohi County 3 out of 16 files or 18.8% were arrested but none were charged. Little Falls arrested no victims. In Brooklyn Park in 11 out of 50 files victims were arrested but only 4 were charged.

⁸ See graphs attached as Appendices B and C for a visual representation of Lengths of Time to Dismissal. Please note the small number of cases where data was available: Little Falls (2), Brooklyn Park (2), Brooklyn Center (6), and Kandiyohi County (5), Duluth (29), St. Paul (44).

Conclusions

This study examined 225 domestic assault files in the criminal justice system. While there has been speculation based on anecdotal information that a great percentage of cases charged were being dismissed, this study indicates that for at least one jurisdiction, St. Paul, that belief is supported statistically. Further, it is interesting to note the wide variability in rates of dismissal across the six jurisdictions. The reason for the rate of dismissal is less clear. While statistics were minimal in some jurisdictions, it also appears that St. Paul had a comparatively short period of time from the date of the incident to the date of dismissal as well as from the time of arrest to the date of dismissal by the prosecutor.

Similar to the wide range found in the rate of dismissal, the study found great variations in the percentage of guilty pleas obtained from jurisdiction to jurisdiction. St. Paul had the lowest percentage of guilty pleas while Brooklyn Center had the highest percentage.

With regard to the assault itself, 76% of the files noted an injury to the victim. Multiple injuries were not uncommon. Although most victims did not seek medical attention, those few who did were treated on an out patient basis. The vast majority of the defendants and victims were either married or cohabiting. The study also indicated that in the majority of cases there is no other witness present. When there is another witness, it is likely to be a person known to the victim or defendant or related to one of them in some way. In 28% of the cases where there was a witness, the witness was the child of either the defendant or the victim.

With regard to sentencing, it appears that time in jail is rarely served and when served is of minimal duration. Similarly fines and costs are rarely imposed. Some form of probation was the most common outcome. In the 61 instances where we were able to determine specific conditions of probation, the most common condition was chemical abuse counseling (26 instances). Domestic violence counseling was an additional condition in 16 instances.

A surprising finding was the overall number of victims arrested, 22.67%. Of interest also is the finding that Duluth and Brooklyn Center had a higher rate of victim arrest than did the other jurisdictions examined. The occurrence of victim arrest is a phenomenon that requires further exploration and study.

Recommendations

Given the rates of dismissal, the unique characteristics of domestic assault, sentencing patterns and the rate of victim arrest the following actions are recommended:

1. That prosecuting authorities develop a separate unit for the prosecution of domestic assault cases within their offices.
2. That the unit be Staffed by those attorneys, paralegals etc. who have particular interest and training in the area of domestic assault.
3. That such a unit be monitored to determine its effectiveness in reducing dismissal rates as well as the overall prosecution of domestic assault cases.

4. That training and education programs dealing with domestic violence be instituted and/or expanded for prosecutors, judges, law enforcement personnel, and defense attorneys. That some percentage of this training be developed and presented by advocates who work with victims of domestic assault.
5. That judges consider the effectiveness of current sentencing practices .
6. That a uniform method of data collection be instituted by the state for offices of prosecuting attorneys. That relevant data files be maintained in an accessible manner so that future research can occur.
7. That the phenomenon of victim arrest be further examined.

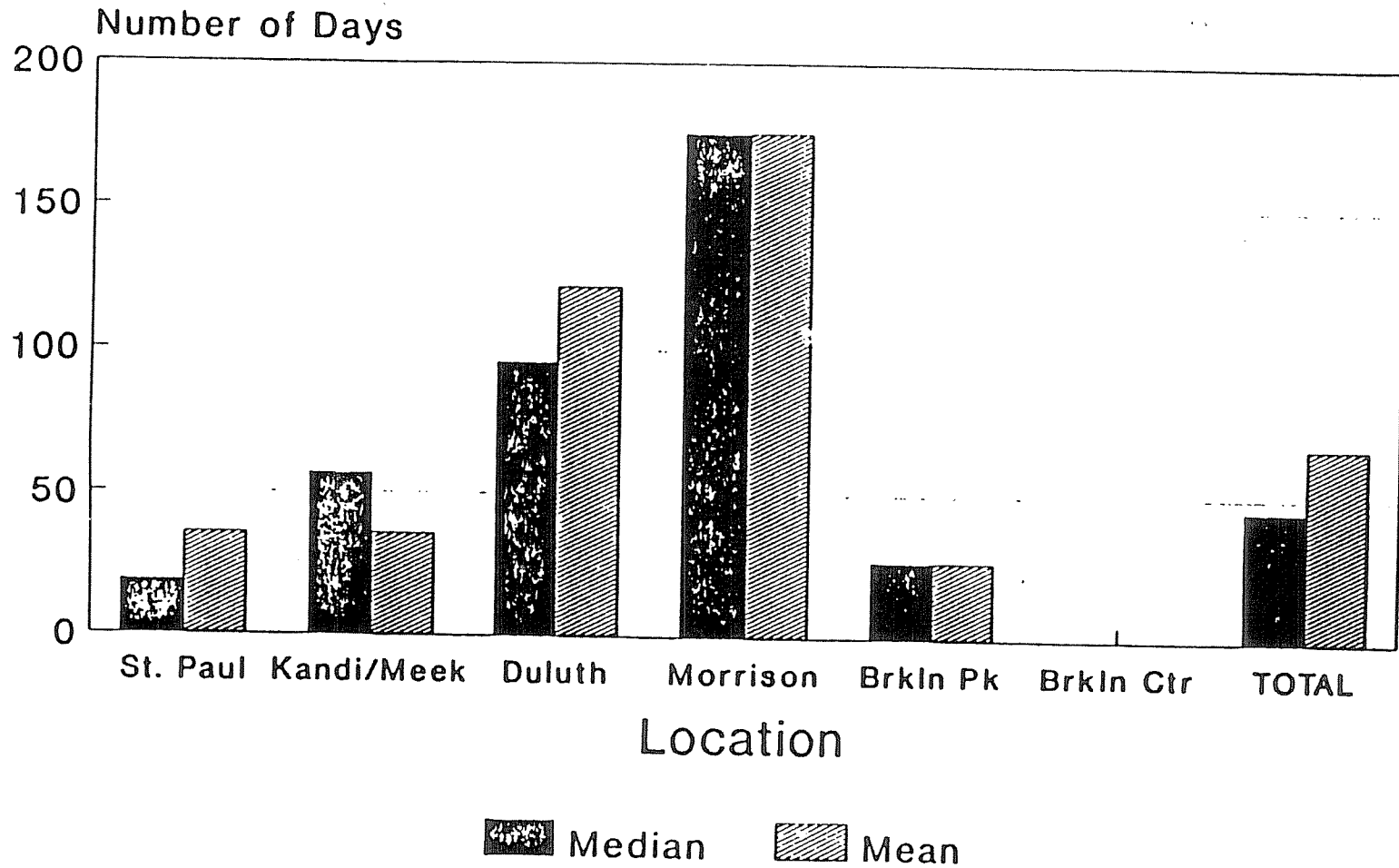
DISPOSITIONS BY LOCATION
 Misdemeanor Domestic Assault (609.224, subd. 1)

	Convicted by Court	Guilty Plea	Guilty Plea/ Lesser Crime	Acquitted/ Dismissed by Court	Dismissal by Prosecutor	Case Continued No Finding	Other
Brooklyn Center	-0-	59.6%	4.3%	29.8%	4.3%	2.1%	-0-
Brooklyn Park	-0-	26.0%	4.0%	56.0%	6.0%	4.0%	4.0%
Morrison	-0-	66.7%	33.3%	-0-	-0-	-0-	-0-
Duluth	2.0%	31.4%	9.8%	7.8%	47.1%	2.0%	-0-
Kandiyohi/Meeker	-0-	56.3%	18.8%	-0-	25.0%	-0-	-0-
St. Paul	-0-	23.5%	3.9%	-0-	72.5%	-0-	-0-
All Locations	.4%	37.5%	7.6%	20.5%	31.3%	1.8%	.9%

APPENDIX A

Note: The category of Acquitted/Dismissed by Court includes continuances for dismissal.
 There were no convictions by jury in the files examined.

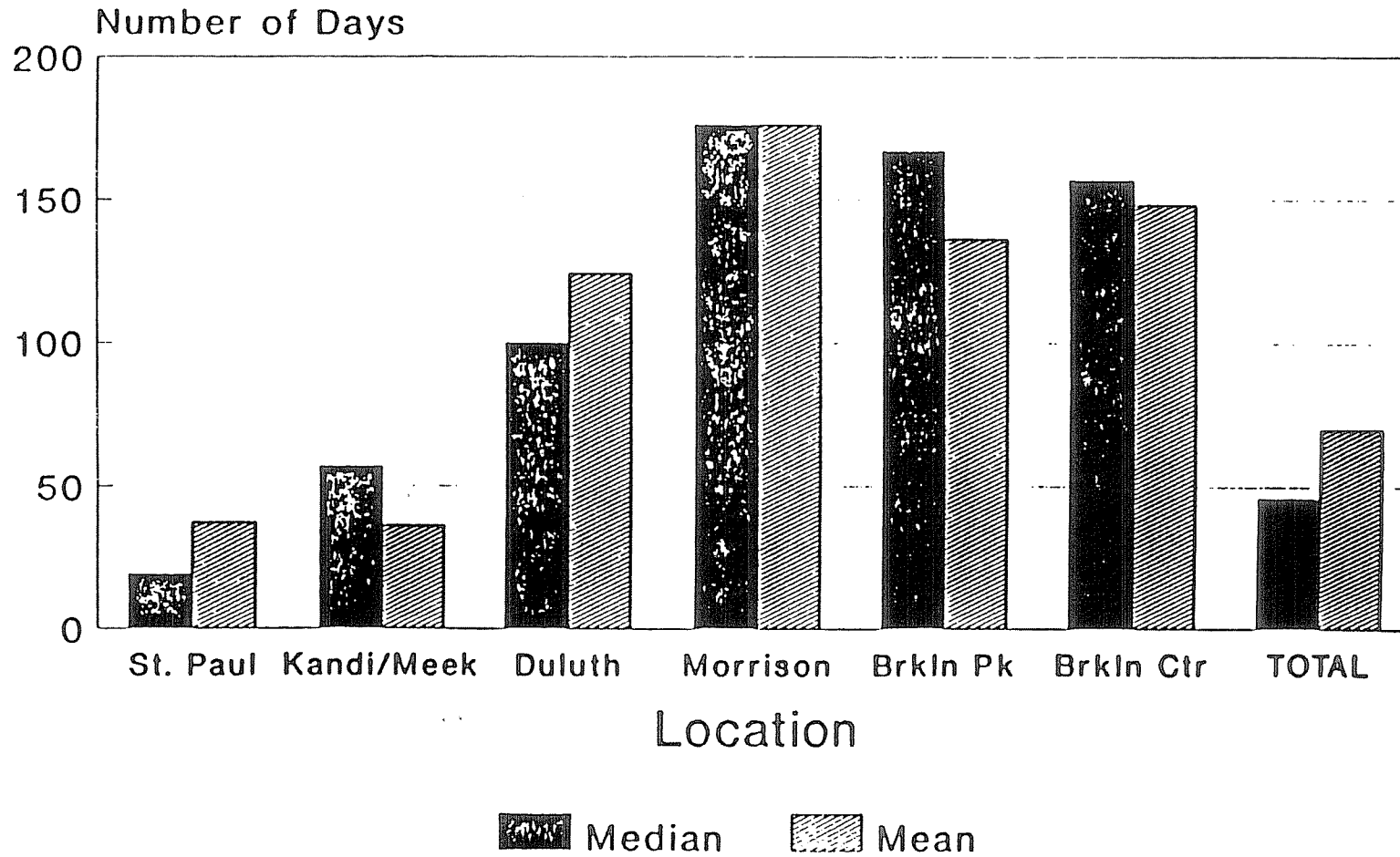
Dismissed by Prosecution Date of Arrest to Date of Dismissal Misdemeanor Domestic Assault



APPENDIX B

Note: Brkln Ctr has no valid cases.

Dismissed by Prosecution Date of Incident to Date of Dismissal Misdemeanor Domestic Assault



GENDER FAIRNESS OF COURT DOCUMENTS

One of the concerns of the Task Force is the gender fairness of communications by the judicial system with the public. The Task Force has attempted to ascertain whether oral communications made by the judicial system contain gender bias through surveys of attorneys, court personnel and judges and through hearings for the general public. The Task Force determined that it was also appropriate to evaluate the gender fairness of the documents through which the judicial system communicates with the public. These documents include forms, statements of rules and procedures and brochures. This evaluation is an important aspect of the Task Force's study. Unlike a single, relatively ephemeral statement made in a courtroom which may reflect the speaker's personal bias, any gender biased statement made in a document issued by the judicial system affects many more people and is appropriately viewed by the public as an official statement of the system's perspective. Broadly disseminated documents also provide the judicial system with an opportunity affirmatively to promote gender fairness in the courts.

The Task Force gathered forms and statements of rules issued by the state and the judicial districts and requested that court administrators submit to it any locally produced or distributed materials. The Task Force designed a form for the collection of data regarding court system documents and a set of instructions defining the sorts of language which might be identified as gender biased. It directed evaluators to look for use of the male pronoun regardless of the gender of the person to whom reference is being made, use of language which presumes a person of a particular gender, use of gender-biased stereotypes and opportunities within a document affirmatively to promote gender fairness.

Some people have defended the use of the male pronoun to refer to persons of either gender on the grounds that (1) everyone understands that the masculine includes that feminine; (2) the usage has been historically viewed as grammatically correct; and (3) elimination of such usage would make writing unduly awkward. These arguments are unpersuasive.

The first argument is easily refuted by asking how men would feel if "she" were considered the gender-neutral pronoun and was regularly considered to include men as well as women. Many people today reading material which uses the masculine pronoun in this way conclude that the drafter of the document does not view women as a part of the group being described. A recent American Bar Association policy statement on gender-fair language, for example, reports an incident in which a jury explained to a judge that they had not chosen a woman as jury leader because the court rules instructed them to appoint a "foreman." Exclusive use of male pronouns is particularly harmful when they are used to refer to judges or attorneys or other professionals because they suggest the existence of women in such categories is unusual or irregular. See, for example, Rule 104(a) of the Rules of Evidence which describes the judge's role in determining preliminary questions in the following way: "In making his determination he is not bound by the rules of evidence except those with respect to privileges." See also, the Introductory Statement to the Appendix of Forms of the Rules of Civil Procedure: "Each pleading, motion, and other paper is to be signed in his individual name by at least one attorney of record (Rule 11). The attorney's name is to be followed by his address as indicated in Form 2."

The view that use of the masculine pronoun to include both men and women has historically been considered grammatically correct is no defense to its continued use. Language, including grammar, is not gender neutral, but rather reflects the biases of the society in which it develops. Describing women in language which treats the women as if they were men in order to satisfy a grammatical rule denies the very existence of their gender. An example of that transformation can be seen in CRIMJIG 11.26 from the Minnesota Jury Instruction Guides-Criminal. There, the comment describes the facts of a specific criminal prosecution in which the defendant was a woman and identifies what she contended on appeal. In the following sentence, the comment says, "The Court further held that it was not unreasonable or unconstitutional to impose criminal liability on a defendant in a case in which he would not face civil liability because the decedent's degree of negligence exceeded his own."

The final argument, that avoiding the use of the masculine pronoun will lead to an unnecessarily awkward writing style is easily refuted by examining the successful manner in which many legal documents have been rewritten to become gender neutral. The legislative drafting manual of the Minnesota Revisor of Statutes, for example, lists five different grammatical constructions, in addition to "he or she" or "his or her," which can be used to achieve gender neutrality.

Law student volunteers from the University of Minnesota Law School examined the documents collected in accordance with the Task Force's definitions of gender-biased language. Their evaluations included both overall assessments of a document's gender fairness as well as, in most cases, suggestions for amended language which could improve the document. The study included more than ninety forms and thirty-six statements of rules and procedures, some of them more than a hundred pages long. Ten brochures distributed by local districts were also reviewed. This report provides general findings of the study. Detailed statements of gender bias problems and suggestions for amendments for any particular document can be obtained from Professor Laura Cooper, University of Minnesota Law School, 229 Nineteenth Avenue South, Minneapolis, Minnesota 55410.

The study found a wide disparity in the attention that has been paid to gender fairness in court documents. Some documents, particularly those which have undergone revisions since 1987, have thoroughly eliminated gender-biased language. The drafters of such documents as the Code of Judicial Conduct and the Minnesota Rules for Admission to the Bar and the Second Judicial District Handbook for Jurors, have managed to achieve gender neutrality without having to sacrifice clarity or style. Other documents, including some which have undergone some recent revisions, are nevertheless filled with gender-biased language. The Rules of Evidence and the Minnesota Rules of Criminal Procedure, for example, exclusively employ the masculine pronoun and make frequent use of other gender-biased language.

It is interesting that in some documents in which obvious attention has been paid to attempt to eliminate masculine pronouns, the masculine pronoun has nevertheless been retained in references to higher ranking officials. For example, in the Court of Appeals Internal Rules, amended in 1987, which are generally free of gender-biased references, Rule 8.4 refers to "the Chief Judge or his designee." The Sixth Judicial District Rules, also adopted in 1987, include a similar retention of a masculine pronoun in the midst of an otherwise gender neutral statement in Rule 9: "The Court Administrator shall assign a

duly appointed deputy clerk from his office who shall be designated as the assignment clerk and he/she shall act under the general instruction of the presiding Judge ...”

In places where documents offer examples, the examples are often unnecessarily gender specific. Illustrative are Comment II.A.04 to the Sentencing Guidelines which gives an example involving father-daughter incest where the reference could instead have been made to parent-child incest or the Comment to II.B.103 of the same document which describes a liquor store robber as “he” where gender is irrelevant to the example. In a statement of policy regarding joinder of parties contained in the Rules of the Second Judicial District, a particular joinder problem is described as typically arising in a personal injury suit brought by “a wife and minor child” where “spouse” could have been used to replace the gender-specific term “wife.” In sets of rules which include forms, the litigants and attorneys are universally described by male names and pronouns. See, for example, the forms included in the Rules of Civil Procedure and the forms in the Minnesota Rules of Civil Appellate Procedure.

Many court documents employ nouns which presume that a variety of social roles are filled exclusively by men. Document reviewers found such words as clergyman, bail bondsman, foreman, chairman, venireman and serviceman used in documents issued by the judicial system.

Rules which describe appropriate courtroom attire unnecessarily differentiate between men and women. Rule 17 of the Rules for Uniform Decorum in the District (Trial) Courts of Minnesota states: “Pantsuits or dresses shall be appropriate for women. Coats and ties shall be appropriate for men.” This rule might be interpreted as precluding women from wearing business suits. Indeed, some women in the Attorneys Survey reported being criticized by judges for not dressing in a sufficiently “feminine” style. Rule 6.02 of the Fourth Judicial District Rules state: “Either suits, dresses, or other customary business attire are appropriate for women, and coats and ties are appropriate for men.” Both rules already note that clothing appropriate for sports or other leisure time activities are inappropriate in the courtroom. It should be sufficient merely to retain that language and provide, without making any gender differentiation, that the proper clothing for all attorneys is “customary business attire.”

In addition to the problems of overt gender bias identified by this review of court documents, reviewers also observed instances in which court documents could be amended to affirmatively promote gender fairness. For example, court rules governing the appointment of attorneys to boards could mandate significant representation of both men and women. The Rules of Decorum could be revised to direct that equally respectful forms of address are used for both men and women and that judges are directed to admonish attorneys who fail to meet such a standard. Jury instructions could include directives that juries are to be careful in their deliberations to assure that all jurors have an opportunity to speak and that statements of a juror should not be undervalued simply because a juror speaks quietly or with less assertive language than another.

Of thirty-six statements of rules or policy reviewed, twenty-eight contained gender-biased language and of the remaining eight there were some which could appropriately be revised to include language promoting gender fairness. Of the more than ninety forms issued by the Minnesota Association for Court Administration, only about seven forms have any gender bias problem and these are generally limited to use of the masculine

pronoun. Of the ten brochures examined, four had gender-biased language. The problematic brochures included two judicial district juror handbooks and the widely used juror handbook prepared by the Minnesota District Judges Association.

The Task Force concludes that a significant number of court-issued documents require revision. The Supreme Court should direct all groups within the court system which issue documents promptly to undertake revisions to eliminate use of gender-specific nouns, gender-specific pronouns and gender-based stereotypes and to introduce into the documents, where appropriate, language affirmatively promoting gender fairness in the courts.

STATE OF MINNESOTA

IN SUPREME COURT

ORDER ESTABLISHING STANDING COMMITTEE
TO IMPLEMENT RECOMMENDATIONS OF THE MINNESOTA
TASK FORCE ON GENDER FAIRNESS IN THE COURTS

WHEREAS this court, by its order of June 8, 1987, directed the Minnesota Task Force on Gender Fairness in the Courts to document the existence of gender bias where found in the judicial system of Minnesota, to recommend methods for its elimination and to monitor implementation of approved reform measures; and

WHEREAS the Minnesota Task Force on Gender Fairness in the Courts has recommended the appointment at this time of a standing committee to oversee implementation of the recommendations of the Task Force to insure that the monitoring function will be carried out as effectively as possible and to maintain the desired level of continuity;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Committee on Gender Fairness in the Courts be, and hereby is, established to:

1. Implement Task Force recommendations and monitor implementation efforts on an on-going basis;
2. Work with Continuing Legal Education for State Court Personnel, Board of Continuing Legal Education, and the National Judicial Education Program to develop judicial and legal education programs on gender fairness;
3. Work with the Office of the State Court Administrator to establish a statistical data base appropriate for monitoring areas of Task Force concerns and performing studies in furtherance of the committee's charge; and
4. Evaluate the effectiveness of approved reform measures which have been implemented to assure gender fairness in our court processes.
5. Submit a yearly written report to the Chief Justice and the Court regarding the work and recommendations of the Standing Committee.

IT IS FURTHER ORDERED that the following persons be, and hereby are, appointed, effective January 1, 1989, as members of the Committee on Gender Fairness in the Courts for the term of years indicated below:

Hon. Rosalie E. Wahl
Minnesota Supreme Court
230 State Capitol
St. Paul, MN 55155
Term: three years

Hon. Jonathan Lebedoff
District Court Judge
12-C Government Center
Minneapolis, MN 55487
Term: two years

Ember D. Reichgott
Minnesota State Senator
7701 48th Avenue North
New Hope, MN 55428
Term: one year

Sue K. Dosal
State Court Administrator
230 State Capitol
St. Paul, MN 55155
Term: three years

Hon. Jack J. Litman
District Court Judge
St. Louis County Courthouse
Virginia, MN 55792
Term: two years

Hon. George I. Harralson
District Court Judge
Lyon County Courthouse
Marshall, MN 56258
Term: one year

Dr. Nancy Zingale
Public Member/Social Scientist
436 Holly Avenue # 3
St. Paul, MN 55102
Term: three years

Martin J. Costello
Attorney
101 Fifth Street E. # 2100
St. Paul, MN 55101
Term: two years

Hon. Mary Louise Klas
District Court Judge
15 Kellogg Blvd. W. # 1639
St. Paul, MN 55102
Term: one year

IT IS FURTHER ORDERED that members of the Committee on Gender Fairness in the Courts may be reappointed for successive three year terms upon order of this court.

IT IS FURTHER ORDERED that the following be appointed ex officio members of the committee:

Director of Continuing
Education for State
Court Personnel
1745 University Avenue
St. Paul, MN 55105

Frank V. Harris
MSBA Continuing Legal Education
Director
140 N. Milton Street
St. Paul, MN 55104

IT IS FURTHER ORDERED that the Honorable Rosalie E. Wahl be, and hereby is, designated as chairperson.

DATED: *Dec 22, 1988*

BY THE COURT

OFFICE OF
APPELLATE COURTS

DEC 23 1988

FILED


Douglas W. Amdahl