
GENDER FAIRNESS 2002

Report of the Oregon Judicial Department Access to Justice for All Committee

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OVERVIEW OF THE GENDER FAIRNESS TASK FORCE

In December 1995, Oregon Supreme Court Chief Justice Wallace P. Carson, Jr. and then-President of the Oregon State Bar (OSB), Dennis Karnopp, appointed a task force to study the role of gender in the Oregon's legal system. The Gender Fairness Task Force completed its work in May 1998, co-chaired by then Associate Justice Susan P. Graber of the Oregon Supreme Court and Robert H. Fraser, a lawyer and past president of the OSB, and aided by a full-time coordinator, 100 task force and workgroup members, and nearly 200 volunteers.

Origin

Chief Justice Carson noted in a memo to the Oregon Supreme Court dated October 3, 1994: "As part of a gendered society, Oregon courts probably face some problems created by gender bias. The majority of other states have undertaken gender bias studies and have found that both the study and the implementation of the task force's recommendations have improved the quality of gender relations in their states. Oregon likely could benefit from that process, as well."

Mission

The mission of the Task Force on Gender Fairness was to study issues of gender fairness in the Oregon judicial system and legal profession and to prepare a written report to the Chief Justice and the President of the Oregon State Bar, containing findings, conclusions, and recommendations related to those issues.

Methodology

Quantitative research provided numerical data on a broad range of issues from diverse groups. Qualitative information provided detail, insight, and depth on the effects of individuals' experiences.

Sources of information included existing data, public hearings, focus groups, interviews, written comments, and surveys of eighteen populations in the legal community. The task force formed eight workgroups:

1. Judicial Administration
2. Civil Litigation
3. Domestic Relations
4. Criminal and Juvenile Law
5. Interactions among Lawyers, Clients, and Staff
6. Opportunities in the Legal Profession and Professional Life
7. Legal Education, Bar Admission, and Discipline
8. Intersectionality Issues

Uniqueness

Oregon's gender fairness study examined gender fairness from a multiple-identify ("gender plus") perspective. It considered personal characteristics other than gender, such as race and age, to understand how an interplay of factors might affect men's and women's experiences with the justice system. The task force called these "intersectionality" issues.

The scope of inquiry was broader than similar studies in other states. This task force was among the first to consider the perspectives of prison inmates, clients of private law firms and nonprofit agencies, law school staff, and youth. It also was one of only a few states to examine gender fairness in bar admissions, lawyer discipline, and the interactions among lawyers, clients, and legal support staff.

EXECUTIVE SUMMARY

I. Improvements in Gender Fairness

The following actions fulfilled recommendations by the Gender Fairness Task Force.

Judicial Administration: Implemented G 1.1, G 1.6, G 2.2, G2.3a, G 2.4a, b, G 2.5, G 2.7

- The Chief Justice of Oregon's Supreme Court charged the Access to Justice Committee (AC) to monitor and coordinate implementation of the Gender Fairness Task Force recommendations. He requested but did not receive position authority and funding for full-time AC staff in the '99-01 and '01-03 legislative sessions. In 2000, OJD hired a full-time, limited-duration AC coordinator with special project funds.
- The OSB study on legal needs of low and moderate income individuals in Oregon, "The State of Access to Justice in Oregon" (2000), addressed intersectionality issues, including the unique needs and barriers facing low income Oregonians who also are disabled, elderly, farm workers, Native Americans, immigrants, non-English speaking, or youths.
- Judges actively monitor and curtail inappropriate gender-based conduct in court.
- The OJD Education Division conducts regular educational programs for judges and court staff on identifying and avoiding the gender-biased behavior in and around the courthouse.
- The OSB conducts regular education programs for lawyers on the importance of professionalism, including the avoidance of gender-biased behavior.
- The Oregon Supreme Court adopted a new MCLE requirement that all practicing attorneys in Oregon must participate in three hours of education every three-year reporting period on legal professionalism and issues of racial, ethnic, gender, or disability fairness and access to justice.
- The OSB Committee on Uniform Civil Jury Instructions adopted UCJI 5.01A in October 1998 to provide more explicit guidance on issues of fairness to juries when interpreters are involved in a case.
- The AC continues to assist the Office of the State Court Administrator (OSCA) and the OSB to improve education curricula to help judges and lawyers identify and avoid gender bias.

Domestic Relations: Implemented G 3.3, G 3.4, G 3.5b, G 3.6a

- The OJD Court Community Justice Services Program, State Family Law Advisory Committee (SFLAC) and Oregon Coalition Against Domestic and Sexual Violence presented five regional education programs on domestic violence for judges and court staff in 2001. OJD has received Violence Against Women Act (VAWA) funding for continued statewide education in 2002 on multi disciplinary responses to domestic violence and mediation. OSCA provided copies of the State Justice Institute's curriculum, "Understanding Sexual Violence: The Judge's Role in Stranger and Non-stranger Rape and Sexual Assault Cases," to all court libraries.
- Willamette University College of Law (WUCL) addresses domestic violence issues in several classes, such as Family Law and Criminal Law.

- The OJD and OSB provide assistance to non-English speakers about services available to domestic violence victims. OJD is developing a Spanish translation of Oregon's Family Abuse Prevention Act (FAPA) forms. The OSB Tel-Law project, a free telephone-based collection of recorded messages written by Oregon lawyers on many legal subjects, including domestic violence, is available in Spanish and Vietnamese; a Russian translation will be available in 2003. Spanish transcripts of all Tel-Law recordings for the OSB website are in progress. The Bar also provides LegalLinks brochures on many legal topics, including divorce, in English, Spanish, Vietnamese, and Russian.
- On the recommendation of the Oregon Council on Domestic Violence, the 1999 legislature passed a "rebuttable presumption" amendment that creates a rebuttable presumption against custody to a parent who engaged in domestic violence or child battering.

Prosecutorial and Judicial Discretion: Implemented G 4.4, G 4.5

- The Oregon Department of Corrections (DOC) is working with the Social Learning Center to develop a comprehensive parenting program for parents in prison and transitioning back into the community. This 18-month project will involve 480 inmates, equal numbers of men and women, in a 12-week program. The pilots will occur at the Coffee Creek and OSCI facilities.
- Oregon Laws 2001, Chapter 635 created a planning and advisory committee to recommend how to increase family bonding for children of incarcerated parents. In addition, as part of the Children of Incarcerated Parents Project, the Social Learning Center will study of how parent education affects children of inmates. Inmates will participate in a six week parent education course. Following the parent education course, qualified inmates will participate in therapeutic visitations.
- The OJD developed a program on Sentencing Women Offenders for judges and other practitioners that highlighted the unique needs of women and included attention to pregnant substance abusers. Program videos were distributed to all courts.

Adult Offender Programs: Implemented G 5.1a, e, G 5.3

- A new women's prison opened in Wilsonville in 2001 that includes adequate space for educational, vocational, and work programs, recreation and family visiting.
- The DOC provides training materials to its staff on the needs of female inmates and offers the "Working with Female Offenders" program in its 40-hour in-service training program.
- The annual New Judge Seminar includes a session on programs and services available in correctional facilities with presentations by DOC and the Oregon Youth Authority (OYA). DOC provides information to judges on the education, work, and treatment of individual inmates, and its website has extensive information about Oregon's correctional and treatment programs.

Juvenile Corrections: Implemented G 6.1a, b, c, f

- The OYA has undertaken several projects to allocate facilities, treatment, and services proportionally by gender. It convened a Gender-Specific Services Work Group in 1997 to

develop and coordinate a gender-appropriate services continuum, and it took the lead in developing the Juvenile Justice Information System (JJIS) that provides data to plan for gender equity.

- Gender-specific substance abuse treatment is provided in some close-custody facilities, and the newly established Corvallis House Young Women's Transition Program provides treatment to girls in transition between custody and release.
- Sex-offender treatment has been accelerated to allow youths committed on sex offenses to undergo "pretreatment" issues while waiting assignment to sex-offender treatment living units.
- Girls' career, vocational and technical programs have been expanded in partnership with the Oregon Department of Education to include training in computer skills, business management, and "entrepreneurial studies."

Court Personnel: Implemented G 8.1a, b, e

- The Oregon Judicial Department encourages and reminds its employees to help eliminate gender bias via consultations, rules, hiring procedures, and newsletters.
- The OJD Personnel Division distributes a biennial Affirmative Action Plan to all court personnel that provides statistics on the gender of all employees by judicial district, EEO category, and occupational category. This substantially fulfills G 8.1b but does not track compensation for each position classification by gender.
- The OJD Personnel Division advises judges, trial court administrators, and court supervisors in hiring practices and evaluations to eliminate inappropriate barriers.

Legal Personnel: Implemented G 9.1b, c

- The OSB and the Professional Liability Fund host an annual workshop on gender issues, specifically sexual harassment, and gender fairness issues are communicated on a regular basis with staff.

Legal Education: Implemented G 10.2, G 10.3d

- Willamette University College of Law (WUCL) Career Services office solicits interviews from 3000 employers and helps law students to prepare for interviews upon request. The career services office also reviews resumes and cover letters, offers mock interviews, and alerts students to issues they may face in the interview process. In 2000, female students received more call backs than male students from interviews.
- WUCL has several programs designed to keep it connected with and accessible to its students. The academic-circles program allows its students to participate in groups of seven with a faculty member. Willamette also has several small enrollment classes and encourages its faculty to have contact with students outside of class.

Admission to the Practice of Law and Lawyer Discipline: Implemented G 11.1, G 11.2, G 12.1

- The Oregon Bar Board of Examiners implemented a formal policy that bar exam questions be sensitive to issues of gender, race, ethnicity, county of origin, religion, socioeconomic status, and age.
- The OSB and Supreme Court track bar passage rates by gender, race, and ethnicity.
- The OSB considers gender, race, ethnicity, and sexual orientation in the appointment process for committees, boards, and trial panels that conduct disciplinary hearings. Continuing Legal Education publications and seminars are required to increase the diversity of editors and speakers.

Opportunities in the Legal Profession: Implemented G 14.2d

- Private and public legal employers in Oregon open all social and business events to both male and female lawyers, and if appropriate, to clients.

II. Barriers to Improving Gender Fairness

- Lack of financial resources
- Lack of staff resources
- Unaware of some issues that undermine gender fairness
- Unaware of recommendations to improve gender fairness
- Uncertain about how to implement particular recommendations
- Difficult to acquire data, even when reporting is mandated
- Difficult to pinpoint practice that produces gender unfairness or to separate gender unfairness from other types of unfairness
- Inconsistent data tracking among justice system partners and even within single entities, e.g., data entry into OJIN differs by court
- Apathy
- Inadequate opportunities to enhance skills of female employees necessary for promotion

III. Standing Recommendations

Some recommendations have not been addressed at all and others have been addressed partially. Among the recommendations that have not been implemented fully, the Access Committee has established the following priorities:

Key:

- AC = Access to Justice for All Committee Council = Oregon Council on Domestic Violence Gov = Governor of Oregon
- Leg = Oregon Legislature OJD = Oregon Judicial Department OSB = Oregon State Bar
- PLF = Professional Liability Fund SFLAC = State Family Law Advisory Committee

Recommendation	Entity	Accomplishments to Date	Barriers	Next Steps
G 1.2 Provide state funding for Access Committee.	Leg, Gov	OJD has funded a limited duration position out of funds allocated for projects such as translating court forms and citizens conferences (See G 1.3).	Legislature has not provided position authority or permanent funding.	The AC should meet with and educate the legislature and Governor about the importance of the AC's mission and request permanent funding for the 2003-2005 biennium.
G 1.3 Sponsor periodic hearings and discussions on issues of fairness with trained volunteer moderators. Include funds for this purpose in the OJD budget.	OJD, OSB	OJD and OSB were among the nine co-sponsors of the May 2000 tri-county Citizens' Conference in Portland, which sought public input on several issues, including fairness. One product of this conference was development of pilot program citizen advisory committees in Multnomah and Baker Counties.	The OJD/OSB American Bar Association Public Trust and Confidence team wrote a grant proposal to fund these hearings but did not receive a grant.	<p>OSB and OJD should seek funding, including grants, and jointly sponsor public hearings around the state.</p> <p>The Citizens' Conference sponsors should report on actions taken since the Citizens' Conference and distribute this report to conference participants and state legislators to show to state legislators that Oregonians believe access to justice is very important.</p> <p>Conference co-sponsors should survey the participants and others to assess change/improvement over time.</p>

Recommendation	Entity	Accomplishments to Date	Barriers	Next Steps
<p>G 2.1 Review existing procedures for making complaints about unfairness in the judicial system, consider whether they adequately facilitate prompt and appropriate resolution of such complaints, and recommend any needed changes.</p>	<p>Oregon Supreme Court</p>	<p>OJD requires strict compliance with JR 2.110, UTCR 1.090, and UTCR 3.030. The Office of the State Court Administrator refers complainants to other bodies with jurisdiction.</p> <p>Internally, OJD's Personnel Rules and Policies prohibit discrimination on the basis of race, color, religion, national origin, sex, political affiliation, age, marital status, mental or physical disability, or sexual orientation. Personnel Rules also prohibit employees from harassing, threatening, or making discriminatory comments in the workplace. Personnel Rules establish a grievance process for employees that includes opportunities for mediation, informal resolution among involved parties, and formal resolution through the Personnel Division and a Peer Grievance Review Panel.</p>	<p>None identified.</p>	<p>OJD should</p> <ul style="list-style-type: none"> • develop an internal feedback form to be posted on the OJD intranet and OJD's Notes database, similar to the Security Incident Report; • develop an external feedback form, in print and online, for courts to collect feedback from court users and capture it automatically in a database; • send complaints to other bodies for resolution, and compile data for the Supreme Court and AC to review of the general nature of concerns. <p>The Chief Justice should encourage courts to make feedback forms available in a visible place.</p>
<p>G 2.2a Monitor behavior in courtroom and, when appropriate, pretrial proceedings and intervene to correct inappropriate gender-based conduct.</p>	<p>Judges</p>	<p>Judges do not intentionally allow gender bias in proceedings or in application of legal principles to litigants.</p>	<p>Some judges are reluctant to interfere with how lawyers try cases and assume that the inappropriate conduct will bring its own punishment from the jury.</p>	<p>OJD should</p> <ul style="list-style-type: none"> • determine whether other entities have collected data on gender-based conduct or perceptions of gender-based unfairness in the courtroom; • develop a confidential process to collect feedback from court users, including jurors, on their experiences, how they were treated, and their perceptions of fairness and unfairness related to gender, race, economic status, etc.

Recommendation	Entity	Accomplishments to Date	Barriers	Next Steps
G 2.2a (continued)				<p>The Chief Justice should ask courts to volunteer in a pilot data-collection program that uses a common survey form.</p> <p>The AC should report findings annually at the New Judge Seminar and the Judicial Conference.</p>
G 2.3b Develop a brochure on gender fairness and distribute it to participants in the judicial process.	OJD	Educational programs are incorporated in both judge and staff curricula as stand-alone topics and within other substantive topics. The State Court Administrator asked the Access Committee to draft a brochure on fairness issues generally.	Limited staff resources	<p>The AC should</p> <ul style="list-style-type: none"> • develop a web page to offer guidance for complainants; • work with OJD to develop and use brochure as a teaching tool in the New Employee Orientation, Customer Service program, and New Judge Seminar.
G 3.1 Appoint a Task Force on Spousal Support to consider the feasibility of formulating statewide spousal support guidelines for adoption by the legislature; and study issues in the dissolution of gay and lesbian relationships (including child custody and support) and develop recommendations to ensure courts resolve cases fairly and appropriately.	Chief Justice, OSB	<p>Not done. Oregon Laws 1999, Chapter 587 established procedural guidelines for judges on spousal support but did not establish monetary guidelines.</p> <p>Neither the Chief Justice nor the Bar has studied child custody and support issues in the context of gay and lesbian relationships.</p> <p>SFLAC has a standing subcommittee that focuses on child support issues as they relate to courts, but its focus is on non-controversial ways to improve the system for children.</p>	There is no right of spousal support in the dissolution of gay and lesbian relationships .	<p>The Chief Justice and the Executive Director of OSB should ask the Family Law Section of OSB to study the feasibility of both recommendations.</p> <p>OSB should consider whether to analyze the Alimony and Support Database advertised on the OSB Family Law Section 2001 Fall Conference brochure, including over 600 Oregon spousal support cases by parties' incomes and other factors to assess trends in spousal support outcomes.</p>
G 3.2 Work with the Oregon Family Law Legal Services Commission's recommendations to ensure adequate	Leg, Gov	The 2001 Legislature provided permanent funding for family-law facilitator positions in 19 judicial districts in the 2001-2003 biennium. Family-law facilitators' duties, set forth in ORS	Budget reductions have resulted in layoffs of existing family-law facilitator positions in some local	Cannot identify next steps until after budget rebalancing sessions.

Recommendation	Entity	Accomplishments to Date	Barriers	Next Steps
funding to provide legal services to low-income people in family law matters.		<p>3.428, include mandates to assist self-represented litigants in family law matters to complete their court forms and to provide information about court procedures and other resources and services that may be available to them .</p> <p>Several presiding judges have expressed a strong commitment to maintain family-law facilitator positions despite budget cuts.</p> <p>SFLAC and local FLACs monitor, coordinate, and advise on access to family law legal resources for self-represented litigants, as recommended by the Oregon Family Law Legal Services Commission.</p>	courts and will eliminate/postpone expanding programs to courts that do not have facilitators. Three new facilitator positions requested for judicial districts that do not have facilitation programs were not funded.	
G 3.3 Continue to educate judges on marital dissolution law and domestic violence	OJD	<p>OJD's Court Community Justice Services Program, SFLAC and Oregon Coalition Against Domestic and Sexual Violence (OCADSV), presented five regional one-day education programs on domestic violence for judges and court staff throughout the state between March and September 2001. The OJD received Violence Against Women Act (VAWA) funding to continue statewide education in 2002 on multi disciplinary responses to domestic violence and mediation. The OJD co-sponsored with the Oregon Association of Family Court Services an Advanced Mediator Institute on Domestic Violence Plans and Protocols in Eugene on May 17, 2002.</p>	None identified.	Continuing.

Recommendation	Entity	Accomplishments to Date	Barriers	Next Steps
		<p>OJD recently sent the State Justice Institute's curriculum, "Understanding Sexual Violence: The Judge's Role in Stranger and Non-stranger Rape and Sexual Assault Cases," to all court libraries.</p>		
<p>G 3.6b Study enforcement practices for domestic violence laws and recommend needed changes.</p>	<p>Council</p>	<p>The Council hosted public hearings to gather testimony from domestic violence victims and the people who work with them. Some testimony addressed law enforcement issues. Police reporting practices on mandatory domestic violence-related arrests (those involving violence in action or violation of restraining orders) have improved dramatically in some counties. Domestic violence-related data is available from several sources, including: Oregon Judicial Information System, the Criminal Justice Commission, the Oregon Department of Corrections, Violence Against Women grant evaluations, Victims Compensation Unit, Oregon family courts, Multnomah County 2000 study on police response to domestic violence, academic institutions, and Oregon's Public Safety Data Warehouse.</p> <p>In late 2001 the Council formed a data collection committee and developed a work plan to assess the status of systems in Oregon currently collecting data on domestic violence and the gaps in that system.</p>	<p>Although <i>Nearing v. Weaver</i> requires law enforcement to respond to domestic violence matters, resources for a comprehensive study of police response are lacking. The Council notes that until recently, law enforcement data has been difficult to acquire. Although Oregon law requires police to report mandatory arrests for cases involving violence in action or violation of restraining orders, the Council estimates that until late 2000, police failed to report up to 40% of domestic violence-related arrests.</p>	<p>The Council should continue to study gender-related issues in mutual arrest situations and the availability and sustainability of services for females adjudicated as domestic violence offenders.</p> <p>The Council recommends greater attention to female offenders and that police officers receive more training on how to address domestic violence.</p> <p>The Council should seek money from the federal government for improvements in data collection and analysis.</p> <p>Given the plethora of data available, the Council may be able to develop a brief survey instrument on law enforcement for distribution to local domestic violence councils. The existing database may yield data on the number of dual arrests. These initiatives could be a joint project of the Council, OJD, SFLAC, and the AC.</p> <p>OSCA work on translating FAPA forms is continuing.</p>

Recommendation	Entity	Accomplishments to Date	Barriers	Next Steps
		<p>An interim judiciary stalking workgroup, composed of OJD, law enforcement representatives and domestic violence advocates, is addressing issues raised by HB 2880 in the 2001 legislative session regarding court forms and assistance for people seeking stalking protective orders.</p>		
<p>G 7.1 Include intersectionality issues widely in Continuing Legal Education (CLE) programs and design a public education program to inform clients of their right to be free from sexual harassment.</p>	<p>OSB</p>	<p>The new MCLE diversity requirement will help address this recommendation. The AC's Education Subcommittee invited the OSB CLE Director to become a member. Also, the AC's Education Subcommittee proposed that the Judicial Education Committee (JEC) establish a policy that the JEC and the OJD Education Division should incorporate fairness issues and ethics issues in every education program and product that OJD sponsors or co-sponsors, including those on substantive law and court processes and administration.</p>	<p>None identified.</p>	<p>Ongoing.</p> <p>The AC's Education Subcommittee should recommend that OSB CLE administrators develop a policy similar to the OJD Judicial Education Committee policy to encourage CLE planners to ensure balance of race, gender, ethnicity, sexual orientation, etc. in its speakers and encourage presenters to address fairness and ethics in their presentations where possible, including presentations on substantive law, legal skills and procedures, and practice and law-office management.</p> <p>All legal employers should explore Justice Peterson's Understanding Racism classes or similar programs, where gender and intersectionality issues are raised and discussed. Participation by partners, attorneys and support staff should be encouraged.</p> <p>The AC should ask the new OSB Diversity Section to consider this recommendation as that Section develops its priorities.</p>

Recommendation	Entity	Accomplishments to Date	Barriers	Next Steps
<p>G 8.1 b Distribute biennial statistics that permit comparison by gender to all court personnel on OJD's hiring, promotion, and compensation.</p>	<p>OJD</p>	<p>The OJD Personnel Division prepares a biennial Affirmative Action (AA) Plan that presents a snapshot of the OJD workforce on September 30 in the year between each report and a summary table to compare similar data in the last three biennia. This AA Plan is on the intranet, as are all job postings and monthly information on hiring and promotions (published by name but not gender).</p> <p>The AA Plan allows some comparison of compensation by gender, indicating the number and percentage of male and female employees in each EEO category. But each EEO category includes a broad salary range, depending on the position classification and step rating of the employee. The OJD Personnel Division is considering whether to break down the compensation data in the AA Plan by job classifications to permit further comparison.</p>	<p>Compiling data requires additional staff resources.</p>	<p>OJD should</p> <ul style="list-style-type: none"> • continue its personnel policies already in place; • consider whether to compile and distribute data about OJD hiring and promotion practices on a quarterly basis; • begin to collect compensation, recruitment, and retention data by compensation classification.
<p>G 8.1c Address employee perceptions that gender limits opportunities for advancement in OJD, including gender preferences in supervisory appointments and application of work rules.</p>	<p>OJD</p>	<p>The State Court Administrator asked the Personnel Division to add this topic to supervisors' education and supervisory judge curriculum. Will be incorporated in 2002 offerings.</p>	<p>Recruitment issue – men may perceive that they will not be hired for entry level support positions; applicants pools for those positions in some courts have few men.</p> <p>The small number of internal promotions is not a gender issue but</p>	<p>OJD should</p> <ul style="list-style-type: none"> • conduct annual workshops for judges and management/ supervisory level employees to continue fostering an awareness of gender bias within the court system and developing strategies to address it; • develop a series of workshops for judges and managers and another for line staff regarding their rights and responsibilities;

Recommendation	Entity	Accomplishments to Date	Barriers	Next Steps
G 8.1b (continued)			common to internal candidates: few gain necessary supervisory experience to be a leading candidate in a "flat" organization with limited supervisory and management opportunities.	<ul style="list-style-type: none"> add a regular gender fairness component to the New Employee Orientation, New Supervisor Orientation ("Camp"), and New Judge Seminar.
G 8.1g Periodically review OJD procedure for court personnel to bring gender discrimination or harassment complaints and if appropriate, recommend changes.	OJD	All complaints are handled under policies now in effect. Personnel Division began to review employment discrimination and sexual harassment complaint policies in May 1999 and will continue the task in 2002. Personnel Division anticipates reviewing all personnel policies; employment discrimination and sexual harassment policies will be a priority.	Complainants typically want the action to stop without anyone's knowledge (and without appearing at public hearing at future time if discipline is contested). Usually not possible if complaint requires discipline action or fitness proceeding.	Continuing.
G 9.1 Include issues of gender fairness in continuing education programs; initiate regular workplace dialogues on gender issues; communicate a commitment to gender fairness to staff; and consider policies to help employees' meet family obligations.	OSB, PLF	Both OSB and PLF hold an annual workshop on sexual harassment. Gender fairness issues are communicated on a regular basis with staff. There has not been a study on family-friendly policies.	None identified.	<p>The AC's OSB Board of Governors' member should network with AC and Board of Governors to explore issues raised by this recommendation further and assign them to appropriate OSB committee(s).</p> <p>The AC should ask the Oregon Women Lawyers Society (OWL) whether it has interest in bringing proposals to OSB and PLF as employers.</p>

I. Role of the Access Committee and the Gender Fairness Task Force Implementation Status Survey Process

When the Gender Fairness Task Force Report was published in 1998, the Chief Justice charged the Access to Justice for All Committee to oversee the implementation of its recommendations. In early 1999, the Monitoring and Evaluation Subcommittee developed a survey to solicit feedback from the groups targeted by the Gender Fairness Task Force Report on their progress towards implementation of task force recommendations. During the summer of 1999, representatives of each entity (law schools, judges, etc.) received a custom survey that included a separate form for each recommendation within its sphere of influence. The cover letter explained that the subcommittee would compile implementation status information to share among justice system partners and the Access Committee as a means to coordinate and facilitate continuing efforts to improve gender fairness in the judicial system and legal profession. This report seeks to fulfill that objective.

Some of the following status information is several years old and may require updating. Many entities returned their completed surveys in late 1999; a sizable number did not. The Access Committee was unable to follow up on outstanding surveys until the summer of 2000 because it had no staff support. Duplicates of the original surveys were distributed that summer, and completed forms continued to arrive into 2001. Even now, the Access Committee has not received survey responses from the Legislature or from two of Oregon's three law schools.

The Access Committee decided to publish this report now, despite incomplete data, to highlight the numerous state and local initiatives that have improved gender fairness and to recognize the commonly identified barriers that impede further progress. The Access Committee hopes to facilitate coordination among the entities in Oregon's legal community by sharing the wisdom gained through practice and recommending next steps towards the fulfillment of remaining task force recommendations.

We encourage you to contact the Access Committee with status updates on your organization's efforts to improve gender fairness: 503.986.5611 (telephone); accesscomm@ojd.state.or.us (e-mail).

II. Status of Recommendations

The Gender Fairness Task Force offered 58 recommendations organized into the following nine areas of law and 14 categories, G1 through G14.

AREA OF LAW	No.	SUBTOPICS
General	G1	Ongoing Review and Funding
Judicial Administration	G2	Complaint Procedures Judicial Education Juries Courthouse Childcare Civil Litigation Court Security Administrative Adjudication

AREA OF LAW	No.	SUBTOPICS
Domestic Relations	G3	Domestic Relations
Criminal Law and Juvenile Justice	G4	Prosecutorial and Judicial Discretion
	G5	Programs and Services for Adult Offenders
	G6	Juvenile Corrections
Interactions between Lawyers, Clients, Staff, and Other Professionals	G7	Disciplinary Rules Lawyer-client Relationship Treatment of Staff and Court Reporters Sexual Harassment
Employment of Court, Oregon State Bar, and Professional Liability Fund Personnel	G8	Court Personnel
	G9	Legal Personnel
Legal Education	G10	Law School Administration Law School Career Services Law School Classes Preparation for Practice Faculty Salary, Promotion, and Tenure
Admission to the Practice of Law and Lawyer Discipline	G11	Admission to the Practice of Law
	G12	Lawyer Discipline
	G13	General
Opportunities in the Legal Profession	G14	Oregon State Bar Membership Workplace Environment Mentor Programs Complaint Procedures Recruitment, hiring, and promotion practices Personnel Policies Gubernatorial Appointments Case Assignments

This section summarizes each recommendation and describes the accomplishments achieved and barriers to implementation reported by the targeted entities, followed by suggestions from the Access to Justice for All Committee on useful next steps. A brief overview of task force objectives precedes the recommendations for each of the 14 categories.

Notes to Reader about this Report

- Many of the original task force recommendations included specific target dates. Although some of those deadlines have been missed, the recommendations still hold weight, and Oregon’s legal community should not be deterred from the underlying objectives. Therefore, this report omits references to specific target dates.
- Many survey respondents indicated that insufficient resources, both human and financial, presented a barrier to implementing recommendations. To avoid undue repetition, that response is not included among the barriers listed below; however, readers may assume that resource shortages are a significant barrier to many gender fairness initiatives. If no other barriers to implementation were identified, the category is omitted from the status of the recommendation.
- For “Next Steps” on several recommendations, the reader will see one of two words: ongoing or continuing, *Ongoing* means that little or no action has been taken to fulfill the recommendation. *Continuing* means that significant action has been taken to fulfill the recommendation, but either the recommendation is multifaceted and requires additional action or the recommendation requires sustained action.
- The Access Committee prioritized 14 task force recommendations. Priority recommendations are marked with the following icon: **AC**
- You will find the following acronyms used frequently throughout the report:

AC:	Access to Justice for All Committee
CLE:	Continuing Legal Education
DOC:	Oregon Department of Corrections
GFTF:	Gender Fairness Task Force
ODCLA:	Oregon Criminal Defense Lawyers Association
ODAA:	Oregon District Attorneys Association
OJD:	Oregon Judicial Department
OSB:	Oregon State Bar
OSCA:	Office of the State Court Administrator
OYA:	Oregon Youth Authority
SFLAC:	State Family Law Advisory Committee
WUCL:	Willamette University College of Law

G1 General

The task force recognized that each individual's multiple characteristics affect his or her experiences in society and the legal system. It explored how gender and five other characteristics – race/ethnicity, class, age, parental status, and sexual orientation – interrelate to affect a person's experience in the legal system and found as many questions as answers. It made the following recommendations to facilitate further study and discussion on gender fairness and intersectionality and, in turn, help the courts and the legal profession to become more responsive to the needs of all participants in the legal system.

G 1.1 The Chief Justice should

- a. charge the Oregon Judicial Department's Access to Justice for All Committee (AC) with overseeing and coordinating implementation of the recommendations outlined in this report;
 - b. establish at least one permanent full-time staff position, plus appropriate support staff, to coordinate Access Committee work; and
 - c. request legislative funds and position authority necessary for such staff.
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Accomplishments

The Chief Justice charged the AC in June 1998 to oversee and monitor implementation of the Gender Fairness Task Force (GFTF) recommendations. He requested position authority and funding for a full time AC staff person and support staff in the '99-01 and '01-03 legislative sessions, but the legislature did not appropriate funds to OJD for those positions.

Barriers

Legislature has not provided position authority or permanent funding.

Next steps

The AC should educate the legislature and Governor about the importance of the AC's mission and request permanent funding for the 2003-2005 biennium by meeting with legislators.

G 1.2 Legislature and Governor should fund the Access Committee adequately. **AC**

Accomplishments

OJD has funded a limited duration position out of funds allocated for projects such as translating court forms and citizens conferences (See G 1.3).

Next steps

The AC should meet with and educate the legislature and Governor about the importance of the Access Committee's mission and request permanent funding for the 2003-2005 biennium.

G 1.3 Oregon Judicial Department (OJD) and Oregon State Bar (OSB) should sponsor periodic hearings and discussions on issues of fairness with trained volunteer moderators. Include funds for this purpose in the OJD budget. **AC**

Accomplishments

The tri-county Citizens' Conference in Portland (May 2000) provided an opportunity for public input on several issues, including fairness. Co-sponsors included the Oregon Supreme Court, League of Women Voters of Portland, Portland Community College, Oregon State Bar, American Bar Association, State Justice Institute, Multnomah Bar Association, Washington County Bar Association, and Clackamas County Bar Association. With financial support from the State Justice Institute, the 2000 Citizens Justice Conference Report, *Building Trust and Confidence Through Citizen Involvement*, was distributed to all participants and to the legislature. One product of this conference was development of a pilot program citizen advisory committee in Multnomah County and Baker County.

Barriers

The OJD/OSB American Bar Association Public Trust and Confidence team wrote a grant proposal to fund these hearings but did not receive a grant.

Next steps

OSB and OJD should seek funding, including grants, and jointly sponsor public hearings around the state.

The Citizens' Conference sponsors should report on actions taken *since* the Citizens' Conference and distribute this report to conference participants and state legislators to show to state legislators that Oregonians believe access to justice is very important.

Conference co-sponsors should survey the participants and others to assess change/improvement over time.

OSB Response: The OSB does not plan to pursue the first recommendation above. The second has been completed. As for the third, a survey to participants probably would not prove to be very worthwhile because most participants were not "insiders" and are likely not aware of how or whether things have changed. However, an implementation report or update is a good idea. The list of recommendations is extensive so it will take quite a while to do. The BOG's Access to Justice Committee will work on completing this project in 2004. Cost could be absorbed in bar budget if a large number of reports is not needed.

G 1.4 The Access Committee should review the Gender Fairness Task Force Report and develop a plan to collect additional data.

Accomplishments	The Monitoring and Evaluation Subcommittee reviewed this report but did not recommend that the Access Committee collect new data.
Next steps	The AC's Monitoring and Evaluation Subcommittee should determine whether and which additional data is needed; assess method and cost to collect and analyze data; and seek funds for data collection and analysis.

G 1.5 Targeted entities should examine Task Force archives to identify groups, individuals, agencies, or geographic areas that warrant special attention.

Accomplishments	Although targeted entities have not asked to examine archives, the Oregon Council on Domestic Violence conducts ongoing statewide hearings.
Barriers	Oregon State Bar is not certain of its role. The GFTF archives are not organized. Lack of OJD and OSB staff support to organize those files.
Next steps	The AC should develop an internship to organize the GFTF archives so that targeted entities can find relevant information easily.

G 1.6 Educational/research organizations should include intersectionality issues in future studies, discussions, and educational programs on gender fairness.

Accomplishments	<p>The OSB study on legal needs of low and moderate income individuals in Oregon (2000) addressed the unique needs and barriers facing low income Oregonians who also are disabled, elderly, farm workers, Native Americans, immigrants, non-English speaking, or youths.</p> <p>Although not specifically on intersectionality, the AC, OJD, OSB, and law schools all address diversity issues generally. Some law firms reported practices, policies, education events, and ongoing discussions with staff about fairness issues. Northwestern School of Law at Lewis and Clark College has an academic enhancement program that includes all students who have overcome significant</p>
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social and economic disadvantage, including but not limited to ethnic minority and international students. The University of Oregon Law School has a similar program, Academic Choice for Excellence (ACE). Willamette University College of Law has a Professional Development and Multi-Cultural Affairs program that focuses on community building and building respect for diversity.

Barriers

Several law firms reported that they do not know what intersectionality means. Generally, respondents gave other issues higher priority.

Next steps

None identified at this time.

G2 Judicial Administration

The task force found that a significant minority of participants in the legal system – including litigants, witnesses, inmates, interpreters, lawyers, judges, and court staff – had observed unprofessional gender-related behavior in and around the courthouse and believed that gender influenced case outcomes. The following recommendations were designed to foster a conscious awareness of gender discrimination and to ensure constant vigilance and continuing education to reduce it.

G 2.1 The Oregon Supreme Court should review existing procedures for making complaints about unfairness in the judicial system, consider whether they adequately facilitate prompt and appropriate resolution of such complaints, and recommend any needed changes. **AC**

Accomplishments

OJD requires strict compliance with JR 2.110, UTCR 1.090, and UTCR 3.030. The Office of the State Court Administrator refers complainants to other bodies with jurisdiction, e.g., the Commission on Judicial Fitness and Disability, the OSB Disciplinary Counsel, or the OJD Personnel Division.

Internally, OJD's Personnel Rules and Policies, reviewed and revised in 2001, prohibit discrimination on the basis of race, color, religion, national origin, sex, political affiliation, age, marital status, mental or physical disability, or sexual orientation. Personnel Rules also prohibit employees from harassing, threatening, or making discriminatory comments in the workplace. Personnel Rules establish a grievance process for employees that includes opportunities for mediation, informal resolution among involved parties, and formal resolution through the Personnel Division and a Peer Grievance Review Panel.

Next steps

OJD should

- develop an internal feedback form to be posted on the OJD intranet and OJD's Notes database, similar to the Security Incident Report;
- develop a model external survey form, in print and online, for courts to collect feedback from court users on how they were treated. This form should include a question on whether the judge was polite during proceedings.
- send complaints to other bodies for resolution, and compile data for the Supreme Court and AC to review of the general nature of concerns.

The Chief Justice should encourage courts to make feedback forms available in a visible place.

See G 2.10 for related next steps.

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- G 2.2** Judges, including judges pro tempore, referees, and magistrates, should
- monitor behavior in courtroom and, when appropriate, pretrial proceedings and intervene to correct inappropriate gender-based conduct; **AC**
 - participate in periodic refresher courses on the need to be aware of issues affecting gender fairness; and
 - when appropriate, expand on precautionary instruction UCJI No.5.01 for specific fairness issues in a particular case.
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Accomplishments

Judges do not intentionally allow gender bias in proceedings or in application of legal principles to litigants. Many judges attend (and some teach) classes on racial bias and other types of discrimination, including some discussions about gender bias. The Judicial Fitness Commission dismisses about 97% of complaints against judges.

Barriers

Have not had occasion to expand on UCJI 5.01 to address gender-fairness issues. Some judges are reluctant to interfere with how lawyers try cases and assume that the inappropriate conduct will bring its own punishment from the jury.

Next steps

OJD should

- determine whether other entities have collected data on gender-based conduct or perceptions of gender-based unfairness in the courtroom
- develop a confidential process to collect feedback from court users, including jurors, on their experience, how they were treated, and their perceptions of fairness and unfairness related to gender, race, economic status, etc.

The Chief Justice should ask courts to volunteer in a pilot data-collection program that uses a common survey form.

The AC should report findings annually at the New Judge Seminar and the Judicial Conference.

G 2.3 The Education Division of the Office of the State Court Administrator should

- a. continue to conduct regular educational programs for judges and court staff on the existence and effects of gender-biased behavior in and around the courthouse, and on ways to avoid such behavior; and
 - b. develop a brochure on gender fairness and distribute it to participants in the judicial process; emphasize the commitment of the Chief Justice and the President of the State Bar to achieving gender fairness and advise lay participants of available complaint processes in the event that they experience or observe unfair treatment. **AC**
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Accomplishments

The educational programs are incorporated in both judge and staff curricula as stand-alone topics and within other substantive topics. The State Court Administrator asked the Access Committee to draft a brochure on fairness issues generally.

Next steps

The AC should

- develop a web page to offer guidance for complainants;
- work with OJD to use brochure as a teaching tool in the New Employee Orientation, Customer Service program, and New Judge Seminar.

G 2.4 Oregon State Bar should

- a. continue to conduct regular educational programs for lawyers on the importance of professionalism, including the avoidance of gender-biased behavior and other forms of biased behavior;
 - b. offer continuing legal education programs for litigators that explore the line between appropriate and inappropriate uses of gender (and other personal characteristics) in litigation strategy; and
 - c. continue to educate the public about the workings of the legal system, emphasizing its commitment to fairness.
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Accomplishments

OSB conducts Continuing Legal Education (CLE) programs on professionalism regularly. The Oregon Supreme Court adopted a new MCLE requirement for all participating attorneys in Oregon to participate in three hours of education every three-year reporting period on legal professionalism and racial and ethnic issues, gender fairness, disability issues, or access to justice. Will provide incentive for more programs of the sort identified in recommendation.

The OSB provides spreadsheets of all accredited programs on its web site at <http://www.osbar.org/2practice/mcle/mcle.html>. This includes any programs that have been approved for diversity credit, including past and future programs.

The Marion County Bar routinely highlights the activities, personnel, and organization of the Mary Leonard Law Society in the *Marion County Bar Bulletin* and was the first local Oregon Bar with a website, <http://www.marioncountybar.org>, used to publicize its activities and enhance professionalism. The Marion County Bar established a Diversity Committee in 2002 to capture and implement good ideas from CLE training.

Next steps

The AC's Education Subcommittee should ask OSB's MCLE administrator to report annually to the AC the number of programs that qualified for the diversity credit, which fairness topics they covered, and how many attorneys attended each program. OSB also should develop a web page that lists available training resources for diversity programs, and the AC should provide a link to the OSB web page from the AC web page.

Bar Response: Sponsors are not required to submit attendance lists to our office so we would have no way of knowing how many attorneys attended each program. Because the diversity requirement is so new, there are only a handful of programs that have been approved for diversity credit at this time. However, as more programs are approved for diversity credit, it would be difficult to keep up with detailed information such as which fairness topics are covered in each program.

G 2.5 Oregon State Bar's Committee on Uniform Civil Jury Instructions should consider whether to expand the caveat in UCJI No. 5.01, which provides that "you must not be influenced in any degree by personal feelings or sympathy for, or prejudice against, any party to this case." The Committee should consider whether it is advisable to give more explicit guidance on issues of fairness or to refer to other participants beyond the parties (such as a party's lawyer).

Accomplishments

OSB's Committee on Uniform Civil Jury Instructions (UCJI) adopted a related precautionary instruction in October 1998, numbered 5.01A, to provide more explicit guidance on issues of fairness to juries when interpreters are involved in a case.

Next steps

The recommendation should extend to the Uniform Criminal Jury Instructions as well. The AC should ask OSB to refer this recommendation to the two OSB committees that develop civil and criminal jury instructions and check with the Bar in late 2002 for status.

Bar Response: The Bar may refer these to the appropriate committees with a response in late 2002 or early 2003.

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- G 2.6** Law firms, lawyers' and judicial organizations, and other organizations of regular participants in the administration of justice should
- a. discuss the issues raised in this report; and
 - b. provide continuing education for their members on methods of achieving fairness.
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Accomplishments

Eleven responding law firms' answers ranged from detailed descriptions of plans and policies to achieve fairness and to prevent discrimination by attorneys, employees and clients, to "not applicable."

OJD raises the issues in this report regularly with judges and court staff at several annual events, including the Judicial Conference, Oregon Circuit Judges Association Conference, New Judge Seminar, Supervisor Camp, and other staff education programs. OJD's Judicial Education Committee (JEC) adopted a policy to incorporate fairness issues into all judicial education programs in July 2002.

The Oregon Criminal Defense Lawyers Association has offered two hours of diversity training to date, including one addressing gender and intersectionality issues, at its annual conference and Indigent Defense Management CLE.

Next steps

Ongoing. OSB should send email to its members that provide a link to the AC web page and suggest that they discuss the fairness task force reports in staff meetings or develop in-house CLE programs using the reports to fulfill the MCLE diversity requirement. OSB should provide a link on its website to the AC web page and refer to the online versions of task force reports.

OSB Response: OSB will include a link in the on-line Bar News with the suggestions from the AC and a link to their web page by the end of 2002. The Communications Department will be in charge of this with a goal of trying to time it to the review of diversity programs at 2002 Annual Meeting.

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- G 2.7** The Access Committee should assist the Office of the State Court Administrator and State Bar to improve educational curricula to help judges and lawyers identify and avoid gender bias.
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Accomplishments

The Education Committee and AC are committed to increasing educational opportunities for judges and attorneys. The AC has

- presented workshops at the Juvenile Court Improvement Project Judge's Conference on Overrepresentation of Minorities in the Juvenile Justice System ('98-99);
- presented a three-hour workshop on access issues at the New Judge Seminar ('98-01);

- included two- to four-hour plenary workshops for the '99 and '01 spring Judicial Conferences, featuring Dr. Edwin J. Nichols, PhD, on the philosophical aspects of cultural difference, especially as relating to justice system and role of judges;
- sent videos of Nichols and related written materials to all local court libraries;
- published and distributed an educational journal on court interpreting issues ('99);
- developed and recommended proposal to OSB MCLE Board to require sponsors to include diversity issues in all subject matter seminars accredited by the Board and allow participants to receive ethics credits for approved diversity courses ('00).

OJD continues to develop programs on gender-related issues in learning styles, sexual harassment/work workplace violence.

Next steps

Continuing.

G 2.8 The Access Committee should coordinate with trial court administrators, county officials, and other interested persons to implement Multnomah Bar Association's Court Care Advisory Committee's recommendations

- a. to establish child care at courthouses for jurors, witnesses, and parties during proceedings and to form a new committee to oversee that effort; and
- b. to begin a statewide feasibility study respecting on-site child care at courthouses.

Accomplishments

Multnomah County Circuit Court became Oregon's first state courthouse to provide free on-site, drop-in daycare for low-income families with the Multnomah CourtCare Program. Multnomah CourtCare opened on December 6, 2001, with trained child-care staff from Volunteers of American Oregon to care for up to six children, ages 0 - 6, from 9:00 AM - 5:00 PM in a remodeled jury room. The program is primarily to serve low-income families but will serve any litigant with a child who needs care.

The AC proposed 1999 legislation to allow courts to reimburse jurors for child care expenses while serving on a jury (if child care would not have been necessary otherwise) (see Chapter 1085 Oregon Laws 1999). The 2001 legislature enacted the bill but delayed implementation until January 1, 2002 for budget reasons (see Oregon Laws 2001, Chapter 787).

No statewide feasibility study has been initiated.

Next steps

The AC should ask CourtCare Advisory Committee for a report on the process to establish child care programs, and the AC and Multnomah Bar Association should distribute that report to local bar associations and courts to develop similar programs.

G 2.9 The Access Committee should work with the Information [Technology] Division of the Office of the State Court Administrator, trial court administrators, and others to assess the adequacy of the Civil Action Data form to analyze gender fairness and intersectionality issues and recommend appropriate changes.

Accomplishments

OJD concluded that the Civil Action Data form is an inadequate means of data collection generally, because it relies on self-reporting, has no enforcement mechanism, generates too much data, offers no means of validation, and is too expensive. The 2001 legislature repealed the Civil Action Data form statute (Oregon Laws 2001, Chapter 779).

Next steps

Potential alternatives for a analysis include electronic filing or a limited-time study.

G 2.10 Counties, assisted by Access Committee, should study whether and, if so, how gender affects the treatment of participants in the judicial system by court security personnel and procedures, and recommend any appropriate changes; focus on participants, such as jurors, litigants, lawyers, and witnesses, who are not employees with security passes.

Accomplishments

Not done.

Next steps

OJD should ask courts to send county-related complaints collected from the complaint form described in G 2.1 to the appropriate county administrators.

G 2.11 The Chief Justice, trial court administrators and others should study whether and, if so, to what extent jurors experience or perceive unfairness based on gender during their jury duty, including while participating in voir dire and while deciding cases.

Accomplishments

Not done on a statewide basis. Several courts have conducted juror surveys but did not include specific gender fairness questions. Some courts are working on or considering surveys with gender questions. Others have expressed interest but have not yet pursued such studies.

The Chief Justice referred this recommendation to the Civil Law Advisory Committee to develop questions for courts to use in exit surveys. At its September 11, 2002 meeting, the Civil Law Advisory Committee referred this recommendation to its Trial Subcommittee.

Next steps

The Chief Justice also should refer this recommendation to the Criminal Justice Advisory Committee as a joint project with the Civil Law Advisory Committee. The AC should check with the Civil Law Advisory Committee in 2003 on status.

G 2.12 The Chief Justice and State Bar should study whether the gender of participants influences civil litigation, substantively or procedurally; should build on preliminary work of the Task Force.

Accomplishments

The Chief Justice's Civil Law Advisory Committee (CLAC) considered this recommendation at its September 2002 meeting and referred it to the Long-Range Planning Subcommittee to recommend how to study the issue. In 2001, that subcommittee assumed responsibility to monitor, report on, and advise on implementation of recommendations made by the 2000 Citizens' Conference in Portland regarding public trust and confidence in the civil law justice system.

Next steps

CLAC's Long-Range Planning Subcommittee will prepare a recommendation for CLAC to consider. CLAC will advise the Chief Justice on how the Chief Justice and Oregon State Bar might proceed to study this issue or make other recommendations.

G 2.13 The Governor should form a group to study whether and, if so, how gender affects the work of administrative agencies in performance of their adjudicative functions.

Accomplishments

The Governor's Office of Legal Counsel plans to work with members of the legislature, state agency representatives, public interest groups, and members of the Oregon State Bar's Administrative Law Section to select potential members for a task force to be appointed by executive order to study the effect of gender on the performance of administrative agencies' adjudicative functions. The workgroup has yet to be created.

Next steps

Continuing.

The Governor's Office of Legal Counsel is committed to informing the next administration about the Task Force's recommendation to create the workgroup and the importance of that recommendation. During the transition between administrations, the Governor's Office of Legal Counsel will work with the incoming administration to explain how that administration's staff might work with the members of the Legislature, state agency representatives, public interest groups, and members of the Oregon State Bar's Administration Law Section to select members for a task force, which the next administration can establish by executive order.

G3 Domestic Relations Cases

The task force studied whether gender inequities exist in matters involving child custody and visitation, child support, spousal support, property division, restraining orders, and marital dissolution cases. Among its findings, the task force concluded that women receive financial dispositions in marital dissolutions that ultimately leave them at a long-term economic disadvantage relative to men. Both men and women of low income are disadvantaged by the lack of available legal services and effective access to the courts in Oregon, particularly so for non-English speaking persons. Male victims of domestic violence are more likely to be disbelieved or denied relief than are female victims. Task Force recommendations addressed judicial guidelines and state funding for legal services.

G 3.1 The Chief Justice and Oregon State Bar should

AC

- a. appoint a Task Force on Spousal Support to consider the feasibility of formulating statewide spousal support guidelines for adoption by the legislature; and
 - b. study issues in the dissolution of gay and lesbian relationships (including child custody and support) and develop recommendations to ensure courts resolve cases fairly and appropriately.
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Accomplishments

- a. Not done. Oregon Laws 1999, Chapter 587 established procedural guidelines for judges on spousal support, but did not establish monetary guidelines.
- b. Neither the Chief Justice nor the Bar have studied child custody or support issues in the context of gay and lesbian relationships. SFLAC has a standing subcommittee that focuses on child support issues as they relate to courts, but its focus is on non-controversial ways to improve the system for children.

Barriers

There is no right of spousal support in the dissolution of gay and lesbian relationships.

Next steps

The Chief Justice and the Executive Director of OSB should ask the Family Law Section of OSB to study the feasibility of both recommendations.

The State Bar should consider whether to analyze the Alimony and Support Database advertised on the OSB Family Law Section 2001 Fall Conference brochure, including over 600 Oregon spousal support cases by parties' incomes and other factors, to assess trends in spousal support outcomes.

Bar Response: The OSB President, Angel Lopez, has written to the Family Law Section of the bar to ascertain whether they would be interested in working on the development of standard guidelines for spousal support. The Chief Justice indicated in a recent meeting that there are not adequate guidelines. The issue of analysis of support cases by the criteria outlined above will also be referred to the section.

G 3.2 The Legislature and Governor should work with the Oregon Family Law Legal Services Commission's recommendations to ensure adequate funding for providing legal services to low-income people in family law matters. **AC**

Accomplishments

The 2001 Legislature provided permanent funding for family-law facilitator positions in 19 judicial districts in the 2001-2003 biennium. Family-law facilitators' duties, set forth in ORS 3.428, include mandates to assist self-represented litigants in family law matters to complete their court forms and to provide information about court procedures and other resources and services that may be available to them. The OJD provided an initial facilitation program training in December 2000 and an advanced facilitator training in September 2002.

Several presiding judges have expressed a strong commitment to maintain family-law facilitator positions despite budget cuts.

An OJD Family Law Website was developed in 2000 and makes available to the public family law information, resources and forms which may be downloaded. <http://www.ojd.state.or.us/familylaw>

Optional statewide domestic relations forms were developed by an OJD Forms Committee and placed on the OJD Family Law Website in November 2000. Forms are available for dissolutions, separations, modifications, and enforcement proceedings.

The State Family Law Advisory Committee (SFLAC) and local FLACs monitor, coordinate, and advise on access to family law legal resources for self-represented litigants, as recommended by the Oregon Family Law Legal Services Commission.

A workgroup of SFLAC has developed and made available on the OJD Family Law Website a "*Parenting Plan Guide for Parents*" to assist self-represented litigants in creating customized parenting time arrangements to suit their children's developmental needs and the family's special circumstances. Another SFLAC workgroup developed a "Safety Focused Parenting Plan Guide for Parents" to develop parenting plans in situations where there are safety concerns; it is also available on the OJD Family Law Website.

Barriers

Budget reductions have resulted in layoffs of existing family-law facilitator positions in some local courts and will eliminate/postpone expanding programs to courts that do not have facilitators yet. Three new facilitator positions requested for judicial districts that do not have facilitation programs were not funded.

Next steps

Cannot identify next steps until after budget rebalancing sessions.

G 3.3 The OJD Education Division should continue to educate judges on marital dissolution law and both judges and court staff on domestic violence issues. **AC**

Accomplishments

OJD's Court Community Justice Services Program, SFLAC, and Oregon Coalition Against Domestic and Sexual Violence (OCADSV), presented five regional one-day education programs on domestic violence for judges and court staff throughout the state between March and September 2001. The OJD received Violence Against Women Act (VAWA) funding to continue statewide education in 2002 on multi disciplinary responses to domestic violence and mediation.

OJD recently sent the State Justice Institute's curriculum, "Understanding Sexual Violence: The Judge's Role in Stranger and Non-stranger Rape and Sexual Assault Cases," to all court libraries.

OJD co-sponsored with the Oregon Association of Family Court Services an Advanced Mediator Institute on Domestic Violence Plans and Protocols in Eugene on May 17, 2002.

The Marion County Bar and the Mary Leonard Law Society are developing a booklet on domestic violence. This project is under the leadership of Audrey Hirsch, and the Oregon State Bar has agreed to contribute some funds for publication.

Next steps

Continuing.

G 3.4 Law Schools should educate law students about domestic violence.

Accomplishments

Willamette University College of Law addresses domestic violence issues in several classes, such as Family Law and Criminal Law. The law schools at the University of Oregon and Lewis and Clark College did not return the survey.

Next steps

Law schools should review the current domestic violence curricula for inclusion of issues regarding potentially unfair treatment based on gender.

G 3.5 The Oregon State Bar should

- a. develop pro bono lawyer referral programs that specialize in domestic relations and domestic violence; and
 - b. begin to implement a statewide outreach program to inform non-English speakers about services available to domestic violence victims.
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Accomplishments

The OSB website provides information about Legal Aid services in Oregon, including family law issues, <http://www.osbar.org/legallinks/legalhelp/FreeAndLowCost/LegalAid.html>, and Legal Aid Services of Oregon has begun to develop a website. The Bar also provides a lawyer referral service but not specifically for pro bono services. The Bar established Tel-Law, a free telephone-based collection of recorded messages written by Oregon lawyers on a variety of legal subjects, including domestic violence. All Tel-Law recordings are available currently in English. About one-third of the scripts are now available in Spanish, Russian and Vietnamese. The domestic violence script is currently available in English only, with translations scheduled for 2003. An on-line transcription of English Tel-Law recordings is available now, and Spanish translations are in progress. The Bar also provides LegalLinks brochures on many legal topics, including divorce, in English, Spanish, Vietnamese, and Russian.

OJD developed a Spanish translation of the Oregon's Family Abuse Prevention Act (FAPA) form and plans to make it available on the OJD website. The OJD website currently provides a Spanish translation of a 46-page booklet on family law issues prepared by Legal Aid Services of Oregon, including protection from abuse. OJD staff are available, usually working through interpreters, to inform non-English speaking court users about services for domestic violence victims at most local courts in Spanish and at some courts in other languages.

Legal Aid Services of Oregon has several sets of materials for domestic violence survivors available in English and Spanish, including information about obtaining and enforcing restraining orders, representing oneself at a restraining order hearing, and parenting time orders in restraining order cases. In some of the larger counties, Legal Aid programs coordinate panels of attorneys or law students who volunteer to assist domestic violence survivors in contested restraining order proceedings, and are sometimes able to provide interpreters for these attorneys' consultation with clients. In many counties, Legal Aid staff also handle such appearances.

Barriers

On review, OSB decided to limit its focus to modest- and moderate-income clients, leaving low-income and pro bono clients to Legal Aid.

Next steps

The OSB LegalLinks cable series will produce a program on domestic violence resources in late 2002.

OSB should help Legal Aid Services of Oregon to publicize services available to domestic violence victims.

The Oregon Council on Domestic Violence should review the recommendation in G 3.5 b and provide feedback to the AC.

OJD should develop a notice in multiple languages regarding resources for domestic violence victims. Local courts should display this notice in a prominent place. Also, OJD should identify bilingual skills as a preference in recruitments for family law coordinator and family law facilitator positions in the local courts.

G 3.6 Oregon Council on Domestic Violence should

- a. consider recommending an amendment to the child custody statute to create a rebuttable presumption against custody to a parent who engaged in domestic violence or child battering;
 - b. study enforcement practices for domestic violence laws and recommend needed changes. **AC**
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Accomplishments

- a. The 1999 legislature passed a "rebuttable presumption" amendment at the request of the Oregon Council on Domestic Violence. The Attorney General has convened a workgroup to develop standards for batterer's intervention programs.
- b. The Council hosted public hearings to gather testimony from domestic violence victims and the people who work with them. Some testimony addressed law enforcement issues, such as mutual arrests, in which police at the scene arrest both victim and alleged abuser.

Police reporting practices on mandatory domestic violence-related arrests (those involving violence in action or violation of restraining orders) have improved dramatically in some counties. Domestic violence-related data is available from several sources, including: Oregon Judicial Information System, the Criminal Justice Commission, the Oregon Department of Corrections, Violence Against Women grant evaluations, Victims Compensation Unit, Oregon family courts, Multnomah County 2000 study on police response to domestic violence, academic institutions, and Oregon's Public Safety Data Warehouse.

In late 2001 the Council formed a data collection committee and developed a work plan to assess the status of systems in Oregon currently collecting data on domestic violence and the gaps in that system.

A legislative interim judiciary stalking workgroup, composed of OJD, law enforcement representatives and domestic violence advocates, is addressing issues raised by HB 2880 in the 2001 legislative session regarding court forms and assistance to stalking protective order applicants.

Barriers

Although *Nearing v. Weaver* requires law enforcement to respond to domestic violence matters, resources for a comprehensive study of police response are lacking. The Council notes that until recently, law enforcement data has been difficult to acquire. Although Oregon law requires police to report mandatory arrests for cases involving violence in action or violation of restraining orders, the Council estimates that until late 2000, police failed to report up to 40% of domestic violence-related arrests.

Next steps

The Council should continue to study gender-related issues in mutual arrest situations and the availability and sustainability of services for females adjudicated as domestic violence offenders. The Council recommends greater attention to female offenders and that police officers receive more training on how to address domestic violence than is provided by Violence Against Women Act funds.

The Council should seek money from the federal government for improvements in data collection and analysis.

Given the plethora of data available, the Council may be able to develop a brief survey instrument on law enforcement for distribution to local domestic violence councils. The existing database may yield data on the number of dual arrests. These initiatives could be a joint project of the Council, OJD, SFLAC, and the AC.

SFLAC work on FAPA forms and stalking protective orders is continuing.

G4 Prosecutorial and Judicial Discretion

The task force found that defendants and defense lawyers overwhelmingly believed that gender played a role in charging practices, plea agreements, and sentencing, and that both judges and prosecutors treated women more leniently than men. In contrast, prosecutors believed that these matters generally were handled in a gender-neutral manner. Judges and criminal defense lawyers believed that female defendants were treated more leniently than male defendants in both prosecutors' sentencing recommendations and in judges' final orders. The task force was unable to draw conclusions from available data as to the factual basis for these viewpoints. Recommendations focused on charging practices, indictments, plea bargains, prosecutors' sentencing recommendations, and judges' final orders.

G 4.1 District Attorneys should

- a. examine their policies for gender fairness; and
 - b. begin to keep data that permits analysis of gender fairness in charging practices, indictments, and plea offers and agreements, and annually evaluate those data.
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Accomplishments

In 1994, the Oregon District Attorneys Association (ODAA) adopted recommended standards for charging people accused of crime: "A prosecuting attorney should not base the decision to initiate or decline prosecution upon factors of the accused or victim legally recognized to be deemed invidious discrimination, insofar as those factors are not pertinent to the elements of the case."

Individual district attorneys have incorporated these standards into their own office policies.

Barriers

Barriers to analyzing the role of gender in charging practices include the inability to track data relating to gender and to isolate gender as a factor when many variables are involved.

Next steps

ODAA should adopt policies that prohibit the use of gender as a factor in plea negotiations unless pertinent to the elements of the case. The Chief Justice should ask the state CJAC and the Criminal Justice Commission (CJC) to determine whether and how to gather data to analyze the role of gender in charging decisions and negotiations in criminal cases.

G 4.2 Prosecutors, defense lawyers, and corrections staff should participate in educational programs on gender fairness and intersectionality issues.

Eleven law firms responded, of which only two practice criminal law.

Accomplishments

Two firms responded that their lawyers had participated or were planning to participate in such a program. One firm reported that it attended client-sponsored diversity training conferences.

Although the Oregon District Attorneys Association (ODAA) and the Oregon Criminal Defense Lawyers Association (OCDLA) have not addressed gender fairness and intersectionality specifically at their conferences to date, they plan to offer presentations on these topics at future conferences.

The Department of Corrections addresses general diversity issues, but not gender specifically, in new employee orientations, in-service trainings, and leadership trainings.

Next steps

The AC's Monitoring and Evaluation Subcommittee should contact OCDLA, ODAA, DOC, and the Oregon Jail Manager's Association to determine what education is available. The AC should ask OJD or the Public Defense Services Commission (PDSC), whichever has authority to develop RFPs, to include in RFP a question regarding diversity education on specific topics. The AC's Education Subcommittee should work with education sponsors of OCDLA, ODAA, and OSB programs to identify resources for education sessions on gender issues to present to future criminal law conferences.

OSB Response: The AC should contact the Manager of the OSB CLE Seminars Department at their convenience. The CLE Department will probably not offer more than one or two courses a year on diversity.

G 4.3 Defense Lawyers should consider the role of gender in plea agreements.

Eleven law firms responded, of which only two practice criminal law.

Accomplishments

One firm responded that there were no data supporting the assumption that gender plays a role in plea acceptance or rejection. Another responded that its lawyers consider all factors, including gender, that might influence a client's choice of whether to accept a plea offer and feel that current notice requirements are adequate to inform clients of their options.

Barriers

Insufficient data to assess accomplishments.

Next steps

As with the next steps in G 4.1, the Chief Justice should ask the state CJAC and the CJC to determine whether and how to gather data to analyze the role of gender in plea negotiations.

G 4.4 The Department of Corrections (DOC) should develop a long-term solution to the problems involving inmates who are the primary caretakers for their children.

Accomplishments

The Oregon DOC is working with the Social Learning Center to develop a comprehensive parenting program for parents in prison and transitioning back into the community. This 18-month project will involve 480 inmates, equal numbers of men and women, in a 12-week program. The pilots will occur at the Coffee Creek and OSCI facilities.

In addition, as part of the Children of Incarcerated Parents Project, the Social Learning Center will write a grant for a five-year study of how parent education affects children of inmates. Inmates will participate in a six week parent education course. Following the parent education course, qualified inmates will participate in therapeutic visitations.

DOC was invited to present at a national conference entitled "From Prisons to Home—the Effects of Incarceration on Children, Family and Low Income Communities." And DOC offers a booklet online and in print, called "How to Explain Jail and Prison to Children: A Caregiver's Guide."

Oregon Laws 2001, Chapter 635 created a planning and advisory committee to recommend how to increase family bonding for children of incarcerated parents. The State Court Administrator has a representative. The committee is to submit its recommendations to interim legislative committees and involved agencies. The committee is authorized to organize county implementation teams to implement the recommendations.

Next steps

Continuing.

G 4.5 The Oregon Judicial Department's Education Division should develop education for judges on sentencing of pregnant substance abusers.

Accomplishments

The Oregon Judicial Department developed a program on Sentencing Women Offenders for judges and other practitioners that included attention to pregnant substance abusers. The pilot program was offered in December 2000 in southwest Oregon, and videos of several sessions were distributed to all courts. OJD hopes to replicate the program in other regions.

Next steps

OJD should continue this work and develop a module on the issue of sentencing pregnant substance abusers that can be presented as a stand-alone program or incorporated in the New Judge Seminar, Sentencing Women Offenders, and any other program on sentencing issues. OJD should add an appendix to the Criminal Bench Book and Driving Under the Influence of Intoxicants Deskbook on this topic.

G 4.6 The Chief Justice and State Bar should work with law enforcement agencies to study gender fairness at the pre-charging stage.

Accomplishments

A number of police agencies in Oregon, including the Oregon State Police are currently collecting data on police stops. This data includes gender identification. Oregon Laws 2001, Chapter 687 created the Law Enforcement Contacts Policy and Data Review Committee (LECPDR) with members appointed by the governor to receive and analyze demographic data to ensure that law enforcement agencies perform their mission without inequitable or unlawful discrimination based on race, color, or national origin.

Barriers

The legislation does not identify gender discrimination as one of the areas to be analyzed.

Next steps

The AC's Legislative Subcommittee should confer with the LECPDR regarding the need to collect gender data or seek to amend in 2003 to add gender to the data to collect and analyze, or both.

G 4.7 The Oregon Judicial Department and district attorneys should study court records to determine whether any gender-based patterns exist with respect to prosecutors' sentencing recommendations and judges' final orders.

Accomplishments

Not done.

Barriers

As with barriers to G 4.1, it is difficult to isolate the role of gender in charging practices when many variables are involved. The subcommittee hoped that the data warehouse project slated for completion in 2003 might provide the data for such an evaluation, but as the warehouse is presently configured, it will not capture district attorneys' sentencing recommendations in specific cases, because that information is not entered in the Oregon Judicial Information System database (OJIN). The Multnomah County Decision Support System is currently doing the most advanced work on disproportionate outcomes, but district attorney sentencing offers and recommendations are not entered into any database.

In approximately 80% of cases, judges accept the joint recommendation that the state and the defense have negotiated in a plea agreement. It would be very difficult to identify specific district attorney, defense attorney or judicial actions that create differences in sentencing outcomes based on gender.

Judges' final orders in criminal cases are entered in OJIN, and most felony sentences are captured on sentencing guidelines report forms; the Criminal Justice Commission analyzes data from both sources. To produce bi-annual reports, the commission would need additional funding.

Next steps

AC should determine whether the Criminal Justice Commission plans to produce sentencing guidelines reports. As with next steps in G 4.1, the Chief Justice should ask the state CJAC and the CJC to determine whether and how to gather data to analyze the role of gender in prosecutors' sentencing recommendations and judges' final orders.

G5 Programs and Services for Adult Offenders

The task force found that services and programs available to women at state and county facilities were less comprehensive than those provided to men. This disparity was most apparent in job training and work opportunities, alcohol and drug treatment, and programs and services provided in county facilities. There was a shortage of programs that address female inmates' specific needs, and judges and lawyers were poorly informed about what was available. The task force recommended that the Department of Corrections take several actions.

G 5.1 Department of Corrections (DOC) should:

- a. provide adequate space in the new women's prison for educational, vocational, and work programs, recreation, and family visiting;
 - b. expand work programs and vocational training programs for female inmates;
 - c. expand dual diagnosis (substance abuse and mental health treatment) programs to female inmates at other institutions;
 - d. assess feasibility of permitting contact between incarcerated mothers and their children and give special attention to pregnant inmates' needs for services;
 - e. develop and distribute educational materials for orientation of corrections officers, program staff, and contract providers on the unique needs of female inmates
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Accomplishments

- a. New women's prison that opened in Wilsonville in 2001 includes space for educational, vocational, and work programs, as well as for recreation and family visiting.
- b. DOC plans to implement work programs and vocational education, including apprenticeships, that realistically prepare female inmates for work opportunities upon release. It is not clear whether DOC plans to *expand* work and vocational programs, as was recommended, or simply to maintain the same level of programs as have been implemented in the past.
- c. Dual diagnosis (substance abuse and mental health treatment) at the Columbia River facility is not available to female inmates at other institutions. However, DOC provides more dual diagnosis services per inmate than any other state correctional system in the country and provides more of these services to female than to male inmates.
- d. DOC is considering the recommendation to assess the feasibility of permitting contact between incarcerated mothers and their children, and to give special attention to pregnant inmates' needs. No details were provided on status.
- e. DOC provides training materials to its staff on the needs of female inmates and includes the "Working With Female Offenders" program in its annual 40-hour in-service training.

Next steps

Continuing.

G 5.2 County jails should develop policies to address the needs of female inmates and ensure that all inmates, regardless of gender, are afforded equal access to visiting hours and programs.

Accomplishments	All 36 Oregon Sheriffs have agreed to adopt the Oregon Jail Standards, which include gender-neutral standards for visitation. The Oregon State Sheriffs Association and the Oregon Jail Managers Association are also developing a program to ensure that every county jail is audited and meets the Oregon Jail Standards. No status was provided on the recommendation concerning access to programs or the development of policies to address the needs of female inmates.
Next steps	Continuing.

G 5.3 The Oregon State Bar (OSB), State Court Administrator's Office (OSCA), and Oregon Department of Corrections (DOC) should develop educational materials for judges and lawyers about the programs and services available in correctional facilities.

Accomplishments	<p>OSCA developed a pilot program on Sentencing Women Offenders that addresses programs and services available to female inmates. This program was presented in December 2000 in southwest Oregon to judges, lawyers, and other participants. Videos of the program were sent to all courts, and the OJD Education Division plans to replicate the program in other regions.</p> <p>OSCA also offered programs on sentencing practices in 1992 and 1994. Since the mid-1990s, DOC and the Oregon Youth Authority (OYA) have presented at the New Judge Seminar on corrections facilities and programs available in different institutions. The New Judge Seminar includes a tour of Oregon State Penitentiary. Judge Michael Marcus' Sentencing Support Project also provides extensive information to judges about effective sentencing practices, including sentencing alternatives to confinement. http://ourworld.compuserve.com/homepages/SMMarcus/whatwrks.html</p> <p>DOC developed an information system available to judges, on the education, work, and treatment of individual inmates, and the DOC website offers extensive information about correctional and treatment programs throughout the state.</p>
Next steps	Continuing.

G6 Juvenile Corrections

The task force found that a disproportionate share of juvenile justice funds was used for boys committed to “close custody” facilities, despite statutory requirements that girls receive a proportionate share of youth corrections funding and services. Girls were receiving inadequate job-training opportunities and insufficient mental health treatment opportunities. Task Force recommendations focused on the programs and services for youths at the Oregon Youth Authority.

G 6.1 The Oregon Youth Authority (OYA) should

- a. comply with the statutory mandate that all children in the system, regardless of gender, have equal access to facilities, services, and treatment;
 - b. provide more programs, including substance abuse treatment, to girls in the system;
 - c. ensure that sex-offender programs are available to boys without waiting;
 - d. review staging facilities to ensure adequate staffing levels;
 - e. ensure that adequate treatment and vocational services are available for short-term detainees;
 - f. ensure that girls and boys have equal access to the same types of job training;
 - g. hire women to fill maintenance crew, food services, and other training supervisor vacancies so that girls have access to the same job-training opportunities to which boys have access; and
 - h. provide or arrange for transportation for children of youths who are in close custody, so as to encourage a stronger bond between the youths and their children.
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Accomplishments

- a. OYA has undertaken several projects to allocate facilities, treatment, and services proportionally by gender. OYA addresses gender equity in the planning process for new programs and whenever a contract for services to females is terminated. In 1997, OYA convened a Gender-Specific Services Work Group to develop and coordinate a gender-appropriate services continuum. OYA took the lead in developing the statewide Juvenile Justice Information System (JJIS) and relies on its data to establish gender equity.
- b. Substance abuse treatment has been expanded with the opening of the Corvallis House Young Women’s Transition Program, and other close-custody facilities have gender-specific treatment units.
- c. Sex-offender treatment has been accelerated. Youths committed on sex offenses now undergo “pretreatment” so that they may begin work on sex-offense issues while waiting assignment to sex-offender treatment living units.
- d. No status reported.
- e. No status reported.

f. Girls' career, vocational and technical programs have been expanded in partnership with the Oregon Department of Education to include training in computer skills, business management, and "entrepreneurial studies."

g. No status reported.

h. No status reported.

Barriers

There is a general philosophy, not unique to Oregon, that today's youth are a lost generation—lost to drugs and alcohol, deviant behaviors, and crime. Public perception of youth behaviors and the role we want them to play in society present numerous obstacles to effective services and programs along the prevention/graduation sanctions continuum. The focus of Oregon's juvenile justice system has shifted dramatically toward accountability in the form of "punishment" vs. reformation leaving fewer opportunities for offenders, especially those sentenced under Measure 11 or waiver, to truly benefit from sanctions and to find opportunities upon release.

Juvenile justice and criminal justice agencies and their stakeholders are working together to overcome, reframe, and move past such obstacles by joining forces to better educate one another and the public about the youth being served and in need of services across Oregon.

Next steps

Continuing. JJIS will play a major role by providing a single comprehensive view of information about juveniles across state, county, and local agencies, supporting comprehensive case management, planning, and evaluation of juveniles involved in the justice process, and aiding in the overall planning, development, and evaluation of programs designed to reduce juvenile crime.

G 6.2 The Oregon Youth Authority (OYA) and Department of Corrections (DOC) should develop a policy on programs and services for girls who are sentenced under Measure 11.

Accomplishments

Both the MacLaren and Hillcrest youth correctional facilities have been working with the DOC to develop policies and procedures for youths sentenced under Measure 11. This collaboration includes consideration of issues that affect female offenders, such as cross-custody agreements between DOC and OYA and transitional services.

Barriers

Dramatically different lengths of sentences are a challenge for effective treatment.

Next steps

Continuing.

G 6.3 The Hillcrest Youth Correctional Facility should hire a female doctor to perform obstetric and gynecological services.

Accomplishments Although Hillcrest has not hired a female doctor for OB-GYN services, it does ensure physical examinations by either a same-sex medical practitioner or in the presence of an authorized individual of the same gender as the offender.

Next steps None identified at this time.

G 6.4 The Oregon Judicial Department (OJD) should study gender and intersectionality issues affecting juveniles who are adjudicated as “status” offenders.

Accomplishments Not done.

Next steps The Task Force on Gender Fairness Report notes that status offenders are disproportionately girls but provides no statistical support for this conclusion. OJD should study this issue.

G7 Interactions between Lawyers, Clients, Staff, and other Professionals

The task force studied how gender affects the interactions between lawyers and clients, lawyers and professionals, lawyers and legal secretaries, lawyers and paralegals, lawyers and court reporters, and among employees of the Oregon State Bar and the Professional Liability Fund. It found that gender was not a factor in these interactions most of the time, and that there was less gender unfairness than in the past. However, both men and women perceived that sometimes they are treated differently in the same environment based on their gender. The task force acknowledged that eliminating the persistent residual bias would be more difficult than eliminating the overt bias that was once widespread, because it requires an increased understanding of what others are experiencing and a change in behavior at more subtle levels. Task Force recommendations focused on education and dialogue.

G 7.1 The Oregon State Bar (OSB) should include intersectionality issues more widely in Continuing Legal Education (CLE) programs and design a public education program to inform clients of their right to be free from sexual harassment. **AC**

Accomplishments

The new MCLE diversity education requirement will help address this recommendation. The AC's Education Subcommittee invited the OSB CLE Director to become a member. Also, the AC's Education Subcommittee proposed that the Judicial Education Committee (JEC) establish a policy that the JEC and the OJD Education Division should incorporate fairness issues and ethics issues in every education program and product that OJD sponsors or co-sponsors, including those on substantive law and court processes and administration. The JEC adopted this policy in July 2002.

OCDLA has offered two diversity credits as of May 2002, including one that addressed gender and intersectionality issues.

The current Client Bill of Rights from the joint Bench/Bar Statement on Professionalism will be added to the OSB website. As of July 1, 2002, all LRS panel attorneys must agree to abide by the Client Bill of Rights as a condition of membership in the LRS.

Next steps

Ongoing.

The AC's Education Subcommittee should recommend that OSB CLE administrators develop a policy similar to the OJD Judicial Education Committee policy to encourage CLE planners to ensure balance of race, gender, ethnicity, sexual orientation, etc. in its speakers and encourage presenters to address fairness and ethics in their presentations where possible, including presentations on substantive law, legal skills and procedures, and practice and law-office management.

All legal employers should explore Justice Peterson's Understanding Racism classes or similar programs, where gender and intersectionality issues are raised and discussed. Participation by partners, attorneys and support staff should be encouraged.

The AC should ask the new OSB Diversity Section to consider this recommendation as that Section develops its priorities.

G 7.2 Law firms and other legal workplaces should establish policies prohibiting sex discrimination and encourage personnel to discuss workplace gender issues and concerns, including protection from retaliation. They should establish policies prohibiting sexual harassment and designate a contact person to receive complaints. Supervisors should communicate their commitment annually to provide a bias-free workplace.

Accomplishments

Of the 12 firms submitting responses, 11 stated that policies against sexual harassment are in place. One firm reported that internal departments discuss matters of concern in small group meetings, including lawyers and staff.

OCDLA is not an enforcement agency but has discussed the need for law office policies at Management CLEs.

Next steps

Law firms should continue policies already in place against sexual harassment and sexual discrimination in personnel manual.

OSB should encourage firms and other legal workplaces

- to designate a contact person to receive complaints; and
- to adopt the practice reported by one firm of holding small-group meetings to discuss matters of concern.

OSB Response: The Bar's Board of Governors does not feel that this is appropriate for the Bar.

G8 Court Personnel

The task force found that a sizable minority of court personnel within Oregon's court system perceived some differences on the basis of gender with respect to the conditions or benefits of their employment. Men and women tended to believe that the opposite sex fared better than their own. Statistical data suggested that men held proportionately more supervisory positions than did women. Although the task force found it difficult to reconcile the conflicting perceptions of male and female court personnel, it recommended that to promote a more gender-neutral work environment, OJD should recognize and acknowledge the differing perspectives.

G 8.1 The Oregon Judicial Department (OJD) should

- a. encourage and remind employees annually to help eliminate any form of gender bias from Oregon court system;
 - b. distribute biennial statistics to all court personnel that permit comparison by gender on hiring, promotion, and compensation; **AC**
 - c. address employee perceptions that gender limits opportunities for advancement, and that one either gender receives special preferences in supervisory appointments and application of work rules; **AC**
 - d. review its personnel policies and practices to determine whether changes are needed to achieve gender fairness;
 - e. assess and eliminate, if appropriate, existing barriers to promoting and appointing qualified, female OJD employees to supervisory positions;
 - f. review its policies on job-sharing, flexible work hours, and release time for education to promote greater use where appropriate;
 - g. periodically review the adequacy of procedures for court personnel to bring complaints about gender discrimination or harassment and, if appropriate, recommend changes; **AC**
 - h. study the personnel practices applicable to OJD law clerks to ensure gender fairness;
 - i. study how issues of intersectionality affect OJD employees.
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Accomplishments

- a. Employees are encouraged to eliminate gender bias via consultations, personnel rules, recruitment and hiring guidelines, the Access Committee newsletter, etc.
- b. The OJD Personnel Division prepares a biennial Affirmative Action (AA) Plan that presents a snapshot of the OJD workforce on September 30 in the year between each report and a summary table to compare similar data in the last three biennia. This AA Plan is on the intranet as are all job postings and monthly information on hiring and promotions (published by name but not gender). The AA Plan allows some comparison of compensation by gender, indicating the number and percentage of male and female employees in each EEO category. But each EEO category includes a broad salary range, depending on the position classification and step rating of the employee. The OJD Personnel Division is considering whether to break down the compensation data in the AA Plan by job classifications to permit further comparison.

- c. The State Court Administrator asked the Personnel Division to add this topic to supervisors' education and supervisory judge curriculum. Will be incorporated in 2002 offerings.
- d. Consideration of gender fairness issues is part of ongoing personnel rules review.
- e. At present, unaware of inappropriate barriers. Personnel Division advises judges, trial court administrators, and court supervisors in hiring practices and evaluations to eliminate inappropriate barriers.
- f. Flexible hours and job sharing are available. Release time for education has not been considered.
- g. All complaints are being handled under policies now in effect. Personnel Division began to review employment discrimination and sexual harassment complaint policies in May 1999 and will continue the task in 2002. Personnel Division anticipates reviewing all personnel policies; employment discrimination and sexual harassment policies will be a priority.
- h. Not done, but Personnel Division considered a review of judicial clerkship incumbent issues at appellate level.
- i. Not done.

Barriers

Compiling data requires additional staff resources.

Recruitment issue – men may perceive that they will not be hired for entry level support positions; applicant pools for those positions in some courts have few men.

The small number of internal promotions is not a gender issue but common to internal candidates: few gain supervisory experience necessary to be a leading candidate in a "flat" organization with limited supervisory and management opportunities.

For an educational release-time program to take effect, OJD would need to define and adopt the educational policy first. The legislature considered three measures in 1999 and 2001 to require public bodies to authorize annual "school activity leave," similar to "family leave," but none passed.

The barrier to creating a gender discrimination complaint process is that complainants want the action to stop without anyone's knowledge (and without having to appear at public hearing at future time if discipline is contested). This is usually not possible if it involves discipline action or fitness proceeding.

Next steps

OJD should

- continue its personnel policies already in place;

- consider whether to compile and distribute data about OJD hiring and promotion practices on a quarterly basis;
- begin to collect compensation, recruitment, and retention data by position classification;
- conduct annual workshops for judges and management/ supervisory level employees to continue fostering an awareness of gender bias within the court system and developing strategies to address it;
- develop a series of workshops for judges and managers and another for line staff regarding their rights and responsibilities;
- add a gender fairness component to the New Employee Orientation, New Supervisor Orientation (“Camp”), and New Judge Seminar.

G9 Legal Personnel

These recommendations addressed the employees of the Oregon State Bar (OSB) and the Professional Liability Fund (PLF). Both sexes generally agreed that there was less bias than in the past, and most believed that gender bias no longer existed or was limited to a few areas. However, a significant minority of female employees believed that women's opportunities at the OSB and the PLF are limited by gender and that women are at a disadvantage because of their family responsibilities and their age. The task force recommended continuing education, workplace dialogues, and a review of policies.

G 9.1 The Oregon State Bar (OSB) and Professional Liability Fund (PLF) should **AC**

- a. Include issues of gender fairness in continuing education programs;
 - b. Initiate regular workplace dialogues to foster an understanding of gender issues;
 - c. Communicate to staff a commitment to gender fairness;
 - d. Study whether additional policies (besides flex-time) are feasible to help employees' meet their family obligations.
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Accomplishments

Both OSB and PLF hold an annual workshop on sexual harassment. Gender fairness issues are communicated on a regular basis with staff. There has not been a study on family-friendly policies.

The OSB and the PLF have policies regarding these issues in their personnel policies. They are a regular part of new employee orientation. Flexible schedules and telecommuting are commonplace at the bar. Diversity education and sexual harassment are part of the ongoing training that is offered to employees.

Next steps

Ongoing.

The AC should ask the Oregon Women Lawyers Society (OWL) whether it has interest in bringing proposals to OSB and PLF as employers.

G10 Legal Education

The task force found that the three Oregon law schools achieved gender fairness in many areas – the existence of formal nondiscrimination policies, students' academic performance and participation in extracurricular activities, assistance from career services offices, classroom participation, and interactions between co-workers at the law schools. The task force recommended that the law schools take further action in four specific areas: (1) teaching styles; (2) sexual harassment of women; (3) professional recognition of female faculty; and (4) treatment of gay and lesbian students, students with disabilities, and students of color.

Only one of Oregon's three law schools responded to requests for implementation status information. However, some useful information was available in the OWL newsletter (Winter 2001).

G 10.1 Oregon law schools should

- a. Continue to recruit law students and faculty to increase the number of persons from diverse backgrounds, including women and people of color;
 - b. disseminate at the beginning of each academic year and consistently enforce written policies prohibiting discrimination and harassment on the basis of gender, race, disability, and sexual orientation, and the procedures for filing complaints;
 - c. continue to address issues of fair treatment in law school orientations and publications for students and faculty; include gender and intersectionality issues in students' professionalism training;
 - d. conduct orientation programs for faculty members on fair treatment of staff members;
 - e. examine administrative policies and practices, and modify where needed, to accommodate professors' family responsibilities;
 - f. enable dialogue among all members of the law school community regarding gender-based perceptions of the law school experience, as well as the effects of race, ethnicity, disability, sexual orientation, age, and economic class on students' experiences;
 - g. publicize the pertinent parts of this report to faculty, students, staff, and alumni;
 - h. review Task Force survey results to determine which issues are most significant to them; and
 - i. recognize the importance of faculty members' mentoring and counseling activities outside class, and factor this important work into salary, tenure, and promotion decisions.
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Accomplishments

- a. The Willamette University College of Law (WUCL) continues to recruit students and faculty from diverse backgrounds, including women and people of color. In Fall 2000, WUCL had one minority faculty member, and the entering class was approximately 14% minority.

Lewis and Clark's law school recruits minority applicants throughout U.S. and typically has 15% minority enrollment and low attrition rate.

- b. WUCL distributes its student code of conduct, including a non-discrimination policy, to students each year. It has a policy that regulates employee conduct and prohibits harassment and discrimination.

- c. WUCL does not address gender fairness issues in its orientation program or in professionalism training but will consider doing both.
- d. WUCL has not scheduled such a program on the fair treatment of staff members and senses that it is unnecessary for most faculty.
- e. WUCL has not examined its policies.
- f. WUCL faculty has considered ways to address these issues among community members but has found few opportunities to discuss some aspects of this issue with students—particularly the race, ethnicity, and disability issues. WUCL hired a Multicultural Affairs Coordinator in 2001 to help address these issues.

In 1999, the University of Oregon Law School Academic Choice for Excellence (ACE) program invited all incoming law students to a four-day orientation.

Lewis and Clark's law school offers an eight-day summer workshop for all international students, minority students, and any others recommended by the admission committee. The workshop uses a cultural approach to contrast the legal system (a logical system based on past rules) and one's own family or cultural values.

Students of all three law schools are invited to the Opportunities for Law in Oregon (OLIO) program of the OSB Affirmative Action Committee.

- g. WUCL participated in the creation of the task force report and shared law-school related findings with law students and faculty. Following task force proceedings, WUCL scheduled a colloquium with Elizabeth Harchenko, a GFTF workgroup chair and member of their faculty. Participants discussed the results at the law school in February 1999.
- h. No status reported.
- i. At WUCL, teaching and public service, including mentoring and counseling, are regarded as important in personnel decisions. WUCL encourages its faculty to work with small groups of first-year students, called academic circles, and encourages its faculty to mentor students beyond the first year. That work is considered in promotion, salary and tenure decisions.

Barriers

No law school contacts identified to develop liaison with the AC for information sharing and support.

Next steps

Oregon law schools should promote fairness issues as an element of professionalism by highlighting diversity of alumnus.

The AC should support efforts by Oregon's law schools and university women's studies programs who are interested in using the task force reports as study materials.

The AC's Education Subcommittee should send a copy of the Board of Examiners policy that bar exam questions should be sensitive to issues of gender, race, country of origin, religion, socioeconomic status, and age, to law schools, the OSB CLE office, and OJD. The AC should request that

- law schools disseminate this policy to faculty and encourage faculty to adopt similar policies for teaching and exam materials;
- the OSB CLE Office to consider incorporating this policy into guidelines for CLE providers on handouts; and
- OJD consider adopting a similar policy for all educational materials to be distributed to judges and court staff.

G 10.2 Oregon law schools' career services offices should solicit interviews by a wider range of prospective employers and provide more complete preparation of students, especially female students, for interviews with recruiters.

Accomplishments

WUCL's Career Services office solicits interviews from 3000 employers. Women or men can request special preparation for interviews. The career services office helps women to prepare for interviews by reviewing resumes and cover letters, offering mock interviews, and alerting them to issues they may face in the interview process. In 2000, female students received more call-backs than male students from interviews. The career Services office hosts a mock interview program every February and recruits minority lawyers and lawyers with an interest in minorities to be the interviewers.

Next steps

The AC should ask law schools' career services offices whether they track students' job interviews, call-backs, and offers, and if so, request data to determine whether women receive call-backs and job offers in proportion to their percentage of the class. If the career services offices do not track this information, the AC should encourage them to do so.

G 10.3 Oregon law schools' faculty should:

- a. incorporate alternative and Socratic teaching methods in all years of law school to provide for different learning styles and preferences;
 - b. include gender and intersectionality issues in class discussions and as regular parts of the curriculum;
 - c. create a classroom environment hospitable to different ideas and to different learning styles; and
 - d. engage in collective self-assessment to determine whether the curriculum, teaching methods, and other law school practices and policies hamper the ability of faculty to be accessible to law students, in particular female students of color.
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Accomplishments

- a. WUCL uses several different teaching methods in its curriculum. For instance, each first-year student has two classes of approximately 25 students. These classes are not taught using Socratic method, but employ problem solving, cooperative projects, simulations as well as writing exercises. A number of second and third year classes also use diverse teaching styles. WUCL offers writing seminars, a legal clinic, an externship program, and other classes that use diverse teaching methods.

At the University of Oregon School of Law, third-year law students in the Academic Choice for Excellence (ACE) program offer review and tutoring sessions every other week and informal meetings in-between.

Lewis and Clark's eight-week summer workshop offers skill-building opportunities for all international students, ethnic minority students, and others recommended by the admission committee; professors lecture on non-first year subjects and give a practice exam. Lewis and Clark also offers skill-building sessions by teaching assistants twice a month for every first-year subject.

- b. Some WUCL faculty include gender and intersectionality discussions in their classes, particularly for classes that relate directly to these issues, such as Civil Rights, Gender and the Law, and International Law. WUCL will consider whether these issues should be addressed in classes that do not regularly raise them.
- c. WUCL faculty address diverse learning styles. Sam Jacobson, who teaches Legal Research and Writing and is an expert on learning styles, presented a faculty colloquium on ways to integrate a variety of approaches in teaching.
- d. WUCL has several programs designed to keep it connected with and accessible to its students. The academic-circles program allows its students to participate in groups of seven with a faculty member. WUCL also has several small enrollment

classes and encourages its faculty to have contact with students outside of class.

Next steps

Continuing.

G 10.4 Administrators and faculty at Oregon law schools should recognize that misperceptions concerning women's competence may adversely affect decisions concerning the promotion and tenure of female faculty and should ensure that promotion and tenure decisions are not based on such misperceptions.

Accomplishments

In 2000, WUCL's faculty included four tenured women and two tenure-track women in a faculty of 18 (not including visitors). The college faculty is small, and women are well-represented. Misconceptions about women are not a problem for Willamette in its hiring and promotion process.

Next steps

The AC should ask law schools for information about their progress over time in increasing gender equity among faculty.

G 10.5 Oregon law schools and the Oregon State Bar should:

- a. examine how well Oregon law schools actually prepare men and women for law practice, including whether men and women seek similar forms of employment after graduation, whether they are hired for the jobs that they want in the same proportions, within a similar amount of time, and for similar compensation, and whether they are perceived by employers and potential employers as equally suited and well-prepared for law practice; and
- b. determine whether there are gender-based differences in male and female faculty salaries in Oregon's law schools and, if so, implement the changes necessary to ensure fairness.

Accomplishments

Not done.

Barriers

State Bar uncertain about its role.

Next steps

The AC should ask OSB to include questions in its next member salary survey that address these issues, including "did you attend an Oregon law school?"

OSB Response: The economic survey that is done every four years was done early in 2002. This can be included in the next one.

The AC should ask OSB's Quality of Life Committee and the Multnomah Bar Association's Young Lawyers Section whether they have surveyed members on these issues.

OSB Response: All surveys of the membership must be approved by the Board of Governors. The Quality of Life Committee does not conduct independent surveys. A membership survey is being prepared for the fall of 2002. These issues can be considered for possible inclusion at that time.

G11 Admission to the Practice of Law

The task force found the admission process to be gender-neutral and the preparation and administration of the Oregon State Bar examination to be objective. Recommendations sought to ensure that this fairness continued.

G 11.1 The Board of Bar Examiners should formalize its policy addressing gender, racial, and ethnic identity in bar examination questions.

Accomplishments	Completed. By June of 1997, more than a year before the date suggested by the GFTF, the Board adopted a policy that bar examination questions should be sensitive to issues of gender, race, ethnicity, country of origin, religion, socioeconomic status, and age. The policy mandates that consideration be given in this context to the roles that characters play in the questions, the fact patterns themselves, and the use of words or phrases that may be more accessible to one group than another, or that may be offensive.
Next steps	Completed.

G 11.2 The Oregon State Bar should continue to track bar pass rates by gender, race and ethnicity.

Accomplishments	This is an ongoing function of the Oregon State Bar.
Next steps	The recommendation was intended to enable OSB and the Oregon Supreme Court to respond to any patterns of disparity that may become evident in the future. OSB and the AC may wish to examine the data jointly to monitor this issue periodically.

G12 Lawyer Discipline

The task force found the disciplinary process was perceived to be unaffected by the gender of the participants, both by those who administer it and those whose conduct is under review. Recommendations sought to ensure that this fairness continued.

G.12.1 The Oregon State Bar (OSB) should recruit equal numbers of men and women (and recruit diverse people) to serve on committees, boards, and trial panels that conduct disciplinary proceedings. The OSB should also include participants in the disciplinary process in educational programs concerning gender and intersectionality issues.

Accomplishments	Gender, race, ethnicity, and sexual orientation are considered in the appointment process. CLE publications and seminars are required to increase diversity of editors and speakers.
Next steps	Continuing.

G 12.2 Bar Counsel should develop a system to track complaints about lawyer conduct by the gender of the complainant and the accused and also periodically survey complainants and accused lawyers to determine whether there is any perception of gender bias in the disciplinary process.

Accomplishments	Not done.
Barriers	There is no system in place to track complaints about lawyer conduct by the gender of the complainants. Some complainants may be reluctant to disclose gender information.
Next steps	Ongoing. Bar Counsel should develop a pilot data tracking program to capture and analyze data about gender and determine whether complainants or the accused perceive gender bias in the disciplinary process. Alternatively, the AC should revisit and ask OSB to survey complainants and the accused regarding whether they are willing to disclose information for data collection purposes only.

OSB Response: Two recent surveys conducted for the OSB Disciplinary System Task Force indicate there is not a perception of gender bias within the system. Member survey results indicate that while 47% believe there is some level of bias in the system, only 4% believe gender bias is an issue and only 3% believe racial/ethnic bias is an issue. (The majority of those perceiving bias cited firm size, legal subject matter, and geography as sources of

bias). A questionnaire sent to a random sample of complainants generated no comments related to gender, although there was not a specific question regarding bias. Therefore, the Board of Governors does not feel this is an appropriate expenditure of funds.

G 12.3 The OSB and the Oregon Supreme Court should review disciplinary rules to determine if there is any gender-based unfairness to lawyers, clients, or the interests that the rules are designed to protect.

Accomplishments

The OSB Board of Governors reviewed the GFTF recommendations in 1998 and concluded that amending the Disciplinary Rules would not address any of the issues identified by the GFTF because the rules are gender-neutral in content and application.

Next steps

Continuing. The AC should ask the OSB Board of Governors to review rule amendments to ensure that the rules remain gender-neutral in content and application.

OSB Response: Every effort is made on the part of Disciplinary Counsel to enforce all rule violations in a fair and unbiased manner. See OSB Response to G 12.2 for results of recent surveys of accused and complainants. Gender was not a major issue of concern that was raised.

G13 Admission to the Practice of Law and Lawyer Discipline (General)

The task force recommended ongoing study in this area.

G 13.1 The AC should consider the factors that have led to gender fairness, and the perception of gender fairness, in admission to the practice of law and in lawyer discipline. The AC should determine whether areas of gender-based unfairness discussed in the GFTF report can benefit from those lessons. Such factors may include: extensive, gender-neutral, behavior based rules; diversity of persons in the enforcement process; conscious regard for the perceptions of people living at different intersectional points; and multiple layers of review.

Accomplishments

The AC reviewed the GFTF recommendations and conducted a survey regarding implementation and status of those recommendations. The AC met with one of the co-chairs and the coordinator of the task force and prioritized recommendations of the GFTF for further action. The AC is committed to gender fairness and the perception of gender fairness in all its work. Although the AC does not have direct authority over admission to the practice of law or lawyer discipline, it has opportunities to remind court employees, attorneys, and judges of the importance of being bias-free, fair, and conscious of the perceptions of people living at different intersection points. The AC does so through its publications, participation in education programs, and collaboration with justice system partners.

Next steps

The AC should analyze the implementation status survey further and consider what has been successful and what needs further attention.

G14 Opportunities in the Legal Profession

The task force noted that a subtle and sometimes unconscious discrimination against women exists in the legal profession. Female judges and lawyers in Oregon reported more perceptions of unfairness than did their male counterparts. Objective data relating to patterns of hiring, promotion, retention, compensation, case responsibility, practice specialty, and positions of leadership supported the perception of gender unfairness in some areas. Although the task force acknowledged that tremendous progress has been made in the opportunities afforded to female lawyers, it found that a significant minority of female lawyers faced gender bias or gender unfairness within the legal profession. Recommendations offered several concrete steps that the Oregon State Bar, private and public legal employers, the Governor, and Chief Justice could take to improve gender fairness in this area.

The implementation status of recommendations below is based on responses from 12 private law firms and public interest legal organizations to the GFTF survey distributed in 1999 and 2000. The Monitoring and Evaluation Subcommittee sent surveys to 28 legal organizations, approximately half of which were large (21-plus lawyers) and half medium (6-20 lawyers) in size. The 12 respondents represented 5 medium and 4 large private law firms, the Metropolitan Public Defender Services, Juvenile Rights Project, and Legal Aid Services of Oregon.

G 14.1 The Oregon State Bar should

- a. gather and maintain data about its membership through regular anonymous surveys, conducted at least every three years, including gender, race, ethnicity, and self-identified sexual orientation. The Bar should maintain and make easily accessible information about the number of OSB members, their years of experience, compensation, occupational positions, areas of practice, career path, promotional opportunities offered and taken, and status as active or inactive;
 - b. sponsor periodic educational programs about state and federal laws that apply to lawyers with emphasis on appropriate hiring methods and responses to complaints of sexual harassment;
 - c. continue and expand mentoring programs for young lawyers, especially women and people of color;
 - d. consider the feasibility of establishing a discreet complaint process for lawyers who experienced adverse treatment;
 - e. study whether lawyers who serve in contract lawyer, in-house counsel, and of-counsel positions experience unfairness on the basis of gender or other personal characteristics, and if so, recommend remedies to such unfairness;
 - f. encourage qualified lawyers who are women, people of color, gay men, lesbians, and disabled persons to apply for judicial positions.
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Accomplishments

- a. The Oregon State Bar regularly collects data about its members, including gender, race, ethnicity, and self-identified sexual orientation. Collected information is entered into a database and because of certain laws is public information. Additional information is available in that database, including (but not limited to) law school attended and date graduated, date of admission to the OSB, other states where admitted, volunteer activity with the bar, membership in bar sections,

membership status (e.g., active/inactive/resigned), discipline history, dues payment history, and MCLE compliance information. Every four years, OSB conducts a voluntary and anonymous economic survey that examines compensation, firm size, years of experience, gender, part-time/full-time status, etc. This information is compiled and made public.

- b. The OSB CLE Seminars Department sponsors employment law seminars. Although none of the most recent seminars have focused solely on hiring practices or handling sexual harassment complaints, those two topics have been included as part of multi-topic employment law seminars.

In May 2002, the PLF offered a five-part series on employment practices. Topics included hiring and screening employees, evaluating staff and associates, retaining employees, mistakes to avoid when firing employees, and policy and procedure manuals. The speakers may have touched on discrimination issues, but their focus was very practical. Sessions took place during the lunch hour, were videotaped and replayed around the state, and available by audiotape.

- c. The Oregon New Lawyers Division Mentor Program (ONLD) pairs new lawyers with mentors who meet informally throughout the year. The Leadership Mentoring program fosters leadership skills in new lawyers by providing them an opportunity to network with leaders of the bar and the community at monthly sessions. The ONLD automatically includes all new lawyers, defined as having been in practice six years or less or 36 years of age or younger.

Until 2001, the OSB Affirmative Action Program included a mentoring program involving law students and lawyer mentors. The program focused on lawyers of color. Occasionally the department will match a law student who specifically requests a certain profile in a mentor that she or he cannot find through an established program.

- d. Presently, the disciplinary system is used to enforce specific disciplinary rules by imposing sanctions for violations of those rules. Unless the "adverse treatment" experienced by lawyers amounts to a provable disciplinary rule violation, the present system is not likely to offer much of a remedy, if any, to those who are adversely treated. Furthermore, the present system is subject to Oregon's Public Records Law, and is not likely to offer the "discreet" process that apparently is desired. Complaints are public record upon receipt, and anonymity cannot be granted to complainants. Due process afforded in the disciplinary system permits an accused lawyer to know the identity of his or her accuser. In summary, the present disciplinary system may not be the vehicle to establish the complaint process suggested in this inquiry.

The OSB has not established any other procedure for this purpose.

- e. Not done.
- f. OSB works closely with the Governor's office when appointments are made and facilitates that process with interested members. The bar conducts judicial preference polls and makes the results available to the media. The bar conducts interviews at the appellate level.

Barriers

- c. The OSB has the only mandatory fee funded affirmative action program. Mentoring is an essential ingredient of this program. The ONLD program was discontinued to avoid competition for law students among law schools and other legal organizations that provide mentor programs. The Task Force may want to inquire into the mentoring programs of OWL and the Multnomah Bar Association for further information.
- e. OSB does not maintain any data on members that would indicate if they are in these categories. OSB would have to do a survey of the entire membership to ask these questions.
- f. OSB does not single out any one group to encourage them to apply for judicial positions.

Next steps

- Continuing. The AC should ask
- OWL if they are doing (f) currently;
 - OSB Quality of Life Committee and OWL whether they would be interested in studying (d) and (e);
 - OWL whether they would consider accepting gender-related complaints from lawyers if appropriate.

OSB Responses: a. The OSB Policy and Governance Committee is in the process of considering the bar's data collection efforts in regard to sexual orientation. Very few bar members have chosen to self-identify making the statistics less than valuable. Gender and race are part of the annual data collection process. However, the majority of bar members choose not to self-identify using one or more of these criteria. OSB membership data is a public record and thus there is no confidentiality in sharing the information with the bar which might explain some of the reluctance to self-identify. The bar does not collect information regarding experience, practice area, promotional opportunities, etc. This would be an expensive effort to maintain. e. Might be appropriate for OWL as they run a contract lawyer services. Beyond the scope of the bar's resources. Again, no practice area information is part of the bar's database on its members.

G 14.2 Private and public legal employers should

- a. implement written hiring policies to ensure that interviewers conduct interviews in accordance with legal requirements;
 - b. Ensure diversity among the persons responsible for hiring decisions;
 - c. implement and distribute policies prohibiting discrimination and sexual harassment;
 - d. plan social and business events that are open and of interest to both male and female lawyers and clients;
 - e. establish promotional policies respecting management positions to ensure fairness in promotions;
 - f. review case assignment procedures to ensure that women have equal opportunity to participate in challenging and high-profile cases; and
 - g. adopt part-time, flex-time, and similar policies that allow lawyers to meet demands of personal lives, and ensure that lawyers who take advantage of such policies are not placed at inappropriate disadvantage.
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Accomplishments

- a. A majority of firms have developed written instructions or are in the process of doing so. Those firms that have not developed interviewing policies rely on the senior members of the firm to educate and monitor staff members who conduct interviews.
- b. Firms vary. Most noted that female staff have a chance to assist in initial screening but that participants in the final hiring vary depending on the composition of the firm. Some firms have written procedures for hiring designed to help ensure diversity.
- c. All but one respondent has a written policy prohibiting discrimination and sexual harassment.
- d. All firms reported that social and business events are open to both male and female lawyers, and if appropriate, to clients.
- e. No firm reported specific written policies to ensure gender fairness, but most firms said all positions are open equally to all based on the attorney's experience and proven ability. Of the three public interest firms reporting, two indicated that women hold nearly half of their management positions. One firm reported a recent executive decision to implement a firm-wide mentoring program.
- f. Several firms indicated that specific procedures are not necessary, because assignments are made on an equitable basis. Of the three public interest firms reporting, one reported a blind assignment process, another said cases are assigned in rotation, and the third stated that the cases are assigned depending on the attorneys' current workload, client needs, and attorney's interest.

- g. Some firms reported set procedures for flex time. Others said flexible work schedules are arranged on case-by-case basis. Some said none of their existing staff members desired reduced or flex-time scheduling. Other firms allowed the partners to work part-time but stated that they expected the associates to work full-time. Some survey participants responded that they could not authorize part-time work because they lacked resources to hire a replacement or job share. One respondent reported recent executive decision to better publicize their part-time policy.

Barriers

Barriers to diversity among staff hired were attributed to lack of diversity in the applicant pool.

No barriers to a written discrimination or sexual harassment policy were noted. (The one without a written policy noted that partners may decide to post the applicable federal and state information in the break room, but no formal written office policy is contemplated at this time.)

Observed barriers to part-time or flex-time policies: without a written policy, some lawyers may be reluctant to request a part-time or flexible position, fearing an adverse impact on their career.

Next steps

OSB should collect and disseminate sample hiring and promotion policies for management positions to law firms and other legal workplaces.

OSB Response: The OSB may ask the Law Practice Management Section and the Labor and Employment Law Section if either is willing to take on this task.

Law firms and other legal workplaces should continue to actively groom attorneys who are female, people of color, or both for partnership and management positions and actively work with the placement offices of law schools and colleges to attract women and minorities to the practice of law.

G 14.3 Governor should continue to appoint qualified lawyers who are women, people of color, gay men, lesbians, and disabled persons to judicial positions.

Accomplishments

AC staff met with the Governor's Office Legal Counsel to encourage Governor Kitzhaber to implement this recommendation further.

According to Governor Kitzhaber's Office of Legal Counsel, Governor Kitzhaber appointed 72 judicial officers, selected among 526 applicants, over the course of two four-year terms. Some applicants applied more than once and are counted as a new applicant each time in the statistics that follow. Judicial positions include circuit court judge, tax court judge, supreme court justice, court of appeals judge, and justice of the peace.

Gender: Among the 134 female applicants, 22 received judicial appointments, comprising approximately 16% of all applicants and nearly 31% of total appointments. In comparison, among 392 male applicants, 50 received judicial appointments, comprising approximately 13% of all applicants and 69% of total appointments. Female appointments included 16 circuit court judges, 1 supreme court justice, 1 court of appeals judge, and 3 justices of the peace.

Race/Ethnicity: Among 526 applicants, 104 declined to state their race or ethnicity. Thirty-nine applicants identified their race/ethnicity as something other than Caucasian (including African American, Asian, Native American, Hispanic, and Jewish). Among 72 appointees, 14 declined to state their race or ethnicity. Four appointees identified their race/ethnicity as something other than Caucasian (all circuit court judges).

Barriers

Interested applicants may be reluctant to share information about their sexual orientation or disability status.

Disability: Among 526 applicants, two identified themselves as disabled. Neither individuals received judicial appointments.

Sexual Orientation: The Governor's Office did not request nor receive information about the sexual orientation of judicial applicants.

Next steps

Continuing.

The AC should determine what percentage of OSB members and judicial applicants are women and what barriers to judicial appointments female applicants face.

G 14.4 The Chief Justice should determine whether case assignments are made fairly to female and male judges and, if not, make appropriate recommendations to remedy any such unfairness.

Accomplishments

Not done.

Next steps

OJD should survey judges and ask whether they think case assignments are made fairly.