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SECOND CIRCUIT: STUDY OF GENDER, RACE, AND ETHNICITY

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In 1993, at the request of then Chief Judge Jon O. Newman, the Judicial Council of the Second Circuit created a Task Force on Gender, Racial, and Ethnic Fairness in the Courts. The Task Force, which was comprised of six judicial officers and a citizen participant from each of the Circuit's three states, was asked to study issues of gender, race, and ethnicity in the courts of the Second Circuit, and to report back to the Judicial Council on its findings and recommendations.¹

The Task Force asked a group of outside observers—members of the bar and academics—to conduct independent investigations of the issues within its mandate. In February 1994, the Task Force established two committees, the Gender Committee and the Race and Ethnicity Committee, which proceeded to conduct separate but coordinated examinations.² Each committee comprised approximately thirty volunteers drawn from the professional community, representing every district in the Cir-

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1. This project was initiated in response to a 1992 resolution of the Judicial Conference of the United States, which provided:

[B]ecause bias, in all of its forms, presents a danger to the effective administration of justice in federal courts, . . . [circuits should conduct] education programs for judges, supporting personnel and attorneys to sensitize them to concerns of bias based on race, ethnicity, gender, age, and disability and the extent to which bias may affect litigants, witnesses, attorneys and all those who work in the judicial branch.

REPORT OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES 64 (Sept. 1992). It should be further noted that in 1994, Congress urged the federal courts to study the nature and extent of gender bias. See Violence Against Women Act of 1994, 42 U.S.C. § 14001 (1994).

2. Sheila L. Birnbaum, Esq. served as Executive Director to the committees. The Gender Committee was co-chaired by Bettina Plevan, Esq. and John Doyle, Esq.; Professor Diane Zimmerman served as reporter. The Race and Ethnicity Committee was co-chaired by William Snipes, Esq. and Hector Willems Rodriguez, Esq.; Professor Beryl Jones served as reporter.

cuit. The committees (and their respective subcommittees) began work in June 1994.

The committees and subcommittees proceeded to interview witnesses, hold hearings, meet with the local bar associations and other professional groups, and engage focus groups on various topics. In addition, surveys were conducted targeting different constituencies, including judicial officers, law clerks and courtroom deputies, and minority practitioners.³ The Gender Committee and the Race and Ethnicity Committee regularly shared information, and, in some cases, the two committees prepared joint reports.

The committees' reports were reviewed by the Task Force, which in turn presented its own detailed final report, outlining its findings and making suggestions for the future.⁴ While an attorney survey reported occasional conduct by judges and more by lawyers that to the observer seemed to reflect bias, virtually no incidents of deliberate bias were reported or found. Among its findings, the Task Force endorsed the committees' conclusion that "on the whole, attorneys think that the judges and the courts of the Second Circuit are fair, and that they enjoy practicing in the federal system. . . . In short, most lawyers, most of the time, think that the federal courts are fair and good institutions."⁵ The Task Force also reported that the Second Circuit bench and workforce were broadly representative of the relevant populations, although variation existed among districts.⁶ The Task Force's Report was formally presented to the Judicial Council in early December 1997.

At its December 1997 meeting, the Judicial Council voted to establish a Special Committee comprised of circuit and district judges to review and, as appropriate, promote the implementation of the Task Force's recommendations. To assist in its review, the Special Committee solicited comments from all judicial officers and the administrators of the several courts of the

3. The surveys were generated by Professor Carroll Seron and her team from Baruch College in New York City.

4. See REPORT OF THE SECOND CIRCUIT TASK FORCE ON GENDER, RACIAL, AND ETHNIC FAIRNESS IN THE COURTS (Nov. 21, 1997). This report will be reprinted in a forthcoming issue of the *New York University Law Review*.

5. *Id.* at 42.

6. See *id.* at 14-16, 46, 57, 72-74.

Second Circuit, and, through extensive mailings and published notices, invited comment from all interested members of the bar. The Special Committee anticipates that it will report to the Judicial Council of the Second Circuit by mid-1998.

