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FOURTH CIRCUIT: THE JUDICIAL COUNCIL'S REVIEW ON THE NEED FOR A GENDER BIAS STUDY

*Samuel W. Phillips**

In 1993, the Women Judges Fund for Justice, the National Association of Women Judges, and the National Center for State Courts, sponsored a four-day conference (March 18-21) in Williamsburg, Virginia, entitled "Second National Conference on Gender Bias in the Courts: Focus on Follow-up." Then Chief Circuit Judge Sam J. Ervin, III, designated the Deputy Circuit Executive to attend the conference on behalf of the Fourth Circuit. The Deputy also attended, along with a Fourth Circuit U.S. Magistrate Judge (now a U.S. District Judge), the Federal Judicial Center Gender Bias Task Force Workshop in Washington, D.C. (August 5-6, 1993).

At its September 27, 1993 meeting, the Fourth Circuit Judicial Council was briefed by the Circuit Executive on the issue of gender bias in the courts, based upon information provided at these two events. He informed the Judicial Council that gender bias in the courts has been linked to disparate treatment of female practitioners, litigators, and others occurring in the courts. The Circuit Executive also found that the establishment of task forces to address gender bias in the courts began at the state level in the early 1980s. The Ninth Circuit established a Gender Bias Task Force in 1990 and released its final report in 1993. In addition, the D.C. Circuit had established a task force. Although no other circuit had yet established a task force, each circuit was considering the matter. It was also noted that the work of a task force would require significant resources for support, including miscellaneous supplies and travel.

Following a discussion on the matter, the Judicial Council directed the Circuit Executive to write to each of the chief dis-

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trict judges in the Fourth Circuit requesting that each carefully survey their districts and report whether or not their courts had noted any disparate treatment of female practitioners, litigators, or others appearing before their courts.

In the summer of 1994, two students from the College of William & Mary, serving as interns in the office of the Circuit Executive, were assigned the task of researching and preparing a report on the issue of gender bias in the courts. A copy of the report and the results of the Circuit Executive's survey of the chief district judges were presented to the Judicial Council at its September 26, 1994 meeting. In its consideration of this issue, members of the Judicial Council noted that an elaborate process for considering complaints of racial and gender bias was already in place. Members further noted that resources for undertaking exhaustive studies and establishing duplicative mechanisms were limited. The Judicial Council formally addressed this issue at its meeting on June 29, 1995 and adopted the following Resolution:

WHEREAS, the Judicial Council of the Fourth Circuit has carefully considered the advisability of a study in the areas of gender, race and ethnic bias; and

WHEREAS, the circuit has procedures in place for addressing complaints arising from any alleged act of gender, race or ethnic bias; and

WHEREAS, such a study would be duplicative of studies that have been conducted and costly when substantial economies in the judiciary must be achieved; now therefore, it is

RESOLVED, that such a study will not be undertaken in this circuit.

The Judicial Council of the Fourth Circuit has taken no further action since adopting the above Resolution, and there is no indication it will revisit the issue at this time.