



PRESS RELEASE

**New York State
Unified Court System**

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Attorney Survey Findings Generate Recommendations to Enhance Gender Fairness in the New York State Courts

NEW YORK—A recent survey conducted by the New York State Judicial Committee on Women in the Courts indicates that while the treatment of female attorneys, litigants and witnesses in the courts has improved markedly over the years, significant areas of bias remain, with the findings also revealing a notable gap between the perceptions of men and women.

The online poll, built upon a survey and other research conducted in the 1980s by the New York Task Force on Women in the Courts—a precursor to the Committee—focused on several key areas, including: whether and how gender affects courtroom interactions; the courthouse environment (sexual harassment); the treatment of domestic violence, rape and prostitution cases; the adequacy and enforcement of child support awards; the selection of female attorneys for fee-generating appointments; and the adequacy of Children’s Centers, lactation and other courthouse facilities in addressing the basic needs of litigants and witnesses.

The Committee, chaired by the Hon. Betty Weinberg Ellerin (Alston & Bird LLP), worked with experts to develop and distribute the survey. Invitations to participate in the survey were sent on behalf of Chief Judge Janet DiFiore to a large, random sample of attorneys admitted to practice law in New York State, including judges and court

personnel. Respondents were informed that their responses would be confidential and aggregated. Over 5,300 attorneys responded, a much larger number than the 1,790 who responded to the 1980s survey, enabling the research team to conduct extensive statistical analysis of the survey questions by a number of demographic variables.

Among the survey findings:

- Evidence of improvement since the earlier survey was clear in many key areas. While not specifically covered in the survey questions, one area of great progress is the number of women judges now on the bench, with significant improvement in the number of women administrative judges and appellate court judges.
- In response to questions regarding inappropriate conduct within the courthouse, 10 percent of female survey participants reported that unwelcome physical contact by other attorneys occurred very often or often and another 36 percent reported it sometimes happened; male respondents also reported this occurring, though to a lesser extent: three percent reported this happened often or very often and another 16 percent said it occurred sometimes. Among court personnel, both male and female respondents reported this occurring to a lesser degree: five percent of female respondents said it occurred often/very often and 17 percent said it happened sometimes, while one percent of male respondents reported it happened often and nine percent said it happened sometimes.
- Both female and male survey respondents reported almost no problem when it came to female attorneys experiencing unwelcome physical contact by judges, with 90 percent of female respondents and 96 percent of male respondents reporting this rarely or never occurred.
- Regarding the reporting of sexual harassment in all its forms, only 31 percent of female respondents and 49 percent of male respondents indicated they knew how, when and where to report a claim related to misconduct in a Unified Court System facility.
- More than half of the female survey participants and 13 percent of the male survey participants agreed with the statement that male judges appear to give more credibility to the statements/arguments of male attorneys than female attorneys. There appeared to be less concern with female judges, though 29 percent of female respondents agreed that female judges also appeared to give more credibility to male than female attorneys.
- With regard to the handling of domestic violence cases, one area of concern that emerged for both family courts and criminal courts is the need for further safety provisions for alleged victims of domestic violence.
- As to the treatment of prostitution cases, female survey respondents were likely to agree that judges (64 percent), prosecutors (56 percent) and law enforcement (65 percent) treat the patron with less severity than the prostituted person. Male survey respondents were only somewhat less likely to agree: 42 percent, 37 percent and 44 percent, respectively.

- Both female and male survey participants reported that the efficiency and effectiveness of court proceedings are negatively impacted by the lack of Children's Centers, lactation spaces and baby-changing stations.

Based on these and other survey findings, the Committee has issued a series of recommendations. They include:

- Effectively publicizing the court system's procedure for filing sexual harassment and other types of complaints.
- Mandating regular training for all judges and court personnel designed to make them aware of and recognize gender bias and how to take appropriate immediate action when such behavior appears or is reported.
- Providing petitioners/complainants in domestic violence cases with a safe waiting area, separate and inaccessible from defendants.
- Requiring comprehensive education and training for law enforcement officers, prosecutors, paralegals, investigators and intake staff on all aspects of domestic violence.
- Routinely prosecuting patrons of prostitution as well as the traffickers and promoters.
- Establishing Human Trafficking Intervention Courts throughout the state.
- Ensuring that all law enforcement officers and policy makers receive the education and training on the dynamics of sexual assault and on the best practices for gathering and preserving crime scene evidence in such cases.
- Having court administrators and legislative leaders collaborate to establish free, accessible Children's Centers in all courthouses statewide.
- Having court administrators and municipalities work together to update courthouse bathrooms, provide baby changing stations in all bathrooms including women's, men's, gender neutral and family bathrooms.
- Providing signage in the courthouse indicating the designated areas for Children's Centers, lactation and diaper changing stations.
- Producing a brochure in multiple languages to educate court users of their right to be treated fairly and respectfully. The brochure should include information about the availability of Children's Centers and other court facilities, as well as the procedure for filing a sexual harassment or bias complaint.

“Though we have clearly come a long way in reducing gender bias in the courts, the survey findings show that substantial inequities continue to exist regarding the treatment of women litigants, witnesses and attorneys—including inappropriate or offensive conduct directed toward women by far too many members of the legal profession. These insights, and the thoughtful proposals offered by the Committee, will pave the way to further reforms as we seek to turn the ideal of the gender-neutral courtroom into reality. I am thankful to Betty Weinberg Ellerin and the Committee members for their intensive work on the attorney survey, as well as for their countless contributions throughout the years to promote gender fairness in the courts and legal profession,” said Chief Judge DiFiore.

“The information derived from the Committee’s survey, along with its extensive body of research on court-related gender issues, will help guide us as we continue to challenge the use of gender stereotypes, working to ensure that all who enter our courthouses are treated with dignity, civility and respect, regardless of gender, gender expression, sexual orientation or any other distinguishing characteristics,” said Chief Administrative Judge Lawrence K. Marks.

“Our Committee is most grateful for the unswerving support from Chief Judge DiFiore and Chief Administrative Judge Marks in compiling this report. We look forward to continuing to work with them to see fulfillment of the manifold recommendations designed to eliminate the too many vestiges of bias against women remaining in our court system. We also hope to pursue other avenues, not specifically addressed in this report, such as the dual bias suffered by women of color,” said Chair Betty Weinberg Ellerin.

The Committee has issued a comprehensive report of its findings and recommendations, available at:

www.nycourts.gov/LegacyPDFS/IP/womeninthecourts/Gender-Survey-2020.pdf

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