

Gender Bias—Then and Now

Continuing Challenges in the Legal System

The Report of the Gender Bias Study Implementation Commission

A Study Implementation Commission created by
The Supreme Court of Florida

December 1996

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Gender Bias Study Implementation Commission

1994 - 1996

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ACKNOWLEDGMENT

The Commission is grateful for the excellent staff work of Betty M. Morris, without whom we could not have accomplished our task.

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Judges & Courts

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Criminal Justice

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INTRODUCTION

The Gender Bias Implementation Commission was created by the Florida Supreme Court. Members were appointed by Chief Justice Stephen Grimes for a two-year term, in the Fall of 1994. The Commission was charged with the task of focusing on the recommendations made by the original Gender Bias Commission Report of 1990, and the follow-up reports of the prior Implementation Commissions of 1992 through 1994, to ascertain what recommendations have not yet been acted on, and what problems remain, which need further action and attention. The Commission was also asked to make further recommendations and advocate for steps to implement those recommendations.

Our membership represented a wide variety of backgrounds: the Senate, the House of Representatives, The Florida Supreme Court, The Florida Bar, the District Courts of Appeal, Circuit Courts, County Courts, Attorney General's Office, State Attorney's Office, Public Defender's Office, Governor's Task Force on Domestic Violence, Office of State Courts Administrator, and the Orlando Police Department.

The Commission met four times: January 12, 1995, in Miami, Florida; June 22, 1995, in Orlando, Florida; January 10, 1996, in Orlando, Florida; and June 19, 1996, in Orlando, Florida. Due to a lack of staff and a budget, the Commission had to plan its meetings in connection with the Florida Bar's annual and mid-winter meetings. Attendance at the meetings was difficult for many members who lived in cities distant from the meeting place.

The Commission organized itself into subcommittees to deal with gender bias problems and implementing prior recommendations in six categories: substantive family law; the legal profession; domestic violence; the criminal justice system; judges and courts; and education. Each will be discussed topically, although the findings and recommendations proved to be somewhat over-lapping.

Between meetings, members of the Commission worked on subcommittee projects and communicated by mail, fax, and telephone. At the meetings, except for the first organizational meeting, interested citizens and government representatives were invited to attend and make presentations on projects and problems relating to gender bias. Also, a member of the Family Law Section attended the meetings as a liaison.

What follows is a brief summary of the each subcommittee's work and action taken by the Commission. This report is submitted with the hope that it will provide insight in these areas, and that it will offer guidance for future endeavors.

I. Substantive Family Law

The Florida Legislature and the Florida Supreme Court have taken many steps to implement the recommendations of the original Gender Bias Commission. Among others, fact findings to support equitable distribution awards and alimony decisions, backed by competent substantial evidence to support the trial court rulings, are now required by statute, as was originally recommended. This has resulted in more appeals, more meaningful review of dissolution decisions, and more consistency of result. However, it is not clear, based on appellate decisions, whether a trial judge must consider all the statutory factors and give equal weight to all, or just the relevant ones. This may be an area in need of monitoring to see how the new laws are working.

The original Commission recommended that the laws dealing with the amount of spousal support require the trial judges to set consistent amounts, in all cases, and amounts which comport with the supported spouse's marital standard of living, analogous to child support guidelines. This has not been done. Section 61.08 requires the trial judge to make a laundry list of fact findings when alimony is asked for and either awarded or denied. It is not clear whether all the statutory factors must be considered, or only relevant ones, and whether or not there is any factor or factors which should be given more weight than others. The court is asked to consider the standard of living established during the marriage in setting spousal support by the new statute. § 61.08(2)(a), Fla. Stat. A suggestion might be to add as a goal that the trial judge, if possible, make an award which will not substantially reduce the marital standard of living for either spouse, post-dissolution.

Equitable distribution of marital assets is now a statutory reality, implementing many of the original Commission's recommendations. Specific problems arise on a case by case basis, which are dealt with by the appellate courts. One area which is not being clearly or consistently handled is the valuation of non-vested pensions. Another is the difficulty of valuing a business or professional practice.

The shared parental responsibility provisions of the new laws were also recommended by the Commission. One recent change to Section 61.13 is consistent with other parts of the original report, which pointed out that there exists a severe problem with domestic violence. It provides that evidence of child abuse or spouse abuse should be considered as a detrimental factor in not awarding shared parental responsibility.

At subsequent meetings, the Commission considered the need for additional amendments to section 61.13. One was to add as a negative factor to be given consideration in making a primary residence award in the context of shared parental responsibility, the fact that one parent has committed acts of child abuse or domestic violence. If child abuse and domestic violence are required negative considerations under section 61.13(3) in determining whether or not shared parental responsibility is appropriate, they should also be considered in determining which parent should be awarded primary residence of a child.

The Commission also heard a presentation as to the need to add consideration of which parent had been a child's primary care giver, as a statutory factor in section 61.13(3), in determining a child's primary residence. In dissolution cases involving young children, the courts should give weight to this factor, in the best interest of the children. However, because the "tender years doctrine" has been statutorily abolished in Florida, some trial judges are refusing to give it any consideration. It was suggested this has resulted in harm and disruption to young children in some cases. Although women are still most often a young child's primary care giver, and the

person with whom a young child has most closely bonded, this is a gender-neutral consideration, and should operate in favor of fathers as well as mothers.

After discussion and study by the subcommittee, the Commission voted to approve the proposed bill, attached as Exhibit 1, and to recommend its passage by the Legislature. It covers both grounds discussed above. Neither change was passed by the 1995-96 Legislature, although forms of the bill were sponsored by various members of the Legislature. The Family Law Section also supported the domestic violence factor amendment. The Commission voted to recommend passage of the bill by the 1996-97 Legislature, and to ask that the Family Law Section support it.

The problem of child support arrearages and collecting child support payments was a major area of concern in the original Commission Report. This primarily, although not exclusively, affects the welfare of women and children in their custody because women are still, more often than men, awarded primary residential custody of children, and their incomes generally are much less than that of their former husbands. The Legislature has passed numerous statutes to enforce, and require payment of child support obligations, and to track down non-paying parents. They include new court procedures, providing government assistance in filing law suits, attachment and garnishment remedies, and new penalties—such as causing parents to lose professional licenses if they ignore child support orders. The Florida Supreme Court likewise proposed a rule that will cause a Florida lawyer to lose his or her license to practice law, if delinquent in child support payments. The Commission wrote a letter supporting this rule, which was subsequently adopted by the Court.

Joyce Grant, Director of ACES (Association for Children for Enforcement of Support) from Brevard County, described her recent personal experience in not being able to obtain child support, and her inability to get relief in the courts. This led her to organize a group of parents with similar child support problems, in Brevard County. Together they confer with the chief judge in the county, and sit in on hearings before the magistrate who handles child support cases. She reported that regrettable gender bias remarks and attitudes are experienced in the courts, and that the problem of child support collection and payment still remains a major one.

The Commission recommended that more resources and court support be allocated to child support, collection and enforcement. Emphasis should be placed on improving, simplifying and making more effective the procedures to enforce child support obligations.

II. Education

The original Commission Report recommended that the judiciary and legal profession in general, needed to be educated about the nature of sexual battery and the root causes of prostitution. Little has been done about this recommendation. The Legislature has passed amendments to the Rape Shield law to try to protect victims of sexual battery from attacks on them in court proceedings, but prosecution witnesses are still vulnerable in many regards, and the statute preventing publication of a victim's name has been held to be unconstitutional.

The Original Report noted a connection between runaway girls (status offenders) and prostitution. But there has been little judicial education on these issues.

The Commission recommended that training be provided for judges hearing capital cases, and criminal domestic violence cases concerning understanding the nature of sexual violence and domestic violence. It was also recommended that the officers and personnel of the courts handling such cases be provided similar educational programs.

The National Judicial Education Program to Promote Equality for Women and Men in the Courts, 99 Hudson Street, Suite 1201, New York, NY 10013, is a source for curriculum and materials concerning these subjects. The Florida Court Education Council, The Florida Judicial College, the College of Advanced Judicial Studies and the Judicial Conferences have made a concerted effort in the past six years to present judicial education programs on domestic violence.

Judge Zack reported that the Education Committee of the Judicial Management Council suggested mandatory training for judges in specific areas—such as those hearing capital cases and criminal domestic violence cases. Dee Beranek said much was being done to incorporate gender bias concerns in judicial education programs. *Understanding Sexual Violence* is a course presently offered at the Advanced Judicial Studies, and they plan to present a domestic battery program for judges.

III. Legal Profession

Recent studies and surveys continue to indicate that gender bias continues in the legal profession, and in the courts to adversely impact on female attorneys, parties and witnesses. The Commission collected and noted the ABA Status of Women in the Profession (Dec 1995), and the July 1993, Gender Bias Task Force Report for the 9th Circuit (Federal) Report. The Commission recommended and supported the continuation of the Florida Bar's Special Committee for Gender Equality in the profession. It was reconstituted for an additional two years.

The Commission was asked to support a rule change which would have created three additional seats on the Florida Bar Board of Governors for minorities. It declined to take a position on the proposed rule. The rule was not passed.

The Commission noted with approval the Florida Bar's Special Committee's workplace model policies on sexual harassment, family leave and alternative work levels.

It was recommended and suggested that more recent surveys on the economics of gender bias in the profession be done in Florida. Many areas touched on by the original Commission's work are out of date. This Commission, however had no resources or funding to do this work, and it was not possible to follow up on this recommendation.

It was noted by the Commission that one of the original Commission's recommendations—to make the language of Florida statutes gender-neutral is being accomplished. The Division of Statutory Revision is undertaking the project as part of its regular workload, pursuant to an earlier statute.

IV. Domestic Violence

The recommendations of the original Commission concerning the necessity to recognize and deal with the problems of domestic violence have been acted upon in many regards. They include the passage of statutes making domestic violence a crime, simplified procedures to obtain injunctions against those committing acts of domestic violence and stalking, training for police in handling such cases, not requiring the victim's consent or cooperation as a condition to prosecution of an offender, many educational programs for judges and law enforcement personnel, and the establishment of the Governor's Task Force on Domestic Violence.

A member of this Commission, Robin Hassler, is the Director of the Governor's Task Force on Domestic Violence. At each meeting, she reported to the Commission regarding legislative and other developments in this area of concern. A summary of 1996 Domestic Violence Legislation is attached as Exhibit 2.

The Commission noted that the new statutes concerning domestic violence need revision and continued follow-up to make sure they are working effectively. One was that courts could not deny bail for a domestic abuser not charged with a serious crime. This was because domestic violence was not defined as a dangerous crime pursuant to section 907.041(4)(b)4. The statute was amended to include acts of domestic violence. Another was the fifteen-day service provision for service of domestic violence injunctions. The Commission discussed the need for a survey to determine whether the time should be extended to thirty days. Due to lack of funds, the Commission was not able to pursue this inquiry.

The Commission also noted a provision in the new statute that apparently deprived the civil court of its power to enforce its orders through indirect criminal contempt proceedings. The Commission recommended this law be changed. Subsequently the Florida Supreme Court ruled that provision unconstitutional, and the Legislature changed the law to restore contempt powers to the courts.

The Commission noted and recommended that supervised visitation facilities for families with domestic abuse problems be provided in all circuits. Facilities are particularly lacking in smaller, rural counties. The current Commission tried to survey facilities now available in the state courts for mediation, visitation and counseling, but was unable to do so because of lack of funding. However, it received a report from the Family Law Section that a Commission has been established to determine what sites and funds are available to provide supervised visitation for all circuits.

The Commission also noted a great need for domestic violence shelters in rural counties. In order to make the new laws work, there is also a great need for training of staff, clerks, and law officers in the smaller, rural counties about the domestic violence laws and procedures, and the nature of domestic violence.

Using the research and statistics compiled by the Task Force, Judge Sharp wrote an article about domestic violence, which also memorialized Judge Natalie Baskin. It was published in the Miami Review, June 28, 1996. A copy is attached to this report as Exhibit 3.

V. Judges and Courts

The original Commission report noted evidence of gender bias in the handling of cases and conduct in the courtrooms of the state court system. It recommended extensive education for judges and lawyers, and the development of a Handbook on conduct. These recommendations have been carried out. A pamphlet entitled "Court Conduct Handbook," a joint project of the Supreme Court and The Florida Bar, was written, printed and distributed throughout the state. C.L.E. and the Office of State Courts Administrator have presented numerous gender-bias educational programs for judges and lawyers.

The original Commission report noted that female litigants in dissolution cases are often disadvantaged because of a lack of financial resources with which to obtain representation and to pursue appeals. The prior Implementation Commission proposed a rule change and a statutory amendment to facilitate the award of temporary fees to a needy spouse in the appellate process. The rule was adopted and the statute was changed. It was recommended by this Commission that those changes be monitored to see if they are working and effective. Due to lack of funding, the Commission could not follow up on this recommendation.

The current Commission considered a proposal to revise sections 61.08 and 61.16 to provide that spouse abuse should be a valid basis to make an award of attorney fees, as well as a basis for an award of alimony, in cases involving battered spouses. The rationale was that a battered spouse will need financial assistance to repair and address the emotional and physical damage inflicted on him or her, by an abusive spouse. It was approved in principle.

The original Commission also suggested that the Florida Bar prepare a pamphlet describing equitable distribution and current Florida laws regarding alimony, support and child custody, which would be provided to applicants for marriage licenses in Florida. This has not been worked on. The rationale for this suggestion was to prevent the blind execution of prenuptial agreements. The current Commission received suggestions from family law practitioners that such a pamphlet could and should be prepared to be provided to persons involved in dissolution proceedings, through the courts or attorneys. These suggestions were not pursued by this Commission because of lack of funding and resources, and because the state laws on these subjects are complex and frequently amended.

The original Commission recommended the establishment of Family Law Courts to handle dissolutions and other related family or domestic litigation. The Florida Supreme Court has implemented the establishment of Family Law Courts and divisions in all circuits of the state; the Florida Bar Family Law Section, working with the Court, has sponsored extensive new Family Law Rules, including forms and controls and regulations on discovery.

This Commission supported the adoption of the new Family Law Rules, and in particular, the ones dealing with mandatory discovery. The Rules were adopted by the Florida Supreme Court. The Commission noted that spouses without extensive litigation resources often fail to obtain adequate discovery, and consequently, are not treated fairly in the dissolution context, and have little chance of reopening the case once that information becomes apparent. In addition, the Commission noted that the Rules of Civil Procedure were amended to remove the one-year limitation for a motion for relief from a final judgment obtained on the basis of fraudulent financial affidavits in marital cases.

This Commission heard reports from various sources, mostly anecdotal, that women are still being adversely affected by gender-biased behavior and treatment in the courts,

particularly in the context of enforcement of child support and alimony proceedings, and obtaining protection from domestic violence. Joyce Grant, Director of ACES (Association for Children for Enforcement of Support) from Brevard County noted regrettable gender bias remarks and lack of interest on the part of judges in enforcing child support obligations in many instances observed by her courtwatch group, in the court room. Holland Pugh, Director of Safe House of Seminole County and a board member of the Florida Coalition Against Domestic Violence, furnished the Commission with a survey of the performance on judges throughout the State, which indicates gender-biased behavior continues to exist. A copy of that report is attached as Exhibit 4.

The Commission recommended that more frequent and continuing education of the judges who handle these kinds of cases is needed. It was also suggested that changes be made to the Code of Judicial Conduct to encourage judges to deal with any conduct or attitudes manifesting gender bias in the conduct of cases being heard—*instantly*.

The Commission heard extensively about courtwatch programs, which are a way to address and remedy gender bias, as well as other kinds of bias, in the courtroom. Judge Durand Adams of Manatee County updated the Commission on his circuit's successful courtwatch program. It was developed in 1992 as a result of a speech given by Justice Kogan entitled *Gender Equity and The Law*. He attributes the success of the program to the cooperation and participation by both judges and lawyers, and a responsible cadre of well-trained volunteers, who attend courtroom hearings and trials. He reported that the volunteers' presence in the courtroom has had an ameliorating effect on the behavior of all involved, and any bias problems observed can be dealt with discreetly and privately.

The Commission also received communications from Sofia Solernou of Miami, Florida, who has been working extensively to put together a state-wide courtwatch program, and to obtain funding for it. The Commission endorsed the concept of courtwatch programs in general as an effective means to prevent and address gender bias in the court room. The Commission also supported extending courtwatch programs to all areas of the state, and urged that the ones currently in operation be publicized.

VI. Criminal Justice System

The original Commission reported that prison and detention facilities in Florida for women and girls are much inferior to those provided for men and boys, regarding rehabilitative programs, retraining, education, exercise and health facilities. This applied to state prisons as well as county jail facilities.

Following the original report, the Legislature passed laws requiring equal facilities be provided for men and women prisoners. The DOC Status Report of May 1993 suggests the State is attempting to comply with this directive, but funding is a problem. The Commission explored the possibility of making a current survey of facilities in the prisons as well as the county jails, but was not able to fund such an extensive undertaking.

Another recommendation of the original Commission was that women in prison be given counseling, if they have been victims of domestic abuse or violence whether as a child or as a spouse. The current Commission noted and received reports concerning the Women in Prison Committee and the Florida Coalition Against Domestic Violence, which have set up a clemency program for abused women convicted of murder. This program does not reach women prisoners convicted of less serious crimes.

The current Commission was also unable to follow up on the original Commission's recommendations that health care for women prisoners needed to be monitored, both in areas of obstetrics and gynecology, as well as general health care. Further, it could not survey and monitor whether female employees in the DOC are being given equal opportunities for pay and advancement to management and decision-making positions in the state.

The Criminal Justice Subcommittee for the Commission did an informal survey of facilities and programs available to female juveniles as compared with males, and undertook visits to juvenile facilities in four counties: Dade, Orange, Volusia, and Marion. The results of the survey, and reports of the individual visits are attached as Exhibits 5, 6, 7, 8, 9 and 10. These reports illustrate that female juvenile offenders are still not being given equal access to treatment facilities in the state, programs for drug and alcohol abuse are not as available for girls, as for boys, nor are there equivalent facilities for the most serious offenders.

Janet Ferris, Director of the Department of Juvenile Justice, told the Commission there are still the same number of beds for girls at Level 8 as in 1978. Other experts in the field of juvenile justice agreed that there are the same number of resources and facilities for girls presently as ten years ago when the original Commission made its findings. For male juveniles there are more diversion programs; no comparable ones exist for girls. As a result, female juveniles are housed in inappropriate, temporary detention facilities more frequently and for longer periods of time, awaiting the opening of an appropriate slot in a treatment facility.

Commission members who visited some of the detention facilities also noted that girls are not being provided with adequate basic hygiene items, such as shampoo, opportunity for showers, clean and adequate underwear, combs, deodorants—which because of their sex, affects girls more than boys. Girls being held in detention for long periods are also more adversely affected than boys because contact with their families and their children is restricted and severely limited. Some of the girls reported they were not receiving needed prenatal care, and psychological counseling for various mental problems.

The sub-committee members also reported to the Commission that there has been an increase in female juvenile crime, both as to the number and seriousness of charges. Part of the increase may be due to the new domestic violence statute and the new policy of making an arrest every time the police are called to investigate. It was recommended that this link be further investigated. It was also recommended that some domestic violence situations could and should be dealt with by mediation and counseling and through the use of assessment centers to which juveniles are initially brought. Some domestic violence cases involving juveniles should be dealt with outside the criminal justice system.

The subcommittee brought to the attention of the Commission that staff responsible for supervision and care of children in the detention facilities sometimes have little or no training. A Juvenile Justice Training System is being established with the goal being the certification of all workers. This needs to be followed up to insure training is provided.

The Commission voted to support increased funding for juvenile justice programs, to implement a requirement that all staff workers in detention facilities have completed a training program before working with juveniles, and to advocate the establishment of programs that deal specifically with increasing a girl's or woman's self-esteem. The Commission heard from many experts in the field of juvenile justice that a very high percentage of female delinquents are victims themselves of abuse and neglect (as high as 90%). A program, Project Hope, established in Minnesota, was noted and approved, as possibly providing a guide or pattern for ones needed in Florida, for women as well as girls.

The subcommittee reported its investigation of the new P.A.C.E. programs for girls currently being established in the State. They are gender-specific, intended to address the needs of female juveniles and at-risk girls, before the individual has committed a serious crime. The program began in 1985, and at present nine centers have opened. Funding for two more was provided by the Legislature in 1996. The program provides tutoring, and counseling for the girl and her family at a day treatment center for 8 to 9 months, with a follow-up after-care program. It has a remarkable 3% recidivism rate. The Commission recommended that the P.A.C.E. program be supported, and that increased funding be provided by the Legislature for more centers.

CONCLUSION

The Commission concluded that gender bias continues to be a problem in the courts and legal profession, as well as society at large. *See* attached letters at Exhibit 11. Despite progress, the remedial steps taken need continued monitoring and fine-tuning. New remedial programs and actions should be pursued. It has become apparent that “equal” is not necessarily equitable for both sexes. For example, gender-specific remedial programs, like P.A.C.E. for girls, may be the best approach, and professional rules and policies need to take into consideration the roles women play as mothers and wives, in order to allow them full participation in the legal profession.

The Commission recommended that its work be continued, as a part of the undertaking of a Fairness Commission, to be established by the Florida Supreme Court, and funded by the Legislature or other means. That Commission will address all kinds of bias in the court and legal profession (gender, race, ethnicity, age, disability), and recommend and suggest programs to obtain equal access, opportunity, and treatment for all people, in the state court system.

Respectfully submitted,

Winifred J. Sharp

APPENDIX

APPENDIX

Exhibit #1—Proposed Bill to Amend § 61.13(3), Fla. Stat.	Go
Exhibit #2—Summary of 1996 Domestic Violence Legislation..... Governor’s Task Force on Domestic and Sexual Violence	Go
Exhibit #3—Article by the Honorable Winifred J. Sharp.....	Go
Exhibit #4— <i>How Judges Handle Domestic Violence Cases in Certain Florida Courts:.....</i> <i>Anecdotal Experiences: Compiled by the Florida Coalition Against Domestic</i> <i>Violence</i>	Go
Exhibit #5— <i>Gender Bias Study Questionnaire Results</i> , by Jerri A. Blair.....	Go
Exhibit #6— <i>Report for The Supreme Court Gender Bias Implementation Study.....</i> <i>Commission Regarding Female Juvenile Offenders in Dade County,</i> <i>Florida</i> , by the Honorable Jeri B. Cohen and Evan Marks, Esquire	Go
Exhibit #7— <i>Report for the Supreme Court Gender Bias Implementation Study.....</i> <i>Commission Regarding Female Juvenile Offenders in Orange County,</i> <i>Florida</i> , by Jerri A. Blair	Go
Exhibit #8— <i>Report for the Supreme Court Gender Bias Implementation Study.....</i> <i>Commission Regarding Female Juvenile Offenders in Volusia County</i> <i>Florida</i> , by the Honorable Winifred J. Sharp	Go
Exhibit #9— <i>Report for the Supreme Court Gender Bias Implementation Study.....</i> <i>Commission Regarding Female Juvenile Offenders in Marion County,</i> <i>Florida</i> , by the Honorable Winifred J. Sharp	Go
Exhibit #10— <i>Report for the Supreme Court Gender Bias Implementation Study.....</i> <i>Commission on Marion County Juvenile Detention Center Visitation</i> <i>on March 28, 1996</i> , by the Honorable Sandra Edwards-Stephens	Go
Exhibit #11—Letters Supporting the Continuation of a Gender Bias Study..... Implementation Commission	Go

EXHIBIT #1

A bill to be entitled

An act relating to child custody, amending s. 61.13, F.S.; providing the court should consider a list of factors (as well as any other fact considered by the court to be relevant), in making an award of shared parental responsibility and determining primary residence of the child, and it need only consider the relevant or pertinent ones in each case; and adding two additional factors for consideration: which parent is the child's primary caretaker; and evidence of child abuse and domestic violence by a parent; and providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (3) of section 61.13, Florida Statutes, is amended to direct trial judges that they should consider all of the relevant factors listed below, and need not consider those not relevant or pertinent, in making a decision concerning shared parental responsibility and primary residence. Two additional factors are added as (a) and (b), and the other factors remain as provided in the statute.

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(3) The court shall make an award of shared parental responsibility, or primary residence, after determining what is in the best interest of the child. In making such a determination, the court shall evaluate relevant factors which affect the welfare and best interest of the child, including the following:

- (a) The parent, during the parties' marriage, was the child's primary caretaker.
- (b) Evidence that a parent has committed acts constituting child abuse or domestic violence against the child, a member of the child's household, or the parent's household.
- (c) The parent who is more likely to allow the child frequent and continuing contact with the nonresidential parent.
- (d) The love, affection, and other emotional ties existing between the parents and the child.
- (e) The capacity and disposition of the parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in lieu of medical care, and other material needs.
- (f) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.
- (g) The permanence, as a family unit, of the existing or proposed custodial home.
- (h) The moral fitness of the parents.
- (i) The mental and physical health of the parents.
- (j) The home, school, and community record of the child.

(k) The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(l) The willingness and ability of each parent to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent.

(m) Any other fact considered by the court to be relevant.

Section 2. This act shall take effect upon becoming a law.

EXHIBIT #2

SUMMARY OF 1996 DOMESTIC VIOLENCE LEGISLATION GOVERNOR'S TASK FORCE ON DOMESTIC AND SEXUAL VIOLENCE

1. **Divorce**—Injunctions will have to be entered separately if they are part of a dissolution action.
2. **Batterers' Intervention**
Criminal Context
*Will have to be ordered to a batterers' intervention program (BIP) if found guilty, has had adjudication withheld or has pled nolo.

*Court must send to a batterers' intervention program unless it states on the record why the program might be inappropriate.

*It is preferred but not mandatory that the court send offenders to certified batterers' intervention programs.

Civil Context - Injunctions
*The court has full discretion on ordering offenders to programs unless the respondent:
 - violates the ex parte or the one year injunction;
 - has a violent crime conviction, withhold or nolo plea, anywhere, ever; or
 - has a prior injunction here or elsewhere, ever.In these cases, the court must order to a BIP unless it makes written findings based on competent substantial evidence stating why the program would be inappropriate.
3. **Injunctions and the Registry**—They will be entered by sheriffs into the statewide registry when they are entered by the court, and service will also be entered. This will aid in service and make this provision consistent with the process on repeat violence injunctions.
4. **Study on effectiveness of Batterers Intervention**—The Governor's Office will have to conduct a study and assess effectiveness and related matters regarding BIPs.
5. **Felony Bump-up for third misdemeanor conviction**—a third battery conviction will be chargeable as a third degree felony.
6. **Guns**—Prohibits sale of a weapon to a person who has an arrest for stalking or aggravated stalking, or a repeat violence injunction.
7. **Crystal Ball on Misdemeanor Arrests**—This provision is deleted so that law enforcement does not need to have "reasonable belief" of future domestic violence in order to make a misdemeanor arrest.

CHAPTER 96-392

Senate Bill No. 2830

An act relating to domestic or repeat violence; amending s. 61.052, F.S.; providing that an injunction for protection against domestic violence arising out of dissolution of marriage shall be

issued as a separate order; amending s. 741.281, F.S.; providing broader application of section; deleting a requirement for written findings of fact and requiring a statement on the record; amending s. 741.30, F.S.; providing that, with respect to domestic violence, the sheriff who has made service upon the respondent shall notify other law enforcement agencies within a certain time period by electronically transmitting the information; giving courts the discretion to order attendance at batterers' intervention programs; requiring courts to order attendance in specified circumstances; amending s. 741.31, F.S., requiring a court to order a respondent to a batterers' intervention program in certain circumstances; requiring additional information in the report from the Association of Florida Clerks of Court; amending s. 784.03, F.S.; providing that a third or subsequent conviction for battery constitutes a third degree felony; repealing s. 784.035, F.S., relating to an enhanced penalty for battery as domestic violence; amending s. 790.065, F.S.; prohibiting the sale of a firearm to any person who has had an injunction for protection against repeat violence entered against him or her or has been convicted of aggravated stalking; amending s. 901.15, F.S.; revising language with respect to arrest by an officer for domestic violence without a warrant; providing a severability clause; providing effective dates.

Be it enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) is added to section 61.052, Florida Statutes, to read:

61.052 Dissolution of marriage.—

(6) Any injunction for protection against domestic violence arising out of the dissolution of marriage proceeding shall be issued as a separate order in compliance with chapter 741 and shall not be included in the judgment of dissolution of marriage.

Section 2. Section 741.281, Florida Statutes, is amended to read:

741.281 Court to order batterers' intervention program attendance.--If a person is found guilty of, has had adjudication withheld on, or has pled nolo contendere to ~~committing~~ a crime of domestic violence, as defined in s. 741.28, that person shall be ordered by the court to a minimum term of 1 year's probation and the court shall order that the defendant attend a batterers' intervention program as a condition of probation. If a person is admitted to a pretrial diversion program and has been charged with an act of domestic violence, as defined in s. 741.28, the court shall order as a condition of the program that the defendant attend a batterers' intervention program. The court must impose the condition of the batterers' intervention program for a defendant placed on probation or pretrial diversion under this section, but the court, in its discretion, may determine not to impose the condition if it states on the record ~~unless it makes written factual findings in its judgment or order which are based on competent substantial evidence, stating~~ why a batterers' intervention program might ~~would~~ be inappropriate. It is preferred, but not mandatory, that such programs be certified under s. 741.32. The imposition of probation under this section shall not preclude the court from imposing any sentence of imprisonment authorized by s. 775.082.

Section 3. Paragraph (d) of subsection (6) and paragraph (c) of subsection (7) of section 741.30, Florida Statutes, are amended to read:

741.30. Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(6)

(d) An injunction for protection against domestic violence entered pursuant to this section,

on its face, ~~may shall~~ order that the respondent attend a batterers' intervention program as a condition of the injunction. ~~Unless the court makes written factual findings in its judgment or order which are based on substantial evidence, stating why batterers' intervention programs would be inappropriate, the court shall order the respondent to attend a batterers' intervention program if:~~

1. It finds that the respondent willfully violated the ex parte injunction;
2. The respondent, in this state or any other state, has been convicted of, had adjudication withheld on, or pled nolo contendere to a crime involving violence or a threat of violence; or
3. The respondent, in this state or any other state, has had at any time a prior injunction for protection entered against the respondent after a hearing with notice.

It is preferred, ~~but not mandatory~~, that such programs be certified under s. 741.32.

(7)

(c) 1. Within 24 hours after the court issues an injunction for protection against domestic violence or changes, continues, extends, or vacates an injunction for protection against domestic violence, the clerk of the court must forward a certified copy of the injunction for service to the sheriff with jurisdiction over the residence of the petitioner. The injunction must be served in accordance with this subsection.

2. Within 24 hours after service of process of an injunction for protection against domestic violence upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff with jurisdiction over the residence of the petitioner.

3. Within 24 hours after the sheriff receives ~~both~~ a certified copy of the injunction for protection against domestic violence ~~and written proof of service of process upon the respondent~~, the sheriff must make information relating to the injunction available to other law enforcement agencies by electronically transmitting such information to the department.

4. Within 24 hours after the sheriff or other law enforcement officer has made service upon the respondent and the sheriff has been so notified, the sheriff must make information relating to the service available to other law enforcement agencies by electronically transmitting such information to the department.

~~5.4.~~ Within 24 hours after an injunction for protection against domestic violence is vacated, terminated, or otherwise rendered no longer effective by ruling of the court, the clerk of the court must notify the sheriff receiving original notification of the injunction as provided in subparagraph 2. That agency shall, within 24 hours after receiving such notification from the clerk of the court, notify the department of such action of the court.

Section 4. Section 741.31, Florida Statutes, is amended to read:

741.31 Violation of an injunction for protection against domestic violence.—

(1) In the event of a violation of the injunction for protection against domestic violence when there has not been an arrest, the petitioner may contact the clerk of the circuit court of the county in which the violation is alleged to have occurred. The clerk shall either assist the petitioner in the preparation of an affidavit in support of the violation or direct the petitioner to the office operated by the court within the circuit that has been designated by the chief judge of that circuit as the central intake point for injunction violations and where the petitioner can receive assistance in the preparation of the affidavit in support of the violation.

(2) The affidavit shall be immediately forwarded by the office assisting the petitioner to the state attorney of that circuit and to such court or judge as the chief judge of that circuit determines to be the recipient of affidavits of violation. If the affidavit alleges a crime has been committed, the office assisting the petitioner shall also forward a copy of the petitioner's affidavit to the appropriate law enforcement agency for investigation. No later than 20 days after receiving the initial report, the local law enforcement agency shall complete their investigation and forward the report to the state attorney. The policy adopted by the state attorney in each circuit under s. 741.2901(2), shall include a policy regarding intake of alleged violations of injunctions for protection against domestic violence under this section. The intake shall be supervised by a prosecutor who, pursuant to s. 741.2901(1), has been designated and assigned to handle domestic violence cases. The state attorney shall determine within 30 working days whether its office will proceed to file criminal charges, or prepare a motion for an order to show cause as to why the respondent should not be held in criminal contempt, or prepare both as alternative findings, or file notice that the case remains under investigation or is pending subject to some other action.

(3) If the court has knowledge, based on its familiarity with the case, that the petitioner, the children of the petitioner, or another person is in immediate danger if the court fails to act prior to the decision of the state attorney to prosecute, it should immediately issue an order of appointment of the state attorney to file a motion for an order to show cause as to why the respondent should not be held in contempt. If the court does not issue an order of appointment of the state attorney, it shall immediately notify the state attorney that the court is proceeding to enforce the violation through criminal contempt.

(4) A person who willfully violates an injunction for protection against domestic violence, issued pursuant to s. 741.30, by:

(a) Refusing to vacate the dwelling that the parties share;

(b) Going to the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;

(c) Committing an act of domestic violence against the petitioner;

(d) Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner; or

(e) Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party

is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Whether or not there is a criminal prosecution under subsection (4), the court shall order the respondent to attend a batterers' intervention program if it finds a willful violation of a domestic violence injunction, unless the court makes written factual findings in its judgment or order which are based on substantial evidence, stating why a batterers' intervention program would be inappropriate.

~~(6)~~(5) In order to determine the effectiveness of enforcement of injunctions, the Legislature requests the Association of Florida Clerks of Court in conjunction with the Executive Office of the Governor and the Governor's Task Force on Domestic Violence, to coordinate and prepare a report to determine:

(a) How many violations of injunctions for protection against domestic violence were filed

in this state by petitioners or others on their behalf.

(b) How many violations the state attorney assists the court in the enforcement of by filing a motion for an order to show cause, or similar motions.

(c) How the courts dispose of the violations.

(d) How many violations of injunctions for protection against domestic violence are prosecuted as crimes under ss. 741.31 and 784.047, or any other section of Florida law.

(e) Any other information that would show the extent of the effectiveness of judicial actions to enforce violations.

(f) The effectiveness of batterers' intervention programs, measured in quantifiable terms, including the number of respondents ordered to a batterers' intervention program but later assessed as inappropriate for the program, the number referred to other programs after such assessment, the number who successfully complete the program to which they were assigned, the number who fail to complete the program to which they were assigned and the reason for such failure, the number of respondents who attend a batterers' intervention program and subsequently engage in domestic violence, and any other measures that would reveal the effectiveness of such programs.

The report must be filed with the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court no later than December 1, 1996.

~~(7)(6)~~ Any person who suffers an injury and/or loss as a result of a violation of an injunction for protection against domestic violence may be awarded damages for that injury and/or loss by the court issuing the injunction. Damages includes costs and attorneys' fees for enforcement of the injunction.

Section 5. Effective October 1, 1996, section 784.03, Florida Statutes, is amended to read:

784.03 Battery; felony battery.--

(1)(a) The offense of battery occurs when a person ~~commits battery if he:~~

1. (a) ~~Actually and intentionally touches or strikes another person against the will of the other; or~~

2. (b) ~~Intentionally causes bodily harm to another person~~ an individual.

~~(b)(2) Except as provided in subsection (2), a person who~~ Whoever ~~commits battery shall be guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who has two prior convictions for battery who commits a third or subsequent battery commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, "conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld.

Section 6. Effective October 1, 1996, section 784.035, Florida Statutes, is amended to read:

~~784.035 Battery as domestic violence; enhanced penalty. A third or subsequent offense of~~

~~battery, when committed under circumstances that constitute the battery as an act of domestic violence as defined in s. 741.28, and when the previous offenses of battery were committed under circumstances that constituted the batteries as acts of domestic violence as defined in s. 741.28, constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 7. Paragraph (c) of subsection (2) of section 790.065, Florida Statutes, is amended to read:

790.065 Sale and delivery of firearms.—

(2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee's call or by return call, forthwith:

(c)1. Review any records available to it to determine whether the potential buyer or transferee has been indicted or has had an information filed against him for an offense that is a felony under either state or federal law, or, as mandated by federal law, has had an injunction for protection against domestic violence entered against the potential buyer or transferee under s. 741.30, has had an injunction for protection against repeat violence entered against the potential buyer or transferee under s. 784.046 or s. 784.047, or has been arrested for a dangerous crime as specified in s. 907.041(4)(a) or for any of the following enumerated offenses ~~felonies~~:

- a. Criminal anarchy under ss. 876.01 and 876.02.
- b. Extortion under s. 836.05.
- c. Explosives violations under s. 552.22(1) and (2).
- d. Controlled substances violations under chapter 893.
- e. Resisting an officer with violence under s. 843.01.
- f. Weapons and firearms violations under this chapter.
- g. Treason under s. 876.32.
- h. Assisting self-murder under s. 782.08.
- i. Sabotage under s. 876.38.
- j. Stalking or aggravated stalking under s. 784.048.

If the review indicates any such indictment, information, or arrest, the department shall provide to the licensee a conditional nonapproval number.

2. Within 24 working hours, the department shall determine the disposition of the indictment, information, or arrest and inform the licensee as to whether the potential buyer is prohibited from receiving or possessing a firearm. For purposes of this paragraph, "working hours" means the hours from 8 a.m. to 5 p.m. Monday through Friday, excluding legal holidays.

3. The office of the clerk of court, at no charge to the department, shall respond to any department request for data on the disposition of the indictment, information, or arrest as soon as possible, but in no event later than 8 working hours.

4. The department shall determine as quickly as possible within the allotted time period whether the potential buyer is prohibited from receiving or possessing a firearm.

5. If the potential buyer is not so prohibited, or if the department cannot determine the disposition information within the allotted time period, the department shall provide the licensee with a conditional approval number.

6. If the buyer is so prohibited, the conditional nonapproval number shall become a nonapproval number.

7. The department shall continue its attempts to obtain the disposition information and may retain a record of all approval numbers granted without sufficient disposition information. If the department later obtains disposition information which indicates:

a. That the potential buyer is not prohibited from owning a firearm, it shall treat the record of the transaction in accordance with this section; or

b. That the potential buyer is prohibited from owning a firearm, it shall immediately revoke the conditional approval number and notify local law enforcement.

8. During the time that disposition of the indictment, information, or arrest is pending and until the department is notified by the potential buyer that there has been a final disposition of the indictment, information, or arrest, the conditional nonapproval number shall remain in effect.

Section 8. Effective October 1, 1996, subsection (7) of section 901.15, Florida Statutes, is amended to read:

901.15 When arrest by officer without warrant is lawful.--A law enforcement officer may arrest a person without a warrant when:

(7)~~(a)~~ There is probable cause to believe that the person has committed:

(a) An act of domestic violence, as defined in s. 741.28; ~~or~~

(b) Child abuse, as defined in s. 827.04(2) and (3); ~~or~~

~~(c) Any battery upon another person, as defined in s. 784.03, and the law enforcement officer reasonably believes that there is danger of violence unless the person alleged to have committed the act of domestic violence, child abuse, or battery is arrested without delay.~~

With respect to an arrest for an act of domestic violence, the decision to arrest shall not require consent of the victim or consideration of the relationship of the parties.

~~(b)~~ A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection is immune from civil liability that otherwise might result by reason of his action.

Section 9. If any provision of this act or the application thereof to any person or the circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 10. Except as otherwise specifically provided herein, this act shall take effect July 1, 1996.

Approved by the Governor May 31, 1996.

Filed in Office Secretary of State May 31, 1996.

EXHIBIT #3

ARTICLE

One of the best of women's voices for fairness and equity in the law and the judicial system has been silenced by her untimely death: Judge Natilie Baskin, Judge of the Third District Court of Appeal. The men and women of this state will miss her, and miss her views and opinions which combined compassion, tough common sense, and a keen sense for achieving justice and equity for both genders. Her voice was moderate, quiet and measured. Thus many do not know what has been lost in her passing, because such voices are not often heard above extremists on both sides of the Gender-Bias debate.

Natalie was one of the original members of Florida's Gender Bias Commission, established in 1987 by the Florida Supreme Court. It was composed of judges and lawyers of both genders, with outstanding statewide credentials. It conducted studies, surveys and held numerous public hearings over a two-year period. Its findings and recommendations were published in *Executive Summary, Report of The Florida Supreme Court Gender Bias Study Commission*, The Florida Supreme Court, Copyright 1990. The full report was published in the December 1990 issue of the *University of Florida Law Review*. Ricki Lewis Tannen, *Report of the Florida Supreme Court Gender Bias Study Commission*, 42 U. Fla. L. Rev. 5 (1990).

The report documented the existence of gender bias (both against men and against women) in many areas: the legal profession; conduct of the courts and judicial system; the criminal justice system; the substantive laws of Florida and other areas. The Commission made numerous recommendations to remedy some of the gender bias problems found. It is both gratifying and a tribute to the basic goodwill of the men and women of the Florida Legislature, the Florida Courts, the Florida Bar, and Florida's state and local law enforcement agencies, that many of the recommendations of the original Commission have been acted on, and are currently being addressed. But, as Natalie was quick to point out, despite progress in the past ten years in Florida, gender bias problems have not vanished, and they merit continued concern and renewed efforts to

address them.

In view of the continuing nature of gender bias in our present society, the misunderstanding of this issue exemplified by the letter authored by Jon Ryan, Chairman of the Committee on Gender Bias in the Courts, published in the *MiamiHerald* Saturday, November 25, 1995, effectively trivializes the gender bias issue. It also has the effect of erroneously assigning blame to one gender for causing the problem. This should be responded to by those seeking to continue the work of Natalie's Commission. As the Chairperson of the Florida Supreme Court Gender Bias Study Implementation Commission, I accept that task.

Mr. Ryan wrote that national statistics demonstrate "[a]t all levels of domestic violence, women initiate it more often than men." He took issue with the American Medical Association guidelines to more effectively address domestic violence. And he expressed the strong opinion that the goal of Florida Governor's Task Force on Domestic Violence and other "women's groups" is to prevent women from being held accountable for their violence. He stated:

This fact [that women initiate domestic violence] is hidden by women's organizations and even the Florida Governor's Task Force on Domestic Violence to prevent women from being held accountable for their violence.

Domestic violence was initially recognized by the Gender Bias Commission as a pervasive problem in Florida, in many areas, and at all age and socio-economic levels. Although it adversely impacts both genders, it is most often directed at women and children. Thus, there is a definite gender bias impact in society's lack of interest in the problem, ("spouse beating is acceptable behavior") and law enforcement's reluctance to provide protection for the victims. ("We don't want to get involved in 'domestic disputes.'") The Governor's Task Force has done much to address these problems, so that domestic violence is now seen and treated as a "real crime" and a "real problem," no longer to be tolerated, regardless of the victim's gender.

We, on the Implementation Commission, have been unable to verify the statistics referenced in Mr. Ryan's letter. To the contrary, the national and state data available to the

Commission clearly demonstrate that women were and still are disproportionately more often the victims of murders caused by intimates. Example: Nationwide, in 1992, seventy percent of the murder victims were female (1,510).¹ Example: In 1988, husbands killed wives more often than the opposite. Overall, husbands made up sixty percent of the assailants in spouse killings.²

The Surgeon General has revealed that domestic violence is the leading cause of injury to women, between ages fifteen to forty-four. It is far more common than auto accidents, muggings, and cancer deaths combined. Women are six times more likely to be victims in intimate relationships. In 1991, more than ninety women were murdered every week. Nine-out-of-ten were murdered by men.³ Crimes are committed by men against women in ninety-five percent of all domestic violence assaults.⁴

The same pattern is true for Florida. Data indicates that in 1993, females accounted for 74.3 percent of the victims of domestic violence (a 2.8 percent increase, compared with 1992). In 1993, in Florida there were 133 adult domestic violence related arrests for homicides. Of this total, 104 of the assailants arrested were male and 29 female. And, in 1994, 122 of the persons arrested for homicides (adult domestic violence) 122 were male and 27 female. In 1995, there were 129 homicide arrests related to domestic violence in Florida. Of the total arrests: 92 were adult male; 23 were adult female; 11 were juvenile male; and 3 were juvenile female. Additionally, in 1995, the total number of domestic violence crimes committed by a spouse, ex-spouse or cohabitant in

¹ FBI, Crime in the U.S., 1977-92 and U.S. Population Estimates from the U.S. Bureau of the Census; B.J.S. Selected Findings, *Violence Between Intimates*, NCJ, Nov. 1994, 149259, p. 3).

² B.J.S. Special Report, *Murder in Families*, Table 2, p. 3.

³ Senate Judiciary Committee Report, *Violence Against Women: A Week in the Life of America*, Oct. 1992.

⁴ National Coalition against Domestic Violence (NCADU), Fact Sheet.

Florida was 85,451. Of this total, 26.9 percent of the victims were male and 73.1 percent of the victims were female.⁵ Although statistics indicate that the victims of domestic violence are overwhelmingly, but not exclusively, women, they are certainly not the sole victims.

The FBI estimates 95 percent of the victims are women. The Florida Department of Law Enforcement statistics for 1993 indicate the ratio in Florida is 75 percent female victims. This disparity can be explained in part, by recent changes in Florida law (in part in response to the Governor's Task Force on Domestic Violence) that permits warrantless arrests in cases of domestic violence. These changes have also caused an increase in arrests of both genders in Florida in domestic violence cases, since both combatants are often arrested (including children), even when acting in self-defense.

Florida's new, tough approach to domestic violence has led to an increase in the number of women and girls being arrested—a result unexpected by members of the Commission or the Governor's Task Force. This phenomena has yet to be fully analyzed or documented. The view has been expressed that, possibly women who batter, do so frequently in an effort to defend themselves,⁶ but that has not been proven.

It might be that men and women hit each other in roughly equal numbers. However, women are seriously injured at seven times the rate for men, and women are killed by their partners at more than twice the rate for men. It appears that women often act in response to physical or psychological provocation or threat. Some women may initiate violence because they fear they are about to be attacked. Others (a smaller number) may be victims of a long course of battering and abuse, and seek vengeance against a brutal partner.

⁵ FDLE 1993, 1994 and 1995 Annual Reports.

⁶ Joan Zorza, *Recognizing and Protecting the Privacy and Confidentiality Needs of Battered Women*, 29 *Family Law Quarterly*, p. 273 n 1 (Summer 1995), quoting Mildred Dorly Pagelow, *Adult Victims of Domestic Violence*, 7 *J. Interpersonal Violence* p. 109 (1992).

But these women do not go unpunished. as Mr. Ryan suggests. According to a 1992 study, there were 2,000 battered women in the United States serving prison time for defending their lives against their batterers.⁷ F.B.I. statistics indicate that women convicted for killing their male partners are frequently sentenced to longer prison terms than are men.⁸

Domestic violence, regardless of the gender of the perpetrator or victim, should not be tolerated. Many steps have been taken in Florida to address this problem: first, recognizing it as the vast, ugly, unaccepted social problem it actually is; second, by trying to address it with beefing up prevention and punishment mechanisms; and third, by putting in place education and treatment programs to end it. Domestic violence in a family begets future domestic violence on the part of the children raised in violent homes. They think battering and domestic violence is acceptable behavior. The Commission has learned in the past ten years that domestic violence is an extremely ugly and real social problem for both genders. Unfortunately it will not go away without the concerted and continuous efforts of men and women of good will and good conscience, like Judge Natalie Baskin.

⁷ Stacy Kabat, Remarks from presentation at Harvard School of Public Health, June, 1991.

⁸ Angela Brown, *When Battered Women Kill*, 1987; Source: National Coalition Against Domestic Violence (NCADV) Fact Sheet.

BATTERERS' INTERVENTION PROGRAMS

- I. Introduction/Background
 - Recommendation of Governor's Task Force
 - Administered by Department of Corrections
 - Certification begins July 1, 1996
- II. Definitions
 - Generally consistent with Florida Statutes
- III. Purposes of Assessments and Programs
 - Victim safety
 - Batterer accountability
 - Court coordination
- IV. Application and Certification Requirements
 - Will be available May 15 for programs and assessors
 - Batterers' Programs:
 - Credentials for:
 - facilitators (BA or experience),
 - trainees,
 - supervisors (BA, MA or experience)
 - Assessors: 490 or 491 providers; must do in 10 days
- V. Program Specifics
 - 24 Weeks plus 5 weeks administrative
 - Same gender groups
 - Enrollment and intake, orientation
 - Can have concurrent substance abuse programs
 - Provides for victim contact and related services
- VI. Program Content

- Inappropriate methods include couples counseling and anger management

VII. Program Monitoring and Evaluation

- Department of Corrections' job

EXHIBIT #4

**How Judges Handle Domestic Violence Cases in Certain Florida Courts:
Anecdotal Experiences**

Compiled by the Florida Coalition Against Domestic Violence from information provided by victims, FCADV members, state attorney’s offices, law enforcement, hotline calls and victim advocates. Names of specific judges were submitted, but are not shown. Fear of judicial retaliation inhibited response from some domestic violence advocates. This information is intended to be used in making recommendations for judicial training.

November/December 1995

Judi- cial Dis- trict, County or Other Area	Rating of han- dling of DV cases (1=poo r, 10= ex- cellent)	Under- stands DV is- sues? Yes/No	Ac- cepts inform ation on DV? Yes/No	Comment
Okeechobee	10	yes	yes	Appreciates dv advocates
1st Circuit & County Judges	2 - 3	no	no	Inappropriate remarks. “I’ve got better things to do with my time.” Referred to prohibition against mutual R/OS as a “stupid law.” Counseling not ordered. Acknowledges dv advocates, but limits involvement.
1st Circuit & County Judges	1 - 2	no	no	Inappropriate remarks. Counseling not ordered for anyone. Required victim to turn over respondent’s shotguns. Ignores dv advocates in court.
1st Circuit & County Judges	2	no	no	Objects to “no mutual R/OS.” Temporary judge with little or no knowledge of dv.
1st Circuit & County Judges	6	yes	yes	Getting better, willing to learn - is open to victim concerns. Refers to Victim Advocate as source of information on cases.
1st Circuit & County Judges	6	yes	yes	Orders counseling for respondent, but does not require 26 week model. Not consistent in decisions, as had been in past. Judge is open to victim’s concerns.

1st Circuit & County Judges	2	no	no	Provided dv information many times, refuses to change. Pushes limits for the offender. Doesn't agree with Duluth intervention model.
14th Circuit	1	no	no	Often will not allow testimony from female victim, but allows testimony from male respondent, esp. if respondent has attorney. Appears to show favoritism toward respondent. If respondent is employed, petitioner not, custody of children given to respondent. Often makes petitioner leave home.
14th Circuit	8	yes	yes	Allows both parties to be heard. Addresses issues of right to dwelling, child support and visitation. Appreciates victim advocates.
14th Circuit	1	no	no	Hearings usually take less than 5 minutes. Seldom addresses issues of right to dwelling, child support or counseling for offender. Will not allow discussion, advises parties to seek attorneys and take matter up in divorce petition.
14th Circuit	1	no	no	Issues mutual R/OS without having respondent go through same filing process as petitioner. Inappropriate remarks. "If any future problems arise, then I'm going to lock each of you up on either side of the jail." Doesn't address exclusive right to dwelling, child support, counseling. Victims have remarked they feel victimized.
14th Circuit	10	yes	yes	Allows testimony from both parties, allows sufficient time, explains purpose of injunction. Addresses exclusive right to dwelling, child support, visitation. Recommends counseling, but does not order for either party. Actively involved in issue.
Orange County area	3	no	yes	Seems clear on importance of protecting victim, but on return hearings has occasionally made inappropriate remarks as though minimizing problem.
Walton County	7	yes	yes	Asks for input and listens to what dv advocate says. Has allowed testimony of children who have witnessed dv.
1st Circuit	8	yes	yes	Orders batterers into anger management programs. Orders support, counseling and supervised visitation.
6th Circuit Pinellas County	2	no	?	Allows peripheral issues (i.e., divorce, family relationships) to overshadow actual violence issue. Judge unfamiliar with dv laws, esp. prohibition against mutual R/OS.

6th Circuit Pinellas County	4	no	no	Tends to take dv cases less seriously when victim is uncooperative or unwilling to prosecute. Counseling usually not condition of probation. Usually orders 6 mos of anger management. Ignores dv advocates.
6th Circuit Pinellas County	8	yes	yes	Takes times, asks questions, explores options. Sensitive to victims. Very open to dv advocates in courtroom and seeks their input.
6th Circuit Pinellas County	10	yes	yes	Aware of dv and dynamics. Uses every opportunity to educate parties about dv. Addresses counseling in every case. Will head new dv court in 1996.
6th Circuit Pinellas County	6	yes	yes	Consistent. Orders counseling during sentencing.
6th Circuit Pinellas County	10	yes	yes	Attentive, takes time with parties. Automatically addresses dv counseling for perpetrator. Involves dv advocates.
6th Circuit Pinellas County	2	no	no	In esp. serious case (kidnaping, assault) judge did not feel dv was issue because victim did not cooperate. Judge deviated below min. sentencing guidelines in this case and ordered 6 wks anger mgmt.
6th Circuit Pinellas County	10	yes	yes	Sensitive to issue and victims.
6th Circuit Pinellas County	7	no	yes	Fairly consistent with ordering counseling for perpetrators. Occasional inappropriate remarks, i.e., "Why didn't you just leave."
6th Circuit Pinellas County	10	yes	yes	Attentive, looks for solutions, uses proceedings to educate. Consistently ordered counseling for perp. Appreciates dv advocates.
6th Circuit Pinellas County	2	no	no	Tends to feel that misdemeanor dv cases are not serious and do not warrant much attention. Imposes fines. If counseling ordered, usually 6 wks anger management.
6th Circuit Pinellas County	1	no	no	Disposes of case without questions, too quickly. Discourages parties from speaking. Very controlling to all in courtroom. Does not address counseling. Locks door to courtroom during hearing. Victims have expressed feelings of being re-victimized.
6th Circuit Pinellas County	8	yes	yes	Interested, attentive, victim-friendly. Consistent with ordering defendants into counseling.

Broward	9	yes	yes	Consistently orders counseling for offenders. Shows concern for victims. However, some victims report judge tends to give R/OS that allow offender to stay in house until he can relocate.
Broward	8	yes	yes	Excellent at holding offender accountable. Works well with dv advocates. Knowledgeable.
Osceola	3	no	no	Makes inappropriate remarks. Unpredictable. Almost never addresses custody or support on injunctions.
Osceola	9 - 10	yes	yes	Needs more information. Appreciates dv advocates. Chair of dv task force in county.
Pasco	8	yes	yes	Generally done fine job in handling dv cases. County as a whole would benefit from increased education and awareness.
Charlotte	4	no	no	Exhibits "good old boy" attitude towards dv cases. Less sympathetic towards women in inter-racial relationships. Seems to accept alcohol as cause of dv. Orders fines.
Charlotte	8	yes	yes	Hearings long and drawn-out, but both parties allowed time to speak. Allows advocates leeway in courtroom.
Charlotte	3	no	yes	New. Rapidly improving. Due to lack of understanding of issues, gave weak orders in cases early in tenure. Becoming stronger on this issue.
5th Circuit Marion	5	no	yes	Does not handle a lot of dv. Sometimes naive. Does not hold abuser accountable for behavior. Has been cooperative in past with dv advocates.
5th Circuit Marion	5	Unknown	yes	New. So far has released abusers at first appearance, bond needed to be set higher. Wants to please both sides.
5th Circuit Marion	5	yes	yes	Receptive to emotional aspects of victim. Relatively new. Appreciates dv advocates.
5th Circuit Marion	8	yes	yes +++	Sends printed material on dv to all other judges in county. Very sensitive to issue. Orders batterers into treatment. Does NOT order couples counseling. Puts batterers in jail upon violation of R/O. Supportive of role of dv advocates.

5th Circuit Marion	5	no	no	Not attentive to details of cases. Has given custody to wrong person (not male victim in a particular case). Relies too heavily on judicial assistant. Attempts to have open mediation in R/O hearing between victim and offender. Makes inappropriate remarks. Orders couples counseling often. Very concerned about constitutional rights of offender.
5th Circuit Marion	3	no	?	Needs updated education on dv. Naive. Makes inappropriate remarks, such as "Just kiss and make up." Relies heavily on judicial assistant in decisions.
5th Circuit Marion	6	no	yes ?	Difficulty in understanding dv issues. Favors males. Worries about constitutional rights of perps rather than safety of victims and children.
5th Circuit Marion	6	no	yes	Has not handled civil dv cases, only criminal dv cases. Sets high bond and strict conditions. Needs education. Questions as to attitudes toward women.
5th Circuit Marion	4	no	yes	Uses intimidation during hearings which victims report affects them. Needs update info on new laws. Weighs constitutional rights of perp over victim safety. Responds better to male dv advocate.
9th Circuit	9	yes	yes	Criminal court. Orders BIP. Takes cases seriously.
9th Circuit	7	yes	yes	Given light sentences in past. Making changes and seeking dv info.
9th Circuit	4	no	yes	Gives light sentences. Minimizes seriousness of violence. Has said would like to see statute change excluding mandatory appearance by victim. Criminal cases.
9th Circuit	4	no	yes	Gives light sentences. Needs more education on dv issues. Criminal court.
9th Circuit	10 +	yes	yes	Domestic relations court. High sensitivity to dv issues. Appreciates dv advocate role.
9th Circuit	6	yes	yes	Concern for women and children. Signs orders quickly.
9th Circuit	1	no	no	Favors respondents with attorney. Tends to dismiss petitioners injunction in these cases. Ignores victim advocates.
9th Circuit	3	no	no	Inappropriate remarks to petitioners. Sympathetic to respondents. Victims feel re-victimized. Recently has signed more petitions.
9th Circuit	8	yes	yes	Supportive to court advocates. Follows dv laws.

11th Circuit	3 - 10 (8 reviews) Very mixed opinions of this judge	mixed	mixed	Mixed reviews of new judge. Some reported judge does not make referrals to BIP, nor address issues of child support via R/OS. Others say judge makes appropriate referrals for BIP. Said to order couples counseling as condition of R/O. Also orders victims into counseling as condition of R/O. Said, also, to practice social work from the bench. OTHER VIEWS: Called fair, giving both parties equal opportunity to state positions. Informed on counseling and assistance available. Amenable to dv advocates.
11th Circuit	1 - 10 (5 reviews) Very mixed reviews	mixed	mixed	Mixed reviews. Makes extremely inappropriate remarks to victims, demeans them, causes secondary victimization. Has said, "This sounds like a little bit of stalking because he obviously loves her very much." Said to victim who was raped and choked in front of child that "Our forefathers used to have sex in front of the children. There are no effects on a child of 2 years witnessing this." Seems to side with batterers. Said to "collude with batterers" by minimizing their abuse. Victims say they are re-victimized. Orders visitation arrangement that puts victims at risk. OTHER OPINIONS: Good insight into dynamics of dv and abusive behavior.
11th Circuit	9 - 10 (5 reviews)	yes	yes	Exceptional. Appreciates trained victim advocates who have clear understanding of the limits/parameters of their roles. Seems very concerned about welfare of client. Well-informed. Orders respondent to treatment and petitioner to support groups. Considered culturally sensitive.
11th Circuit	8 - 10 (5 reviews)	yes	yes	Shows respect and compassion for victims. Safety of child prime issue. Gives clear instruction to respondent about violation of R/OS. Judge orders follow up hearings within 3 months of 1st hearing.
11th Circuit	8 - 9	yes	yes	Allows petitioner and respondent to express views. Makes clear reasons for decisions. Appreciates dv advocates.
11th Circuit	8	no	yes	New, but learning.
11th Circuit	1	no	no	Waives offenders fees. Orders battered women into treatment.
Dade County Judges	1	no	no	Inappropriate remarks. Reported to have said, "How could it be rape? They live together, they're supposed to have sex."
Dade	4	yes	yes	Understands dv, but still gives abusers custody of children when reciprocal R/OS are entered.

Dade	1	no	no	Permitted man back into house because of rumors that parties were reconciling despite pending prosecution of man for attempted murder of woman.
Dade	8	yes	yes	Handles dv cases well.
Dade	10	yes	yes	
Dade	8	no	yes	
Dade	10	yes	yes	
Dade	6	no	yes	Appropriate handling of legal issues, but inappropriate remarks, i.e., "Hit me once, shame on you, hit me twice, shame on me."
Dade	1	no	no	Denied RO because did not want to damage respondent's reputation even though physical violence admitted.
Dade	6	no	yes	Educable on issues.
Dade - General Masters	1	no	no	Very inconsistent.
Dade - GM	10	no	yes	Really wants to understand issues.
Dade - GM	10	yes	yes	Former dv prosecutor.
Dade - GM	7	no	yes	Sometimes gives custody to abusers.
6th Circuit	8	yes	yes	Fair to both petitioners and respondents. Explanations thorough. Orders counseling. Very knowledgeable. Sometimes flippant. Accepts dv advocates.
6th Circuit	8	yes	yes	Fair. Orders counseling, mediation (?). Experienced as dv judge. Appreciates advocates and frequently acts on their suggestions.
6th Circuit	7	yes	yes	New to dv bench. Fair, thorough. Orders counseling and mediation. Orders support. Listens to dv advocates.
6th Circuit	2	yes	no	Abrupt, sarcastic. Threatens contempt of court often. Remarks inappropriate. Known to order petitioners as well as respondents into counseling. Ignores advocates. Intimidates petitioners.
6th Circuit	9	yes	yes	Fair, thorough, explains procedures. Orders counseling when appropriate. Awards support. Appreciates dv advocates, refers petitioners to advocates in court.

2nd Circuit	1 - 2 for some; higher for others	no	no	Judge asks respondent, "Can she cook?" "Yes, she is a good cook." Judge: "Well, then you better keep her." One judge keeps ordering mutual injunctions, and is unwilling to provide relief beyond protection, i.e., support, custody, etc. Says these matters shall be dealt with in family court. Issues have arisen surrounding venue of filing. No separation between respondent and petitioner during waiting period for hearings.
12th Circuit	3	no	?	Majority of cases makes poor decisions, i.e., puts father's needs ahead of safety of victim and children. Determined to keep family unit together even when dangerous or not desired. Sometimes appreciates advocates.
6th Circuit	9	yes	yes	Orders batterer's counseling. Many times orders joint counseling. Appreciates advocates.
13th Circuit	8	yes	yes	New judge who is willing to listen to advocates. Has asked that advocates let him know if he's doing "something wrong."

EXHIBIT #5

**QUESTIONNAIRE FORM
GENDER BIAS STUDY IMPLEMENTATION COMMISSION**

RESULTS

A. State-wide statistics show a TREND TOWARD VIOLENCE AMONG JUVENILE OFFENDERS, females in particular.

1. Does your experience on a local level sustain those trends?

STATE ATTORNEYS	-	3 Yes
	-	2 Yes w/females
	-	1 Yes w/domestic violence
CIRCUIT JUDGES	-	5 Yes
	-	2 Yes w/males
	-	1 Yes w/females
PUBLIC DEFENDERS	-	3 Yes
	-	1 Yes w/males
	-	3 No
	-	1 No Response
UNKNOWN	-	1 No
Total	-	18 Yes / 4 No

2. Is the increase in violent crime among females any more or less than the general increase in juvenile crime you are experiencing?

STATE ATTORNEYS	-	3 Same
	-	2 Yes
	-	1 No
CIRCUIT JUDGES	-	3 Same
	-	2 Less
	-	2 Yes
	-	1 No
PUBLIC DEFENDERS	-	3 Yes
	-	2 No
	-	2 No Answer
	-	1 Less
UNKNOWN	-	1 Same
Total	-	10 Same / 7 More / 3 Less

3. (a) In your area, are services being provided by DJJ to meet the needs of the female offenders? (b) Do you see a distinction between services provided for male vs. female juvenile offenders?

STATE ATTORNEYS	-	2 (a) No	(b) Yes
	-	3 (a) No	(b) No answer
	-	1 (a) Yes	(b) No
CIRCUIT JUDGES	-	5 (a) No	(b) Yes
	-	1 (a) No	(b) No
	-	2 (a) Yes	(b) No

PUBLIC DEFENDERS	-	4 (a) No	(b) Yes
	-	2 (a) Yes	(b) Yes
	-	1 No answer	
UNKNOWN	-	1 No answer	
Total	-	(a) No 14 / Yes 5 (b) No 4 / Yes 13	

4. Do you find that there are any differences in the rehabilitation options available for males and females?

STATE ATTORNEYS	-	3 Yes	
	-	1 No	Yes - say shortages for females more for males than females
CIRCUIT JUDGES	-	7 Yes	
	-	2 No	
PUBLIC DEFENDERS	-	7 Yes	
UNKNOWN	-	1 Yes (for females)	
Total	-	17 Yes / 3 No	

5. Is there any difference in the waiting time for placement of male vs. female offenders for the following:

- (a) High risk
- (b) Moderate risk
- (c) Low risk

(specific examples may be helpful)

To what do you attribute any differences?

STATE ATTORNEYS	-	1 (a) and (b) females wait 6 - 8 months
	-	2 Yes
	-	1 No
	-	1 Unknown

Reason - because not enough bed spaces available for females

CIRCUIT JUDGES	-	4 (a) and (b) Yes - females wait 8 months
	-	1 No
	-	1 N/A

Reason - Lack of facilities

PUBLIC DEFENDERS	-	5 Yes (a) female waited 6 months for a bed in Level 8
	-	2 N/A female remained at DYS for 6 months

Reason - Lack of facilities and programs for females

UNKNOWN	-	Females wait longer to be placed because of lack of programs
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B. JUVENILE PROSTITUTION

1. Do you see a correlation between the run-away behavior and a propensity to become involved in prostitution?

STATE ATTORNEYS	-	2 Yes
	-	2 No answer
	-	1 No
CIRCUIT JUDGES	-	4 Yes
	-	2 No
	-	3 No answer
PUBLIC DEFENDERS	-	4 Yes
	-	3 No
UNKNOWN	-	1 Yes

2. In what percentage of the cases on your docket do you see prostitution by the juvenile to represent a real threat to her/his safety?

STATE ATTORNEYS	-	1 - 1%
	-	2 - < 1%
	-	2 - Unknown
	-	1 - Very small
CIRCUIT JUDGES	-	4 - No answers
	-	2 - 1%
	-	1 - 0%
	-	1 - 25% of females
PUBLIC DEFENDERS	-	3 - No answers
	-	1 - 0%
	-	1 - 1 case
	-	1 - 3%
	-	1 - < 3%
UNKNOWN	-	1 - 100%

3. What percentage of the cases on your docket are prostitution cases?

STATE ATTORNEYS	-	3 - < 1%
	-	1 - 1%
	-	1 - No answer
	-	1 - Very small
CIRCUIT JUDGES	-	6 - 0%
	-	2 - < 1%
	-	1 - No answer
PUBLIC DEFENDERS	-	4 - 0%
	-	2 - < 1%
	-	1 - 1%
UNKNOWN	-	1 - < 1%

4. Of those cases, how many are cases in which the female participant has been charged?

STATE ATTORNEYS	-	1 - 75% are female
	-	1 - 50% are female
	-	1 - 0
	-	1 - No answer
CIRCUIT JUDGES	-	4 - 0

	-	4 - No answer
	-	1 - Always
PUBLIC DEFENDERS	-	3 - 0
	-	1 - 3
	-	2 - No answer
	-	1 - Almost all
UNKNOWN	-	Almost always

5. Of these cases, how many relate to male participants who have been charged for procurement?

STATE ATTORNEYS	-	3 - No answer
	-	1 - < 5/year
	-	1 - 0
	-	1 - 5%
CIRCUIT JUDGES	-	5 - No answer
	-	4 - None
PUBLIC DEFENDERS	-	3 - None
	-	2 - No answer
UNKNOWN	-	Very few

6. How many of the cases involve repeat offenders?

STATE ATTORNEYS	-	2 - None
	-	2 - Few
	-	3 - No answer
CIRCUIT JUDGES	-	4 - No answer
	-	3 - None
	-	1 - 50%
PUBLIC DEFENDERS	-	4 - No answer
	-	1 - 2
	-	1 - 0
UNKNOWN	-	No answer

7. Would it be helpful to legalize prostitution and require licensing and health reviews?

STATE ATTORNEYS	-	3 - No
	-	3 - No answer
CIRCUIT JUDGES	-	5 - No answer
	-	1 - Are you serious?
	-	2 - No
PUBLIC DEFENDERS	-	4 - No answer
	-	2 - No
UNKNOWN	-	No answer

8. Would licensing and possibly taxation of prostitution be an effective means of providing funds for programs designed to assist juveniles who become involved in prostitution?

STATE ATTORNEYS	-	3 - No
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- 3 - No answer
- CIRCUIT JUDGES
 - 6 - No answer
 - 2 - No
 - 1 - Are you serious?
- PUBLIC DEFENDERS
 - 3 - No answer
 - 1 - Possibly
 - 1 - Yes
 - 1 - No
- UNKNOWN
 - No answer

C. MISCELLANEOUS

1. Please provide input based on your personal experience on
 - a. any needed changes in the law which could positively impact these problems.
 - b. any types of programs or facilities that could help with these problems.

Various responses include the following:

We feel that the law itself is sufficient with regard to juvenile placements. Our concern is that DJJ make female programs available ASAP and acknowledge the differences between female and male offenders. The programs on line seem to be programs designed for the male population with female participants. This is unsatisfactory! In addition, we believe that the females' equal protection rights under the Constitution are being trampled upon due to the long waiting lists. Females are not receiving any form of counseling while awaiting these programs, thus setting them up to exhibit further runaway behavior and/or commit further crimes.

(a) Make funding of programs designed for female offenders as well as strict time constraints on placement once committed to a program.

(b) An expansion of female facilities at the moderate and high risk levels.

(a) Provide funding for more bed spaces for both males and females. Also provide for more programs for females in the Southwest Florida area because only options are JASP, Community Control and Level 4.

(b) Buy more ankle bracelets for home monitoring and more parenting/counseling classes.

There need to be many law changes to enhance the juvenile system's ability to deal with violent juveniles and to protect the community. On top of that, the system desperately needs additional resources. This letter is not the vehicle to go into detail.

Allow for appropriations for secure shelters, or other facilities that allow us to hold on to the juvenile for a period of time to allow us to start working with them and ensure their medical needs are addressed.

Any changes that would provide more funding for home based, Level 2 and community control programs would be helpful. If delinquency case managers carried a reasonable caseload, they would be able to provide meaningful supervision to youth. As it is, community control is a joke, and the youth go on to commit more serious offenses because they believe they will not be punished for their behavior. As an attorney who deals with these issues on a daily basis, I find violent female behavior very disturbing and hard to believe. Therefore, in my opinion, it is highly likely that lawmakers do not realize [sic]

With respect to proposed legislation, I have not yet determined what would be appropriate. As far as the types of programs or facilities that could help, I do believe that a high risk female juvenile offender program patterned after the Glen Mills Academy approach would be most beneficial.

SUMMARY OF PROSTITUTION CASES
BETWEEN THE YEARS OF 1982 - 1995

	<u>1982-1983</u>		<u>1983-1984</u>
M	56	M	61
F	136	F	104
	<u>1984-1985</u>		<u>1985-1986</u>
M	35	M	46
F	117	F	110
	<u>1986-1987</u>		<u>1987-1988</u>
M	71	M	63
F	133	F	131
	<u>1988-1989</u>		<u>1989-1990</u>
M	86	M	84
F	103	F	84
	<u>1990-1991</u>		<u>1991-1992</u>
M	50	M	73
F	69	F	52
	<u>1992-1993</u>		<u>1993-1994</u>
M	46	M	49
F	39	F	47
	<u>1994-1995</u>		
M	47		
F	42		

SUMMARY OF CRIMINAL CASES-ADJUDICATED
BETWEEN THE YEARS OF 1982 - 1995

	<u>1982-1983</u>		<u>1983-1984</u>
M	14,799	M	14,750
F	2,465	F	2,369
	<u>1984-1985</u>		<u>1985-1986</u>
M	15,980	M	17,761
F	2,419	F	2,459
	<u>1986-1987</u>		<u>1987-1988</u>
M	26,262	M	22,424
F	2,580	F	2,725
	<u>1988-1989</u>		<u>1989-1990</u>
M	24,981	M	26,569
F	2,830	F	3,192
	<u>1990-1991</u>		<u>1991-1992</u>
M	26,102	M	28,093
F	3,216	F	3,577
	<u>1992-1993</u>		<u>1993-1994</u>
M	28,501	M	31,014
F	3,960	F	4,877
	<u>1994-1995</u>		
M	30,014		
F	5,442		

SUMMARY OF DELINQUENCY CASES
BETWEEN THE YEARS OF 1982 - 1995

	<u>1982-1983</u>		<u>1983-1984</u>
M	58,431	M	58,400
F	14,554	F	14,481
	<u>1984-1985</u>		<u>1985-1986</u>
M	64,744	M	70,845
F	15,972	F	16,742
	<u>1986-1987</u>		<u>1987-1988</u>
M	79,115	M	87,231
F	19,002	F	20,062
	<u>1988-1989</u>		<u>1989-1990</u>
M	93,382	M	98,142
F	20,369	F	22,227
	<u>1990-1991</u>		<u>1991-1992</u>
M	104,170	M	113,376
F	24,098	F	27,155
	<u>1992-1993</u>		<u>1993-1994</u>
M	113,125	M	122,057
F	27,862	F	33,684
	<u>1994-1995</u>		
M	128,709		
F	38,271		

SUMMARY OF PERSON FELONY CASES
BETWEEN THE YEARS OF 1982 - 1995

	<u>1982-1983</u>		<u>1983-1984</u>
M	4,901	M	5,169
F	821	F	890
	<u>1984-1985</u>		<u>1985-1986</u>
M	6,036	M	6,755
F	938	F	1,019
	<u>1986-1987</u>		<u>1987-1988</u>
M	7,470	M	8,180
F	1,109	F	1,135
	<u>1988-1989</u>		<u>1989-1990</u>
M	9,673	M	10,511
F	1,232	F	1,510
	<u>1990-1991</u>		<u>1991-1992</u>
M	11,519	M	13,164
F	1,710	F	2,030
	<u>1992-1993</u>		<u>1993-1994</u>
M	13,264	M	13,358
F	2,310	F	2,735
	<u>1994-1995</u>		
M	13,846		
F	3,007		

SUMMARY OF FELONY CASES
BETWEEN THE YEARS OF 1982 - 1995

	<u>1982-1983</u>		<u>1983-1984</u>
M	26,631	M	25,928
F	3,832	F	3,988
	<u>1984-1985</u>		<u>1985-1986</u>
M	28,815	M	32,752
F	4,435	F	5,022
	<u>1986-1987</u>		<u>1987-1988</u>
M	34,607	M	39,795
F	4,907	F	4,988
	<u>1988-1989</u>		<u>1989-1990</u>
M	43,823	M	45,835
F	5,190	F	5,474
	<u>1990-1991</u>		<u>1991-1992</u>
M	47,122	M	51,562
F	5,970	F	6,441
	<u>1992-1993</u>		<u>1993-1994</u>
M	51,712	M	54,190
F	7,094	F	8,343
	<u>1994-1995</u>		
M	53,804		
F	8,906		

SUMMARY OF MISDEMEANOR CASES
BETWEEN THE YEARS OF 1982 - 1995

	<u>1982-1983</u>		<u>1983-1984</u>
M	33,397	M	33,531
F	10,115	F	9,842
	<u>1984-1985</u>		<u>1985-1986</u>
M	37,379	M	39,678
F	10,896	F	11,171
	<u>1986-1987</u>		<u>1987-1988</u>
M	46,811	M	50,326
F	13,372	F	14,445
	<u>1988-1989</u>		<u>1989-1990</u>
M	53,111	M	55,997
F	14,289	F	15,831
	<u>1990-1991</u>		<u>1991-1992</u>
M	59,953	M	64,948
F	16,699	F	18,932
	<u>1992-1993</u>		<u>1993-1994</u>
M	64,097	M	70,011
F	19,003	F	23,061
	<u>1994-1995</u>		
M	75,994		
F	26,682		

SUMMARY OF OTHER CASES
BETWEEN THE YEARS OF 1982 - 1995

	<u>1982-1983</u>		<u>1983-1984</u>
M	3,660	M	4,366
F	1,322	F	1,388
	<u>1984-1985</u>		<u>1985-1986</u>
M	4,783	M	6,011
F	1,436	F	1,558
	<u>1986-1987</u>		<u>1987-1988</u>
M	6,593	M	7,597
F	1,799	F	1,900
	<u>1988-1989</u>		<u>1989-1990</u>
M	8,237	M	9,219
F	2,139	F	2,368
	<u>1990-1991</u>		<u>1991-1992</u>
M	11,923	M	14,062
F	3,108	F	3,907
	<u>1992-1993</u>		<u>1993-1994</u>
M	13,507	M	14,943
F	3,940	F	4,680
	<u>1994-1995</u>		
M	16,581		
F	5,349		

EXHIBIT #6

REPORT FOR THE SUPREME COURT GENDER BIAS IMPLEMENTATION STUDY COMMISSION REGARDING FEMALE JUVENILE OFFENDERS IN DADE COUNTY, FLORIDA, BY THE HONORABLE JERI B. COHEN AND EVAN MARKS, ESQ.

I

On February 16, 1996, Jeri Cohen and Evan Marks visited the Dade County Juvenile Detention Center. At the Juvenile Justice Center we had the opportunity to meet with two judges presiding over delinquency cases and one judge presiding over dependency cases. The following summarizes the remarks of the judges:

1. Only two to three percent of the juvenile recidivists are women. One of the judges stated that the most important indicators of non-recidivist conduct are gender and pregnancy.

2. There is only one half-way house for female juvenile offenders in Dade County, while there are four or five facilities for male juvenile offenders. At that half-way house, only one-half of the residents are from Dade County. There are 12 beds at the half-way house and six of them are filled with female juvenile offenders from around the State of Florida. There exists only one level 8 or restricted female juvenile facility in Florida. If a female is committed to a level 8 facility, there is usually an extended wait before that female can enter the facility. This necessitates the female offender staying in juvenile detention until a bed becomes available. The Cove is the only facility in Dade County solely for female offenders. However, the facility can not accommodate children. The facility is a replica of a juvenile facility for males and does not address the special needs of females. The women at the facility are not offered any classes in parenting, prenatal care or sex education. All of the judges agreed that the programs for female juvenile offenders in Florida are "inadequate."

3. Escape is a common problem among female juvenile offenders placed in half-way houses and other programs. One reason for this is that they can not bring their children into the facility. In addition, some of these women are substance abusers and are dependent on boyfriends for their drug habits. Consequently, they have become accustomed to life on the streets.

4. There are a lack of programs in Dade County that provide role modeling for female offenders. For example, a program called the "Five Hundred Role Models of Excellence" is designed to provide male juveniles with role models. However, there is nothing similar in Dade County for females.

5. All the judges agreed that there is a link between girls caught in the dependency cycle because of abuse and/or neglect and subsequent delinquency. This was illustrated as follows: While few female juveniles come into the system for prostitution, many females that are adjudicated dependant enter the adult system for prostitution. I have attached an article containing a similar thesis.

6. While most females come into the system for such crimes as shoplifting or being caught in stolen cars driven by a male, more and more girls are coming into the system for violent crimes such as robbery and kidnaping. Some of these girls are being direct filed as adults. In addition, more and more girls are developing substance abuse problems as they "hang out" with boys on the street. Nevertheless, forty percent (40%) of the girls arrested will not reappear in the system.

7. While there is a special unit for substance abuse and mental health at the male detention facility in Dade County, no such facility exists for girls. In addition, the male offenders

with psychological problems and/or who need close supervision are kept in special units. This is not true for the girls.

In sum, all the judges agreed that there is a link between girls adjudicated dependant and future delinquency, and that there are few or no programs that address the special needs of female offenders. Moreover, the programs that do exist are inadequate and show poor outcomes.

II

At the juvenile facility we met with five girls. Their profiles are as follows:

Female A: Female A is a 14-year-old African-American who has been in detention 10 days for petty theft. She has two brothers that are juveniles and in state prison. This is her second arrest, and she has been waiting 10 days for her grandmother to pick her up at the juvenile facility. Although she was given a custody release, the facility will hold her in detention, instead of in shelter, until an adult takes her into his/her custody. Female A's mother is in prison and her father is unknown. She resides with her grandmother.

Female B: Female B is a 15-year-old African-American who admits having a drug problem. She is in detention for Possession of Cocaine. She lives with her mother and sister who have not been involved in the criminal justice system. Her father is in prison. She has 19 prior law violations. In the past, she spent 28 days in Highland Park which is a substance abuse program. This is the only substance abuse program in which she has been enrolled. She stated that 28 days was not enough time to address her substance abuse problem. She has been waiting three months to enter a program at Charter House.

Female C: Female C is a 14-year-old Hispanic who is being detained for Robbery, Kidnaping, Car jacking and Burglary With an Assault. She has been arrested three times before for Throwing a Deadly Missile, Assault and Battery and Retail Theft. She was first arrested for Petty Theft at 12 years old. She admits to having a drug problem. She has been in detention for two months awaiting disposition of her case. She has no other family members involved in the criminal justice system.

Female D: Female D is a 17-year-old African-American who is being detained for Aggravated Battery with a knife. She has been direct filed as an adult. She has been detained 21 days on this charge. She admits to being a lesbian and this charge resulted from her stabbing her lesbian lover. She also admits to having a bad anger problem. She explained that her anger builds up and she can not control it. She has prior law violations for Aggravated Assault. She was first arrested at 14 years old. She has been in one prior program at the Cove, from which she ran away. She denies having a drug problem. She dropped out of school at the age of 16. Of six siblings, she and her brother are the only children that have been involved with the criminal justice system.

Female E: Female E is a 16-year-old African-American who is being detained for Robbery, Burglary and Kidnaping. She has two priors for Petty Theft. Her case has been direct filed. She lives with her mother and brother. Her father is in prison.

The following is a summary of the conditions in the female detention facility based on my observations and information obtained from the above-offenders:

1. The juvenile facility is very stark and austere. The girls are kept in small rooms measuring approximately seven by five with nothing in the room except for a mattress. The facility can hold up to 19, however, on the day that we visited there were only about 12 to 13 girls in

custody. Only 8 of the rooms had a bathroom. There were no books or games in the cells. When there are 19 girls in the facility, some of the girls are forced to double up in one room. We entered a few of the cells, and found them very cold. All of the girls stated that they get only 2 sheets and one blanket and that they are cold at night. They stated that while the weekend shift gives them more than 2 sheets because of the temperature in the rooms, the additional sheets are taken away from them during the week.

2. The girls had been locked down for 3 days from 3:00 p.m. after their classes until 6:30 a.m. the next morning. This was the case, notwithstanding the fact that the boys had been out every afternoon playing football in the field. Moreover, the girls are supposed to receive up to 2 hours of exercise per day. It appears that the reason for the lock down is the lack of staff to monitor the girls. This is the case because the girls with psychological problems as well as those who need close observation are kept in the same facility with the rest of the girls. These girls require more staff attention. At the male facility, the individuals with psychological problems and those requiring close supervision are kept in a separate facility. The lack of staff had prevented the girls from receiving any outdoor recreation.

3. The girls all stated that they were being verbally abused. Instead of being encouraged to change their lives, they were constantly being told that they were dumb, stupid and ugly, etc. They also claimed that the discipline was very severe. For example, if one girl violated a rule, all of the girls were locked down. Another example given was that if one girl failed to have her uniform completely buttoned up, all of the girls were locked down and telephone privileges were withheld.

4. The girls all complained about the poor diet. They stated that roaches and other bugs had been found in the food. The detention officer accompanying us around the facility did not deny this. In addition, Judge Peterson told us that at The Cove, the juvenile facility for girls, maggots had been found in the food. They also stated that they are only given a very small glass of juice each day in what they described as similar to a shot glass.

5. The girls complained about lack of toothpaste, being allowed to take only one shower a day and dirty uniforms. It appears that the uniforms are supposed to be sent to the wash on Tuesday and Saturday, however, because of the shortage of uniforms the girls were wearing the same uniform all week.

6. A persistent problem is that many of the girls stay locked up for an extended period of time pending either court dates or placement in a program. During their stay, they are provided with very little psychological and/or substance abuse counseling. They receive no parenting classes, classes on self-esteem or sex education classes. No group therapy or mentoring programs exist. All of the girls expressed the sentiment that they would very much like to see a counselor or psychologist on a more regular basis and participate in group therapy and mentoring programs while awaiting placement or their court date. Again, the girls with drug problems stated that if they had been sent into a drug program after their first or second law violation they may not be in the situation that they are in today. It appeared that the Hispanic girl was receiving frequent visits from a counselor. The African-American girls attributed this attention to the fact that she was not Black. The African-American girls stated that they had not seen a counselor since being incarcerated. In addition, all of the girls expressed the sentiment that they would like to learn a trade so that when they were released from the facility they would have something to fall back on. The offender with the Aggravated Battery charge said that she needed anger control classes and mentoring. The desire for mentoring programs seemed to be a constant theme repeated by the girls.

In sum, it appears that the most prevalent problem at the female facility is lack of relevant and gender-specific programming. It would be helpful if the girls could receive group therapy on such issues as, inter alia, self-esteem, identifying goals, anger control and substance abuse at the

juvenile facility. Once the girls are placed in programs, the programs should be designed to meet the special needs of female offenders. Moreover, intervention should occur after the first or second arrest or at the dependency level.

cc: Hon. Joseph P. Farina
Chief Judge
Hon. Thomas K. Peterson
Hon. Sandy Karlan
Hon. Jerald Bagley
Evan Marks, Esq.

EXHIBIT #7

GENDER BIAS REPORT

This is a report of the Criminal and Juvenile section of the Gender Bias Implementation Commission.

- I. Orlando meeting
- A. Orange County Public Defender's Office

Jerri A. Blair and the Honorable Winifred Sharp met with the Public Defender's Office in Orange County, Florida, to discuss problems involving female juvenile offenders that had been encountered with the Department of Juvenile Justice in Orlando. Some of the questions that were raised by the Orange County Public Defender's Office included resources for pregnancy facilities, numbers of pregnant juveniles in the juvenile facilities, whether or not females should have access to their children during the first few months of life when bonding occurs, whether or not there are enough facilities for juvenile females. The Public Defender's Office also expressed a great deal of concern because of the longer waiting list for female offenders. They expressed concern because of a trend that many of the juveniles were from average, middle-class families and placed in detention as a result of domestic violence problems which resulted in their developing a record as a juvenile offender.

There is also a concern that there are not comparable resources for male and female offenders as follows:

1. For serious offenders: There were insufficient resources for the female offenders in the higher categories. The county gave property for a new facility but the present facility being used has been used since 1976.
2. Program/Education/Vocation: There is a lack of drug and alcohol programs in the female prison (and, for that matter, in male); there was a cutback because of the need for more bricks and mortar type operations.
3. Computer training for females was non-existent whereas males did have programs that would help them by teaching them computer skills. They indicated that they thought that Tom Allison, of Orange County Corrections, had done a reallocation, making more resources be available for females which would make a good model for changing the state system.
4. They expressed concern that female offenders, such as runaways, had only one resource available at Boys Town and one other facility with five beds. They felt that the need was much greater.

With regard to domestic violence, they opined that this had not served its purpose; that homicides have gone up and continue to be at least at 50%; and that this is at the same level at least as before the domestic violence statute. They opined that the arrest policy does not work and that the officer should not have to arrest but should be able to divert to anger management counseling. It was their opinion that this should be taken out of the criminal justice system and made a civil infraction with counseling as the focus. They did agree that there may be a need for an intermediate "cooling off" period. They suggested we talk with Judge Margaret Waller, an Osceola County Judge, who is doing a lot of domestic violence court.

We also discussed the problem with the number of minors who had allegedly been raped by guards in the Juvenile Justice Center in Orlando. It was their opinion this was at least partially

caused by a lack of staff training and overcrowding. They opined that Seminole County has the same problem. In Orange County, it was their statement that some of the girls were actually followed home. They indicated that the State of Florida was hiring high school graduates with no staff training. It was recommended that there be more training required and better qualifications.

They also opined that the juvenile should be out in six weeks; that at sentencing phase, there is a wait for a program; and they either have to remain in detention or be sent home. They felt that it was possible that the rise in violence for female juvenile offenders is related to the domestic violence statute.

They indicated that there was a great deal of problems at the temporary centers with "forced idleness." There were no positive programs, no television, no books, and absolutely no programs. They indicated that birth control would be a good lesson to be taught at the centers and this was not being done. They also indicated a problem because all ages are lumped together.

B. Juvenile Justice Center

We also met with the Warden at the Juvenile Justice Center who agreed that there was not sufficient training at the facility. He was interested in obtaining funding for additional training for staff. He wanted to require a program to assure that staff-child contact was such that protection for sexual abuse or alleged sexual abuse would occur.

We actually met with the girls who are inmates in the facility and received a number of complaints from them about lack of contact with their counselors, problems with personal hygiene, lack of activities, lack of therapy, lack of contact with their children, lack of runaway placement, and inadequate diet. They also expressed a number of other types of complaints such as lack of phone privileges and the fact that the "Honor Dorm" was "just for boys." They alleged they were not allowed to bring in skin care products, and their bras didn't fit. They alleged there was no soap and they wanted to be able to bring in food.

II. Marion County

We also met in Marion County with the Honorable Sandra Edwards-Stephens. She had set up a meeting with Assistant Court Administrator David M. Trammell, Assistant Public Defenders John Hendrick, Jock McLaughlin, Michael Berkley; State Attorney's office representatives Susan Tischlinger, Linda Herrick, and David Eddy; Julia Slusser from the Ocala Police Department; Pat Winkler, from the Marion County Sheriff's Office; Barry Shrum from the Ocala Police Department and Jeffrey Balliet, from the Department of Juvenile Justice. I enclose a list of these individuals with their telephone numbers and addresses. They were very helpful.

We also visited the Marion County Juvenile Justice Facility which was in much better shape than the Orange County facility. The warden did indicate that she felt that there was a problem with programs not being designed appropriately for females. They think that they will have 68 beds by October of 1996. They also were concerned with females having a lack of privacy because the facility was not designed for males and females, they would have to walk through the boys' area to get out of their hall. The girls have smaller classrooms and do not have a day room.

They have a wonderful volunteer program called "Church Without Walls." I enclose a copy of brochures from their organization. It appears to be a very well organized volunteer group that provides some programming for the girls. This is a non-denominational group that does Sunday school, tutoring, holiday programs, presentations on esteem, dealing with alcoholic parents, arts and crafts, baby care classes and mentor program. Without the volunteer program they would have no additional programs for the children, however.

They did indicate that there were a number of first-time children who would not be in juvenile detention without the new domestic violence law. There was an increase in first-timers or domestic violence only offenses. Probably a 10% increase of kids who come in only because of that law. This has led to an increase in females in the system because of the changes in domestic violence law. The average length of their stay is 17 - 18 days. It might be helpful to provide information to the different circuits about the volunteer program that the Marion County facility is using.

The training in the Ocala Center was much better also. They have a two-week training program and have certified trainers to teach first-aid and CPR. They then spend three weeks shadowing a trained employee. It is a total five-week period of training.

The Ocala Center also has AIDS and sexually transmitted disease presentations and pregnancy presentations. They would like to provide voluntary AIDS testing.

They said that most of the domestic violence children do not come back. They felt that most of the children were in terrible home situations and could be benefitted by a non-criminal diversion program for the runaway status offender type situation. The serious offenders are in the same rooms as these non-serious offenders. Many of the foster kids who progressed to delinquency from foster care could be benefitted by non-criminal diversionary programs such as the Arnette House. They also felt that there was a need to get parents involved in the process.

They complained that we did not have adequate mental health facilities for drug abuse or drug counseling. They suggested that we look at Pinellas County's Children's Council, which has great programs. This employs a children's services council which is allowed to have up to .05 mil ad valorem taxation power for children's services.

They suggested that the PACE program would be helpful to the girls. There are few programs for girls and they move up in the levels faster because of this.

EXHIBIT #8

REPORT FOR THE SUPREME COURT GENDER BIAS IMPLEMENTATION STUDY COMMISSION REGARDING FEMALE JUVENILE OFFENDERS IN VOLUSIA COUNTY, FLORIDA, BY THE HONORABLE WINIFRED J. SHARP.

I.

Accompanying Judge Mary Jane Henderson and me, Judge Winifred J. Sharp, were Mary Lynn Heck and Jan Abee of the Department of Juvenile Justice from the Daytona Beach Office, and Kywa Hammond, Assistant General Counsel, Department of Juvenile Justice from Orlando.

We first visited the site of the future PACE Center for girls, in downtown Daytona Beach. The center is run by a local community board. The Board has chosen the site of an old restaurant, and completely gutted it. It will be separated into classrooms and offices, a dining facility, counseling rooms, and work areas. The building has much charm. It is a one-story building with a brick courtyard and high ceilings. It is well located near bus transportation. The program will begin this summer with slots for 30 girls, on July 1, 1996. The age group to be served is 12 to 18 years.

The PACE program has worked very well for girls. It is a five-day-a week, Monday through Friday, day-care program, planned for each child attending for six to eight months. Staff will be on call nights and weekends. There will be a three-year after-care follow up on the girls. They will accept court-ordered girls, dependent girls, and family referrals, self-referrals, school referrals, and referrals from other agencies. It is hoped this program will keep many girls out of the delinquency system. Many come from abusive or unsupportive homes. Without such a program, at-risk girls will run away or become truants. It is designed to reach the at-risk group of girls most likely to become delinquents: school drop-outs or potential drop-outs, and ones with dysfunctional families. Many are victims of abuse, and have emotional problems.

The director is Georgianna Biancarosa. She said the plan is to make education a top priority. Most of the girls are two years behind in classwork. The school board will pay for certified teachers, to be hired by the Center. At most there will be ten students per classroom. For class work the girls will receive full school credit in the public school system as the program is under the School Board's education program.

The Center will offer intensive therapy and counseling. A plan will be worked out for each girl on an individual basis. Some may need to stay longer than the 6 to 8 month program. It will offer drug and alcohol abuse counseling, classes on family living and parenting, training on use of computers and computer learning education programs. They will also offer instruction on independent living skills. Families will be encouraged to visit and participate, but many girls will have no family support.

Prior to the PACE program in this area, there was a unisex day treatment program, but PACE is addressed specifically to girls' needs. It will stress personal care and self-esteem. Girls will also work in community service slots. It is hoped to establish job shadowing and a mentor program for the girls. Counties served will be Volusia and Flagler.

II.

Our next stop was Beach House. The Director of Beach House is Becky Anderson. The Department contracts with ACT (a corporation) to run this shelter for runaways and ungovernables. Delinquents are not normally housed at Beach House. It is a large house on US-1 next to an old mansion, Blodget House.

Blodget is being renovated with another teenage-program, through the Home Builders Institute providing the labor. In that program, seventeen-year-olds get vocational training in construction. The boys and girls learn the construction trade, and work there for a number of months, graduate, and then are offered jobs. The first nine in this group will graduate June 4th. When finished Blodget House will have two apartments for independent living and office space. After that project is completed, the Historical Society will provide other projects to work on.

The children at Beach House are runaways, victims of domestic violence, ungovernables, kids who have been arrested but not ordered to be detained. There are 21 beds and an equal number of girls and boys, ages 10 to 17. In July they will begin an independent living program for older teens—with four beds. This is badly needed. There are many kids without homes, or ones that need stable living arrangements so they can complete school and get a job. Their home life is too upsetting—parents are abusing drugs or alcohol.

Beach House offers a program that teaches these kids how to survive—get along in a bad home situation. It also offers a place to come for respite. The goal is to help the children survive until they can become independent. They often see badly disturbed kids from dysfunctional families. They also offer counseling; kids can call from home, if needed.

A child can stay there up to 35 days with parental consent. The usual stay is three days. Some stay two to three weeks. They do follow-up with the local children and families. If they get out-of-state runaways, they are quickly sent home. Counseling is available for families, and they make referrals to other social agencies. There are 19 staff members

III.

At lunch we met with Vickie Sheridan, a prosecutor from the Juvenile Division. She has 12 staff employees, and four attorneys working under her supervision. She said the Department will soon be starting a day treatment juvenile sex offender program, with 20 slots. At present there is no sex offender program locally. The only residential one is in Broward County. She thought sex offenders were mostly boys.

She agreed that more programs for girls were needed, like PACE. She noted an increase in violent juvenile offenders, including girls, and girls getting into the system at younger ages. She thought a boot camp would be a good program for girls. She said a residential, secure program for girls is badly needed. There are only a few for girls in the state. The Stewart Marchman program in Volusia is a residential program, but it is not secure. There are only two Level 8 programs for girls in the state. This creates long waits for girls in the detention center, which is not designed for treatment programs.

IV.

Our next stop was the Juvenile Detention Center, and a meeting with Paul Finn, the Supervisor. It looks very much like the Orange County facility, but it is much less crowded, and cleaner. There are 92 kids there: 20 girls and 72 boys. There were also 64 at home on supervision and 25 at home on electric monitoring.

The staff wore uniforms; all had been well-trained. Fifteen to sixteen days is the average stay for inmates. Volunteers from the community conduct church and other services and programs. The food is ok; not great; but designed to be filling. Dinner is served early, so a snack is offered before bed time. The School Board provides teachers for the classrooms. Outside recreation is offered once or twice a day, weather permitting.

Next to the detention facility is the Assessment Center. First time felony offenders are taken there so that a program can be worked out before the kids get to court. Counselors try to ascertain the cause of the child's problem, and how it can best be handled and remedied. It is a small beginning, and ideally, every delinquent should be afforded this service.

We next visited the new Boot Camp for boys, being operated in the renovated old detention center. Lt. Szaroleta is the director. The staff are dressed in county sheriff uniforms, and wear hats and boots. When we arrived, the staff was just introducing new boys to the program, so there was a lot of shouting and discipline going on. This goes on for the first week. Then education and physical training programs begin. But they have to get the boys' attention that first week. They say it worked well for the first group, which just graduated.

The minimum stay is 120 days. There are 30 boys. It is a Level 6 and 8 program. After-care is offered and is very important to continue the benefits of the boot camp. It consists of day care, school and teaching trade skills. Stewart Marchman runs it.

We also saw a group of boys who had been in boot camp for a couple of months. They were in class. It was remarkable how quiet and intent they were. Our guide said they loved being in the classroom and considered it a privilege to be there. After seeing how the in-your-face boot-camp training is begun, I have my doubts about how well that would work for girls.

V.

We next visited the Pines, a Level 6 residential program for girls. It is at the Stewart Marchman complex. There are a number of other programs for children being run at that site. It is located on a large piece of land, out in the rural area of Volusia between Daytona and DeLand. There are many pines and other trees. It is a pretty setting.

The Pines is housed in a substantial cottage with a large sitting area, a class room, offices, a dining room, and four bedrooms with two sets of bunk beds each. It is spacious and clean and comfortable. We talked with Ruthie and Amanda, who are going through the program. They said they were kept very busy from 5:30 to 9:30 with activities—schooling, group sessions, recreation, housekeeping, etc. The Pines encourages family visits.

In order to get out of the Pines a girl must have 120 good days. If the day is not "good" it does not count and if it is bad, you may lose a day. A girl gets three time outs and then she loses the day. A counseling team works with each girl to set up a program. The girls work with a team on a performance contract they must accomplish. The clinical team works on behavior modification and management. They also work with the families. The recidivism rate from this program is less than 10%, which is quite remarkable.

Community volunteers work in this program. The Pilot Club also gives Christmas parties and sponsors other activities.

In response to our questions about what girls need that is different than boys, we got the same surprising response, which was expressed to us by others, that girls are harder to deal with than boys. They are more physical. As for needs, many of the girls here were victims of sexual or emotional abuse; approximately 90 percent. They need counseling and clinical help in dealing with drugs and alcohol. They lack supportive homes and need understanding, building up self-esteem, and a way to become independent of bad family situations. Working with the 16 girls are 12 staff and three teachers—a high ratio.

The staff told us that also needed for girls are independent living programs, ages 16 and up, and vocational training. Many are lockouts and have no homes; or have abusive homes. Group homes could help fill this need by providing places girls could stay longer than six months. Zoning and neighbors who do not want such facilities nearby are problems.

Such programs need not be expensive. Mentors and community volunteers could provide role models. Often these girls have no good female role models. Building up their self-esteem so they want to make their lives work and believe that they can, will make all the difference.

In this residential programs for girls, at the Pines they have found that 90 to 95 percent of the girls have had some kind of abuse—sexual, emotional or physical. They come from bad family backgrounds. They need to learn family living skills, how to be a good parent, to be nurturing, child care, and the principles of good nutrition. Their family backgrounds contributed to the kinds of felonies they committed: escapes, runaways, accessories to crimes committed by older boyfriends. Hopefully, the programs offered at the Pines, plus follow-up after-care, will help break the cycle of abuse and dysfunctional families.

EXHIBIT #9

REPORT FOR THE SUPREME COURT GENDER BIAS IMPLEMENTATION STUDY COMMISSION REGARDING FEMALE JUVENILE OFFENDERS IN MARION COUNTY, FLORIDA, BY THE HONORABLE WINIFRED J. SHARP.

I.

Judge Sandra Stevens-Edwards arranged and planned this visit for the Commission. Attending with her were Jerri Blair from Lake County and Judge Winnie Sharp, Chairperson, from Orange and Volusia Counties.

1. We first met with the Superintendent of the detention facility, Dixie Fowler, and the Assistant Superintendent, Fay Thomas. Both had considerable experience in this facility, and our overall impression was that it is well run and managed. They told us about 10% of their inmate population is female; less than in other facilities we have seen. As a result, most of their programs are planned around boys. Normally they only have five to six girls. They have eight beds for girls and forty-eight for boys.

2. One problem with the girls is that they have insufficient privacy from the boys. Due to the design of the facility, to leave their bedroom and hall area, they must walk through the boys' recreation room or sitting area to go anywhere; *i.e.*, to their sitting area, the dining room, schools, or outside. An expansion of the facility is underway that will address this problem. They are now preparing an old classroom to be a sitting area for the girls. It has been difficult to give the girls as much outside recreation time as the boys due to insufficient staff.

3. Volunteers from the community have greatly supplemented the programs offered to both boys and girls. It began with four churches who offered to provide Sunday School classes for the inmates. It has now grown to twenty-four churches. The volunteers work in classrooms: some tutor at night; some do group sessions such as arts and crafts; others present self-motivation and self-esteem classes, show videos and lead discussion groups, give babysitting instruction, provide birthday cakes each month and give holiday parties.

4. The group publishes a monthly newsletter relating the programs, volunteer activities and opportunities, and explaining various aspects of the juvenile justice system and goals. A new program under development is a mentor program that continues after a child is released into the community.

5. The Superintendent told us she believes these community volunteers have made a considerable difference in this facility, and that there is less recidivism since the programs began. She said their rate of repeats or recidivism is only 20 to 25%. Because of community involvement provided by the volunteers, there is a healthier atmosphere, and the children have some reason for hope. Some children have never had an adult take any interest in helping them. Programs are being provided that the staff could never have done, due to lack of personnel, training and background.

6. The Superintendent agreed that the new domestic violence laws have led to an increase in charges being brought against girls. She said there are no diversion programs for domestic violence, although there are some for other crimes, such as theft. Because domestic violence is by definition a violent crime, it is not eligible for a diversion program.

7. The average stay at this detention facility is seventeen to eighteen days. They worked hard to get down to this number. There is a longer time for girls because they must often wait for programs to open. Particularly affected are girls sentenced to Level 8 programs.

8. Five years ago, the staff at the facility did not have any training. They created their own two-week training course, plus three weeks shadowing, plus three weeks CORE training. The ratio of staff to offenders is one to eight awake hours and one to ten, asleep.

9. One of the staff in the facility is a nurse/practitioner. Offered to the offenders is instruction on AIDS, sexually transmitted diseases, and birth control.

10. In the community there are programs designed to prevent juvenile crime. Tours of the jail and detention facilities are offered to at-risk kids, and runaways. There is also a teen court. The Superintendent said there should be diversion programs for dependent kids in foster care who run away, or for lockouts. They receive calls from parents whose kids are out of control, but they cannot help. There is a need for a residential facility for kids who have not yet committed a crime. There is such a facility, Arnette House, in the area, but it has very limited space. It is a residential facility of twenty beds only, with a six-to-eight week program. She stressed the importance of working with parents as well as the child, treating the total family. Both the Superintendent and Assistant Superintendent agreed that if there were more day care and residential facilities for girls in the state, there would be far fewer girls in the system. Programs for girls should emphasize self-esteem, education and counseling for abuse and drugs.

11. There are almost no facilities to treat drug abusers. Badly needed are mental health and drug counseling programs. She recommended that a psychological evaluation be made when kids are admitted. Kids then should be placed in drug-rehab or mental health programs if needed. In Marion County, the county will not take Baker-Act kids. Ekhert Challenge offers a small program. They noted that there is reportedly a greater problem with counselors working with girls than with boys. Apparently, boys are more open and forthright about telling what is going on. Girls do not talk openly.

12. The Assistant Superintendent said a program like PACE was badly needed for Lake County. It is an excellent program for girls—and so few are offered. She notes how girls go from runaways from lesser programs and end up in a Level 8. Early intervention with an appropriate program could prevent that.

13. At the detention facility, there is a behavior modification program in place. This has resulted in reduced discipline problems. For good behavior, the kids earn points. With points they can purchase minor gifts at the store in the facility. They also earn the right to go into the rec room and to see movies. If a child has misbehaved, he or she must wear a red tee-shirt and lose points and privileges for one to five days.

14. The detention facility invites parents to dinner and to special occasions. Kids sometimes put on plays and performances they have written and prepared. Only 25% of the kids have visitors. Many families live too far away.

15. The Assistant Superintendent said she thought it very important to involve parents in parenting classes. She thought diversion programs were appropriate for many domestic violence cases. She suggested that the judges should be able to order family counseling in

unrelated cases; *i. e.*, a parent may be charged with an unrelated crime, and the child is in detention for another, but the whole family is at risk, due to a family situation or problem.

16. The Superintendent said the educational levels of the kids there were higher than one might expect. Some were very creative in music and art. We saw some of their murals and paintings. One problem with getting the kids to take their class work seriously was that the public schools give no credit for the work done at the detention center. Although that might be justifiable in years past, they now have qualified teachers, and a far-improved educational program. She was particularly enthusiastic about the computer courses which are essentially self-teaching, and allow various students in the same classroom to progress at their own pace and levels. She is working with the public schools to get them to give credit for the work done at the facility.

II.

1. We had an opportunity to talk with the girls at the detention facility. They had lunch and were sitting around a room in chairs, talking with two uniformed staff members. They seemed rather quiet and repressed. Three of them had been in other detention facilities many times. They rated this one as the best; Dade as the worst due to crowding and lack of clothes, food, programs, etc. One complaint we heard (also in Orlando) was insufficient blankets to keep warm at night, and insufficient pillows to go around. (Seems like the volunteers could help remedy that for the six to eight girls involved.) These girls did not complain about lack of clean clothes or lack of underwear and bras, shampoo and combs, as in Orlando. They said they had only fifteen minutes from the time they arrived in the dining room, in which to eat. They complained about not being able to make phone calls often enough or to sufficient family members. Apparently, they get a phone call every other day, only to one person, and if that person is not available, no call is allowed in its place.

2. A majority of the girls we talked with were there for the first time, scared, and not very talkative. But one girl had been there for two months, waiting for a Level 8 program. She said she had a drug abuse problem, had been sent to a program that did not address her problem. I gather she ran from that or violated probation and thus was back at a higher level. But, if there had been an appropriate program for her, she might not be there. Another girl was about to turn eighteen. She had asked to stay at the facility longer and was frightened about her future. She had been living with her uncle and aunt in Miami, but now they did not want her back (a lockout). Her father was in Orlando, but they did not get along; her mother somewhere in North Carolina. She said she spent her time in detention sleeping on the floor. A counselor had suggested she enlist in the military, and she was considering that option. Although she has been in numerous facilities and programs in the juvenile justice system, apparently nothing had helped her. She was obviously depressed.

III.

1. After our tour, we met for an hour and one-half with twelve people involved with the juvenile justice system in Marion County. They were:

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Court Administrator
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Ocala, FL 34475

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Brooksville, FL 34601	
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Michael Berkley
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(904) 620-3490

Susan Tischlinger
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Jerri Blair
Attorney
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Tavares, FL 32778

Jeffrey Balliet
Dept. of Juvenile Justice
2300 SE 17th Street
Ocala, FL 34471

2. They addressed a vast number of problems and gave us much information and advice. One program they said was needed and currently lacking was a sex-offender program for sex offenders of *both* sexes. It is impossible to place female offenders. There is no program for girls.

3. There is also no Level 10 program for girls in this state and only one Level 8. Thus girls are getting lost in the system. They get up to that level because they run from or violate other programs.

4. They noted there are (a) insufficient residential programs for female runaways; and (b) insufficient early intervention programs like the one at Arnette House. Parents call the Public Defenders or Prosecutors for help—their child is out of control, a runaway. But there is no help available.

5. The Legislature has not addressed the problem of female runaways. Adequate drug abuse and treatment is not available. There is a need for temporary residential facilities so a child can be evaluated and given a target treatment early on, at least with the second runaway event. This is a tell-tale sign that far worse is in the offing and this child is seriously at risk for criminal behavior. The child should be evaluated at a mental health facility, and the child detained so that services can be provided—even though no crime has yet been committed.

6. They noted an increase in numbers of offenses charged against girls, stemming (they think) from domestic violence. But girls also participate in school fights.

7. They have also noted an increase in female offenders committing violent crimes. This may be gang related.

8. In the small feeder cities for Ocala, there is no treatment available for runaways, domestic violence, etc. In small rural counties like Sumter, Hernando and Citrus, the level of social services and programs in the schools to spot problems is lacking. Programs like Sins-Fins should be available in all communities.

9. There should be better communication between the Department of Education and the Juvenile Justice system. Often both gather identical information on the same child. The school can identify and predicate “at risk” children before criminal activity occurs. Early on this information should be shared.

10. The domestic violence law should provide for a 48-hour cooling off period. Professionals should be involved in assessing whether criminal charges should be filed. A Respite Home should be available, family counseling, alternative resources to detention.

11. The Department of Juvenile Justice is doing more family counseling and use of alternative resources, but there is insufficient funding. Needed in every community is an assessment center. Upon arrest, all kids should be taken there, including truants, runaways, ungovernables. School resources should be tapped to accumulate all the information available about that child, and an appropriate program for that child planned. The child’s needs should be addressed in the context of its family.

12. Girls benefit from programs emphasizing self-esteem. There was a split opinion as to whether girls would benefit from boot camp. Anyway, there is none for girls now.

13. Many people think delinquency disqualifies a child from military service; it does not.

14. David Trammell said flatly that there are the same number of resources and facilities for girls now, as ten years ago. But the rate of crimes being committed by girls has risen almost 100%. There is also a much higher pregnancy rate. The handling of girls in the juvenile justice system, bad enough as it was ten years ago, has worsened.

15. One suggestion was to construct shared facilities for male and female offenders. This would be a step toward providing “equal” facilities that are not now available.

16. For juvenile males there are many diversion programs and no comparable ones for girls. One is MADDADS. As a result, girls are adjudicated and put into detention. The Legislature should do something about this inequity in the Juvenile Justice System.

[The following is transcribed from handwritten sign-up sheet:]

NAME	DEPT	ADD/#
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Jock McLaughlin	Public Def. Office	“
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Linda Herrick	State Atty. Office	“
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Jeffrey Balliet	Dept. Of Juv. Just.	2300 S. E. 17th St., Ocala 34471

Draft



STATE OF FLORIDA
COUNTY COURT OF MARION COUNTY

S. Edwards-Stephens


COUNTY COURT JUDGE

MERLE A. CARPENTER
JUDICIAL ASSISTANT
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FAX 352-620-3560
SurCom 352-667-3540

MARION COUNTY JUDICIAL CENTER
110 NORTHWEST FIRST AVENUE
ROOM 3030
OCALA, FLORIDA 34476

MEMORANDUM

TO: Judge Winifred Sharp and Attorney Jerri Blair

FROM: S. Edwards Stephens, County Judge 

RE: Marion County Juvenile Detention Center
Visitation on March 28, 1996.

DATE: May 30, 1996

Judge Sharpe, of the Fifth Judicial DA, Attorney Jerri Blair from Tavares, and myself visited the Juvenile Detention Center on March 28, 1996, and met with Superintendent Dixie Foster and Assistant Superintendent Faye Thomas. The Center holds approximately 65 to 70 Juveniles. Any number over 70 would be considered over-crowded. Generally there are 5 to 6 girls which brings to about 10 percent of the total population. There are 8 beds designated for girls and 48 beds total. The Center is presently under construction to add an additional 20 beds which will make a total of 68 beds by October of 1996.

Problem: There is minimal privacy, particularly for girls, in the structural set-up of the building presently. However, they will have a dayroom converted in the future. The module on the grounds which could provide some privacy for the girls is presently used as a school facility.

Recreation: Both females and males do get outside recreation provided.

The Juvenile Detention Center utilizes volunteers and is actively recruiting volunteers. One of the major volunteer groups is Church Without Walls, which offers tutorial services, assists in the classrooms and on Fridays has self-esteem films for the juveniles. This organization also provides a mentor program which is modeled after the Tampa Center's Mentor Program. The Church Without Walls provides advice/guidance for girls,

particularly regarding such matters as baby sitting.

Inmate Staff ratio is 1 to 8 during awake or day hours and 1 to 10 during evening or sleep hours. There has been approximately a one percent increase in the total population due to domestic violence.

Staff Training: There is two weeks staff training provided, which includes crisis management, use of force, CPR and first aid. There is an additional three weeks in which the new staff member works with a member of staff, for a total of five weeks before the new staff member is left alone to work on the floor. There are also correctional facility films that are provided, new staff members visit the Court facilities. The State mandates a CORE training before the six months probationary employment has expired.

The drug related-offenders total about 25 percent of the population. The current drug/rehab measures that are taken by the facility are:

The DARE Program which schedules tours as a deterrent measure.

Teen Court which is also utilized for the purpose of deterring juveniles from becoming offenders.

The Arnett House schedules tours of its shelter. They also offer the treatment meeting weekly to the residents.

Problem: There is some dependency to detention and there needs to be diverse program facilities. The entire family needs to be included in a diverse program. There is also a limit to the number of individuals the Arnett House can fit as it is only a 20 bed facility.

Problem: Funding is needed for juveniles that are on drugs regarding addressing withdrawals or coping with withdrawals of drugs. The local Marion Citrus Mental Health facility does not provide subsistence in this area and the juveniles that are on drugs are presently sent to the Day Top for counselling. There is a need for a house psychology department. The only placement that is available for juveniles with mental treatment needs is in Lake-Sumter County or in Gainesville. Hernando County does have a substance program, but only a couple of beds are available for out-of-county participants.

The Juvenile Detention Center does involve parents such as dinners scheduled with juveniles, visitation on Wednesday nights and Sunday afternoons. The Phoenix Center which is a separate location gets parents involved, but this is more an aftercare or transition therapy for juveniles. Approximately 25 percent of the juveniles in the Detention Center have visitors come and the juveniles who have children are allowed visitation with their

children at 2:30 P.M. Saturday.

The Juvenile Detention Center is desirous of becoming more open to the public and not as closed to the public input. The Center wants to implement the Big Brother/Sister Program and wants to involve the community. There is a need for a treatment residential facility, the PACE Program needs to be in this Juvenile Detention jurisdiction area and hopefully will be.

We found discipline in the facility. There are alternative disciplinary programs or procedures in the facility in Marion County. They are:

Behavior point systems.

A color code for clothing. A red shirt is worn to denote an infraction of the rules and they cannot participate in any of the programs for 1 to 5 days, depending on the exact nature of the infraction.

There is also a 72 hour confinement room for more serious infractions.

Education: Generally grade level is maintained when possible. Education does include arts and plays. The education program follows the local public school calendar.

Problem: There is a need for more volunteers in the school program. In keeping with some of the female juveniles in the Detention Center their concerns were minor as related to any discrepancy in services available. However, they thought they should be allowed more calls at night, they should have more opportunity to write letters and there is nothing in lieu of letter writing night. They complained their blankets were scratchy, deodorant smelled like alcohol, they only have 15 minutes to eat and there are not enough pillows. The opportunity for girls to get into juvenile diversion programs or transitional programs, rehabilitation programs takes longer than it does for the male juveniles. The girls did state that their residential facility or half way house was good.

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FAWL

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June 11, 1996

The Honorable Winifred J. Sharp
Chairperson
Florida Supreme Court
Gender Bias Study Implementation Commission
300 South Beach Street
Daytona Beach, FL 32114

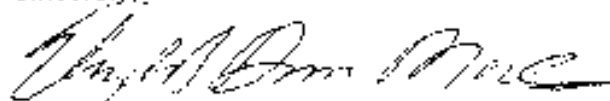
Dear Judge Sharp:

As President of the Dade County Chapter Florida Association for Women Lawyers, I write in support of the continuation of the Florida Supreme Court's Gender Bias Study Implementation Commission ("the Commission"). At a minimum, the Commission should be extended for another two years to continue implementation of the original Report. Its survival is necessary to update data and to continue to survey this pervasive prejudice.

While it may appear that women have made considerable strides in the legal profession, it has been noted that progress has either stagnated or has declined over the past few years. Women are still not on equal footing with their male counterparts in the legal profession. The Commission continuance is critical for the issue of gender bias to remain in focus and so strides which have been made, are not lost.

Thank you for your attention to this matter.

Sincerely,



ELIZABETH ANN MORGAN
President for the Dade County Chapter FAWL



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April 19, 1996

The Honorable Winifred J. Sharp
Chairperson
Florida Supreme Court
Gender Bias Study Implementation Commission
300 South Beach Street
Daytona Beach, FL 32114

Dear Judge Sharp:

As President of the Florida Association for Women Lawyers, I write to offer support for the continuation of the Florida Supreme Court's Gender Bias Study Implementation Commission ("the Commission"). As it has been almost 10 years since the first hearings took place around the state gathering information on gender bias in the judicial system, it would appear that it is now necessary to update that information. Also, while other groups also may chronicle the bias encountered by women law practitioners, it is my understanding that the Commission is broader in scope and gathers necessary information on women litigants, the impact of the law on women in society, women court personnel, etc.

I also write in support of the Commission because of its continuing focus on the issue of gender bias, as gender bias continues to pervade the legal community and community at large. The Commission's work is essential to the status of women in our State, and I strongly urge its continuation.

Thank you for your consideration.

Sincerely,
Tonia Yazgi
TONIA YAZGI
President, FAWL

TY/bdr

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April 11, 1996

The Honorable Winifred J. Sharp
Chairperson
Florida Supreme Court
Gender Bias Study Implementation Commission
300 South Beach Street
Daytona Beach, Florida 32114.

Dear Judge Sharp:

I regret I was unable to meet with you on April 4, 1996. Unfortunately, I did not receive your invitation until the afternoon of April 4, 1996, although your correspondence was dated March 25, 1996. I did speak with Leslie Blau, however, regarding your meeting. Based on my conversation with Leslie and my review a year or so ago of the Results of the 1993 Gender Equality in the Profession Survey, I write to support the continuation of the Florida Supreme Court's Gender Bias Study Implementation Commission ("the Commission"). I understand it has been almost 10 years since the first hearings took place around the state in which information on gender bias in the judicial system was gathered. It would appear that it is time such information was updated. Also, while other groups may chronicle the bias encountered by women law practitioners, the Commission is broader in scope and as such, would gather necessary information on women litigants and women court personnel, as well as the impact of the law on women in society.

Further, while it appears to me that women have made considerable strides in the legal profession, many commentators have noted that progress

The Honorable Winifred J. Sharp

April 11, 1996

Page 2

has either stagnated or has declined over the past few years. Further, as indicated in the Results of the 1993 Gender Equality in the Profession Survey, women are not on equal footing with their male counterparts in the profession. Thus, it would be beneficial to have the Commission continue so that the issue of gender bias remains in focus and so that the strides that have been made are not lost.

Thank you for your consideration.

Very truly yours,

A handwritten signature in cursive script that reads "Teresa Adamson Herrmann". The signature is written in dark ink and is positioned above the printed name.

Teresa Adamson Herrmann

TAH481ng