

# Supreme Court of Mississippi Task Force on Gender Fairness

by Evelyn Gandy,  
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## Executive Summary

Created by Order of the Mississippi Supreme Court in 1998, the Task Force on Gender Fairness in the Courts (hereinafter "Task Force") has worked diligently over the past four years to meet its mandate. Its charge was to determine whether gender bias exists and if such bias exists to offer recommendations designed to reduce and ultimately eliminate any unfairness. Public confidence in the courts turns in large measure on whether the legal process treats people in a just and evenhanded manner.

Fifty volunteers, appointed by the Supreme Court from the ranks of Mississippi retired and former judges, attorneys, court personnel, university faculty, business leaders, and others, have served on the Task Force because of their interest in the improvement of the court system. The Task Force's systematic investigation has included the study of reports from other task forces nationwide, the collection and analysis of current data from multiple sources, and the development of feasible recommendations based on such evidence. As instructed by the Mississippi Supreme Court, the Task Force has sought the opinions and experiences of those within the legal community and those outside. In an effort to gain and document

as full and accurate a view as possible, the Task Force has surveyed judges, attorneys, court personnel, jurors, and the general public, and has held public hearings and solicited written comments. The Task Force believes, therefore, that its findings and its recommendations on the issue of gender fairness in the court system are well-grounded in the contemporary experiences of Mississippians.

The Task Force approached its charge without preconceived notions about the nature and scope of gender bias in the Mississippi court system. As the first step in its investigation, the Task Force drew upon the experiences and reports of task forces in other states and federal circuits to help it understand and frame the issues of gender fairness and unfairness. For purposes of this study, the Task Force defined gender bias in the following way. Gender bias is multidimensional. It encompasses the stereotypes that society has assigned to the behavior of men and women as well as misconceptions relating to the relative values of work of men and women. Unfairness based on gender may manifest itself in multiple forms in the legal system. It may appear in the language of statutes or in the judicial interpreta-

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*Former Lieutenant Governor Evelyn Gandy of Hattiesburg served as Honorary Chair of the Mississippi Supreme Court Task Force on Gender Fairness. Serving as Co-chairs were Deanne M. Mosley with the Attorney General's Office and Amy Whitten, Attorney-at-Law, both from Jackson.*

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tion of those statutes. Gender bias may be intentional or unintentional, overt or subtle. It may be revealed in inequitable salary and benefits packages for those who work in the court system. In interactions between and among judges, attorneys, and court personnel, gender unfairness may surface as insensitive attitudes and disrespectful treatment.

The Task Force modeled its sets of questionnaires, the principal data-gathering technique, after successful ones elsewhere. The Task Force Executive Committee identified the following four broad areas of substantive concern for treatment in the surveys of judges, lawyers, court personnel, and the public: the legal environment, access to justice, domestic and family law, and criminal law. The study process and results are detailed in Section W. Three paramount findings, drawn initially from the surveys of legal professionals and later confirmed by accounts from the public at large, are as follows:

- In general, patterns of gender bias in the Mississippi court system exist but are perceived to be relatively low and non-systemic.
- A majority believes, overall, that a greater measure of unfairness toward women than men exists in the Mississippi court system.
- Perceptions of fairness or unfairness differ significantly between men and women. Women illustrate greater awareness of the core issues. They are much more likely than men to observe and report incidents of biased behavior. Often women see females as targets and males as beneficiaries of prejudicial behavior in the legal process. However, in some instances males are seen as victims of prejudicial behavior.

Other notable aggregate findings, also discussed in Section IV, from the written surveys completed by judges, lawyers, or court personnel and the telephone surveys answered by members of the general public are as follows:

- Most Mississippians have neither witnessed nor heard about incidents of gender bias in the court system,

but, among those who have, most believe that the bias influenced the outcome of the case.

- Strong majorities of Mississippians believe that men and women receive unequal treatment in state courts when it comes to child custody and support awards, and they regard women as the beneficiaries.
- Almost two-thirds of Mississippi judges, lawyers, and court personnel believe that there is unfairness toward women in Mississippi courts and forty-four percent perceive that there is unfairness toward men.
- Almost one-half of female attorneys believe that they were treated in a less dignified or unequal manner, and that such treatment made a difference in their practice of law.
- Almost two-thirds of all attorneys perceive a bias against men complainants at the trial level in matters of alleged domestic abuse.
- Female judges are more likely to believe that male judges and attorneys give one another more respect.
- Forty-six percent of female respondents in the court personnel survey reported that their salaries were negatively influenced by their gender.

Based on the primary and secondary findings arrayed here, and supplemented by those discussed in the Report, the Task Force on Gender Fairness in the Courts respectfully submits to the Mississippi Supreme Court the following set of recommendations designed to reduce, if not eliminate, bias in the administration of justice in the Mississippi legal system.

**RECOMMENDATION:** *To promote public awareness of the Supreme Court's commitment to gender fairness and Canon 3 of the Code of Judicial Conduct, the Court should adopt a specific policy statement declaring that gender bias is unacceptable conduct and encouraging judges not to tolerate*

*such bias. Such a policy statement would be widely distributed to all judges and court personnel and posted conspicuously throughout judicial buildings.*

**RECOMMENDATION:** *To assist in compliance with the Supreme Court's recent amendment of Canon 3 of the Code of Judicial Conduct, the Court should adopt and publish a guide which gives specific direction on the appropriate use of gender neutral communications in courtrooms and support offices of the judiciary. Such a guide would be distributed to all judges and appropriate court personnel and would serve as an educational tool on the use of gender appropriate language in written and oral communications.*

**RECOMMENDATION:** *The Supreme Court should establish a Gender Fairness Implementation Committee to assist the Court in developing the policy and guide mentioned above.*

**RECOMMENDATION:** *The Mississippi Judicial College should intensify its efforts to incorporate components on gender fairness in training programs for all of its constituent groups. The Judicial College should also develop mechanisms to train all court personnel on gender fairness issues.*

**RECOMMENDATION:** *The Mississippi Bar and all other organized bar, legal, and professional associations should develop methods to increase the sensitivity of their members to the issues of gender fairness and to promote efforts to insure fairness in salaries, benefits, and other employment benefits.*

**RECOMMENDATION:** *The Supreme Court should direct appropriate entities to investigate salaries of court personnel to determine whether inequities based on gender exist and, if so, to make recommendations to resolve such inequities.*

**RECOMMENDATION:** *Law schools in Mississippi should include discussions of gender fairness, when appropriate, in classrooms and clinical training programs.*

**RECOMMENDATION:** *The Supreme Court should consider if study is need-*

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*ed in additional areas. Two issues brought to the attention of the Task Force from public input and from surveys of legal professionals are (1) whether racial bias exists in the judicial system; and (2) whether the lack of financial resources impedes access to justice for litigants in Mississippi. In addition, the Court should continue its support of the Access to Justice Summit as it examines financial impediments to the judicial system.*

## Membership of the Task Force

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