

MSBA



*1990 Report
of the
Women in the Legal Profession
Committee*

Minnesota State Bar Association
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MINNESOTA STATE BAR ASSOCIATION

COMMITTEE ON WOMEN IN THE LEGAL PROFESSION

EXECUTIVE SUMMARY
OF THE
COMMITTEE'S REPORT

General Conclusions

There are a variety of significant barriers to the success and satisfaction of women as lawyers. As the number of women lawyers increases, the issues presented by these barriers become more compelling for the profession as a whole. Diversity in the professional population presents a substantial challenge and a substantial opportunity.

Conclusions Related to Economics and Practice Demands

Women lawyers' economic success is negatively affected by gender-based discrimination, by limitations based on gender stereotypes, and by limitations which are the result of conflicting demands in their lives. Compensation, advancement, participation in management, opportunities for client development, and prestige may suffer. As the practice of law becomes more competitive and demanding, such effects may worsen, notwithstanding the existence of laws prohibiting gender discrimination. New approaches to the form and demands of practice can assist women lawyers' success.

Conclusions Related to Parenting and Family Obligations

The legal profession's culture and values, as well as the policies and practices of legal employers, are generally controlled by lawyers who are not primary parents and who do not have sole or primary responsibility for domestic management. The lawyers - mostly women - who do have such responsibilities are not supported or well served by the profession. Their numbers are nevertheless substantial and increasing, and their needs must be better accommodated if the profession is to continue to benefit from their presence.

Conclusions Related to Perceptions and Stereotypes

A variety of stereotypes affect the way that women are perceived and treated by their male colleagues and superiors. The most widespread include the belief that women are less committed to the practice than men, that women are less effective advocates than men, and that women are not effective rainmakers. A perception that the very presence of women in the legal workplace

creates issues and problems may impact how welcome and successful women are.

Conclusions Related to Relationships

Successful relationships with colleagues and clients are essential to the successful integration of women into the legal profession. The social culture of most legal employers has been created by and for men, and may exclude women. Differences in style, interests, and expectations may make it difficult for women and men to develop and maintain collegial relationships. Sexual harassment of women lawyers by other lawyers and by clients is a significant problem. Consensual sexual relationships with colleagues also present special difficulties for women. Mentoring by a senior attorney, which can greatly enhance the chances for professional success, may be less available to women lawyers than it is to their male counterparts.

Conclusions Related to Values

Male and female lawyers may bring significantly different basic value systems to the profession. There is currently much study and debate about the existence and importance of gender-linked values and behavior. The legal profession should stay aware of the issues raised by that study and debate, and should be prepared to recognize and assimilate the effect that "female" values will have on the way law is practiced and on the profession's culture.

Recommendations

To remove or minimize the barriers which impede the professional success and satisfaction of women lawyers,

The Minnesota Supreme Court should:

1. Mandate training to promote understanding of gender-related issues and to promote respect and accommodation of male and female lawyers for each other.
2. Amend the Rules of Professional Conduct to make it an ethical violation if there is a proven violation of:
 - * Laws prohibiting discrimination based on sex in the terms of a lawyer's employment;
 - * Laws prohibiting discrimination due to pregnancy or childbirth;

- * Laws prohibiting sexual harassment.

The Minnesota State Bar Association should:

1. Design affordable training on gender diversity issues, including:
 - * Hiring, compensation, retention, advancement and termination of women lawyers;
 - * Parenting demands;
 - * Perceptions and stereotypes about women lawyers;
 - * Sexual harassment, relationships with clients, mentoring, and workplace social culture;
 - * Gender-based value differences.
2. Survey the Bar on gender issues and publish the results regarding:
 - * Hiring, compensation, retention, advancement and termination of women lawyers;
 - * Perceptions and stereotypes about women lawyers;
 - * The extent of sexual harassment of women lawyers by lawyers and clients;
 - * Mentoring, workplace social culture, consensual sexual relationships, and friendships.
3. Establish a library about gender issues, resources related to child care leave, child care options, and household management services.
4. Establish a permanent committee on Women in the Legal Profession.
5. Provide technical assistance to legal employers about gender issues including:
 - * Equal opportunity and sex discrimination laws;
 - * Pregnancy and childbirth laws;
 - * Sexual harassment policies and procedures.
6. Assist legal employers in self-audits on gender issues.
- ~~7. Monitor legislative proposals affecting parent interest.~~

8. Establish a mentoring program to support less experienced parent lawyers.
9. Educate the public about the abilities of women lawyers.
10. Sponsor opportunities for women lawyers to develop social contacts.

Minnesota law schools should:

1. Require courses on gender diversity issues.
2. Restrict legal employers from campus recruiting if they have been proven to have:
 - * Committed sex discrimination in the employment of a lawyer;
 - * Discriminated based on pregnancy or childbirth;
 - * Violated laws against sexual harassment.
3. Encourage faculty research about gender-based differences between male and female lawyers.

Legal employers should:

1. Require participation of lawyer-employees in gender diversity training, allow time off for training and financially support MSBA training programs.
2. Conduct self-audits of hiring, compensation and advancement practices, and about the existence of stereotypes.
3. Review policies on non-billable activities to ensure reasonableness and appropriateness for both women and men.
4. Involve women in the design of evaluation, compensation and client development programs.
5. Provide at least three months of paid parental leave beyond paid disability leave.
6. Accommodate requests for part-time, flex-time and job sharing arrangements and for flexible partnership tracks.
7. Facilitate working at home through telephone and computer link-up.

8. Consider establishing on-site child care, allow employees to pay for child care with pre-tax dollars, and subsidize long-term work-related travel to limit parent-child separation.
9. Promote a team approach to file management.
10. Facilitate support groups for lawyers with family obligations.
11. Establish mentoring programs and make senior lawyers accountable for establishing and maintaining the programs.
12. Modify social activities so women aren't excluded, include women in the selection of activities, and sponsor events designed to help women develop workplace friendships.
13. Develop policies on sexual harassment and educate all employees about it.
14. Take steps to assure physical safety of female employees.

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INTRODUCTION

This report is the result of two years' work. It responds to the Committee's charge:

To identify and study the issues which affect women lawyers, to report to the bar on those issues, and to make recommendations about what the Bar Association, legal employers, and individual lawyers can do to promote the professional satisfaction of women lawyers.

The Committee believes that it has identified a number - if not all - of the important issues which affect Minnesota's women lawyers and which impact their professional satisfaction. After much reflection and discussion, which is summarized here, we believe we have also identified steps that the profession can take to promote the success and satisfaction of women lawyers. Our recommendations are numerous, and are directed to all segments of the profession. We expect that they will generate discussion and debate. We welcome that, because it will draw much-needed attention to the present and future status of women in the profession. In the final analysis, we recognize that each of us, as individuals and as members of the profession, must become aware of and sensitive to the issues raised by this report.

COMMITTEE HISTORY AND PROCESS

The Committee on Women in the Legal Profession was formed in May of 1988.¹ Its members were selected by the MSBA to represent small and large law firms, corporate legal employers, and public legal employers. Members from Duluth, Rochester, Cambridge, and New Ulm represent outstate lawyers. The membership is approximately half men and half women. It is somewhat representative of various age groups, although a large percentage of the members are between 35 and 45.

The Committee met monthly from June of 1988 through October of 1989. Thereafter, meetings were held biweekly. In addition, eight open meetings were held in various locations around the state.² Written comments from interested lawyers and judges also were received and reviewed.

¹ The Committee wishes to recognize Helen Kelly for her efforts in forming this Committee during her term as MSBA President. It also wishes to recognize MSBA Associate Executive Director Mary Jo Ruff for her helpful support.

² The open meetings were publicized through notices in Finance and Commerce and MSBA publications, and through letters to judges, lawyers, and law firms. They occurred in Owatonna, Fergus Falls, Bemidji, Duluth, twice in Minneapolis, St. Paul, and Marshall.

The Committee relied on the report of the Minnesota Supreme Court Task Force for Gender Fairness in the Courts (September, 1989), and the report of the recent Minnesota Women Lawyers survey, "The Career Paths of Minnesota Law School Graduates" (September, 1989). Relevant results from these studies were relied upon in forming our conclusions and recommendations. The Committee also reviewed and drew ideas and information from a large number of articles, studies, and other resource materials. In large part we were our own best source of information. We believe we are reasonably representative of the Minnesota Bar, and are, therefore, willing to reach conclusions and formulate recommendations in some areas notwithstanding the lack of conclusive "statistical" information about the attitudes, beliefs, and concerns of the men and women who make up the Bar.

As we began to identify problems and solutions affecting women lawyers, we became acutely aware of the fact that these problems and solutions are different for different segments of the profession. We have tried to avoid, for example, focusing only on problems of and solutions for large Twin Cities law firms. We have recognized, and we hope reflected in this report, the wide variety of circumstances in which lawyers are employed. We believe that our recommendations can, with appropriate modifications, be implemented profession-wide.

The conclusions and recommendations which follow represent the consensus of the Committee members.

SECTION I.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

Women are entering the legal profession in increasing numbers. In 1970, they comprised less than 5% of practicing lawyers. By 1988, that percentage had increased to 20%. Today, 40% of law school graduates are female.³ That much change, occurring that quickly, must have a profound effect on a profession which, until very recently, has been predominantly populated by men. Our profession's culture, structure, and attitudes were developed by men, in an era when most of the work force was male, when dual-career families were the exception rather than the rule, and when society's expectations for men and women were clearly defined. As the demographics of the profession change, its culture, structure, and attitudes should change as well.

Male lawyers face the reality of increasing gender diversity in their professional lives. Female lawyers face the reality that

³ Report of the American Bar Association Commission on Women in the Profession, p.5., August, 1988.

among their colleagues and clients, men will remain in the majority and will - if only by virtue of their seniority - retain most of the power for some time to come. Moreover, all lawyers face the reality of increasing economic pressures, client demands, and competition. We will all benefit if we are not distracted from our work by problems related to gender differences. We will all benefit if we learn to turn our profession's new diversity into strength. That can best be done if male and female lawyers make an effort to learn about, acknowledge, and accommodate their differences and their similarities in professional settings.

Recommendations

The Committee generally recommends that:

The Minnesota Supreme Court mandate training for lawyers designed to promote the best possible understanding of gender-related issues that affect the profession, and to promote respect and accommodation of and by male and female lawyers for each other.

The Minnesota State Bar Association develop such training and provide it at the minimum possible charge to all Minnesota lawyers.

The Minnesota State Bar Association undertake regular surveys of Minnesota lawyers on gender-related issues, and publish results of those surveys to the Bar.

The Minnesota State Bar Association compile a library and other resources related to gender issues that are readily accessible to legal employers and lawyers statewide, and provide staff and technical assistance to legal employers and lawyers dealing with gender issues.

The Minnesota State Bar Association establish a permanent Committee on Women in the Legal Profession, and charge that Committee with:

- implementation of the recommendations of this report;
- ongoing study of gender issues in the Minnesota Bar; and
- providing lawyers with a forum for expressing concerns and complaints which are gender-related.

Minnesota law schools develop and require course work on gender diversity issues as a condition of graduation.

Legal employers support gender diversity training by requiring the participation of lawyer-employees and allowing time off for attendance at training sessions, and through financial support of the MSBA training effort.

SECTION II.

ECONOMICS AND PRACTICE DEMANDS

Women have established themselves in every category and area of practice. Historically, however, attitudes or beliefs have existed that the practice of law in general, and certain specific categories of practice, are most appropriate for and best handled by men. Persons of a stereotypically "male" aggressive, combative nature or personality have been thought best suited for certain legal work. The success of women in all areas of practice has shown the error of such beliefs.

It has also been assumed that clients (or others working with attorneys) would not accept the advice or work of women lawyers, particularly in certain categories or areas of practice. In conflict with this assumption is the fact that women have reported satisfaction equal to or greater than that experienced by male lawyers in their dealings with clients (Minnesota Women Lawyers report ("MWL"), Figure 3.21).

In response to societal pressure and through the adoption of formal policies, larger law firms, corporations, and government have in some cases removed or reduced the institutional barriers which have deterred women from practicing law or practicing in particular areas. Nevertheless, it appears that individual attitudes still exist which are resistant to full acceptance of women in the practice. As a result, the implementation of well-intended policies is not always complete, and disparate treatment of women lawyers still occurs. The discrimination experienced by women lawyers is not so much in hiring as in work assignments, evaluations, compensation, and terms and conditions of employment.

Practice Demands

The time and energy required by the needs of children, family, and relationships, and the emotional burden our culture places on women to fulfill those needs, create demands that are greater for women lawyers than for men. Nevertheless, women and men face comparable demands at work. Conflicts between work, married life, and parenting are reported more extensively by women than men. (MWL, Figures 4.6 and 4.7).

The practice of law requires substantial time and energy beyond the doing of legal work. Some "practice demands" are unique to the private practice of law, but lawyers in a corporate law department or government legal department face similar responsibilities. Among such practice demands are the production of a base or minimum number of billable hours of work, client development, community service, Bar Association activities, office

management functions, continuing legal education, specialization activities, mentoring or training of other attorneys, and collegial activities with coworkers.

These practice demands tend to increase the time and energy required for each lawyer's practice. As associate salaries and operating costs have risen, the expected number of billable hours in most firms appears also to have risen. At the same time, compulsory continuing legal education and community involvement demand more time. The response of each lawyer to these practice demands affects compensation and advancement to partnership or senior staff positions.

The response of each lawyer to practice demands may be seen by decision-makers as a measure of his or her willingness to make a commitment to the practice of law, yet women lawyers constrained by family obligations may not have time and energy readily available to meet these demands.

The demands and stress of marketing and client development, which are significant for all lawyers in private practice, may be particularly stressful for women. Women may have fewer contacts among primarily male executives and corporate counsel who provide business. Women may be uncomfortable with or uninterested in some typical firm-approved client development activities, such as sports-related events or after-hours socializing. In some communities, organizations which are sources of business and client contacts may be male dominated or may even exclude women.

Because the practice of law involves a combination of professional and business efforts, it appears impossible to avoid these practice demands. It should, however, be possible to adjust practice demands so that they do not apply unequally to men and women, do not restrict the professional advancement of women or of lawyers with primary parenting responsibilities, do not unfairly affect compensation of women, and do not require rejection by women of certain types of law practice.

Compensation

Civil rights laws have reduced overt discrimination in hiring women lawyers and in initial compensation. To the extent that the average entry pay of women lawyers is lower than that of men, it may be explained by the greater number of women who begin their careers in corporate, government, and public service positions (MWL, Figures 4.2 and 3.1). The progress of women attorneys during their professional careers is a different story. Over time women lawyers have fallen significantly behind their male counterparts in compensation (MWL, Figures 4.1 and 4.2 and Report of the ABA Commission on Women in the Profession ("ABA") p. 5). No valid reason for this disparity appears in the data collected to date.

In Minnesota, the level of compensation for women lawyers who graduated between 1975 and 1985 is lower than that of their male counterparts (MWL, Figure 4.2). The nature of their employment does not justify the difference. The percentage of women with annual compensation at the upper levels in every category - solo practice, law firms, government, corporations, and non-legal business/management - is lower than that of men. This disparity in compensation is not explained by reference to the lower average longevity of women in practice. (MWL, Figure 4.1)

Despite the increased number of women lawyers and the success of individual women lawyers in all areas and categories of practice, women lawyers have advanced to partnership and senior attorney status in lesser numbers and at a slower pace on the average than their male counterparts (ABA p. 5; MWL 4.2). The survey data and studies have not been refined sufficiently to establish or quantify the cause.

These disparities may be the result of a number of factors, including discrimination. If women lawyers are directed or forced to particular practice areas by stereotypical preconceptions about the type of work they can best do, their compensation may be adversely affected over time. Other factors may be disparities in mentoring, evaluation, and work conditions.

The data do not support the preconception that lower compensation of women is justified based on absences from or restrictions on practice due to childbirth and child care. Male lawyers are more likely than females to be parents (62% v. 50%) (MWL, Figure 4.5). Only half of the women lawyers who are parents (25% of all women lawyers) have taken maternity leave. Of the women who have taken maternity leave, only 3% took a leave of more than six months, and only 31% took leave in excess of three months (MWL, Figure 4.9). Overall, less than 8% of all women lawyers have taken a parenting leave of more than three months.

Undue attention to short-term absences for maternity leave or other family reasons, and resulting adverse compensation decisions, may be a source of disparate pay levels. It also may be that legal employers expect female lawyers who experience family-related absences or restrictions on practice activities to accept lower compensation, while absences or restrictions on the practice of male lawyers may not be similarly viewed. Compensation decisions may also be affected by management's perception of a married woman's income as secondary or supplementary to her husband's.

Benefit programs, especially those designed years ago, may be tailored to the needs of a male attorney whose spouse is engaged full-time in care of the family, rather than serving the needs of a single person or two-income household. Such benefits are an important part of lawyers' compensation, affect professional

satisfaction and success, and should be equally beneficial to all who receive them.

Part-time and Other Non-Traditional Work Formats

The practice of law has traditionally been thought to require full-time employment and a total commitment of a person's energy and resources. At the same time, women have traditionally been seen as the primary providers of child care and have borne primary responsibility for the maintenance of family and other personal relationships. Because the primary burden of child care will rest upon women until societal changes occur, most women lawyers with children are faced with unavoidable restrictions on the time available for the practice of law.

Other professions, as well as a few legal employers, have demonstrated that part-time employment can be productive and valuable. Part-time employees provide expertise and focused attention. Cultural and lifestyle changes, adjustments in business and legal practice, and changes in attitudes have increased the need for part-time or adjusted practice arrangements and have made them more practicable. Nevertheless, the number of legal employers who have made part-time options available is very small.

The employment of lawyers on a part-time basis requires flexible decision-making with respect to compensation, benefits, support facilities, practice management, and business development. Opportunities for advancement should not be impaired by part-time or flexible schedules. Creativity and commitment on the part of both employer and employee can increase the options for those who are not in a position to practice full time.

Economics of Leave and Other Restrictions on Practice

Absences and restrictions on practice are experienced by both male and female lawyers. Reasons include childbirth, child care obligations, illness or injury, drug or alcohol treatment, personal or family counseling, lifestyle decisions, participation in other business ventures, and devotion to political activities. Practice activities may be reduced by senior attorneys approaching retirement. As a general rule, short-term absences do not alter a lawyer's compensation or advancement. In many cases, policies or practices on short-term absences are not formalized. This may result in women lawyers being treated differently than their similarly situated male colleagues.

Women lawyers are more likely than men to request leave from work due to childbirth, child care, and other family demands. Short-term absences or other practice restrictions must, by law, be dealt with in the same way for male and female attorneys.

Legal employers may not adequately discuss and explicate leave policies. Those policies of necessity must be sufficiently flexible to deal with individual situations. Issues to be resolved in developing leave policies include arrangements for absences or restrictions on practice, and the effect of the absence on compensation, benefits, advancement, continuing legal education, and malpractice insurance.

Advancement and Professional Prestige

To a large degree, the monetary success of a person's legal career is driven by the actual or perceived power and prestige of that person. Women advance more slowly than their male counterparts, and achieve management positions less readily (MWL, Figure 4.2).

Whether this situation results from discrimination, lifestyle choices, the effect of family demands, long-term cultural forces, or other causes is uncertain. In survey data, a significant percentage of women attorneys report having been discriminated against on the basis of sex, marital status, and having children. The discrimination reported is primarily in work assignments, pay, and sexual harassment (MWL, Figures 4.14 and 4.15). That such discrimination affects the money, power, and prestige which shapes the economics of law practice seems obvious, but the data do not yet quantify the extent of impact.

The available survey data reflect no marked difference between the number of men and women expressing dissatisfaction with or leaving the practice of law for economic reasons. However, more women than men cite family reasons as being behind their decision to leave the practice of law.

The professional success and satisfaction of women lawyers cannot be fully realized until women are evaluated, compensated, and advanced without regard to their gender. The profession, and legal employers, cannot fully realize the benefit of the skills and talents of women lawyers until creative and flexible approaches to the demands of the practice are developed. In that way it will be possible for those with family obligations to be successful.

Recommendations

In the area of economics and practice demands, the Committee recommends that:

The Minnesota Supreme Court amend the Rules of Professional Conduct to make a proven violation of federal, state, or local laws

prohibiting discrimination based on sex in the terms and conditions of a lawyer's employment an ethical violation.^{4 5}

The Minnesota State Bar Association study, monitor, and report to the Bar annually on the hiring, compensation, retention, advancement, and termination of women lawyers.

The Minnesota State Bar Association use the results of its study of hiring, compensation, retention, advancement, and termination of women lawyers in designing training on gender diversity issues for lawyers (see Section I, above).

The Minnesota State Bar Association provide information and technical assistance to legal employers concerning equal employment opportunity and sex discrimination related to compensation, evaluation, advancement, and retention.

The Minnesota State Bar Association encourage and assist legal employers in conducting periodic self-analyses of hiring, compensation, retention, advancement, and termination practices affecting women lawyers.

Minnesota law schools restrict legal employers, proven to have committed sex discrimination in the terms and conditions of employment of a lawyer, from recruiting on their campuses for a period of time appropriate to the severity of the violation.

Legal employers conduct and internally disseminate the results of periodic self-analyses of hiring, compensation, retention, advancement, and termination practices affecting women lawyers (see Appendix 1, Self-Audit & Checklist).

Legal employers review their expectations and policies with respect to "non-billable" productive activities, and ensure that those expectations and demands are a) reasonable for lawyers with family obligations, and b) accessible and appropriate for both women and men.

⁴ The Committee wishes to stress that it considers discrimination based on race, religion, age, disability, or other protected class status to be just as serious as sex discrimination. These recommendations deal only with sex discrimination because of the nature of the Committee's charge.

⁵ The Committee is aware that another MSBA Committee has been formed to consider the addition of discrimination-related prohibitions to the Rules of Professional Conduct, and believes it appropriate that this recommendation be referred to that Committee.

Legal employers endeavor to involve women in the design and selection of evaluation, compensation, and benefits programs and in the selection of client development activities.

SECTION III.

PARENTING AND FAMILY OBLIGATIONS

The conflicting demands of family and the practice of law can have a profound impact on the professional satisfaction and success of women lawyers. While the primary focus of this section of the report is on parenting, we recognize that family obligations may be much broader, and we believe that both discussion of the issues and implementation of recommendations should reflect that breadth.

Most women lawyers will enter the workplace during childbearing years. The majority of those with children are part of a dual-career couple or are single parents, and thus do not have a partner whose primary job is full-time management of family obligations. Most attorneys in management and policy making roles, however, have (or had when their children were young) a spouse whose primary job is parenting and who manages family obligations.

Mothers shoulder the burden of most family obligations, although the increase in dual-career families is expanding the participation of fathers. For now, the demands of balancing career and family affect the professional obligations and satisfaction of more women than men. Women assume the burden of family obligations because our culture expects it and has traditionally limited the options available to most men to participate. Nevertheless, family obligations, including child rearing, are societal interests rather than just female interests.

In our profession, parenting and family obligations have not been widely viewed as legitimate and compelling activities for lawyers by lawyers and the clients they serve. In fact, acknowledged, active involvement in meeting family obligations is perceived to diminish one's commitment to the legal profession, and lack of full-time commitment to the legal profession is perceived to mean a lack of ability and professionalism.

Family obligations have a natural tension with the profession's increased focus on marketing, rainmaking, and increased billable hours.

Among the daily or regular demands on parent lawyers are the following:

- daily child care;
- sick child care;
- doctor/dental appointments;
- planning participation in sporting, recreational, social, and family events;
- school events;
- purchase of food, household, and personal items;
- meal planning and preparation;
- homework/school projects;
- bathing/bedtime routine;
- transportation to daycare, school, lessons, and recreational and after-school activities; and
- home maintenance, including laundry, housekeeping and cleaning.

Parenting and family obligations are demanding and stressful, but are also extremely important to individual families and to society as a whole. Parent lawyers who attempt to meet both professional and family demands increasingly feel that family time, including time with their children, is less satisfactory, more task-oriented, and more stressful than it should be. Parenting should include time to do things for children, and time to do things with children.

Time off work for maternity or child care leave is not a vacation. Child care and parenting involve long-term demands that are not resolved by short-term maternity or child care leave.

Parenting obligations extend far beyond finding a place to house and/or educate children during the work day. Child care problems affect a broad range of business and management concerns, including turnover, absenteeism, billable hours and productivity, employee morale, public relations, and recruitment. On-site or convenient child care can improve productivity, although it may create unrealistic expectations for the employer and the lawyer about extended hours of availability for work.

Lawyers with parenting and family obligations who choose to make a full-time commitment to the practice need more support. The profession will benefit from increased accommodation of lawyers with parenting and family obligations through retention

of talented parent lawyers, higher job satisfaction, better job performance, and improved recruitment of top female prospects.

Legal employers in Minnesota have established part-time, flextime, and job-sharing programs for attorneys which, although limited in number, have been successful. High quality legal work can result from a less than full-time commitment to the law.

Recommendations

In the area of parenting and family obligations, the Committee recommends that:

The Minnesota Supreme Court amend the Rules of Professional Conduct to make a legal employer's proven violation of federal, state, or local laws prohibiting discrimination on account of pregnancy or childbirth an ethical violation.⁶

The Minnesota State Bar Association incorporate information on the demands of parenting and family obligations into its training on gender diversity issues for lawyers (see Section I, above).

The Minnesota State Bar Association provide information and technical assistance to legal employers concerning legal constraints on employer practices related to pregnancy and childbirth, and concerning the development of lawful and supportive leave and benefits policies.

The Minnesota State Bar Association establish a library and computerized data base to assist both law firms and individual lawyers in finding resources related to:

- a. maternity/child care leaves;
- b. on-site and co-operative child care centers;
- c. reliable child care in the community;
- d. contact with parents' organizations and employers in the community for information on child care services and facilities and "nanny sharing";
- e. household and home management services; and
- f. hiring in-home child care, including a package of information that describes requirements for withholding taxes, paying for worker's compensation, etc.

⁶ See footnotes 4 and 5, above

The Minnesota State Bar Association serve as a resource for firms and individuals in the above areas, and in monitoring legislative proposals affecting parent interests.

The Minnesota State Bar Association establish a mentoring program to provide personal support and encouragement to less experienced parent lawyers.

Minnesota law schools restrict legal employers, proven to have committed a violation of laws prohibiting discrimination based on pregnancy or childbirth in the employment of a lawyer, from recruiting on their campuses for a period of time appropriate to the severity of the violation.

Legal employers accommodate a broad range of requests for parental leaves as required by law and, to the fullest extent possible for the employer, provide a minimum paid period of three months of parental leave beyond any period of paid disability leave.

Legal employers accommodate requests to work part-time on a contract, salaried, or hourly basis, and for flex-time and job sharing, including individualized and flexible practice plans and partnership tracks.

Legal employers facilitate working at home through telephone and computer link up.

Legal employers, individually or as a collective effort of similarly located employers, consider establishment of a child care facility at the workplace or in close proximity to it. Such child care facilities should not, however, become a vehicle for increasing the demands on parent-lawyers' time.

Legal employers set up a plan which permits employees to pay for child care with pre-tax dollars.

Legal employers subsidize travel for either the parent-lawyer or the children of the lawyer who is required to engage in long-term travel, so that there will not be long periods of enforced separation.

Legal employers promote a team approach to file management, to increase lawyers' flexibility in meeting both family demands and professional demands.

Legal employers encourage or facilitate participation in formal or informal support groups composed of lawyers with significant family obligations.

SECTION IV.

PERCEPTIONS AND STEREOTYPES

Although women are relatively new to the legal profession, they live with some very old stereotypes. Today's professional culture developed in an era when most lawyers were male, were the sole breadwinners, and had a wife at home. This culture clashes with the present environment in which men and women take on a multiplicity of roles.

The stereotypes which affect women lawyers, like all stereotypes, are dysfunctional and inefficient. They encourage people to judge according to presumed, group characteristics rather than according to actual, individual traits. They result in misjudgment, misinformation, and unfair conduct. They affect our perceptions because they establish expectations through which our vision is filtered. Freedom from stereotypes requires placing value on the experiences of others, understanding the benefit of diverse experiences, and realizing that every individual's experience frames his or her responses and conduct.

The Committee has heard repeatedly about a number of stereotypes associated with women lawyers.

Women lawyers are sometimes perceived as more sensitive and more emotional than their male counterparts, and as less likely than men to be aggressive advocates. They may be viewed as less competitive, less combative, and more soft spoken. Women lawyers may be perceived by some as more suited to family law, probate, public sector work, legal aid, or work in a corporation. There is a belief held by some that women are not capable, or are less capable than men, of being rainmakers. Women are also perceived to be unable to lead or manage other lawyers as effectively as men. These perceptions and stereotypes may lead to the conclusion that women are less talented and capable as lawyers than their male counterparts.

The Committee has heard the belief that women are not fully committed to the practice of law because of their interest in personal and family matters, and that women are not good long-term investments because they are more likely than men to leave the employer or the practice for personal reasons. Some also believe that once a woman has a child she is no longer serious about work. These perceptions may lead to the conclusion that women respond to family concerns first, and to career concerns second, and are, therefore, not sufficiently dedicated to the profession.

The status of women in the profession is also affected by the belief that some clients will not accept or be comfortable with a woman lawyer.

There is a perception, held by some managers of firms and legal employers, that women attorneys create administrative problems because their very presence brings up issues of parenting leave, sexual harassment, etc. Managers and lawyers in general may assume that any discussion of parenting, for example, is solely a discussion of women's concerns or complaints.

Assertive women may be criticized for being abrasive and hard to deal with, while assertiveness is valued in a man. A woman's quiet or conciliatory manner may be criticized as weakness, while the same manner in a man may simply be seen as a more "laid back" style.

Stereotypical views may cause women to be treated differently than men in their dealings with the Minnesota court system. (See The Report of the Minnesota Supreme Court Task Force on Gender Fairness in the Courts, September, 1989.) Stereotypes appear, further, to be a factor that affects subjective evaluation criteria and may contribute to differential compensation and advancement practices.

Recommendations

In the area of perceptions and stereotypes, the Committee recommends that:

The Minnesota State Bar Association promptly conduct a survey and study of the attitudes, perceptions, and stereotypes of members of the Bar concerning women lawyers, and publish the results of that survey and study to all Minnesota lawyers.

The Minnesota State Bar Association use the results of its survey and study on attitudes, perceptions, and stereotypes in designing training on gender diversity issues for lawyers (see Section I, above).

The Minnesota State Bar Association design and disseminate public information designed to educate the public about the abilities and accomplishments of women lawyers.

The Minnesota State Bar Association encourage and assist legal employers in conducting periodic self analyses of the existence and effect of perceptions and stereotypes about women lawyers.

Legal employers conduct and internally disseminate the results of periodic self analyses of the existence and effect of perceptions and stereotypes about women lawyers with the goal of eliminating gender stereotyping. (See Appendix 1, Self-Audit and Checklist.)

SECTION V.

RELATIONSHIPS

As women lawyers integrate the profession, the challenges they face include the need to establish and maintain good relationships with colleagues and clients.

Mentoring

Although blatant acts of discrimination are less common to the profession than they once were, there are a number of more subtle obstacles which negatively impact the professional advancement and satisfaction of women lawyers. One such obstacle is the difficulty many women lawyers have in finding a mentor able to guide and assist their advancement.

A mentor can be an invaluable source of guidance to an attorney beginning his or her career. By offering information on procedures and policies, practical experience, an understanding of workplace politics, and exposure to senior colleagues, the mentor can substantially assist a lawyer's assimilation. To the extent that a mentor has control over work assignments and client contacts, he or she can very directly affect the evaluation, advancement, and compensation of the mentee.

The women lawyers who do have mentors are, most often, mentored by males. This is in part because there are relatively few women lawyers with sufficient seniority to be effective mentors. Beyond that, some writers have suggested that senior women may be reluctant to take on the job of mentoring their junior female colleagues. The reasons for this are unclear but may include the number and variety of demands on senior women. Whatever the reason, the result is that most junior women lawyers are mentored, if at all, by senior males with whom they may share few interests.

The senior male-junior female mentoring relationship may create a number of gender-related problems. Most of us seek out and are most comfortable with those who are most like us, and that natural selection may not operate in such a relationship. It may be difficult for a senior male to recognize or identify with the problems, achievements, or potential of someone very unlike he was as a young lawyer. It may be difficult for the mentor and mentee to find common interests beyond work. Even the best relationships may be plagued by the perception of sexual involvement. The fear of that perception in itself has a chilling effect.

Despite these concerns, if women lawyers are to enjoy the same opportunities for advancement and professional growth that their male counterparts enjoy, they must have equal access to their

senior colleagues. If that does not occur naturally and readily in the workplace, structured mentoring programs may provide the only access. They must, therefore, operate without gender bias and in a manner likely to enhance the professional growth of women lawyers.

Friendships and Social Culture

Attorneys spend most of their waking hours with their colleagues, at work or in work-related activities. The friendships that develop between lawyers can be a source of great satisfaction. The lack of such friendships can be very painful, no matter how well the rest of the lawyer's career is going. Just "fitting in"--that is, being accepted in and feeling comfortable in the work environment--can be a very important source of comfort and satisfaction. Not fitting in denies a lawyer that comfort. It can be a constant source of dissatisfaction and can hinder advancement.

Many women lawyers report that they do not feel that they fit in the culture of their workplace. Some report difficulty in establishing or maintaining friendships with their male colleagues.

The social culture of a workplace is the result of many factors, but is largely a reflection of the values, styles, and interests of its population. The social customs and traditions of the legal workplace were developed at a time when all those responsible for it were male. Women lawyers in such an environment may be forced to choose between equally unacceptable alternatives; either they must participate in activities and conversations with which they are not comfortable, or they must leave themselves out of an important part of their jobs. If they complain or seek to change the activities or conversations, they may face resentment or be accused of overreaching.

Differences in the styles, values, and perceptions of male and female attorneys may contribute to the difficulty some women lawyers have finding and keeping friends among their colleagues. Men and women may have markedly different outside interests and commitments. Even when shared interests and similar outlooks exist, men and women may have different expectations about what their friendships can or should provide. Women may expect more emotional intimacy and more discussion of personal matters than their male colleagues. Male lawyers may find that their style of interaction, while quite acceptable to their male colleagues, is considered impersonal or otherwise inappropriate by their female colleagues.

As with mentoring relationships, friendships between men and women in the workplace may be perceived as sexual relationships. Fear of that perception, or of having one's intentions

misunderstood by one's colleague, may hinder friendships and may reduce participation in social activities.

Women lawyers greatly value the friendship of other women lawyers. It is not unusual, however, for women to be isolated in their workplace or by geography. Women outside the Twin Cities are particularly affected by such isolation. As the numbers of women in the profession increase, those friendships will be easier to find.

Relationships with Clients

Whether in private practice, public service, or a corporation, the lawyer-client relationship dominates lawyers' professional lives and may substantially determine their success. All lawyers must cope with demanding or difficult clients from time to time, and all lawyers must learn to maintain their professional integrity without regard to the friendship or the animosity they may feel toward a client.

Male and female lawyers can experience problems in dealing with clients who are sexually attractive or attracted to them. For women, who may already be unsure of their acceptance as competent professionals, the added complication of sexual interest can be extremely distracting and not easily overcome.

In January 1990, Minnesota became the first state in the nation to create an ethical prohibition against sexual harassment of clients by lawyers.⁷ It has long been recognized, in Minnesota and elsewhere, that even consensual sexual relationships between lawyers and their clients can be unethical under certain circumstances, particularly where (as in a contested custody-marriage dissolution matter) that relationship may effect a pending legal proceeding.

⁷ Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

* * * (g) harass a person on the basis of sex, race, age, creed, relation, color, national origin, disability, sexual preference or marital status in connection with a lawyer's professional activities.

Minnesota Rules of Professional Conduct, amended as of January 1, 1990.

Very little has been written from the perspective of the lawyer, however, on the subject of sexual harassment or sexual advances by clients, or consensual sexual relations with clients. That behavior may create problems requiring the balancing of ethical obligations, economic pressures, professionalism, and personal rights. There is not and probably never will be any formula for dealing with problems in this area, but there appears to be a significant need to increase awareness and sensitivity to the problems that do arise.

Sexual harassment of women lawyers by clients appears to occur with some frequency. Young women lawyers are the most common, though not the only, targets. Most lawyers who encounter sexual harassment find it extremely stressful and difficult to respond negatively without offending the client or affecting their work assignment. Lawyers who are offended by the sexual remarks or jokes of their clients generally suffer in silence, because they do not want to risk alienating the clients. Notwithstanding societal changes and educational efforts, such situations are not likely to stop occurring, and lawyers are likely to continue to subjugate their feelings in an effort to keep the client happy.

The support and positive intervention of managers and colleagues are the most effective means of minimizing the impact of clients' inappropriate behavior. Sensitivity to the issue is an important first step. If there is reasonable suspicion that a client has requested the assignment of a lawyer to a file because that lawyer is sexually attractive, the employer can take appropriate action to prevent harassment. Possibilities for action include talking with the lawyer before making the assignment, talking with the client about the professional nature of the relationship, or, in cases of serious risk, refusing to make the assignment. The decision to decline to make an assignment raises a concern about interference with a lawyer's career development through misguided overprotection. The laudable goal of taking necessary steps to prevent sexual harassment should not serve as a pretext for limiting meaningful client contact.

Harassment is most likely to occur after a lawyer has been assigned to a matter. It is important that a lawyer who has been the subject of sexual harassment or unwanted sexual advances be able to discuss or complain about that conduct in a supportive atmosphere that includes appropriate management response. In serious cases, that response might include termination of the attorney-client relationship.

The ethics of the legal profession require independent professional judgment. Lawyers have a duty to avoid conflicts between their personal lives and their professional responsibilities. Some conflicts are easy to resolve. It is never appropriate for a lawyer representing a client in a marriage dissolution action to have any form of sexual contact with the

client. It is, however, perfectly appropriate to handle a routine real estate transaction for a spouse or someone with whom the lawyer has a sexual relationship. In all cases, the lawyer should determine whether there is any ethical conflict or appearance of impropriety.

Consensual Sexual Relationships with Colleagues

As the number of women in the profession increases, the stage is set for men and women attorneys to be in close daily contact and to develop common concerns and interests. As work days get longer and work demands increase, other aspects of life may be slighted or excluded. Travel presents unusual situations and opportunities. The workplace may be the single most important source of a busy professional's social contacts. In these circumstances, it is not unusual for consensual sexual relationships to develop.

Romantic and sexual relationships in the workplace are not a new phenomenon and are not in any sense unique to the legal profession. Their effects--both positive and negative--are not limited to women lawyers. They can, however, further complicate the already difficult situation of a woman trying to succeed and be accepted as a professional in a predominantly male environment.

Because most (but certainly not all) consensual relationships occur between more institutionally powerful males and less senior, less influential females, actual or perceived favoritism may be an important negative result. The woman involved may be perceived to be "sleeping her way to the top," while the man may be seen as exploitive. The work performance of the woman may not be objectively appraised by colleagues or superiors. It almost certainly will not be objectively appraised by the other person in the relationship. If and when the relationship sours, the woman may fear or actually suffer repercussions. If one party to the relationship attempts to continue it when the other party wishes to end it, sexual harassment may occur regardless of the relative power and seniority of the two lawyers.

To the extent that a consensual relationship between workplace colleagues is known to others, it may result in an inappropriate emphasis on the sexuality or sexual identity of the lawyers involved. Because our society still tends to have a double standard for men and women, a woman lawyer's reputation and professional identity may be significantly harmed.

It appears that relatively few legal employers have a policy which restricts dating or marriage of employees. Minnesota law prohibits discrimination based on marital status in employment.⁸

⁸ Minn. Stat. § 363.03, subd. 1

With few exceptions, a policy restricting the hiring or continued employment of spouses would violate the law. Policies against dating, while not unlawful, are unlikely to be effective.

Successful consensual relationships between colleagues are possible. Unsuccessful relationships, however - those that end badly, impede objective evaluation, turn into sexual harassment, or result in women being thought of in sexual terms rather than as professionals - can negatively impact the success and professional satisfaction of women lawyers.

Sexual Harassment

Sexual harassment is a form of sex discrimination prohibited by federal and Minnesota law as well as by the civil rights ordinances of various Minnesota communities.⁹ It is a serious issue of ethics as well. Harassment can cause substantial emotional and psychological damage to its victims. The effects of harassment can diminish a lawyer's self-image, self-confidence, and ability to practice law effectively.

Sexual harassment takes two basic forms. The victim may be expected to grant sexual favors or to submit to unwanted sexual conduct in order to get or keep a job or to avoid negative employment decisions. Alternatively, the victim may be expected to tolerate an environment made offensive by unwanted sexual conduct or communications. This may include offensive remarks, gestures or touching, sexual innuendo or jokes, or display of sexually-oriented pictures or objects.

Employers may be liable for the sexually harassing conduct of managerial or supervisory employees, even if the employer had no notice of such behavior. Employers are also liable for sexual harassment between peers when the employer knows or should know of the harassment. Employers may also be liable for the offensive conduct of non-employees if the employer has notice of the conduct and fails to take appropriate responsive action. Individual perpetrators of harassment may be held personally liable, including managers or supervisors who know of harassment and fail to act effectively to stop it.

Though the law of harassment focuses on liability through the employment relationship, the Bar must recognize this problem as an ethical issue as well. Harassment of lawyers in courtrooms by judges, court employees, or other lawyers may not be legally actionable under anti-discrimination laws, but it is ethically

⁹ 42 USC §§ 2000e; Minn. Stat. § 363.03, subd. 1; Mpls. Code of Ordinances Title 7, Ch. 139, 141; St. Paul Legislative Code, Ch. 183.

reprehensible. Such behavior undermines the lawyer's ability to practice and denies litigants fair access to the judicial process.

Physical Safety

The Committee heard and discussed concerns that many women lawyers have about their physical safety when working alone, working late, traveling, meeting strangers in hotels or other non-office locations, and traveling to and from their cars. These concerns appear to be shared by most women, regardless of their occupation, but may not be recognized or well understood by men. Concern about physical safety can be a significant distraction from work. It can also be a significant source of tension, anger, and general dissatisfaction.

Recommendations

In the area of relationships, the Committee recommends that:

The Minnesota Supreme Court amend the Rules of Professional Conduct to make a proven violation of federal, state, or local laws prohibiting sexual harassment, or proven conduct of an individual lawyer which is defined as sexual harassment by federal, state or local law, an ethical violation.¹⁰

The Minnesota State Bar Association survey the Bar and legal employers to determine attitudes and practices concerning mentoring, workplace social culture, consensual sexual relationships, and workplace friendships, and report the results of the survey to the Bar.

The Minnesota State Bar Association conduct a survey, and such other studies as may be necessary, to determine the extent and nature of sexual harassment of women lawyers by lawyers, clients, and others, and report the results to the Bar.

The Minnesota State Bar Association incorporate the subjects of sexual harassment, relationships with clients, consensual relationships between colleagues, workplace social culture, and mentoring into its training on gender diversity for lawyers. (See Section I above.)

The Minnesota State Bar Association provide information and technical assistance to legal employers concerning sexual harassment, including policy development and complaint investigation procedures.

¹⁰ See footnotes 4 and 5, above.

The Minnesota State Bar Association encourage, sponsor, and support opportunities for women lawyers to develop social contacts and professional support groups.

Minnesota law schools restrict legal employers, proven to have violated laws against sexual harassment, from recruiting on their campuses for a period of time appropriate to the severity of the violation.

Legal employers establish mentoring programs which assure that women lawyers have equal access to mentors, and which require periodic reporting by the mentor of contacts with his or her mentee.

Legal employers make senior lawyers accountable for establishing and maintaining mentoring relationships by relating mentoring activities and reporting to compensation.

Legal employers examine and, if necessary, modify employer-sponsored activities to assure that women lawyers are not excluded or discouraged from participation.

Legal employers include women in the process of selecting social activities and other aspects of the workplace social culture.

Legal employers sponsor social events specifically designed to help women develop workplace friendships, including events which involve spouses and children.

Legal employers develop, disseminate, and enforce effective policies against sexual harassment and educate all employees about the nature, effects, and prevention of sexual harassment.

Legal employers take appropriate step to assure the physical safety of female employees, including attorneys.

SECTION VI VALUES

During the course of its meetings, the Committee has heard the belief expressed that men and women generally have, and operate within, different value systems. The Committee has heard and read that genetics, upbringing, and our culture's expectations may all result in important differences in the ways that women and men -- including women and men who practice law -- see the world. While this belief is not universal, even among the Committee's members, its potential relevance to all of the issues discussed in this report makes it worthy of separate consideration.

Although there is considerable debate over the extent to which genetics and culture influence male/female differences, some gender-linked behavior patterns appear early in life and are distinguishable at every stage of development. Study after study has documented that girls and women tend to place a higher value on empathy, relationships, and nurturing, while boys and men value competition, rationality, and rule-making. Although the Committee is anxious not to perpetuate harmful stereotypes, it believes that the impact of these gender-based differences may be profound, and that their existence and importance are worthy of study and discussion. It is possible, though by no means certain, that fundamental, gender-based differences in values are the root cause of many of the things which negatively impact the professional satisfaction of women lawyers.

Ours is a profession dominated by values that are associated with men. We may never know whether that is a product of the intrinsic nature of the work we do, or a product of the gender of the people who have overwhelmingly shaped and dominated the profession. Regardless of the origins, one result may be the often-cited sense of women lawyers that they are operating in an alien culture.

The Committee and the profession are left, for the time being, with more questions than answers in this area:¹¹

¹¹ For those who would like to read more on this topic, the following may be of interest:

- *U.S. News and World Report*, Vol. 105, No. 6, pp. 50 through 57, "Men vs. Women";
- C. Menkel-Meadows, *Portia In A Different Voice: Speculations on a Women's Lawyering Process*; *Berkeley Women's Law Journal*, Vol. 1, No. 1 (1985);
- E. Maccoby and C. Jacklin, *The Psychology of Sex Differences* (1974);
- C. Gilligan, *In A Different Voice: Psychological Theory and Women's Development* (1982);
- A. Schaef, *Women's Reality* (1981);
- J. Williams, *Deconstructing Gender*, *Michigan Law Review*, Vol. 87, No. 4 (1989); and
- R. Jack and D. Crowley Jack, *Moral Vision and Professional Decisions* (1989).

Are women lawyers the victims of subtle forms of discrimination that result from our association of successful lawyering with male stereotypes and male values? If they are, can the Bar act to change that, or is it a problem for society at large?

If more lawyers place more value on mediation, accommodation, and the preservation of relationships, and less value on winning, will the profession suffer? Will the clients? Will the profession be enhanced?

Must women (or men) be good at and enjoy intense competition to be successful? Must men?

Must women (or men) suppress "feminine" values to be successful lawyers? Must men?

Recommendations

In the area of values, the Committee recommends that:

The Minnesota State Bar Association incorporate the subject of gender-based value differences, and the impact of those differences on legal practice, into its training on gender diversity for lawyers (see Section I, above).

Minnesota law schools encourage and support faculty research, study, and scholarship in this area.

APPENDIX 1

LEGAL EMPLOYERS' SELF-AUDIT "CHECKLIST"

This is an outline for discussion. Some of these issues should be dealt with once and then reviewed periodically. Others should be discussed on a regular basis.

- **Are Women Welcome?**

Do you know whether or not women feel welcome in your organization?

How many women work in your organization?

What percentage of lawyers hired are women?

What percentage of partners or senior lawyers are women?

What percentage of women have declined offers of employment? Do you know why?

What percentage of women have left your organization? Do you know why? How does that rate compare with the departure rate of men?

Do you welcome women as clients?

- **Practice Areas**

Are men and women given equal opportunities to work in all areas of practice?

Are there areas of practice in which there are no women? Do you know why?

Are there areas of practice in which the number or percentage of women is high? Do you know why?

- **Administration**

Are women involved in the management of your organization? If not, do you know why?

Do women serve on administrative committees? If not, do you know why?

- **Perceptions and Stereotypes**

Do managers or senior attorneys speak or write about women lawyers in your organization as a group, rather than as individuals? On what issues?

Do supervising attorneys complain about difficulties in supervising women because they "overreact" or react emotionally to criticism? Have you examined that complaint? Is it valid? Do supervisors consider the expression of anger (shouting, sharp words, flushing) to be more appropriate or easier to handle than crying?

If your organization is engaged in litigation, are women perceived as effective litigators? As aggressive litigators? If not, do you know why?

Do you have clients who are reluctant to work with women lawyers? What is your response?

Do managers or senior attorneys believe that women in your organization are less committed to their jobs after they have children or because of their family obligations? Have you examined that belief? Is it valid?

Do managers or senior attorneys in your organization talk and think about child care, part-time work, parenting leave, or sexual harassment as women's issues?

Are more attractive women lawyers more likely to be successful in your organization?

- **Compensation, Evaluation, and Advancement**

Do your organization's policies take the form of "unwritten rules"?

Do you have written or otherwise well-defined policies on vacation, billing expectations, leave, etc.?

Have you done a male/female salary survey?

If women are lagging behind, have you asked why?

Is each person individually evaluated on a regular basis? Is the evaluation shared with the attorney?

Can you articulate reasons for individual salary decisions?

Do you know if an individual attorney is not living up to your expectations, and, if you do, do you address the problem directly?

Do women tend to be criticized in their evaluation for lack of aggression, inability to deal with criticism, or personal appearance?

- **Client Development**

Are men and women given similar opportunities to market their services and develop client relationships?

Are men and women given equal credit for the results of their client development efforts?

Have you discussed and developed client contact options or opportunities beyond sporting events?

Do you equally support (by paying dues or giving "credit" for time spent) activities oriented toward male and female participation?

- **Parental and Family Obligations.**

Does your organization have a written or otherwise well-defined parental leave policy in addition to a physical disability leave policy?

Is that policy equally accessible (not just available) to men and women?

What is your firm's attitude toward a man who takes more than one week of parental leave?

Does your parental leave policy allow for absence from work for more than three months?

Does your parental leave policy make clear the impact of the leave on salary review, review for partnership, and other "success" indicators?

Does your parental leave policy allow part-time employment or other alternative employment arrangements?

How does your parental leave policy compare to the treatment of leave taken for other purposes such as recovery from a heart attack, alcohol treatment, or pursuit of an avocation?

Does your firm have a policy for assistance in child care?

Are there primary parents among those who make and review policy in this area?

- **Mentoring**

Are formal and informal mentoring available to both men and women?

How are mentors selected?

Are mentors evaluated?

Is there a procedure for changing mentors?

Are mentors required to report on their contacts with mentees?

- **Social Culture**

Are women invited to participate in your organization's informal activities?

Is a female associate or junior attorney as likely to be invited to lunch and other informal gatherings as a male associate or junior attorney?

Are such invitations declined by women? Do you know why?

Are men and women equally invited to participate in social events and discussions?

Are social events held at places where women may be uncomfortable, or focused only on activities that women may not feel comfortable participating in?

Are men and women equally encouraged to take a leadership role in the organization, the profession, and the community?

- **Sexual Harassment and Related Gender Discrimination**

Does your organization have a written policy for reporting overt sexual bias? Sexual harassment? Are complaints taken seriously and met with timely and appropriate action?

Does your organization react with an official response when overt sexual bias or harassment is experienced by an attorney outside the office, i.e., in the courtroom, from clients, or from other attorneys?

Who is prepared to assist an attorney faced with unwelcomed sexual attention from a client or a co-worker?

Are subtle forms of hostility toward women (sexual jokes, unwelcome comments on physical appearance or female physical attributes) allowed to occur, whether in the presence of women or not? Do managers or senior attorneys participate in such behavior?

- **Physical Safety**

Have you assessed your organization's security system and after-hours security arrangements? Have women been asked if they feel physically safe at all times? Do you provide an escort service for women who park their cars in ramps or other potentially dangerous locations?