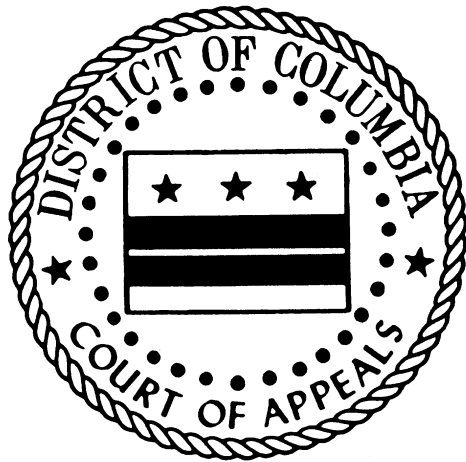


The First Annual Report

Standing Committee on Fairness and Access to the District of Columbia Courts



Chief Judge Annice M. Wagner
District of Columbia Court of Appeals

Chief Judge Eugene N. Hamilton
Superior Court of the District of Columbia

Dr. Ulysses B. Hammond
Executive Officer, D. C. Courts

The First Annual Report
Standing Committee on Fairness and Access
to the District of Columbia Courts

October 1997

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Garland Pinkston, Jr., Esq., Clerk of the Court

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
The Honorable Eugene N. Hamilton, Chief Judge
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THE DISTRICT OF COLUMBIA COURTS
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INTRODUCTION

The *Standing Committee on Fairness and Access to the District of Columbia Courts (Standing Committee)* is a permanent committee established by the Joint Committee on Judicial Administration. Its members were appointed by the Chief Judge of the D. C. Court of Appeals, in consultation with the Chief Judge of the D. C. Superior Court, in September 1996. The *Standing Committee* is designed to monitor efforts to ensure access to and gender, racial, and ethnic fairness of the District of Columbia Courts. It is an outgrowth of task forces that conducted surveys and studies and made recommendations regarding the treatment of diverse groups within the court system.

The functions of the *Standing Committee* are first, to address the problems identified by the task forces by recommending and monitoring concrete action, and further, to address access issues which were not the focus of the task forces. The *Standing Committee* has the further goals of increasing community involvement in the Courts, monitoring compliance with the Americans With Disabilities Act, and improving the quality of service provided to court users.

This report documents some of the accomplishments of the *Standing Committee* during its first year of its existence. This report is organized with the first section providing the background of the establishment of the *Standing Committee*. The second section reports on the activities to improve access to courts. A discussion of the Courts' hiring and promotion practices is in the third section. The fourth section focuses on the *Standing Committee's* progress in the area of improving the judicial treatment of court users. The Conclusion, which summarizes the *Standing Committee's* work, closes the report.

I. Background: Establishment of the *Standing Committee*

The Joint Committee on Judicial Administration (Joint Committee), established the *Task Force on Racial and Ethnic Bias in the Courts* and the *Task Force on Gender Bias* in 1990. The task forces were created to examine race, ethnic, and gender bias in the District of Columbia Courts (D. C. Courts). After months of careful data collection, hearings, and research, the task forces released their final report in June 1992.¹ The final report contained the task forces' findings and 100-plus recommendations. The 100-plus recommendations can be grouped into eight broad categories: court administration, the Civil Division, the Criminal Division, the Family Division, court activities, the treatment of participants, the litigation process, the attorney discipline system, and non-judicial branch agencies.

To address the issues raised in the final reports, the D. C. Courts formed 11 committees composed of judges, the clerks of the appellate and trial courts, and court managers, to review the task force recommendations and to develop implementation plans. The Executive Office was charged with implementing the recommendations. Each year of this two-year implementation phase, the D. C. Courts produced a progress report, one in June 1993 and the other in June 1994.² The reports presented each of the recommendations and the actions taken to implement them.

In 1995, the D. C. Courts were among approximately 24 state-level court systems that either had examined or were in the process of addressing racial and ethnic bias in the Courts by the formation of a judicial task force or commission and among 42 state court systems that had studied gender bias. In March 1995, the *First National Conference on Eliminating Racial and Ethnic Bias in the Courts* (*National Conference*) was held in Albuquerque, New Mexico. Over 400 court officials from every state and most of the territories, several Native American

¹ Joint Committee on Judicial Administration, *Task Force on Racial and Ethnic Bias and Task Force on Gender Bias in the Courts: Final Report* (May 1992).

² Joint Committee on Judicial Administration, *Report on Implementation of the Final Report of the Task Forces on Racial and Ethnic Bias and Gender Bias* (June 24, 1993); Joint Committee on Judicial Administration, *Report on Implementation of the Final Report of the Task Forces on Racial and Ethnic Bias and Gender Bias* (June 1994).

nations, the federal courts, and Canada participated. Court of Appeals Chief Judge Annice M. Wagner, Superior Court Chief Judge Eugene N. Hamilton, Executive Officer Ulysses B. Hammond, and Dr. Cheryl R. Bailey, assistant to the Executive Officer for Program Planning and Policy Development represented the D. C. Courts.

One of the topics discussed at the sessions and networking events of the National Conference was successful implementation strategies. One approach discussed was the strategy of establishing a commission to monitor implementation of the recommendations developed by a research-oriented task force. This approach is distinct from that of a research-oriented task force that develops recommendations and goes out of existence once the recommendations have been published. Under the monitoring approach, the attention of a court will shift away from the fairness and equality issues as the court moves on to the next set of priorities. The advantages of the monitoring approach include keeping the issues of fairness and equality in the forefront and improved tracking of progress in implementing the recommendations.

In September 1996, Chief Judge Wagner convened the first meeting of the *Standing Committee* and discussed its mission and objectives.³ The tasks of the *Standing Committee* encompass monitoring and overseeing the implementation of the recommendations developed by the Task Force on Race and Ethnic Bias and the Task Force on Gender Bias. The *Standing Committee* has addressed improving court access, specifically dealing with the Americans with Disabilities Act (ADA); hiring and promoting, both from within and from outside of the court system; the treatment of participants in the court system; and the procurement process.⁴ By forming three subcommittees and corresponding advisory committees: Improving Court Access, Hiring and Promotions, and Treatment of Participants, the *Standing Committee* plans to carry out its mission.⁵

³ The Standing Committee's statement of its mission and objectives is listed in Appendix A.

⁴ The Americans With Disabilities Act, 42 UCS §12101 *et seq.* (1990).

⁵ The names of the subcommittees and of the subcommittee members are listed in Appendix B.

II. Improving Access to the Courts

The Improving Court Access Subcommittee is chaired by Superior Court Judge Rafael Diaz. Judge Diaz is joined by Court of Appeals Judges Frank Schwelb and Inez Smith Reid. The subcommittee is assisted by an advisory committee. The subcommittee determined its priorities by meeting with its advisory committee. The members of the advisory committee represent a wide range of court users with a variety of access related concerns. These range from age and language challenges to various physical disabilities.⁶ After a couple of meetings it became apparent that access issues for court users with physical disabilities was a major concern for the Courts due to its goal of ensuring compliance with the Americans With Disability Act.

Organization of the Subcommittee

The subcommittee was divided into four working groups, Physically Impaired, Vision and Blind, Language and Communication, and Deaf and Hard of Hearing. The different working groups have consulted the literature pertaining to their access issue and have shared that information with the rest of the committee. After examining the literature and discussing the material, the working groups developed recommendations that they believe would improve court access for their particular group.

The Improving Court Access Subcommittee chose as the first set of issues on which it would initially focus access for persons with physical disabilities. The Americans With Disabilities Act (ADA) governs access to the services, programs, and activities offered by the D. C. Courts for persons with physical and mental disabilities. The next section of this report gives an overview of the ADA and discusses the “self-evaluation” process for bringing an organization into compliance with the statute as well as a discussion of the requirements for program and physical accessibility. Following this discussion of the statute is a section that highlights the Courts’ achievements in coordinating ADA-related

⁶ The names and affiliations of the members of the Advisory Committee on Improving Court Access are in Appendix C.

activities. This section reporting activities of the Improving Access to Courts Subcommittee concludes with a discussion of its efforts in developing recommendations for improvement.

An Overview of the American With Disabilities Act

The ADA was enacted in 1990 to protect people with disabilities from discrimination. The ADA is one of the primary civil rights laws for people with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications. One of its predecessors, the Rehabilitation Act of 1973, only prohibits discrimination against people with disabilities by government and private entities receiving substantial federal funding. The ADA extends many of its provisions to other entities, including state courts.

The purposes of the ADA are to:

1. Provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.
2. Provide clear, strong, consistent enforceable standards addressing discrimination against individuals with disabilities.
3. Ensure that the federal government plays a central role in enforcing the standards established in the ADA on behalf of individuals with disabilities.
4. Invoke the sweep of congressional authority in order to address the major areas of discrimination faced day-to-day by people with disabilities.

Congress has identified a person who has a disability as:

1. Someone who has a physical or mental impairment that substantially limits one or more major life activities;
2. Someone who has a record of such an impairment; or
3. Someone who is regarded by others as having an impairment.

The ADA is divided into four sections: Title I (employment discrimination), Title II (State and Local government activities), Title III (public transportation), and Title IV (telecommunications). *Title I* requires employers with 15 or more

employees to provide qualified individuals with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others. For example, it prohibits discrimination in recruitment, hiring, promotions, training, pay, social activities, and other privileges of employment.

Title II covers all activities of State and local governments regardless of the government entity's size or receipt of federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities (i. e. court access). Furthermore, state and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings. Also, they are required to make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination, unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided.

For purposes of this report, we will be concentrating on Title I and II, Employment and State and local government activities respectively, as it relates to the D. C. Courts.⁷ Pursuant to the ADA regulations, "a public entity is required to evaluate its current services, policies, and practices to determine if their services, policies, and practices comply with the ADA. If any do not, the public entity must proceed to make the necessary modifications."⁸ The following sections focus on compliance with accessibility to programs and facilities.

Program Accessibility

The regulations promulgated pursuant to the ADA require "a public entity to operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and useable by people with disabilities."⁹ For example, the court may have to reprint a form in large print or Braille to ensure program accessibility. Thus, the court must find an effective way to communicate with people with hearing, vision, or speech

⁷ *Title III* covers businesses and nonprofit service providers that are public accommodations, privately operated entities offering certain types of programs, services, or activities. *Title IV* addresses telephone and television access for people with hearing and speech disabilities. It requires common carriers to establish interstate and intrastate telecommunications relay services (TRS) to accommodate callers with hearing and speech disabilities.

⁸ 28 C.F.R. 35.105 (1996).

disabilities and accommodate people with physical disabilities. Some of these alterations may be inexpensive (reprinting forms), while others may be expensive and time consuming (removing a barrier/wall in order for someone with a physical disability to get to a telephone).

Physical Accessibility

Title II also requires State and local governments, including courts, to follow specific architectural standards in the new construction and alterations of any buildings. Therefore, for example, if doorways are not 36 inches wide, the courthouses must widen the doorways. If that task is not economically feasible, the courthouse must arrange for the relocation of programs to accommodate people with disabilities.

With the requirements of the ADA as a backdrop the following sections on improving court access discuss the activities of the *Standing Committee* in enhancing the coordination of ADA activities, evaluating its compliance with the ADA, monitoring the courts compliance with the law, and developing recommendations for further action.

The Coordination of ADA Activities

In an effort to educate the *Standing Committee* on the Courts' posture with regard to the ADA, as well as its compliance with the ADA regulations,¹⁰ the Executive Officer appointed Wanda Radowitz, Personnel Management Division Psychologist, as the Courts' Chief ADA Coordinator. The ADA Coordinator's responsibilities include planning and conducting a new self-evaluation report of the court buildings; developing sensitivity and legal training in the ADA for court staff, managers, and judges, and forming a cadre of Assistant ADA Coordinators in each division of the Courts. Members of the advisory committee served as faculty for a day-long training session for ADA coordinators and others. The Chief ADA Coordinator has met regularly with the subcommittee and advisory committee on court access.

⁹ 28 C.F.R. 35.150 (a) (1996).

¹⁰ 28 C.F.R. 35.107 (1996).

Monitoring Compliance With the ADA

Standing Committee Chair, Judge Inez Smith Reid and Improving Court Access Subcommittee Chair, Judge Rafael Diaz met with the Executive Officer, Ulysses B. Hammond, the Clerk of the Court of Appeals, Garland Pinkston, Jr., the Administrative Officer of the Administrative Services Division, Bruce Marshall, the Director of the Personnel Management Division, Arl B. Williams, and the Capital Project Development Specialist, Mary Ann Satterthwaite to convey the sentiment of the *Standing Committee* that new court construction and renovations to existing court facilities be in compliance with the architectural guidelines and regulations promulgated under the ADA. Of immediate concern were the renovations in the Court of Appeals to its front counter and other facilities in the Public Office, in which the front counter is located, as well as renovations in the Superior Court, with the construction of ten court and hearing rooms in the H. Carl Moultrie, I Courthouse.

Self-Evaluation Reports

The D. C. Courts have conducted the mandatory self-evaluation reports. The self-evaluation procedure entailed a person, or a group of persons, walking through all of the public entity's buildings, specifically the Moultrie Building, Buildings A, B, and D, to examine critical features of the physical plant, programs, and employment for compliance with the ADA. The evaluation team is responsible for checking off and commenting on the suitability of each facility under the requirements of the ADA. Typically, the evaluator fills out a pre-prepared self-evaluation form that specifically lists the areas the evaluator is supposed to examine and comment on.

The first self-evaluation of the D.C. Courts was conducted in March 1992 by the Director of the Equal Employment Opportunity Office (EEOO). The self-evaluation was guided by an evaluation instrument, a document in the form of a checklist that addressed the technical compliance for public accommodations pursuant to the ADA.¹¹ The evaluator concluded that the Courts were generally

¹¹ The D. C. Courts must comply with either the Uniform Federal Accessibility Standards (UFAS) or the ADA Architectural Accessibility Guidelines (AADAG) to measure its compliance. 28 C.F.R. 35.151, AADAG is found at 56 *Federal Register* 144 (Friday, July 26, 1991).

in compliance with the ADA, even though some areas needed modification. Some portions of the 1992 self-evaluation report, however, were incomplete and other portions were unclear.

In an effort to monitor the implementation of the recommendations from the first self-evaluation report, a second self-evaluation report was conducted by the Courts in December 1994. This second evaluation was structured differently than the 1992 evaluation in a number of areas. First, it was conducted by three people instead of one. Second, a different self-evaluation instrument was used. This instrument was more detailed. Third, all three aspects of the Courts were evaluated—the Superior Court, the Court of Appeals, and the Court System. The 1994 self-evaluation was more specific than the 1992 report. The 1994 self-evaluation found that the D. C. Courts were generally in compliance with the ADA.

The last self-evaluation in May 1997. This latest effort is the most comprehensive and methodologically sound of the three. The self-evaluation was led by the Chief ADA Coordinator assisted by over 30 Assistant ADA Coordinators. In contrast to the 1994 self-evaluation, which was conducted on a court-wide basis, the 1997 self-evaluation was conducted on the branch level. Each Assistant ADA Coordinator conducted the self-evaluation for his or her own respective branch. This means that the self-evaluations were made by staff who had a greater depth of knowledge and understanding of the programs, activities, and facilities of his or her branch. The Assistant ADA Coordinators had access to the expertise and support of the Chief ADA Coordinator, as well as others with specialized knowledge. A few weeks before the self-evaluations were conducted, each of the Assistant ADA Coordinators completed a day-long training session on the ADA, conducted jointly by the Center for Education, Training, and Development and the Personnel Management Division.

It is essential that courts and court programs, services, and activities are accessible to people with disabilities. It is also fundamental that all of the people who work in the judicial system be informed and educated about the ADA and accommodations the courthouse has made for people with disabilities by having training sessions held for court employees. By accommodating people with

disabilities, the courts are developing a functional system that benefits everyone, including the judicial system as a whole. This makes for an efficient system.

Recommendations for Enhancing Accessibility

The subcommittee developed a set of recommendations that were approved by the full *Standing Committee* and submitted to Chief Judge Annice M. Wagner. The range of issues that the recommendations address include reasonable accommodations for disabled court users, general court administration, training, jury service, and access issues in the construction and renovation of court facilities.

Court Administration

Improving Access Recommendation No. 1: The District of Columbia Courts' (Courts) volunteer program duties should include assistance to persons with disabilities as they access the Courts' facilities and programs.

Improving Access Recommendation No. 2: The Courts should prepare a policy statement pertaining to the Americans With Disabilities Act. The policy statement should be posted in prominent places, including the Information Desk in the atrium of the Moultrie courthouse, the employee lounges, the intake counters, and the security stations.

Improving Access Recommendation No. 3: The Courts should update the *Comprehensive Personnel Policies* handbook to include the Courts' Americans With Disabilities Act policy.

Improving Access Recommendation No. 4: The Courts should observe "National Physical Disabilities Month" with appropriate activities that raise the awareness of its workforce and the public to attitudinal barriers and access to the Courts' employment, facilities, and services.

Improving Access Recommendation No. 5: The Courts should establish a process for resolving, in a non-adversarial manner, ADA-related disputes of court employees, as well as court users and job applicants who are not court employees.

Improving Access Recommendation No. 6: The Courts should work with the D. C. Department of Public Works and the Metropolitan Police Department to establish the policy of ticketing and towing vehicles, including law enforcement vehicles that block sidewalk ramps or occupy accessible parking spaces designated for use by persons with disabilities, in the areas surrounding the Courts' facilities.

Improving Access Recommendation No. 7: An “ADA Coordinating Council” should be established, consisting of the Chief ADA Coordinator, the Executive Officer, the Clerks of the Court, the Administrative Officer, the Sign Language Interpreter, the Director of the Mental Retardation and Mental Health Branch, the D.C. Department of Public Works, the Juror Officer, the Director of the Personnel Management Division, the Court Services Specialist, a designated person from the D.C. Courts’ Volunteer Program, and the General Counsel, who will manage implementation of the Courts’ ADA strategy.

Improving Access Recommendation No. 8: The *Standing Committee* should have oversight responsibility over the “ADA Coordinating Council” and should monitor the Courts’ compliance with the ADA.

Improving Access Recommendation No. 9: The Courts’ policy on the Americans With Disabilities Act should include a commitment to ensure that all construction and remodeling will be reviewed for compliance with the ADA.

Improving Access Recommendation No. 10: The Courts’ policy on the Americans With Disabilities Act should also be addressed to the non-judicial organizations in the justice system that are located in the same facilities as the Courts. These agencies include Pretrial Services, the U.S. Attorney, and the Public Defender Service.

Improving Access Recommendation No. 11: The Courts should develop a process for informing the community about the strategies that it uses to enhance access for persons with disabilities. The information should include summaries of information contained in the self-evaluations and the transition plans, the technologies and equipment that is available, and the names and phone numbers of the ADA Coordinators.

Improving Access Recommendation No. 12: Jury management and case management systems should be reviewed for possible alteration or reprogramming to ensure that reasonable accommodations and other access issues are automated and managed.

Improving Access Recommendation No. 13: The Courts’ facilities currently under construction or constructed after January 26, 1992, in the H. Carl Moultrie Courthouse should comply with all applicable laws and accessibility guidelines, including either the Uniform Federal Accessibility Standards (UFAS) or the Americans with Disabilities Act Accessibility Guidelines for Building and Facilities (ADAAG). For example, the judges’ bench and chambers, the restroom facilities serving the judges’ chambers, should provide accessible routes connecting these elements.

Improving Access Recommendation No. 14: The court system should disseminate information and literature that describe the options and the

availability of handicapped parking for court users. These options should include public and private garages and lots, and fringe parking.

Improving Access Recommendation No. 15: The court system should cooperate with the Executive Branch agencies of the District of Columbia to determine if the number of handicapped parking spaces on public property in the area of the Courts' facilities meets applicable guidelines, (e.g., parking spaces adjacent to the courthouse).

Improving Access Recommendation No. 16: The location of the Information Desk should be made more apparent. The Information Desk should provide brochures in different languages and in alternative media, such as Braille, which explain how the court system works and what accommodations are available. Hospitality persons attending to the public at the Information Desk should be trained to assist persons with disabilities.

Improving Access Recommendation No. 17: The court system should research the availability of funding to pay for the costs of implementing these recommendations.

Improving Access Recommendation No. 18: A procedure needs to be developed that can be used to flag a case requiring special services. For hearing loss, the Personnel Management Division and attorneys using the court can attach a broken ear sticker, which is the International Symbol of Access for Hearing Loss.

Improving Access Recommendation No. 19: Flagging of cases should start with police or jury duty summons (e.g., attorney identifying special needs or person self-identifying).

Improving Access Recommendation No. 20: Informational brochures for handouts and mailings need to be developed. This information should be provided with or included on the notice to serve, etc.

Improving Access Recommendation No. 21: The Courts should establish a policy that allows for the access of hearing-assist dogs. All court personnel should be made aware that under the ADA hearing-assist dogs have the same legal rights of access as guide dogs for the blind.

Self-Assessments and Transition Plans

Improving Access Recommendation No. 22: The program transition plan should include the plan for accessibility of information for and during court events that are open to the public.

Employment

Improving Access Recommendation No. 23: The Personnel Management Division should provide information about job vacancies in alternative formats

and should make this service known to the disabled community. The notices of job vacancies, in appropriate alternative formats, should be sent to organizations for persons with disabilities.

Improving Access Recommendation No. 24: The Courts should devise a strategy to recruit, hire, train, and retain persons with disabilities.

Improving Access Recommendation No. 25: All appointments should be consistent with the Courts' ADA policy and the law.

Programmatic Accessibility

Improving Access Recommendation No. 26. Reasonable accommodations and the Courts' response to reasonable accommodations requests should be tracked and analyzed.

Improving Access Recommendation No. 27: The Courts should recruit, hire, and train persons from underrepresented groups, such as persons with disabilities, Asian-Pacific Americans, and Hispanics, who can enhance access to the Courts, particularly in "first contact" court positions.

Improving Access Recommendation No. 28: The Courts will consider as a reasonable accommodation (and as quality customer service), improving access to forms by eliminating the need for disabled attorneys and other court users to make a trip to the courthouse to get forms. These alternative access strategies should include making the forms available on computer floppy diskettes, delivery by mail, using the polling features on existing fax machines so that the person needing the form can call in on their fax machines for it, and making the forms available over the Internet.

Training

Improving Access Recommendation No. 29. The Courts should prepare a self-assessment and transition plan for improving accessibility to the Courts' services and programs.

Improving Access Recommendation No. 30: The Center for Education, Training, and Development and the Chief ADA Coordinator should design and implement training for managers and staff that will address employment issues and accessibility problems to the Courts' facilities and services.

Improving Access Recommendation No. 31: Training for Judges and Hearing Commissioners should be conducted. This training should provide information about barriers faced in the Courts by persons with disabilities, strategies and technologies the Courts use to eliminate the barriers, and to sensitize the judges about the limitations of the facilities in the jury rooms, such as assistive listening devices and restrooms that can be accessed by wheel chair using jurors.

Improving Access Recommendation No. 32: Information pertaining to compliance with the ADA should be distributed to every division of the Courts. This information should include reference material, self-study training books and videos, and reports prepared for the Courts by organizations such as the American Bar Association.

Improving Access Recommendation No. 33: The Courts should secure training for a limited number of its staff who have a need for highly technical information. Such staff would include Administrative Office managers, the General Counsel, the managers of the Jurors' Office, the D.C. Department of Public Works, the managers of the trial and appellate courts, the Court Services Specialist, and the staff in the Personnel Management Division.

Improving Access Recommendation No. 34: TDD/TTY devices should be put into place, and the staff should be trained in how to use the devices.

Improving Access Recommendation No. 35: Education and training about the ADA should include strategies that help to implement the prohibition in the Code of Judicial Conduct against discriminating against persons with disabilities.

Improving Access Recommendation No. 36: Training of court personnel and staff should include making and receiving a "relay call". A relay call is the use of a go-between, a trained telephone operator (Communications Assistant), who relays the conversation between the a person who is deaf or hard of hearing (TTY caller) and the recipient of the call (court personnel).

Procurement

Improving Access Recommendation No. 37. The Courts' policy on the Americans With Disabilities Act should address the procurement process.

Improving Access Recommendation No. 38: The Executive Office should review the procurement process to ensure that its processes and forms ensure compliance with the ADA.

Improving Access Recommendation No. 39: The Executive Office should review existing major contracts to determine if they comply with the ADA.

Signage

Improving Access Recommendation No. 40. New signage for the Courts should not be limited to mere design issues. A complete audit should be conducted by a company specializing in signage systems to develop a comprehensive system for the Courts. This signage system should include providing directions to information desks and facilities that are heavily visited, providing multilingual signage, addressing accessibility issues such as Braille and large type, location of entrances with ramps and lifts, location of telephones with keypads, providing information for accessing the secured corridors, providing information to blind

court users about Braille signage, and addressing usage by persons with cognitive disabilities.

Improving Access Recommendation No. 41: Visual directions for getting around the courthouse, including where or from whom to seek help, need to be provided throughout the courthouse. Signs should include visual symbols of the available accommodations.

Mobility Impairments

Improving Access Recommendation No. 42: The telephones located at the entrances to the secured judicial corridors should be lowered to the proper height to address compliance with the ADA's architectural guidelines.

Improving Access Recommendation No. 43: The step between the courtroom and the lock-up serving each courtroom should be eliminated. If this is not possible, ramps should be available to allow attorneys in wheelchairs to visit with clients in the lock-up.

Improving Access Recommendation No. 44: The court system and the Superior Court should consider as a reasonable accommodation, having a cordless microphone available for disabled attorneys who may need it in order to address a jury. The cordless microphone should be linked to the infrared assistive listening device (ALD) as well as the public address system.

Improving Access Recommendation No. 45: Accessible sinks in the public bathrooms with broken lever-type faucets should be fixed.

Improving Access Recommendation No. 46: Either an effective and timely maintenance and repair program must be established for the wheelchair lift at the John Marshall entrance or the lift should be replaced with a new one that operates more reliably.

Improving Access Recommendation No. 47: At least two courtrooms, the jury deliberation room (and the rest rooms and water fountains serving them) should be made accessible and in compliance with Americans with Disabilities Act Accessibility Guidelines for Building and Facilities (ADAAG). An accessible route should be provided to connect these elements, as well as the courtroom clerk stations and witness stands. The jury box should be modified to accommodate at least one wheelchair.

Hearing Impairments and Deafness

Improving Access Recommendation No. 48: Purchase only captioned video tapes and assure that all televisions in the courthouse have caption decoding.

Improving Access Recommendation No. 49: Reserve front row seats for people who are hard of hearing or deaf.

Improving Access Recommendation No. 50: Ensure that equipment and furniture do not interfere with the line of sight for persons who are hard of hearing or deaf who rely on lip reading.

Vision Impairments and Blindness

Improving Access Recommendation No. 51: The information on the electronic display board in the atrium of the Moultrie Courthouse, which gives the courtroom and hearing room assignments of the judicial officers, should be made available in an alternative format for visually-impaired court users and attorneys.

Improving Access Recommendation No. 52: Information that is posted, in printed form, on the doors of the courtrooms, including critical information such as changes in courtroom assignments, should be made available for visually-impaired court users and attorneys in alternative format, such as Braille.

Improving Access Recommendation No. 53: Signage around the Courts' facilities should include Braille and other appropriate raised symbols.

Communication Impairments

Improving Access Recommendation No. 54. TDD/TTY phone numbers should be placed on business cards, fax coversheets, publications, reports, and stationary letterhead used by the Courts' managers and staff, as well as listed alongside the voice number in the telephone directory.

Improving Access Recommendation No. 55: The Courts should research whether "real time" transcription should be utilized, since real time transcription can enhance access for hearing impaired and deaf court users. If real time will enhance access for those people with such disabilities, the court will likely need to increase the number of court reporters who have real time skills.

Improving Access Recommendation No. 56: There should be no question of "whether real time transcription should be promoted..." Real time transcription needs to be provided because people with late-onset hearing loss cannot use sign language interpreters or assistive listening systems because they are dependent on receiving information visually and in text form.

Improving Access Recommendation No. 57: The Courts should address accessibility problems to the secured judicial corridors by court users who are either deaf or hearing-impaired.

Improving Access Recommendation No. 58: The Courts should make available assistive listening devices (ALD), such as installed and portable infrared, to court users who are hard of hearing. The ALD devices should be available for trials, hearings, and other court room proceedings, court-sponsored events, meetings, conferences, and in the Juror's Office. Infrared systems, portable and installed, are preferred for the Courts to protect confidentiality. These systems are needed by people who do not use sign language and who have some residual hearing but may not use hearing aids.

Improving Access Recommendation No. 59: ALD's must be maintained to ensure that the systems are working properly in each courtroom. Different couplings should be made available for use with the ALD's, including headsets, neck loops, and cochlear implant adapters.

Improving Access Recommendation No. 60: It is necessary that people who are hard of hearing be involved in the testing of assistive listening devices BEFORE they are purchased and installed, to ensure that they work and to check for interference throughout the courthouse.

Improving Access Recommendation No. 61: Public phones should have volume controls.

Manipulation Impairments

Improving Access Recommendation No. 62: Door knobs should be replaced with levers on doors accessible to the public and on doors in the secured, judicial areas of the Courts' facilities.

Improving Access Recommendation No. 63: A lever-type door handle should be installed on the door at the accessible entrance to Building A, located at 515 Fifth Street.

Improving Access Recommendation No. 64: Automatic door openers should be installed on the inner doors and outer doors in all of the courtrooms of the District of Columbia Court System.

Improving Access Recommendation No. 65: The door opening force on all interior doors and gates should be reduced to no greater than five pounds.

Improving Access Recommendation No. 66: Each counter at which information, documents, and services are provided and received (e.g. in clerks' offices and jurors' office) should have a 36-inch long segment lowered to a height no greater than 36 inches, or should be modified with an auxiliary counter of the same dimensions. Portable counter loops should be provided for use by court users who are hard of hearing. Signs need to be placed to alert people of their availability.

Mental Impairments

Improving Access Recommendation No. 67: The Courts should identify resources for the *Standing Committee* to work with in addressing issues pertaining to the elderly and persons with mental or cognitive disabilities, or both, in the near future.

III. Hiring and Promotions

The *Standing Committee* worked to address the objective of improving the D. C. Courts' hiring and promotions policies and practices through its Subcommittee on Hiring and Promotions. Judge Stephanie Duncan-Peters of the D. C. Superior Court chairs the Hiring and Promotions Subcommittee, while Court of Appeals Judge Inez Smith Reid and Superior Court Judge Eric T. Washington are members. Superior Court Judge Nan Shuker is a member of the Advisory Committee on Hiring and Promotions. Dr. Cheryl R. Bailey Assistant to the Executive Officer for Program Planning and Policy Development is an *ex officio* member of the subcommittee.

The subcommittee held regular monthly meetings with court officials including the Director of the Personnel Management Division, the Equal Employment Opportunity Officer, and the Advisory Committee on Hiring and Promotions. Division directors who have a role in employee mediation, such as the Equal Employment Opportunity Officer and the Director of the Center for Education and Training were invited to serve on the subcommittee.¹² The subcommittee also met with the Executive Officer and the Clerk of the Superior Court on issues of mutual concern.

Recruiting and promotions are areas of concern for the *Standing Committee* for several reasons. First, while the Court System has implemented several initiatives to address under-utilization of women and protected groups, underutilization has not been eliminated entirely. Studies by the Gender and Racial & Ethnic Bias Task Forces in the early 1990's found that Hispanics were underutilized in the Courts' workforce and that Black women were underrepresented in the upper grade levels.¹³

Also, the earlier task force studies entertained the impression that poor employment policies and practices, while racially neutral, may have a discriminatory impact. Since these policies and practices may result in an

¹² The members of the Advisory Committee on Hiring and Promotions are listed in Appendix D.

adverse impact on the D. C. Courts' goal of establishing a bias free workplace, these issues must be addressed.

Finally, the perceptions of the Courts' workforce dictates that the Courts' personnel practices pertaining to hiring and promotions be addressed. Some of the perceptions held by court employees that were disclosed by focus groups and surveys of court employees conducted by the earlier task force include arbitrary hiring, using hiring criteria that targets certain classes of people, tailoring positions for the friends of management, and failing to hire African-American males with higher education.

In the area of promotions, while two-thirds of all court employees who responded to the Employee Survey, conducted in February 1991 by the earlier task forces, do not view the promotional practices of the Courts as racially biased, 38 percent felt that someone had been granted or denied a promotion because of his or her race.¹⁴ Just over one-third (35.6 percent) felt that there was little or no opportunity for job advancement. Thus, the earlier task force found that some hiring and promotional practices were and had been conducted in such a way as to create the appearance of racial or ethnic discrimination. They discovered that the D. C. Courts' personnel management needed effective safeguards to preclude any racial or ethnic bias from infecting or appearing to infect personnel decisions.

In 1990, ten Latinos and Latinas were employed in permanent full-time positions. Currently, there are 37 permanent full-time Latino and Latina employees. While in some instances these statistics represent an increase since the establishment of the initial bias task forces, the *Standing Committee* is committed to improving the representation of Latinos and Latinas in the workforce, as well as any other underrepresented minority or gender.¹⁵

¹³ The task forces also found that the courts hire White employees at the professional and administration level almost exclusively, while people of color are more likely to be hired at the administrative support level. The task force also found that the pattern of promotions indicated some success toward resolving the underutilization of African American women.

¹⁴ Cited in Joint Committee on Judicial Administration, *Task Force on Racial and Ethnic Bias and Task Force on Gender Bias in the Courts: Final Report*, May 1992.

¹⁵ A table showing the racial, ethnic, and gender breakdown of positions in grades cs-12 and above, that were posted during fiscal year 1996, is listed in Appendix E.

The Development of a Comprehensive Recruiting Strategy

To effectuate the D. C. Courts' goal of eliminating any vestiges of discrimination and bias in hiring and promoting employees, the subcommittee is committed to assisting in the development of an effective recruitment strategy. The Courts' recruitment strategy is finding the best qualified and most capable person for a given position and developing a workforce that is representative of the community.

The resources devoted to effective recruitment result in long-run benefits. For example, both the D. C. Courts as an institution and the public benefit from a larger and more diverse pool of candidates from which to hire.

Recruiting affects aspects of the Courts' personnel policies in addition to improving the quality of its workforce. The Courts' equal employment opportunity, affirmative action, gender, and disability policies are all tied to the adequacy of its recruitment policies. A large, diverse candidate pool will enable the Courts' managers to find candidates who have a suitable combination of talents, interests, experience, and motivation.

Recruitment is a continuous activity, not an activity that is stopped and started as job vacancies open and close. Recruitment policies help to set the tone of the court organization in the community and will help to address some of the employee misperceptions that were identified by the earlier task forces. Some of the questions that the subcommittee has considered over the last several months include: Whether the D. C. Courts appear to be closed to outside applicants and the public, with insiders seeking to control access to new positions? Does the court conform to broad legislative policies for public employment? And, whether the Courts perform its personnel activities in a manner that enhances judicial independence from the other two branches of government?

Experts in public administration claimed that recruitment is one of the weakest functions performed in personnel systems.¹⁶ They argue that recruitment is haphazard, that management does not take full advantage of the

¹⁶ Robert D. Lee, Jr., *Public Personnel Systems*, second edition, Rockville, MD, Aspen Publishers, Chp. 5, "Recruitment, Examination, and Selection" (1987) p. 114.

full range of recruitment techniques, and that little money is spent on recruitment in contrast with expenditures for other personnel functions, such as testing and position classification.¹⁷ Another expert observed that government recruitment is haphazard compared to recruitment by private industry and that most personnel expenditures in the private sector are in testing and selection.¹⁸

Enhancement of the Courts' Recruiting Contacts

The recruitment list is a critical component of a Courts' effort to manage the diversity of its workforce. The recruitment list ensures that information about the employment opportunity is taken beyond closed network systems. Distribution of information about court employment is also a mechanism to improve relations with the community. Nationwide studies have found that minority communities often do not perceive the court as a place for a career. Several court systems have addressed this by improving their recruitment source lists. For example, Washington State developed a diversity manual, which lists several organizations that can be used as recruitment sources. The organizations are arranged according to organization type. Also, the New Jersey court system, one of the most highly centralized state court systems in the country, maintains a recruitment list with 800 recruitment sources. The D. C. Courts' Personnel Division maintains a recruitment list¹⁹ of approximately 170 contacts that it uses to mail copies of the D. C. Court System's job vacancy announcements.

The compilation of recruitment sources by the Personnel Management Division consists of hand typed mailing labels, not organized in the most effective manner. Installing the list on software would allow easy access and efficient management. For example, in the area of recruitment, the recruitment list that is currently used by the Personnel Management Division is not maintained in a database, such as *Lotus 1, 2, 3, Excel, or WordPerfect*. A database would enable the Personnel Management Division to manage the recruitment resources

¹⁷ Robert D. Lee, Jr., *Public Personnel Systems*, second edition, Rockville, MD, Aspen Publishers, (1987) p. 96.

¹⁸ Harry O. Lawson, H. R. Ackerman, Donald E. Fuller, *Personnel Administration in the Courts*, Boulder Colorado, Westview Press 1979 Recruiting: A Means to an End. Cited in National Association for Court Management *Trial Court Personnel Management Guide* Williamsburg, VA May 1993.

¹⁹ A copy of the *Recruitment Sources List* is in Appendix F.

by sorting the information to produce customized mailing lists, track the type and number of organizations, and update the list. Creating customized mailing lists would allow the Personnel Management Division to devise appropriate distribution for each job. For example, for a senior management or executive position, for which a person would be willing to relocate to the Washington metropolitan area, national as well as local sources would be contacted.

The addressees on the recruitment list could be grouped in the following categories, which are not mutually exclusive: Hispanic organizations, Asian-Pacific American organizations, African-American organizations, women's organizations, women of color organizations, bar associations, professional organizations for mediators, individuals, national organizations, local organizations, institutions of higher learning, federal, state, and local government agencies, other courts, trade, secretarial, technical schools, elected officials, political organizations, and media.

One of the contributions that the citizen advisory committee has made is a review of the D. C. Courts' recruitment source list. The advisory committee recommended that the list be amended by adding additional contacts that would enhance the D. C. Courts' ability to disseminate to a wider spectrum of the community information about employment opportunities within the D. C. Courts, and to expand its recruitment efforts.

In an effort to meet the goal of employing and promoting a more diverse representation of people in the community, the D. C. Courts have completed the first review and revision of the Courts' recruiting source list. The final recommendations and the revised Recruiting Source List will be included in the first yearly report of the *Standing Committee*.

Affirmative Action Planning

The priorities of the Hiring and Promotions Subcommittee for the first several months were to update the Courts' recruiting source list; to evaluate the resources devoted to the Courts' Equal Employment Office; and to scrutinize the Courts' Affirmative Action plan as it pertains to the analysis of data, the

identification of the vestiges of discrimination and bias, and to the development of strategies to address the identified problems.

Reorganization of EEO Functions

In March 1997, the Executive Officer privatized the Equal Employment Opportunity Office. The intake and investigation functions formerly handled by that office are now performed by a contract attorney who specializes in EEO matters.

Recommendations to the Courts

The subcommittee produced recommendations that cover a wide range of the hiring and promotion process. The recommendations could be categorized as follows: general administration, technology, access to court services, data collection and analysis, and affirmative action planning.

An example of the recommendations in the general administration group is a recommendation that the D.C. Courts' stationery such as letterhead, fax coversheets, and business cards include in addition to the Courts' official address and phone number, the TTD/TTY number.²⁰ Another category is technology. The major recommendation is that the D. C. Courts adopt human resource and personnel/financial software. The use of software will address the draft recommendations that pertain to collecting, managing, and analyzing data. For example, in order for the Personnel Management Division to generate a report on the gender, race, or ethnicity, of an external applicant for a position, it is necessary for the division to manually calculate the statistics, relying on data from several different sources, including both manual and automated sources.

While access to the Courts' services and programs was addressed by the Subcommittee on Improving Court Access, a few recommendations of the Hiring and Promotions Subcommittee address access to court services (e.g., use of a TTD/TTY to communicate with disabled job applicants), the Courts' obligation as an employer to make reasonable accommodations for the disabilities of its

²⁰ Teletypewriter for the deaf ("TTD") and teletypewriter ("TTY") are telecommunications instruments that use keyboards that give the deaf and hard of hearing access to telephonic communications.

employees. Other draft recommendations address the Courts' Affirmative Action plan and the need to prepare a more comprehensive plan.

Another recommendation is that the D. C. Courts commence reporting to the U. S. Equal Employment Opportunity Office directly in their own right. Currently, the D.C. Courts report indirectly through the D.C. Office of Human Rights. The D. C. Office of Human Rights compiles the statistics for the Courts with those of the other branches of the D. C. government.

Furthermore, a significant number of the recommendations pertain to the job promotion opportunity announcement, the job announcement, and the criminal history check forms and related processes. A small number of the recommendations address training. For example, the subcommittee has drafted a recommendation for the Courts to evaluate the resources devoted to providing Spanish language and culture classes to court employees to determine the reason for the need for a waiting period that sometimes exceeds two years for the beginning, intermediate, and advanced courses. Finally, a group of recommendations seek to improve the recruitment process by improving the persons and organizations that are contacted by the Courts when a vacancy is announced. The recommendations were approved by the entire *Standing Committee* and submitted to Chief Judge Wagner.

Recommendations of the Hiring and Promotions Subcommittee

Administration

Hiring & Promotions Recommendation No. 1: The Personnel Management Division's TDD/TTY number should be listed on Position Vacancy Announcements, Application forms, and division correspondence so that persons with special needs will be able to reach the Personnel Management Division.

Using Technology to Manage Human Resources

Hiring & Promotions Recommendation No. 2: The Personnel Management Division should obtain software, or more effectively use existing resources, that will empower the Division to answer questions (*i.e.*, demographic information on the workforce, applicant flow information) and manage the personnel process, including equal employment opportunity and affirmative action planning, recruitment, staffing, selection, and retirement.

Hiring & Promotions Recommendation No. 3: The Personnel Management Division should consider using human resource management software.

Hiring & Promotions Recommendation No. 4: Statistics should be collected and analyzed on requests by employees for reasonable accommodations under the Americans with Disabilities Act, and the Courts' response to the requests.

Hiring & Promotions Recommendation No. 5: The Personnel Management Division should use the features of its facsimile and automated response equipment, e-mail, and other technologies, to eliminate the practice of manually preparing inter-office mailings of new Position Vacancy Announcements to the Court of Appeals, each branch of the Superior Court, and each division of the court system.

Data Collection and Analysis

Hiring & Promotions Recommendation No. 6: Data on the demographics of external applicants should not only be collected, but analyzed.

Hiring & Promotions Recommendation No. 7: Software should be obtained that will allow the Courts to access and analyze historical workforce statistics.

Hiring & Promotions Recommendation No. 8: The Courts should move away from the current "batch system" of preparing data that has to be interpreted and consolidated with other data sets in order to prepare a report. The Courts should install software that will permit the preparation of reports upon demand.

Addressing Persons with Disabilities

Hiring & Promotions Recommendation No. 9: Position vacancy information should be made available to potential job applicants, including persons with disabilities, and efforts should be made to increase contact with the disabled population.

Hiring & Promotions Recommendation No. 10: The Courts should prepare a policy statement pertaining to the Americans With Disabilities Act. The statement should be posted in prominent places, including the Personnel Management Division, bulletin boards where Position Vacancy Announcements are posted, courthouse lobbies, employee lounges, and intake counters.

Hiring & Promotions Recommendation No. 11: The Courts should include their ADA policy on the Position Vacancy Announcement and Application forms.

Hiring & Promotions Recommendation No. 12: Organizations representing persons with disabilities should be informed of the strategies that the Personnel Management Division has undertaken to address the employment provisions of the ADA.

Hiring & Promotions Recommendation No. 13: The Courts' ADA policy should be posted so that potential applicants, applicants, and employees are informed of the policy.

Addressing Equal Employment Opportunity

Hiring & Promotions Recommendation No. 14: Applicants and departing employees should be informed of their coverage under the law, the Courts' EEO policy, and other policies.

Hiring & Promotions Recommendation No. 15: Any language that suggests that only current employees of the District of Columbia Courts have access to the Courts' equal employment opportunity process should be eliminated. Language should be developed that adequately informs all covered persons of their rights.

Managing Affirmative Action Planning

Hiring & Promotions Recommendation No. 16: All sections of the Courts' Affirmative Action plan should be completed by the end of December 1997.

Hiring & Promotions Recommendation No. 17: The Courts' Affirmative Action plan should be revised to reflect the changes in the structure of the Equal Employment Office.

Hiring & Promotions Recommendation No. 18: The Courts should include appropriate language on Position Vacancy Announcement and Application forms informing applicants and employees of the Courts' compliance with Executive Order 11246 and other affirmative action law(s).

Hiring & Promotions Recommendation No. 19: The Courts should identify areas where customer service would be enhanced by multi-lingual skills. To address any need for staff with these skills, the Courts should develop a strategy to recruit employees with bi-lingual language skills.

Hiring & Promotions Recommendation No. 20: The Courts should collect and analyze workforce statistics, as well as statistics pertaining to job applicants, in light of the Affirmative Action plan. Based upon these findings, the Courts should develop a strategic plan to address the issues.

Developing a Recruiting Strategy

Hiring & Promotions Recommendation No. 21: The Personnel Management Division should take a more strategic approach to recruiting, including the development of a recruitment strategy. The recruitment strategy should include recruiting goals, data collection, data analysis, and periodic assessments of accomplishments.

Publicizing the Employment Opportunity

Hiring & Promotions Recommendation No. 22: The Personnel Management Division should cease using, on the Position Vacancy Announcement form,

jargon or terminology with ambiguous meaning to most applicants, such as “OUF” and “tour of duty”.

Hiring & Promotions Recommendation No. 23: The Personnel Management Division should include in its Position Vacancy Announcements the language required under federal legislation pertaining to the Courts’ compliance with affirmative action regulations and the Courts’ observance of the Americans With Disabilities Act.

Hiring & Promotions Recommendation No. 24: The language in the Position Vacancy Announcement forms describing the selection process either should be eliminated or should be provided in its entirety.

Hiring & Promotions Recommendation No. 25: The Position Vacancy Announcement forms should state that position vacancy information is available in alternative formats (*i.e.*, braille, floppy diskettes) upon request.

Hiring & Promotions Recommendation No. 26: The Position Vacancy Announcement forms should include information about the Personnel Management Division’s automated response job line.

Hiring & Promotions Recommendation No. 27: The language in the Position Vacancy Announcement forms, requesting the applicant to identify his or her race, ethnicity, and gender, should be revised to conform with the law, by informing the applicant that the requested information is voluntary.

Hiring & Promotions Recommendation No. 28: The language in the Position Vacancy Announcement forms, requesting the applicant to disclose whether he or she is a citizen of the United States, should be replaced with more acceptable inquiries regarding the applicant’s ability to produce proof that he or she is legally able, under the Immigration Reform and Control Act of 1986, to work in the United States.

The Application

Hiring & Promotions Recommendation No. 29: In the ADA policy statement, the Courts should define what alternative formats are acceptable for completed position applications.

The Criminal History

Hiring & Promotions Recommendation No. 30 The practice of mandating an applicant to provide information about his or her race, age, and gender on the Criminal History Request form, which is submitted with the application form, should be reviewed and revised so that the Courts ensure compliance with the spirit of federal and local affirmative action laws, equal employment opportunity laws, and laws which regulate the collection of such personal information.

Employee Training

Hiring & Promotions Recommendation No. 31: ADA issues, such as the right to request reasonable accommodations and the ADA complaint process, should be included in the employee orientation and training sessions.

Hiring & Promotions Recommendation No. 32: The Courts should determine whether additional language and culture classes, or more intensive language classes, should be offered.

Hiring & Promotions Recommendation No. 33: Diversity and inter-cultural courses should be made available, and staff encouraged to attend the courses.

Hiring & Promotions Recommendation No. 34: The Courts should recognize all of the appropriate commemorative months and other celebrations that affect staff in the Courts' workforce, including National Persons with Disabilities Month. The goal of recognizing these commemorative events is to sensitize and educate the Courts' workforce on diverse cultures and disabilities in the workforce.

Hiring & Promotions Recommendation No. 35: The Courts should assess and evaluate the stated policy of promoting from within, and determine whether current employees are provided with adequate training to enhance their qualifications.

Hiring & Promotions Recommendation No. 36: The Courts should evaluate whether the Employee Performance plans that are developed pursuant to the performance management policy 900 in the *District of Columbia Courts' Comprehensive Personnel Policies* should include training plans for the employees' career development.

Hiring & Promotions Recommendation No. 37: All court employees that use the telephone should receive training in operation of the TTY/TDD equipment.

Hiring & Promotions Recommendation No. 38: The Courts should review and update the Courts' existing workplace safety policy and programs, including issues of sexual harassment and domestic violence in the workplace.

The Employee Mediation Project

The Subcommittee on Hiring and Promotions also has oversight responsibility for *The Employee Mediation Project of the District of Columbia Courts (Employee Mediation Project)*. In early 1996, the D. C. Courts submitted a proposal to the State Justice Institute (SJI) for a project that would support implementation of the state plan developed at the *First National Conference*. The *Employee Mediation Project* is an innovative adoption of alternative dispute

resolution techniques. This project is the first instance in which a state-level court has adopted a strategy to resolve equal employment opportunity related issues and other conflicts in the workforce by mediation rather than by adversarial processes.

The *Employee Mediation Project* is expected to also provide a process for informally resolving equal employment opportunity complaints filed by court employees. With the able assistance of the consultant to the *Standing Committee* and the mediation and evaluation consultants, the *Employee Mediation Project* is in its planning and implementation phase.

The subcommittee has met with those involved in establishing the *Employee Mediation Project*. Questions have been raised and ideas shared concerning the scope and substance of the project.

IV. Improving the Treatment of Court Users

The treatment of court participants by judicial officers was another area of major concern of the original Race, Ethnic, and Gender Bias Task Forces. As a result of the work of the two task forces the Code of Judicial Conduct was amended. Effective June 1995, “a judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socio-economic status, against parties, witnesses, counsel, or others. This section 3B(6) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.”²¹

In an effort to monitor and ultimately eliminate all vestiges of bias and prejudice, the Subcommittee on the Treatment of Participants by Judicial Officers was formed, chaired by Judge Geoffrey M. Alprin. Other members of the subcommittee include Court of Appeals Judge Frank E. Schwelb and Judge Kaye K. Christian and Judge Eric T. Washington of the Superior Court. This subcommittee also has formed an advisory committee consisting of attorneys.²²

The first area this subcommittee is examining the treatment of lawyers by judges, specifically issues pertaining to the general administrative orders of the various divisions of the Superior Court, calendaring practices, and other judicial practices that have an impact on attorneys and other court users. The subcommittee is planning a bench/bar town hall forum in Fall 1997 that will focus on such issues. Long-range objectives of the Subcommittee on the Treatment of Participants by Judicial Officers include examining the treatment of participants by court staff and the treatment of court users who are not participants in a trial.

Judge Alprin met with officials of the Judicial Tenure Commission. He was informed that the Commission receives a lot of complaints, but that the Commission has a policy of not informing judges about complaints that the

²¹ District of Columbia Code of Judicial Conduct, Canon (3)(B)(6) (1995).

²² The members and affiliations of the Advisory Committee on Improving the Treatment of Participants by Judicial Officers are listed in Appendix G.

Commission deems as frivolous. Access to information about complaints is limited to the judge who is the subject of the complaint. The subcommittee explored the possibility of getting a report on the nature of the complaints or getting access to redacted versions of the complaints in order to determine the areas on which the judges need to focus.

The subcommittee also identified other complaint processes now in existence in the D. C. Courts. For example, the subcommittee discovered that the Chief Judges receive complaints from court users. Other issues that the subcommittee may examine include judicial training, training for the courtroom clerks, and examining the signs posted on courtroom doors.

After discussing the issue, the subcommittee concluded that trying to get information from or involving the Judicial Tenure Commission in any way is not a good idea because of the sensitivity of the Commission's work. Thus, the subcommittee identified a need for methods of gathering and analyzing information from court users about their perceptions of the way that judges and court employees treat them. The subcommittee does not want a feedback system that is a censure or complaint system. And the method of having the judges observe their colleagues in court to determine treatment by judges of participants is not feasible because of time constraints.

The subcommittee discussed other data collections methods. For example, one method of collecting this information is first, to provide comment cards in strategic locations throughout the court building. A second method is to conduct separate focus groups for attorney and non-attorney court users. The findings from the comment cards could be used to structure the focus group sessions. The subcommittee also examined the survey instrument that Judge Henry F. Greene uses to survey former jurors in trials in which he was the presiding judge.

The subcommittee realizes that if it asks for comments from the court users, the subcommittee and the *Standing Committee* must be prepared to differentiate between valid comments and invalid ones and be prepared to address the valid issues.

The subcommittee will also examine fairness in court appointments. Court appointments include the attorneys appointed as defense counsel under the Criminal Justice Act, CCAN, and guardianships.

The subcommittee explored the issue of attorneys being notified to appear in the Family Division at 8:00 a.m. when proceedings do not begin until after 11:00 a.m. While the court knows that the judges are attending to other assignments before they convene court, attorneys and the public do not have this information. Therefore, they leave with the impression that the judge came to court late. This results in court users having less respect for the judicial system and in the Courts appearing to have judges who are not concerned with their duties. If this practice cannot be changed, the court should consider informing attorneys and the public of what is happening and why. This will alleviate any animosity held toward the judges and judicial system by court users.

Court Meetings With the Community

The *Standing Committee's* Treatment of Participants Subcommittee has been diligently developing a strategy for court and community collaboration in the District of Columbia Courts to improve the judicial system, by obtaining the input of the D.C. community. Court and community collaborative efforts is a national movement. The subcommittee's objective is to improve the District of Columbia's justice system by enhancing public trust and confidence, involving the public in the development of a constituency for the Courts, and meeting the needs of the District's citizens.

In order to meet these objectives, the Courts must first discover what the public opinion is of the D.C. Courts. In that regard, the subcommittee seeks to ascertain what justice system problems exist in the perception of the public and then to work with the public to address the problems. The subcommittee's initial focus is two-fold: researching other state courts which have implemented this new concept and developing a strategy for implementing court and community collaboration in the District of Columbia that is beneficial both to the D.C. Courts and the community it serves. Upon receiving the public's feedback, the Courts will conduct an evaluation and respond as necessary. In order to acquire the

public's perception of the Courts, other state courts have utilized one or both of the following approaches: town hall meeting and *The Consumer Research and Service Development Project*.

The town meeting approach obtains information from the general public about the justice system by extending an invitation to the community to participate in a town meeting. The town meeting approach enables the court to acquire opinions, suggestions, and viewpoints from a vast representation of the community immediately. Participant involvement can range from inviting the general public to inviting attorneys, public officials, and representatives of organizations in the community. For example, the *National Town Hall Meeting* was conducted at the request of the State Justice Institute in order to learn about the problems in the justice system. The National Center for State Courts (NCSC) responded to the request and organized the National Town Hall Meeting with an uplink site in Virginia and ten downlink sites throughout the country. The ten states participated through the technology of video-conferencing.

A Planning Committee was responsible for developing a structured agenda and structured questions to operate the plenary sessions during the course of the Meeting. To determine the agenda, an advisory committee conducted research for issues to be discussed during the meeting.

During the local sessions though, each downlink site was responsible for creating its own agenda and creating a report of the downlink sites ideas/thoughts that came out of the session to contribute to the National Meeting during the plenary sessions.

The National site was conducted in a hotel in Norfolk, Virginia, where one large room was reserved for the 60 invited community leaders and five other rooms reserved for breakout sessions during the course of the meeting. More than 1000 people participated in the conference. Each downlink site was responsible for locating a site for its meeting. In order to publicize the meeting and provide information and access to the community, NCSC arranged for various forms of media coverage, print, broadcast media, and press releases.

At the end of the National Meeting, an evaluation form was provided to the participants to elicit their opinions of the meeting, and to receive valuable feedback for future meetings.

The *Franklin, Massachusetts* town meetings were conducted at the request of the Chief Judge of the Supreme Court for the purposes of “reinventing justice” in Massachusetts. The Franklin County Futures Lab orchestrated four town meetings to obtain the community’s opinion of its court system. Public notice was provided, inviting everyone in the community to come to the town meetings to voice their opinions. The meetings were held in an elementary school, community center, and courthouses, with more than 475 people attending. Newspapers and radio covered the events for the community who were unable to attend. A stenographer recorded the meetings.

The public hearings conducted in *California* in 1991-1992 were a product of a California Government Code that permitted the Chief Judge to convene a committee on Race and Ethnic Bias, which convened the hearings to learn about the public’s views on fairness in the California courts. The hearings received much feedback from the 343 participants in the State. The 13 hearings were conducted over a span of seven months at various locations, including a Junior College campus, municipal buildings, and community centers. Oral and written testimony was recorded and videotaped. The hearings were open to anyone and for those who could not attend, television and radio covered the event.

Recommendations to the Courts

Recommendations will be developed after the subcommittee completes the community outreach phase of its work.

CONCLUSION

During its first year, the Standing Committee on Fairness and Access has accomplished much to achieve its objectives of improving access to the D. C. Courts, enhancing the fairness of the Courts' hiring and promotions practices, and improving the treatment of participants by judicial officers.

Since September 1996, coordination of the activities implementing the Americans With Disabilities Act has improved with the appointment of a chief ADA coordinator and assistant coordinators. The third self-evaluation of the Courts' compliance with the ADA has been conducted and the transition plan that describes how the courts will accomplish any needed action is being developed. Also, ADA-related training has been made available to the entire workforce. As part of its annual report the Standing Committee will include a set of recommendations developed by the Subcommittee on Improving Court Access in conjunction with its advisory committee.

In the area of recruitment, the Standing Committee has refined the list of persons and organizations who are informed of job opportunities with the Courts. Recommendations have been developed that address the areas of recruitment strategy, affirmative action planning and management, and automation of human resource activities. The Hiring and Promotions Subcommittee also serves as the monitoring committee for the grant-funded *Employee Mediation Project*.

The Standing Committee is currently developing strategies to address the treatment of court users by judicial officers. The first phase of this effort will be an outreach initiative program with the legal community.