■ IN THE COURTS ■

Survey, Hearings to Examine Bias in the Federal Courts

BY DEBORAH PINES

A MASSIVE SELF-EXAMINATION process by the federal courts in the Second Circuit is under way with public hearings, surveys and focus groups considering issues of gender, race and ethnic bias.

The effort, which began in October 1993 with the creation of a task force on bias issues, is expected to culminate in a draft report in June to the public and to judges within the circuit that includes New York, Vermont and Connecticut. A key step, a written survey of all 1,743 court employees and 165 judges, and a telephone survey of a randomly selected 1,200 lawyers, is scheduled to start in the next few weeks.

"This is an exercise that does not start from a point of suspicion," Second Circuit Judge John M. Walker Jr., one of the co-chairpersons of the Task Force on Gender, Racial and Ethnic Fairness in the Courts, said yesterday. "We want to make sure the public's confidence in the judicial system in the Second Circuit is well-placed. If there are examples of people being treated unfairly for reasons of race and gender, we want to know about it so we can correct this."

The task force has split into subcommittees examining such issues as how gender, ethnicity and race affect court employees, jurors, lawyers and litigants, said Sheila Birnbaum, a partner at Skadden, Arps, Slate, Meagher & Flom, who is serving as executive director of the task force.

Ms. Birnbaum said reports from subcommittees will be compiled in a draft final report with recommendations to be circulated at the Second Circuit Judicial Conference in June.

Key steps in the process include:

- Public hearings including one on gender issues scheduled for tomorrow, from noon to 8 p.m. in Albany at the New York State Bar Association headquarters. Other hearing dates include Nov. 8 in New Haven and Nov. 28 in Manhattan. Interested parties who do not want to speak may submit anonymous or confidential statements.
- A survey of court employees, judges and lawyers who have appeared in federal court. Pollsters are hoping to interview four groups of 300 lawyers — minority men, minority women, non-minority men and non-minority women.

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PHOTOGRAPH BY FAYE ELLMAN

Sheila Birnbaum, executive director of the task force.

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Survey on Bias in Fed'l Courts

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While similar reviews, under way in other circuits and completed by the D.C. and Ninth Circuits, have come under fire from Republicans in Congress, leaders of the Second Circuit process took pains yesterday to defend their work. In May, Senator Charles Grassley, R-Iowa, head of the Senate Judiciary Subcommitee on Administrative Oversight and the Courts, denounced the costs and methodology used by court committees studying gender and race bias.

Organizers noted that while the Second Circuit task force is paying $50,000 to Louis Harris & Associates Inc. to conduct the poll, much of the work is being handled by hundreds of volunteer lawyers. Southern District Magistrate Judge Sharon E. Grubin, a task force co-chair, said the group has no pre-conceived ideas.

"We have no agenda," she said. "All we want is to see what's out there and if there are any problems to fix them."

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