

# Chief Concern

Inspirational quotes. Hurried drives across a vast state. One-on-one interviews with the poor. Chief Justice Karla Gray of the Montana Supreme Court will stop at nothing to make one “impossible dream” come true.

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by Howard Rothman

When Karla Gray talks about her most pressing priority as Chief Justice of the Montana Supreme Court, she talks to persuade. Addressing a state equal justice conference in Helena in the fall, her efforts to inspire her audience included everything from famous quotes from Eleanor Roosevelt (“You must do the thing you think you cannot do.”) and Ralph Waldo Emerson (“Go instead where there is no path, and leave a trail...”) to song lyrics taken from the Joe Darion classic, “Impossible Dream.”

The impossible dream in question: improving the prospects for justice for Montana’s poorest residents, despite critical funding and workforce shortages in the state’s legal services community. Nearly one-fifth of all Montanans

(more than 190,000 people) are straddling the poverty line with incomes that qualify them for free legal assistance. Despite their eligibility, many are forced to give up on the prospect of a fair outcome when confronted with a legal problem, because there are simply no lawyers available to help them. Montana Legal Services Association, which provides free legal counsel across the state, can only afford 14 staff attorneys on its current budget.

“It’s clear I don’t believe equal justice is an impossible dream,” Gray emphasizes. “We can’t afford to think otherwise unless and until we have given our all to make the dream a reality...and do Montana justice.”

Of course, there’s talking the talk; and

**RIGHT:** Chief Justice Karla Gray’s championing of equal justice has had an undeniably positive impact on leaders at the State Capitol in Helena. The subject needs all the attention it can get, given Montana’s vast geography, isolated rural poor, high percentage of low-income residents, and relatively small state budget.

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**CHIEF JUSTICE KARLA GRAY**





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**KLAUS SITTE, EXECUTIVE DIRECTOR OF MONTANA LEGAL SERVICES ASSOCIATION, ON MONTANA CHIEF JUSTICE KARLA GRAY**

**RIGHT:** Senator Conrad Burns (R-MT) speaks with a constituent after a news conference in Helena, where he heralded technology’s potential to help the poor living in remote parts of Montana access civil justice. Gray, a Republican, has used her influence to enlist the support of some of the state’s most important—and most conservative—leaders.

**PHOTO CREDITS:** George Long

there’s walking the equal justice walk. Gray has done much to back up her statements on the bully pulpit, beginning with the creation of the Montana Supreme Court Equal Justice Task Force two years ago under her leadership. The panel determined that its initial major task was to conduct the first comprehensive legal needs study in Montana’s history. The one drawback? It’s a terribly time-consuming process, requiring the completion of lengthy interviews with more than 1,000 potential legal aid clients. So there Gray was, less than three weeks after imploring the 120 attorneys attending the Helena conference to help legal aid officials complete the study, visiting the home of a mentally challenged resident of the state capital, where they personally completed an hour-long survey.

“I think that was a very positive experience for both of us,” Gray recalls of conducting the survey, adding, “I want to be more than the main cheerleader for these issues.”

Don Saunders of the National Legal Aid &

Defender Association met Gray for the first time at the meeting in Helena. He was impressed even before he had a chance to make her acquaintance, hearing how she had driven hundreds of miles following another speaking engagement to be with advocates at the legal aid meeting. “That was an extraordinary thing for someone in her position to do,” Saunders recalls. “She really is the one who is leading the charge. I was taken aback by how committed she was, how active she was.”

According to many longtime colleagues and associates, Gray’s strong backing of equal justice has had an undeniably constructive impact in a state where the subject needs all the attention it can get. Across the nation, legal services lawyers are struggling with funding and manpower shortages. But Montana—with its expansive geography, difficult-to-reach rural population, high percentage of low-income residents, and dearth of state funding—presents especially vexing problems for advocates.





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That’s why Gray starts at the top of her Rolodex in seeking out influential partners to support civil justice providers, including fellow judges and key lawmakers. This winter, she stood alongside Senator Conrad Burns (R-MT), a powerful member of the Senate Appropriations Committee, to announce federal grants that will utilize new self-help software and video conferencing to reach low-income Montanans living in remote parts of the state. At a news conference in the state Capitol, Senator Burns publicly declared his support for legal services—to the delight of the smiling Chief Justice.

For the 56-year-old Gray, such a leadership role now seems as natural as the clear Big Sky of her adopted state. A self-professed judicial conservative who writes her own speeches, Gray has never been shy about saying exactly what she thinks. A native of Wisconsin, she earned undergraduate and master’s degrees from Western Michigan University before graduating in 1976 from Hastings College of the Law in San Francisco. She moved to Montana later that year to clerk for a federal district judge in Butte and never left.

In 1984, Gray accepted a position as a staff attorney and lobbyist with the Montana Power Company and was appointed to the state supreme court by the governor seven years later. She became the state’s first female Chief in January 2001 after topping a fellow justice with a more liberal reputation in an extremely close race, winning by 8,800 votes out of nearly 387,000 cast. Now, this self-proclaimed “darkest of darkhorse candidates” spends much of her time off the bench advocating for another underdog issue: the legal rights of the poor.

“She has always been supportive, but I’ve seen that support grow even stronger over the years,” says Klaus Sitte, executive director of the LSC-funded Montana Legal Services Association. Sitte, who has known Gray since her early days with Montana Power, offers testament to the Chief’s convictions. “She believes in these causes,” he says, “She gives more than lip service to them.”

Ann Gilkey, who oversees the state task force as equal justice coordinator for the

State Bar of Montana, says Gray has made the cause her own by volunteering time, publicly speaking out, and privately cajoling colleagues to get with the program. “She sends letters to district court judges, asking them to get involved, and then those judges call me and ask what they can do,” Gilkey says. “I could beg all I want. But when she talks, people listen.”

One of the areas that Gray talks about most is the dire need for more pro bono participation by Montana’s private attorneys. Her activity in this arena began several years ago when she helped convince her colleagues to adopt an opt-out system that assumes lawyers who don’t specify otherwise will agree to take pro bono cases. This was followed by the creation of the Supreme Court Commission on Self-Represented Litigants, *pro se* clinics where attorneys help prepare litigants to represent themselves, and a new web site designed to facilitate pro bono on the local level. Today, approximately 1,000 Montana lawyers perform some pro bono work—an impressive percentage of the bar that compares favorably with neighboring states.

“Pro bono is critical since we have scores of thousands of low-income Montanans who can’t be served by Montana Legal Services because the budget just isn’t there,” Gray says. “And while I’d like to think otherwise, this isn’t likely to change in my lifetime.... I think we have to find every button we can push to provide access to justice for Montanans.”

Hardly satisfied, Gray is looking for avenues to promote the cause nationally. The Conference of Chief Justices, on whose Board of Directors she sits, has examined the access problem in years past. “Perhaps it’s an issue we should be putting back on the agenda,” she muses, thinking aloud about whether to raise the issue at the 2004 meeting. “If they will step up and show their commitment—not just by passing a resolution, but by doing something—I think it could make a big difference.” ■

Howard Rothman is C-SPAN’s Denver programming representative and the author of nine books, including *50 Companies That Changed the World* (2001, Career Press). He lives in Centennial, Colo.