

**The Ninth Judicial Circuit (Kalamazoo County) Family  
Division: An Overview, Review, Analysis and  
Recommendations for Performance Standards**

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**The Ninth Judicial Circuit  
Family Division  
Kalamazoo County, Michigan**

**A Report on the Ninth Circuit's Family Division  
Executive Summary**

In 1996, the Michigan Legislature adopted Act 388, which directed the Judicial Branch to create a Family Division in the Circuit Courts of the State. In Kalamazoo County's Ninth Circuit Court, this entailed the creation of both a family and a trial division, while an Administrative Services Division was created under an amended implementation plan in 1998.

The Ninth Circuit has gone far in developing and implementing a model unified Family Division. It has issued its own Caseflow Management Plan based on a commitment to central assignment and the "timely, fair and cost effective disposition of all matters presented to any of its service units or courts." In 2000, the State Court Administrative Office (SCAO) made a series of recommendations regarding the Family Division. In response, the Ninth Circuit undertook the following:

- Developed a plan to address parking problems;
- Comprehensively reviewed all job descriptions and transferred juvenile and other probate records to the Records Services Unit;
- Established regular opportunities for judges and administrators to participate in numerous communication activities and work groups;
- Provided cross-training for staff.

In addition to the SCAO recommendations, the Ninth Circuit also implemented recommendations made in a study to determine the Friend of the Court's staffing needs and engaged a firm to develop a Justice Facilities Long Range Program Plan. In short, by 2002, the Ninth Circuit had received, listened to, and generated substantial information about the Family Division. Furthermore, it had achieved major success in reaching the goals articulated in Act 388.

In March 2002, the Ninth Circuit turned to the University of Baltimore School of Law's Center for Families, Children, and the Courts to develop a more detailed and extensive examination of its Family Division, including a case management system review, a "best practices" analysis, and performance measures and standards. As part of this process, CFCC's Senior Fellow at that time, Jeffrey Kuhn, carried out a series of interviews in April-June 2002 and conducted a retreat on August 30, 2002 to assist in identification of the Division's strengths and weaknesses.

The CFCC found that substantial progress has been made by the Ninth Circuit in meeting both the state's and its own goals in establishing a unified Family Division. While there continued to be some concerns on the part of judges, lawyers, and/or administrators and court staff, the Division had gone to great lengths to address these and other issues. Major areas of growth and development include management of Family Division records; case management practices; the allocation of judicial resources and reduction of judicial workload; the most effective use of the current PROCIR and JUMIS systems while intensifying the focus on obtaining a new Windows-based case

information system that is capable of handling the Circuit Court's needs; and capitalizing on the demonstrated leadership of the Family Division Presiding Judge and the Chief Judge of the Circuit.

During the August 30<sup>th</sup> planning retreat, CFCC discovered that these impressive accomplishments were due in large part to the commitment and strong participation of judges and court staff from throughout the Ninth Circuit. Strengths included the experience, dedication, and competence of the Family Division's staff, which in turn led to a high degree of documented "customer satisfaction" with the Division and its services. Judges and staff clearly understood the non-adversarial, therapeutic model of justice that forms the foundation of the unified family court model. While participants acknowledged that there continued to be challenges in running the Family Division, the retreat resulted in a coherent plan outlining tasks, timetable for completion, persons responsible, and process for evaluation.

The CFCC report concludes with recommendations for performance standards that might be incorporated into the continued development of the Ninth Circuit Family Division's operations. It is based on the five major performance standards adopted by the Bureau of Justice Assistance in the *Trial Court Performance Standards*.

## CHAPTER ONE

### BACKGROUND

#### I. History of Act 388

In 1996, the Michigan Legislature adopted Act 388 of the Public Acts of 1996, directing the Judicial Branch to create a Family Division in the Circuit Courts of the state.<sup>1</sup> It further directed the merger of the juvenile division of the Probate Courts with the Circuit Courts. The law also required the chief judges of each Probate and Circuit Court to agree by July 1997 on a plan for implementation of the merger, to become effective January 1, 1998. The law was recently amended to require that a revised plan be submitted by July 1, 2003.

Prior to this legislation, the Circuit Court had exclusive jurisdiction over virtually all domestic suits, including divorces with and without minor children, paternity actions, and original and interstate child support matters. As part of its domestic docket, the court maintained continuing jurisdiction relating to disputes over and revisions to child support, parenting time, and custody orders.

Probate Courts had jurisdiction over the probate of estates and matters relating to mental commitments. But the bulk of its workload in most courts generally related to matters assigned to the juvenile division, in which it had jurisdiction over matters involving delinquency and the abuse and neglect of children, including termination of

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<sup>1</sup> While the legislation did not mandate a trial division, the assignment of judges to the Family Division, the establishment of its jurisdiction, and the “one judge-one family” requirement suggested that there had to be a criminal/civil division to handle the balance of the docket.



parental rights (TPR). It also granted adoptions and heard matters involving petitions by minors seeking a judicial waiver to a parental consent for an abortion.

In addition to placing all family-related cases in the Family Division of the Circuit Court, the legislation included the one judge-one family rule, requiring that a judge originally assigned to any matter involving a family would receive all future case assignments involving that family. The Chief Judge of the Circuit Court was required to appoint a presiding judge for each division, while Probate Courts remained in existence as constitutional courts with jurisdiction over estates and mental filings.

The impetus for the merger of Circuit and Probate Court operations was, at least partially, initiated by the Family Law Section of the Michigan State Bar and gained momentum when the legislature, with gubernatorial support, sought to complete a series of changes in judicial operations statewide. Locally, judges, court administrators and personnel, and Friends of the Court faced a considerable challenge. The following report is an in-depth analysis of how the 9<sup>th</sup> Judicial Circuit Court in Kalamazoo and the Kalamazoo County Probate/Juvenile Court handled that challenge.

## **II. Kalamazoo's Ninth Circuit Court**

Of a total of 15 judges in Kalamazoo County, eight were potentially involved in the merger of Circuit and Probate Court operations into a Family Division, five from the Circuit Court and three from the Probate Court. The operations of the two courts occurred in four different locations. The five Circuit judges and one Probate judge had

courtrooms and staff at the county courthouse located in the downtown central business district. Friend of the Court operations were conducted three blocks north of this facility in the County Administration Building. Juvenile division operations were located in a courthouse 2 miles northeast of the central courthouse on a parcel of land that also separately housed the juvenile home. The change would affect some 205 employees and a combined operating budget of \$15 million.

The Kalamazoo County Family Division implementation plan provided for the creation of both a family and a trial division with a common administration and overlapping staff. The plan called for one Circuit and two of three Probate judges to be assigned to the Family Division. The remaining Circuit judges would be assigned to the trial division. Circuit Court Chief Judge Philip D. Schaefer assigned himself to the Family Division. Each Family Division judge had a mixed domestic and juvenile docket for which they would be responsible.

During 1997, judges and administrators from both the Circuit Court and the Probate Court began meeting on a weekly basis as a Transition Management Team, which was an enlarged version of the management team that had operated in the Circuit Court for many years. This group, chaired by the Chief Circuit judge, developed a time line for implementation and addressed planning and implementation issues as they arose. The team also addressed the changes required for the creation of the Family Division,

including new dockets, arrangements for the transition of all cases within the jurisdiction of the Family Division, facilities, and personnel issues.<sup>2</sup>

In May 1998, the management team and other selected leaders from the court held a retreat to identify administrative strengths and weaknesses and to articulate the vision and mission for the family court. The final result of the retreat was the development of a new reorganization plan, which was submitted as an amended implementation plan to the Supreme Court for approval, and scheduled commencement of operations for October 1, 1998.

### **III. The Revised Plan: An Overview**

Under the new reorganization plan, the Circuit Court's functions were divided into five areas. The following outlines significant aspects of the plan.

#### Administration

1. In addition to the two trial divisions – the Trial Division and the Family Division – an Administrative Services Division was created. Administration of all court and administrative support functions falls under the direction of five service administrators who report to the Court Administrator and who each head a service unit (Finance Services; Intake & Evaluation Services; Court Services; Domestic & Youth Services; and Records Services).

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<sup>2</sup> Ultimately, a permanent management team was established. In addition to the chief Circuit judge, the team included the Presiding Judges of the Trial and Family Divisions, and all administrative staff.

2. The duties of the Friend of the Court (FOC) were administratively divided among the five service units in the Administrative Service Division, but continued to operate from one location as one coordinated court function.
3. A consolidated court budget would be submitted to the funding unit for the year 2000. The Finance Administrator is responsible for developing and monitoring the Trial and Family Division budgets.

There were subsequent changes to the Administrative Division. The most recent organization is divided between six service administrators: Court Services; Family Services; Finance Services; Records Services; Friend of the Court; and Juvenile Home.

#### Judicial and Case Management

1. Three judges are assigned full-time to the Family Division – one judge from the Circuit Court and two judges from the former Juvenile Division of the Probate Court. The Probate judge remaining in the Probate Court is assigned to handle Family Division cases, as needed, to cover those cases which cannot be handled by judges assigned to that division by reason of caseload, disqualification, or administrative inconvenience.
2. As of January 1, 1999, Family Division judges were assigned full-time to the division (the Chief Judge can move judges from one division to another to respond to changes in the court's overall workload).

#### Caseflow Management and Case Assignment

1. Cases are assigned by lot to the three full-time Family Division judges. When new filings are received, a computer check is done to determine if a pending case

- exists involving this same family before one of the three judges. If such a case exists, the new filing will be assigned to the judge who has the pending case. If the case is pending before a judge who is not assigned to the Family Division, the new case is assigned by lot to one of the Family Division judges.
2. “Family” is defined as “legal parents and their children.” When a new case is filed and any of the parties in the new case are parties in a pending case, the one judge/one family rule will be applied.
  3. In order to help determine those cases falling under the one judge/one family rule, a cover sheet is included with all new filings in which the petitioner/complainant is asked to list prior court contact by parties to the new action. The court does a computer check to ensure accuracy.

#### Facilities and Record Management

1. Until a new Family Division facility is completed, Family Division judges and personnel will continue to work in three locations with three different computer systems that do not permit easy exchange of electronic data. Filings continue to occur at the Michigan Avenue Courthouse and Gull Road Courthouse for domestic relations matters, and filings for what was previously considered to be Juvenile Division of the Probate Court matters will continue to occur at the Gull Road facility.
2. Until new facilities are completed, Family Division records will be kept in present location, and delivered to the proper courtroom when needed.
3. The detention facility continues to be operated by the court.

### Training and Staff

1. The court continues to provide all training and cross-training of staff.

As articulated in the “Revised Plan for Operation of the Family Division of the Circuit Court,” these issues were carefully developed and addressed by the transition team. However, the Ninth Circuit Family Division had only just begun laying the groundwork for its new operation.

### **IV. Caseflow Management**

In December of 2000, the Ninth Circuit Court issued its own Caseflow Management Plan based on a commitment to central assignment and the “timely, fair and cost effective disposition of all matters properly presented to any of its service units or courts.” More specifically, the plan’s goals included the following:

- Compliance with the time guidelines for case processing established by the Michigan Supreme Court.
- Early court intervention in all cases to create meaningful event and reasonable time frames.
- A firm but fair adjournment policy.
- Alternative methods of resolving cases such as alternative dispute resolution, diversion programs, and contract referees.
- Annual review of each area of the plan to ensure efficient case processing and maximum use of judicial resources.

- Annual review of computer generated reports to verify effectiveness of process and accuracy.
- Utilization of rules provisions allowing dismissal in those cases where there is lack of progress or non-service.
- Expanded use of technology to facilitate timely case processing and user-friendly access for the public.

The plan included case processing time goals and procedures for accomplishing those goals in the following proceedings: domestic relations; delinquency and child protection; emancipations; adoptions; parental rights restoration; and name changes. With a caseload management plan in place, the Ninth Circuit turned its attention to assessing its sites and facilities, and to addressing the most substantial concerns emerging from this process.

It should be noted that a significant component of the Ninth Circuit Court's plan was an attempt to integrate delinquency and child protective proceedings information into the Circuit Court's PROCIR system, moving the court much closer to a standardized case management system. However, there will continue to be manual calculation of information regarding delinquency and child protective cases (which may change in 2003). The manual counting process will include the use of Crystal Reports software, which will extract information from the PROCIR and JUMIS database.

**V. Site Assessment by the State Court Administrative Office**

In June, 2000, the State Court Administrative Office (SCAO) issued a Site Assessment Report for the Ninth Circuit Court. The Report affirmed that those surveyed (which included judges, administrators, referees, and staff) felt the Family Division was functioning according to its implementation plan. In particular, many of those interviewed noted the improved service potential arising out of the creation of a single location for all family-related court matters, the consolidation of service locations and case processing, and the one judge-one family concept.

The SCAO made a series of recommendations based on their findings, and the Ninth Circuit took steps to address those recommendations:

1. The court should work with its funding unit to develop a plan for the solution of the parking problem at the Gull Road facility.

**Response: The Ninth Circuit staff are now provided with parking on the intermediate and lower levels of the parking area. Juvenile Home staff park on the east side of the home or behind it. Hearings, which were typically held on Mondays, are now spread out over other days. Another off-site parking lot within 300 feet was procured for use by Court employees. A parking structure will be incorporated in any new Juvenile Home construction.**



2. The court should study caseload differences between the Family Division, the Trial Division, and the Probate Court in order to develop a plan for the redistribution of judicial or staff resources if great inequities were uncovered.

**Response: In cooperation with the Eighth District Court and the Probate Court, the Ninth Circuit Court undertook a complete review of all job descriptions as a result of the functional reorganization. In addition, juvenile and other probate records were transferred to the Records Services Unit.**

3. The court should establish a variety of regular opportunities for the communication of concerns, questions, and needed administrative information.

**Response: The Ninth Circuit Court worked closely with other courts, departments and agencies to enhance current programs and to enable judges and administrators to participate in numerous activities and work groups.**

4. The court should investigate means by which cross-training needs of staff can be thoroughly and comprehensively met.

**Response: The Ninth Circuit trains staff in the operation of the Family Division by utilizing the resources of the Michigan Judicial Institute, Covey Seven Habits Training, CSES training and locally provided software training. Employee training and attendance at seminars and professional organizations increased as a result of the reorganization, which imposed new duties on court employees.**

## **VI. Friend of the Court by Plante and Moran**

Anticipating major changes in the Friend of the Court (FOC) office as a result of a federally mandated computer system change in 1999, the Board of Commissioners added three new positions to the FOC and commissioned a study to determine the FOC's staffing needs (especially given the considerable increase in workload resulting from the adoption of the federally-mandated Child Support Enforcement System). The study resulted in 100 recommendations for changes to FOC operations and a recommendation to add six full-time staff. Over half of the study's final recommendations were implemented by the end of 1999.

In April 2002, impressive results were reported by FOC Administrator Roland Fancher. For example, no bench warrants remained to be prepared or processed. The delay time on preparation and service of hearings from referee orders was at 8 days, below the "ideal standard" of 10 days, and far below the delay time of 4-8 weeks, which had been reported at an earlier time. The turn around time of entry of hearing disposition codes was 3 days – below the "ideal standard" of 5 days.

Pursuant to the understanding between the Court and the Board of Commissioners at the time, nine new positions were added to Friend of the Court operations. The Circuit Court has been reducing the number of positions at the Friend of the Court and as of July 1, 2003, the staffing level will be the same as it was in 1998.

## **VII. Long-Range Facility Planning**

With the justice system reorganization plan in place and major changes underway, Kalamazoo County engaged the firm of Tower Pinkster Titus, Inc. to undertake the development of a Justice Facilities Long Range Program Plan. This plan would evaluate optional facility development strategies to enable the County to decide on the best strategy and means of addressing the physical plan and space needs for the county's justice agencies. The final recommendation was the creation of a new centralized justice complex which would locate all justice functions on a single site – very much in keeping with the service delivery, user-friendly emphasis of unified family courts.

By the beginning of 2002, the Ninth Circuit had received, listened to, and generated substantial information about creating a Family Division – site assessments, caseflow management plans, and long-range planning studies, to name a few. It had achieved major and impressive success in reaching the goals articulated in Act 388. It had pulled together judges, administrators, and court staff in both the plan's development and its implementation. It was a logical time to turn its attention to an assessment of this progress, and developing comparative information that would assist evaluation efforts.

## CHAPTER TWO

### CFCC EVALUATION

#### **I. Center for Families, Children, and the Courts Study**

In March 2002, the Ninth Circuit turned to the University of Baltimore School of Law's Center for Families, Children, and the Courts (CFCC) to provide a more detailed and extensive examination of its Family Division. The CFCC project includes the following components:

##### *Case Management System Review*

CFCC was to review the Ninth Circuit's Family Division case management system and offer an informed opinion concerning its structure and operations, including appropriate recommendations for further development. This is to include identification of Family Division case management objectives, and comparisons with commonly identified case management objectives in other Family Divisions, such as expedited court process, coordinated resolution of multiple court matters involving the same family, effective linkages with service providers, and minimized issuance of inconsistent or conflicting orders, among others.

##### *Best Practices Analysis*

CFCC was to perform a long-term needs assessment for the Ninth Circuit's Family Division. This would entail interviews with judicial officers and court managers in order to identify system needs and components subject to implementation of "best practices," as well as identifying "best practices" in other Family Divisions and Courts. .

### Performance Measures and Standards

The final component of the CFCC assessment was a report on performance measures and standards, which would establish major categories for performance standards, establish performance standards within each major category, and develop performance measures that capture data to assess compliance with the standards.

### Tasks

In order to provide a full report, Jeffrey Kuhn, CFCC's then Senior Fellow in Residence, agreed to carry out a number of interviews and workshops. The interviews took place in Kalamazoo during April-June 2002. Mr. Kuhn met with judges, referees, court administrators, Records staff, and Court Services staff. In addition, Mr. Kuhn was taken on a physical "walk through" of the case management process, beginning with filing, through case establishment, file establishment, data input, calendar, docket/scheduling, through to disposition. The results of those interviews, combined with a discussion of best practices, is presented in the following section.

In addition, Mr. Kuhn conducted a retreat on August 30, 2002, to assist in the identification of the Family Division's strengths and weakness, and to begin developing an action plan and agenda for future directions. The retreat and future directions are discussed in the following section.

## **II. ON-SITE INTERVIEWS AND BEST PRACTICES RECOMMENDATIONS**

In April and June, 2002, Jeff Kuhn conducted a series of meetings and interviews with Ninth Judicial Circuit judges, court staff, practicing attorneys, Friend of the Court, and agency personnel. The following reflects the results of those interviews in terms of the key concerns, issues, and questions expressed in those discussions.

### *Facilities*

The Family Division of the Circuit Court is currently located in the Gull Road Courthouse, with the Trial Division of the Circuit Court housed in the Michigan Avenue Courthouse in downtown Kalamazoo and the Probate Court in the Crosstown facility. There were several concerns regarding the location of the Family Division:

- The Gull Road facility is cramped and inadequate, with limited public space, no children's areas, and insufficient parking.
- The Court is located approximately 200 yards from the juvenile detention facility, with no secure corridor between the two buildings.
- Juveniles are escorted by private security guards (neither the Sheriff's Office nor the police provide security support) to and from the court across the public parking lot. These buildings are located on a four-lane, busy street which is visible to the general public. Juveniles who may attempt to flee could run into a busy traffic pattern, allowing them greater chance to elude law enforcement and endangering their own safety. There is no degree of privacy extended to those juveniles who are escorted from the detention to the court facility.

For a discussion of security practices adopted in other jurisdictions, please see Appendix I.

### Records

In the past, the majority of the Family Division records were not kept in the Family Court building due to limited space and differing opinions regarding the appropriate place for the records – the Clerk’s office at Michigan Avenue or the Family Division itself. Moreover, the sheer volume of open domestic files in the Circuit Court – nearly 20,000 – made it difficult to conveniently store all of those files at the Gull Road Courthouse in a way that would also make them readily available.

The Ninth Circuit’s Records Services Administrator has, however, developed a workable solution to this dilemma: given that most hearings and post-judgment proceedings relating to domestic files take place at the Gull Road Courthouse, all new domestic files remain at Gull Road and those “active” files that are brought out to the Family Division for post-judgment activity remain there. Thus, the Family Division can have the necessary domestic files available without moving all 20,000 open files.

In addition, the Circuit Court anticipates beginning an imaging program, with domestic files being the first to undergo this process. Information in those files will then be available to everyone at all four court sites without having to physically transport the files.

### Solutions and Best Practices

The Ninth Circuit's plan to start an imaging program is on the cutting edge of the application of technology in the form of web-enabled file networks, or imaging. For instance, the King County (Washington) Superior Court keeps files, including closed files, in its Electronic Court Records (ECR) system. When the clerk scans documents, pages are captured electronically as images. Clerks process these filings on screen, and ECR coordinates and shares data with the statewide Superior Court Management Information System. Judges, court staff, and related agencies have desktop access to ECR. Public access is at file-viewing stations in the clerk's office. Authorized persons use IDs and passwords to access sealed records. The clerk plans to accept filings electronically soon – filers will log on to a secure Web site and upload documents from their computers.

### Case Management

#### Staffing

Each of three judges in the Family Division has a judicial aide or secretary, but no law clerk or social services liaisons/caseworkers are available to the judges. The absence of additional space that would be needed for such staff is an important limiting factor, but financial limitations are also an issue.

The judges have developed alternatives to the absence of law clerk assistance by, for example, asking attorneys to draft orders. There is also a Domestic Intake program in the Family Services unit in the Gull Road facility. Domestic Intake Specialists (who are



trained and experienced in family law and domestic relations) perform Case Review Inquiries when a party to a case files a post-judgment motion without an attorney regarding either custody, parenting time, and/or change of domicile. The use of Domestic Intake Specialists allows the Court to maximize judicial resources and capitalize on opportunities for resolution without litigation.<sup>3</sup>

### *Solutions and Best Practices*

Many law schools offer internship/externship programs. For example, Wayne State University Law School, Michigan State University School of Law, and the University of Michigan Law School all offer judicial externships or internships in which law school students, typically in the top 25 percent of their class, intern for judges in Michigan for approximately 14 weeks. Assistance typically includes drafting memos, file management, and coordinating services. Local paralegal programs may also provide a solution. In these circumstances, students might receive internship or practicum credit.

For a general discussion of determining staffing needs, please see Appendix 2.

### *Pretrial Memorandum for Domestic Cases*

This discovery document must be filed in private ordering matters by counsel or self-represented parties, typically 45-60 days after the case is joined. Information within the Memorandum is used to make a Differentiated Case Management (DCM) track assignment. More specifically, the pretrial memorandum is – ideally – a family case

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<sup>3</sup> However, at least one attorney who was interviewed expressed some concern about personnel who are not legally trained drafting orders (although there were no other such concerns expressed, and these orders are routinely drafted by such staff in other family courts).

history information statement that sets forth the various issues in the case, whether any family members are involved in the court system, the file case number, and other critical pieces of information regarding the family and case before the court.

Several of the attorneys who were interviewed by Mr. Kuhn expressed a desire to see this document completed and submitted within a shorter period of time.

### *Solutions and Best Practices*

The Ninth Circuit's "Caseflow Management Plan" lays out specific procedures regarding Domestic Intake screening which follows criteria that are similar to the Differentiated Case Management (DCM) approach.<sup>4</sup> For example, 35 days after the answer to a complaint is filed, the court mails a "Pretrial Memorandum Divorce" to the attorneys/pro-per parties. Upon receipt of the "Pretrial Memorandum Divorce" by the designated due date, the Court prepares and issues a "Domestic Relations Scheduling Order" which includes a settlement conference date followed by a trial within the same week. If custody is an issue, the court clerk refers the case to the Contract Custody Referee for hearing prior to the settlement conference. If property is an issue, the court will order that mediation occur prior to the settlement conference date. Alternatively, if so stipulated by the parties, the court may order that all unresolved matters be submitted to binding arbitration.

Another practice which might be considered by the Ninth Circuit includes the use of a court-approved (with attorney input) family case history information statement

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<sup>4</sup> The Differentiated Case Management approach, used in adult criminal and civil cases, and requires early review of the case and assignment of a scheduling track based upon the needs of the case. Although specific tracks have not been identified in the Family Division for purposes of DCM. The intake unit of the court conducts these reviews and refers all domestic cases for the next action necessary.

which includes issues that would be set forth in a pre-trial memorandum, but also includes information concerning other family member involvement in the courts, past and present.

### *De Minimis Entry of Case Proceedings in Court Files*

When significant or meaningful events occur in the life of the case, there is an entry in the court file regarding information concerning that event. It is important to have comprehensive information about these events that provides important insights for court managers and, over time, helps build a case for additional judicial and court staff resources.<sup>5</sup> Examples of meaningful case events may include, but are not necessarily limited to: (1) new intake interviews at which service referrals for family members were made; (2) modifications of custody, visitation and child support; (3) substance abuse evaluations; (4) courtroom hearings or adjudication; and (5) case management reports.

### *Solutions and Best Practices*

Judges are keenly aware of the importance of certain events in the life of a case. Consequently, it would be extremely helpful for judges to receive case management training, both for purposes of entries of case proceedings and as Internet-informed *pro se* litigants increasingly filter into courtrooms. The National Center for State Courts, in conjunction with the University of Chicago, is building a new Web site entitled the *Justice Web Collaboratory* that is directed at the unique needs of judges. A section of the

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<sup>5</sup> For the purpose of this evaluation effort, a meaningful case event is considered a judge or court staff facilitated activity that changes the status of the case or the position of the parties, e.g., hearing on change in custody or visitation, intake interview, service referral, or appointment of attorney or expert.

Web site will target *pro se* and customer service topics. The Collaboratory also will provide a “judges only” discussion area in which judges can share information in a secure environment. In general, judges around the country are becoming more involved with the technological aspects of courts.

### **III. Judicial Resources**

According to the “Report of the Judicial Resources Work Group,”<sup>6</sup> “judges, referees, and scheduling staff report that Family Division resources are stretched to the limit.” They point to evidence such as the fact that judges and referees are on the bench so often that they do not have the time necessary to write opinions and deal with the paperwork associated with such a large number of hearings. Moreover, the Supreme Court time guidelines for scheduling the phases of protective proceedings, coupled with the number of termination cases in such proceedings – many of which require more than one day -- makes it “nearly impossible to find even one open day for trials within the prescribed time frames.”

#### **Solutions and Best Practices**

Acknowledging that judicial resources in the Family Division are stretched to their maximum capacity, the workgroup investigated the allocation of judicial resources<sup>7</sup> and

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<sup>6</sup> The Ninth Circuit Court’s Family Division Study convened a retreat in August 2002, during which several issues and questions arose that required further study. Several work groups were convened to look at these issues, including one that was asked to address the question “Do we have enough judicial resources at the Family Division (Gull Road Courthouse)?” Several reports resulting from that retreat were issued on January 27, 2003.

<sup>7</sup> Out of eight Probate and Circuit Judges, three serve primarily in the Family Division and four full-time attorney referees serve exclusively in the Family Division. In addition, there is a judge who serves primarily in Probate Court but routinely assists with the Family Division docket. One contract referee

concluded that these resources are properly allocated. The workgroup turned its attention to ways in which the judicial workload could be reduced:

1. Study Family Division operations in Ottawa County, which has a nearly identical population count but whose Circuit and Probate Courts operate with less than half the judicial resources.
2. Look at utilizing other enforcement alternatives to reduce the number of FOC show cause hearings.<sup>8</sup>
3. Develop a new track to deal with “designation” cases (those cases in which the Court must decide whether a particularly dangerous delinquent youth should be held more accountable by treating him/her as an adult criminal) and for juvenile delinquency waiver cases so that these hearings and trials will take place in the Trial Division.
4. Look at the possibility of reducing the time it takes to deal with Family Division matters while at all times retaining the family centered approach which characterizes the Family Division’s operation.
5. Adopt the Trial Division approach, in which the prosecutor is more involved at the pre-trial stage, for Family Division pre-trials.
6. Look at the possibility of working out a plan that enables the Probate Court to assist more with the workload that currently falls exclusively within the Family Division’s jurisdiction.

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works exclusively in the Family Division, and one lay referee assists with hearings. In total, there are “something over five FTE referees and something over three FTE judges” in the Family Division.

<sup>8</sup> The addition of an Attorney/Deputy Friend of the Court to supervise enforcement will also help relieve the current FOC caseloads.

7. Give the two most experienced protective proceeding referees authority to hold trials in termination cases if their workload is alleviated through changes at FOC and reducing show cause hearings.
8. Encourage each hearing official to eliminate the scheduling of unnecessary reviews and follow-up hearings.

Judicial resources would be further conserved through development of cooperative efforts with the private bar to establish a “duty attorney” on a volunteer basis to be present on settlement conference days or to develop and implement the practice of using attorney panels to screen domestic relations cases and make recommendations to counsel. This latter practice is well-established in other family courts and, provided a judge is available to facilitate the placing of an agreement on the record, is an effective way to further conserve judicial resources.

#### **IV. MIS/Automated Support**

The Family Division activity has been supported by JUMIS, a juvenile court-based program which primarily generates automated schedules. A separate software programs, CRYSTAL REPORTS, generates batch reports on statistics off-line. The Court also has access to PROCIR, the civil and criminal case automated information system used for domestic cases.

The JUMIS system is date-driven – it allows the blocking of specific times and days in the system and provides the next available date. One of its main functions is the

scheduling module, which enables multiple individuals to schedule in the courtroom or hearing room rather than with a central scheduler. The JUMIS data base also captures defendant information, parent information, demographics, witnesses, non-formal case information, and has a financial module that works in conjunction with the General Ledger for Kalamazoo County and creates payment vouchers for attorneys fees.

Although the JUMIS system worked effectively when created 15 years ago, it is not user-friendly currently, especially in comparison to the newer technology available. The “Report of the JUMIS/PROCIR, Miscellaneous Work Group” points out that a recent survey of the judges, referees, and seven top administrators indicated that only five of these 20 individuals felt they would be able to use the system to gain access to case data. Moreover, the Michigan Supreme Court created new case management standards when the former Juvenile Division of the Probate Court merged into the Circuit Court. Although these standards call for a register of actions for each case, JUMIS does not create a register. Instead, there is a manual process in place creating a “calendar.”

Whereas JUMIS is a date-driven system, PROCIR has a central scheduling concept focus. It is, in other words, an integrated case management system that allows for the scheduling of events. The system creates a “Register of Actions”: as documents are received by the Clerk, the Clerk docket the papers and pleadings. If the document moves the cases toward disposition, follow-up directions are generated on “task” lists for specific court staff.

As of April 2002, the Court began placing juvenile cases into PROCIR, which is a more user-friendly system, but no information has been grandfathered into PROCIR from JUMIS. Systems staff indicated that they would not be comfortable upgrading JUMIS because of its age and menu driven programming, which makes it cumbersome and difficult to modify. On the other hand, by placing all juvenile cases into PROCIR's "central index," all of the Circuit Court's formal public case names and information would be available in one public record information system, while informal cases would remain in JUMIS. In addition, this system would facilitate the register of actions for each case that was required by the Michigan Supreme Court's standards when the former Juvenile Division of the Probate Court was merged into the Circuit Court.

#### *Solutions and Best Practices*

The "Report of the JUMIS/PROCIR, Miscellaneous Work Group" succinctly states: "After two years of work on just creating a central name index and creating a register of actions on PROCIR that contained the required information on all court cases, we have not even completed this part of integrating the two systems, and I.S. staff have spent hundreds of programming hours trying to assist us."

The working group's recommendation was to stop further efforts at merging these two outdated systems, utilizing both PROCIR and JUMIS while intensifying the focus on obtaining a new Windows-based case information system that is capable of handling the Circuit Court's needs.



The Court might find it useful to take a look at the different technologies used by the growing number of courts that are moving toward the concept of Judicial Electronic Docket and Data Interchange (JEDDI), conceived in the early nineties. Ideally, JEDDI implementation encompasses a range of components, including electronic documents, electronic casefiles, electronic signatures, electronic filing, electronic noticing, electronic public access, and integration of case management, document management, electronic filing, and public access systems. New Jersey and Utah have been particularly successful in incorporating these components into its information systems. The economic benefits of filing court documents electronically are profound. A study in Shawnee County, Kansas, theorizes that the time involved in accomplishing nine identified steps in the filing of 100 court documents was reduced from 9.75 hours to 8.8 minutes.

Prospects for developing and implementing fully integrated automated information management systems for the Family Division are, of course, limited by the financial resources that are made available to the court for such efforts. The JUMIS/PROCIR work group wisely looked at other ways to improve the record-keeping process, including standardizing forms and processes; keeping new domestic files and those “active” files for post-judgment activity in the Gull Road Courthouse; and introducing an imaging program. As a document is imaged, the information will also be updated to the Register of Actions in PROCIR. In addition, the imaged disk will be sent to a vendor who will convert the image to film, to meet the state archive standards of housing information.

## **V. Judicial Leadership**

The Family Division Presiding Judge and the Chief Judge of the Circuit will need to continue to provide leadership in this time of dramatic change.

### *Solutions and Best Practices*

Judges are in a unique position to bring together diverse “players” in the courts and to develop collegial and team-based case management. Given this role for judges, collaboration is vital, maintaining a presence in the community is significant, and the ability to draw upon leadership qualities are critical to a judge’s professional success.

We need look no further than former Kalamazoo County Chief Circuit Court Judge Philip D. Schaefer for a “best practice.” He recognizes the critical nature of leadership in his monograph, “And Never the Twain Shall Meet?” It is noteworthy that Judge Schaefer identifies several important characteristics of leadership in a judge: constant and truthful communication; developing a sense of urgency; singular focus; coalition-building; establishment of a written vision and mission statement; and celebrating victories.

It came as no surprise, then, that the next step in the Kalamazoo County Family Division’s transition was for judges, administrators, service providers, court staff, and others who were instrumental in this process to participate in a retreat to focus on how to capitalize on their strengths in order to accomplish their goals.

**VI. THE RETREAT: CAPITALIZING ON OUR STRENGTHS, RECOGNIZING  
OUR CHALLENGES**

CFCC facilitated a planning retreat for the Ninth Judicial Circuit Family Division on Friday, August 30<sup>th</sup>, 2002. The purpose of this workshop was to generate thought and discussion concerning the Division's strengths and challenges with respect to its reorganization. In addition, the agenda called for breakout groups to develop action plans, including priorities, for the Family Division.

The following judges and court staff from the Ninth Circuit participated in the workshop:

Becci Abbs-Kucks, Civil/Domestic Caseflow Specialist, Records Services

Judge Patricia N. Conlon (Court G)

Peggy Dunnigan, Supervisor of Records Services, Michigan Avenue

Roland Fancher, Friend of the Court

Ginny Goodacre, Supervisor of Court Services, Gull Road

Presiding Judge/Chief Judge Pro Tempore Stephen D. Gorsaliz (Court E)

Ruth Gruizenga, Administrator of Records Services/Chief Court Clerk

Lisa Holmes, Customer Services Supervisor, Friend of the Court

Chief Judge J. Richardson Johnson

DeVona Jones, Deputy Administrator & Administrator of Court Services

Sue King, Administrative Assistant

Connie Laine, Administrator of Family Services

Beth Moeller, Domestic Intake Specialist

Scott Ryder, Referee

Frank Weichlein, Intake Supervisor

Judge Carolyn H. Williams (Court F)

Doug Slade, Court Administrator

Participants were offered an overview of CFCC's experience in the Ninth Circuit Family Division assessment effort. They were then separated into four breakout groups and were directed to identify the strengths and challenges facing the Family Division. Participation by all was collegial and spirited. Each group was provided with a specific opportunity to develop its own plan focusing on the use of Family Division strengths to address challenges. There was noteworthy consensus among the groups, especially regarding the Division's strong court staff, intake process, need for integrated record-keeping, and need for development of a more seamless process for multiple case families in the court system.

### Strengths

In fact, the experience, dedication, and competence of the Family Division's staff were credited for a high degree of documented "customer satisfaction" with the Division and its services. Staff excellence contributes to another area of strength which was mentioned repeatedly: open communication between Division heads, and between the

bench and court administrators. Judges were commended for their “open door” policy, while participants attributed weekly meetings/discussions to a cohesive and structured communication network, which in turn resulted in a congenial work atmosphere and democratic (rather than top-down) participation among all Division employees.

The Division’s intake process was universally viewed as based on a non-adversarial, therapeutic model, incorporating early intervention and diversion as cornerstone of this process. Particular strengths include:

- Use of community resources
- A comprehensive approach to families
- Support from the bench for “new” programs and processes
- A “service-oriented” bench philosophy in domestic cases
- A “child-focused” approach, embracing a strong, broad-based range/continuum of programs for children and families.

This intake process fosters and encourages diversionary programs. In the juvenile area, an intensive screening and alternative disposition approach keeps one-half of the cases out of the formal court process, while providing a more comprehensive, long-term solution to the problems that lead a child to court in the first place.

The referee system is considered a strength of the Family Division. The use of referees was thought to lead to more effective use of judicial resources and reduced time to disposition for Family Division litigants. While the referees may be in a position to

handle multiple case families in a unified fashion, there remains some question as to the time and resources available to them for this purpose.

### Challenges

Many of the challenges mentioned by the workshop participants relate to the pre-Family Division days. Furthermore, the establishment of the Family Division carries with it a degree of interruption to records management, which may temporarily affect efficiency and service.

While the implementation plan contemplates consolidation of all Family Division filing at the Gull Road facility, many Domestic Relations files remain in the Michigan Avenue Courthouse. Furthermore, several participants reported that paperwork does not always make it into the files on time.

A number of participants stated that an absence of objective criteria for deciding which matters should be brought before referees by FOC was a problem. There are other challenges relating to FOC, including that there are no FOC representatives at show cause hearings, leading to a situation in which the referee is put in a position of being both the moving party and hearing officer.

The remaining challenges discussed during the break-out sessions reflect the concerns raised during the interviews conducted by CFCC with judges and court staff in April. These include:

- Lack of a Windows-based court-wide management information system;

- Scarcity of residential mental health and substance abuse services;
- Absence of supervised parenting time for CPS cases;
- Lack of adequate parking space and space limitations at the Gull Road facility;
- Lack of coordination and information-sharing between certain units;
- Budget cuts in training services and hiring freeze;
- “Reorganization fatigue”;
- Clash of philosophies of Probate Court and Circuit Court;
- Limited resources for judges and FOC (no staff to perform legal research; domestic case files are not reviewed by legal staff);
- Lack of representation for children in domestic cases, although this may be resolved now that a new Michigan Court Rule permits appointment of attorneys for children in domestic cases.

Based on these observations of strengths and challenges, participants were asked to develop an “action plan” for implementing the Ninth Circuit’s Family Division’s goals.

#### Action Plan

Participants were given colored stickers and asked to affix them on the flipchart pages next to their three highest priorities for the family justice system in the Ninth Circuit.

There was near unanimous agreement that scheduling and record-keeping were the top priorities for the Family Division. Specific goals included:

- Begin implementation of central assignment/scheduling on 1/1/03, and complete by 12/31/03.
- Integrate the PROCIR and JUMIS automated information systems.  
Alternatively, there was a recommendation (from a Court Administrator, Chief Clerk, and Administrator of Court Services) to move to a Windows-based operating environment.
- Move to digital imaging of files.
- Develop a track system for scheduling judicial resources as part of a larger effort to study allocation and analyze availability and need for greater judicial resources.
- Standardize procedures in all courtrooms within 90 days.
- Determine training needs for those involved in the reorganization.

The judges, Chief Clerk, Court Administrator, and Administrator of Court Services were designated by participants as those primarily responsible for implementing these priorities, while supervisors were assigned responsibility for soliciting staff input as changes were put in place.

Scheduling emerged as a major consideration, addressed by the creation of a special committee consisting of those responsible for scheduling (Court Administrator,



Chief Judge, Presiding Judges in the Trial Division and Family Division, and representation from the Friend of the Court) or their designees. The committee's major purpose would be to track how judicial time is used, exploring time and length of hearings. Participants believed that ultimately this committee would be in a position to develop a creative scheduling system to improve on the current situation. For example, one suggestion was to use non-judges and to consider other staff who might be able to undertake scheduling responsibilities, given appropriate guidance and training.

Other priorities centered around the court's ability to provide services to families and children. One action plan report (Green Group) in particular focused on the development of a parenting program for domestic violence cases within six months and expressed an interest generally in establishing "safe, accessible, family-friendly services." The same group included expanded resources for children with mental health issues and increasing judicial resources in family court, with the possibility of bifurcating proceedings in child protection crossovers.

The referee and Friend of the Court systems were also included in the priority lists of most participants. Specifically, they criticized the use by referees of Friend of the Court files in Order to Show Cause cases. They also recommended developing a continuum of Friend of the Court enforcement alternatives, with a major reduction in Order to Show Cause and outstanding bench warrants as a goal.

## VII. CHART

The following chart lays out the major tasks, as well as a timetable for completion and persons responsible for each goal.

<b><u>TASK</u></b>	<b>TIMETABLE FOR COMPLETION</b>	<b>PERSONS RESPONSIBLE</b>	<b>PROCESS FOR EVALUATION</b>
<p><i>Move all domestic files to Family Division:</i></p> <p>1.define records 2.design centralized intake system 3.determine training needs</p>	<p>3 months 10 months 3 months</p>	<p>Unit supervisors solicit staff input Chief Clerk; Court Administrator; Chief Judge</p>	<p>6-month progress reports that include, when and as appropriate, job satisfaction measures,<sup>9</sup> outcomes measurement, and workshop evaluations</p>
<p><b>Integrated information system:</b></p> <p>1.study allocation and analyze availability of and need for judicial resources 2.develop case tracking system 3.integrate PROCIR and JUMIS systems acquire new Windows-based system</p>	<p>18 months-2 years</p>	<p>Chief Judge Presiding Judges in Probate, Trial, Family Friend of the Court Court Administrator Chief Clerk Administrator of Family Services Court staff</p>	<p>Develop and implement measures for ease of use, accessibility, client/staff satisfaction, consistency of forms, and staff morale. A work group has recommended that further attempts at integrating the old DOS systems is not beneficial.</p>

<sup>9</sup> The "Report of the JUMIS/PROCIR, Miscellaneous Work Group" recognizes that a byproduct of organizing the court along functional lines was the creation of unnecessary barriers between staff and work unit. As a result, the group recommends backing off on trying to define every activity and process in terms of the "function" into which it fits. The result is "a much more cooperative, teamwork approach to getting the job done" – and the elimination of potential job dissatisfaction arising out of an overly rigid staff structure.

<b><u>TASK</u></b>	<b>TIMETABLE FOR COMPLETION</b>	<b>PERSONS RESPONSIBLE</b>	<b>PROCESS FOR EVALUATION</b>
<b>Develop a continuum of FOC enforcement alternatives, including criteria for orders to show cause and FOC representation in s/c hearings</b>	3-6 months	Friend of the Court Family Division Judges & Referees	Reduction of OSCs and outstanding bench warrants by 50 percent. Recent FOC changes, including the creation of a staff attorney position, will also address this issue.
<b>Parenting time program for domestic violence cases</b>	3-6 months (if there is agreement that this is a project that should be undertaken by the Court.)	Family Court Judge (Judge Williams) Volunteer Coordinator(John Ray)	Evaluate for safety, accessibility, and family friendly environment
<b>Standardize all forms and procedures</b>	6-12 months	Family Court Presiding Judge Family Division Referee Chief Clerk Court Administrator Family Services Director`	Evaluate uniformity
<b>Develop resources for children with mental health issues</b>	Ongoing (The Court is awaiting word on a grant that would help provide more services.)	Family Services Administrator Family Court Judges	Increase number of children being served in the community who have mental health problems; Judicial training in mental health/substance abuse issues
<b>Increase judicial resources/Reduce workload in the Family Division</b>	Immediate	Chief Judge	Reductions in bifurcated proceedings in child protection crossovers; Implement consecutive days for multi-day trials.

**CHAPTER THREE**  
**PERFORMANCE STANDARDS**

Family courts and divisions provide a safe and efficient forum for the resolution of family disputes within the justice system through (1) early intervention and provision of services, (2) emphasis on less adversarial dispute resolution, and (3) improved case management procedures.<sup>10</sup>

The barriers and challenges these courts face in fulfilling these promises are substantial. During the 1990s, family-related cases continued to increase in volume. In 1994, 4.7 million domestic relations cases were filed in state courts, which comprised 25 percent of all civil court filings, the largest and fastest growing segment of civil court caseloads.<sup>11</sup> These cases included: divorce, support/custody, domestic violence, paternity, the Uniform Reciprocal Enforcement of Support Act (now replaced by the Uniform Interstate Family Support Act), adoption and miscellaneous matters. An additional 1.9 million juvenile cases, including juvenile delinquency, truancy, and dependency and neglect, also were filed in state courts.

These numbers represent considerable challenges to the courts to provide adequate resources, avoid redundant events, and ensure civility and courtesy of court personnel, and maintain clarity and quality of proceedings. In addition, there are

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<sup>10</sup> Jeffrey A. Kuhn, "The Feasibility of Unified Courts for the Tennessee Judiciary," pgs. 2-4 (2000) (unpublished report available)

<sup>11</sup> American Bar Association, *An Agenda for Justice: ABA Perspective on Criminal and Civil Justice Issues* 5 (1999), citing Brian J. Ostrom and Neal B. Kauder, National Center for State Courts, *A National Perspective from the Court Statistics Project* 12 (1996)

questions of priority. For instance, is it more important to provide a spectrum of services to families in need and to allow adequate time for full provision of those services before disposition? Or, is it more important to dispose of the matter as quickly as possible so that the Family Division can provide expeditious rulings and resolve disputes more quickly?

As the Family Division of the Ninth Judicial Circuit Court continues to develop and implement its operations efforts, these and other questions might best be addressed through identification of a performance plan and corresponding standards that can be assessed comprehensively on a regular basis. To this end, Family Division leadership might consider using an important tool provided by the Bureau of Justice Assistance *Trial Court Performance Standards*, which were developed in the late 1990s by a commission of state court judges and court administrators. The Commission on Trial Court Performance Standards adopted five major performance standards that also apply generally to family court performance:

- Access to justice
- Expedition and timeliness
- Equality, fairness, and integrity
- Accountability and independence
- Public trust and confidence

While these standards generally relate to family court operations, Family Division

leadership should bear in mind the mission of their particular justice system and the core values it maintains to adapt these standards accordingly. These more specific system values and intended outcomes typically include:

- Preserving the rule of law
- Providing forums for prompt conflict resolution
- Maximizing the use of alternative dispute resolution methods and programs
- Providing safety and protection
- Supporting linkages between resource needs and available resources
- Increasing access to the system
- Using judicial time efficiently
- Reducing cost to litigants
- Increasing cultural competency

Given that these values paint a reasonably accurate portrait of the intended nature of the Ninth Judicial Circuit Family Division, it is important to ensure the availability of the resources necessary to support each. To secure adequate resources, data and reports are required to demonstrate the benefits to the citizens of the Circuit. This information is ideally presented in a manner that clearly conveys outcomes and offers viable recommendations for improvement of court system performance. These recommendations should also be linked to resource needs.

The performance standards that follow are offered for this purpose. Each performance standard is described in general commentary. Issues related to implementation of the standard are discussed, including practical recommendations to assist in achieving the declared standard of practice. Finally, measurement systems for determining successful implementation of the standards are offered.

**I. Mission of the Family Division**

*The Family Division considers as its central goal the resolution of disputes that are brought before it in a fair and timely manner, in accordance with applicable law. When the Family Division must resolve disputes which involve the best interest of children, it has the additional duty of fashioning dispositions that focus on the dynamic family unit. These dispositions help to provide children with the supports necessary for them to grow into responsible and productive adults.*

**General Commentary**

The Trial Court Performance Standards identify three performance standards that emphasize the timely handling of all court services:

- Establish and comply with recognized guidelines for timely case processing while, at the same time, remaining current with incoming caseload.
- Disburse funds promptly, provide report and information according to required schedules, and respond to requests for information and other services on an established schedule that ensures their effective use.
- Promptly implement changes in law and procedure.

In addition, the Standards identify six specific standards that address equality:

- Faithfully adhering to relevant laws, procedural rules, and established policies;
- Giving individual attention to cases and deciding them without undue disparity among like cases and upon legally relevant factors;
- Rendering decisions that unambiguously address the issues presented and clearly indicating how compliance can be achieved;
- Taking appropriate responsibility for the enforcement of orders;
- Monitoring levels of all relevant court decisions and actions for accuracy and proper preservation.

## **II. Management of the Family Division**

*Under the authority of the Chief Judge, the Presiding Judge of the Family Division provides leadership for the Family Division. The Family Division Presiding Judge, Court Administrator, and administrative units work together to form the executive component of the Family Division. They communicate regularly to foster participative management and meet on a regular basis with the Chief Judge. The Family Division Presiding Judge meets regularly with representatives of the local family law bar, schools, and service provider agencies.*

The Trial Court Performance Standards emphasize the importance of judicial independence, separation of powers, and the responsibility of the courts to maintain



effective working relationships with other agencies and organizations with whom they must work.

### **III. Education and Training**

*The Presiding Judge and Court Administrator should coordinate and implement a quarterly training program for Family Division judges and staff.*

Training topics might include:

- child development
- family dynamics
- domestic violence
- child abuse and neglect permanency planning principles and practices
- risk factors for child abuse and neglect
- Adoption and Safe Families Act (ASFA) and other relevant federal laws governing child abuse and neglect
- cultural and ethnic diversity
- divorce, custody and support
- adoption
- juvenile justice
- substance abuse
- social services and mental health systems

Family Division judges should also participate in programs and conferences put on by the National Judicial College, the National Council of Juvenile and Family Court Judges, the Michigan Judicial Institute, and others.

Upon election or assignment, new judges could participate in a 2–3 week training program, which will include many of the aforementioned topics. In addition, it is recommended that they be “mentored” by incumbent Family Division judges.

#### *Tools of Measurement*

**Local Tracking of Training Participation.** Family Divisions should track new judges and staff to ensure that they receive training within a year or sooner of their assignment.

**Lists of Mentors.** Family Divisions should develop a list of experienced and trained judges, referees, and staff who can provide mentoring for their newly assigned colleagues.

#### **IV. Structure and Operations of the Family Division**

*The Family Division is structured to provide the highest quality of judicial and ancillary service, to facilitate the gathering of family information, and to foster the establishment of court-community ties.*

**Customer Service and Staff Satisfaction.** This focus on the consumer means that all components of the Family Division staff adapt employee training initiatives derived from

sound business practices, including staff training in civility and courtesy. Family Division judges can receive training specific to the needs of the litigants and to their unique decision making role within the Family Division, such as training offered by the National Council of Juvenile and Family Court Judges. These efforts may lead to improved satisfaction on the part of family law litigants, which, in turn, means enhanced public trust and confidence in the family justice system.

#### *Tools of Measurement*

**Self-Assessment Questionnaires.** The Family Division's Court Administrator could periodically distribute self-assessment instruments to all judicial officers and court staff in the Family Division. These instruments would provide court personnel an opportunity to make suggestions to improve policies, practices, procedures and opportunities within the Family Division.

**Public Questionnaires.** The Family Division's Court Administrator could distribute questionnaires both to the public-at-large and to the consumers of the family justice system. These questionnaires should reflect both perceptions of the family justice system and specific treatment by Family Division personnel, among other issues.

#### **V. Court-Community Collaboration**

*The Family Division should make efforts to develop court-community ties with state and local executives in the public and private sectors.*

By informing executives about the new family law decision making paradigm and about the operation of the Family Division, working relationships can be forged among the judicial, executive, and legislative branches, as well as with civic groups and the business community. Involving the business community and cultivating resources available to the courts via partnerships with local business leaders complements and enhances the work of the court. These relationships, in turn, provide a mechanism to exchange information that can facilitate enhanced performance of the family justice system.

Sharing of information concerning family matters between the courts and local health and welfare and juvenile corrections agencies will aid substantially in the ability of the court to coordinate matters related to the same family. Some of that information may be considered confidential by the respective organizations that possess it. When working to identify the kinds of information that would be useful in the coordination process, stakeholders might also determine whether that information might be confidential and by what authority it is considered confidential. In situations where the law does not appear to prohibit the exchange of that information, drafting and execution of formal information sharing agreements and protocols may be advisable.

## **VI. Judicial Calendars**

*Individual calendars are prepared for each Family Division judge. Whenever a judge has had a prior, substantial judicial connection with a family, subsequent matters involving that family are assigned to that judge, if possible.*

As has already been recognized and implemented by the Ninth Circuit, there are substantial benefits in assigning one judge for family-related cases or assigning all matters for the same family to the same judge. However, a fundamental issue when considering this manner of case assignment relates to judicial rotation in order to avoid undue stress on or burnout of the judge.

Also to be considered is the issue of priority setting in which the local planners decide which family matters (generally emergency removal of children and issuance of temporary protective orders) the court will hear, even on an emergent basis, before all other matters.

## **VII. Alternative Dispute Resolution**

*Alternative dispute resolution is considered a crucial element of Family Division operations and is available to litigants in appropriate Family Division cases.*

Alternative dispute resolution programs that include a comprehensive parent education component, mediation for high conflict families, and comprehensive early settlement programs are established within the Ninth Circuit's Family Division. Cases are referred after screening by Family Division staff and the court.

The use of volunteer attorney panels composed of 2-3 family law practitioners who volunteer on a rotating basis to make recommendations concerning settlement of

contested custody, visitation and property distribution matters on individual cases might be worthy of review. Programs of this type are used in the New Jersey and Baltimore City Family Courts with considerable success.

Costs for mediation and development of traditional ADR resources frequently result in litigants being required to pay fees for these services. This places at a disadvantage those litigants who are unable to afford such services. Volunteer ADR services represent potential to equalize access to such services. Moreover, such programs represent significant long-term savings in time and judicial resources by using special magistrates to encourage case settlement and to avoid more adversarial and costly litigation.

#### *Tools of Measurement*

**Case File Review, Focus Groups, Exit Surveys.** Physical case file review may be conducted within the Family Division on an annual or periodic basis to determine numbers of cases referred to alternative dispute resolution, numbers that led to resolution (pre-trial settlement), numbers that continued to trial, and numbers that returned to the system after settlement. Focus groups or meetings may be conducted with local mediation service providers concerning the need for additional or improved mediation services. Exit surveys may be developed and distributed to litigants who successfully/unsuccessfully used alternative dispute resolution in their cases.

Physical case file review will indicate the level at which cases are settled by some form of alternative dispute resolution and without trial. Over time, case file review, if automated will produce rates of post-judgment activities for parties who were involved in some alternative dispute resolution process. This information can be tracked through an automated case tracking system or on a “track-as-you-go” basis by recording data as cases are resolved. Case file review can be another time-consuming process that may require additional resources beyond normal Family Division staffing.

### **VIII. Volunteers**

*The Family Division should utilize volunteer services in order to encourage communities to accept responsibility for cases arising in the community, to foster a sense of community among litigants, and to provide necessary ancillary services that would otherwise be unavailable.*

The Family Division might consider working with the state and local bar associations to increase access to the Courts through increased legal representation and assistance for *Pro Se* litigants. The use of standardized, bilingual, and downloadable forms from a judiciary Web site would provide opportunity to increase access to the courts for low income and/or *Pro Se* litigants.

The use of volunteer attorney resources and the concept of “unbundled legal services” to assist low income and/or *Pro Se* litigants may help to assure equal treatment of unrepresented parties in juvenile and family law matters. Incentives for family law

practitioners to serve as volunteer attorneys on a rotating basis could include reductions in bar dues, waiver of registration fees for State Bar events, including CLE programs, CLE credit and credit toward family law certification (should a certification program be developed at some time).

### *Tools of Measurement*

**Pro Bono Appointment Data.** Efforts to increase attorney representation of Family Division litigants on a pro bono basis should be documented. Raw data should capture the numbers of pro bono counsel appointments per Family Division over a specified period.

**Documentation in Annual Reports.** Initiatives that are planned or that have been developed and implemented through bench-bar efforts should be documented in the annual reporting documents of the Family Division. Aside from indicating legitimate efforts to improve legal assistance for parties in need, this exercise will assist in promoting public trust and confidence in the practicing bar by documenting volunteer efforts to improve legal representation.

## **IX. Courthouse Security**

*The Family Division actively participates in the planning process for design and development of Family Division facilities, keeping in mind the importance of accessibility and security in providing a safe and secure environment for families that come to court.*



For decades efforts have been made to have a national security standard, or security ordinances, as part of state or national building codes. In June 1995, President Clinton mandated development of minimum security standards for all federal facilities. Each federal building is rated according to five levels, with level 1 as minimum and level 5 a maximum. Most courthouses are considered level 4 and require shatter resistant glass, controlled parking, 24-hour closed-Circuit television monitoring and videotaping, x-ray weapon and package screening, and a photo identification system.

The nation's courts that are charged with the responsibility to resolve family legal disputes are commonly considered to be at high risk for incidents of violence involving family members. Despite the presence of magnetometers and uniformed security personnel, many who must frequent or work within the court environment are at risk for incidences of violence. A recognized core value of a family court system is protection from re-victimization and future harms.

### *Tools of Measurement*

**Documentation of Local Inventory of Security Needs.** The Family Division should consider annual inventories and assessments of physical and fiscal requirements to ensure a safe and secure environment. Among other things, the inventory could examine whether uniformed security personnel are within sight and readily accessible to system users, court personnel, and interested persons throughout areas of the court facility where system users are expected to be located.

## **Appendix 1**

### **Courthouse Security**

#### **Solutions and Best Practices**

The two issues raised – the adequacy of the Gull Road facility and its security – might be addressed in a manner similar to the approach in Flint, Michigan. The Genessee County Court has developed a plan for new courthouse facilities, which incorporates several state-of-the-art components. These include:

- Attorney-client conference rooms (two per courtroom)
- An attorney lounge
- Lower floors of the building are designed to service non-courtroom business
- Secure judicial/inmate corridors with dedicated elevators
- An expanded law library
- Migration of the law library to digital format
- A mediation hearing room and waiting area
- An open jury waiting area with staff in close proximity

While secure corridors are desirable, they are not feasible in the Gull Road facility. However, there are federal standards recommending security measures for the

“courthouse of the future.” According to a National Center for State Courts report<sup>12</sup>, these standards are as follows:

- Control facility parking
- Control adjacent parking
- 24-hour CCTV surveillance and recording at all desired locations
- Lighting with emergency backup
- Extend the physical perimeter with barriers
- Review receiving and shipping procedures and modify as necessary
- Determine security guard requirements
- Install intrusion detection systems and monitoring
- Upgrade facility to comply with current life-safety standards
- Provide X-ray and magnamometers at public entrances
- Provide employee and visitor identification systems
- Display personnel identification at all times
- Prevent unauthorized access to utility areas
- Provide annual training of emergency procedures and plans
- Reevaluate the current security and safety standards for daycare centers
- Establish law enforcement agency and security liaisons
- Provide annual security awareness training
- Install mylar film on all exterior windows for shatter protection
- Establish street setbacks for new construction
- Establish and implement uniform standards for security considerations

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<sup>12</sup> Randall I. Atlas, “Designing for Security in Courthouses of the Future,” Paper delivered at the Fifth National Court Technology Conference, National Center for State Courts, September 1997.

The American Judges Association has discussed courthouse security at several conferences and, in late 1997, took a survey of its members regarding the status of courthouse security in their jurisdictions. While the majority of responses (126 out of a total 162 responses, representing courts in 37 states, Guam, and Puerto Rico, with an equal representation of general and limited jurisdictions) to the survey indicated that the courts have some form of courthouse security, what passes for security in one courthouse is very different from the security measures taken in another. If security is provided, the majority of courthouses depend on their local law enforcement agency for the personnel to operate the equipment, provide the response and/or run the program. Seventeen percent of respondents indicated that they hire private security companies to provide perimeter or checkpoint security. Security provided in the courtroom itself appears to be universally provided by the local law enforcement agency responsible for that court. A small number of courts indicated that they use “bailiffs,” “commissioned deputies,” or “court security officers” to provide courtroom security.

Courthouses with security equipment usually use metal detectors (magnamometers) along with x-ray machines. Seventeen of the respondents indicated they have closed circuit televisions at entrances and in the individual courtrooms. Twenty-four courts have individuals entering a courtroom pass by officers with hand-held metal detectors.

In fact, the Ninth Circuit has installed a complete video network between the Family Division and the juvenile detention center. The state Supreme Court has approved the Administrative Order to allow video detention hearings.

In an ideal world, of course, all this would be possible. However, the fact that the Ninth Circuit faces substantial space limitations must be recognized and acknowledged as an impediment to implementing certain standards and proposals, such as those relating to courthouse security. This is not to say, however, that efforts to improve this situation are doomed. Despite the recent effort in Kalamazoo County to design and build a new court complex, which was rejected by voters last summer, it may be advisable to focus on construction of a facility specific to the needs of the Family Division as distinct from a facility to house all law-enforcement entities.

## **Appendix 2**

### **Determining Staffing Needs**

In a more general and long-term sense, the ability to process cases effectively and expeditiously depends, in part, on the amount of staff support available for these functions. It is important to the long term court planning process that staffing needs be matched to performance standards and measures so that fulfillment of the court's mission is better assured. Moreover, when determining staffing needs for courts that handle family-related matters, it is important to recognize the difference in those cases and to develop a formula that accurately identifies staffing needs based on projected case filings and the amount and intensity of tasks associated with each of those filings. The following procedure is suggested:

1. Identify the case processing tasks including delivery of court services and the staff time necessary to complete the task for each family-related case type.
2. Total the staff time necessary to complete all case processing tasks from filing to disposition. Reduce this number to hours and multiply that number times the number of projected filings for the case type on an annual basis. This product represents the total number of staff hours necessary to bring all filings in this case type to disposition over a 12-month period.
3. That number should be divided by the total number of working hours available per FTE staff person on an annual basis. This number is hours worked per week times 45 weeks (52 forty-hour weeks minus 4 weeks vacation, 10 holidays and 5 absentee days), usually 1800 hours. This product represents the number of court

staff necessary to process this case type from filing to disposition over a 12-month period.

4. A case type receives a weight based on the amount of staff time necessary to process one type of case as opposed to another. For example, if a domestic relations matter is found to require 32 hours of case processing time (assumes this represents the average of all case types) and a termination of parental rights matter requires 128 hours of case processing time, the TPR matter receives a case weight of “4.” This means that if domestic relations cases and TPR cases were to be processed in the same amount of time, it would take 4 times as many staff or staff hours to complete the case processing tasks associated with the TPR matter.

However, because these matters are not expected to be completed within the same timeframe and the volume of TPR filings is considerably less than domestic relations filings, four times as many staff are not necessarily required to adequately process TPR cases. The purpose of the weighting process is to assist in determining overall staffing needs in local jurisdictions where court staff are likely to perform a variety of case processing tasks for different case types.

Summarized, the projected staffing needs equation looks like this:

$$\mathbf{M/60 = H \times A = C/1800 = Staffing Requirement}$$

M = minutes of case processing time per case.

H = hours of case processing time per case.

A = annual case filings.

C = staff hours necessary to bring one case of one type to disposition annually.

Key to this process is agreement on and identification of appropriate case processing tasks for each family-related case type by local family courts or justice systems. As part of the local planning process, decisions must be made concerning the extent to which assessment and intake and other direct court services will or should be provided by court staff. Present staffing needs, without consideration for delivery of additional services may require development and distribution of a survey mechanism to court staff who are presently involved in case processing tasks within a number of local courts. This survey should ask for identification of regular case processing tasks that occur for domestic relations, domestic violence, and child protection, juvenile justice and guardianship matters and request time estimates for completion of each of those tasks.

Once analyzed, this data should be reviewed on a comparative basis to aid in identification of the best case processing practices. This process requires a review of tasks, time incurred for each of those tasks and measurement of outcome, including compliance with time standards and quality of disposition. Outcome measurement may require information gathering from litigants.