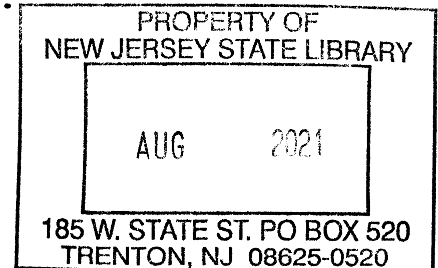
PATHFINDERS COMMITTEE REPORT

Prepared by

Robert W. Page, J.S.C.
Rosalie B. Cooper, J.S.C.
Howard H. Kestin, J.S.C.
B. Thomas Leahy, J.S.C.
Birger M. Sween, J.S.C.
Steven Yoslov, Esq., Asst. Dir.
Carol Lesniowski, Exec. Asst.



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PATHFINDERS COMMITTEE REPORT

I. INTRODUCTION

A. The Development of New Jersey Family Court.

A unified family court was proposed at the 1948 Constitutional Convention. The concept received widespread support from study commissions, editorials, and students of judicial administration and family law. In 1972, the Report of the New Jersey Family Court Study Commission, 95 N.J.L.J. 269 (March 30, 1972), suggested that a "properly structured Family Court with all necessary supportive services and appropriate jurisdictional sweep is needed in New Jersey." The Commission found it to be:

> ...both wasteful and confusing to the public in New Jersey that several different Courts have overlapping jurisdiction concerning family matters; that under our present system effective, centralized recordkeeping cannot be established; that court staffs tend to duplicate each other's functions where family matters are concerned; and, most importantly, that the public feels poorly served, removed from, and unable to cope with the present system. (95 N.J.L.J. at 291)

In 1971, the concepts of "no fault" divorce and equitable distribution became law, increasing substantially both the number of divorce cases and the complexity of the issues to be resolved. Significant problems in the handling of family law matters resulted. This led to the appointment of the New Jersey Supreme Court Committee on Matrimonial Litigation consisting of Associate Justices Worrall Mountain and Sidney Schreiber, serving under the chairmanship of Associate Justice Morris Pashman. They surveyed all aspects of matrimonial litigation and recommended reforms in their "Interim

Report" (Pashman I) which was published in July 1979. On their recommendation, "soon afterwards, the Supreme Court appointed an expanded, 'Phase Two' Committee, with the same Chairman, to solicit and formulate specific proposals and recommendations." (Supreme Court Committee on Matrimonial Litigation, Phase II, Final Report, July 1981). That expanded committee (Pashman II) published its final report in the New Jersey Law Journal in July 1981. In 1982, the Supreme Court created a Preliminary Family Part Planning Committee to make recommendations in the implementation of the family court. The Committee's August 1982 Report suggested the "establishment in each county of a Family Part support unit and the transfer to that unit of all predispositional functions and the personnel who currently perform those functions;" the use of R. 1:33-3(b) appointed "key personnel," the development by the AOC of "job specifications for Family Part personnel," and the encouragement of the "use of conciliation for custody and visitation issues..." The Committee also recommended the establishment of Family Part presiding judge and administrator positions in each vicinage to oversee the operations of the Family Part staff support unit.

In 1982, the Supreme Court established a Family Court Committee to follow up on the work of the Preliminary Family Court Planning Committee. This Committee, in its July 10, 1983 report, called for a Family Part presiding judge and administrator and:

> [A]ll moving papers could begin at one desk within each county. From that point all persons engaged in calendaring, docketing and assignment tasks would be under court control and administration.

In November of 1983, the people of New Jersey approved a constitutional amendment to establish a Family Part of the Superior Court to commence on January 1, 1984. By rule, the Supreme Court determined that virtually all intrafamilial civil cases would be handled by the Family Part. The Chief Justice signed an order appointing a Family Part presiding judge and case manager in each vicinage.

In December 1983, the AOC issued a draft report entitled "Family Part Operations and Organization." The report covered a myriad of organizational and operational matters relating to the Family Part.

In October 1984, the Supreme Court established the Family Division Liaison Committee to evaluate early Family Part operations. In its June 1986 report, the Committee recommended:

- Multi-year judge assignments to the Family Part.
- The assignment of well qualified judges to the Family Part.
- A concerted effort to centralize visually and structurally the staff which supports the Family Part.

A parallel movement began in the late 1970's to reform the state's juvenile justice system. Among other points, advocates of reform contended that the juvenile system was treating the violent, repeat offender too leniently and the minor offender inappropriately. This movement culminated on July 23, 1982 when Governor Kean signed Assembly, Nos. 641-645, P.L. 1982, c. 77-81. The Senate Judiciary Committee Statement to Assembly, No. 641, notes the following legislative intent:

> This bill recognizes that the public welfare and the best interests of juveniles can be served most effectively through an approach which provides for

harsher penalties for juveniles who commit serious acts or who are repetitive offenders, while broadening family responsibility and the use of alternative dispositions for juveniles committing less serious offenses. Moreover, the provisions of this bill and the other accompanying bills reflect a philosophy which is pragmatic and realistic in nature rather than bound to any particular ideology.

The new Code of Juvenile Justice became effective on December 31, 1983.

In addition to the new juvenile code and family crisis legislation, in the decade since the Pashman I Interim Report, a number of other significant legislative changes, court rules, and directives became effective which have impacted substantially on the development of our family court. They include:

- In 1978, the Child Placement Review Act became law, providing for court review of all children placed outside their homes.
- In 1981, the Prevention of Domestic Violence Act was enacted. This remedial legislation empowered the courts to issue restraining orders and provide comprehensive relief to protect victims of domestic violence.
- In 1985, the Child Support Hearing Officer Program was adopted by the Supreme Court and established throughout the state.

B. Pathfinders Committee Activity.

In August 1986, Chief Justice Robert N. Wilentz appointed the Pathfinders Committee and gave it a broad mandate "to determine what kinds of problems and opportunities lie ahead for the Family Division" and to recommend "an appropriate course for the judiciary to follow in order to equip [itself] for the future."

The Committee first met in November 1986, and has met on numerous occasions thereafter. Specific meetings were dedicated to hearing the concerns and suggestions of:

- Assignment judges especially familiar with the Family Part.
- Representatives of the Department of Corrections (DOC).
- Representatives of the Division of Youth and Family Services (DYFS).
- Attorneys with active private and public practices in all areas of the Family Part, including prosecutors, public defenders, and deputy attorneys general.
- Mental health professionals and attorneys active in the mental health field.
- The presiding Family Part judges.
- A representative group of Family Part case managers.
- Representatives of the Child Placement Review System (CPR).
- State and federal personnel involved with child support enforcement.
- Probation representatives.
- Juvenile-Family Crisis personnel.
- Municipal Court judges, public and private agency representatives, and others interested in domestic violence matters.
- Appellate Division judges, administrators, and staff.
- Juvenile aid officers.
- Representatives of:

    a. The Association for Children of New Jersey.
    b. The Juvenile Delinquency Commission (JDC).
    c. The New Jersey Association of Foster Parents.
    d. The New Jersey Prosecutors Association.
    e. The New Jersey Parole Board.

Thoughtful suggestions and comments flowed from these varied sources. All who offered their views for consideration showed enthusiasm for the reorganized entity now known as the Family Part. A number of topics were consistently raised. All emphasized the unique attributes of the Family Part which distinguish it from the

Civil or Criminal Divisions. These include the authority and responsibility to impact on the most personal and sensitive areas of human lives: the custody and visitation of children and their abuse and neglect, juvenile delinquency, domestic violence, divorce and distribution of family assets, and other complex human problems. It was noted that Family Part orders have a long-term impact on family members, often requiring continuing judicial intervention even after the entry of judgment.

It was pointed out time and again that the current system constitutes a definite improvement over former structures and methods. The most frequently cited improvement was the consolidation of subject matter jurisdiction and its creative use by judges and staff to deal with issues not previously addressed or adequately treated. It was noted with pride that the court was already dealing in better ways with litigated family problems than had previously been the case. A number of innovative programs have been developed. The dedicated involvement of most persons connected with the Family Part system was often cited as another tangible benefit.

While acknowledging the accomplishments of the family court system in its first five years, most who communicated with the Committee chose to concentrate on new or continuing shortcomings of the system. This demonstrated the collective aspiration that further improvements must be realized in order that New Jersey may some day boast that a true family court had been established.

Many noted that the Matrimonial Division and the Juvenile and Domestic Relations Court were traditionally deemed "inferior" courts.

This stigma continues to attach to their successor, the Family Part. Traditionally, divorce law was not considered by attorneys and judges to require a high degree of legal knowledge or skill. Also, the Juvenile and Domestic Relations Court was a statutory court created pursuant to the constitutional authorization for the Legislature to establish "courts of inferior jurisdiction." The unfortunate tradition continues with the assignment of newly appointed judges, assistant prosecutors, public defenders, and probation officers to the Family Part. They are led to believe that they can be "promoted" to Civil or Criminal once they have "learned the ropes" in the Family Part.

Persons communicating with the Committee emphasized that the Family Part is also unique in providing or mandating services in nonlegal areas. Most urged that judges and support staff must have a better understanding of the behavioral sciences so they can work effectively with all social service providers.

Everyone noted how these special attributes of the Family Part affect its operations both internally and externally. They must be taken into account when considering issues relating to the training of judges and staff, the assignment of judges to the court and their length of service. They also impact on the nature, extent, and quality of support staff and the court's relationship to outside organizations, agencies, and other departments of government.

In addition to these meetings, the chairperson of the Committee visited each vicinage to ascertain the status of the family court. He tried cases and discussed implementation with a wide variety of

interested and knowledgeable people, including assignment judges, presiding judges, chief probations officers, and case managers. During his visits, recommendations were made to the county level judiciary. Many of these recommendations have already been implemented. The observations and recommendations were reported to the Committee and carefully considered in the course of developing this report.

C. Principal Concerns.

The New Jersey family court can perhaps be best envisioned as a ship which pushed off from the shore five years ago and sailed out into uncharted waters. The ship is of old design, untested in the new waters, and considered inferior to the other ships in the fleet. Its crew includes many good sailors; but a few do not wish to be on board and are lacking in necessary seamanship skills. At times, the different parts of the ship function in sharp contrast with members of the crew pulling in different directions. Limited resistance remains, not only to new ideas, but also to a unified, cohesive ship run in accord with the plans of the original supporters of the voyage. The lines of communication from the captain to the crew are sometimes blurred to the point where some directives and course settings are either unknown or ignored. On occasion, problems, both foreseen and unforeseen, are encountered with little direction given as to how they should be overcome. Most of these problems are resolved through the sensitivity and hard work of individual line officers and crew. Considerable progress has been made even though many are still unaware of the direction or

destination. After five years the ship has reached "the point of no return" and clear decisions must be made if it is ever to stop drifting.

The Committee feels that in order to achieve the full potential of the family court, several concerns and needs must be met:

First. Substantial disparity exists from county to county. Not only is there a lack of uniform observance of court rules and directives, but also the policy and practices in each count differ significantly. Too often the disposition of serious cases involving children and families, i.e., domestic violence, custody and visitation disputes, and juvenile delinquency dispositions, depends far more on the practices of the county of venue than any other factor.

Second. Under the present management structure those persons responsible for the administration of the family court in each vicinage--the presiding judge and case manager-- do not have control over the key personnel and other elements necessary to do their jobs effectively. This lack of management control pervades the entire system from top to bottom; e.g., statewide court rules and written directives are often ignored, and case managers are expected to function without the authority necessary to insure compliance with the standards.

Third. For the family court to realize its full potential, it must have all necessary resources. These include additional qualified, sensitive and well-trained judges and staff, and the

necessary auxiliary programs; e.g., custody visitation mediation, matrimonial settlement panel programs, juvenile resource centers.

The Pathfinders Committee has considered and studied the presentations of all interested parties, statutes, court rules, directives, and relevant other information, including our collective experience. The Committee has focused primarily on identifying problem areas within the judiciary and not on programs, services, and facilities maintained by nonjudicial agencies; i.e., DYFS, juvenile corrections, etc. Comment on the areas outside of the judiciary will be limited to identifying needs and suggesting ways in which the judiciary can act, either internally or by way of appropriate recommendations, to meet these problems.

The Committee's findings and recommendations are concentrated on ways and means to develop the best family court through actions within the judiciary. In this report, the Committee sets forth goals and recommendations to be established in each specific area.

II. JUDICIAL AREAS

Many persons of influence and authority within the judiciary continue to regard the Family Part as inferior or the least important court. Although the stature of the court has risen substantially as a direct result of the Chief Justice's commitment and oft-stated recognition of its value to society, deeply engrained attitudes remain. The court continues generally to lack necessary staff, have inadequately trained judicial power, and be assigned the least desirable facilities.

A. Judges.

Decisions of Family Part judges not only affect the litigants in particular cases, but also have a substantial impact on family systems. In practice, when dealing with many types of family cases, the power of Family Part judges is almost unlimited.

The personal attributes of Family Part judges are critical. The judges must be learned both in the law and behavioral sciences, and able to apply them to complex factual situations. They must be sensitive to the needs of persons and families in crisis and understanding of social mores and community standards. A Family Part judge needs physical and mental energy, confidence, patience, and an accepting, sympathetic and open mind. A sense of proportion in analyzing and resolving disputes, together with the ability to communicate decisions clearly and articulately, is indispensable. Most importantly, Family Part judges must have a personal gyroscope which enables them to stay level and adhere to Kipling's admonition to "keep your head when all about you are losing theirs."

Even with training, some judges will never have these attributes. It is incumbent upon the assignment judges and the Chief Justice to carefully evaluate persons whom they are considering for recommendation and assignment to the Family Part. Modes of assessing such qualities should be considered when appropriate.

To grasp the significance of the issues presented and understand the programs available, a judge should be assigned to the Family Part for a significant period. Three years appears to be an absolute minimum term.

Chief Justice Wilentz's stated policy of encouraging some rotation of judges throughout the divisions should prove helpful to the Family Part. At the 1987 Judicial College, the Chief Justice noted:

> [S]ometimes the public interest requires rotation. I know of no better example than the Family Division whose work is second to none in its impact on society, on children, on the lives of our citizens. It can often save and sometimes destroy. You would think that the most experienced judges would be called upon to give at least some of their time and talent to this work. As you know, that's not always so. (Opening Remarks of Chief Justice Wilentz, November 23, 1987)

In the past, the Family Part has suffered by the lack of assignment of quality and experienced judges. Through rotation of experienced judges into the Family Part, the court will become more vibrant and effective. Generally, experienced judges who wish to remain in the Family Part should be permitted to do so.

The Family Part needs more judges. Family Part judges need more time to handle the cases that come before them. Enough time should be allotted to review and consider the many reports

(predispositional, psychological, school, probation, custody evaluations, etc.) and conference cases, as well as preside over hearings and trials. This need is especially compelling in the smaller counties where a single judge often has to handle not only the county's Family Part cases, but other matters as well. The workload of Family Part judges should be comparable to that of their counterparts in the Criminal and Civil Divisions. At present, this is clearly not the case. Every judge and attorney who expressed an opinion to the Committee concerning comparable workloads between serving in the Family Part and other divisions stated emphatically that the Family Part involved more stress and greater pressure on the judges. These opinions were recently substantiated in the Report on Work Environment Factors of the New Jersey Judiciary which noted: "Among the New Jersey court divisions, Family judges appear to have the highest level of work."

The importance of the substantial need for more judges has been identified and urged editorially by the State Bar. Lee M. Hymerling, Esq., Past Chair of the Family Law Section, editorialized:

> [C]hange will be effective only when certain constants are recognized. This editorial shall focus upon one such constant--the need for an able Family Court Bench in sufficient size so as not to compromise the quality of justice administered....
>
> The premise of this editorial is that imaginative programs, no matter how well intentioned, will never substitute for a qualified, dedicated, sensitive and caring matrimonial bench....
>
> In an era of limited resources and competing judicial interests, has the Family Court fared as well as it should? More judges are needed. (N.J. Family Lawyer, V. VII, N. 2 (Aug/Sep 1987), p. 26, 42)

As the need was not fulfilled and the situation became worse, Mr. Hymerling urged again:

> There are simply too many cases for too few judges. Over the years, family law cases have become far more complex and multi-faceted. With each passing year, changes in the statutory and case law have made the job of matrimonial judges far more difficult....
>
> ....
>
> Quality should never be sacrificed, even in our era of judicial economy. A laud[a]ble objective should always be to assure that when important matters are to be decided, a judge, duly appointed by the Governor and confirmed by the Senate, should be available to decide them. (N.J. Family Lawyer, V. VIII, N. 2 (Oct 1988), p. 26, 31)

When are there enough judges assigned to the Family Part? The answer can never be absolute in a society whose family problems are constantly changing and growing. Objective standards must be established. They should be based upon caseload ratios, priority needs, continuous trial requirements, and statutory and court rule time mandates. There must also be sufficient time for quality decision making and comprehensive training program attendance, as well as consideration of the perceptions of judges, staff, attorneys, and the public as to the judicial burdens and stresses.

There are not enough judges in any county whenever:

- Cases do not receive the priorities necessary to deal with children at risk and families in crisis.
- Continuous trials in all cases are not possible.
- Sufficient time is not allowed for judges to study and decide cases "by rendering fair and reasonable decisions in an expeditious manner." (Pashman I)
- Attendance at training sessions is precluded by calendar demands.

- Judges "burn out" and wish to leave the family court solely because of the size of caseloads and inequitable demands on their energies.

The negative impact of insufficient judges pervades all aspects of the family court. When a judge, working from 8 a.m. to 6 p.m. every day, continues to fall behind in his calendar, it affects not only the litigants before him, but also the internal and external perceptions of the New Jersey family court system. Regardless of whatever other steps are taken, the Family Part can never function as expected without enough judges. Until this has been accomplished, the Family Part will not be able to reach its promised level as a part of an overall court system which has been recognized as among the best in the nation.

In order to encourage and maintain high-quality judges serving in the Family Part, several incentives should be considered. To avoid the perception that Family Part service is a "dead end," consideration should be given to the assignment of more Family Part judges to the Appellate Division. It has also been suggested that a policy of giving strong consideration to judges with some experience in the Family Part for appointment to positions as assignment or chancery judges should be clearly enunciated. The broad base of judicial experience should include service in the Family Part as an important factor in positions of leadership throughout the judiciary. Consideration may also be given to establishing a program of sabbatical leave after extended service in the Family Part. Such periods of sabbatical leave would not only encourage judges to maintain their interest and expertise in the areas of family law, but

also would serve as an additional resource for special evaluation or study of a particular area. This could be done by requiring that a judge on sabbatical leave study or work in a particular field upon approval of the Chief Justice or his designee. Finally, consideration could also be given to providing for additional personal days or a week of vacation per year appropriately allotted to Family Part judges. This incentive would be directed at preventing "burnout" due to the intense, emotional daily courtroom experiences. By allowing a judge to take a day off occasionally, the buildup of such pressures can be avoided.

Family Part courts are understaffed. Additional personnel to perform more nonjudicial tasks need to be assigned to court staff to help alleviate the problems created by an insufficient number of Family Part judges. In Camden County, this function and that of serving as liaison to nonjudicial agencies is provided by a "coordinator" assigned to each Family Part judge. This frees up judges to devote more time to their judicial duties. The committee believes that every Family Part judge should have such a staff person.

By providing sufficient trained staff to maximize diversion of juvenile delinquency and mediation of custody and visitation matters, judges should have more available time to concentrate on other difficult and complex cases. The substantial value of maximizing our alternative methods of resolving disputes in the Family Part, not only to the judges but also the public, was clearly noted by the

authors of a report to the 1988 Judicial Conference on Complimentary Dispute Resolution:

> New Jersey boasts a rich abundance of ADR programs that handle and resolve enormous quantities of cases that otherwise would burden court dockets everywhere and delay incalculably the delivery of justice for all of her citizens. (The Anatomy of a Legal Innovation: The Use of Alternative Dispute Resolution (ADRP) Techniques in the New Jersey Court System, June 30, 1986)

Judicial resources would be utilized more effectively with the establishment of a statewide floating judge program. Under this concept, at least three judges would be assigned full time to serve a number of counties within an assigned region; e.g., north, central, south. The floating judges would travel among their assigned counties hearing cases primarily on an emergent basis or handling particularly difficult and time-consuming matters. This would take pressure off judges regularly assigned to each county and enable them to devote more time to scheduled calendars, try all cases on continuous days, and give real priorities to appropriate matters. The floating judges should be selected from among the more experienced and effective judiciary, with a demonstrated ability to handle every type of case. In addition to active members, retired judges, with Family Part experience, should also be considered for assignment as temporary floating judges. To encourage judges to serve in this capacity, they should be provided with state cars, additional vacation time, and receive assurances that they will be permitted to return to their home county upon completion of a specified period (6 months, one year, two years).

The Family Part, its judges and staff, should be housed in the main county courthouse. This would assure the effective and efficient administration of justice in the court and enhance the court's stature and credibility.

At present, many Family Part courtrooms, waiting areas, conference rooms, and staff work areas are inadequate and significantly unattractive and unhealthy. The deficiencies include inappropriate design, insufficient seating, paucity of equipment, and a general lack of conference areas. Newer Family Part facilities such as those in Atlantic, Burlington, Camden and Ocean Counties are excellent and should be considered models for the rest of the state.

Due to the immediate impact on personal lives by the daily decisions of the Family Part, its courtrooms and environs are emotionally charged and frequently involved in altercations and physical confrontations. As a result, security needs of the Family Part exceed those of other courts. In addition, the court's juvenile delinquency caseload involves cases which have some of the same security concerns as criminal cases.

The following security arrangements must be made:

- Waiting areas for Litigants and Witnesses - must be separate and be of adequate capacity; sufficient reading materials should be available.

- Juvenile Detainee Areas - Must be of adequate capacity and be well lighted with a sufficient number of attendants in the room; juveniles must be held separately from adults; sufficient reading materials should be supplied.

- Common Areas - Metal detectors and visible active security personnel are necessary.

- Courtrooms - Should be arranged in such design as to insure the security of judges and staff.

All judges and staff should be thoroughly conversant with security measures.

GOAL: To provide adequate, trained, experienced, and sensitive judges and staff for the Family Part.

RECOMMENDATIONS:

1. Assignment judges and the Chief Justice should carefully evaluate persons whom they are considering for the Family Part. They must have individual attributes as good attorneys, sensitivity to the needs of persons in crisis, understanding of social mores and community standards, physical and mental energy, confidence, patience, and an accepting, sympathetic open mind, together with the ability to communicate decisions clearly and articulately, and remain levelheaded.

2. The policy of rotation into the Family Part should be encouraged and maintained while permitting experienced Family Part judges with demonstrated ability to remain.

3. Judges should be assigned to the Family Part for at least three years.

4. The Family Part must be assigned additional judges and be maintained at an adequate level.

5. A person should be assigned to each judge to assist in coordinating judicial actions and social services.

6. A statewide floating judge system should be established.

7. The Family Part, its judges and staff, should be housed in the main county courthouse.

8. Family Part courtrooms, waiting areas, conference rooms, and staff work areas should be upgraded statewide.

9. Adequate security arrangements must be provided for waiting areas, juvenile detainee areas, common areas, and courtrooms. Judges and staff should be thoroughly conversant with security measures.

B. Judicial Education and Training.

The judge of a family court exercises substantial judicial authority. An effort should be made to provide assurances that each judge who sits on family cases has, from the very outset, the basic knowledge and sensitivities which can make the difference between a family which will be assisted and one which will be damaged further. Judges of the Family Part are able, industrious, dedicated people who have or wish to acquire the special knowledge and sensitivities which will enable them to do their jobs well. The judicial system must afford them every opportunity to meet these personal commitments.

Each person who met with the committee stressed the need for more instruction for Family Part judges. Training must be provided in three categories: basic, continuing, and in-depth education.

1. Basic Training.

Each newly appointed judge sooner or later attends the Judges' Orientation Seminar. This program is not offered on a regularly scheduled basis, but is conducted whenever a sufficient number of new judges has been appointed to make an offering worthwhile. Some new judges have served for over a year before having the opportunity to attend this "basic training." The orientation seminar for new judges makes an excellent attempt at addressing the unique needs of the Family Part judge. However, more remains to be done. Each September there should be a one-week training session for newly appointed judges assigned to the Family Part. This program would include lectures, panels, workshops dealing with the special organizational and jurisdictional features

of the Family Part, a review of available supportive services, ways of dealing with dysfunctional families, and alternative modes of addressing key problem areas such as custody, visitation, and guardianship cases. Experienced judges assigned to the court should attend those portions which would assist them in their new assignment. In addition to the one-week statewide training session, newly appointed judges should be required to complete an additional two weeks of training. This should include one week for state and local visitation and "walk through" of case processing of each type of case. The balance should be devoted to in-court observations of every type of case, including actual participation under the direction of experienced judges. The statewide and local visits should include the county's juvenile detention center and shelter facilities, the state training schools for boys and girls at Jamesburg, Skillman, and Bordentown, the local DYFS office, and other local treatment programs including group homes, resource centers, and facilities most commonly used by the family court.

There are three primary problems facing a newly appointed judge assigned to the Family Part. First, is his or her general lack of judicial experience. Second, the new judge may be called upon to function in subject matter areas in which he or she has had no experience or specialized knowledge. Third, the judge may not automatically possess a sensitivity to the needs of the Family Part or its litigants and their families. These sensitivities include nonjudgmental acceptance of the litigant, empathy, and an

appreciation of concepts such as permanency planning, bonding, adolescent psychology, and family systems.

New judges assigned to the court are rarely familiar with custody and visitation principles and related aspects of the parent-child relationship. Law school and general practice experience does not prepare judges to handle cases involving such matters. Also, newly assigned judges must understand the relationship between the court and public and private service agencies, programs, and related disciplines. Family court judges must be diplomats and administrators, as well as adjudicators.

Generally, matters coming within the jurisdiction of the Family Part have their derivation in familial dysfunction exacerbated by the breakdown of the family in today's society. Over the years, the additional role of facilitator has been added to the responsibilities of Family Part judges. These judges work with social science experts in developing practical resolutions for families before them. In order to perform this function, they need training in how to respond to social and emotional problems and provide the most effective services.

Judges who have served in the Criminal and Civil Divisions and who are transferred into the Family Part generally have the same needs for knowledge and sensitivity in these areas as does a newly appointed judge. The Bench/Bar Subcommittee of the Family Part Practice Committee (87-88) has recommended that:

> [A] more formalized approach to the education of new judges in the court is required because of the ever

> increasing volume in the Family Part, rotating of judges into the court, and the complexity of wide ranging issues confronting them.

A research project has identified a consensus among Family Part judges and case managers, as well as the private bar, that judges lack adequate training prior to their Family Part assignments.

> The complexity and volume of matters filed with this court often stretch the limits of case load management efficiency while the inexperience of freshman judges is seen as compounding the problems of a high volume, overburdened system. (Study by John V. Krieger, for the Institute for Court Management)

The study indicates that judges are often expected to be expert decisionmakers without the requisite backgrounds and experience in family law. New judges often must handle the same types and volume of cases as do their more experienced peers. There often is little tolerance or opportunity for the newest judge to learn "on the job." The Krieger Report notes that:

> Court managers have attempted to deal with this problem by channeling strained resources to the new judge or in some cases recommending a different assignment. Neither approach is a legitimate solution to the problem and judicial hopscotching has particularly negative consequences for the system. Judges who are prematurely assigned usually exhaust a high cost in staff morale and resources in proportion to their contribution. Some judges become isolationists instead of reaching out to managers and each other for advice and direction in balancing the high volume of cases with quality decisions. (Ibid.)

New Family Part judges, prior to assignment, must first receive a broad-based introduction to New Jersey's Family Part system, including information about the various organizational units of the court.

The additional need for training presiding judges in administrative roles cannot be understated. A good judge is not necessarily a good administrator. The development of administrative systems, policy formulation and implementation, and the creation of procedures are skills which can be learned. A presiding judge must clearly understand the principles and techniques of system and team management. The advantages and disadvantages of individual versus central calendar control should be fully presented and understood by all presiding judges. Further instruction in personnel management and employee relations issues is essential. Management techniques directly impact the quality of staff decisions. Since over 50% of most of the matters within the jurisdiction of the Family Part are resolved by support staff, it is clear that the presiding judge must set policy and define the parameters within which staff must operate. There is an equivalent need for basic training and educating of Family Part case managers. Case managers, like judges, may lack special sensitivities and an understanding of intrafamilial relationships. Furthermore, case managers must develop a greater appreciation for roles of other agencies as they interweave within our Family Part.

Family Part judges are the leaders of the court. By their words and deeds they set an example for the court's staff. Thus, a judge who evidences knowledge of the court's subject matter areas and the requisite sensibilities will usually have staff who possess similar qualities.

2. Continuing Education.

The Committee recommends that each Family Part judge be required to enroll in a related continuing education course for one week each year or two weeks every two years. In addition, each judge should be permitted an additional week to be scheduled with the approval of the assignment judge and the presiding judge.

The annual Family Part retreats should be comprised of at least four and, if possible, six half-day sessions in different topics. In addition, specially planned seminars in developing areas of the law and social sciences should be offered as the need arises during the course of the year.

Family Part judges should be encouraged to attend courses and programs of value directly related to their functions and concerns which are offered by the National College of Juvenile and Family Law, the National Judicial College, the Institute for Court Management, and other national groups. The present policy of requiring that half of any time so spent in excess of a week be charged against vacation time is counterproductive when the need for broad and regular educational involvement is as manifest as in this area. The policy should be changed.

3. **In-depth Training.**

Family Part judges should be encouraged to pursue masters degrees and other in-depth studies in related subject matter areas. This could be accomplished at the National College of Juvenile and Family Law or as locally developed in any of the fine New Jersey colleges and universities. In addition, judges should

attend family system training sessions offered by appropriate agencies; e.g., the Philadelphia Child Guidance Center, Carrier Foundation, and other special training seminars offered both within and outside the State. Nationally known guests should be invited and encouraged to come to New Jersey for the purpose of providing valuable instruction. Cross-training of judges, staff, mental health professionals, agency representatives, and service providers should be arranged. The enhanced quality of training that takes place in a multi-disciplinary audience cannot be overstated.

Planning for all levels of training should be the responsibility of a special committee composed of Family Part judges, case managers, attorneys, representatives of agencies, and others. This Committee should function as a subcommittee of the Supreme Court Committee on Judicial College/Seminars. It would establish a learning curriculum and monitor the quality of all courses.

GOAL: To provide a comprehensive program of orientation and continuing education and training for all judges and staff serving in the Family Part.

RECOMMENDATIONS:

1. Establish a special committee responsible for the training and educational needs of the judges working in the Family Part. The members of this committee should be judges, case managers, attorneys, representatives of agencies, and others presently assigned to the Family Part, as well as practitioners in the subject matter field. The committee should function as a subcommittee of the Supreme Court Committee on Judicial College/Seminars.

2. Charge the Family Part Education and Training Committee with the responsibility to establish and administer orientation and continuing training programs within this state for judges which will include instruction in legal, psychological and sociological

principles, special practices and procedures, case processing, calendaring and management techniques, and any other relevant material. Training programs should utilize attorneys, experts, agency representatives, and staff to a significant degree. Cross-training of judges and staff with attorneys, representatives of agencies, and other persons involved in the Family Part should be planned and provided on a regular basis.

3. Provide a regularly scheduled orientation program for newly assigned judges to be held annually in the beginning of September. This will include approximately three weeks, apportioned with the first week for statewide training, the second week for state and local visitation and observations, and the balance for in-court observations and operations in every type of case under the direction of experienced personnel. The orientation program could be placed on video tape with supporting materials for use locally throughout the year.

4. Require that no judge be permitted to sit on family cases without having first received the new judges' orientation, either in person or by videotape with supporting materials.

5. Provide periodic orientation programs to be held in Trenton or regionally for all new staff, as well as comprehensive training and continuing education programs for all staff, including case managers, department heads, and unit heads.

6. Provide a comprehensive program of continuing educational opportunities for judges covering all relevant subjects in depth on a continuing basis throughout the court year in specially scheduled seminars as well as at the Judicial College and the Family Part Retreat.

7. Identify and provide additional in-depth educational opportunities within and outside the state to judges with a view to their long-term assignments to the Family Part, including:

a. Judges to be encouraged to enroll in master's degree programs or other similar treatments in subject matter areas relating directly to their functions in the Family Part, including those in the various related social science areas.

b. Identifying ongoing programs or helping organize such programs at institutions of higher learning in New Jersey and surrounding areas.

c. The judiciary's underwriting the cost of any judge's involvement in such programs. Attendance at such programs should be considered to be part of the judge's work responsibilities.

8. Provide special training programs and continuing education courses to presiding judges. The subject matters to be covered should include: Principles and techniques of organizational management; calendar control; personnel supervision and employee relations; creation and implementation of organizational structure.

9. Encourage judges to attend other educational seminars, symposia, and courses to a minimum of two weeks per year outside of the formal in-state training presentations. At least one week per year or two weeks every two years should be mandatory. Attendance at all such programs should be permitted without any charge against an individual judge's vacation time.

C. Administration.

New Jersey is unique in seeking to establish a unified family court system as one of several divisions under common administration. While the advantages of a unified court system greatly outweigh its disadvantages, the disadvantages must be considered and overcome. Allowances must be made for the Family Part's greater staff needs, case management priorities, and substantial difficulties in exercising control over its entire system. While the task of administering the largest comprehensive family court in the nation is at best very difficult, substantial progress has been made. With rare exceptions, the persons responsible for managing the system are sensitive and committed to excellence. However, internal resistance to change, lack of resources and staff, and inability to have real control exercised by those responsible for the policy implementation and daily operations have resulted in an inability of the New Jersey family court to realize its full potential.

By court rule the Family Part is one of the four functional units of the Superior Court at the trial level. A plethora of statutes, court rules, and directives (including Supreme Court and Administrative Director memoranda, manuals, guides, and forms) govern the particular types of cases over which the Family Part has jurisdiction. Various Supreme Court committees have issued reports recommending how the Family Part should be structured and staffed, and how the different types of cases should be processed. It is clear that many of these statutes, court rules, directives, and

committee recommendations dealing with the administration of the , Family Part are not being implemented.

1. Executive Component.

The rules of court and the AOC's model family court plan provide for each vicinage to have a Family Part presiding judge and case manager as the executive component. The title "Assistant Trial Court Administrator" was recommended in order to give recognition to the importance of the case manager's role, to differentiate his or her work from that of a DYFS entry level case manager, and to reflect administrative ties to the trial court administrator. In only a few vicinages does the case manager have this title. "Family Court Administrator" would be a possible alternative title.

The AOC's model plan also called for the creation in each vicinage of a Family Part management team of the trial court administrator, case manager, chief probation officer, county clerk, surrogate, with the presiding judge as chairperson. The team was to provide guidance and advice to the presiding judge in management matters. However, these teams have either not been established or are no longer functioning. These teams could perform a worthwhile function and should be restructured to include the presiding judge, trial court administrator, case manager, and appropriate Family Part middle management.

2. Unified Staff Unit for Predispositional Services.

a. Establishment.

Several Supreme Court committees have called for

each vicinage to have a Family Part staff unit, under the control of the case manager, who would be responsible for all the predispositional work of the court in every subject matter area.[1] This would include all clerical functions, case reception, noticing and scheduling, preparation of operational and management reports, and para-professional functions; e.g., investigations, monitoring the implementation of court orders and detention admissions. In addition, Family Part staff would conduct juvenile intake service and nondissolution consent conferences, staff juvenile conference committees, perform crisis intervention duties (if within the court system), process domestic violence matters, and be available for the myriad of other specialized tasks of the family court.

In many vicinages, this consolidation of functions and staff has occurred. However, in others it has not yet been accomplished.

In several counties, the case processing and management units handling dissolution matters in what was formerly known as the Matrimonial Division have remained intact without any change in administration. Some of these units are located in various offices, in or adjacent to judges' offices and under the employ and direction of the county clerk, with little or no allegiance to or recognition of the authority of the case manager. In other counties, the case processing and management functions involving juvenile delinquency and/or child abuse, neglect, and termination of parental rights cases

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[1]In adoption cases, complaints should continue to be filed with the surrogate but be transferred to the case manager for case processing and management. Services such as group programs, community service programs, and day programs should be operated by non-court agencies.

remain in separate locations subject more to the control of the chief probation officer than the case manager. Child support establishment and/or enforcement is also handled separate and apart from the location and authority of the case manager in some counties.

In at least two vicinages employees who do not report to the case manager prepare the court's juvenile predisposition reports. In another vicinage nonjudicial personnel hold nondissolution case conferences. In several counties court dispositions are not monitored by anyone. These variations are unacceptable in a unified family court and must be eliminated as soon as possible.

The AOC's model plan (December 1983) proposed that the Family Part Staff Support Unit be staffed in the beginning pursuant to a matrix management approach. Thus, the unit:

> ...will include personnel provided it by the Chief Probation Officer and County Clerk. These persons will remain on the operating budget of the assigning official and will be subject to the disciplinary, promotional and other administrative regulations promulgated by that official.
>
> The assigning official will consult with the Case Manager before taking any personnel action with respect to such an employee. (Plan, pp. 30-31)

Virtually all persons who discussed court management with the committee noted that matrix management, while appropriate as a transitional model for the formative years, has outlived its usefulness. The effectiveness of matrix management depended on the good will of the chief probation officers and county clerks and their cooperation with the case managers. This has not always been forthcoming. Some chief probation officers and county clerks have arranged for their least qualified and most recalcitrant employees to

be assigned to the Family Part. Some have tried to interject themselves into the day-to-day operations of the Family Part staff support units. The required consultations between case managers and chief probation officers and county clerks as to personnel matters occur infrequently.

Even if all these deficiencies were eliminated, matrix management would still not be an appropriate permanent system for assigning staff and dealing with personnel matters. Matrix management is inherently confusing. Staff are unsure as to what to do when the assigning official and case manager give conflicting directions. The assigning official is not familiar with the day-to-day work of staff, yet is expected to make personnel decisions. Staff can ignore case managers' instructions since their future is in the hands of the assigning official. Perhaps most importantly, the existence of matrix management with its unclear reporting lines and diffusion of authority makes the creation of a statewide judicial personnel system virtually impossible.

In 1982, the Committee on Efficiency advocated a judiciary-run personnel system. In its 1988 report, the Committee to Review the Implications of Possible State Funding (the Gruccio Committee) also called for the establishment of such a system outside of civil service. The Gruccio Committee recognized that civil service follows procedures which undermine judicial independence and cannot accommodate the participative approach to management toward which the judiciary is moving. It was strongly recommended that civil service not control the operations of the judiciary's personnel system.

The Committee agrees with these conclusions.[2] As recommended by many who met with the committee, the judiciary's personnel system should be under the control of the person who, by rule of court, is to run the court system on a day-to-day basis--the trial court administrator. For all daily operations and hiring and firing, the staff should be under the control of the case manager (a.k.a. assistant trial court administrator). The judicial personnel system should provide for promotional opportunities for staff within each court division (career tracks) and staff salaries which are commensurate with their counterparts in public and private employment. The judiciary should recruit good staff, rely as much as possible on their judgment, and reward their accomplishments.

A frequent complaint of the case managers statewide was that they were either not consulted during the annual budget preparations or their requested items were eliminated without any further discussion or explanation. To meet this communication problem, each case manager (a.k.a. assistant trial court administrator) should, in concert with the presiding judge, develop a budget which should include the salaries and resources. The assignment judge and trial court administrator should include the requested line items in the county's judicial budget unless, after consultation with the

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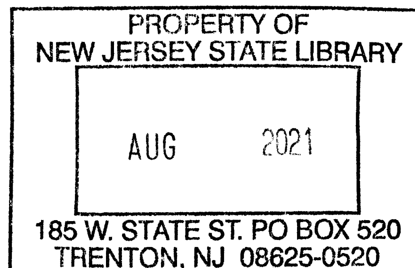
[2]Thus, all professional employees of the court system (including the Family Division's case managers, assistant case managers, team leaders, intake officers and CPR, supervised visitation, domestic violence and other programmatic coordinators) should be part of the court's personnel system comparable to those persons serving in unclassified titles in civil service. The committee is divided as to whether clerical employees should remain under civil service or should be within the judicial personnel system.

presiding judge and assistant trial court administrator/case manager, they determine for good cause to make changes in the submitted proposal.

Even though the Family Part began statewide only five years ago, a serious problem of disparity of salary among Family Part case managers exists. A statewide comparison reported a difference of as much as $20,000 per year. In some counties significantly lower salaries existed for the Family Part case managers than their civil and criminal counterparts. Their salaries should not be in a range lower than that of the case managers in the other divisions. They perform many unique additional functions, including participating in county youth service commission activities, supervising court volunteers, maintaining a close working relationship with a variety of nonjudicial service agencies, etc. In fact, all case managers should have their salaries, regardless of vicinage, set within the same AOC prescribed range. This range should be established at a level commensurate with those of persons in public or private employment who have similar administrative responsibilities. The funds needed to meet these standards should be fixed items within the judicial budgets in each county.

b. Teams.

The model Family Part Operations and Organization Report (p. 36) suggests that the judiciary "work closely with the communities it serves to promote efforts to prevent juvenile crime and the breakdown of families and to advance the goals of the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juvenile justice legislation." The report proposes a regionalized model to strengthen these ties.

The report (p. 40) states:

> Under this model one team of intake officers and clericals, child placement review board members, juvenile conferences committee members, post-dispositional probation officers and volunteers in probation would be assigned to a particular region of the county.... Team members would become fully familiar with the region's demographics, the nature and extent of its juvenile crime problem, the services available to families there and would develop a real proprietary interest in seeing that families receive the assistance they need. They would seek to develop a healthy working relationship with police, school, social services and other community groups.
>
> The Presiding Family Part Judge, in consultation with the Case Manager, would select an intake officer to lead each regional team. The team leader would report regional problems that require judicial action to the Presiding Judge through the Case Manager. The team leader would also be responsible for all aspects of the work of the Family Part Staff Support Unit for the region.

The Family Division Liaison Committee in June 1986 (p. 24) noted:

> Regionalization enables the court to get a better grasp of the problems, demographics and resources of the committees which it serves.

Similarly, a March 1988 AOC study concluded that a regionalized approach to case processing leads to greater efficiency and continuity, improved relations between the judiciary and the communities, higher job satisfaction for staff, and increased individualized attention. A November 1988 analysis prepared by Judges Leahy, Page, and Williams recommended that "the direct service team concept [pursuant to which team members handle all Family Part matters] be implemented on a statewide basis." The analysis also

suggested that "Family Division [Part] cases be assigned to teams on a regional basis." In November the Chief Justice at the Judicial Staff College endorsed the direct service team/regionalized case management system.

The committee is encouraged by the experience of those vicinages which already have direct service teams combined with a regionalized case assignment system. Other vicinages which are considering employing this approach should be urged to proceed with implementing their plans as soon as possible. Consideration should be given to holding juvenile intake service conferences, child support hearing officer proceedings, and custody and visitation mediation sessions, all on a regional basis as proposed by the AOC model plan.

c. Space and Equipment.

As several Supreme Court committees have noted, there is the need for all staff, including clerical personnel, to be readily accessible to each other, the case manager, the presiding judge, and the files with which they work. The court's postdispositional (production) staff who perform functions such as juvenile probation supervision and support enforcement should also be included in close proximity to the court's predispositional employees. Unfortunately, in many counties staff is in different locations, divided among several buildings. This is highly detrimental to the principles of a united family court and its effective and efficient resolution of complex family problems. Operations must be centralized in the county courthouse,

even if this means moving other court or agency operations out of that facility.

Appalling physical conditions in several Family Part courts are well known, especially in older courthouses. All Family Part court facilities should be clean, well maintained, lighted, secure, and of adequate size. Enough conference rooms must be made available for attorneys and clients to confer in private. These rooms should have floor-to-ceiling walls of sufficient thickness to assure confidentiality. Similarly, there must be adequate facilities for professional and para-professional court employees to conduct confidential interviews and conferences. Staff offices should be constructed of sound-proof materials. Standards must be developed and required for all Family Part facilities.

The need for separate waiting areas for victims and alleged offenders, as well as competing parties and children involved in some cases, cannot be overstated. The control factor of adults over children, batterers over battered spouses, and juvenile offenders over victims or witnesses must never be allowed to exist by reason of the lack of adequate facilities in any Family Part. Not only do such arrangements tend to discourage children and others from testifying at all, they greatly influence the testimony presented and can easily result in a distortion or complete denial of what actually happened. Separate waiting rooms or areas must be obtained in every county which absolutely prohibit the following to occur:

- Children who allegedly have been sexually abused forced to sit in close proximity with their alleged abusers.

- Victims and witnesses who may be in fear of further injury or retaliation for testimony forced to sit in common areas with juveniles charged with the offenses.
- Battered spouses required to wait in common areas where they can be subjected to further domestic violence or control (physically, mentally, or emotionally) by the alleged batterer.
- Children caught in the middle between competing parents in custody/visitation disputes who are waiting to give their own testimony or meet with the court or staff forced to sit in common areas with the competing parents or extended family members.
- Defendants in child abuse cases being permitted to sit in close proximity with foster parents, thereby exposing the foster parents' identity and subjecting them to unexpected visits or harassment outside the courthouse.
- Parties and extended families in bitterly contested divorce proceedings required to sit for long periods of time in common areas where they subject each other to constant conflict.

Each Family Part judge should have easy access to a FAX machine and a computer. The judge's secretary should have word processing equipment. Likewise, such state-of-the-art equipment should be made available to the case manager and the case manager's staff.

3. Caseload Ratios.

At present there are no standards establishing a necessary minimum number of employees for each Family Part to meet the caseload effectively. Within one year such ratios should be developed. The assignment judges should include in their judicial budgets funds necessary to obtain staff necessary to maintain these ratios. They should not compromise minimum staffing needs in their negotiations with county government. If necessary staff cannot be obtained through the budget process, the assignment judge should assign staff from other court divisions into the Family Part. If

enough staff cannot be transferred to achieve the required staffing ratios, the Family Part should limit its hearings to the types of cases of the highest priority; i.e., confined juveniles, child abuse, domestic violence, termination of parental rights, custody, and visitation.

4. Relations with Nonjudicial Agencies.

Judges require many services provided by nonjudicial agencies. Conditions set out in orders may include the place where the service must be provided, the nature and extent of the service, and the time frame within which the service must be supplied. Whenever the needed services are not readily available, the presiding judge and case manager should seek to enter into service agreements with appropriate agencies. When the services needed are the responsibility of an agency which refuses or fails to provide them, the full authority of court must be exercised to compel compliance. Judges should not continue to endorse or provide letters of support for those agencies which regularly impede court-imposed conditions. When the court has a responsibility to take a leadership role in generating necessary services, the county youth services commissions can be invaluable in this endeavor.

5. Small County Administrative Problems.

Outlying counties in multicounty vicinages have unique problems. There is lack of clarity as to relationships between staff in the outlying counties and the presiding judge and case manager. This results in ineffective communication among all involved. Each outlying county should have an assistant case manager (deputy

assistant trial court administrator) to oversee Family Part operations there. This arrangement already exists in most multi-county vicinages. To maximize the assistant's understanding of state-level policies and programs, he or she should be copied on all state-vicinage correspondence regarding the Family Part, and be invited to all AOC-case manager meetings and Family Part staff training sessions such as the annual retreat. The assistant's salary and other expenses in the county and a pro rata portion of vicinage-wide expenses (such as the case manager's salary) should, pending state funding, be borne by that county.

6. State Leadership Component.

The family court is unique. Its complex operations involve the daily exercise of extensive judicial authority which is subject to frequent legislative and administrative changes. It demands a great deal of attention in order to be effective.

In our system of common administration of all divisions of the trial court, the Family Part has no statewide entity, person, or component responsible to require compliance with existing policies, statutes, or rules; or, equally important, to study, plan, advocate, and facilitate necessary changes and improvements. The ultimate responsibility always remains with the Chief Justice, Administrative Director, and Assignment Judges. However, the experience of the past five years has shown clearly that where there are so many other important areas to be watched and developed, it is not possible for the existing administrative structure to provide the necessary concentrated leadership for the Family Part.

If the Family Part is to continue to develop toward becoming the best it can be, a statewide leadership component must be provided. The leadership component must fill several important roles that are not provided in the present system:

- Monitoring Family Part operations through review of statistical and other reports and field visits to assure compliance with legal requirements or state-mandated programs and standards whether they are in the form of statutes, court rules, or Supreme Court or AOC Directives.
- Policy-making to the limited extent of identifying the need for and facilitating in the expeditious establishment of statewide policies by the Chief Justice.
- Developing programs by collecting information about the most effective programs, techniques, and practices to maintain and improve the quality of the Family Part, assisting vicinages and regions in developing and continuously evaluating these ideas, and advising and facilitating the case managers, presiding judges, assignment judges, Administrative Director, and Chief Justice on "how to" realize the full potential of this most important court.
- Advocating, within the judiciary only, to the Chief Justice, the Supreme Court, Administrative Director, and Assignment Judges for necessary changes; e.g., new policies, procedures, and practices, for judges, staff, and programs.
- Representing the Family Part, at the request of the Chief Justice, before committees, other governmental and nongovernmental groups, and at national conferences.
- Administering the floating judge program (see page).

It was frequently suggested that the establishment of the position of a statewide presiding judge would solve the problem of overall leadership. Proponents felt a statewide presiding judge could better address structural defects in the system and act as an advocate for Family Part needs at the highest level. In addition, all of the other states with full family courts, except South Carolina which has a separate family court system, have a statewide

Presiding Judge (Delaware, Hawaii, Rhode Island, and the District of Columbia). In opposition to this suggestion, it was noted that the existence of a statewide presiding judge could undermine the role and authority of the assignment judges and confuse current lines of authority within the judiciary.

One suggested option would be to have an existing Assignment Judge serve full time in this capacity on special assignment. An alternative would be for the Chief Justice to appoint a sixteenth Assignment Judge to serve as the leadership component. Consideration could also be given to having a present Family Part presiding judge be specially assigned full time with the recommended responsibilities. Such a person could also serve as chairperson for the Conference of Family Part Presiding Judges. Any form of leadership component could only exist and function effectively under the clearly stated and acknowledged authority of the Chief Justice and Administrative Director. Too often, existing written directives and policies have been ignored simply because the persons needed to carry them out knew that there was no one monitoring who had the authority to insist on their compliance.

The administrative structure should always be subject to review and reevaluation, undergoing gradual, continuous change as the philosophy governing the family court evolves and matures with experience. The committee feels strongly that by providing for a new statewide leadership component, in whatever form, our family court system will move ahead and become established to the degree of excellence that all of our citizens have a right to expect. Most

important, it will then provide throughout the state the best way of resolving the network of complex family problems within the court's jurisdiction.

GOAL: To administer the Family Part in the most effective manner necessary to provide the highest quality family court system by enabling the presiding judge and case manager to have control over all persons involved in case processing and management and predispositional services and operations of the family court, subject at all times to the overall responsibility and authority of the assignment judge and trial court administrator.

RECOMMENDATIONS:

1. A plan should be developed in all vicinages establishing clear lines of command and authority over all personnel involved in the family court. The chief probation officer and county clerk should not be included in the organizational chart of the management structure of the Family Part.

2. All court personnel and supporting staff should be placed on one budget, separate and apart from the budgets of the probation office and county clerk. This budget should be initially prepared by the case manager and presiding judge and submitted for the approval of the trial court administrator and assignment judge.

3. All personnel decisions, including hiring, firing, promotions, and job responsibilities, should be the responsibility of the case manager and presiding judge, subject to the approval of the assignment judge and trial court administrator.

GOAL: To provide sufficient staff for the Family Part.

RECOMMENDATIONS:

1. Within one year, minimum staff ratios and standards should be developed. Staff ratios should be developed after study which recognizes the need to move all priority cases, as well as providing for complementary dispute resolution whenever appropriate (custody/visitation mediation, case conferencing, etc.) and assuring expeditious resolution of all matters.

2. The assignment judges should include in the judicial budget funds necessary to obtain staff to establish and maintain these ratios and should not compromise minimum staffing needs in negotiations with county government.

3. Whenever necessary staff cannot be obtained through the budget process, the assignment judge should assign staff from other court divisions into the Family Part.

4. A judicial personnel system for professionals outside of civil service should be established within a reasonable time.

GOAL: To provide comprehensive statewide leadership to improve the overall quality of the Family Part.

RECOMMENDATIONS:

1. Establish a leadership component, in whatever manner or form deemed appropriate, to monitor operations, facilitate policy making, develop programs, advocate for needs, represent the Family Part, and administer the floating judge program statewide.

2. Require the leadership component to report regularly to the Chief Justice and Administrative Director as to operations and future plans for the Family Part.

D. Case Management.

A good case management system is the pulse of any judicial organization. Substantial differences in Family Part case management exist from county to county. The quality ranges from minimal to highly effective and efficient. Some case management systems are inadequate, fragmented, and archaic. The process of filing, docketing, receiving, and screening (if in fact screening exists) of similar types of complaints should be substantially consistent from county to county. Equal levels of performance should be experienced by the litigants or attorneys.

The following case management practices were observed:

- Dissolution cases are aggressively managed with different forms of case management conferences occurring within three months of the filing of the complaint in a limited number of counties (Atlantic, Burlington, Camden, Gloucester, Hudson, etc.). In other counties very little effort is made to contact the parties early with the result that their contested divorce case may be pending for three to four years.

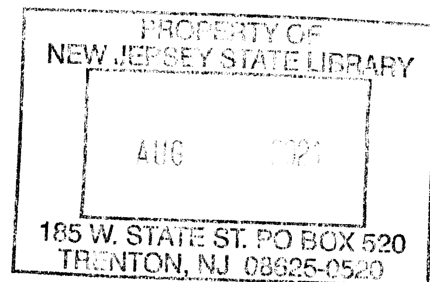
- The time period for the resolution of termination of parental rights cases varies significantly from county to county according to DYFS statistics. In one county these cases, which are mandated to receive the highest priority, are disposed of in an average of 4 months, while in another the average case is not disposed of for 12 months.

- Child abuse and neglect cases are rarely given the priority they deserve. One case took over 20 months to complete from the first trial date, with testimony taken for a few hours each month. In another case, three different judges appeared in one child abuse case during a six-month period. In one county, child abuse cases are regularly closed and reopened during the period of time between hearings. Thus, no case is reported as having been pending for a long time.

- Child custody and visitation issues are rarely resolved within the 90-day period recommended by the Pashman Committee. In contrast, contested plenary hearings on custody and visitation are pending for over two years in one county, with the noncustodial parent having little or no visitation.

A prime example of substantial inconsistencies and ineffectiveness statewide is the management of juvenile delinquency cases. These differences produce time frames ranging from an excellent case management system, moving a juvenile delinquency complaint within 14 days to its first hearing, to others taking five to seven months before in-court attention is given to the complaint. Although there are statutory time frames for the movement of delinquency cases, most counties are not in compliance with the 30-day (detention) and 60-day (nondetention) time frames. N.J.S.A. 2A:4A-41. Statewide technical assistance for these counties has not been provided.

Families of juvenile delinquents live many months with concern and anxiety over a case that remains pending unnecessarily. In one county, juvenile delinquency complaints are actually filed by probation officers on behalf of police officers, while in all other counties police officers, with or without the assistance of their prosecutors, prepare complaints and forward them to the Family Part. In another county a review of files revealed that the most recent case on the calendar was listed three and one-half months after the date of the incident. That calendar also contained cases pending for 11 months. Noncompliance with the mandated time frames is more prevalent than compliance. Six to eight weeks seems to be the norm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for first listings. Even after original scheduling, cases are routinely postponed for virtually any reason.

It is important to maintain priorities for the disposition of cases which recognize the different degrees of crisis. Primarily, they involve cases of custody, visitation, abuse, neglect, pendente lite support, domestic violence, termination of parental rights, and institutionalized juveniles. Persons or families without any available means to provide for their current basic needs or to protect themselves from further harm are trapped in these situations and are greatly in need of timely court intervention. "Justice delayed is justice denied" has its greatest impact in the family court. When court systems postpone and delay disposition of their cases, the children, who are held in limbo, present aggravated and substantially more serious problems than at the beginning of the dispute.

Since the management of the family court system is so dependent upon outside influences, programs, and agencies, an aggressive case management system is the only service to the public that can be effectively guaranteed by the court. Specifically, all dissolution cases (regardless of issues) can and should be placed under tight controls beginning two months after the complaint is filed. All custody and/or visitation issues can and should be identified expeditiously upon the filing of any type of complaint. At present there is no mechanism in place at the AOC for the identification and

collection of data in cases involving issues of custody and visitation in family court matters. Since custody and visitation issues normally come before the court in different types of complaints (divorce, nondissolution, juvenile-family crisis, juvenile delinquency, child abuse, domestic violence, etc.), it is imperative that they be isolated and tracked in order to diminish the damage to the children. Reliable data collection and monitoring capacity must be developed by the Administrative Office of the Courts in conjunction with the case processing units in each vicinage. Upon identification, custody and visitation issues can and should be resolved within a maximum of three to six months. All child abuse, neglect, and termination of parental rights cases can and should be heard in continuous trials on consecutive days with maximum limits for final resolution of 15 months and six months, respectively. When children are involved in the relationship, custody, visitation, and child support can and should be awarded or reaffirmed at the time of every domestic violence final hearing.

The establishment and enforcement of child support orders requires the availability of adequate judicial time to follow up cases heard by the hearing officers. Under R. 5:25-3(d)(2), a party objecting to a recommendation from a hearing officer is entitled to an immediate appeal hearing before a judge. The preference is that these hearings be heard on the same day to expedite the case processing and disposition. Judicial neglect which delays the provision of child support causes substantial problems for children and supporting parents.

Statutory time goals exist in many subject matter areas. By law, all domestic violence final hearings must be held within 10 days. N.J.S.A. 2C:25-13(a). All detained juveniles must have further detention hearings within 14 days and adjudicatory hearings "no later than 30 days" (N.J.S.A. 2A:4A-38(k); every child placed outside of home must receive a child placement review in 45 days (N.J.S.A. 30:4C-58); initiation of wage withholding is required after arrearages of 14 days (N.J.S.A. 2A:17-56.9). Federal regulations require 90% of all child support enforcement cases to be disposed of within three months of the date of filing. 45 C.F.R. 303.101(b)(2). Different committees have recommended additional time goals, including "all issues pertaining to child custody be determined within 90 days," (Supreme Court Committee on Matrimonial Litigation, Phase II Final Report" (Pashman II), July 16, 1981); final hearing of termination of parental rights cases "within 60 days of the filing of the complaint." (Guidelines for the Guardianship Process, p. 5, July 1984).

Definite outside time limits should be firmly established and enforced statewide. To allow for necessary adjournments, these limits would be greater than the recommended time goals for best disposition of each of these types of cases. In two instances (domestic violence and juvenile delinquency), the limits are even beyond the legislative requirements for final hearing dates. The Committee recommends the following:

	Goals	Post Goal Reporting Limits
Adoption		
a. Agency	3 months	5 months
b. Stepparent or Relative - uncontested	3 months	6 months
c. Stepparent - contested	6 months	12 months
d. Private Placement - uncontested	10 months	12 months
e. Private Placement - contested	12 months	18 months
Child Support	30 days	90 days
Custody and visitation	3 months	6 months
Abuse and neglect	6 months	15 months
Dissolution		
a. Uncontested	3 months	6 months
b. Contested	8 months	18 months
Domestic Violence	10 days	30 days
Juvenile Delinquency		
a. Detained - adjudication	30 days	60 days
- disposition	60 days	90 days
b. Not detained - adjudication	60 days	90 days
-disposition	90 days	120 days
Termination of Parental Rights	2 months	6 months

The basis for the Committee's recommendations included examination of existing statutes, rules, and other committee reports, interviews with judges, staff persons and agencies involved in particular case types. These recommendations should serve as the basis for further discussion leading to the establishment of definite time goals and absolute limits by an appropriate committee. Once established, time limits must be carefully monitored as a part of the case management system. Monitoring responsibility lies primarily with the judge involved and then with the presiding judge, case manager, trial court administrator, and assignment judge. Any case

existing beyond these absolute fixed dates should be required to be reported to the trial court administrator and assignment judge by special report of the case manager and on the individual judge's weekly report in the same manner as reserved decisions.

All Family Part complaints should be received at one location. Cases in an effective case management system must progress through the system within definite time frames, allowing for adequate discovery toward expeditious completion. Unless the disposition is final, all litigants should be promptly advised of the next date in the continuous process. An effective, efficient case management system must have the capability at the time of each hearing of immediately scheduling and notifying the litigants of the date of the next event.

In some counties, the county clerk's office receives the complaint at a different location from the Family Part. It functions with its own employees outside of the complete control of the case manager or the presiding judge. Docketing responsibilities should be clearly established within the Family Part and should never take place outside the control of the case manager. Counties where case processing is still being accomplished by probation department or county clerk's offices should be directed to establish case management systems under the control of the case manager and presiding judge as soon as possible. Time frames for that transition must be established and met without delay.

Counties with the best case management systems should be reviewed to serve as models throughout the state. Issues such as

personnel, automation, and middle-management leadership roles should be included in the study. Once a case processing or management system has been identified as the most effective in providing needed services, its standards, operating procedures and principles should be replicated statewide with a commitment of technical assistance from the Administrative Office of the Courts.

Staff to case ratios, based on weighted caseloads, must also be developed and required in each county. Most importantly, one person, other than the Family Part case manager, should be in charge of supervising the daily case processing. Although the Family Part case manager is ultimately responsible, he or she is an administrator responsible for overall case management and cannot supervise the day-to-day case processing activities.

Statistics and docketing procedures need review. The best method should be developed for identifying, collecting, and accessing information about family court involvement of all members of an immediate family. The FACTS system presently being implemented has the capacity to perform these functions if programmed to do so. With appropriate safeguards for confidentiality, every Family Part judge and staff should have the capacity to determine the existence of and collect data from other family cases of any type except adoption. All statewide statistics should be counted and recorded uniformly. At present, counties do not count cases in the same manner with the result that they often collect and compare "apples and oranges."

The collection of accurate, relevant data is an absolute necessity to the administration of the family court system. The

Committee, to its dismay, discovered that the Administrative Office of the Courts does not collect even the basic data necessary to determine whether or not court rules or statutes are being followed. It must be noted that our most important cases, termination of parental rights, are not tracked in any way or the time period from date of filing the complaint to final judgment recorded. In our most important cases, it is impossible to determine how long it takes in any county or statewide. Similarly, in juvenile delinquency cases which are held in court, it cannot be determined whether or not the basic statute and court rule requiring an adjudicatory hearing within 30 days for detained juveniles and 60 days for nondetained is being observed anywhere. Children may be warehoused in overcrowded detention centers without anyone able to monitor and insist upon their being heard as required by law. In addition to the other areas of inadequate recordkeeping, the child placement review system is unable to determine statewide the cases which have been filed on time in compliance with the statute. Finally, the all-important area of custody/visitation disputes is not identified, separated, tracked, or even noted in any way in the voluminous statistics required to be compiled for the Administrative Office of the Courts. Unless this situation is corrected, it will be impossible for any of the recommendations of this Committee as to aggressive case management or the establishment of time goals and limits to be effectively monitored. A minimum standard must be established for data collection and recordkeeping which requires that records be maintained in every county and statewide which will indicate

compliance or noncompliance with all statutes, court rules, and directives in every area of the Family Part.

An effective case management system is more than a replication of an operations manual. It is a combination of carefully planned use of personnel and procedures based, at all times, on clearly established and understood principles. Case processing is that part of the organization suffering most in some counties from internal resistance to change. The lack of clearly stated and understood family court principles and effective case management techniques is a primary reason for staff inefficiency. All employees have a need to know the basic reasons why their particular actions are necessary in order to have the most effective family court in their county. The "why?" in the performance of tasks is just as important as the "how to."

Goal: To establish the most efficient system of the processing and management of Family Part matters which will provide for priorities in the hearing of certain types of cases while promoting the expeditious handling of all matters to satisfactory resolution.

Recommendations:

1. Realistic time goals should be established for each case type.

2. Consecutive trial dates must become the established norm in all cases.

3. All custody and visitation issues should be identified, isolated, and tracked for separate handling, independent of the type of complaint in which the issue arose.

4. Priorities established must be maintained for the disposition of cases recognizing degrees of crisis. Primarily, they involve custody, visitation, abuse, neglect, pendente lite support, domestic violence, termination of parental rights, institutionalized

juveniles, and other matters needing emergent relief. These "type A" cases must be resolved expeditiously, even to the exclusion of all other matters whenever adequate judicial resources do not exist.

5. All cases existing beyond the post goal reporting limit must be reported to the trial court administrator and assignment judge by special report of the case manager and presiding judge. Judges should report on their weekly time reports those cases assigned to them which they do not dispose of within the time limits. If a case remains on a judge's weekly report for more than a set period of time, it should be reported in the same manner as reserved opinions.

6. Each Family Part presiding judge should decide, subject to the assignment judges' approval, whether there will be central or individual judge calendars or a hybrid combination of both techniques. The presiding judge and other judges should be provided initial and continuous training in the advantages and disadvantages of different approaches and of the best calendaring practices.

7. The use of alternative dispute resolution mechanisms should be encouraged. Those persons involved in case management (including the judges, case managers, and team leaders) should be educated in the most effective programs. Every vicinage should have trained facilitators capable of applying the best techniques.

8. Establish a data collection and recordkeeping system which requires that records be maintained in every county and statewide which will indicate compliance or noncompliance with all statutes, court rules, and directives in every area of the Family Part.

E. Appellate Review.

With the exception of divorce cases involving financial issues, juvenile delinquency waiver matters, and a few isolated cases, there is no effective appellate review of family court matters. This is due to the impact of substantial delays in the appellate process on the children and families involved. Stated simply, while they wait for the decisions of the appellate courts, their lives are affected and changed to the point where the decision is either moot or requires yet another hearing.

The impact of this passage of time on Family Part litigants whose cases are on appeal is substantial. The New Jersey Supreme Court, in Sorentino v. Family & Children's Society of Elizabeth, 72 N.J. 127, 132 (1976), noted:

> The possibility of serious psychological harm to the child in this case transcends all other considerations. The court's responsibility in the matter is not lessened by the circumstance that plaintiffs are not alone responsible for the
>
> delay...for the appeals and stays are at least as direct a contributing cause of the critical situation confronting the child.

The ABA Court Rules to Achieve Permanency for Foster Children, at page 114, noted:

> [B]ecause of the time consumed by the appellate process, an appeal can add significantly to the time a child remains in foster care.
>
> Accordingly, it is important to consider not only the effect of appellate decision making on the law relating to children in foster care but also the effect of appellate delays on the individual children whose cases are being reviewed.

Similarly, the IJA/ABA Juvenile Justice Standards Project's Standards Relating to Appeals and Collateral Review, 1977), notes on page 35:

> The very nature of the matters dealt with by the juvenile courts demands resolutions be reached quickly and finally. Juvenile dispositions calling for institutionalization are generally short, and often have ended before an appeal may be heard.

Our Supreme Court in N.J. DYFS v. A.W., 103 N.J. 591 (1986), recognized this negative impact of decision-making delay on children in placement. Justice O'Hern noted:

> [T]here is a great tension here because, to the extent that adults--and when we speak of adults we mean courts, social workers, and therapists--delay the permanent decision, they lose sight of the child's concept of time. See J. Goldstein, A. Freud, and A. Solnit, Beyond the Best Interests of the Child 43 (1973), ("Three months may not be a long time for an adult decision matter. For a young child it may be forever)". (at 608)
>
> We are extremely concerned that this matter be brought to a swift conclusion. Hence, we direct that on remand the matter be specially assigned to a new judge for expeditious disposition. (at 618)

In a footnote (p. 618), the court stated:

> At oral argument, the law guardian for the children expressed reservation about a remand that she believes might take up to 18 months. We would find such a delay highly unacceptable.

Several persons pointed out that the rapid physical, psychological, and social development of children and the constantly changing nature of family relationships demand that the appellate process be expedited. The separation of children from their parents often results in bonding of the children with foster parents during the appellate process. The best known expression of this concern is

by our highest court itself in establishing firmly the psychological parent-child bond as a primary factor for termination of parental rights, even though it occurred during the period of time of pendency of the judicial process. Sorentino v. Family and Children's Society of Elizabeth, 72 N.J. 127 (1976).

Frequently, the issues being decided by the Appellate Division are no longer germane to the family relationship as it exists at the time of the appellate decision. Similarly, in juvenile delinquency cases, the juvenile will probably have completed the terms of disposition prior to the entry of the Appellate Division judgment. The alternative of staying the disposition of committed juveniles leads to the result of either the youth's becoming an adult and subsequently serving a period of incarceration as an adult in a juvenile institution, remaining in a juvenile detention center inappropriately, or being released and getting into further trouble while awaiting the final appellate judgment. The court is considered to be acting in its parens patriae capacity in juvenile dispositions. However, it is inconceivable that a parent would wait years to punish their child for his or her misdeeds. Stated simply, the further removed the consequence of immature behavior becomes from the event, the less relevant and effective it becomes. In custody and visitation cases, new relationships between parents, stepparents, and other family members are usually created during the appellate process.

In some states, the legislature has set time standards for the disposition of appeals in family cases. In New Jersey, the

legislature has already acted in criminal child abuse cases by enacting a statute requiring the courts to take "appropriate action" to ensure the speedy trial of these cases. New Jersey should avoid the Winberry v. Salisbury, 5 N.J. 240 (1950), problems, which legislative action in this area might raise. R. 1:2-5 requires that cases involving custody of children be given advancement. What is needed is full implementation of this rule and its extension to Family Part appeals in need of expedited process.

Some states use general language in requiring expedited appeals in family cases. For example, the appellate court is to give priority to those appeals or is to administer an accelerated schedule.[3] Other jurisdictions have set specific short time frames for each stage in the appellate process, including the time which the court has to enter its decision following oral argument. See Ariz. R.P. C.24(c),25(a)-(6). Regardless of which approach is taken, the watchwords are "sense of time" and "responsible decision making."

The National Council of Juvenile and Family Court Judges notes:

> Hearings, trials and appeals on child custody matters, particularly those related to the status of abused and

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[3] Ala. Code Ann. sec. 26-18-2 and sec. 12-15-120 (1975) (precedence); Ark. Stat. Ann. sec. 16-12-112 (1987) (priority); Cal. Welf. and Inst. Code sec. 395 and sec. 800 (West 1984); Cal. C.C.P. sec. 45 (West 1988) (precedence); Idaho Code sec. 16-1617 (1948-1988) (earliest practicable time); Ky. Rev. Stat. Ann., sec. 610.130 (Michie/Bobbs-Merritt 1985) (expeditiously); La. Code Juve. Proc. Ann. art. 104 (West 1988) (earliest practicable time); Mo. Rev. Stat. sec. 512.025 (1986) (expedited); N.M. Stat. Ann. sec. 32-1-39 (Repl 1986) (earliest practicable time); N.Y. Fam. Ct. Act sec. 1112 (McKinney 1983) (preference); Ohio Rev. Code Ann. sec. 3109.4 and sec. 3109.6 (Anderson 1980) (expeditiously); Okla. Stat. tit. 10, sec. 1123.2 (1987) (expedited); Tex. Fam. Code Ann. sec. 56.01 (Vernon 1975) (precedence); Va. Code Ann. sec. 16.1-296 (1988)(precedence).

> neglected children, should be conducted as rapidly as is consistent with responsible decision making and the child's sense of time. (Deprived Children: A Judicial Response, 73 Recommendations, 1986, p. 14)

Early in its work, the Committee communicated this problem of the ineffectiveness of appellate process in family court cases to the leadership of the Appellate Division. Representatives of the Committee met with Presiding Judge Michels, Court Administrator John Musewicz and his staff, and a select committee of appellate judges (Ashbey, Long, and Stern) appointed by Judge Michels. They were receptive to these concerns, studied the issue, and proposed a form of expedited process for some of the types of cases involved.

The proposal recommends that the trial court itself take specific steps to expedite appeals in domestic violence, custody, and juvenile delinquency waiver cases. The recommendations are now before the Conference of Family Part Presiding Judges for comment before their submission to the Chief Justice. Pursuant to R. 2:9-2, the Appellate Division has already accelerated the time schedule for the filing of briefs. It is now precalendaring cases for oral argument and denying extensions of time to file briefs and adjournments of oral argument, except in extraordinary instances. This Committee applauds the Appellate Division's efforts and hopes that this commitment can be extended to other types of Family Part appeals in the Appellate Division, as well as to those appeals to the Supreme Court.

The concerns expressed by this Committee are equally applicable, if not more so, to appeals pending in our highest tribunal. With respect to the Supreme Court, the problem is compounded even further

since the children and families have already waited through a lengthy trial and the intermediate appellate process. It is rare that an opinion of the Supreme Court, reversing the status existing at the time of the trial court, can be actually accomplished without further hearing. A review of the present status of the families involved in some of the most renowned Supreme Court opinions demonstrates this point emphatically. In most of these cases, the well-intended orders of our Supreme Court were never accomplished because the family situations had changed drastically during the long period of delay caused by the appellate process (cf. Cooper v. Cooper, 99 N.J. 42 (1984); Beck v. Beck, 86 N.J. 480 (1981); State v. D.R., 109 N.J. 348 (1988)).

The precedental value of Supreme Court opinions in the area of family law cannot be overstated. All must understand that some delays in the decision-making process are unavoidable when the precedent will impact upon thousands of children and families for years, e.g., In the Matter of Baby M., 109 N.J. 396 (1988); Sorentino v. Family & Children's Society of Elizabeth, 72 N.J. 127 (1976); N.J. DYFS v. A.W., 103 N.J. 591 (1986). However, everyone involved in management of matters on appeal, including the Supreme Court, must be sensitive to the fact that actual children and families directly involved in the real case or controversy must have the matter resolved as soon as possible for it to have any meaningful effect on their lives. We urge the Supreme Court to study its processes and take further steps to expedite appeals.

Several persons who appeared before the Committee called for the creation of a separate panel of judges to hear Family Part appeals. An ideal approach would be to have appeals involving children heard by a special panel of judges with substantial experience in the field.

The Committee endorses the recommendation of many that the Committee on Opinions approve more family law opinions for publication, including both trial and appellate. The additional guidance would be of great help to attorneys and to Family Part judges. More opinions could be published if all opinions not initially selected were to be submitted to a retired judge (trial or appellate), experienced in family law, for further review and possible recommendation to the Committee on Opinions for reconsideration.

GOAL: To provide for effective appellate review of all family law matters by assuring expedited process for all cases involving children at risk or families in crisis.

RECOMMENDATIONS:

1. **Establish a training program to be offered at the Judicial College or other appropriate time for all members of the Appellate Division and the Supreme Court which identifies the need for prompt decision making in matters involving children at risk, families in crisis, and others in need of timely final decisions which affect their immediate personal lives and ongoing relationships. Some specific areas would include:**

    - **Abuse and Neglect**
    - **Custody/Visitation**
    - **Child Placement Review**
    - **Domestic Violence**
    - **Injunctive Relief involving familial assets or businesses**
    - **Juveniles committed or incarcerated in institutions**
    - ***Pendente lite* support and alimony**
    - **Termination of Parental Rights**

2. Establish court rules and/or written directives clearly setting forth expedited appeal processes for all above-listed types of family law matters and any other requiring special consideration.

3. Provide training for all key personnel (administrators, staff) at both the trial and appellate levels in the principles, practices, and procedures required to implement fully expedited process.

4. Publicize in the Law Journal or other appropriate media all new rules, policies, and directives setting forth the expedited process of appellate review, and the principles and reasons for such actions in family law matters.

5. Increase the participation of experienced family law judges and practitioners into the process of approving opinions for publication.

F. Relationship with the Bar.

A close relationship exists between the bench and bar in the Family Part. A rich tradition of mutual respect and cooperation has developed over the years and continues stronger than ever. A significant number of attorneys serve on the Supreme Court Committee.

Experienced attorneys continue to donate their time and talents in planning and participating in training and judicial education sessions for Family Part judges. Judges remain involved in continuing legal education programs for practitioners. These shared efforts must be maintained and enhanced to the greatest extent possible. Articles authored by members of the judiciary have frequently appeared in The Family Lawyer and other bar publications. All of these efforts promote the maintenance and enhancement of bench/bar relationships for the mutual benefit of all involved, particularly those members of the public who are served by the Family Part.

Substantial representation by members of the bar on the Supreme Court's Family Practice Committee and other important bodies also continue the close relationship. The attorneys who serve contribute thoughtfully and are dedicated to the maintenance of a high quality court. Through these activities attention by the judiciary to the legitimate concerns of practitioners is promoted; and the bar is sensitized to the problems faced by the courts. The comprehensive "pro se manual" prepared by the Family Practice Committee, presently pending approval of the Supreme Court, is an exceptional example of the hard work and cooperative efforts of attorneys and judges. In

recognition of the leadership often provided by attorneys, consideration should be given to the appointment of practitioners to chair such committees.

A greater number of attorneys experienced in nondissolution matters should be added to the committees which remain heavily populated by matrimonial practitioners. While the private bar is primarily focused on dissolution matters, there are a number of experienced and sensitive private practitioners who regularly handle nondissolution proceedings. Other able and experienced attorneys are employed to represent DYFS, institutions, and other governmental agencies. Many are prosecutors, public defenders, and law guardians. The addition of such persons would provide valuable resources to the Family Practice Committee and other bodies working in areas affecting the Family Part. An affirmative effort should be made to seek out such persons in order to broaden the base of all present and future committees.

Some of the major concerns of attorneys with respect to the judiciary include the need to achieve uniform application of the rules of court and to terminate the existence of "local rules." The Committee fully endorses these recommendations as more fully discussed in this report's section on dissolution. Another important concern of attorneys relates to delays in obtaining decisions in completed Family Part matters. In this respect, the Committee has recommended that all Family Part reserved decisions should be completed within 30 days from the receipt of final papers or memoranda. It is important not only to the litigants but also to the

members of the bar that timely decisions be rendered in subject matter area. Ongoing relationships will be served and emotional stress relieved only by prompt resolution of contested matters.

The bar also recommended an increase in the number of family law opinions approved for publication. This subject is also embodied in recommendations of the Committee presented in the section on dissolution.

Bench/bar relationships in the areas of family law are outstanding examples of cooperative efforts maintained with mutual respect for the concerns of the judiciary and the practicing bar. The Committee fully supports continued growth of the spirit and practice of cooperation to the fullest for the ultimate benefit of the public.

Goal:

To maintain the close relationship between the bench and bar for the mutual benefit of all involved and the members of the public who are served by the Family Part.

Recommendations:

1. Continue the substantial representation by members of the bar on the Supreme Court Family Practice Committee and other important groups while broadening the membership to include more attorneys experienced in nondissolution matters. This should include the addition of attorneys employed to represent DYFS, institutions, and other governmental agencies.

2. Continue the participation of experienced attorneys in training and judicial education sessions for Family Part judges, while encouraging judges to remain involved in continuing legal education programs and to provide articles for The Family Lawyer and other bar publications.

III. CASE TYPES

A. Dissolution.

As noted in the historical background in this report, the Phase Two Committee (Pashman II), focusing on matrimonial litigation, recommended the establishment of a family court in New Jersey. Five years after the original Interim Report, the New Jersey family court became a reality. An additional five years later this Committee has examined the family court experience as it impacts upon dissolution cases.

In most counties, substantial progress has been made. In a diminishing few, little if any movement has been made from the original practices and procedures of the matrimonial court of ten years ago. The degree of commitment of the family court to the basic principles of a unified comprehensive system is the basic difference between improvement and stagnation. Aggressive case management systems have been established in some counties for the expeditious disposition of dissolution cases. In a majority of the counties, Family Part judges have been trained and received some experience in all areas of the family court as recommended in the Final Report of the Phase Two (Pashman II) Committee. Custody and visitation mediation and the expanded use of nonadversarial techniques (both recommended in Phase II) have flourished and become common practice in those counties which are committed to the establishment of a unified family court.

Yet, while much has been accomplished, much remains to be done. In a few counties, very little has changed in the processing and

management of dissolution cases since Justices Pashman, Mountain, and Schreiber issued their first report in 1979 (Pashman I). Complaints by attorneys and litigants as to unreasonable delays of up to four years in the resolution of their divorce cases remain, while "local rules" and practices have sprung up without the knowledge or sanction of the Supreme Court. The length of time it will take to obtain a divorce or the ability to have oral argument on pretrial motions depends more on the county in which the case is pending than upon clearly established court rules and standards.

As with other types of family cases, the inability of the court to reach its full potential in the disposition of dissolution matters is limited by the lack of control over case processing and management, disparity and lack of uniformity, failure to obtain and apply needed resources, and the lack of effective statewide leadership. The standard to be applied in determining effectiveness was first set out by the Pashman I Committee:

> A primary measure of the effectiveness of the court is its ability to respond to the needs of litigants by rendering fair and reasonable decisions in an expeditious manner.

1. **Case Processing and Management of Dissolution Matters.**

Aggressive case processing and management techniques and practices in dissolution cases were observed in several counties. They include:

- Atlantic. Case Management Conferences with resultant court orders are held within three months from the date that the issue is joined. Matrimonial early settlement panel conferences follow shortly thereafter. Over 90% of all cases are concluded within nine months.

- Burlington. Case Management Conferences are held within 30 days after issue is joined. A matrimonial early settlement panel conference is held shortly thereafter, and a further settlement conference is held with the court if the matter remains unresolved. Over 90% of all cases are concluded well within one year.

- Gloucester. Contact is made with the parties within 30 days of issue being joined, and a case management conference held. Different form letters are sent covering all processing steps and problems. MESP conferences and further case management conferences with court are held as needed. Over 90% of all cases are disposed of within one year.

- Hudson. Case Management Conferences are held three months after date of filing of complaint. Further MESP and case management conferences with the court are held. Over 90% of all cases are disposed of within one year.

- Somerset. Contact is made between the parties and case manager's office within the first three months and firm trial date is set to be held within the first six months in most cases. MESP conference is held on the week of trial and if the matter is not settled, it proceeds as scheduled. Somerset has been successful in disposing of 99% of its cases within the first year.

- Union. All cases receive either an MESP hearing (average cases) or a case management conference (complex matters) with a judge within two months. Contested trials are scheduled within four months. Union disposes of 99% of all cases in under one year.

In contrast, the committee was advised of hundreds of cases which have been pending for up to four years in some counties. In one county, a plenary hearing list of over 100 cases contains matters pending, including custody cases, for up to two years. In a few counties, little or no contact is made for the first six months in which a dissolution matter is pending. In some instances, no request is made for the entry of a default or necessary steps taken to present the matter for uncontested divorce. In these counties, no effort is made by the court for several months to list the matter for

dismissal or inquire as to the reasons for no further action beyond the filing of the complaint.

A comparison of all counties revealed aggressive case processing and management techniques that could easily be adopted statewide. The expeditious handling of dissolution matters facilitates calendar control and reduces the pressure on both staff and judges to produce in numbers of dispositions. This can be accomplished at little or no extra cost. Case management of dissolution cases also maximizes the judicial work effort which helps overcome the shortages in judges and staff. Most importantly, the aggressive case management of dissolution cases ensures that the public receives the services to which it is entitled--a comprehensive well-run family court. In this respect, the Pashman I Committee noted:

> The public consistently pleads for the court's cooperation in reducing the time from filing of the complaint to judgement. (p. 19)

Continuous trials in all dissolution matters must become the rule. Trials conducted in a piecemeal fashion, with bits and pieces of testimony spread out over months, are not only counterproductive to quality decision making, but also represent inefficient case management in that they require a judge to read and reread notes and transcripts to constantly refresh recollection. In addition to the burden on the court system, the trial of dissolution cases in a piecemeal fashion places an unreasonable burden on attorneys and their clients. They are required to prepare and reprepare their

cases with the resultant increase in unnecessary costs and emotional stress on the litigants.

While the most efficient counties do not have identical case processing systems, they do have several common features. These include:

- Communication within the first three months by the court with the litigants to plan for final resolution.
- Substantial use of matrimonial early settlement panel programs.
- Case management conferences and orders within four months.
- Firm trial dates for contested cases within four to eight months.

There is no reason why these features could not be adopted statewide. The Committee recommends that a model standard operating procedure be established and required to be implemented within a reasonable period of time. This should include time goals for the completion of uncontested dissolution cases within 90 days and contested matters within eight months. Absolute time limits of six months for uncontested and 18 months for contested cases should be enforced as indicated in the case management section of this report. All cases pending after the absolute time limits would be required to be specially reported by the case manager and presiding judge, and on the individual weekly reports of any judge assigned to the case.

Differentiated case management techniques should be utilized. Complex dissolution matters (diverse assets and properties, family corporations, tax considerations, etc.) should be singled out for special treatment, including early and subsequent case conferences with the court, case management orders with realistic discovery dates

including specific steps, blue-ribbon MESP panels, and a definite trial date set sufficiently in advance to allow the parties to plan and firmly commit their time.

2. Uniform Practice and Standard Operating Procedures.

Many who appeared before the Committee expressed concern about the wide disparity in practices, procedures, and observance of court rules from county to county. Their comments can best be summed up in the statements of Myra Peterson, Esq., Chair of the Family Law Section of the State Bar Association. In a recent edition of The Family Lawyer, she commented:

> [I]t would appear from an informal survey of vicinages that there is no consistency in our Family Courts in bowing to the rules--most specifically rules regarding time limits and procedure. In fact, it is not just that the courts are lax in enforcing rules as to time; various counties have their own local rules and various judges within the counties have their own sub-local special rules. (1988 N.J.F.L. 73, Vol. VIII, No. 4)

While there can be legitimate differences of opinion as to the application of rules of court, there is no legitimate reason for the establishment of "local rules" without the specific approval of the Supreme Court. If a "local rule" has merit, it should be openly approved by the Supreme Court either as a pilot program being studied or as a model to be replicated statewide. Attorneys and litigants should not fear being unaware of local rules when they cross county lines. Decisions should not be dependent upon anything other than the merits. Shortage of judges and heavy caseloads are not valid reasons for ignoring court rules.

One of the most consistent inconsistencies statewide is the practice in some counties of disallowing or limiting oral argument on nondiscovery motions. Year after year, attorneys have raised this problem. The Family Practice Committee has studied the issue and recommended and rerecommended that the present court rule (R. 5:5-4) is sufficient to cover the issue. Reports of continued disregard of this rule have decreased but not been eliminated.

The continued disregard for statewide court rules, either by modifying them into "local rules" or disallowing oral argument in nondiscovery cases, is a prime example of the need for a monitoring role in the statewide leadership component (see p.   of this report). The statewide leadership component would provide an objective office to which attorneys and litigants could report nonobservance of court rules without fear of retaliation. When the disregard of court rules continues, it must be called to the attention of the presiding judge and assignment judge in order to require uniformity and compliance. Persistent disregard of court rules thereafter must result in further appropriate action. Attorneys and litigants are entitled to rely on a uniform observance of court rules and statewide practices.

Substantial statewide disparities occur in the application of rules, practices, and procedures. The misuse of order to show cause proceedings as a substitute for the normal motion practice is a frequent complaint at the practicing bar. In addition, it is claimed that orders to show cause are frequently used to restrain marital assets improperly. These concerns can only be dealt with on a

statewide basis by more specific training and judicial education in the proper use of motions rather than orders to show cause.

Substantial differences also exist in adjournment policies on motions pending in dissolution matters. The need for uniformity in the consideration of motions statewide can best be established by clearly established articulated and published guidelines. We understand that such guidelines are presently under consideration by the Supreme Court Committee on Civil Practice.

The problem of reserved decisions in family court matters is substantial. The existence of ongoing relationships heightens the need for expedient decision making. The Committee recommends that in every dissolution matter, decisions must be rendered within a 30-day time limit from the point of final submission of any brief, memoranda, or other papers. Such briefs, memoranda, proposed findings, or papers should be required to be submitted to the court in not more than 15 days from the final trial date in all cases. Thus, every family court reserved decision should be made within 45 days from the last trial date.

Training in the practical aspects of handling dissolution matters should include the importance of the court's active involvement in facilitating settlements. Settlement techniques can be improved and enhanced through proper training. While firm trial dates must be maintained in order to guarantee to all litigants their day in court, aggressive case management must never be used as an excuse to "rush to judgment" and force otherwise settleable matters into contested trials.

Goal: To provide the most effective method for the "fair and reasonable" resolution of all disputes arising in dissolution matters "in an expeditious manner." (Pashman I)

Recommendations:

1. A model standard operating procedure for the case processing and management of all dissolution matters should be established and required to be implemented within a reasonable period of time in every county.

2. Continuous trials must be required in all dissolution matters.

3. Time goals and absolute time limits must be established and maintained for all dissolution cases.

4. Custody/visitation issues should be bifurcated and handled expeditiously in accord with the time goals and limits set forth in the case management section, utilizing mediation techniques whenever possible.

5. Differentiated case management techniques should be utilized to identify complex dissolution matters and provide special treatment, including early and subsequent case conferences with the court, case management orders with realistic discovery dates including specific steps, blue-ribbon MESP panels, and a definite trial date set sufficiently in advance to allow the parties to plan and firmly commit their time.

6. Issue a directive to all Family Part judges and case managers requiring that any practices or procedures which deviate from published court rules, including any "local rules," must be approved by the Supreme Court prior to their implementation.

7. Provide training to all judges in the proper use of orders to show cause, restraints, and settlement techniques in dissolution matters. Additional training and statewide monitoring should reemphasize the need for all reserved decisions to be completed within 30 days in all family court matters.

B. Juvenile Delinquency.

The juvenile court involves the maximum interrelationship of the law and social sciences within the Family Part. Children charged with criminal offenses are "treated" in the juvenile justice system. This treatment is designed to affect behavioral change by using services and techniques both within and outside of the court. As previously noted, the Committee has focused its attention within the judiciary and limited its recommendations accordingly. Two exceptions to this approach occur in the juvenile delinquency discussion in the areas of the lack of resources available for disposition and the inadequate treatment of mentally ill juvenile delinquents. The Committee has considered and made recommendations in the areas of diversion, detention, and disposition, as well as the impact of mental illness and racial factors.

The 1989 Judicial Conference on Juveniles, Justice and the Court provides an excellent opportunity to examine the subject of juvenile delinquency in much greater depth than possible through this Committee's overall consideration of the total family court.

1. Diversion.

The diversion of juveniles charged with delinquency from formal court hearings is an established practice in this state and nationwide. Diversion may be considered as the resolution of juvenile matters outside a formal court hearing. The most common forms of diversion used in New Jersey are the intake service conferences and juvenile conference committees. Many juveniles are diverted through actions of the local police departments, sometimes

referred to as "station house adjustments." In New Jersey, some 45% of the juvenile delinquency complaints actually filed were diverted during the past court year.

The diversion of appropriate juvenile matters is the best way to handle children both in terms of present disposition and predictable future behavior. As a general rule, diversion is the best way because it works. Some 70% of all juveniles diverted do not return to the court system. The success of diversion in preventing further antisocial behavior is thought to be due to a number of factors. Children who are diverted are most often first-time and less serious offenders. When diverted at this point, they avoid the stigma of the criminal label and the somewhat self-fulfilling prophecy that they are "no good." Ideally, by utilizing juvenile conference committees, diversion maximizes community-based treatment and allows the child to be exposed to the conscience of the community while avoiding the harsh formal setting of the courtroom. If diversion is operating properly, the juvenile's case should be heard sooner than when it would be listed on the actual court calendar. The response of society (punishment, deterrence) will be much closer in time to the offense charged with more relevant accountability. Experience has shown that the dispositions of juvenile conference committees, intake service conferences, and station house adjustments can be as effective as a formal court order in terms of requiring restitution, community work, scholastic improvement, family counseling, or other conditions.

In addition to the obvious benefits to the juvenile, the use of diversion is appealing to society in that it provides a much less expensive method of dispute resolution than the formal court proceedings. Volunteers on juvenile conference committees and intake officers are less expensive than the combined cost of judges, prosecutors, defense attorneys, and in-court staff.

Of prime importance to those responsible for calendar clearance is that diverted cases greatly reduce the court's workload, enabling it to make the best use of court time for more serious offenders or other complex family problems. In this respect, increased diversion of appropriate juvenile delinquency cases is in compliance with the stated legislative purpose of the 1984 Juvenile Code. Under either quantitative or qualitative analysis, appropriate diversion remains the best method of operation. Although the state averages about 45% of all juvenile offenders diverted at the intake level, there are vast differences (up to 50%) between the percentages of youth handled in this manner from county to county. The reasons include the availability of resources and staff, the individual philosophy of judges, prosecutional.objections, and the traditional and current approaches to handling juvenile matters within each county. The transiency of juvenile offenders in shore communities results in an abnormally high degree of diversion of minor offenses. In contrast, increases in drug and serious offenses have resulted in a decrease of such matters diverted from court. With respect to the inadequacy of resources, the Committee's visits noted some counties where there were not enough staff to handle the cases which would otherwise be

appropriate for diversion. This practice is penny wise and pound foolish, since not only does the case cost many times more financially, but it also denies the juvenile an opportunity for a less restrictive alternative. If minimum standards for staff to case ratios are observed in every county, diversion rates should increase significantly in currently understaffed counties.

The differences in diversionary practices due to differences in judicial philosophy involve the question of judicial independence. Judicial independence is not compromised by the effort to sensitize and educate judges to the value of diversion. It would be helpful to trial judges involved in setting diversionary policies to have training in the importance of using diversion and be provided adequate staff as well as written criteria and guidelines. To the extent that a particular county represents extremes in either direction, this fact should be made known to those judges for their further consideration. The traditional diversionary approaches and policies of any county can always profit by periodic reexamination.

The criteria set out by statute (N.J.S. 2A:4A-73) are so general that it provides little guidance. Only one county has redefined these criteria. Development of statewide standards and training of judges, prosecutorial staff, and intake personnel would maximize diversion.

An additional impediment to diversion of juvenile matters is the practice in some counties of probation offices' refusing to provide supervision to juveniles unless they are adjudicated by a court. In such places, some juveniles are denied diversion solely because

further supervision would be necessary. This occurred where restitution, community services, school improvement, or volunteer probation officers were made a part of a dispositional plan. It is unjust to require a child to go before a judge to receive needed services. Every county should either provide a supervisory component available as a part of its diversionary system or require that the county probation offices accept such children for supervision on a non-court referral basis.

In some urban areas, with the aid of federal funds, youth services bureaus were established in conjunction with the police departments. These youth services bureaus function very effectively in counseling and providing alternatives for urban youth involved in delinquent activities. Unfortunately, many of the youth services bureaus ceased to function when the federal grants expired.

GOAL: Improve the use of diversion.

RECOMMENDATIONS:

1. Set specific standards.

2. Require compliance by all family courts with the established diversionary criteria.

3. Provide a supervisory component for use by diverting agencies and eliminating the requirement of court-only ordered probation as a reason for not diverting juvenile delinquency cases.

4. Monitor the compliance by juveniles, agencies, and programs with all diversionary conditions.

2. Detention.

With respect to the detention of children charged with delinquency, New Jersey has the best and worst of both worlds. During the past year, there were more juveniles actually being held in detention centers than at any other time in recent history. This comes at a time when juvenile delinquency rates are not increasing, but in fact have decreased.

Among our several outstanding juvenile detention facilities, two (Camden and Ocean) have received national awards for excellence. The Sussex County juvenile detention center even provides for aftercare programs for juveniles following their release, in addition to a comprehensive regular program. The detention centers located in Cumberland, Gloucester, and Middlesex Counties are also recognized as being among the finest in this area of the country.

In stark contrast, a number of our juvenile detention centers fall far below acceptable standards for the detention of any human beings, let alone children. Under our law, each center is given a rated capacity by the Juvenile Detention and Monitoring Unit of the New Jersey Department of Corrections. At least five of the centers operated substantially over their capacity throughout 1988 due to an increase of admissions to detention, nearly 8% over 1987, and 16% over 1986 (NJ DOC statistics). Even though three other centers operated at least half empty, the overall effect of statewide overcrowding was to the point that the total juvenile detention facilities were at 102% of their capacity during 1988. With respect to this serious problem, the following observations were noted:

- One center was so consistently overcrowded and below standard in programs and provisions for the basic needs that the Civil Rights Division of the U.S. Department of Justice stepped in and required a consent court order in order to avoid further federal court prosecution. This was the first such step in the nation directed at a juvenile detention facility.

- The same center remains under severe criticism for alleged warehousing of children sleeping in gymnasiums without heat, sufficient blankets, clean clothes, or proper facilities for personal hygiene.

- In one center, five juveniles are placed in a cement cell (approximately 15' x 15') without toilet facilities or furniture other than 2" foam rubber mattresses. They are packed closely together locked behind metal doors at least 10 hours a day.

- In another center, four juveniles are placed in a small room, built to hold one person, packed so closely together on the floor that the foam rubber mattresses touch each other and one child's mattress rests against the toilet.

- In some centers, programs are limited to, at best, one hour per day with no educational classes for any child who has left public school prior to being arrested.

- The level of violence has increased substantially in the overcrowded centers based upon increased reports of incidents by the children and staff. This increase in "acting out" behavior has resulted in a greater use of isolation as a method of deterring disturbed youth.

- A one-day survey on June 6, 1988 revealed 639 juveniles in detention facilities, of which 469 were awaiting adjudicatory hearings and 170 in postadjudicated status. Of the 170, forty-three were waiting placement in Jamesburg, 73 awaiting placement in DOC community programs, and 54 awaiting placement by the Department of Human Services.

- In the most overcrowded juvenile detention facility, three juveniles had been in residence for over a year separately awaiting hearings in the adult criminal court.

- One county provides for the detention of preadjudicated juveniles at the State Training School for Boys in Skillman, NJ where they are comingled in programs with adjudicated and committed delinquents from all over the state.

In addition to the above effects of substantial overcrowding, the situation has the negative effect of spreading detention programs too thinly with the result that many children have little or nothing to do during the periods of confinement. In addition to one center's operation under the federal court consent order in response to serious charges, the operation of two other centers has been taken over by the State Department of Corrections at the request of county administrations.

The present law provides that "no juvenile shall be placed in a detention facility which has reached its maximum capacity, as designated by the Department of Corrections." N.J.S.A. 2A:4A-37(c). Regardless of the existence of this legislative cap on the admission of juveniles at our detention facilities, in practice the law is ignored. Some judges feel that it is not their business to be concerned with the place of detention or whether or not the county administration should build additional facilities or arrange to send juveniles to other facilities whenever their own has reached capacity. Similarly, superintendents of juvenile detention centers feel that they must obey the judge's orders to detain, regardless of the number of juveniles already in attendance. For some unexplained reason, the Department of Corrections has chosen not to intervene or exercise their clearly stated authority under N.J.S.A. 2A:4A-37(f):

> (1) Where either the Department of Corrections or the Department of Human Services determines that a juvenile detention facility or shelter under its control or authority is regularly over the maximum population capacity or is in willful and continuous disregard of the minimum standards for these facilities or shelters, the department may restrict new admissions to the facility or shelter.

The overcrowding of county detention centers and state training schools has resulted in recent proposals for the development of committees of interested "experts" outside of the judiciary to review the detention placements by judges. To the extent that these committees examine in depth the needs of the juvenile and the available resources, and make recommendations to the court for further judicial action, they provide a very valuable service which should be encouraged. To the extent that they act or become independent of the court in placing children without further hearing and specific court approval, such committees exercise an improper delegation of judicial authority. Not only is such delegation of judicial authority improper, it is also unwise in that the persons making the decision each have varying degrees of self-interest in where the juvenile is placed. It is clear that the legislative authority to place children in detention rests solely with the court. Likewise, the accountability for such actions remains solely within the judiciary, not the state or county executive branches of government. While the legislature has given the Department of Corrections the responsibility for approving detention centers, no authority has been given to the Department of Corrections to determine the place of detention. Stated simply, the public has a right to expect that when a child is placed by a judge in detention for the protection of the community, the court's orders will be fully carried out unless changed by further court order after another detention hearing. These committees can continue to perform a valuable function to the court only to the extent that they remain

advisory in maximizing the information available. If such committees cross the line between advising and deciding, they function ultra vires and without legal authority. More importantly, they deceive the legislature and the public who expect the courts to decide these important issues.

GOAL: Eliminate inappropriate use of detention:

RECOMMENDATIONS:

1. Set more specific standards.

2. Require that all detained juveniles who have been ordered to receive residential placement by DYFS or commitment to the Department of Corrections be removed from the detention centers by those agencies within 48 hours after the dispositional hearing.

3. Require the court to set and follow specific dates for the next court appearances for all children detained. No child may be held in detention without a specific date for next hearing or release.

4. No later than the second detention hearing, the court should involve DYFS and school districts in the preparation and development of a dispositional plan to provide appropriate services or residential treatment. All such plans should be reviewed by the court only after a finding of delinquency even though they are being prepared prior thereto.

5. Limit further admissions to any juvenile detention facility which has reached its maximum approved capacity, plus 10% for emergency situations. Each court must also consider the protection of the constitutional rights of detained children by establishing specific population limitations.

6. Maximize the use of monitored home detention programs.

3. Disposition.

The dispositional phase of juvenile delinquency proceedings is the heart of the juvenile court. It is in this phase that the court is called upon to use all of the resources at its disposal to mold a rehabilitative plan. The juvenile's record, the seriousness of the offense, and the complex needs of the juvenile are considered in every dispositional decision. The nature and quality of the rehabilitative plan is also determined by the resources available in the particular county and the philosophy of the judge. Factors which merit further consideration in order to improve the effectiveness of dispositional orders include maximizing information, preincarcerative resources, judicial discretion, and the exercise of ongoing judicial authority.

a. Maximizing Information.

The best disposition of a juvenile delinquency case occurs after consideration of the most comprehensive information. The less a judge knows, the greater the chance for mistakes or ineffective decisions. The more a judge knows about the juvenile and his or her family, school records, prior involvement with the courts, psychological and psychiatric evaluations, and other relevant information, the greater the chance for the development of a relevant and effective dispositional treatment plan. Since the power exercised is substantial, the decision must be based upon the most accurate and thorough available information.

Relevant information is readily available from a number of sources within and out of the court system. School records,

particularly existing child study team reports, are often a good starting point in cases involving school-age children. These records and reports are usually available upon presentation of a parental consent form.

N.J.S. 2A:4A-42(b),(c) and R. 5:24-2 provide specifically for the court to consult with other individuals and agencies and obtain a predisposition report (PDR). While such predisposition reports are authorized, their use is not mandatory. In practice, in several overworked counties, judges are urged not to order predisposition reports unless they are planning on sending the juvenile to a correctional institution, since PDR's are required to be sent to the training schools. While such a policy may decrease the workload, it is obviously counterproductive to the desired goal of maximizing the information available to each judge prior to the actual decision. The quality of PDR's varies significantly from county to county, depending primarily on the workload. They need to be standardized and provided whenever they would assist the judge in any way in arriving at a dispositional plan. One method of increasing the availability of PDR's is to have the court order them at an earlier point in the proceedings. Even though a report may be ordered on a recurrent offender prior to the adjudicatory hearing, such reports must not be reviewed or considered in any way by the court prior to an adjudication of delinquency.

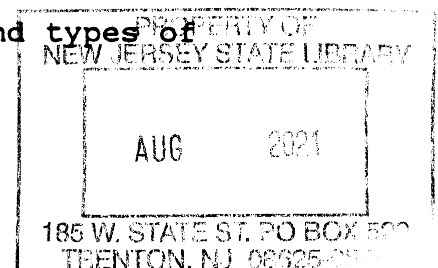
An additional informational resource in the form of a resource manual listing programs available to children from the county should be provided. At present, there is no statewide compendium listing

all available programs and services on both a statewide and county-wide basis. Such a resource manual could be easily produced and should be promptly completed and distributed by the Administrative Office of the Courts expeditiously.

A statewide office of resources within the judiciary should be established with the responsibility to maintain information about current resources, advise all Family Part judges periodically, and be on call for daily consultation. It should be staffed by a specialist with considerable knowledge and ongoing experience in the behavioral sciences and the practical techniques of effectuating treatment plans. He or she should also have the responsibility of assisting in the development of additional programs and resources within each county. The office should also have the responsibility for evaluating proposed programs and systems, as well as receiving and approving all requests for letters of support by persons and agencies soliciting the same as a part of a funding application. Such letters of support should only be given when the person or agency makes a written commitment to make the services and facilities available to the children and troubled families within the jurisdiction of the Family Part. The program or disposition specialist should be located within the Administrative Office of the Courts or statewide leadership component and not be subject to any other assignments or additional duties.

b. Preincarcerative Resources.

By statute (N.J.S. 2A:4A-43), New Jersey juvenile court judges have the greatest number and types of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dispositional alternatives available. In practice, the alternatives set forth by the legislature have not been made available to most counties. The substantial disparity in services available is more fully discussed in the section on resources.

This gap between statute and practice has been filled to a small extent by the Department of Corrections. In recent years, DOC has greatly expanded its sphere of operations from the state training schools at Skillman, Jamesburg, and Bordentown to include a substantial array of residential treatment facilities and community-based day treatment programs throughout the state. Ironically, these programs are available through the Department of Corrections to less than 9% of the adjudicated juveniles. The remaining 91% of New Jersey's adjudicated juvenile delinquents see their dispositions based primarily upon the availability of resources of the county in which they were adjudicated delinquent.

In too many instances, juvenile court judges are faced with the dilemma of the unavailability of needed programs and services for adjudicated juveniles outside the Department of Corrections. In theory, the Department of Corrections should be limited to maintaining the most secure training school lockup facilities for the most seriously disturbed juvenile offenders. In practice, due to the unavailability of necessary treatment programs and facilities within each community, many judges are forced to place children with the Department of Corrections in order to obtain out-of-home treatment. This situation is in direct contradiction with the juvenile code which was revised in order to provide for more specific treatment

alternatives for the vast majority of the children while limiting and isolating the very small percentage of serious hard-core offenders. It must not be overlooked that the deeper into a correctional system a juvenile is placed, the more he or she is exposed to an influential delinquent culture. In addition to the negative effects of daily living in this delinquent culture, the services of the Department of Corrections are very limited and almost nonexistent in the area of follow-up or postcommitment services. Such much needed ongoing supervision is best provided by each county through its probation department or other services and facilities available to the residents. It makes no sense to send a child away to effectuate behavioral change within a correctional institution and then, without follow-up services and supervision as additional support, return him or her to the very environment which produced the antisocial behavior.

The present situation has developed primarily because of the lack of commitment of financial resources within each county. The Department of Corrections, with its statewide budget, has sufficient financial resources to develop and run the various "fields" programs, and the other small, residential treatment facilities. The task remains to somehow provide for these needed services and facilities statewide to be available without the involvement of the Department of Corrections. One method of accomplishing this goal is to establish certain minimum standards for the operation of each family court, including alternative treatment programs and intensive supervised probation. Each county youth services commission, as well

as the municipal youth services commissions, should be encouraged to the utmost extent to develop its own treatment programs for the children of each county. In addition, the probation services offered to juveniles vary significantly from county to county, with differences of as much as 50 children per officer's caseload (70-80 to 120-130). The availability of county-provided comprehensive services also varies significantly, with Bergen County having the ultimate in available juvenile services, while two or three other counties have almost no available dispositional alternatives.

A significant factor in developing rehabilitative plans is the availability of services, including residential treatment facilities, through the State Division of Youth and Family Services (DYFS). These services of DYFS must be specifically requested and utilized by every family court judge to ensure that the rights of the children to adequate treatment are fully observed.

While these necessary services should be provided by the governmental agencies without judicial involvement, in fact this is not true. The right of children to receive this treatment and services from DYFS, the Division of Developmentally Disabled (mentally retarded), the Division of Mental Health and Hospitals (mental illness), schools, and other governmental agencies must be recognized and actively pursued. In addition to protecting the children's legal rights and using the inherent powers of the court, judges should not hesitate to take an active role requiring the appropriate agency to appear and explain why needed services are not being provided. At times, judicial persuasion is all that is

necessary to break a bureaucratic log jam and free up treatment opportunities.

c. **Judicial Discretion.**

Dispositional orders involving children presented with similar demographics, familial history, and offense records may vary substantially. Judges, like any other human beings, have different individual experiences and preconceived ideas which reflect heavily upon the development of a plan to meet the needs of each juvenile. To a certain extent, judges are also representative of the "conscience of the community" within each county and region. Because of the complexity of human problems, it is impossible to program definitively the dispositions of juvenile delinquents. Each case presents its own unique features which can and should be considered by the individual judge in the exercise of individual discretion. The most that can be expected is that these individuals bring to the decision-making process a sensitivity to the needs of children and their families, as well as the protection of society, both immediate and long range. It is of utmost importance that the individual judge receive the most available training and education in the availability of dispositional alternatives and resources as well as the best techniques and methods of achieving rehabilitation or behavioral change in wayward youth. (See Training and Judicial Education.)

An additional problem arises with respect to the children placed in county detention facilities while awaiting adjudicatory hearing when they are placed in state correctional facilities with already adjudicated delinquents and required to attend programs <u>prior</u> to

their adjudicatory hearing. The basic elements of due process of law would seem to require that any child have notice and an opportunity to be heard as to guilt or innocence prior to being required to serve any time in a correctional facility. If the children were adults placed in the general population of a state prison while awaiting trial in the Criminal Division, who would seriously question the illegality of such incarceration prior to conviction? It appears to be another instance of children receiving the "worst of both worlds." Kent v. U.S., 383 U.S. 541 (1966).

d. Ongoing Judicial Authority.

Exercise of ongoing judicial authority for all delinquent youth after the original dispositional order is an important part of each disposition. As previously noted, the practice of sending children away and then returning them to the very environment and situations which caused the delinquent behavior in the first instance without further providing ongoing monitoring, supervision, and counseling is not likely to produce any lasting or even long-term behavioral change.

N.J.S. 2A:4A-45(a) provides:

> The court shall retain jurisdiction over any case...for the duration of that disposition of commitment or incarceration and may substitute any disposition otherwise available to it under section 24 other than incarceration.

Judges must be encouraged to make full use of the legislative authority to monitor dispositional plans to ensure full compliance and accountability by the juvenile and his or her family. The exercise of this ongoing judicial authority requires the

establishment of a monitoring component to check on the continued vitality of the dispositional orders. Normally, such monitoring is done by the county probation office, with each probation officer calling to the attention of the court any noncompliance by the juvenile with the specific terms. All dispositional conditions should be monitored by the probation department. Whenever there is substantial noncompliance by the juvenile or family member, this fact must be brought to the attention of the court for appropriate enforcement action. Periodic meetings by the court with its juvenile probation officers will reinforce the clear understanding that the court intends to have its orders fully carried out by the juveniles, families, and all public and private agencies. These meetings show full support and foster a good working relationship which is an essential part of the exercise of ongoing judicial authority.

Since the beginning of the juvenile justice system, judges have had the power to recall children committed to training schools. The exercise of the judicial authority to recall committed juveniles is presently underutilized. Judges need to understand their continuing responsibility for children who are committed to correctional institutions. A full recall program under the direction of a specific person should be developed in each vicinage. The director of the program would be responsible for visiting all committed juvenile offenders and keeping a record of their progress. Whenever a juvenile has reached the point of maximum benefit from the incarceration experience, he or she should be recalled on recall on written conditions set forth in an agreement entered into between

the court and the juvenile at the recall hearing. The written conditions must be fully monitored and firmly enforced to the point of returning the juveniles to the state training school for substantial noncompliance. The full services, resources, and facilities available to juveniles on probation should be available to recalled juveniles. The experience in Camden County of several years of a comprehensive recall program has demonstrated lower recidivist rates for juveniles recalled at an appropriate time while they are cooperating with the juvenile justice system. Since the long-range goal of permanent behavioral change is the best protection of society, the recall process must not continue to be overlooked. If local resources are insufficient to provide for a recall director, the administrative office should consider providing such a position statewide within the employ of the judiciary. In order to maintain the objectivity of the recall director, such person must remain within the employ of the judiciary and not be provided by the executive branch of the government.

The need for expanded use of recall within the judiciary has been heightened in recent years by the apparent lengthening of parole time goals. This has resulted in juveniles being held for longer periods of time with the resultant aggravation of an already overcrowded juvenile correctional system. By appropriate increased use of recall, more beds can be freed up and made available for the committed adjudicated delinquents who are presently being held in the county detention centers postdispositionally awaiting entrance dates into the state training schools. Thus, recall can also effectively

help to reduce the substantial overcrowding in each county, as well as facilitating the rehabilitation of each juvenile.

<u>Goal</u>: To provide for all juvenile delinquents the most effective disposition orders rendered by trained and sensitive judges, after consideration, all relevant information and necessary resources and the continued exercise of consideration and control throughout the period of supervision.

<u>Recommendations</u>:

1. Provide each family court judge with all necessary and relevant evaluations and information predispositional reports on every juvenile awaiting disposition, in addition to a general resource manual listing all available programs and services on both a statewide and county-wide basis.

2. Establish a statewide office of resources within the judiciary with the responsibility to maintain information about current resources, advise all Family Part judges periodically, and be on call for daily consultation.

3. Establish minimum standards for disposition alternatives to be available in each county in accord with the dispositional statute. <u>N.J.S.</u> 2A:4A-43. This should include community-based alternative treatment programs and intensive supervised probation in every county.

4. Encourage each county youth services commission to use its best efforts to develop sufficient programs to meet the minimum standard established.

5. Provide training to all Family Part judges and staff on the methods and techniques of utilizing judicial authority and persuasion to obtain the needed services and facilities by state agencies.

6. Prohibit the placement of juveniles awaiting adjudicatory hearing with adjudicated and committed delinquents in state correctional facilities.

7. Encourage all Family Part judges to make full use of their authority to monitor dispositional plans to ensure full compliance and accountability by the juvenile and his or her family. This should include the extensive use of the power to recall children committed to training schools.

4. Mental Health.

A serious problem of warehousing of mentally ill and emotionally disturbed children with hardened offenders at the state training schools at Jamesburg, Skillman and Bordentown and the county juvenile detention centers was reported to the Committee. There has been an ongoing dispute for many years over the responsibility for providing closed residential institutions for children suffering from mental illness who are also charged with delinquency offenses. Neither the Division of Mental Health nor the Department of Corrections wants to take responsibility for these disturbed youth. The question of "mad" or "bad" allows each agency to seek to have the other provide needed services and facilities for these difficult to manage children. Ultimately, they get dumped into a correctional facility as the only system "who can't say no." Recently, the Department of Mental Health has undertaken to close its adolescent unit at Trenton State Psychiatric Hospital with the promise that those children in need of treatment would receive the same at regionalized facilities. In practice, very few "acting out" delinquents are ever accepted for significant long-term treatment for mental illness when there are delinquency charges. As a result, there are a significant number of seriously ill children housed daily in correctional facilities where they receive little or no treatment. Such juveniles cause substantial problems in their interaction with other children and guards who react negatively to their strange behavior.

The committee feels that one specified agency must be designated to handle all children suffering from mental illness or emotional disturbances whether or not they also have delinquency charges. The selected agency should be given the exclusive, full funding and sole responsibility to develop and maintain appropriate treatment facilities and services statewide. The "mad vs. bad" argument should be put to rest for all time. It is tragic when children attempt suicide, have psychiatric episodes, hallucinate, regress, or demonstrate other signs of serious disturbance. It is disastrous when no one can or will effectively provide needed treatment. To provide mental health crisis centers with 14- to 30-day waiting lists is absurd. It is akin to telling persons that the emergency room of a hospital is filled and to return in two weeks for treatment of their acute injuries. Our mentally ill delinquents deserve better treatment than merely being warehoused with hard-core offenders.

Protection of mentally ill children is an important endeavor of the family court, both under its inherent parens patriae jurisdiction and in accord with the broad dispositional alternatives of the Juvenile Code. N.J.S.A. 2A:4A-43. Judges should be fully trained in the practices and procedures of the Division of Mental Health (DMH), the Department of Developmentally Disabled (DDD), and the Division of Youth and Family Services (DYFS), as well as the mental health treatment facilities available, if any, in the Department of Corrections (DOC). All commitment and retention hearings involving children within the state mental institutions could best be conducted

by Family Part judges in order to make the best use of their training and expertise for the protection of our children.

Appropriate full-time personnel in the Office of the Public Defender should be assigned to develop expertise in the area and to adequately represent their clients who are suffering from mental illness. Consideration should also be given in the Department of Human Services or the Department of Corrections for the establishment of a state diagnostic center to provide comprehensive study and evaluation of alleged mentally ill delinquents. Such a facility would provide expert advice to the court and all other agencies of an appropriate treatment plan.

GOAL: To provide the most effective treatment for mentally ill and emotionally disturbed children being held on juvenile delinquency charges in the detention centers or correction system.

RECOMMENDATIONS:

1. The judiciary should request the Department of Human Services to study and establish a clear practice and procedure for the evaluation of children being held on delinquency charges who are exhibiting signs of mental illness or emotional disturbance.

2. The judiciary should urge the executive branch to establish clear responsibility for treatment of children suffering from mental illness or emotional disturbance and provide adequate funds for such services and facilities.

3. All commitment and retention hearings for children confined in public mental institutions should be conducted by Family Part judges.

5. Racial Factors.

> Our nation is moving toward two societies, one black, one white--separate and unequal.
>
> Report of the National Advisory Commission of Civil Disorders (Kerner Report), [1968]

Substantial disparity exists in the racial makeup of children committed to our state's juvenile correctional facilities. Of the juveniles incarcerated in January 1989, 71% were black, 14% hispanic, and only 15% white. (DOC statistics) In sharp contrast, the actual makeup of the total juvenile delinquency complaints filed is 43.7% white, 43.4% black, and 10% hispanic. Significantly, as the commitment to the Department of Corrections becomes less restrictive (*i.e.*, from Jamesburg down to a community-based residential program or further to a least restrictive day program), the percentages of blacks decrease and whites increase.

The Juvenile Delinquency Commission (JDC) studies indicate that a comparison of children committed for offenses of the same degree, with similar past delinquencies, reveals that two to three times as many black children are sent to reform school as whites. In this respect, the JDC noted:

> [C]ontrolling for the seriousness of the offenses for which juveniles are sentenced, black and hispanic juveniles are still more likely to be committed than are white juveniles. This holds true within each degree category. When juveniles are sentenced for 1st degree offenses, black juveniles are 2.9 times more likely to be incarcerated and hispanic juveniles 3.7 times more likely. Black juveniles are 2.0, 1.8, 3.4 and 1.8 times more likely than white juveniles to be incarcerated for 2nd, 3rd, 4th and disorderly persons offenses, respectively. Similarly, hispanic juveniles

> are 1.9, 2.2, 2.1 and 1.2 times more likely to be incarcerated for these offenses. (The Annual Report of the Juvenile Delinquency Commission, August 1988)

The JDC also compared incarcerated minorities with incarcerated white youths and found that there was no significant difference either in their prior delinquency adjudications or in terms of their personal or family problems. The only significant difference between committed white and minority youth is noted as follows:

> At least a partial explanation for the apparent impact of race on probability of incarceration comes from the one finding of a statistically significant difference between incarcerated white, black, and hispanic juveniles--family make-up. While only 6% of the white juveniles came from single-parent families, 35% of the black juveniles, and 29% of the hispanic juveniles did. (The Annual Report of the Juvenile Delinquency Commission, August 1988, pp. 54-55)

The existence or nonexistence of an intact stable family is an important consideration in developing a treatment plan for troubled youth within their own community. Stated simply, if the child has stable, caring parents to watch over him or her, there is a much less chance of being "sent away" to Jamesburg. In this respect, the JDC noted:

> [W]hen a question of family stability exists the likelihood of incarceration may be greater. The negative impact of minorities, as a result, may be great. (The Annual Report of the Juvenile Delinquency Commission, August 1988, p. 55)

During the same period, the adult correctional facilities contained 61% black, 9% hispanic, and 29% white. The significant difference between incarcerated minority youth versus adults (69% to 61%) may be due to the fact that juvenile court considers incarceration as a part of an overall treatment plan, including

consideration of available alternative resources. In contrast, the adult criminal system is not focused on treatment of the offender and makes very little effort to find alternative resources to incarceration.

The substantial racial disparity of incarcerated youth is an important area of training for judges to be sensitive to the impact of dysfunctional minority families on the severity of sentence. No child should be sent to a correctional facility as a result of factors over which he or she has no control. Accountability for delinquency offenses must be a personal reflection of the offender, not his or her family. If an offender would otherwise remain within the community, the dispositional treatment plan developed for the offender from a dysfunctional family ought not be harsher. This can be accomplished by providing for programs which substitute for family guidance; *e.g.*, big brother or sister, intense supervised probation (I.S.P.), juvenile resource centers, and group homes. Comprehensive services to the family will lessen the need for removal at the outset. If he or she is a risk to society to the extent that incarceration is appropriate, it should occur regardless of the race or financial position of a family. Stated simply, if two delinquents have the same past record, commit the same type of delinquency offenses in terms of violence or threat to the physical safety of the community, they should receive substantially equal treatment at the time of disposition.

Stereotypical thinking can contribute to the problem. When a fixed attitude exists which dictates that urban or minority youth

are more likely to become involved in serious offenses, then any matter which involves an urban or minority youngster is unconsciously influenced to be dealt with more gravely than an identical offense committed by a white, suburban youth. Our judicial system must heighten the sensitivities of judges and staff to this problem through educational programs, train them to recognize fixed attitudes in themselves and others, and acquaint all with opportunities and techniques for avoiding the negative effects of stereotypical thinking.

The shortcomings in our system of juvenile disposition is related to the lack of alternatives to incarceration for disadvantaged youth. While some effective programs exist (Juvenile Resource Center in Camden, Total Lifestyle Support Program (TLSP) in Passaic County), they are too few to meet the needs of our minority youth. Their needs must be met at a minimum by the establishment of at least one such program in every large urban area (Atlantic City, Trenton, Jersey City, Newark, etc.). The committee urges the State and County Youth Services Commissions to commit themselves to the establishment of such effective treatment programs for all disadvantaged youth throughout the state. In addition, if any child--black, hispanic, or white--is in need of a substitute family by way of foster placement or substantial services provided to the existing family, the case must be given the highest priority by DYFS and any other appropriate agency. It is clear that far too many of these children are "dumped" into corrections.

GOAL: To eliminate race as a factor in the disposition of juvenile delinquency matters.

RECOMMENDATIONS:

1. Train and sensitize all judges and staff in the fact of racial disparity among incarcerated youth, the impact of dysfunctional families on the severity of sentence of minorities, the recognition of fixed attitudes in themselves and others, the opportunities and techniques for avoiding the deplorable effects of stereotypical thinking, and the availability of alternatives to incarceration for all youth.

2. Facilitate the establishment of community-based treatment programs in urban areas as an alternative to incarceration.

3. Direct and encourage DYFS and all other agencies providing social services to give highest priority to their cases involving minority youth awaiting disposition on delinquency charges.

C. Children in Court.

At times, the relationships between children and principal adults in their lives are destroyed while the dispute grinds slowly toward judicial resolution. Cases involving custody/visitation issues, child abuse or neglect allegations, termination of parental rights, and other court proceedings have been impacting upon children held without listing date and too often forgotten. The effect of such practice is to damage the ongoing relationship between a child and a significant adult, with predictable lasting effects on each child caught in the middle between competing parties.

1. Custody and Visitation.

As in other areas, the Family Part has the best and worst examples in the disposition of custody and visitation issues. The use of adversarial techniques involve public accusations in the courtroom, cross-examination, exposure of family confidences, anxieties caused by courtroom settings, and humiliation. Experience has shown that this kind of formal dispute resolution not only creates hostility and anger, but also in some cases intensifies problems rather than fostering solutions. Particularly where children are involved, even when parties are separated, ongoing interrelationships must be maintained long after court resolution. The greater the need for an ongoing relationship to survive, the greater the need to use participatory nonadversarial methods of dispute resolution as an essential tool to the family court system. Through intense use of counseling and mediation services, case conferences, and private and public mental health therapists, the

court helps the people exhaust all their own human resources to resolve the matter before resorting to the adversarial approaches. The Committee has observed excellent nonadversarial methods of dispute resolution of custody and visitation issues in several counties. They include:

- Burlington - One of the original custody/visitation programs. Using nonadversarial techniques at different stages of the proceedings, 96% of the cases were resolved without appearing in court.

- Camden - Using three in-house experts, referrals to both private and public mediators, a court-maintained suggested list which is regularly updated by Bench/Bar cooperative efforts, and trained intake facilitators, over 95% of all custody/visitation disputes are resolved without contested court hearings.

- Gloucester - One family court mediator has had outstanding results (69 out of 70) in resolving court-referred custody/visitation matters.

- Ocean - The Preventative Dispute Resolution Unit successfully resolves most custody/visitation issues arising in any type of proceeding.

The use of nonadversarial methods of resolution of custody/visitation issues was recognized in the Pashman II Committee Report which noted:

> The Committee notes that the terms "mediation" and "conciliation" have been used to describe varying degees of involvement of experts in child custody decisions. The Committee endorses this approach.... (Supreme Court Committee on Matrimonial Litigation p.)

While the past five years have seen the slow but steady development of custody/visitation mediation programs, there is no reason why this important method of dispute resolution cannot be accomplished statewide. The resources necessary to provide for comprehensive custody/visitation mediation can be developed through

use of several different types of services and facilities. By allowing the parties to select their own private experts by stipulation, the court provides the means for the parties to commit themselves to this manner of resolution. Further, in some counties, this is done by selection of an appropriate facilitator from a court-maintained list. In addition to agreed-upon experts, the use of public counselors or mediators can also be developed either by contract between the county and an appropriate public agency or by use of community mental health centers. Finally, in an increasing number of counties, the court has been able to employ its own trained, experienced professional experts on the judicial budget. Use of in-court employees as facilitators for this purpose can be developed by training of sensitive persons through the Administrative Office of the Courts. Any combination of these methods will prove to be of great value to the court system and the children who need so desperately to have their cases resolved while still maintaining an ongoing relationship with a valued adult.

The supervised visitation program has experienced a substantial disparity in direct reflection of the judicial commitment in each county. Most counties initially developed the program with multiple visitation sites and significant volunteer supervision. Unfortunately, in some counties, the initial enthusiasm has waned to the point where the supervised visitation programs barely exist at minimum level. In contrast, under the leadership of Presiding Judge Judith Yaskin, the Mercer County program has expanded substantially in the past several months. Full commitment of judicial resources

and support must be maintained state and county wide in order for the supervised visitation program to maintain its full potential.

2. **Child Abuse and Neglect.**

As in the area of domestic violence, the primary purpose for court involvement in child abuse and neglect cases is to protect the victim. When children are involuntarily removed under Title 9 (DoDD Act), DYFS must come to court within 48 hours with a verified complaint seeking court approval. A further hearing is to be scheduled expeditiously in order to examine into the need for the continued removal, appoint attorneys and a law guardian, arrange for evaluations, provide for discovery of DYFS records, and enter preliminary protective orders. Further preliminary hearings are scheduled as needed leading up to an adjudicatory trial on the issue of whether or not the child has been abused or neglected. If such a determination is made, a dispositional order is entered after further hearing. Protective hearings may be necessary to review and extend or dismiss the dispositional order.

In practice, many abuse and neglect cases neglected in an overworked legal system while the children remain involuntarily removed from their homes and without a permanent plan. It is common practice for these cases to be crowded onto periodic "DYFS days" calendars and then adjourned for many months with repeated consent orders. While such periods of delay give the parents an opportunity to rehabilitate themselves and correct the abusive and neglectful conditions, in fact, the cases tend to go on and on indefinitely without adjudicatory hearing. The Committee discovered one county in

which the files are actually closed between the initial hearing and further hearings which avoids the appearance of cases pending for a long time. By failing to give proper attention and aggressive case management to child abuse and neglect cases, the legal system itself neglects the very children it was mandated to protect. As previously noted, during this period the children's ongoing relationships with their natural parents are destroyed while new bonding occurs with foster parents or, sadly, the children are removed from foster home to foster home with predictable emotional damage.

The Committee recommends that no child abuse or neglect case ever be closed until either the child is returned home, a termination of parental rights complaint is filed, a fact-finding hearing is completed and an adjudication rendered, or a permanent custody order is entered in another proceeding. All case management decisions in child abuse and neglect cases must be made in accord with the basic principle of protecting the children. Delays must be seen from the perspective of the child, not that of overworked judges, staff, attorneys, or case managers. As previously noted in the section on termination of parental rights, if the court system can use aggressive case management techniques in dissolution and other Family Part matters, it must be no less vigilant or committed in child abuse and neglect cases. All judicial decisions must be rendered within 30 days of the conclusion of the hearings, without exception.

The area of child abuse and neglect cases needs closer examination and study within the judiciary. The Committee recommends that a special committee be appointed by the Chief Justice to study in depth the practices and operations of the family court in this vital area. The special committee should be comprised of members of the judiciary, case managers, staff, DYFS, deputy attorneys general, law guardians, and other interested persons. Recommendations should be made for standard operating procedures and practices to be followed statewide. The Committee should be organized in the near future and requested to complete its work within one year in order that the recommendations may be presented to the Supreme Court for approval expeditiously.

Goal: To provide the most effective judicial response to cases involving child abuse and neglect.

Recommendation:

1. Establish standard operating procedures for the case processing and management of all child abuse and neglect cases. This should include a prohibition against the closing of such files until either the child is returned home, a termination of parental rights complaint is filed, a fact-finding hearing is completed and adjudication rendered, or a permanent custody order is entered in another proceeding.

2. Train all judges and staff in techniques and procedures of aggressive case management of child abuse and neglect cases.

3. Establish a special committee appointed by the Chief Justice to study in depth the practices and operations of the Family Part in the area of child abuse and neglect cases. It should be requested to make recommendations for standard operating procedures in practices to be followed statewide.

3. Juvenile-Family Crisis.

The juvenile-family crisis legislation set up a crisis intervention unit system in 1984 which was planned as an innovative method of dealing with status offenses. Status offenses involve actions of persons under the age of 18. They are noncriminal offenses by reason of the offender's age; e.g., truancy, running away, or incorrigibility. This category of offenses was eliminated from New Jersey law in 1984 through the new statute N.J.S. 2A:4A-22(g) and replaced by Juvenile-Family Crisis jurisdiction. The statute now provides:

> "Juvenile-family crisis" means behavior, conduct or a condition of a juvenile, parent or guardian or other family member which presents or results in (1) a serious threat to the well-being and physical safety of a juvenile, or (2) a serious conflict between a parent or guardian and a juvenile regarding rules of conduct which has been manifested by repeated disregard for lawful parental authority by a juvenile or misuse of lawful parental authority by a parent or guardian, or (3) unauthorized absence by a juvenile for more than 24 hours from his home, or (4) a pattern of repeated unauthorized absences from school by a juvenile subject to the compulsory education provision of Title 18A of the New Jersey Statutes. (Emphasis supplied)

By shifting the focus from treatment of the individual juvenile to the entire family, it was felt that the new jurisdiction would provide a more comprehensive approach to effective treatment of complex intrafamilial problems. The legislation mandated the creation of crisis intervention units (CIU) within each county. A review of the 1988 statistics shows clearly that the goal of diverting "almonst 80% of the children currently labelled as JINS

offenders"[4] has been achieved. In 1988, over 88% of these juvenile-family crises were resolved without the necessity of filing a court petition. The Committee noted a number of outstanding programs that had been developed statewide. They include:

- Atlantic - One of the most comprehensive programs for training staff, school personnel, community organizations, and police recruits on the principles and techniques of handling juvenile-family crisis cases.

- Bergen - The Juvenile-Family Crisis Intervention Unit, located within Bergen County's Department of Youth Services, is part of the most comprehensive network of juvenile and family services in the state.

- Camden - One of the original crisis intervention units upon which the Code was modeled. Three family therapists and trained intake staff handle juvenile-family crisis matters with excellent results, successfully resolving 89.5% without the necessity of court petition.

- Cape May - This out-of-court unit has a high success rate and operates excellent group home and shelter.

- Monmouth - Monmouth has an in-court unit. Monmouth County uses a Host Homes program rather than a residential shelter to provide short-term residential care in a family setting.

- Passaic - Another of the original crisis intervention units upon which the Code was modeled. Its director, Shirley Kane, has been a leader in the field and instrumental in drafting the Crisis Intervention Manual.

- Somerset - The Juvenile-Family Crisis Intervention Unit is located within the Richard Hall Community Mental Health Center of Somerset County. All professional staff members have Masters degrees and three of them have been with the unit since its inception in January 1984, giving this unit one of the most qualified and experienced staffs in the state.

The successful counties share a common feature: significant, local commitment of staff and resources to this effort. By sharp

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[4] New Jersey Assembly Judiciary, Law, Public Safety and Defense Committee, Final Report of the Juvenile Justice Task Force Advisory Committee on "Alternative Dispositions/Community Based Programs," (January 1981), p. 16.

contrast, in those counties where the CIU units are not functioning effectively, full commitment has yet to evolve. The staff are frequently overburdened with other tasks and the resources necessary to deal with complex intrafamilial problems have not been made available.

The Association for Children of New Jersey (ACNJ) studied the impact of the legislation on six different counties and published its findings and recommendations in a study entitled "Out of Balance." The findings and recommendations have been utilized by the Administrative Office of the Courts in an effort to upgrade the juvenile-family crisis system. While some progress is being made, much remains to be done. Persons who met with the Committee noted that the effectiveness of the CIU units is directly proportioned to the judicial leadership and commitment of resources provided in each county. This was reflected in the amount of staff resources made available to the program, the mandated involvement of families in treatment plans, and the accountability of all involved to provide and receive needed services. The persons closely involved with the CIU units also emphasized the need for additional training of all judges in the interrelationships of the agencies involved in providing the needed services and the methods of holding juveniles and family members accountable for compliance with disposition orders in juvenile-family crisis cases.

The Committee recommends that minimum standards be established for adequate staff resources by which all CIU units must operate. These standards must be monitored by a state crisis intervention unit

coordinator. The Committee recommends that the position of state crisis intervention unit coordinator be established and fully funded within the Administrative Office of the Courts. The state coordinator would be responsible for monitoring all CIU units to ensure that the minimum standards are met, strong judicial commitment of staff resources is achieved, and high quality programs maintained statewide. The coordinator would also be available to travel throughout the state assisting in the development of programs and replicating the most effective techniques and methods of operation.

There are several features which should be provided in a comprehensive juvenile-family crisis program. At the outset, each program should have an adequate shelter care facility or host home available 24 hours per day for the temporary placement of children who cannot remain at home. The ideal situation is a foster placement with a stable family. At the same time, intense case work services must be provided as well as in-depth family counseling. A school liaison person can be a valuable asset in cases involving children who are truant and do not regularly attend school. In some cases, educational testing and learning disabilities evaluation should be provided expeditiously. Specialized programs, operating by referral under the court's umbrella, should provide the specific services to meet the needs of the children and their dysfunctional families. In urban areas, it is important that there be sufficient minority crisis intervention workers and especially black and hispanic, bicultural, bilingual trained personnel. Finally, the courts must not hesitate to use the full enforcement of litigants' rights authority to require

compliance of the children and all family members with every treatment plan.

Goal: To provide the most effective juvenile-family crisis system.

Recommendation:

1. Establish minimum standards for adequate staff and program resources by which all CIU units must operate. Such standards must be fully monitored, county and statewide.

2. Require more relevant information to be provided in juvenile-family crisis petitions submitted and initial dispositions, services provided, and status of all juvenile-family crisis matters.

3. Establish and fully fund the position of statewide coordinator of juvenile-family crisis programs. This person should be responsible for monitoring compliance with minimum standards and providing valuable assistance to all crisis intervention units.

4. Termination of Parental Rights.

Termination of parental rights cases should be considered the most important cases heard in any part of the judiciary. The children involved have no permanent home, roots, or family upon which they can rely with certainty. Since children cannot be adopted or other permanent plans made during the pendency of termination of parental rights matters, it is imperative that the judiciary bring these most important cases to a prompt conclusion.

In practice, this is often not true. Our most important cases are given the least attention. Our most important cases are tried in bits and pieces, used as add-ons to overcrowded court lists, and frequently adjourned without reason or date. Some of the worst examples included:

- A case in which the actual trial was conducted over a 20-month period, with a result that the judge had to get transcripts of the prior testimony before he could render his decision.
- A number of cases in which the actual trial, after numerous postponements, did not occur for up to two years from the date of the filing of the complaint.
- Two separate cases in which the complaints were filed in December 1987, adjourned numerous times thereafter until June 1988 when they were postponed and adjourned without date. As of March 1989, no new court date had been set.
- A number of cases in which decisions have been pending for over four months after the final conclusion of the trial.

As a result of concern over the effect of the delay in the presentation and determination of these cases, meetings were held by representatives of the judiciary and DYFS which culminated in a written agreement entitled Guidelines of the Guardianship Process entered into by the the judiciary and DYFS approved by the Supreme

Court on July 2, 1984. Each pledged its best efforts to have termination of parental rights cases presented and resolved within specific time frames. A time goal of two months for the period between the time of filing of the complaint and its final termination was established. Unfortunately, this time goal is rarely, if ever, met.

The prompt handling of these matters varies from county to county in accordance with local commitment. The average time ranges from 4.5 months in Gloucester County to over one year in another county. Unfortunately, these periods have been lengthening in recent years. The most recent information provided by DYFS indicates a statewide average of over four months for uncontested and over 10.5 months for contested matters. As previously noted, the Administrative Office of the Courts does not collect the data and information necessary to monitor termination of parental rights cases.

Experience has shown that the prompt resolution of termination cases can be achieved whenever a firm judicial commitment is made. Such an effort produced outstanding results in Essex County under the leadership of Presiding Judge June Strelecki in 1984-85. A joint project of the American Bar Association, Association for the Children of New Jersey, and Division of Youth and Family Services was undertaken in that vicinage to reduce the amount of time it took to hear termination cases from the then existing period of over six months. With the commitment and cooperation of the court, this period was drastically reduced to less than two months. If this can

be accomplished in our most populated county with its many problems and lack of resources, aggressive case management can effectuate this result statewide.

Additional delays have been noted in the prompt resolution of termination of parental rights cases by the failure to reach a timely decision. DYFS recently advised the Committee of 29 cases within the past year in which a period in excess of four months passed after the conclusion of the trial before the judge's decision was rendered. The Committee recommends that all decisions must be required to be rendered within 30 days from the point of final submission of any brief, memoranda, or other papers. Such briefs, memoranda, proposed findings, or papers should be required to be submitted to the court not more than 15 days from the final trial date in all cases. Thus, in every termination of parental rights case, reserved decision should be made within 45 days from the last trial date. To further expedite the prompt resolution of such cases, the deputy attorneys general should be requested to submit a proposed form of final judgment on the last hearing date. It has been noted that unnecessary delays have resulted from failure to provide such orders in cases where termination was granted. In cases where termination has been denied, the court must immediately establish the custodial status of the children involved at the time of its decision.

Goal: Provide the most effective practices and procedures to be utilized in all termination of parental rights cases.

Recommendations:

1. Require compliance with the time goal of two months and time limit of six months for the hearing to resolution of all termination of parental rights cases.

2. Train and encourage all judges and staff in the techniques of aggressive case management of termination of parental rights cases and the need to achieve prompt permanency planning for all children.

3. Require all Family Part judges to render decisions in termination of parental rights cases within 30 days after the completion of the adjudicatory hearing. Deputies attorney general representing DYFS should be requested to submit a proposed form of final judgment on the last hearing date, void all unnecessary delays.

5. Child Placement Review.

The importance of permanency planning for all our children must be a primary concern to any comprehensive family court. Child placement review legislation has placed the judiciary in the position of monitoring and overseeing the work of DYFS. The Legislature determined that the need for permanency planning for children requires this unique exercise of authority over a part of the executive branch by the judiciary and its volunteer boards. The judiciary must meet its responsibility by providing for the most effective practices and procedures, committed staff, and trained, sensitive volunteers to serve children placed outside their homes.

Two areas of concern are apparent statewide. First, in a significant number of cases, DYFS has not been filing the required notice of placement within 72 hours as required by law. A substantial majority of all required notices of placement are filed late. In Camden County, it was recently noted that this figure of noncompliance was over 90%. Assignment Judge A. Donald Bigley, in his letter of April 6, 1989, to the Chair of the Conference of the Presiding Judges, described this as a "problem which hamstrings the CPR system statewide." He further noted: "The filing procedures used by DYFS severely inhibit the court's ability to meet its statutory mandates." The result of filing notices months late is devastating upon the child removed. Any efforts by CPR boards or courts to lessen any damage done by the removal decreases in effectiveness in direct proportion to the amount of time from the date of original placement. The Committee recommends that

aggressive case management practices and procedures be established and adopted statewide. If aggressive case management techniques can be established to handle dissolution matters, the judicial review of all children placed outside of their homes must receive no less a commitment. Any notice of placement received more than one week after placement should result in the mandatory appearance in court of the responsible case worker and supervisor for a summary hearing. At this proceeding, the court must examine in detail the need for the removal, and explore the alternatives. Successful techniques of aggressive management of CPR cases were observed in Bergen and Camden Counties which identify and separate appropriate cases for ongoing monitoring and special consideration. Such methods decrease the likelihood of children falling through the gaps in an overworked child welfare system. Similar techniques should be utilized in every county..

The second major area of concern is the failure to concentrate on the extended family as a resource for placement in the first instance, rather than the traumatic severence of children from all family ties. The Association for Children of New Jersey (ACNJ), in its comprehensive report Splintered Lives, noted that the extended family frequently provided care for the children at the end of the DYFS placement, including a home for the entire family. They noted:

> This is significant information in view of the fact that not all relatives were assessed at the point of placement. Although 69% of the cases had some relative identification at placement, this assessment tended to focus on the immediate rather than the extended family. Additionally, since only 58% of the fathers were identified in the initial as[s]essment, the father's family was not always contacted. In the

> sample, those relatives who provided some support for the child and family were highly motivated on their own and were not necessarily "found" by DYFS. (Splintered Lives, Association for Children of New Jersey, June 1988, p. 13)

The reasons for the inadequate use of extended family to prevent the initial placement or lessen its impact is primarily due to the fact that DYFS maintains a crisis-oriented reactive system, rather than a deliberate, goal-oriented case planning process. ACNJ accurately described the present system:

> The findings portrayed the out-of-home placement system as a crisis-oriented, reactive system where formal planning or decision-making did not uniformly occur. Cases progressed from crisis-to-crisis as workers reacted to events or problems with the birth family, foster home or foster child. This was true for every level of service - from initial placement to services during placement to exit from placement. (Splintered Lives, Association for Children of New Jersey, June 1988, p. 14)

It is not within the scope of this Committee's work to make recommendations for improvements within DYFS. However, effective oversight by the CPR system can only be maintained by requiring DYFS to exhaust all possibilities of extended family placements and actively pursue every alternative prior to the removal and throughout the continued long-term, out-of-home placement. The judicial system cannot diminish the quality of its review of DYFS actions in fear that DYFS will not have sufficient personnel to provide for effective review.

To provide a more effective judicial responsibility, the Committee recommends that a practice be established of requiring a case conference, similar to intake conferences in other matters, between the child placement review coordinator or staff and the

actual DYFS case worker within 15 days of the filing of a notice of placement. N.J.S. 30:4C-54 requires that a judge approve by court order all such placements 15 days after the event. The information obtained in the recommended case conference between the coordinator and case worker will enable the court to be better prepared to perform this function. This would eliminate the present practice of judges merely signing off or rubber stamping the actions of DYFS at this important early point. At the same time, further information could be explored and relevant questions posed for subsequent explanation to each CPR board at the time of the 45-day review hearing. At both the case conference and the review hearing, the actual case worker or supervisor, not a liaison, should be required to attend. Effective external review is not facilitated by allowing a third party liaison to appear instead of the responsible individual. The child placement review system is designed to focus on the decision-making process. When the decision-making process itself is at issue, the persons who make those decisions must personally respond.

The key person in the child placement review system within the judiciary is the coordinator. The importance of this position must be maintained as an integral part of an effective review process. The recommended job description, as set out in the recent annual report of the CPR Advisory Board, should be adopted as the minimum standard for the hiring of any new coordinators. The coordinator's position must be adequately funded and sufficient staff provided in all counties. While the position demands a full-time commitment in

most counties, it is important that the CPR coordinator's responsibilities not be diluted by the assignment of other tasks which unduly divert his or her efforts in smaller counties. A basic minimum of half-time commitment to the CPR system would seem essential in even the smallest counties. The training of CPR coordinators should be expanded to include the principles, practices, and techniques of aggressive case management. The training of judges, coordinators, staff, CPR board members, and others involved in this important program must be maintained at the highest level.

The actual court review reports and proposed order can be improved. As noted by ACNJ:

> Court involvement in involuntary placement cases did not materially enhance decision-making. In the sample, court orders for the involuntary placement cases were similar to the service agreements used for voluntary cases. They were often unspecific as to DYFS and parent goals and tasks, did not address parent-child visitation and, when renewed, did not refer to outcomes of the prior court order. Time frames were linked to the duration of the order (usually six months) rather than to the case plan. Court orders in these cases were often inadequate both as notice to parents and as a record of the case plan. (Splintered Lives, Association for Children of New Jersey, June 1988, p. 17)

Persons who appeared before the Committee emphasized the need for greater consistency and uniformity in the approaches of different judges reviewing CPR matters. They emphasized that the principles of one judge/one family be followed in this area to avoid conflicting orders involving the same children. Whenever possible, a specific judge should be assigned all CPR matters to promote uniformity and concentrated efforts in this important area. Even in large counties

where the matters are presently divided among different judges, consideration should be given to consolidating the judicial function as much as possible. Detailed court orders with specified time frames relevant to the case plan, not the court calendar, should become the required practice. To date, these cases have not received the full priority necessary to minimize the damage done to children and maximize their opportunities for a permanent home.

Judges must set aside sufficient time to meet with the CPR boards on a regular basis. Since the volunteers serving on CPR boards perform a valuable function for the judiciary, a close working relationship must be maintained. Regularly scheduled meetings could facilitate the interchange of important information, provide feedback to the board members as to the relevancy of their efforts, and strengthen the use of volunteers as an indispensable part of our total, comprehensive family court system.

Quality control of the performance of volunteers must be expected and maintained to the same extent as those employed within the judicial system. Board members must be required to maintain a high level of attendance at meetings and training sessions, as well as learning to make effective use of the techniques of conducting CPR board hearings. The recognition of the key role of CPR coordinators and the periodic meeting of the judges with their boards will go a long way toward improving and maintaining a high quality in the volunteers who donate their time to serve the child placement review system.

Goal: To provide the most effective child placement review system to ensure permanency planning for children and lessen the damage done by their out-of-home placement.

Recommendations:

1. **Establish an aggressive case management system for the initial processing and ongoing review of all CPR matters and require the implementation of standard operating procedures statewide.**

2. **Require a summary court hearing to examine into reasons for placement and alternatives explored in every case in which the notice of placement is filed at least one week beyond the date of actual placement. Attendance of the actual case worker would be required at this hearing.**

3. **Provide for a case conference between the CPR coordinator and actual case worker to be held within 15 days of the date of placement. The reasons for placement and alternatives should be explored prior to the submission of each case to the court for its written approval as required by law.**

4. **Maintain sufficient high quality child placement review coordinator and staff with adequate resources available for each board and the child placement review system in every county. As a part of a high-level training effort for all involved, additional training of the coordinator and staff should include practices, principles, and techniques of aggressive case management.**

5. **Require judges to whom child placement review boards have been assigned to meet regularly with their boards.**

D. Domestic Violence.

One of the most important legislative enactments affecting the family court is the Prevention of Domestic Violence Act. The Act empowers judges to issue emergency and final orders to protect victims of domestic violence from their abusers.

The requirements of the law conflict significantly with one of the basic principles of the Family Part; i.e., nonadversarial dispute resolution. A legitimate goal of the Family Part is to keep cases out of the courtroom, while the Prevention of Domestic Violence Act requires in-court hearings. Similarly, the Family Part focuses on the needs of the entire family, while under the Act the victim's rights are paramount. Another principle undergirding the Family Part is preservation of the family, while under the Domestic Violence Act the abusers may be required to leave the marital house and not have contact with their families.

This apparent conflict between the philosophies behind the family court in general and the Prevention of Domestic Violence Act in particular must not be permitted to interfere with the vigorous enforcement of the law as written and the availability of the court to provide maximum protection to victims of domestic violence. National studies have indicated that the clear, firm dependable enforcement of the rights of the victims is necessary as a prerequisite to the effective cessation of this kind of violence. The power to arrest the batterer who violates a domestic violence restraining order must be exercised without hesitation whenever appropriate. The judicial responsibility is clear; every judge must

follow the letter and the spirit of the Prevention of Domestic Violence Act even though to do so may be contrary to the philosophy of the family court. Training seminars should remind judges and court staff of this requirement.

The Committee notes that certain provisions of the Prevention of Domestic Violence Act are not being followed.

- Judges are not always available to enter ex parte emergency orders when the Family Part is closed.

- In some counties the victim is required to file a separate complaint for relief such as child support or custody.

- Some counties have refused to file a domestic violence complaint for a victim either sheltered, residing, or victimized within that county in instances where any one of these factors has occurred in a different county, even though the court rule specifically permits the victim to file in any county in which one of the three enumerated factors is present. R. 5:7A(d).

- Victims of domestic violence have had warrants for their arrests issued for failing to appear in court or held in contempt for allowing the abuser into the home in alleged violation of a court order or for not attending counseling sessions as required by court order.

The availability of judges, superior or municipal, at all times is a basic requirement necessary for the protection of all persons involved in domestic violence. In some counties, this is accomplished by the dissemination to every municipality of the names, addresses, and telephone numbers of the on-call municipal court judge and at least one backup on-call judge. The prosecutor should be requested to cooperate with this effort in ensuring that all law enforcement personnel in the county have access to all appropriate judges.

The practices of issuing warrants for the arrest of victims who failed to appear in court or holding victims in contempt who allowed the abuser back into the home in direct violation of a court order have the obvious chilling effect of discouraging the victim from ever filing complaints or seeking the court's assistance in the first place. These actions fail to recognize that the Prevention of Domestic Violence Act seeks to protect the victims of domestic violence. It is contrary to the intent and purpose of this remedial legislation to use the Act against the victim. In this civil proceeding, the better practice for courts whose orders are ignored by the victim is to consider modifying the order to eliminate the restraints or even dismissing the complaint rather than arresting the victim. After full consideration of this problem by an appropriate committee, a directive encouraging restraint in the use such arrest or contempt powers would be appropriate.

In domestic violence cases in some counties, victims are not being awarded child support or custody in contested cases in any final order. They are required to sign a separate complaint. This is true even though the Prevention of Domestic Violence Act specifically provides for the granting of child support and custody under its legitimate relief. Domestic violence victims are frequently withdrawn and unable to assert themselves against resistance in any form. The court system must not in any way make it more difficult for such victims to obtain the needed relief of custody and support orders by raising any obstacles or confusing procedures. Stated simply, if the victim is required to go to a

different office and file a separate complaint, he or she may not function accordingly in every case. The simple fact of having to go to a different counter or office, or stand in a different line, or wait for a different person for service, can be enough to effectively discourage the initiating steps by the victim. In every county, the filing of a domestic violence complaint should be sufficient to initiate the normal process of determination and awarding of child support and custody/visitation. The amounts of support may be subject to revision as necessary financial information is developed as in all other nondissolution matters. Likewise, the full procedure should be initiated in the same manner.

The practice of refusing to accept a domestic violence complaint for filing because of perceived venue problems must cease. It has been clearly established that a victim's petition for temporary restraining order is properly filed in any county in which either the victim resides, is sheltered, or where the act of violence occurred. The court must not create obstacles to the obtaining of needed protection. Even if the venue for final hearing may arguably be placed in a different county, no county should refuse to accept a complaint whenever any one of the three factors is present within that county. The Supreme Court specifically authorized victims to seek relief:

> ...in the county where either of the parties resides, in the county where the domestic violence offense took place, or in the county where the victim of domestic violence is sheltered. If the action is not brought in a county of residence, venue shall be transferred to a county of residence for the final hearing unless

> the court orders the matter retained in the county where the complaint is filed for good cause shown. (R. 5:7A(d))

To deny the initial filing of a complaint is a complete denial of access to the court of an opportunity to be heard in the first instance. The practical effect of sending such victims from county to county is to further discourage them from seeking the protective relief. A better practice would be to accept such complaints, hold a hearing, grant or deny the temporary restraining order, and then consider the issue of the proper venue for final hearing. The Legislature specifically dealt with the problem of victims leaving the residence by instructing courts:

> The court shall not dismiss any complaint or delay disposition of a case because the victim has left the residence to avoid further incidents of domestic violence. (N.J.S. 2C:25-12)

Mandatory training of judges and staff as to legal requirements and implementation of court rule and directives should be required. The dynamics of domestic violence and its relationship to other forms of family violence should be fully understood. This would include presentations on the battering cycle and the effects of family violence on the children as forgotten victims of the violence. The best methods and techniques for the enforcement of domestic violence orders by civil or criminal proceedings should be established and distributed in written materials to all judges and staff. A domestic violence manual of uniform practices and procedures for use by Family Part judges and staff, presently being prepared, will be a valuable instrument.

One of the major issues in the domestic violence area is whether these cases should be conferenced as they are in Ocean County. Pre-dispositional conferences allow the litigants to focus on the issues and the victims to choose the type of proceeding and kinds of relief which will be of assistance. Postdispositional conferences give the litigants an opportunity to gain a better understanding of the order which has been entered, the remedies for violation, and the mechanisms for modification. The Committee supports the use of case conferences with the following caveats:

- The parties must wait and be seen in separate rooms. The victim must never be forced to wait in the same area with the alleged batterer outside the courtroom.
- Court personnel should thoroughly explain the conferencing process to the parties and make clear to the victims that they can have the case heard by a judge.
- After the requests have been clarified, they should be discussed with the defendant and a proposed order be prepared upon mutual agreement.
- The parties must appear before the judge even if a consent agreement is signed. The judge must impress upon the defendant the seriousness of the matter and the consequences for violating the order.

Most family courts do not have staff who can provide counseling to the parties involved in domestic violence cases. Courts should provide access to such services through specially trained persons employed either within or outside of the court system. These persons should be carefully selected and not include practitioners whose only qualification is self-designation as a "counselor" or "therapist."

The Committee understands that domestic violence cases form an increasing portion of the Family Part's caseload. The number of domestic violence complaints increased by 13.3% between the 1985-86

3. Provide mandatory training for judges and staff on the dynamics of domestic violence and its relationship to other forms of family violence and its effect on the children involved.

4. Prepare a draft domestic violence manual of uniform practices and procedures for use by Family Part judges and staff.

5. Establish a case conferencing practice in every county to be conducted by trained personnel. The procedure to be followed for every case conference shall include:

- The parties must wait and be seen in separate rooms. The victim must never be forced to wait in the same area with the alleged batterer outside the courtroom.
- Court personnel should thoroughly explain the conferencing process to the parties and make clear to the victims that they can have the case heard by a judge.
- After the requests have been clarified, they should be discussed with the defendant and a proposed order be prepared upon mutual agreement.
- The parties must appear before the judge even if a consent agreement is signed. The judge must impress upon the defendant the seriousness of the matter and the consequences for violating the order.

6. Provide sufficient Family Part judges to hear all domestic violence cases. The practice of using hearing officers to conduct domestic violence hearings should be discouraged.

7. Request that the New Jersey representatives to the Uniform Laws Commission consider the formulation of uniform laws and/or an interstate compact for presentation to the state legislatures.

8. Issue a directive indicating that when a victim has failed to appear in court or allow the abuser back into the home in direct violation of a court order, consideration should be given to vacating the restraint or dismissing the complaint rather than issue a warrant for the arrest of or contempt of court charges against the victim.

IV. RESOURCES

It has been said that the family court is "the product of an illicit relationship between the law and social sciences where neither party wishes to acknowledge the progeny." In addition to traditional judicial responsibility, every comprehensive family court must have access to significant social services, either directly or by referral. The services include a wide variety from family therapy through educational programs and matrimonial early settlement panels to any of the varied forms of complementary dispute resolution.

Not only is New Jersey's family court very much a social services delivery system, it is very innovative and progressive. A report to last year's Judicial Conference on CDR noted:

> [T]he courts themselves in New Jersey, both locally and at the State level, have been unusually sympathetic towards and supportive of the development of alternatives to litigation. (The Anatomy of a Legal Innovation: The Use of Alternative Dispute Resolution (ADR) Techniques in the New Jersey Court System, June 30, 1986)

A number of excellent programs have been established, many by judges, in an effort to resolve most effectively the complex family problems. Examples include:

- Custody/visitation mediation, provided in different forms, in and out of court, in public and private sector, some mandatory, some voluntary, in approximately two-thirds of the counties.

- Matrimonial Early Settlement Panel (MESP) programs providing experienced attorneys who volunteer their time to help litigants settle the financial issues involved in their divorce proceedings; presently operating very well in at least two-thirds of the counties.

- Domestic violence case conferencing operating with substantial expertise in Ocean County and a few other counties.

- Judicial Evaluation and Treatment Service (JETS), Family Court Assessment Team (FCAT), and Family Assessment Unit, providing expert evaluations and recommendations to the court on juveniles and families in Morris, Cape May, and Burlington Counties.

- The Families Services Consortium, a comprehensive program which provides all types of evaluations, counseling, therapy, and services for children and families commencing with an assessment by a trained court staff person and referral to appropriate agencies in Union County. Recipient of an award from the National Association of Counties (NACO).

- Comprehensive programs (8) for juveniles and their families run by the County Department of Human Services in Bergen.

- Cedar House, a halfway house for adolescent males with substance abuse problems in Somerset County.

- The Juvenile Resource Center (JRC), Liberty Park, Total Life (TLSP) providing effective day treatment programs for hard-core urban delinquents in Camden, Hudson, and Passaic Counties.

- Adolescent sex offender treatment programs operating in Bergen and Cumberland Counties.

- Somerfields, a comprehensive day program; P.R.E.P., a residential treatment program; and the Jupiter program of intensive supervision for juveniles on probation in Somerset, Camden, and Middlesex Counties.

- Project Open House program providing excellent temporary shelter and intense casework for juveniles in crisis in Monmouth County.

Unfortunately, these excellent programs are few and far between. Due to the lack of programs statewide, a major factor in the resolution of familial problems is their location. Stated simply, if you need the best social services in juvenile matters, go to Bergen; domestic violence, Ocean; family therapy, Camden. Substance abuse problems have increased and become pervasive throughout our society, further highlighting the need for comprehensive social

services. In some counties, large and small, there are virtually no available services, regardless of the problem.

Different counties have different degrees of commitment to funding programs for their citizens. If the family court is expected to function efficiently statewide, there must be minimum standards for the provision of programs in every county or region. As an absolute minimum the committee recommends:

- All statutes, rules, or directives be fully staffed and implemented.
- Custody/visitation mediation services be made available through each and every family court.
- Matrimonial early settlement panel programs (MESP).
- Juvenile conference committees (JCC).
- A structured multiservice or similar program available for delinquent youth, particularly in urban areas.
- Intensive limited size caseload supervised probation for juvenile delinquents.
- Diagnostic and evaluative capacity for children and families.
- Family counseling directly available or by referral.
- Alternatives to detention of juveniles charged with delinquency.

It would be deceptive to suggest that these programs can be developed without cost. In fact, the costs vary substantially from minimal to expensive. It is a greater deception to promise the people of New Jersey a comprehensive family court without providing the necessary services and resources. In society's response to the problems of its families, the family court judge is a recognized community leader. This leadership role must be fully utilized to develop needed services and facilities to meet the needs of troubled

litigants. The AOC, administrative structure and management teams (AJ, PJ, TCA, and CM), and state and county youth services commissions should be urged to commit their efforts to bring each and every county to this point of minimum services.

GOAL: To ensure the delivery of necessary services to all persons coming into the family court.

RECOMMENDATIONS:

1. There should be minimum standards for the provisions of services in the Family Part. With full staffing and committed implementation, directly or by referral, each county should be required to have:

a. Those services mandated by statute, rule, or directive (with full staffing and implementation).

b. Custody/visitation mediation services.

c. Matrimonial early settlement panel programs.

d. Juvenile conference committees in every municipality.

e. A multiservice structured day program for delinquent youth.

f. Juvenile probation caseloads limited to not more than (80?) per officer and a separate program of intensive supervised probation with limited size caseloads of not more than 15 per officer for appropriate juvenile delinquents.

g. Diagnostic and evaluative resources for children and families.

h. Family counseling.

i. Alternatives to detention of juveniles charged with delinquency.

2. The judiciary should encourage all state, county, and local governments and county youth services commissions to commit their best efforts to meet these standards.

3. Family Part judges should assume a leadership role in developing needed services and families to meet the needs of troubled families.

4. Establish a statewide program development role, either within the state leadership component (see report p.) or as a separate part of the Family Division office of AOC. Its function would be the full-time responsibility for developing programs by collecting information about the most effective programs, techniques, and practices to maintain and improve the quality of the Family Part, assisting vicinages and regions in developing and continuously evaluating these ideas.

V. CONCLUSION

Since the creation of the Family Part in 1984, there has been slow but steady progress toward the establishment of a comprehensive family court. Much more remains to be accomplished before the promise made to the people of New Jersey can be fulfilled. All the key elements may be found in varying degrees of development scattered throughout the state. The present task is to perfect, replicate, and reassemble these key elements to serve every citizen in every county. The obstacles to this effort have been identified and characterized in this report in the areas of disparity, control, and resources. With strong statewide leadership, these limitations will be overcome.

The recommendations to meet the needs of each county can be implemented with varying degrees of difficulty. For example, standard operating procedures for effective case management and custody/visitation mediation statewide can be accomplished swiftly without significant additional financial resources. Other recommendations, including the elimination of matrix management and the establishment of minimum resource standards, will be more difficult and costly to attain. In this sixth year of operations, it is essential that the judiciary be committed to extensive improvement in the quality of our most important court. A plan of action must include immediate implementation whenever possible, together with the establishment of reasonable time frames to accomplish the more difficult goals systematically.

The Committee expresses its appreciation to the many who contributed their valuable time, ideas, concerns, and efforts to our task. Their enthusiasm and commitment will make our mutual dream of a successful family court a reality.

Respectfully submitted,

PATHFINDERS COMMITTEE:
Robert W. Page, J.S.C., Chair
Rosalie Cooper, J.S.C.
Howard H. Kestin, J.S.C
B. Thomas Leahy, J.S.C.
Birger M. Sween, J.S.C.

STAFF:
Steven Yoslov, Esq., Asst. Dir.
Carol Lesniowski, Exec. Asst.

COMPILATION OF GOALS AND RECOMMENDATIONS

Judges

GOAL: To provide adequate, trained, experienced, and sensitive judges and staff for the Family Part.

RECOMMENDATIONS:

1. Assignment judges and the Chief Justice should carefully evaluate persons whom they are considering for the Family Part. They must have individual attributes as good attorneys, sensitivity to the needs of persons in crisis, understanding of social mores and community standards, physical and mental energy, confidence, patience, and an accepting, sympathetic open mind, together with the ability to communicate decisions clearly and articulately, and remain levelheaded.

2. The policy of rotation into the Family Part should be encouraged and maintained while permitting experienced Family Part judges with demonstrated ability to remain.

3. Judges should be assigned to the Family Part for at least three years.

4. The Family Part must be assigned additional judges and be maintained at an adequate level.

5. A person should be assigned to each judge to assist in coordinating judicial actions and social services.

6. A statewide floating judge system should be established.

7. The Family Part, its judges and staff, should be housed in the main county courthouse.

8. Family Part courtrooms, waiting areas, conference rooms, and staff work areas should be upgraded statewide.

9. Adequate security arrangements must be provided for waiting areas, juvenile detainee areas, common areas, and courtrooms. Judges and staff should be thoroughly conversant with security measures.

Judicial Education and Training

GOAL: To provide a comprehensive program of orientation and continuing education and training for all judges and staff serving in the Family Part.

RECOMMENDATIONS:

1. Establish a special committee responsible for the training and educational needs of the judges working in the Family Part. The members of this committee should be judges, case managers, attorneys, representatives of agencies, and others presently assigned to the Family Part, as well as practitioners in the subject matter field. The committee should function as a subcommittee of the Supreme Court Committee on Judicial College/Seminars.

2. Charge the Family Part Education and Training Committee with the responsibility to establish and administer orientation and continuing training program within this state for judges which will include instruction in legal, psychological and sociological principles, special practices and procedures, case processing, calendaring and management techniques, and any other relevant material. Training programs should utilize attorneys, experts, agency representatives, and staff to a significant degree. Cross-training of judges and staff with attorneys, representatives of agencies, and other persons involved in the Family Part should be planned and provided on a regular basis.

3. Provide a regularly scheduled orientation program for newly assigned judges to be held annually in the beginning of September. This will include approximately three weeks, apportioned with the first week for statewide training, the second week for state and local visitation and observations, and the balance for in-court observations and operations in every type of case under the direction of experienced personnel. The orientation program could be placed on video tape with supporting materials for use locally throughout the year.

4. Require that no judge be permitted to sit on family cases without having first received the new judges' orientation, either in person or by videotape with supporting materials.

5. Provide periodic orientation programs to be held in Trenton or regionally for all new staff, as well as comprehensive training
and continuing education programs for all staff, including case managers, department heads, and unit heads.

6. Provide a comprehensive program of continuing educational opportunities for judges covering all relevant subjects in depth on a continuing basis throughout the court year in specially scheduled seminars as well as at the Judicial College and the Family Part Retreat.

7. Identify and provide additional in-depth educational opportunities within and outside the state to judges with a view to their long-term assignments to the Family Part, including:

a. Judges to be encouraged to enroll in master's degree programs or other similar treatments in subject matter areas relating directly to their functions in the Family Part, including those in the various related social science areas.

b. Identifying ongoing programs or helping organize such programs at institutions of higher learning in New Jersey and surrounding areas.

c. The judiciary's underwriting the cost of any judge's involvement in such programs. Attendance at such programs should be considered to be part of the judge's work responsibilities.

8. Provide special training programs and continuing education courses to presiding judges. The subject matters to be covered should include: Principles and techniques of organizational management; calendar control; personnel supervision and employee relations; creation and implementation of organizational structure.

9. Encourage judges to attend other educational seminars, symposia, and courses to a minimum of two weeks per year outside of the formal in-state training presentations. At least one week per year or two weeks every two years should be mandatory. Attendance at all such programs should be permitted without any charge against an individual judge's vacation time.

Administration

GOAL: To administer the Family Part in the most effective manner necessary to provide the highest quality family court system by enabling the presiding judge and case manager to have control over all persons involved in case processing and management and predispositional services and operations of the family court, subject at all times to the overall responsibility and authority of the assignment judge and trial court administrator.

RECOMMENDATIONS:

1. A plan should be developed in all vicinages establishing clear lines of command and authority over all personnel involved in the family court. The chief probation officer and county clerk should not be included in the organizational chart of the management structure of the Family Part.

2. All court personnel and supporting staff should be placed on one budget, separate and apart from the budgets of the probation office and county clerk. This budget should be initially prepared by the case manager and presiding judge and submitted for the approval of the trial court administrator and assignment judge.

3. All personnel decisions, including hiring, firing, promotions, and job responsibilities, should be the responsibility of the case manager and presiding judge, subject to the approval of the assignment judge and trial court administrator.

4. All case managers should have their salaries set within the same AOC prescribed range. The range should be set at a level commensurate with those of persons in public or private employment who have similar administrative responsibilities. The funds needed should be fixed items within the judicial budget and not be deleted by agreement between the assignment judge and county executive.

5. All the court's predispositional staff should be located in close proximity to each other in the main county courthouse.

6. The Family Part Management Team, including the presiding judge, trial court administrator, case manager, and appropriate Family Part middle management, should meet in each vicinage periodically, at least once per month.

GOAL: To provide sufficient staff for the Family Part.

RECOMMENDATIONS:

1. Within one year, minimum staff ratios and standards should be developed. Staff ratios should be developed after study which recognizes the need to move all priority cases, as well as providing for complementary dispute resolution whenever appropriate (custody/visitation mediation, case conferencing, etc.) and assuring expeditious resolution of all matters.

2. The assignment judges should include in the judicial budget funds necessary to obtain staff to establish and maintain these ratios and should not compromise minimum staffing needs in negotiations with county government.

3. Whenever necessary staff cannot be obtained through the budget process, the assignment judge should assign staff from other court divisions into the Family Part.

4. A judicial personnel system for professionals outside of civil service should be established within a reasonable time.

GOAL: To provide comprehensive statewide leadership to improve the overall quality of the Family Part.

RECOMMENDATIONS:

1. Establish a leadership component, in whatever manner or form deemed appropriate, to monitor operations, facilitate policy making, develop programs, advocate for needs, represent the Family Part, and administer the floating judge program statewide.

2. Require the leadership component to report regularly to the Chief Justice and Administrative Director as to operations and future plans for the Family Part.

Case Management

Goal: To establish the most efficient system of the processing and management of Family Part matters which will provide for priorities in the hearing of certain types of cases while promoting the expeditious handling of all matters to satisfactory resolution.

Recommendations:

1. Realistic time goals should be established for each case type.

2. Consecutive trial dates must become the established norm in all cases.

3. All custody and visitation issues should be identified, isolated, and tracked for separate handling, independent of the type of complaint in which the issue arose.

4. Priorities established must be maintained for the disposition of cases recognizing degrees of crisis. Primarily, they involve custody, visitation, abuse, neglect, pendente lite support, domestic violence, termination of parental rights, institutionalized juveniles, and other matters needing emergent relief. These "type A" cases must be resolved expeditiously, even to the exclusion of all other matters whenever adequate judicial resources do not exist.

5. All cases existing beyond the post goal reporting limit must be reported to the trial court administrator and assignment judge by special report of the case manager and presiding judge. Judges should report on their weekly time reports those cases

assigned to them which they do not dispose of within the time limits. If a case remains on a judge's weekly report for more than a set period of time, it should be reported in the same manner as reserved opinions.

6. Each Family Part presiding judge should decide, subject to the assignment judges' approval, whether there will be central or individual judge calendars or a hybrid combination of both techniques. The presiding judge and other judges should be provided initial and continuous training in the advantages and disadvantages of different approaches and of the best calendaring practices.

7. The use of alternative dispute resolution mechanisms should be encouraged. Those persons involved in case management (including the judges, case managers, and team leaders) should be educated in the most effective programs. Every vicinage should have trained facilitators capable of applying the best techniques.

8. Establish a data collection and recordkeeping system which requires that records be maintained in every county and statewide which will indicate compliance or noncompliance with all statutes, court rules, and directives in every area of the Family Part.

Appellate Review

GOAL: To provide for effective appellate review of all family law matters assuring the need for genuine expedited process for all cases involving children at risk or families in crisis.

RECOMMENDATIONS:

1. Establish a training program to be offered at the Judicial College or other appropriate time for all members of the Appellate Division and the Supreme Court which identifies the need for prompt decision making in matters involving children at risk, families in crisis, and others in need of timely final decisions which affect their immediate personal lives and ongoing relationships. Some specific areas would include:

- Abuse and Neglect
- Custody/Visitation
- Child Placement Review
- Domestic Violence
- Injunctive Relief involving familial assets or businesses

. Juveniles committed or incarcerated in institutions
. *Pendente lite* support and alimony
. Termination of Parental Rights

2. Establish court rules and/or written directives clearly setting forth expedited appeal processes for all above-listed types of family law matters and any other requiring special consideration.

3. Provide training for all key personnel (administrators, staff) at both the trial and appellate levels in the principles, practices, and procedures required to implement fully expedited process.

4. Publicize in the Law Journal or other appropriate media all new rules, policies, and directives setting forth the expedited process of appellate review, and the principles and reasons for such actions in family law matters.

5. Increase the participation of experienced family law judges and practitioners into the process of approving opinions for publication.

Relationships with the Bar

Goal:

To maintain the close relationship between the bench and bar for the mutual benefit of all involved and the members of the public who are served by the Family Part.

Recommendations:

1. Continue the substantial representation by members of the bar on the Supreme Court Family Practice Committee and other important groups while broadening the membership to include more attorneys experienced in nondissolution matters. This should include the addition of attorneys employed to represent DYFS, institutions, and other governmental agencies.

2. Continue the participation of experienced attorneys in training and judicial education sessions for Family Part judges, while encouraging judges to remain involved in continuing legal education programs and to provide articles for The Family Lawyer and other bar publications.

Dissolution

<u>Goal</u>: To provide the most effective method for the "fair and reasonable" resolution of all disputes arising in dissolution matters "in an expeditious manner." (Pashman I)

<u>Recommendations</u>:

1. A model standard operating procedure for the case processing and management of all dissolution matters should be established and required to be implemented within a reasonable period of time in every county.

2. Continuous trials must be required in all dissolution matters.

3. Time goals and absolute time limits must be established and maintained for all dissolution cases.

4. Custody/visitation issues should be bifurcated and handled expeditiously in accord with the time goals and limits set forth in the case management section, utilizing mediation techniques whenever possible.

5. Differentiated case management techniques should be utilized to identify complex dissolution matters and provide special treatment, including early and subsequent case conferences with the court, case management orders with realistic discovery dates including specific steps, blue-ribbon MESP panels, and a definite trial date set sufficiently in advance to allow the parties to plan and firmly commit their time.

6. Issue a directive to all Family Part judges and case managers requiring that any practices or procedures which deviate from published court rules, including any "local rules," must be approved by the Supreme Court prior to their implementation.

7. Provide training to all judges in the proper use of orders to show cause, restraints, and settlement techniques in dissolution matters. Additional training and statewide monitoring should reemphasize the need for all reserved decisions to be completed within 30 days in all family court matters.

Diversion

<u>GOAL</u>: Improve the use of diversion.

<u>RECOMMENDATIONS</u>:

1. Set specific standards.

2. Require compliance by all family courts with the established diversionary criteria.

3. Provide a supervisory component for juveniles to be used by diverting agencies and eliminating the requirement of court-only ordered probation as a reason for not diverting juvenile delinquency cases.

4. Monitor the compliance by juveniles, agencies, and programs with all diversionary conditions.

Detention

GOAL: Eliminate inappropriate use of detention:

RECOMMENDATIONS:

1. Set more specific standards.

2. Require that all detained juveniles who have been ordered to receive residential placement by DYFS or commitment to the Department of Corrections be removed from the detention centers by those agencies within 48 hours after the dispositional hearing.

3. Require the court to set and follow specific dates for the next court appearances for all children detained. No child may be held in detention without a specific date for next hearing or release.

4. No later than the second detention hearing, the court should involve DYFS and school districts in the preparation and development of a dispositional plan to provide appropriate services or residential treatment. All such plans should be reviewed by the court only after a finding of delinquency even though they are being prepared prior thereto.

5. Limit further admissions to any juvenile detention facility which has reached its maximum approved capacity, plus 10% for emergency situations. Each court must also consider the protection of the constitutional rights of detained children by establishing specific population limitations.

6. Maximize the use of monitored home detention programs.

Disposition

Goal: To provide for all juvenile delinquents the most effective disposition orders rendered by trained and sensitive judges, after consideration, all relevant information and necessary resources and the continued exercise of consideration and control throughout the period of supervision.

Recommendations:

1. Provide each family court judge with all necessary and relevant evaluations and information predispositional reports on every juvenile awaiting disposition, in addition to a general resource manual listing all available programs and services on both a statewide and county-wide basis.

2. Establish a statewide office of resources within the judiciary with the responsibility to maintain information about current resources, advise all Family Part judges periodically, and be on call for daily consultation.

3. Establish minimum standards for disposition alternatives to be available in each county in accord with the dispositional statute. N.J.S. 2A:4A-43. This should include community-based alternative treatment programs and intensive supervised probation in every county.

4. Encourage each county youth services commission to use its best efforts to develop sufficient programs to meet the minimum standard established.

5. Provide training to all Family Part judges and staff on the methods and techniques of utilizing judicial authority and persuasion to obtain the needed services and facilities by state agencies.

6. Prohibit the placement of juveniles awaiting adjudicatory hearing with adjudicated and committed delinquents in state correctional facilities.

7. Encourage all Family Part judges to make full use of their authority to monitor dispositional plans to ensure full compliance and accountability by the juvenile and his or her family. This should include the extensive use of the power to recall children committed to training schools.

Mental Health

GOAL: To provide the most effective treatment for mentally ill and emotionally disturbed children being held on juvenile delinquency charges in the detention centers or correctional system.

RECOMMENDATIONS:

1. The judiciary should request the Department of Human Services to study and establish a clear practice and procedure for the evaluation of children being held on delinquency charges who are exhibiting signs of mental illness or emotional disturbance.

2. The judiciary should urge the executive branch to establish clear responsibility for treatment of children suffering from mental illness or emotional disturbance provide adequate funds for such services and facilities.

3. All commitment to retention hearings for children confined in public mental institutions should be conducted by a Family Part judge.

Racial Factors

GOAL: To eliminate race as a factor in the disposition of juvenile delinquency matters.

RECOMMENDATIONS:

1. Train and sensitize all judges and staff in the fact of racial disparity among incarcerated youth, the impact of dysfunctional families on the severity of sentence of minorities, the recognition of fixed attitudes in themselves and others, the opportunities and techniques for avoiding the deplorable effects of stereotypical thinking, and the availability of alternatives to incarceration for all youth.

2. Facilitate the establishment of community-based treatment programs in urban areas as an alternative to incarceration.

3. Direct and encourage DYFS and all other agencies providing social services to give highest priority to their cases involving minority youth awaiting disposition on delinquency charges.

Child Abuse

Goal: To provide the most effective judicial response to cases involving child abuse and neglect.

Recommendation:

1. Establish standard operating procedures for the case processing and management of all child abuse and neglect cases. This should include a provision of prohibition against the closing of such files until either the child is returned home, a termination of parental rights complaint is filed, a fact-finding hearing is completed and adjudication rendered, or a permanent custody order is entered in another proceeding.

2. Train all judges and staff in techniques and procedures of aggressive case management of child abuse and neglect cases.

3. Establish a special committee appointed by the Chief Justice to study in depth the practices and operations of the Family Part in the area of child abuse and neglect cases. It should be requested to make recommendations for standard operating procedures in practices to be followed statewide.

Juvenile-Family Crisis

Goal: To provide the most effective juvenile-family crisis system.

Recommendations:

1. Establish minimum standards for adequate staff and program resources by which all CIU units must operate. Such standards must be fully monitored, county and statewide.

2. Require more relevant information to be provided in juvenile-family crisis petitions submitted and initial dispositions, services provided, and status of all juvenile-family crisis matters.

3. Establish and fully fund the position of statewide coordinator of juvenile-family crisis programs. This person should be responsible for monitoring compliance with minimum standards and providing valuable assistance to all crisis intervention units.

Termination of Parental Rights

Goal: Provide the most effective practices and procedures to be utilized in all termination of parental rights cases.

Recommendations:

1. Require compliance with the time goal of two months and time limit of six months for the hearing to resolution of all termination of parental rights cases.

2. Train and encourage all judges and staff in the techniques of aggressive case management of termination of parental rights cases and the need to achieve prompt permanency planning for all children.

3. Require all Family Part judges to render decisions in termination of parental rights cases within 30 days after the completion of the adjudicatory hearing. Deputies attorney general representing DYFS should be requested to submit a proposed form of final judgment on the last hearing date, void all unnecessary delays.

Child Placement Review

Goal: To provide the most effective child placement review system to ensure permanency planning for children and lessen the damage done by their out-of-home placement.

Recommendations:

1. Establish an aggressive case management system for the initial processing and ongoing review of all CPR matters and require the implementation of standard operating procedures statewide.

2. Require a summary court hearing to examine into reasons for placement and alternatives explored in every case in which the notice of placement is filed at least one week beyond the date of actual placement. Attendance of the actual case worker would be required at this hearing.

3. Provide for a case conference between the CPR coordinator and actual case worker to be held within 15 days of the date of placement. The reasons for placement and alternatives should be explored prior to the submission of each case to the court for its written approval as required by law.

4. Maintain sufficient high quality child placement review coordinator and staff with adequate resources available for each board and the child placement review system in every

county. As a part of a high-level training effort for all involved, additional training of the coordinator and staff should include practices, principles, and techniques of aggressive case management.

5. Require judges to whom child placement review boards have been assigned to meet regularly with their boards.

Domestic Violence

Goal: To provide maximum protection to victims of domestic violence while providing the best method for resolution of all issues arising from the interpersonal relationships.

Recommendations:

1. Provide a list of the names, addresses, and phone numbers of appropriate Municipal and/or Superior Court judges to every municipality and law enforcement authority to facilitate the availability of a judge, at any time, for the purpose of obtaining an ex parte emergency order. The prosecutor should be requested to cooperate with this effort in ensuring that all law enforcement personnel in the county have access to the appropriate judge.

2. Prohibit the practice of requiring victims of domestic violence to file separate complaints in order to obtain child support or custody. The practice of refusing to accept domestic violence complaints for filing in any county in which the victim resides , is sheltered, or where the act of violence occurred because of perceived venue problems must also be prohibited. Further training should be provided on the importance of providing unrestricted access of the courts to the victims for all forms of statutory relief.

3. Provide mandatory training for judges and staff on the dynamics of domestic violence and its relationship to other forms of family violence and its effect on the children involved.

4. Prepare a draft domestic violence manual of uniform practices and procedures for use by Family Part judges and staff.

5. Establish a case conferencing practice in every county to be conducted by trained personnel. The procedure to be followed for every case conference shall include:

- The parties must wait and be seen in separate rooms. The victim must never be forced to wait in the same area with the alleged batterer outside the courtroom.

- Court personnel should thoroughly explain the conferencing process to the parties and make clear to the victims that they can have the case heard by a judge.

- After the requests have been clarified, they should be discussed with the defendant and a proposed order be prepared upon mutual agreement.

- The parties must appear before the judge even if a consent agreement is signed. The judge must impress upon the defendant the seriousness of the matter and the consequences for violating the order.

6. Provide sufficient Family Part judges to hear all domestic violence cases. The practice of using hearing officers to conduct domestic violence hearings should be discouraged.

7. Request that the New Jersey representatives to the Uniform Laws Commission (?) consider the formulation of uniform laws and/or an interstate compact for presentation to the state legislatures.

8. Issue a directive indicating that when a victim has failed to appear in court or allow the abuser back into the home in direct violation of a court order, consideration should be given to vacating the restraint or dismissing the complaint rather than issue a warrant for the arrest of or contempt of court charges against the victim.

Resources

GOAL: To ensure the delivery of necessary services to all persons coming into the family court.

RECOMMENDATIONS:

1. There should be minimum standards for the provisions of services in the Family Part. With full staffing and committed implementation, directly or by referral, each county should be required to have:

a. Those services mandated by statute, rule, or directive (with full staffing and implementation).

b. Custody/visitation mediation services.

c. Matrimonial early settlement panel programs.

d. Juvenile conference committees in every municipality.

e. A multiservice structured day program for delinquent youth.

f. Juvenile probation caseloads limited to not more than (80?) per officer and a separate program of intensive supervised probation with limited size caseloads of not more than 15 per officer for appropriate juvenile delinquents.

g. Diagnostic and evaluative resources for children and families.

h. Family counseling.

i. Alternatives to detention of juveniles charged with delinquency.

2. The judiciary should encourage all state, county, and local governments and county youth services commissions to commit their best efforts to meet these standards.

3. Family Part judges should assume a leadership role in developing needed services and families to meet the needs of troubled families.

4. Establish a statewide program development role, either within the state leadership component (see report p.) or as a separate part of the Family Division office of AOC. Its function would be the full-time responsibility for developing programs by collecting information about the most effective programs, techniques, and practices to maintain and improve the quality of the Family Part, assisting vicinages and regions in developing and continuously evaluating these ideas.