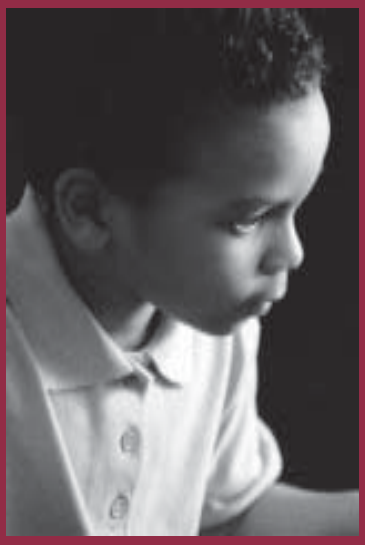

Performance Standards and Measures for Maryland's Family Divisions

Maryland Judiciary

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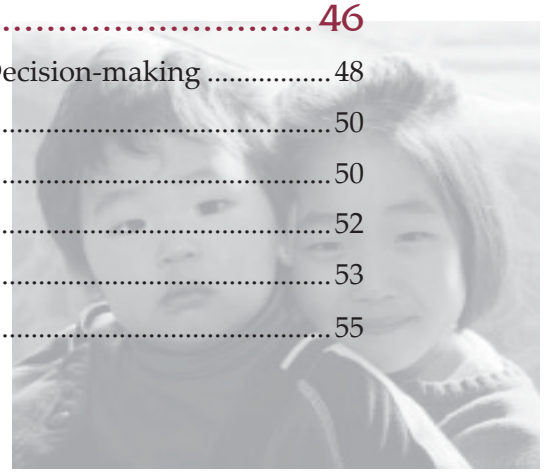

preface

The Maryland Judiciary undertook to improve the experience of families and children who come before the court by creating Circuit Court family divisions and family services programs in 1998. From the beginning, it recognized the need to evaluate the impact of the improvements being implemented.

Under the guidance of the Ad Hoc Committee on the Implementation of Family Divisions, the Judiciary began a process of strategic planning. It engaged consultants Jeffrey A. Kuhn, Esq., and his associate, Professor Barbara Babb, both now of the University of Baltimore's Center on Families, Children and the Courts, to assist the committee in this effort. That planning process has resulted in the development of the *Performance Standards and Measures for Maryland's Family Divisions*.

These Standards are built upon the ground-breaking work of the *Trial Court Performance Standards*, published in 1997 by a national commission of judges and court administrators chaired by my predecessor, Chief Judge Robert C. Murphy. Like the *Trial Court Performance Standards,* this document is intended to provide a focus for measuring court performance, but in family cases. The *Performance Standards and Measures* represent the values which inspired the creation of Maryland's family divisions, and offer a blueprint for future development. They represent the high standards to which we hold ourselves in serving Maryland's families, and the standard to which we expect others to hold us.

The AOC will be developing evaluation tools and protocols based on these *Standards* to assist the Judiciary in evaluating its performance. We look forward to the challenge these *Standards* represent.

The Ad Hoc Committee on the Implementation of Family Divisions and its chairs, the Honorable Paul H. Weinstein and the Honorable Clayton Greene, Jr., are to be commended for their diligence and perseverance in pursuing this vision for Maryland's Family Divisions. I also extend thanks to that committee's successor, the Committee on Family Law of the Maryland Judicial Conference, and its chair, the Honorable Larnzell Martin, Jr., for seeing this project through to completion.

Robert M. Bell
Chief Judge
Court of Appeals

introduction

Family courts provide a safe and efficient forum for the resolution of family disputes within the justice system through

1. early intervention and provision of services,
2. emphasis on less adversarial dispute resolution, and
3. improved case coordination and case management procedures.[1]

During the 1990's, family-related cases continued to increase in volume. In 1994, 4.7 million domestic relations cases were filed in state courts, which comprised 25% of all civil court filings, the largest and fastest growing segment of civil court caseloads.[2] These cases included divorce, support/custody, domestic violence, paternity, the Uniform Reciprocal Enforcement of Support Act (now replaced by the Uniform Interstate Family Support Act), adoption and miscellaneous matters. An additional 1.9 million juvenile cases including juvenile delinquency, truancy, and dependency and neglect also were filed in state courts.[3]

From July 1, 1999, through June 30, 2000, 141,946 family cases were initiated in Maryland Circuit Courts. These cases represented 48% of the Circuit Court caseload for this time period. Maryland's Family Divisions accounted for 91,224 cases, or 64% of that caseload.[4]

These numbers represent considerable challenges to the courts to provide adequate resources, avoid redundant events, and ensure civility and courtesy of court personnel, and maintain clarity and quality of proceedings. When channeled into the framework of a family court, the challenges intensify into questions of priority. For instance, is it more important to provide a spectrum of services to families in need and to allow adequate time for full provision of those services before disposition? Alternatively, is it more important to dispose of the matter as quickly as possible so the family court can move onto the next family on the docket?

As Maryland's Family Divisions continue their development and implementation efforts, these and other questions are addressed best through identification of a performance plan and corresponding standards that are assessed comprehensively on a regular basis. To this end, Family Division leadership can use, as a tool of guidance, the *Bureau of Justice Assistance Trial Court Performance Standards*, developed in the late 1990's by a commission chaired by Maryland's former Chief Judge Robert C. Murphy and composed of state court judges and court administrators. The Commission on Trial Court Performance Standards has adopted five major performance standards that apply in a general sense to performance of family courts, of which the Maryland Family Division is a type:

our mission

The mission of Maryland's Family Divisions is to provide a fair and efficient forum to resolve family legal matters in a problem-solving manner, with the goal of improving the lives of families and children who appear before the court.

To that end, the court shall make appropriate services available for families who need them. The court also shall provide an environment that supports judges, court staff and attorneys so that they can respond effectively to the many legal and non-legal issues of families in the justice system.

- Access to Justice
- Expedition and Timeliness
- Equality, Fairness and Integrity
- Accountability and Independence
- Public Trust and Confidence

While these standards generally do relate to family court operations, Family Division leadership must keep in mind the mission of their particular justice system and the core values it maintains to adapt these standards accordingly.

In October 1999, Maryland's Family Division Judges began as a group to initiate this process by reaching consensus on the major elements of a Family Division Mission Statement and a series of preliminary values determinations. These decisions led to the performance measures introduced within this document[5]. Consensus on these major elements resulted in a mission statement that approximates the following: The mission of Maryland's Family Divisions is to provide a fair and efficient forum to resolve family legal matters in a problem-solving manner, with the goal of improving the lives of families and children who appear before the court. To that end, the court shall make appropriate services available for families who need them. The court also shall provide an environment that supports judges, court staff and attorneys so that they can respond effectively to the many legal and nonlegal issues of families in the justice system.

This mission statement provides the basis for articulation of more specific system values and intended outcomes of the Family Division:

- Preserving the rule of law
- Stabilizing families in transition
- Providing forums for prompt conflict resolution
- Promoting co-parenting relationships
- Fostering parents as primary family decision-makers
- Maximizing the use of alternative dispute resolution methods and programs
- Providing safety and protection
- Preserving family relationships where possible
- Supporting linkages between resource needs and available resources on behalf of parents and their children
- Increasing access to the family justice system
- Using judicial time efficiently by providing comprehensive information to judges and masters to assist them in making the most informed decisions possible
- Developing a familiarity with each family
- Increasing cultural competency

If it is to embody these values, the Maryland Judiciary must secure adequate resources. In order to justify the resources, the Judiciary

must gather facts and figures that demonstrate benefits to the citizens of Maryland. This information must communicate outcomes clearly and offer viable recommendations to account for court system performance. These recommendations, in turn, must link to resources needs.

The performance standards that follow are offered for this purpose. Standards flow from the five major areas of trial court performance standards. Each performance standard is described in a general commentary. Following that commentary, issues related to implementation of the standard are discussed, including practical recommendations for judges and court managers to assist in achieving the declared standard of practice. Finally, measurement systems for determining successful implementation of the standards are described and are linked to Implementation Issues and Recommendations by number. These measurement systems include numerous data gathering methods, including court and case record reviews, observation, and simulation, surveys, and focus group techniques. Moreover, each performance standard appears within a table in the appendices that identifies the primary data collection method, appropriate evaluator, and source of data for analysis.

Performance standards are articulated in easy to understand language, recognizing that they have a potentially broader audience than those who work within Maryland's Family Divisions. Certainly, Maryland's General Assembly has an interest in informing constituents of the Family Division Performance Standards. Maryland's executive branch may use these performance standards to help determine the need for additional judges and staff in the Family Divisions. Maryland's practicing family law bar can understand better the expectations of the Family Divisions upon reviewing these performance standards. Litigants, particularly pro se litigants, need clear and reasonable answers to their questions concerning procedures within Maryland's Family Divisions. Finally, those who directly serve children involved in the Family Divisions can benefit by using the standards in their search for the highest quality of care and service possible for the children.

access to justice

Chief Judge Robert M. Bell has identified access to justice as a key initiative for Maryland's judicial system. "Since becoming Chief Judge of the Maryland Judiciary in 1996, I have adopted and advanced my mission of making justice more accessible while, at the same time, demystifying the court system, for everyone–a vision that is both simple and essential."[6]

The Report of the Family Division Review Committee, submitted by then Chief Judge Robert C. Murphy to the Governor and presiding officers of the Maryland General Assembly in December, 1993, concluded, among other findings that, "the courts are not giving

proper attention to the special needs of poor people, who often cannot afford representation by counsel and need, or desire, to proceed pro se."[7] The most frequent problem associated with unrepresented litigants was almost complete denial of access to the justice system.[8] The Family Court of the State of Delaware's Family Court Standards Project [hereinafter, the Delaware Project] defined some of the barriers to access:

> Such barriers can be geographic, economic, and procedural. They can be caused by deficiencies in both language and knowledge of individuals participating in court proceedings. Additionally, psychological barriers can be created by mysterious, remote, unduly complicated, and intimidating court procedures. . . . [T]he high percentage of self-represented litigants filing and defending their own suits poses formidable challenges for a family court as well as the represented and self-represented litigant. In many ways Access to Justice is the key area for family courts in developing and assessing their policies and practices related to litigants without lawyers.[9]

The Delaware Project thus concluded that a family court must "provide for the effective and appropriate participation of all who appear before the court, including young children, litigants without lawyers, and persons with linguistic difficulties or handicaps."[10]

Since 1993, the AOC has taken the lead in creating and implementing several projects designed to increase access to the family justice system for unrepresented litigants. The amendment in 1990 of Courts and Judicial Proceedings to include Section 2-206, allowing for basic instructional materials and form pleadings in custody, visitation, and support cases,[11] has resulted in a comprehensive compilation of form pleadings and instructions in a wide variety of family law cases via an ongoing process overseen by the AOC.

Further, staff is located on-site in most Circuit Courts to provide legal assistance to victims of domestic violence and to assist pro se litigants in completing and filing the form pleadings. These projects (on-site assistance for pro se litigants and unified family law forms) have resulted from recommendations by the Advisory Council on Family Legal Needs of Low Income Persons[12] and the 1993 Report of the Family Division Review Committee.[13] The existence and oversight of the projects demonstrates the commitment of Maryland's family justice system to increase access to all who need the court's assistance to resolve their family legal proceedings.

Standard 1.1 Equal Access

Maryland's Family Divisions ensure that court services are accessible equally to all litigants, regardless of race, ethnic background, religious affiliation, or socio-economic status.

Standard 1.1 Equal Access

Maryland's Family Divisions ensure that court services are accessible equally to all litigants, regardless of race, ethnic background, religious affiliation, or socioeconomic status.

Commentary

Maryland's Family Divisions must undertake and demonstrate a leadership role in enhancing all litigants' access to the justice system. One method for assuming this responsibility is to engage in public education initiatives.

Implementation Issues and Recommendations

1. Education and Participation of Stakeholders. The Judiciary, in collaboration with the AOC and the Court Information Office, needs to form partnerships with public education systems designed to promote the safety and well being of families. Specific programs in schools inform the public about issues such as domestic violence, establishment of paternity, establishment and collection of child support, and child welfare issues, among other topics. Other partnerships exist between the Family Divisions and direct service providers, bar associations, and the Maryland Legal Assistance Network [hereinafter, MLAN], a Maryland Legal Services Corporation project chaired by Chief Judge Robert M. Bell and designed to promote access to justice for low- and moderate-income Marylanders. In order to pursue these efforts, judges need some amount of time off the bench.

2. Uniform Pleadings and Instructions. In keeping with the mandate to guarantee accessible court services to all litigants, the Family Divisions provide uniform form pleadings and instructions in family law matters. The AOC monitors and revises the form pleadings by obtaining feedback about the forms from judges, masters, court administrators, and clerks' offices. Adaptation of the forms and instructions for non-English speaking litigants must begin immediately. Collaterally, there is a need for the Judiciary to develop and adopt a uniform policy relating to interpreter service, usage, and fee structure. The AOC currently maintains a website that includes the form pleadings, as well as information about Family Division procedures and services.

3. Pro Se Assistance. Maryland's Family Divisions ensure that assistance is available to pro se family law litigants so that they have meaningful access to the family justice system. Presently, the AOC funds several court-connected programs designed to provide limited legal information and advice and some attorney referrals to pro se family law litigants through the operation of the Family Law Pro Se Assistance Projects. The AOC also provides resources to the Women's Law Center to operate the Legal Forms Help Line, a telephone hotline available as a follow-up to pro se litigants who have initiated the process of preparing and filing family law pleadings. The AOC provides resources to both the Women's Law Center and the House of Ruth to operate the Protection Order Advocacy and Referral Project (POARP), which assists victims of domestic violence in both the District Court and Circuit Court's civil protection order proceedings.

Family law forms and pleadings also are made available through the AOC's website. In order for these pro se assistance services to be most useful to the litigants and to promote efficiency, quality, and

uniformity among the services providers, the Family Divisions ensure that training, quality assurance, monitoring, and evaluation programs are developed and implemented regarding the operation of these various pro se assistance programs. Keeping accurate and consistent data regarding the characteristics of those who use pro se projects, as well as tracking numbers for various case types, can protect the fairness and integrity of pro se assistance programs. Additionally, there is a need for uniform record keeping to determine how courts and court-connected projects are being utilized.

4. Full Spectrum of Legal Resources. Recognizing that a court cannot address all issues related to the effective participation of pro se family law litigants in their legal proceedings, the Family Divisions need to establish appropriate linkages with those organizations at the state level and in local communities that can provide needed legal assistance to pro se litigants. For example, MLAN is developing opportunities for lawyers to conduct discrete task representation, or unbundled legal services, for potential clients.[14] The Family Divisions collaborate with those entities seeking to address the problems of pro se litigants in order to ensure that court-connected services remain appropriate and responsive to the special needs of these litigants. In this way, the Judiciary plays a vital role in the development and provision of a full spectrum of legal resources.

Tools of Measurement

1. Local Documentation of Education and Partnership Efforts. Documentation of individual Family Division efforts to educate stakeholders and form partnerships with them is reflected in the regular and periodic reports submitted by the Family Divisions to the Executive Director of the Department of Family Administration at the AOC. This documentation identifies agencies with which the Family Divisions are working actively to develop relationships that might include information or resource sharing protocols.

2. AOC Monitoring of Uniform Forms Development. The Department of Family Administration at the AOC has a mechanism for continually monitoring uniform forms and pleadings development and accompanying instructions to ensure a high degree of efficiency and understanding of these documents. One aspect of this evaluative process is feedback provided through the AOC's website by users of the forms and pleadings. Forms and pleadings are modified as necessary to conform to the law, rules of court, or major policy considerations. Judges, masters, court administrators, court clerks, the practicing bar, and pro se litigants periodically are polled to determine their satisfaction with and any suggested changes for these documents.

3. Data Collection Relative to Pro Se Volume. Each of the Family Divisions keeps accurate and consistent data concerning users of pro se assistance resources. The Department of Family Administration monitors pro se data collection to ensure consistency in methodology and type of data collected. A uniform data collection instrument exists that can be incorporated into the Family Division information management database, should one be developed.

Standard 1.2
Cost of Access

Maryland's Family Divisions must ensure that court services are accessible equally to all litigants, regardless of their ability to pay for the services, and supply certain core services.

Standard 1.3
Safety, Accessibility, and Convenience

Maryland's Family Divisions aspire to ensure that court facilities are safe, accessible, and convenient to use, and they aspire to develop a strategic plan to implement this standard by working with domestic violence advocacy groups and local governments, among others.

Standard 1.2
Cost of Access

Maryland's Family Divisions must ensure that court services are accessible equally to all litigants, regardless of their ability to pay for the services, and supply certain core services.

Commentary

In order for the Family Divisions to provide the most effective assistance to Maryland's families and children who come before the court, the Family Divisions must aspire to provide available services to all litigants, regardless of their ability to pay for the services. To implement this standard, the AOC must undertake a study to determine the fiscal impact on each Family Division to assess uniform costs and fees, as well as to determine which services require a fee and the cost.

Implementation Issues and Recommendations

1. Sliding Fee Scale. Family Divisions aspire to develop a procedure and a mechanism to provide court services on a sliding fee scale.

Tools of Measurement

1. Appointment of a Study Committee and the Fee Study. The AOC must appoint a committee to study the issues of court costs and services fees. This committee should make recommendations about whether to have service fees, which services should have fees, and whether to have a sliding fee scale for services. Sliding fee scales must be based on graduated income levels in combination with the federal poverty index. This process must ensure that all persons who require the services of the Family Division are accorded equal access to those services. Should a sliding fee scale be used in tandem with delivery of Family Division services, the AOC should supervise closely this development through a concerted committee effort with input from persons knowledgeable in apportioning services entitlement based on income levels. Any sliding fee scale must be applied uniformly by all of the Family Divisions.

2. Implementation of Study Recommendations. To the extent feasible, AOC must begin procedures to implement study recommendations regarding fees for services, uniformity of fees, and sliding fee scales.

Standard 1.3
Safety, Accessibility and Convenience

Maryland's Family Divisions aspire to ensure that court facilities are safe, accessible, and convenient to use, and they aspire to develop a strategic plan to implement this standard by working with domestic violence advocacy groups and local governments, among others.

Commentary

This standard concerns three aspects of court performance: "the security of persons and property within the courthouse and its facilities, access to the courthouse and its facilities, and the reasonable convenience and accommodation of those who use or come to the court."[15] In as many areas as possible, then, Maryland's Family Divisions must be user-friendly.

A family court must be concerned about matters such as the centrality of its location in the community it serves, adequate parking, reasonable accommodation of children and families, the availability of public transportation, the degree to which the design of the court provides a secure setting, and the internal layout of court buildings (e.g., the signs that guide visitors to key locations).[16]

Implementation Issues and Recommendations

1. User-Friendly Court. To provide a user-friendly court, the hours of court operation for certain court services must be family friendly. In order to accommodate litigants' employment schedules, courts should consider providing connected services after normal business hours. For example, the Family Division of the Circuit Court for Baltimore City operates a Supervised Visitation Program and a Neutral Drop-Off Center on evenings and weekends.[17] Further, the Family Law Pro Se Assistance Projects in operation in all the Family Divisions provide a point of reasonable access for potential family law litigants. All Family Divisions, however, must ensure that the facilities display adequate signage to direct family law litigants to appropriate destinations within the courthouses. Children must be accommodated in secure and child-friendly areas staffed by childcare providers, who may be volunteers or members of a community organization with whom the court has formed a partnership. Assuming appropriate resources are available, domestic violence victims are segregated from their alleged abusers and protected by security personnel when requested. Judges' and masters' chambers must be secure and inaccessible to the public, and courtrooms and public waiting areas must be staffed adequately by security.

2. Civility of Court Personnel. This standard "pertains to the conduct of court personnel as well. The behavior of court personnel impacts convenience, safety and accessibility. . . ."[18] Thus, judges, masters and other court staff must be courteous, responsive, and respectful. All Family Division staff must receive training about how to respond to litigants' inquiries and concerns. "In keeping with the public trust embodied in their positions, judicial officers and other court employees should reflect by their conduct the law's respect for the dignity and value of all individuals who come before, or make inquiries of, the court...These requirements extend to the manner in which the employees of the court treat each other."[19]

3. Maintaining Uniform and Comprehensive Data. Maryland's Family Divisions aspire to maintain uniform and comprehensive data regarding the characteristics of those using the court and the types of problems litigants seek the court's assistance to resolve. Thus, Family

Divisions must collect substantive data that helps reveal the complexity and nature of these cases (such as the number of pro se cases filed, the number of pro se cases that reach a final disposition, the number of contested family law cases, the number of family law cases mediated, the time from filing to disposition, the number of cases where family members are evaluated for substance abuse, the number of cases that involve domestic violence, and the number of cases that involve children). Only by accurately profiling how the Family Divisions are utilized can they be tailored appropriately to meet effectively the needs of the citizens attempting to resolve their family legal proceedings through Maryland's family justice system.

Tools of Measurement

1. User-friendly Checklists. The Department of Family Administration of the AOC should distribute to each Family Division a survey that measures conveniences such as: (1) court and court services hours for litigants, (2) access to services on weekends, (3) adequacy of signage within the court facility, (4) existence of child-friendly facilities, including child care, (5) adequacy of security, (6) adequate segregation of victims and alleged perpetrators and (7) public waiting area conditions. This survey should be distributed at yearly intervals to determine improvements made by the Family Divisions.

2. Measuring Civility of Court Staff. The Department of Family Administration at the AOC should, from time to time, assess each Family Division to determine civility issues. Exit surveys of family law litigants are appropriate measures of court staff civility. This process will facilitate the means to determine basic courtesy, and respect and responsiveness among judicial officers, court staff, and the public, generally.

3. Data Collection and Analysis. The Family Divisions aspire to collect and analyze data in a uniform manner. To ensure uniformity, the AOC should identify for all Family Divisions: (a) the sources from which data will be collected, (b) the manner by which data shall be collected, (c) the manner by which data will be organized and managed, and (d) the process by which the data shall be analyzed. In determining what data shall be collected, consideration should be given to several factors:

- Validity, or the extent to which data sources actually measure what they intend to measure;
- Reliability, or the extent to which measuring the same thing will produce the same answer;
- Directionality, or the extent to which a range of performance must be measured, that is, good, bad or in-between;
- Bias, or the extent to which the data collection procedure can be influenced by the predispositions of the collector;
- Accessibility, or the extent to which the data can actually be captured and not estimated; and
- Systematic Outcome, or the extent to which the data, once analyzed, will produce the intended measure.

expedition and timeliness

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

- Establish and comply with recognized guidelines for timely case processing while, at the same time, remain current with incoming caseload.
- Disburse funds promptly, provide reports and information according to required schedules, and respond to requests for information and other services on an established schedule that ensures their effective use.
- Promptly implement changes in law and procedure.[20]

These issues might be addressed by reaching consensus on priorities for the family court system that bear some connection to the Trial Court Performance Standards for expedition and timeliness. The Case Processing Subcommittee of Maryland's Ad Hoc Committee on the Implementation of the Family Divisions articulated several principles that directly relate to expedition and timeliness in its report of April 1999.[21] Several bear repeating:

- Family law cases require early intervention.
- Judicial time is a scare resource and should be used only when intervention of a judge is necessary.
- The bar and court personnel should focus on problem solving rather than on litigating all family conflicts. Case management procedures and Family Division services should support families in creating permanent solutions to family conflict.

These principles focus on time consciousness by recognizing value in early intervention for families in conflict and by resolving family disputes promptly and in a less adversarial manner. They provide impetus for development of standards that identify system priorities consistent with the basic standards.

In October 1999, Maryland's Family Division Judges met to identify more specifically performance standards for the Family Division based on both the Trial Court Performance Standards and the principles identified by the Case Processing Subcommittee. Their efforts are reflected in the standards that appear herein. More recently, the Maryland Judicial Council has developed a distinct time standard for child access cases. This effort is part of its statewide initiative to develop and implement case time standards for measuring court performance and for identifying case management best practices within the courts.

Standard 2.1
Case Management System

In order to provide for the fair, reasonable and expeditious resolution of all issues arising in family legal matters, Maryland's Family Divisions manage and operate a case management system that compels timely discovery and fruitful settlement negotiations with a view toward limiting the issues requiring trial.

Commentary

Disposition of a family legal matter that requires division of the family unit is one of the most critical decisions Maryland's Family Divisions judges make. In most instances, family structures are dissolved and new family structures are created. Families are affected dramatically by these decisions. The Family Divisions at all times engender in litigants the confidence that a fair and expeditious resolution is forthcoming. In the event that complex issues or service delivery delay resolution, the court provides an interim plan designed to maintain as much relational stability and constructive interaction as possible.

Implementation Issues and Recommendations

1. Case Reception or Family Intake Function. Each Family Division has a case reception or family intake function where filing, case establishment, and initial case screening can occur. Case reception or the family intake function serves as the initial entry point into the court system for the family. Pleadings, the Case Information Statement, and other relevant documents received by and filed in the office of the Family Division clerk are forwarded to the Family Division case reception unit or function. Case files are forwarded electronically, when possible. Court staff who are trained in conducting case assessment and screening initially screen documents for these reasons: (a) to establish a Family Division case file, including data entry into the appropriate automated information system(s); (b) to review the documents and pleadings and to make an initial recommendation to a specified differentiated case management standard (See DCM discussion infra, at pages 21-22) to the Family Division coordinator (even in uncontested matters); (c) to identify the most immediate service needs of family members and to initiate necessary linkages between the family and appropriate service agency representatives or liaisons; and (d) to help ensure quality in the process. Trained court staff and sufficient clerical support are vital to this function.

2. Case Information Statement. The Family Divisions have adopted a practice that requires the filing of a Case Information Statement with every first appearance.[22] This document provides initial party information that assists the court in assessing and managing the case.

3. Differentiated Case Management. Every Family Division matter is managed and monitored from the filing of the first appearance to disposition. Each case is assigned to a case management standard

Standard 2.1 Case Management System

In order to provide for the fair, reasonable and expeditious resolution of all issues arising in family legal matters, Maryland's Family Divisions manage and operate a case management system that compels timely discovery and fruitful settlement negotiations with a view toward limiting the issues requiring trial.

based on the concept of differentiated case management. Differentiated case management practice requires that cases be assigned to a case management standard based on the perceived complexity of the case and the anticipated resource requirements of both the court and the family involved in the case. Issues such as the anticipated number of court appearances, anticipated length of discovery, size and complexity of a marital estate, amenability to alternative dispute resolution, and pendency of other matters in the Family Division are considered in making a case standard assignment. Standards are applied based on information contained within the Case Information Statement and identified in the case scheduling conference. Standards are applied to emergent, uncontested, standard, or complex cases based on information provided by the litigants, often through the Case Information Statement. Appropriate timeframes are applied to each standard so that likelihood of timely completion of discovery, linkage to services, and appropriate calendaring, docketing and scheduling of events are increased. The parties on a voluntary basis may consider linkage to certain resources, such as parenting classes for uncontested matters.

Assignment to a case processing standard is made by court support personnel who are experienced and trained in assessing case complexity and resource needs. Assignment of a case processing standard may be reviewed by a Family Division judge on request of a party or for other appropriate reasons.

4. Reliable Trial Dates. Trials in family law cases are calendared expeditiously. Establishing "real" trial dates helps to minimize the pain, anger, and frustration of the family legal process. Initiation of trials on a date certain and trial of those matters to completion as expeditiously as possible are less costly for litigants and make the most efficient use of time for both the bench and bar.

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

Measurement Tasks and Tools

1. Survey Instrument. The AOC will use a survey instrument that requests specific descriptions of how cases are received by the court, including staff involved and estimated time to receive the case, establish a file, and conduct initial case screening, if any. Staff background and training will be identified.

Identification of the procedures used to receive cases in each of the Family Divisions will provide information on strengths and weaknesses of the process. It also will capture data on numbers of service referrals and the time necessary to process cases at the initial point of entry. This time measurement will assist the AOC in estimating Family Division staffing needs for this purpose. The process also will help identify those practices that are considered better than others and that have potential for duplication in other circuits.

2. Focus Group or Meeting, Comparative Data Analysis. A focus group or meetings may be conducted with Family Division case reception or intake personnel concerning their use of the form for screening purposes that include service referrals and court event scheduling. An additional focus group or meeting may be conducted with selected members of the family law bar to secure feedback on use of the Family Division Case Information Statement.

Solicitation of the opinions of those staff who work with the Case Information Statement will assist in improving the form and determining its overall utility in fulfilling the goal of differentiated case management. Attorney feedback also will also assist in improving the form, may increase compliance with its filing requirements, and may resolve substantive issues of concern relative to confidentiality and other aspects of information disclosure. A comparative analysis of Family Divisions that use the form against those that do not for time to disposition may assist in determining the degree to which the form expedites case processing.

3. Survey, Focus Groups and Case File Review. The AOC may survey the development and implementation of differentiated case management in all Family Divisions, including definitions of each identified assignment. Focus groups or meetings may be conducted with Family Division coordinators, as well as family law practitioners, to help determine use and utility of differentiated case management in the Family Divisions. Physical case file review may be conducted of a select number of cases from each standard to determine consistency of case management and time to disposition. Note that much of this activity constitutes normal, periodic procedures as part of periodic audit practices.

Survey results will help determine the progress of differentiated case management implementation in the Family Divisions and will assist in identifying significant time distinctions among case processing tasks. Focus group meetings will provide feedback on the efficacy of those case processing tasks, allowing for identification of areas in need of improvement. Review of case files utilizing this process will aid in determining whether case management practices are saving time for litigants and the Family Divisions.

4. Judge and Master Surveys, Bench-Bar Meeting, Case File Reviews. The AOC may construct and distribute a survey to Family Division judges and masters concerning the procedure for the scheduling conference, what is covered, and when it is conducted. The survey also may solicit opinions of the bench, litigants, attorneys, and court personnel concerning the utility of the case scheduling conference. A joint bench-bar meeting may be conducted to discuss, the case scheduling conference, its strengths and weaknesses, and training to conduct an effective case scheduling conference.

Development and distribution of survey instruments can be an expensive and time-consuming process. A brief survey of the Family Division judges, even telephonically, will help determine the viability of the case scheduling conference concept. A joint bench-bar meeting of selected representatives from each group will provide balanced insight into the utility of this case management tool. A physical case

file review, which can be done on a circuit-by-circuit basis by the Family Division coordinators, will indicate the degree to which the concept has been implemented.

5. Surveys Concerning Viability of Trial Dates and Continuances. A comparative analysis between data recovered from surveys of court coordinators and the practicing bar will indicate the viability of "real" trial dates. Litigant feedback on the number and nature of continuances or adjournments will provide an additional perspective that may tend to verify data recovered from court coordinators and/or the practicing bar.

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

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

By offering mediation service providers regular opportunities to participate in Family Division alternative dispute resolution policy and practice development, a spectrum of alternative dispute resolution services that serve different needs of litigants can be developed and implemented. Exit surveys for litigants will assist in determining prospective time and cost savings in the system, as well as litigant satisfaction with the alternative dispute resolution process.

Standard 2.2
Protection of Victims of Domestic Violence

The practices and procedures of Maryland's Family Divisions maximize protection efforts for victims of domestic violence by ensuring access to the courts, coordination of other family matters with domestic violence proceedings, and by securing a comprehensive understanding of individual and family history relative to violent conduct. The Family Divisions conduct adequate, independent screening and identify important family needs via an established domestic violence protocol. Maryland's Family Divisions endeavor to hear all ex parte petitions for relief from domestic violence as soon as possible after the alleged victim's entry into the court facility.

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Commentary

Domestic violence represents a serious offense against individuals and society. The intent of the Family Divisions is to ensure victims of domestic violence the greatest and most expeditious protection from abuse that the law can provide. Reasonable standards of security, as established by the Family Division judge, recognize the special volatility of domestic violence matters. Maximum protection requires an immediate response by the court. Assuming resources are available, victims can request additional assistance to ensure their physical safety within and around the courthouse facility. Victim advocates are easily accessed within the facility. Effective collaboration between the Family Division and domestic violence service providers is accomplished, in part, through educational efforts on the needs and expectations of the court in order to ensure effective protection against continuing victimization.

Provision is made, as appropriate, for stay-away orders, adequate shelter, child support, necessary expenses, and custody and visitation arrangements. Extending these protections requires that every response be effective in accomplishing each action ordered on a timely basis. Non-compliance with any provision of a civil protection order is addressed by prompt proceedings that enforce the rights of the parties and provide firm penalties for adjudicated acts of contempt.

Implementation Issues and Recommendations

1. Protocols for Linking Domestic Violence Cases with other Pending Family Cases. Protocols should be developed in order to ensure that litigants in domestic violence matters receive necessary assistance to pursue child custody and visitation issues in a separate but coordinated fashion. These protocols should include discussion of the means to provide needed information to domestic violence litigants as well as the means to cause the court to be aware of the custody and visitation issues.

2. Venue as a Limitation for Relief. Filing of applications for ex parte relief is not refused based on victim's county of residence. Practices and any resulting orders are compliant with the full faith and credit provisions of federal law. Securing the safety and protection of the victim and victim's children is considered the utmost priority. Issues related to proper venue are resolved after safety and protection is assured. A clear statement of law, development of concise policy, and follow-up training helps to minimize barriers and obstacles to ensuring effective transfer of all provisions of the protective order when there are venue issues associated with the issuance of an ex parte order for relief.

3. Provision of Comprehensive Information. Every Family Division has established a procedure in which an assigned case manager provides a brief case summary, including a list of documents and service provision, to the judge or master. This process of providing as much information to the judicial officer as possible, given the immediacy of the circumstances, assists him/her in becoming aware of matters at

issue and in structuring the final order.

4. Continuous Hearing and Immediate Order. A hearing on the merits of the domestic violence matter, including consideration for issuance of an order of relief from domestic violence, is heard on a priority basis, until complete. The final order issues as soon after the conclusion of the hearing on the merits as possible.

Tools of Measurement

1. Local Documentation of Efforts. Domestic violence training efforts for judges and staff are documented on an annual basis, including participation in multi-disciplinary training efforts. Qualifications of court staff who are handling domestic violence matters are documented through the Family Division coordinators. The present intake and screening process for domestic violence matters is documented through each Family Division.

2. Survey of Case Processing Steps. Surveys of each Family Division can be conducted to determine the current procedure for handling ex parte applications for relief and timeframes for the procedure. Alternatively, a six month documentation procedure for all ex parte applications can be conducted, requesting staff to identify case processing steps and time estimates for each step from reception to issuance of the order. Data for the number of ex parte applications received and the average time necessary to process them also can be captured.

Engagement in the above performance measures can provide a snapshot of the staff within the Family Divisions who are handling domestic violence matters and can help identify the need, if any, for additional training efforts.

The data to determine degree of compliance with this performance standard require documentation by staff within the Family Divisions who are assigned domestic violence case management duties. To the extent an automated information system has recorded case establishment to disposition data, a data profile can be developed that will document time to issuance of order.

3. Documentation of Non-Resident Ex Parte Applications. Family Division coordinators can document the number of ex parte relief applications received from applicants who do not reside within the jurisdiction. Of those, the number processed notwithstanding jurisdiction can be documented.

Accurate data for this performance measure may be difficult to determine, based on the possibility that law enforcement initially may advise a potential applicant (albeit erroneously) that s/he cannot file the application in a county of non-residence. A more accurate analysis would confine itself to those applications received by the Family Division in which the applicant is not a resident of the county.

4. Documentation of Information Flow. Family Division coordinators can provide data about the information flow, including: (a)

who provides information to whom; (b) the origin and content of the information; (c) what documents are provided and discussed; and (d) the opinion of judges and involved staff concerning the merits of the case providing as much information as possible to the judicial officer. Reasons for not providing information when it is known to be available should be documented.

Capture of data concerning the type of information considered helpful to the decision-making process will help determine its utility, resource requirements, and means to improve upon the process, if appropriate.

Standard 2.3
Processing Child Dependency Matters

The Family Division has jurisdiction over child abuse and neglect procedures, so the court will manage and operate a system of case management standards and procedures that is reflective of the Foster Care Court Improvement Project (FCCIP) recommendations published in 1997.[23]

Commentary

In 1995, after a substantial Congressional appropriation to the fifty states to improve handling of child abuse and neglect cases, former Chief Judge Robert C. Murphy appointed the Foster Care Court Improvement Project (hereinafter, FCCIP) Advisory Committee to conduct a three-part approach to improving the Maryland juvenile court response to these cases. These steps included:

a. Conducting a comprehensive assessment of the rules, standards, and criteria imposed under Maryland law that affect abused and neglected children;

b. Developing recommendations for change based on the assessment;

c. Implementing recommended procedures and practices to enable systems improvements

The FCCIP report containing 37 recommendations was published in 1997. The recommendations were categorized within four areas:

a. Uniform terminology and restructuring of information and data collection procedures;

b. Training for members of the Judiciary assigned to handle child abuse and neglect and termination of parental rights cases;

c. Statutory revisions;

d. Quality of representation for all parties.

In additional to the Maryland FCCIP recommendations, the provisions of the Adoption and Safe Families Act[24] represent significant challenges to the Family Divisions that must be met in order for Maryland to continue to receive federal dollars to support reasonable

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efforts and permanent placement efforts for abused or neglected children and their families.

Implementation Issues and Recommendations

1. Systems Automation. Maryland's courts that handle child dependency matters are expected to comply with the uniform terminology and practices established by the Maryland Automated Judicial Information for Children (hereinafter, MAJIC) software which began use in November 1999.[25] Integration of the MAJIC software functionality into the existing MIS functionality within the Maryland court system is being explored so that multi-family member coordination may occur more efficiently.

2. Training. The Maryland FCCIP Report recommends that judges and masters who are newly appointed to this jurisdiction receive an orientation and annual and semi-annual training.[26] Since September, 1998, these trainings have occurred on a regular basis, and an orientation program has been implemented. A Child Welfare Benchbook has been developed and distributed for use by Family Division judges and court staff.

3. Statutory Framework. The FCCIP Advisory Committee recommended development and incorporation of a new and comprehensive statute that addresses child protection proceedings in Maryland.[27] This statute should include: (a) uniform terminology; (b) clarification of the role of judges and masters; (c) clarification of assignment procedures for judges and masters: (d) requirement for early paternity establishment; and (e) provision for adequate and timely appointment of legal counsel for all parties. To the extent Family Division judges and masters handle child dependency matters, assignment procedures must take into account the need for coordination of all family-related proceedings within the Family Division.

4. Legal Representation. Based on recommendations made by the FCCIP Advisory Committee, one of its subcommittees developed "Uniform Standards of Representation for Attorneys Representing Children in CINA, TPR and Related Proceedings," a publication approved by Standing Committee on Rules of Practice and Procedure in February, 2001. These Standards were appended to the Rules of Professional Conduct and cross-referenced within the Juvenile Rules as "Guidelines of Advocacy for Attorneys Representing Children in CINA and Related TPR and Adoption Cases."[28]

Tools of Measurement

1. Documentation of FCCIP Project Recommendations Implementation. Surveys can be distributed to Family Division coordinators to determine the progress of the court toward implementation of the FCCIP recommendations. The Department of Family Administration in the AOC, together with the FCCIP, can review child protection agency statistics as provided by the state child protection agency and can compare those data on a year-to-year basis to determine Family

Division progress toward:

a. reducing the number of children in substitute care;

b. reducing the amount of time children are in substitute care;

c. reducing the number of minority children in substitute care;

d. reducing the amount of time minority children are in substitute care;

e. achieving timely performance, in general.

2. Documentation of Training. The Department of Family Administration, in cooperation with the FCCIP Advisory Committee, can document all training programs on child protection in which Family Division judges and staff participate during the court year. Documentation of orientation and mentoring efforts for newly appointed Family Division judges and masters also can be completed.

3. Review First Hearing Procedures. The Family Division may wish to work with the FCCIP Advisory Committee to conduct an inquiry relative to first hearing procedures in the Family Divisions. This inquiry might include: (a) parties and witnesses present; (b) key decisions made; (c) assignment or submission of reports; (d) nature of written findings of fact and conclusions of law (whether they are made); (e) whether date and time certain is set for next hearing; (f) length of hearing; and (g) efforts to coordinate other family-related matters pending in the courts.

If only selective Family Divisions choose to implement this practice, it will be useful to conduct a comparative analysis between Family Divisions that use this approach and those that do not. Time to disposition and time to reunification or permanency would be core factors that determine success for the purpose of this analysis.

4. Local Tracking of Continuances in Child Protection Matters. In cooperation with the FCCIP Advisory Committee, the Family Divisions may wish to determine the existence of a "continuances policy" respecting child protection cases in each Family Division. The scope of inquiry should include: (a) most common reasons for granting of continuances; (b) who grants them (if not the judge); (c) if there is a policy regarding maximum number of continuances permitted per case, and, if so, what is that number; (d) policy relative to granting continuances when all parties agree to one; and (e) procedure for requesting a continuance.

The American Bar Association reports that no states have a uniform policy regarding continuances.[29] Many states, however, have informal policies concerning continuances in child protection proceedings, often balancing the best interests of the child over the reason for the request for the delay in proceedings.

Standard 2.4 Resolution of Juvenile Delinquency Cases

All juvenile delinquency cases are resolved in a prompt and thorough manner within the Family Divisions, according to the Constitutions of the United States and the State of Maryland,

Standard 2.4 Resolution of Juvenile Delinquency Cases

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statutory law, and precedent in order to protect society while applying the means necessary to adequately address the developmental needs of the child before the court.

Commentary

The need to address the behavior of youth with a different set of laws and remedies than those applied in the adult courts has long been recognized. When the first juvenile court was implemented in Chicago in 1902, its founders believed that children develop and change based on environmental influences and that the state must assume a degree of parental responsibility for children raised in an environment that negatively impacts on their development.

Creation of the Family Divisions provides the juvenile justice system with an opportunity to combine delinquency adjudication with a strong presence in the life of the juvenile's family. It provides enhanced opportunity for more dispositional alternatives within which the entire family might be held accountable. At the same time, when the behavior of a juvenile has been heinous and all alternatives have been exhausted, the Family Division does not inhibit the transfer of that juvenile to the adult courts where justice may be served more effectively.

Uniformity of practice will greatly aid the Family Divisions in making timely and expeditious decisions in juvenile justice matters. Uniformity of juvenile petitions will aid in developing an automated information system program that can manage more effectively information related to juvenile delinquency and will enable the Family Divisions to screen efficiently the petition for sufficiency.

Implementation of a juvenile drug court component within the Family Divisions (federal resources for which are widely disseminated) will help discourage unreasonable delays in and redundant prosecutions of perennial substance abuse offenders.

Provision of more complete information about the family history and other involvement within the Family Division will aid the court in determining and ordering more appropriate dispositions for children in juvenile proceedings.

Implementation Issues and Recommendations

1. Juvenile Delinquency Jurisdiction. The Family Divisions will implement the recommendations of the Juvenile Workgroup to ensure that juvenile cases benefit from their inclusion in the Family Divisions.

2. Response to Juvenile Substance Abuse. The Family Divisions will develop and implement a response to juvenile substance abuse with emphasis on providing treatment, prevention, and education services for the entire family. The Family Divisions will work together to identify potential resources within their own jurisdictions that can be shared among them. Drug testing facilities, in-patient bed space, or outpatient treatment facilities may be some examples of resources that might be shared on a quid pro quo basis.

3. Dispositional Resources. The Family Divisions, in collaboration with the Maryland Department of Juvenile Justice, will work to advocate for and to inform the Family Division judges and court staff of available dispositional resources for juveniles, including development of community-based diversion and creation and maintenance of a dispositions resource manual (real time, on-line, if possible) for use by Family Division judges.

Tools of Measurement

1. Focus Groups to Initiate Implementation. The AOC can develop a focus group session, survey, or other appropriate instrument to identify specific barriers to incorporation of the juvenile delinquency jurisdiction into the Family Division and the development of potential strategies to overcome those barriers.

Identification of barriers and formulation of strategies to overcome those barriers, presented in report form by the Juvenile Work Group to the Chief Judge and to the Maryland legislature, indicate tangible evidence of the intent of the Judiciary to fulfill the mandate of the court rule. The AOC, the Family Divisions and the Family Law Committee are working to develop strategies to fully implement the juvenile delinquency jurisdiction into the Family Division.

2. Secure Data on Petition Contents, Screening Procedures. A meeting of presiding Family Division judges and Family Division coordinators might begin discussion toward reaching consensus on required components of a juvenile petition that can reflect standardized data. Documentation can be made of training and education for court staff on screening the petition for sufficiency and entry of data into an automated information management system based on information contained within the form. A survey of court staff who are assigned juvenile petition screening and case processing responsibility can be conducted to secure and analyze time and task data.

While a standardized juvenile petition may not save significant amounts of case processing time initially, it will provide the basis for more efficient management of juvenile delinquency file information within an automated system that is commonly used by all Family Divisions. Moreover, the process of reviewing the petition may help identify redundancies or inefficiencies within the form that can be amended.

3. Substance Abuse Procedures and Resource Assessment. Family Division coordinators can work with the Department of Juvenile Justice to identify gaps in service needs. If necessary, steps can be taken to implement a substance abuse assessment and screening policy and procedure for juveniles who are referred to the Family Division and subsequently determined to be "delinquent." A survey can be conducted of Family Divisions to determine present substance abuse treatment, prevention, and education resources available in the jurisdiction. In cooperation with those agencies that have appropriate resources and that provide treatment, prevention, and education services, documentation can occur of Family Division cases in which a juvenile delinquency petition and subsequent substance abuse

screening have resulted in service referral for other family members, including the subject juvenile.

The ability of the Family Divisions to expeditiously screen juveniles for substance abuse issues is important to the holistic and therapeutic approach to family justice the court advertises as one of its benefits. It is important to determine the ability of the Family Divisions to participate in this assessment and screening process. If any of the Family Divisions is unable to perform these services, it will be important to identify the barriers to performance and ensuing strategies that will help cure this limitation.

4. Dispositional Resource Inventory. Family Division judges identify community-based disposition resources within their respective jurisdictions and develop a list of those resources based on information received. Judges and coordinators work to initiate community-based diversion programs, such as citizen volunteer panels to adjudicate minor and first/second time juvenile offenses. A multi-disciplinary committee could be formed to develop a disposition resource manual for the bench, keeping in mind the possibility of making such a document "real-time, on-line."

The number of referrals to community-based diversion programs, duration of time necessary for referral, and nature of outcome on a Family Division by Family Division basis can be tracked and recorded. Tracking real costs of each and conducting a comparative analysis should demonstrate potential cost savings of community-based diversion versus formal court adjudication.

Standard 2.5 Coordination of Family Legal Issues

The Family Divisions assess and identify all court matters relating to the same family in a timely and expeditious manner. In doing so, the Family Divisions apply uniform criteria for determining the need to coordinate or consolidate those matters in order to refer all matters involving the same family to the same judge or to the same case management personnel or team.

Commentary

Families frequently are returning to court on related matters and are faced with the potential for redundancy of events, conflicting court orders, and protracted litigation. By assigning all matters related to the same family to one judge or to one case management team, the premise is that the judge and/or team will be better informed concerning family dynamics, the nature of the proceedings involving the family, and the needs of the family unit. Decision makers will be better positioned to make informed decisions, meaningful orders, and service referrals for individual family members or for the family as a whole.

Detractors express concern that a judge who hears all matters related to the same family may become too familiar with the family and may be pre-disposed to decision making in their regard. Concern

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also has been expressed relative to the means to schedule sufficient trial time for judges who may be subjected to regular interruptions of trial proceedings to address emergent matters related to an assigned family.

The Juvenile Work Group of the Ad Hoc Committee on the Implementation of the Family Divisions[30] has examined this issue at length, studying various other family court models, developing a plan for incorporation of an effective model of case coordination into the Family Divisions, and identifying legislative or rule changes that may be necessary to achieve effective case coordination. Their work was completed in January, 2001, and, to the extent relevant, is incorporated herein.

Implementation Issues and Recommendations

1. Fully-Coordinated Automated Information System.[31] Domestic and juvenile information management systems must be coordinated within each jurisdiction and throughout the Maryland courts. Access to relevant information by judges is a critical part of effective coordination of family matters that leads to more comprehensive decision making for families. Access to information concerning histories of domestic violence and pending domestic violence matters is particularly important.

Where different information systems must be utilized, an identical family case identifier, common to all systems, should be used to permit cross-referencing of family-related cases. Dedicated court staff should be identified to conduct searches for pending or historical matters. Funding should be provided for these positions.

2. Single Point of Entry into the Family Law System.[32] The Family Division should establish a uniform intake or case reception function through which all family and juvenile cases should enter the court. A qualified intake specialist should staff this function. A uniform intake screening function should be practiced within each Family Division.

3. Coordination of Service Delivery.[33] Effective service delivery for families who come to court requires development and implementation of policies, practices, and procedures between the court and the service agencies, such as the local Department of Social Services or the Department of Juvenile Justice. This process facilitates an expedient and coordinated response to family service needs. It may require identification of agency liaisons with whom the Family Divisions communicate regularly, regular meetings between the court and the services agencies, or entry into memoranda of understanding or cooperative agreements to facilitate sharing of important information concerning family service needs.

4. Professional Staffing of Cases.[34] Case staffing or team-based case management involves professional court staff, such as case or social workers, psychologists, and others, bringing to bear their collective expertise to share information and to problem-solve appropriate issues concerning families in court. This process helps eliminate redundancy of efforts and proceedings and improves the

quality of information on which the court must rely when making decisions concerning the family.

5. Family Division Lead or Presiding Judge.[35] A Lead or Presiding Judge of the Family Division can provide impetus for meetings of judicial officers and court staff relative to policy, practice, and procedural and training issues for the Family Division. The time necessary to conduct these meetings and training programs should be acknowledged and supported as necessary to the efficient administration of that portion of the court wherein, by nature, highly emotional and intense matters are adjudicated.

6. Use of Family Law Masters.[36] The use of masters in the Family Division is essential to provide the continuity and consistency required of family-related cases. Although not clothed with the judicial authority of the Family Division judge, the master provides for effective coordination and management of the case by encouraging early settlement among the parties and by handling the numerous procedural and non-adjudicatory case events that tend to resolve family conflict more effectively than adversarial trial process.

7. Confidentiality.[37] Juvenile matters pertaining to children are, by law, confidential in Maryland.[38] Court staff, however, must have access to juvenile information in order to identify family-related matters within the courts. This access does not have to be unlimited, but it should include the ability to make systems inquires for existing cases and to deliver that information to Family Division judges and masters.

Tools of Measurement

1. Telephonic Poll. Conduct a telephonic poll of Family Division coordinators to determine the extent of implementation.

2. Identification of Existing Protocols and Procedures. Uniform protocols and procedures, if any, can be identified. If none exists, statewide and local efforts undertaken to establish a protocol can be identified. Alternatively, policies, practices, or procedures utilized by individual Family Divisions to identify family case history and pending family member matters can be identified in other courts throughout the state.

While a uniform protocol may not have been developed and implemented, individual Family Divisions may have implemented effective practices to identify pending family matters in other Family Divisions. This process might lead toward eventual adoption of a uniform protocol based on practices identified within one Family Division.

3. Case History Review. An informal review can be conducted with Family Division coordinators of the practices utilized to discover case histories in each of four case types as identified above. This review can be conducted via focus group, business meeting, or as a part of a more comprehensive case management survey.

4. Collection of Form Samples. Copies of any forms used to document family case history are collected and reviewed for common

information. To the extent a uniform, statewide form exists, frequency and method of use is documented within a larger survey instrument as described above. If a statewide form presently is used, this exercise should provide an opportunity to discuss needed changes to it, if any, aside from use and utility issues.

5. Survey of Confidentiality Practices. As part of a broader survey relative to case management practices, information on policies and practices relative to measures to ensure confidentiality should be secured. If possible, known breaches of confidentiality, if any, can be documented and potential solutions should be considered. The appropriate policy-making body within the Judiciary to determine potential amendment or elimination can review policies or practices related to confidentiality that tend to slow the case management process and that have no apparent value relative to safety and protection.

When reviewing confidentiality and information sharing practices within the Family Divisions, it may be helpful to consult with the local Department of Social Services, the state Department of Juvenile Justice, victim and child advocates, the public defender, the local and statewide prosecutor, and the practicing bar to resolve concerns relative to potential bias, safety, or protection in this area.

6. Documentation of Short and Long Range Planning Efforts. Document short and long range plans for implementation and progress that has occurred. Explain fiscal implications. Identify intended functionality of the system based on needs as identified by Family Division coordinators. If outside consultants have been or will be retained for any services in this area, their qualifications and the selection process may be important to document.

7. Existence of Information Sharing Protocols. Measures 6 and 7 above will assist in determining the extent to which confidential information presently is exchanged between the Family Division and relevant family services providers. Existence of or efforts to enter into information sharing protocols between agencies should be documented.

equality, fairness and integrity

The Trial Court Performance Standards identify six specific standards that address equality, fairness and integrity of the trial court, including:

- Faithfully adhering to relevant laws, procedural rules, and established policies;

- Giving individual attention to cases and deciding them without undue disparity among like cases and upon legally relevant factors;
- Rendering decisions that unambiguously address the issues presented and clearly indicating how compliance can be achieved;
- Taking appropriate responsibility for the enforcement of orders;
- Monitoring records of all relevant court decisions and actions for accuracy and proper preservation.[39]

As courts of law, family courts ensure constitutional protections, such as due process and equal protection, while, at the same time, emphasizing less adversarial dispute resolution and early intervention into families' lives.[40] The Family Division sometimes is placed in the position of "going the extra mile" to prove that it is a court of law based on those principles guaranteed by the Constitutions of the United States and, in the instant case, the state of Maryland. The Family Divisions adopt and abide by preservation of the rule of law as a core value by which they function. The Family Divisions show evidence, through performance standards, of the means by which they adhere to this core value.

The Family Divisions work with the most diverse clientele of any state trial court. Family crisis and dysfunction cross lines of socio-economics, race, gender, age, language, and educational levels. Rates of pro se representation in every family court throughout the country are extraordinarily high, commonly outnumbering represented litigants. For many, the courts are a confusing and frightening place. Those feelings often are exacerbated by inconvenient court hours, discourteous employees, and confusing legal rhetoric. The Family Divisions show evidence, again through performance standards, of the means by which they work to implement family justice that is equally dispensed and fair to all those who must appear before the court.

Family courts tend to be that part of the court system with the highest case volume.[41] As such, they are charged with responsibilities that go beyond family law decision-making. Family Division orders must be capable of being enforced by the court through the appropriate exercise of its constitutional authority without regard for the high number of cases that come before it. Moreover, the Family Divisions must provide the means for access to records of court proceedings, many of which involve multiple members of the same family. Parties may revisit divorce proceedings in which custody, visitation, and support are decided on several occasions. Child dependency proceedings require multiple court reviews and party appearances, sometimes over extended periods. Juvenile delinquency records are important tools for Family Division judges in rendering informed dispositions. Each of these issues requires that the court maintain accurate and accessible records.

Standard 3.1

Standard 3.1 Integration of Related Family Matters

Family Division litigants have enhanced ability to comply with orders of the court when there is integration of related matters so that chances for conflicting orders are minimized. Moreover, pro se litigants are afforded a uniform intake process that includes a uniform mechanism for case reception and establishment.

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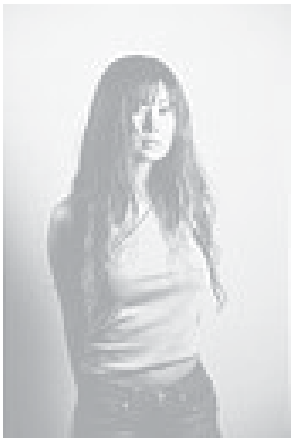
Commentary



The Case Processing Subcommittee of the Ad Hoc Committee on the Implementation of the Family Divisions recommended in their April, 1999, report that a uniform case processing system be implemented in the Family Divisions. The Subcommittee went further by articulating the specific elements of such a system, which included a scheduling conference, interim order, sanctions for non-participation, judicial assignment, case monitoring, court fees, file handling, emergent matters, and a specific domestic violence protocol.[42]

In its articulation of guiding principles, the Subcommittee promulgated Principle 6, as follows: "Courts should adopt 'user-friendly' case processing systems to facilitate effective access by pro se litigants."[43]

A uniform case processing system with access for all potential users is a priority and is also an integral element to ensuring equality, fairness, and integrity in the family justice system.

Implementation Issues and Recommendations

1. Court Orders. Court orders of the Family Division are comprehensive and specific to the needs of the family before the court. Orders are well articulated in language that any party to the proceeding could readily understand.

2. Bench Books and Cards. There are adequate resources available to the bench to assist in the construction and issuance of the court order. Such resources may include electronic or on-line materials and bench books and/or laminated bench cards.

3. Timely Court Orders. Court orders are entered in a timely manner with an emphasis on expeditious processing. A timeframe is established for the entry of court orders.

4. Training and Mentoring. Training and mentoring for Family Division judges that includes developing and drafting effective court orders has been designed and is conducted as necessary.

5. Linkages for Effective Service Delivery. Appropriate steps are taken to ensure linkages between the Family Division and necessary services providers, taking extreme care to enable delivery of services to families in need without regard to ability to pay.

Tools of Measurement

1. Non-Court Review of Uniform Orders. Existing uniform order

forms are collected from each Family Division. Forms may be completed hypothetically and distributed to a multi-disciplinary group of volunteers, including former litigants, elementary school teachers, and other non-court personnel. Volunteers may be asked for their understanding of the content of the hypothetical order. Orders can be modified as needed to better facilitate their understanding by potential system users. This exercise also can be done using non-English speaking volunteers.

2. Needs Assessment for Bench Resources. Inventory current Family Division or family justice related resources for judges. Identify areas of practice where judges would benefit from resources that presently do not exist.

Guiding resources such as laminated bench cards have proven popular among family court judges in other states in recent years. They are easy to organize, read, and refer to while on the bench. Other resources, such as judicial bench books, while more comprehensive than a bench card, require more judge time to consult, generally require work by committee and subsequent approval over long periods of time, and are more costly to produce.

3. Case File Review. The definition of "timely court order" depending on the nature and purpose of the order should be determined. Family Division coordinators should be consulted to help determine the implementation or existence of any time frames promulgated for the issuance of Family Division orders by circuit or statewide. To the extent time frames for issuance of orders are established, a physical case file review or data extract to access the automated information management system can be conducted/developed to determine compliance with established time frames over a pre-determined period. Case file review and data extract preparation require staff resources that may not be available to every Family Division. If these activities are contemplated, adequate resources should be requested and provided with sufficient lead-time for training and orientation of new personnel. Alternatively, Family Divisions may extract all court orders, including notation of time from hearing to issuance of the subject order, for a specific period as a more direct, albeit resource and time consuming, approach.

If the court's automated case management system is not capable of providing this data via development of an appropriate data extract, the most practical approach to determine performance for this measure is to maintain the "Order Log" on a Family Division by Family Division basis. This process requires allocation of sufficient resources to facilitate manual information entry into the log.

4. Documentation of Training and Mentoring Efforts. Training efforts for Family Division judges that include crafting timely court orders and that discourage use of handwritten orders (to the extent a viable alternative exists on a statewide basis) are documented. Mentoring efforts by other judges via anecdotal feedback statewide from Family Division judges also are documented.

If judges are to receive training relative to the issuance of court orders, time spent reviewing the important elements of a court order

in the Family Division may be productive. Use of appropriate, readable language that will benefit the litigants should be encouraged.

5. Documentation of Court-Agency Relationships on Each Family Division. In order to promote uniformity relative to how services are delivered to families in the Maryland courts, Family Division coordinators may provide examples of relationships that have been established formally or informally with agencies that provide services for families who come to court. Local or statewide efforts to develop multi-disciplinary policy or procedure-making groups that include Family Division judges, appropriate staff, and appropriate representatives from service agencies should be documented. Family Division coordinators might provide flow charts to document court procedures for making referrals and providing linkages to services for family members. Copies of any "Memoranda of Understanding" or similar agreements between Family Divisions and services providers can be shared liberally.

A Family Division schedule of services and corresponding fees for those services can be produced and made available to litigants at the time of case establishment. This information may prove useful in increasing compliance with court orders for provision of services. Evidence of sliding fee scale assessment based on litigant financial condition is useful in indicating concern over access to needed services by all income levels.

Availability of services for Family Division litigants may depend, to some degree, on grant projects that ebb and flow. Many of those grant projects have evaluation components that may enable grant resources to be tied into Family Division performance measurement efforts.

Standard 3.2
Fairness and Equality for Court Staff

The Family Division observes standards of fairness and equality for all staff of the court, including those who provide services to litigants in the Family Division.

Commentary

The Family Division of Maryland's Circuit Court is a highly visible governmental institution. It is charged with ensuring safety and protection of vulnerable persons, while at the same time, ensuring that justice is extended to those who require protection. It must concern itself with equal treatment of all persons. Personnel practices of the Family Division reflect the highest level of integrity and competence and are free from bias and prejudice.

Staff development efforts are an important aspect of Family Division performance. Those who come to work in the Family Division should, as a basic premise, have the appropriate character and desire to work in an overburdened environment with litigants and parties who are frequently at their emotional worst. Orientation

Standard 3.2 Fairness and Equality for Court Staff

The Family Division observes standards of fairness and equality for all staff of the court, including those who provide services to litigants in the Family Division.

programs that acquaint new personnel not only with policies, practices, and procedures, but also with emphasis on civility and courtesy, lend themselves to high standards for the integrity of the Family Division.

The Family Division can provide its employees with the resources and tools or a "full toolbox" to adequately perform their responsibilities. Professional development is not to be overlooked as one of the tools in the box. Treatment of Family Division personnel as the internal customers of the court helps those persons fulfill their personal and professional goals and ultimately benefits the court's external customers.

Implementation Issues and Recommendations

1. Commitment to Court Staff. Maryland's court system demonstrates a continuing commitment to the staff of the Family Division. Reasonable working conditions that reflect the importance of the work and support optimal job performance are ensured. Job training, mentoring programs, and staff manuals that include clearly articulated policies and procedures have been developed. Opportunities for participative management, particularly in Family Divisions that practice team-based case management, are created and practiced.

2. Internal Policy Development. There is an internal function of the Maryland Judiciary in the form of the Committee on Family Law. This group provides guidance and oversight for development and implementation of internal policy initiatives for the Family Divisions.

Tools of Measurement

1. Documentation of Resources for Court Staff. Family Divisions should conduct staff surveys to determine opinions of working conditions and levels and quality of resources. Documentation should be recorded of staff training, existence of mentoring programs, and existence and use of staff policies and procedures manuals within all Family Divisions. Documentation should be recorded of efforts to implement approaches to participative management among staff in the Family Divisions. Family Divisions should document any employee incentive programs for the Judiciary and promotions within the Family Divisions since their establishment.

Family Division coordinators may wish to participate in the development of survey instruments relative to Family Division staff support and the data

analysis that follows. This process may assist them in understanding the needs of the employees with whom they work on a daily basis and may place them in the needed role of an advocate for improvements, if any are necessary. Any promotional opportunities and incentive programs should be identified and discussed.

2. Record of Meetings. Documentation of discussions concerning the creation of this internal function should be made through meeting minutes or a similar written record.

Standard 3.3 Responsiveness to Child Support Issues

Standard 3.3 Responsiveness to Child Support Issues

The Family Division responds to any court-focused child support initiatives from the Maryland legislature in a manner that facilitates an equal and fair response to all parties involved in child support issues.

Commentary

During the last decade, the basis for child support in the United States has slowly shifted from judicial discretion toward fixed rules and administrative regulation. The amount of child support is increasingly determined by numerical formulas—child support guidelines—established through state legislatures. Guidelines adopted are based usually on income shares and percentage of income. These are based on the principle that noncustodial parents should share the same percentage of income with their children as they would have if they lived with the child.

It is incumbent on the Family Division to ensure that child support orders are consistent, equitable, and based on guidelines or formulas that adhere to this principle. The court and the legislature should consider earning capacities of both parents, the needs of the child(ren), and the needs of each parent. The court response to child support matters should be predictable and consistent so that parties are afforded reasonable expectations of the amount to which they will be obligated. Case by case or individualized awards of child support are to be discouraged as encouraging gross inequities in providing for the best interests of children.

Implementation Issues and Recommendations

1. Clarify the Role of the Court. The Judiciary will work with the Child Support Enforcement Administration to analyze and understand its role in ensuring that children in Maryland receive the support to which they are entitled. The Judiciary will ensure its case management practices are designed to promote efficient and effective enforcement of child support orders.

Tools of Measurement

1. Analysis of Cost Effectiveness. To aid in determining the cost effectiveness of Family Division efforts relative to establishment and collection of child support, each Family Division may choose to conduct time and task studies for no less than ninety day periods. Such studies require intensive recording of information on a daily basis and further require either external contractors or additional staff resources beyond present Family Division staffing.

Standard 3.4
Treatment of Unrepresented Parties

The Family Divisions endeavor to provide for each person within their jurisdiction equal care and fair treatment, without regard to representational status. To this end, should a party who is not represented wish legal representation, Family Divisions refer them to potential legal representation resources.

Commentary

Regardless of the type of problem a person brings to the family justice system, all who pass through its doors should receive accurate procedural advice and guidance in accessing programs from which they may benefit. This process requires, besides development and implementation of those programs, that court personnel provide education and assistance to all persons who seek help. Thus, part of the Family Division's efforts must focus on helping to cultivate a broad base of legal services programs in each jurisdiction.

Provision of legal assistance for those who desire but cannot afford it is an important element in ensuring equal care and fair treatment of persons in the family justice system. The constitutional protections extended to those facing potential losses of freedom and defending themselves relative to findings of abuse or neglect or termination of parental rights guarantee appointment of counsel. Moreover, the Family Division, under its inherent *parens patriae* role, as "parent of the country," must be sensitive to the need to provide legal representation to persons who will be substantially affected by the consequences of its decisions. In this role, the court should exercise the authority of the state to protect persons who cannot protect themselves. Whenever necessary, the Family Division should not hesitate to facilitate access to legal representation. In addition, the Family Divisions must continue to develop and to provide assistance to pro se litigants such as is now offered via the Family Law Pro Se Assistance Projects throughout the jurisdictions. This may include assigning court-appointed counsel for children or court appointed special advocates (CASAs) to represent children whose interests may not be adequately represented when they are caught between conflicting interests of disputing parties.

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Implementation Issues and Recommendations

1. Joint Bench-Bar Initiatives. Consistent with the Report and Recommendations of the Maryland Judicial Commission on Pro Bono, published in March 2000, the Family Divisions facilitate initiatives between the bench and the practicing bar to promote and increase pro bono representation among the family law bar.

2. Development of Pro Bono Services Plans. The Family Divisions participate in the development of local pro bono service plans as outlined in the Report of the Judicial Commission on Pro Bono.

3. Help for Pro Se Litigants. Help is available early in the process of a Family Division matter to allow the unrepresented litigant to amend deficient filings and supporting documents.

4. Orientation Information. All litigants who enter the Family Division are provided general information concerning its mission, practices, and procedures. A Family Division website has been developed. Information concerning family services, the agencies that provide those services, and potential legal assistance also should be provided.

Programs established to improve access to legal services, if on-site, include within their scope of responsibility distribution of information concerning available family services. Brochures that include information about court operations, hours of operation, public transportation, parking, childcare services, and other basic needs of families who must visit the courthouse facility are distributed. These efforts are documented within the annual operating report of the Family Division.

5. Provide Special Services. Special services, including foreign language interpreter services, services for the speech and hearing impaired, and services for persons with other disabilities, are readily available. The costs associated with providing these services should be acknowledged and should not be a barrier to delivery.

6. Child and Victim Sensitive Facilities. Physical accommodation is made for victims and for families with young children in the form of child-friendly facilities within the court facility.

Tools of Measurement

1. Pro Bono Appointment Data. Efforts to increase attorney representation of Family Division litigants on a pro bono basis should be documented. Special projects, such as the Maryland Legal Services Corporation project to provide legal representation for indigent parents in child custody matters, should be comprehensively evaluated to determine effectiveness and potential for broader replication or permanent incorporation into the family justice system.

Raw data should capture the numbers of pro bono counsel appointments per Family Division over a specified period. Individual

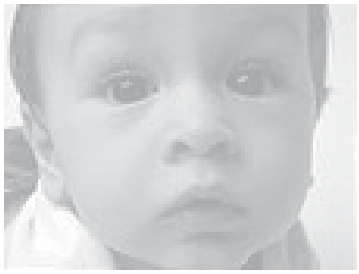
Family Divisions should compare these numbers to the number of attorneys who have committed to pro bono appointments. This analysis will help determine the efficacy of the pro bono counsel process by individual Family Division.

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

3. Local Documentation of Efforts. Programs within the Family Division that provide access to practice and procedural information should be established with the cooperation of the practicing bar. Family Division coordinators should document efforts to provide legal assistance at the courthouse site, by whom it is provided, approximate costs, if any, and litigant feedback through provision of brief written surveys to parties who are provided this service.

4. Local Reports on Special Services Provided. Family Division coordinators, on a regular basis, should provide to the AOC data that address the number of interpreters used, the number of languages interpreted, and estimated costs of interpreter services. Services provided for speech, hearing, and sight impaired parties, as well as for other disabled persons, should be provided in a similar fashion.

5. AOC Survey to Determine Child and Victim Friendly Facilities or Plans to Establish. Documentation of the existence of these facilities, including efforts or plans to establish them, should be provided.



independence & accountability

The Trial Court Performance Standards emphasize the importance of judicial independence, separation of powers, and the responsibility of the courts to maintain effective working relationships with other agencies and organizations with whom they must work:

- Maintain institutional integrity and observe the principle of comity in governmental relations
- Eliminate redundancy and duplication of effort between the court and external agencies
- Responsibly seek, use, and account for public resources
- Use fair employment practices
- Inform the community about court programs

- Anticipate new conditions and emergent events and adjust operations as necessary.[44]

More than any entity within the judicial branch of government, the Family Divisions work with agencies in other branches of state government and with an array of non-government service providers. Court matters related to families and children are distinctly different from other court proceedings. Families come to the courts with need for a diverse response to problems that arise from interpersonal relationships. They require the Family Divisions to respond to immediate family crises, provide short and long-term services, and settle family disputes. While this process compels the linkage of family members with appropriate services, it also refers to institutionalized practices between the Family Division and the human services system.

The degree to which Maryland's Family Divisions effectively practice collaboration and cooperation with outside service providers, while still maintaining the judicial independence needed for comity and public accountability, depends on the ability to sustain judicial leadership. This Family Division leadership aspires to mobilize and lead community collaborations and efforts aimed at identifying and pursuing needed resources and maintaining effective operations.

Standard 4.1 Performance Issues

Standard 4.1
Performance Issues

The Family Divisions conduct regular reviews of their performance to assist with the responsibility to manage effectively, to participate actively in long range planning, to identify and pursue needed resources, and to account publicly for performance.

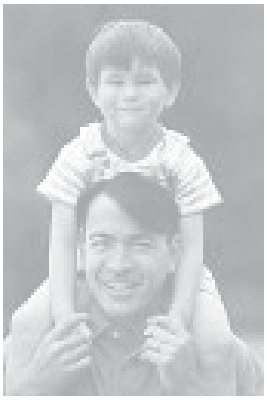
Commentary

The process of performance review for the Family Divisions is an effort which is diagnostic in its nature by not only proving accomplishment of goals and objectives, but by determining the means to improve that which is in place. Periodic review efforts are particularly effective as a means to determine what is working, what are best practices, and how might those best practices be duplicated in other locations within the system. This process also clearly identifies systemic responsibility and encourages accountability by those individuals who have that responsibility.

Performance review for a relatively new system such as the Family Division is particularly important. Activities, procedures, and strategies implemented to meet early program goals are assessed. Focus is then directed toward improvement efforts, if needed.

Implementation Issues and Recommendations

Long Term Strategic Planning. The Family Divisions are engaging in long-term and periodic strategic planning efforts and



Standard 4.2 Information Sharing

The Family Divisions endeavor to share information about their effective case management and processing practices within each jurisdiction, which practices then may be replicated.

performance reviews.

Tools of Measurement

1. Comprehensive Annual Reports. The Family Divisions and the AOC must work with Judicial Information Systems and with information system vendors to create a data management system for the Family Divisions. Each Family Division currently generates annual reports that include data relative to access to the court; expedition and timeliness; and equality, fairness and integrity. Each Family Division aspires to capture sufficient uniform data to analyze meaningfully Family Division performance, such as demographic data, alternative dispute resolution program outcomes, and rates of post-judgment filings.

2. Courtwatch Programs. The Family Divisions may consider the use of a courtwatch program to help identify best practices and improve other practices as needed. Such programs need a mechanism for outside review of the public's perceptions of the Family Divisions, as well as objective measures of courtroom practices. Community volunteers might be trained for this purpose.

3. Litigant Satisfaction Surveys. Uniform litigant satisfaction surveys are being developed for distribution to parties in family law proceedings.

4. Family Division Oversight Committee. The Judiciary needs a mechanism for planning comprehensive system reform to meet the changing needs of the Family Divisions over time, such as a Family Division Oversight Committee.

Standard 4.2 Information Sharing

The Family Divisions endeavor to share information about their effective case management and processing practices within each jurisdiction, which practices then may be replicated.

Implementation Issues and Recommendations

1. Weighted Caseload Study. The Judiciary develops and performs a weighted caseload study[45] to help determine optimal staffing needs for the Family Divisions, in addition to determining the need for judges.

2. Identify Effective Case Processing Practices. A weighted caseload study may help to identify effective case processing practices by reviewing time to disposition rates on a Family Division by Family Division basis. Those Family Divisions that tend to indicate higher case clearance or quicker time to disposition rates may be studied respecting case processing tasks.

Standard 4.3 Fair and Efficient Forum for Dispute Resolution

The Family Divisions are fair and efficient forums for the resolution of family disputes. They endeavor to engage in uniform practices, including dispute resolution, fee collection, forms, access to services, appropriate data base linkages, information sharing, and case management practice.

Tools of Measurement

1. Analysis of Individual Case Processing Tasks. The weighted caseload studies will help determine staffing needs for the court by determining the amount of case processing time necessary to move an individual case from filing to disposition. This process requires an analysis of the individual case processing tasks engaged in by court staff, e.g., receiving the complaint and establishing a new case file. This information, when applied to total filings during the court year, provides a snapshot of available staff time for case processing.

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Commentary

Performance criteria may help determine fairness and efficiency of the resolution of family disputes by providing for accountability in the timeliness of decision-making. These may include respecting time standards relative to event calendaring and scheduling. Other factors include the manner in which rules of practice are promulgated, regard of the court for the best interests of children, building access, and willingness to disclose basic business and budgetary practices as requested.

Implementation Issues and Recommendations

1. Uniform Fee Assessments and Collection. To the extent that Family Divisions are required to provide services, a uniform maximum fee should exist. In any event, the imposition of fees for services should not create barriers to access the services. There should be a standard form and uniform procedure for waiver of fees. In the long term, the Family Divisions should look to the feasibility of increased funding to allow for uniform fees for services.

2. Adequate Point of Entry, Signage, and Connection between Facilities. Each Family Division aspires to establish a physical point of entry that is effectuated by adequate signage and appropriate accommodation within the physical plant of the courthouse. In those jurisdictions where domestic and juvenile matters are heard in separate facilities, the Family Divisions aspire to develop and implement adequate data linkages between the facilities.

3. Court Liaison Position. Each Family Division should establish court liaison positions and should dedicate space for these positions within the court facility. The court liaisons are typically representatives from key core agencies, such as the child protection agency, school system, or privately contracted social services organization, which are available to consult with judges, masters, court staff, and family members. The liaisons facilitate improved case coordination activities and information sharing between the court and their agencies, providing necessary linkages for expedited service delivery.

Tools of Measurement

1. Development of Uniform Fee Scale and Collection Mechanism. To the extent necessary, the AOC should oversee promulgation of a uniform fee scale. The process of fee collection should not cost more than the fees collected. Moreover, the disposition of fees, once collected, should be determined. If possible, fees collected for court services should be earmarked for continuing support of those services. Thus, the Family Divisions should develop and implement a mechanism to track fee collection in order to ensure it is cost effective. Fee waiver decisions should be consistent and should be based on objective criteria that are readily available to fee waiver applicants.

2. Documentation of Appropriate Signage. Simply designed and well-articulated signage assists litigants with timely appearances and promotes an efficient setting for family justice decision-making. Technological innovations should readily provide for development of linkages among departments of each Family Division. Should fiscal limitations prevent these linkages, case management policies should require telephonic or manual transfer of data relevant to a family proceeding. Efforts to establish these accommodations and practices should be documented within each Family Division's report.

3. Information and Resource Sharing Protocols. The Family Divisions document collaboration with service provider agencies in their jurisdictions and develop ways to share information and resources. The Family Divisions aspire to develop protocols to identify and to communicate these practices.

Standard 4.4 Safety and Security

The Family Divisions aspire to provide a safe and secure environment for system users and personnel. Sufficient resources must be committed to ensure adequate safety and security for vulnerable persons, including victims of domestic violence and of child abuse or neglect.

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Commentary

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

Implementation Issues and Recommendations

1. Collaborative Priority Recognition. The AOC and each Family Division aspire to collaborate with one another, the General Assembly, the Office of the Governor, local governing bodies, and law enforcement authorities to assess the physical and fiscal security of each facility and the security personnel requirements to ensure a safe and secure environment for Family Division system users and personnel. Leadership from the AOC and each Family Division constantly must examine whether traditional or accepted boundaries regarding decisions about security requirements or funding sources constitute barriers to providing the safe and secure environment essential for Family Division system users and personnel. Collaboration creates an environment conducive to any changes in existing local or state policies and laws where current laws or policies constrain the achievement of the desired safe and secure environment.

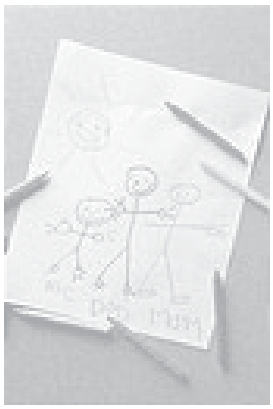
2. Safe Facilities for Children and Victims. Provisions are being made to create a safe and comfortable environment for families in the court facility. Separate and secure waiting areas are being established for victims of domestic violence and for children. These areas should be inaccessible to adverse parties or should be monitored to maintain separation.

3. Affirmative Security Measures. Security personnel should be present in all Family Division courtrooms and hearing rooms where family matters are heard. Courtrooms and hearing rooms are well lit and provide ample means to access additional security personnel. Emergency exits for judges, masters, and courtroom personnel are identified and made known to those persons. Periodic emergency drills are conducted to maintain a high level of consciousness concerning the potential for violence in a family law matter.

4. Articulation of Security Policies. Each Family Division develops, articulates, and maintains specific security policies and protocols that address

a. any agreements between the court and law enforcement agencies about their respective roles to ensure that points of contact between system users and court personnel occur in settings that do not pose any undue threat of physical harm to any person;

b. methods to maintain maximum separation of opposing parties while in the courtroom and in areas under the control or



influence of the court;

c. the procedure to receive, record, and investigate reports of breaches of the expectation of a safe and secure environment (including the procedure for remedying any conditions that contributed to such breaches).

Tools of Measurement

1. Documentation of Local Inventory of Security Needs. Each Family Division annually inventories and assesses its physical and fiscal requirements to ensure a safe and secure environment. Among other things, the inventory examines whether uniformed security personnel are within sight and readily accessible to system users, court personnel, and interested persons throughout areas of the court facility where system users are expected to be located.

2. Documentation of Local Efforts to Establish a Safe and Secure Environment. Each Family Division documents actions taken to establish a safe and secure environment, particularly where there is a gap between needs identified in the inventory of the Family Division's physical and fiscal requirements and the existing environment. This documentation should include identification of physical, fiscal, and political or legal constraints to achieve the desired secure and safe environment.

3. Local Documentation of Collaboration with Law Enforcement Agencies. Each Family Division documents collaboration or efforts to collaborate with local law enforcement agencies to keep the agencies informed of the security needs of the Family Division. Documentation should include means for local law enforcement agencies to have meaningful input to identify how each agency best can assist the Family Division in providing system users and court personnel with a safe and secure environment, to the extent that the court has control or influence over any area where system users are expected to be located.

4. Local Documentation of Report and Investigation of Safe and Secure Environment Breaches. Each Family Division documents reported incidents of breaches in the expectation of a safe and secure environment, investigations of incidents, and any new measures implemented to minimize the recurrence of such incidents. Documentation of implementation of new measures also may be included as part of the Documentation of Security Needs. Constraints to the implementation of new measures also may be included as part of the Documentation of Local Efforts to Establish a Safe and Secure Environment.

5. Local Family Division Reports. Evidence of training for security personnel and relevant court staff concerning these special issues are included within regular local Family Division reports to the AOC. The AOC must articulate clearly uniform procedures to implement these policies. Family Division coordinators provide and update this information as part of their regular reporting responsibilities.

6. AOC's Responsiveness to Fiscal and Legal Constraints. The

AOC assists each Family Division to confront fiscal and legal constraints that frustrate or otherwise impair the ability of the Family Division to provide a safe and secure environment for system users and court personnel, without compromising the ability of each Family Division to meet each of the other Performance Standards and Measures for Maryland's Family Divisions. In assessing whether a Family Division is failing to fulfill this Standard 4.4, the AOC acknowledges fiscal and legal constraints. The AOC provides technical assistance and guidance to each Family Division, local governing bodies, the Office of the Governor, and the General Assembly for changes in appropriations or laws necessary to ensure that family matters are considered in an environment that is safe and secure for system users and court personnel.

Standard 4.5 Uniform Qualifications

Each Family Division operates in a predictable and uniform manner with respect to uniform staffing needs, job qualifications, and clearly articulated job descriptions. A uniform training module for Family Division judges, masters and staff is utilized for all new personnel of the Family Divisions.

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Commentary

Fundamental principles of Family Division philosophy are that the persons who work as judges, masters, and staff within the court are highly trained, experienced, and have the character or desire to serve in perhaps the most difficult of court assignments. This principle is not easily observed. In many cases, judges are rotated into family court assignments against their will and staff assigned to the family court based on an emergent need to fill a vacant position. As a new division, the Maryland Family Divisions have a unique opportunity to create a climate of predictability and uniformity by creating staff positions with clear job descriptions and corresponding qualifications, including the manner in which judges are selected to serve.

Implementation Issues and Recommendations

1. Comprehensive Training Curricula for Judges, Masters and Staff. The Family Divisions develop separate, comprehensive training curricula for judges, masters, and staff that address the nature and substance of family law litigation and the principles of Family Division case management. These training curricula occur on no less than an annual basis for all judges, masters, and staff newly assigned to the Family Division.

2. Mentoring Assignments. The Family Divisions aspire to provide judges, masters, and staff who are new to the Family Division an

appropriate mentor for no less than thirty days from the date of their assignment. The mentor can provide them with valuable information and insights relative to Family Division policies, practices and procedures.

3. Uniform Job Descriptions and Minimum Qualifications. The Family Divisions aspire to work together to develop uniform job descriptions and minimum qualifications for Family Division masters and staff positions. Levels of compensation for Family Division master and staff positions also should have some consistency.

Tools of Measurement

1. Local Tracking of Training Participation. Family Divisions should track new judges, masters, and staff to ensure they receive training within a year of their assignment.

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

3. Standardizing Major Qualifications and Job Descriptions. Family Division coordinators and the AOC should work together to develop major job descriptions and minimum qualifications to ensure some practice consistency from Family Division to Family Division. Conducting individual performance evaluations should occur in each Family Division in consultation with local human resources policies.

public trust and confidence

Supreme Court Justice Sandra Day O'Connor, speaking in May, 1999, at an American Bar Association conference on the public's perception of the justice system, remarked that her first concern was the need to revitalize family courts, a need frequently "identified within the context of improving public trust and confidence in the [justice] system."[46] Justice O'Connor indicated that a National Center for State Courts' public opinion survey "reported that a majority of Americans believe that court handling of family and juvenile cases is merely fair or poor."[47] Thus, Justice O'Connor concluded that the nation's family justice system must undergo change, as "public perception of courts [in general] will be increasingly influenced by how well these [family] courts function."[48]

Maryland's Judiciary has attempted to address this problem through the creation of the Family Divisions and through the adoption of a new decision making framework in family law matters.[49] According to Chief Judge Robert M. Bell,

> [W]e have finally come to realize, that the effective resolution of legal disputes within a family requires a fundamental shift from the traditional adjudication focus to a more holistic, therapeutic model that attempts to improve the lives of families and children in substantive ways. To achieve this new paradigm, there must be a confluence of access to coordinated and comprehensive legal and social services, efficient case processing and management, and a more widely accessible court system.[50]

Instilling public trust and confidence in Maryland's family justice system, however, also requires a recognition that these courts serve many constituencies, each of which must have respect for the work of the court:

> At the most general level is the local community, or the "general public"—the vast majority of citizens and taxpayers who seldom experience the courts directly.
>
> A second constituency served by family courts is a community's opinion leaders (e.g., the local newspaper editor, reporters assigned to cover the court, the police chief, local and State executives and legislators, representatives of government organizations and social service agencies with power or influence over the courts, researchers, and members of court watch committees).
>
> A third constituency includes citizens who appear before the court as attorneys, litigants, jurors, or witnesses, or who attend proceedings as representatives, family friends, or victims of someone before the court. This group has direct knowledge of the routine activities of a court.
>
> The last constituency consists of judicial officers, other employees of the court system and allied agencies, and lawyers—both within and outside the jurisdiction of the family court—who may have an "inside" perspective on how well the court is performing. The trust and confidence of all these constituencies are essential to family courts.[51]

Indeed, the challenge to the Judiciary to invoke this level of support is formidable and demands some amount of comprehensive planning. "Nevertheless, where performance is good and communications are effective, public trust and confidence are likely to be bolstered."[52]

Maryland's Judiciary recently has conducted a statewide telephone survey of its citizens designed to obtain their perceptions about the legal system.[53] In response to the survey data, Maryland's Court Information Office has worked closely with the Judiciary to increase the visibility of judges and to educate the public about the operation of the court system.[54] In addition to the media's spin, the public's lack of knowledge, understanding and education about the judicial process also fuels misperceptions. These perceptions are just as dangerous as the very real problems of access, costs and delays cited

Standard 5.1 A Therapeutic, Holistic, Ecological Approach to Family Law Decision making

The approach of Maryland's Family Divisions to family law decision-making is therapeutic, holistic, and ecological in its perspective.

in the surveys, because perception is reality. Perception has shaped the public's opinion of the courts. Reality is a loss of public trust and confidence in the justice system.[55]

Chief Judge Bell also has appointed a Special Maryland Committee on Improving Public Trust and Confidence in the Justice System, a multidisciplinary group charged with narrowing the gap between the public's perception of the justice system and the reality of its operation.[56] Maryland's efforts to strengthen public trust and confidence are part of a national movement directed toward this goal.[57]

Standard 5.1 A Therapeutic, Holistic, Ecological Approach to Family Law Decision-making

The approach of Maryland's Family Divisions to family law decision-making is therapeutic, holistic, and ecological in its perspective.

Commentary

A therapeutic approach to family law decision making involves resolving family legal disputes with the aim of improving the lives of families and children and maximizing the potential positive outcomes of court intervention.[58] The therapeutic potential of court intervention is enhanced by adopting an expanded concept of the family, or by acknowledging that neighborhoods, religious organizations, and other associations or institutions within which family members participate have the potential to influence the family's legal matters.[59]

Accounting systematically for these competing influences on families' and children's lives by means of an ecological approach to family law decision making can help courts pursue strategies designed to establish and to strengthen connections among these influences and can enhance families' and children's functioning.[60] As Chief Judge Bell has commented, this is a "new paradigm"[61] in family law adjudication. The need for this approach is clear, and the approach itself is sensible:

> The adversarial process can be destructive for families. Family cases therefore require a different approach. That approach mandates that family cases be expedited to minimize the trauma of litigation and to ensure safety and support for all family members. Families are given every opportunity to make ultimate decisions themselves, through educational programs and alternative dispute resolution techniques. Finally, judges are trained to understand child development, the needs of the individual within the family, and the importance of family issues. The courts also have begun to recognize that, because they function in many instances as a "trauma center," serving families in crisis, they are in a unique position to identify problems and connect those families with much-needed services. The goal of the family divisions and family service programs within the circuit courts is to provide an effective

approach to the early resolution of family conflict.[62]

Implementation Issues and Recommendations

1. Community Outreach. The Family Divisions engage in a process of community outreach in order to promote the new paradigm. Involving the business community and cultivating resources available to the courts via partnerships with local business leaders complements and enhances the work of the court. For example, local businesses sponsor programs (such as an existing employment program in Baltimore County that links child support obligors with jobs) and provide volunteers for many court initiatives. In addition, linking with the business community provides the Family Divisions with models adaptable to the administration of the Family Divisions, such as information technology, consumer service delivery, and strategic planning. Publicizing partnerships with community service providers and the business community through the use of brochures, videotapes, and websites demonstrates the Family Division's commitment to the therapeutic, holistic, and ecological approach to family law adjudication.

2. Development of Problem-Solving Initiatives. The Family Divisions have begun to develop problem-solving initiatives in the areas of substantive family law decision-making and court procedures. In addition, appropriate training programs for judges and court personnel educate these actors about the development of problem-solving processes consistent with their roles in family legal proceedings. These training programs, in turn, demonstrate the system's commitment to therapeutic justice.

3. Informing State and Local Executive and Legislative Branches. State and local executives and legislators need to be informed about the new family law decision-making paradigm. Thus, Family Division personnel need to invite executives and legislators to meet with them periodically and to tour the Family Division facilities. In addition, state and local executives and legislators need to know about the existence of the Family Division Performance Standards and Measures, as well as the status of implementation and achievement of the standards. The AOC must continue to assess the level of assistance needed from the executive and legislative branches to ensure optimal Family Division functioning.

Tools of Measurement

1. Documentation of Community Outreach Initiatives. The AOC, in cooperation with each Family Division, should work together to develop a plan for community outreach and should publish that plan in the Family Division Annual Report. The report should identify the major components of the plan and progress made toward its implementation. When appropriate, the plan should identify community or business entities that have pledged to work with or who are currently working with the Family Divisions. In

Standard 5.2 Fairness, Courtesy, and Civility

The Family Divisions provide a forum for litigants that is fair, courteous, and staffed by personnel who conduct themselves according to established standards of civility.

Standard 5.3 Visible Presence in the Community

The Family Divisions must be a visible presence in the courthouse and the community.

addition, key people in each Family Division should work with the Court Information Office to enhance publicity about community outreach efforts.

2. Documentation of Therapeutic Justice Education and Training Initiatives. Educational components on therapeutic justice are included within judicial and staff training programs. Thus, program agendas or workshop schedules should accurately reflect this topic. The AOC should coordinate with the Judicial Institute to ensure that Maryland's Family Division judges receive training appropriate to the mission and goals of the Family Division.

Standard 5.2
Fairness, Courtesy, and Civility

The Family Divisions provide a forum for litigants that is fair, courteous, and staffed by personnel who conduct themselves according to established standards of civility.

Commentary

This standard requires that Family Divisions make a demonstrable commitment to customer service and that they facilitate good customer service.

Implementation Issues and Recommendations

1. Customer Service and Staff Satisfaction. This focus on the consumer means that all components of the Family Division staff adapt employee training initiatives derived from sound business practices, including staff training in civility and courtesy. Family Division judges can receive training specific to the needs of the litigants and to their unique decision making role within the Family Divisions, such as training offered by the National Council of Juvenile and Family Court Judges. These efforts may lead to improved satisfaction on the part of family law litigants, which, in turn, means enhanced public trust and confidence in the family justice system.

Tools of Measurement

1. Self-Assessment Questionnaires. The AOC periodically should distribute to all judicial officers and court staff in the Family Divisions self-assessment instruments. These instruments should provide court personnel an opportunity to make suggestions to improve policies, practices, procedures and opportunities within the Family Divisions.

2. Public Questionnaires. The AOC should distribute questionnaires both to the public at large and to the consumers of the family justice system. These questionnaires should reflect both perceptions of the family justice system and specific treatment by Family Division personnel, among other issues.

Standard 5.3

Visible Presence in the Community

The Family Divisions must be a visible presence in the courthouse and the community.

Commentary

The Family Divisions aspire to be identified as such by the various constituencies of the justice system. The Family Divisions, including all their related operations (e.g., clerks' offices, services providers, waiting areas, courtrooms), should exist in a centralized facility or in a centralized space within a facility, as feasible. Related functions should be located in as close proximity to each other as is feasible.

Implementation Issues and Recommendations

1. User-Friendly Facility. As indicated in the Access to Justice section of this report, the physical plant must include user-friendly and adequate signage. Further, as discussed in the Accountability and Independence section of the report, Family Divisions must be safe, secure, and comfortable environments. Security officers should be present in all courtrooms and masters' hearing rooms, and such personnel should receive training specific to the management of family law disputes. Detailed security policies must address issues such as protecting victims of domestic violence from their abusers at the conclusion of the protective order hearing, providing security for litigants and clerks in the clerks' offices, and protecting children during custody and child abuse/neglect litigation. The greater the effort to define user-friendly, responsive Family Divisions, the more likely the public can respect the work of this family justice system.

2. Public Education. Many of the measurement processes to determine and to restore the public's trust and confidence in Maryland's family justice system have devolved from the work of the Special Maryland Committee on Improving Public Trust and Confidence in the Justice System. This committee has recommended a widespread educational campaign designed to educate the public and court employees about the functioning of the justice system.

3. Working Relationship with State and Local Executive and Legislative Branches. By informing state and local executives about the new family law decision making paradigm and about the operation of the Family Divisions, working relationships can forge among the judicial, executive, and legislative branches. These relationships, in turn, provide a mechanism to exchange information that can facilitate enhanced performance of the family justice system.

Tools of Measurement

1. Self-Assessment Checklists. As discussed infra, within Standard 1.1, court staff checklists that suggest the existence of certain user-friendly accommodations within the court facilities are useful in determining whether the Family Divisions are meeting their fundamental responsibilities to system users.

2. Surveys and Focus Groups. Whether the public's confidence in the justice system is restored is determined by the results of surveys of justice system consumers, court employees, and the general public. Measures of compliance with court orders are another means to measure public trust and confidence, as "[c]ompliance with law depends, to some degree, on public respect for the court."[63] In addition, focus groups composed of representatives of the various family justice system constituencies can convene around specific issues related to restoring public trust and confidence.

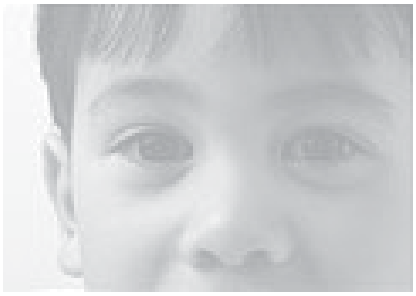
conclusion

Maryland's Family Divisions are well positioned to embark upon a process that can result in a regular, comprehensive means to effectively assess and document their performance. Performance measurement can help address the challenges presented by a court system facing the prospect of increasing caseloads, emotionally charged litigation, and public expectation of increased accountability. Further, performance measurement can provide the means to address effectively the long-term needs of Maryland's Family Divisions, using accurate data to identify deficits in resources.

It is incumbent upon Maryland's Family Divisions to develop and implement the most effective means to address family justice issues. In doing so, the Family Divisions must prove to the public and to Maryland's policymakers both the therapeutic qualities of the Family Divisions and the wisdom of a family justice system that invests in early intervention, prevention, and treatment as a means to secure the future well-being of Maryland's children and families. These performance measures are intended to help provide that proof.

notes

1. Jeffrey A. Kuhn, The Feasibility of Unified Courts for the Tennessee Judiciary, 2-4 (2000)(unpublished report available).
2. American Bar Association, *An Agenda for Justice: ABA Perspective on Criminal and Civil Justice Issues 5 (1999)* citing Brian J. Ostrom and Neal B. Kauder, National Center for State Courts, *A National Perspective from the Court Statistics Project 12 (1996).*
3. *See id.*
4. *See* ANNUAL REPORT OF THE FAMILY DIVISIONS AND FAMILY SERVICE PROGRAMS, 1, 20, 22 (2000).
5. This meeting occurred in conjunction with the annual Circuit Judges meeting during late October 1999, in Rocky Gap, Maryland.
6. *See* The Honorable Robert M. Bell, *Administration of Justice*, 32 Md. Bar J. 3 (1999).
7. *See* Robert C. Murphy, Report Of The Family Division Review Committee 7 (1993).
8. *See* Alex L. Hurder, *Nonlawyer Legal Assistance and Access to Justice*, 67 Fordham L. Rev. 2241, 2242 (1999) (summarizing a 1995 ABA study indicating that as many as 70% to 80% or more of low income persons were unable to obtain legal assistance when they want it or need it).
9. *See* Family Court Standards Project, The Family Court of the State of Delaware, Family Court Performance Standards and Measures 6 (1999).
10. *See id.* at 7.
11. Md. Code Ann., Cts. & Jud. Proc. § 2-206 (1999).
12. *See* Advisory Council on Family Legal Needs of Low Income Persons, Increasing Access To Justice for Maryland's Families 51 (1992).
13. *See* Murphy, *supra* note 2, at 28-30.
14. *The Changing Face of Legal Practice: A National Conference on Unbundled Legal Services*, (Md. Legal Assistance Network, program agenda for conference in Baltimore, Md.) Oct. 12-14, 2000.
15. *See* Family Courts Standards Project, *supra* note 9, at 10.
16. *See id.*
17. *See* Barbara A. Babb & Judith D. Moran, *Substance Abuse, Families, and Unified Family Courts: The Creation of a Caring Justice System,* 3 J. Health Care L.& Pol'y 1, 26-28 (1999).
18. *See* Family Courts Standards Project, *supra* note 9, at 10.
19. *See id.* at 13.
20. *See* Bureau of Justice Assistance, Office Of Justice Programs, Trial Court Performance Standards and Measurement System 75 (1997).



21. *See* The Honorable Albert J. Matricciani, Ad Hoc Committee On The Implementation of the Family Division (April 1, 1999).
22. *See id.* at app. A.2.
23. *See* The Maryland Judiciary's Foster Care Improvement Project-Improving Court Performance for abused and neglected children (September 1997).
24. *See* U.S. Dept. Of Health And Human Services, Children's Bureau Of The Administration For Children And Families, Guidelines For Public Policy And State Legislation Governing Permanence For Children, I-5 through I-7 (1999)(summarizing the Adoption and Safe Families Act).
25. *See* Althea Stewart Jones & Kathaleen R. Brault, *Improving Foster Care in Maryland*, 33 MD. B. J. 52, 53 (2000).
26. *See id.* at 54.
27. *See id.* at 53.
28. *See id. a*t 55.
29. *See* American Bar Association, State Court Assessment Report: 1995-1998 at 63 (1999).
30. The Juvenile Work Group of the Ad Hoc Committee on the Implementation of the Family Divisions was comprised of 14 of the 25 members of the Ad Hoc Committee and was chaired by the Hon. Louise Scrivener. The Committee was formulated to examine how best to integrate juvenile matters into the Family Divisions.
31. *See* Juvenile Work Group Report of the Ad Hoc Committee on the Implementation of the Family Divisions (February 1, 2001).
32. *See id.* at 9.
33. *See id.* at 9.
34. *See id.* at 10.
35. *See id.* at 10.
36. *See id.* at 11.
37. *See id.* at 12.
38. Md. Code Ann., Cts. & Jud. Proc. §3-828 (1999).
39. *See* Bureau of Justice Assistance, *supra* note 20, at 5.
40. *See* Ted Rubin And Victor Flango, National Center For State Courts, Court Coordination of Family Cases 10 (1992).
41. *See* A.B.A., *supra* note 2, at 5.
42. *See* Matricciani, *supra* note 21, at 3-11.
43. *See id.* at 3.
44. *See* Bureau of Justice Assistance, *supra* note 20, at 5.
45. *See* Jeffrey A. Kuhn, *A Seven-Year Lesson on Unified Family Courts: What We Have Learned Since the 1990 National Family Court Symposium*, 32 Fam. L. Q. 67, 67-69 (1998) (discussion of workload studies and weighted caseload standards).
46. *See* Justice Sandra Day O'Connor, *Room for Improvement*, 18 Child L. Prac. 192 (1999).
47. *See id.*
48. *See id.*
49. *See* Bell, s*upra* note 6, at 4.
50. *See id.*
51. *See* Bureau of Justice Assistance, Trial Court Performance, s*upra* note 20, at 20. *See also* Family Court Standards Project, s*upra* note 9, at 48.
52. *See id*.
53. *See* Bell, *supra* note 6, at 7.
54. *See id.*
55. *See id.* at 9.
56. *See id.* at 10.
57. *See id.* at 11.
58. *See generally* Barbara A. Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law: A Blueprint to Construct a Unified Family Court*, 71 S. Cal. L. Rev. 469 (1998). *See also* Barbara A. Babb, *An Interdisciplinary Approach to Family*

performance measure applications

Standard	Performance	Measurement	Analysis
ACCESS TO JUSTICE			
1.1 Equal access	1. Education and participation	Documentation of efforts by stakeholders	Accounting of local efforts by local Family Divisions (FD) Dept. of Family Admin. (DFA)
	2. Uniform pleadings and instructions	Monitoring by DA	Modifications to conform to law, rules and policies
	3. Pro se assistance	Data collection by local FD	DFA monitoring of uniform data collection instrument
	4. Establish linkages with stakeholders to develop and provide full spectrum of legal resources	Documentation of efforts by local FD's to collaborate with community and local agencies	DFA develops and provides protocols for development of collaborative relationships
1.2 Cost of access	1. Sliding fee scale	Committee study to determine issues of court costs and service fees	Implementation of study recommendations
1.3 Safety, accessibility, convenience	1. User-friendly court	User-friendly checklist developed by DFA	Review of: 1. Court/court services hours 2. Access to services on weekends 3. Adequate signage 4. Child-friendly facilities that include child care 5. Security 6. Segregation of victims 7. Public waiting areas
	2. Civility by court staff	Uniform litigant exit survey prepared by DFA	Review of basic civility, respect and responsiveness among judges, staff, and public
	3. Maintain uniform and and comprehensive data	Development of uniform data quality assurance policy by DFA	DFA identification of data collection standards: 1. Sources from which data will be collected 2. Manner by which data will be organized and collected 3. Process by which data will be analyzed
EXPEDITION AND TIMELINESS			
2.1 Case management system	1. Case reception or intake function	DFA survey of local FD's	1. Specific descriptions of how cases are received by the court: a. staff involved/training b. estimated time to receive case c. estimed time to establish file d. estimated time to conduct case screening 2. Rate of referral to services
	2. Case information statement	Periodic focus group for relevant FD staff and members of Family Law Bar	1. Receive suggestions for improvement of procedure 2. Comparative case processing time review of jurisdictions that use this and those that do not
	3. Conduct scheduling conferences	DFA survey of local FD's	Determine definitions and time standards for scheduling conferences

Standard	Performance	Measurement	Analysis
		Periodic focus group for relevant FD staff and members of Family Law Bar	Determine use, utility, and need for changes in conducting scheduling conferences
		Physical case file review	Comparative review of files to determine cost savings, if any
	4. Reliable trial dates	DFA survey of local court coordinators and practicing bar	Comparative exercise between surveys to determine viability of "real" trial dates
	5. Alternative Dispute Resolution (ADR)	Case file review	Determine rate of referral, resolution, non-resolution, and post-judgement return
		Periodic focus group for mediation service providers	Perceive need for additional or improved ADR services
		Litigant exit survey	Prospective time and cost savings and litigant satisfaction
2.2 Protection of victims of domestic violence	1. Case intake and screening function	Local FD documentation of intake and screening process	Specific description of how DV cases are received and processed 1. staff involved/training 2. estimated time to conduct intake and screening process 3. comparative analysis between jurisdictions to determine best practices
	2. Linking of related cases	Local FD case flow and processing charts	DFA review to determine local practices for how DV cases are linked with other FD cases
in	3. Venue issue not a barrier	Local FD's document	Confined to applications received
		non-resident ex parte applications	in which applicant is a non-resident of the jurisdiction
	4. Continuous hearings and immediate orders	Local FD's document continuances and time from end of hearing to order	Time necessary to secure protection for victim
2.3 Processing child dependency matters	1. Automated case management system	DFA monitoring of progress toward development	Integration of MAJIC functionality Judiciary MIS
	2. Trained judges and court staff	DFA documentation of of training program participation	Numbers of judges and court staff who have received training
	3. Incorporation of state statute	DFA documentation	Monitoring of case processing procedures that demonstrate consistency with statute
	4. Legal representation for parties	Foster care court improvement committee and DFA in general, monitor representation of parties in child dependency cases	Guidelines for advocacy as cross-referenced in MD Rules of Practice and Procedure compared to practices in local FD's
2.4 Resolution of juvenile delinquency cases	1. Standard set of data for all juvenile delinquency petitions	Juvenile Work Group, FD judges and coordinators work toward consensus on standard-ized data in juvenile petition	Similar data categories constructed for automated system will facilitate more efficient, reliable and useful analysis
	2. Response to juvenile substance abuse	DFA monitors local FD's re: drug testing, assessments, resource needs and cooper-ation with related agencies	Identification of best practices and local resource needs that aid in provision of more holistic service to families in court

Standard	Performance	Measurement	Analysis
	3. Development of dispositional resource tools	Documentation of local efforts to identify community-based dispositional resources	Identify local efforts that have proven useful and that can be duplicated in other local FD's. Cost analysis should demonstrate potential savings for diversion programs vs. formal adjudication
2.5 Coordination of family legal issues	1. Fully-coordinated automated information system	DFA survey or poll to determine extent of automated systems existence or use. Secure information from qualified vendors concerning potential system function and financial burden	Best potential use and functionality of automation for FD and cost for development and implementation
	2. Single point of entry in the family law system	Identification of existing protocols and procedures in local FD's	Use of protocols, practices to identify all family members involved with the courts
	3. Coordinated service delivery	Family case history review by local FD's	Process by which families are referred to and provided services by non-court agencies
	4. Professional staffing of cases	DFA tracks staffing component in local FD's, their training, job descriptions	Comparative staffing levels, backgrounds, experience among FD's
	5. FD lead or presiding judge	Documented existence of position	Use of position to provide leadership in the local FD
	6. Use of family law masters	Documented existence of position	Comparative function between local FD's
	7. Appropriate confidentiality	DFA survey of confidentiality practices, known breaches and areas in need of attention	Confidentiality practice assessment safety, security, identification of barriers that could prevent effective service delivery

EQUALITY, FAIRNESS AND INTEGRITY

3.1 Integration of related family matters	1. Quality court orders	Lay person review of uniform order forms	Comprehensiveness, articulation in court orders to facilitate better understanding by litigants
	2. Use of benchbooks and benchcards	DFA judicial resource needs assessment	Identify informational resources for Judiciary that would aid in decisionmaking responsibility
	3. Timely court orders	Physical case file review or "order log" by local FD	Determine compliance with established timeframes over a pre-determined period
	4. Regular training and mentoring	DFA documentation of programs conducted. Judge feedback on mentoring programs	Frequency, relevance and focus of training and mentoring program efforts
	5. Court-agency relations	Local DFA document formal/ informal relations with agencies that provide services to court- involved families	Increased compliance with court orders for services. Longitudinal analysis may indicate successful prevention efforts
3.2 Fairness and equality for court staff	1. Demonstrated commitment to court staff	Court staff survey directed to working conditions and level of resources	Identify staff needs and management issues
		Court staff salary survey	Identify salary disparities for positions with same duties in

Standard	Performance	Measurement	Analysis
			different FD
	2. Regular training and mentoring	DFA tracking	History of staff training programs and any facilitation of mentoring programs
	3. Participative management	Same court staff survey as Performance item no. 1	Degree to which court staff participate in policy development
	4. Employee incentives and promotions	Local FD documentation of promotions. DFA tracking of court staff performance incentives	Promotions/incentives for FD staff vs. non-FD staff
3.3 Responsiveness to child support issues	1. Clarify the role of the court	Document court-agency efforts to review and analyze federal audits in a collaborative manner	Degree to which establishment, enforcement and collection tasks are adequately assumed
		DFA conduct comparative analysis between Maryland and other states	Outcomes indicative of potential best practices and useful policy considerations
		FD time and task study	Determine cost effectiveness of current efforts to establish and collect child support
3.4 Treatment of unrepresented parties	1. Joint bench-bar initiative to increase pro bono services	Pro bono appointment surveys	Document special projects, comparative analysis of appointments over a specified period against a prior period
	2. Pro bono service plans	DFA monitoring	Consistency of actions with report of the Judicial Commission on Pro Bono
	3. Early assistance for pro se litigants	Local FD documentation of efforts in required reports	Determination of average points of entry during the case for pro se services
	4. Provision of special services	Local FD documentation of interpreter services, ADA services provided to DFA	Frequency and cost of services vs. budget allocation for services
	5. Child- and victim-sensitive facilities	Local FD documents in reports innovative ideas	Comparative review between local FD to identify
INDEPENDENCE AND ACCOUNTABILITY			
4.1 Review of performance	1. Long term strategic planning	Completion of annual report	Fulfilling mission and objectives of the FD's
		Conduct Courtwatch program	Objective public perceptions of best practices and those that need improvement
		Litigant satisfaction surveys	User perception of the system
		DFA of FD committees structure	Committee activities that meet policy/practice formulation needs
4.2 Information sharing	1. Weighted caseload study	Analysis of individual case processing tasks	Determine court staffing needs by determining time needed to move a case from filing to disposition
	2. Effective case processing practices	Local FD consensus on most efficient case processing practices	Review of case processing tasks that consume least resources and result in most timely performances
4.3 Fair and efficient forum for dispute resolution	1. Uniform fee assessments and collection	Local FD's report on fee collection and waiver mechanisms and policies	Fee policies that facilitate access and are uniform. Cost to collect fees vs. revenue generated

Standard	Performance	Measurement	Analysis
	2. Adequate points of entry, signage and connection between facilities	Local documentation of access and signage, performed by lay person	Anecdotal info. about delay caused by inaccurate or confusing courthouse design or info.
	3. Information and resource sharing protocols	Local documentation to DFA of resource or information sharing agreements between the court and relevant agencies	Increased flow of information or resources that aid the court in decisionmaking and service linkages for families
4.4 Safety and security	1. Effective collaboration	Local FD documentation of security needs, efforts to establish a safety collaboration with local law enforcement, investigative outcomes of security breaches and incidents	Potential breaches of security and potential for incidents involving children and victims
	2. Training for court staff	Local FD documentation concerning training efforts for court staff, with emphasis on family law matters	Potential for prevention of security breaches based on frequency and content of training
	3. Presence of security personnel in all FD courtrooms	Local FD documentation of presence of security personnel in FD courtrooms	Absence of security resources vs. actual breaches of security and assessemnt of potential for violence to occur absent sufficient security
	4. Acknowledged fiscal and legal restraints	DFA identification of legal and fiscal barriers where gaps exist in safety and security	Examine potential alternatives where barriers exist and FSU efforts to overcome barriers
4.5 Uniform qualifications	1. Comprehensive training curricula for judges and court staff	DFA documentation	Content and delivery of curricula and demonstrated flexibility re: changing legal and social issues
	2. Mentoring program and assignments	List of voluntary mentors and development of mentoring guidelines	Selection and use of mentors
	3. Uniform job descriptions and qualifications	Collaborative development between DFA and local FD's	Review for standardization and uniformity

PUBLIC TRUST AND CONFIDENCE

5.1 A therapeutic, holistic, ecological approach to family law decisionmaking	1. Community outreach	Document court-community collaborations and educational efforts to initiate efforts and understand their value	Results of court-community collaborations
	2. Encourage and invite other government representatives to visit local FD's	DFA encouragement and tracking of local efforts	Anecdotal evidence of improved relations, understanding of FD business
5.2 Fairness, courtesy, civility	1. Customer service and staff satisfaction	Self-assessment questionnaires to local FD's by DFA	Review of court staff suggestions for systemic improvement
		Public questionnaires administered by DFA	Review systemic perceptions, specific instances of treatment
5.3 Visible presence in the community	1. User-friendly facilities	Self-assessment questionnaires to local FD stakeholders by DFA	Review stakeholders perceptions
		Periodic focus groups conducted by DFA	Review systemic perceptions and suggestions for improvement
	2. Public education	Volunteer speaking within the community, in general, to educate concerning FD's	Public reaction to offers to share information concerning the FD

Maryland
Judiciary