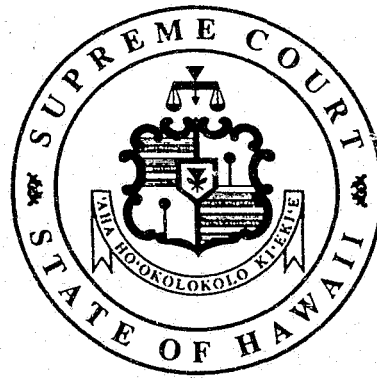


# STATE OF HAWAII JUDICIAL SYSTEM



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An Operational Analysis of the  
First Circuit Family Court

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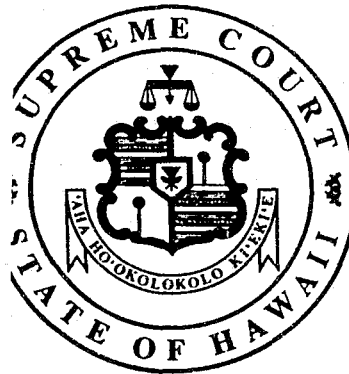
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## An Operational Analysis of the First Circuit Family Court

Carter Goble Associates, Inc.  
February 1989

## ACKNOWLEDGMENTS

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Special thanks are extended to Clyde Namuo, Chief Clerk of the First Circuit Court, for the valuable assistance he provided in project liaison during the planning effort.

\* During the eight-month planning effort, Mr. Santos was Administrator, Juvenile Intake and Family Crisis Services.

**Introduction**

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**Chapter 1 Family Court Composition and Workload**

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Historical Perspective  
Family Court Organization  
Family Court Workload

**Chapter 2 Operational Analysis and Preliminary Conclusions**

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Planning Methodology and Focus  
Adjudicatory Goals  
Analysis of Operational Problems  
Analysis of Systemic Causes  
Preliminary Conclusions

**Chapter 3 Comprehensive Operational Plan**

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Caseload Management  
Court Organization and Process  
Support Organization and Process  
Interim Progress and Ongoing Recommendations

## INTRODUCTION

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**INTRODUCTION**

The report which follows is the culmination of a comprehensive operational analysis of the First Circuit Family Court. The report is presented in three sections including a brief discussion of the history and composition of the Court; a detailed discussion of the operation of the Court prior to the planning effort, and some future directions for the Court; and a list of specific recommendations which, taken together, constitute an operational plan.

The planning effort took place during a period of approximately eight months, commencing in March of 1988 and concluding in October. At the conclusion of the planning effort, the majority of the specific recommendations cited in this report had already been adopted by the Court. The remainder, unanimously endorsed by the judges of the First Circuit Family Court, are in the process of implementation as of the writing of this report.

In deciding to undertake a comprehensive analysis of the First Circuit Family Court, the Chief Justice and the Administrative Director of the Courts were responding to a growing awareness from both inside and outside the Court, that the Family Court was struggling to deal effectively with the growing caseload on Oahu. Public criticism and legislative concern with respect to the operation of the Court underscored the need to conduct a comprehensive analysis of Family Court operations.

Specific criticisms of Family Court operations included the following:

- Inability to cope with increasing caseload
- Mixed mission -- tension between adjudicatory and social work mandates of the Court
- Excessive time in the resolution of cases

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- Excessive Judicial individuality in scheduling and hearing policies
- Excessive complexity -- wide ranging critique of forms, procedures and process
- Lack of uniformity in overall Court practice and procedure
- Poor employee morale and high turnover
- Excessive paperwork snarls
- Insufficiently precise caseload information
- Excessive clerical review of technical and substantive issues
- Over-reliance on Per Diem Judges

Many of the criticisms generated either within the Court, or from outside, were found to be valid but remedial given a concentrated effort by the trial judges and administrative staff of the Court. The planning approach which was developed and utilized to address these criticisms is explained in some detail in Chapter Two.

The conclusion reached by the planning participants was that the Court's problems were interrelated. A lack of uniformity and excessive complexity caused excessive Judicial individuality and paperwork snarls. Those and other factors, in turn, contributed to delays in resolving cases, an inability to cope with increasing caseloads, and an over-reliance on Per Diem Judges to perform the work of the Court.

The operational plan which is presented in this report and which was essentially adopted in October, 1988, is based on a recognition of the need to clearly define the operational mission of the Court, to develop specific goals to reflect that mission, and to develop uniform policies and practices to accomplish those goals.

**INTRODUCTION**

The report which follows is intended to replicate the sequential nature of the planning process, commencing with an exploration of the original mission and composition of the Family Court in Chapter One; analyzing the ways in which the Court appears to be unsuccessful in accomplishing that mission, and suggesting some broad conclusions for improvement in Chapter Two; and, finally, focusing on specific recommendations to enhance the appropriate operation of the First Circuit Family Court in Chapter Three.

Taken together, the analysis is intended to offer not only a specific solution to a set of specific problems identified in 1988, but a philosophical and methodological basis for the ongoing improvement of the Family Court in all of the Judicial Circuits.



## **FAMILY COURT COMPOSITION AND WORKLOAD**

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**FAMILY COURT COMPOSITION AND WORKLOAD**

Chapter One illustrates the original intent in the creation of the Family Court and describes the evolution of the Court with respect to both organization and workload. The understanding of the Family Court mission, organization, and workload form the basis for a sequential analysis of Family Court operations.

FAMILY COURT COMPOSITION AND WORKLOAD

HISTORICAL PERSPECTIVE

The Family Court of Hawaii was created by the Legislature through the Family Court Act of 1965. The intent of this Act was the integration of jurisdiction and programs dealing with children and families into one specialized Court. The Family Court replaced Juvenile Court and Domestic Relations Court, and acquired jurisdiction over marital actions, adoptions, paternity actions, adult criminal (spouse and family abuse) cases, involuntary commitment actions, and all juvenile cases.

The position of the Family Court within the Hawaii Judicial System is illustrated in the Organizational Chart in Figure 1.1. The Family Court is a specialized division of the Circuit Court which is the Court of general jurisdiction in civil and criminal matters.

The purpose of the Family Court was clearly expressed by a Judiciary Committee of the Legislature in 1965:

*To collect all those judicial functions which deal with the family into one comprehensive program. Your committee feels that the government has the responsibility to protect children and those who cannot protect themselves and strengthen family life, thereby promoting the welfare of the community.<sup>1</sup>*

This purpose was further articulated in 1975 by the Honorable Herman T. F. Lum, now Chief Justice of Hawaii, when he was Senior Judge of the First Circuit Family Court:

- 1) *The coordination of all child and family matters in one court, to facilitate addressing the problems of a family in a single place with a single philosophy.*

FAMILY COURT COMPOSITION AND WORKLOAD

- 2) *To provide for the utilization of social science knowledge and techniques in order to eliminate the problems requiring Court intervention in the lives of children and families.<sup>2</sup>*

From its beginning, the Family Court has had a complex purpose. It was constituted as a Court of law, having the rights, powers and duties of a trial Court. As such, it was intended to adjudicate cases, to resolve disputes, to enforce the laws and to dispense justice. But additionally, it was constituted to investigate and respond to the underlying causes of family distress, disruption, and crime, and to provide a means for helping families involved in such difficulties.

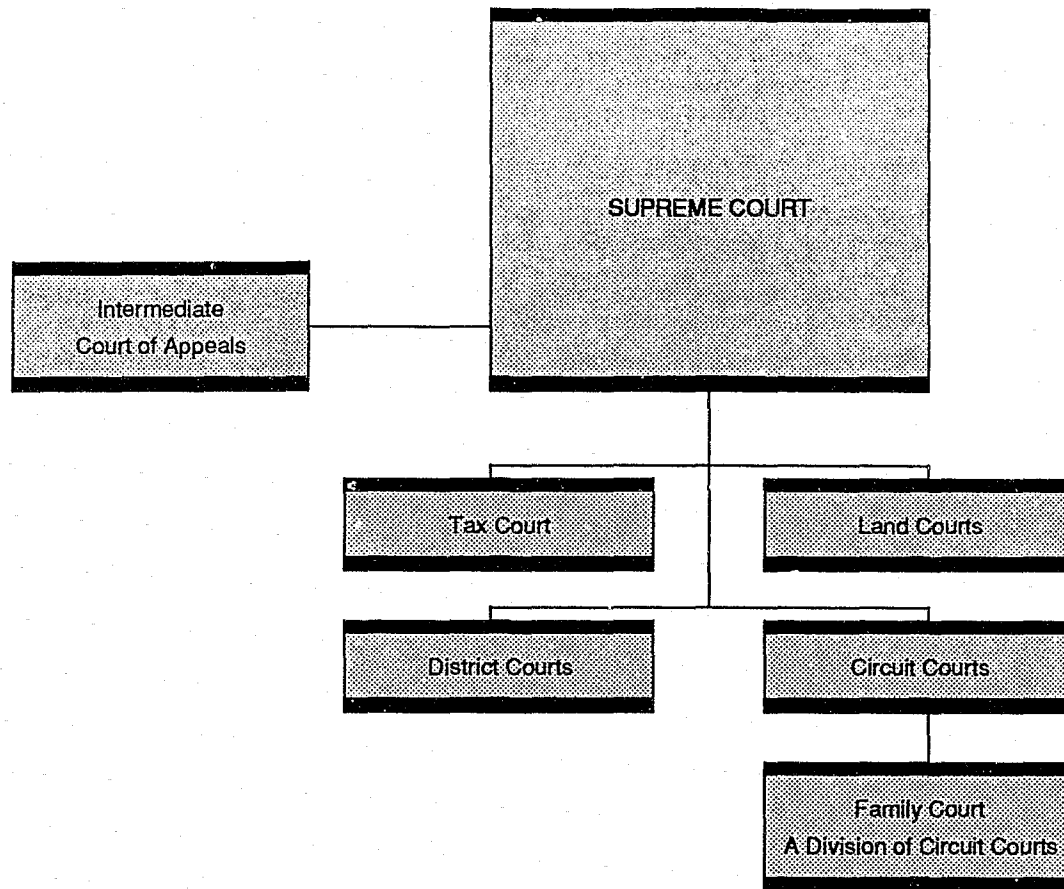
The dual mandate of providing a formal arena for dispute resolution, the traditional mission of the Court, and of providing a holistic approach to the delivery of family-related sanctions and social services, created some inherent tension in the operation of the Court. Achieving an appropriate balance between the judicial and social service responsibilities of the Family Court is an ongoing dilemma.

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<sup>1</sup>*A Report and Recommendation by the Committee for a Family Court Center for Oahu, January, 1983.*

<sup>2</sup>*Ibid.*

Figure 1.1  
HAWAII JUDICIAL SYSTEM: ORGANIZATIONAL CHART



Hawaii's judicial system is organized into two levels. The appellate level consists of the Supreme Court and the Intermediate Court of Appeals (ICA). The trial level consists of the Circuit Courts, the Family Courts (a division of the Circuit Courts), the District Courts, and two specialized courts: the Land Court, which deals primarily with registration of title for fee simple land and easements; the Tax Appeal Court, which handles disputes between the tax assessor and taxpayer. Direct lines of appeal extend to the Supreme Court from all trial level courts. An assignment judge, appointed by the Chief Justice from among those who sit on the Supreme Court and the ICA bench, decides whether the Supreme Court or the ICA will review an appeal.

The Circuit Courts are courts of general jurisdiction in civil and criminal matters. Circuit Courts have exclusive jurisdiction in criminal felony cases, probate and guardianship cases, and civil cases involving sums of more than \$10,000. All jury trials are held in Circuit Courts.

The Family Courts, established to deal exclusively with children and families, form a separate division of Circuit Courts.

The District Courts are non-jury trial courts with limited jurisdiction in civil and criminal matters. District Courts have exclusive jurisdiction in petty and criminal misdemeanors, traffic violations, and normally, civil cases involving sums of less than \$5,000.

Circuit and District Courts share concurrent jurisdiction in civil matters where the contested amount involves \$5,000-\$10,000.

Source: Annual Report of the Judiciary, December 1986.

**FAMILY COURT COMPOSITION AND WORKLOAD**

**FAMILY COURT ORGANIZATION**

In order to carry out its complex purpose, the Court developed two main organizational structures: one Judicial and one programmatic.

The Judicial component of the Family Court was initially composed of a Senior Judge of the Circuit Court and a number of referees. In 1973, the Hawaii Legislature upgraded the Family Court by replacing the referees with law trained Judges of District Court rank. Under this arrangement, decisions of the Family Judges became final and appeals, if any, were to be heard by the Supreme Court. This remains the operating organization of the Judicial portion of the Family Court.

Proceedings before the Family Court Judiciary are formal legal proceedings, conducted *on the record* according to the Supreme Court approved Rules of Court. All the fundamental substantive and procedural rights available in any other criminal or civil Court are available in the Family Court as well. The duty of the Court is to conduct fair and impartial proceedings and to exercise its powers to do justice, to settle disputes, to adjudicate issues, to dispose of cases, and to enforce its orders. Within this framework, the Court is to serve as a positive force for stability for families in distress, and to function as a rehabilitative rather than punitive agent to the greatest possible extent.

The second organizational structure developed to achieve the purposes of Family Court was programmatic. A complex of programs was developed, staffed by social service trained personnel, and intended to help those coming under the Court's jurisdiction. Additionally, these programs were directed toward prevention of family distress and to the provision of treatment and assistance across the spectrum of family related case types.

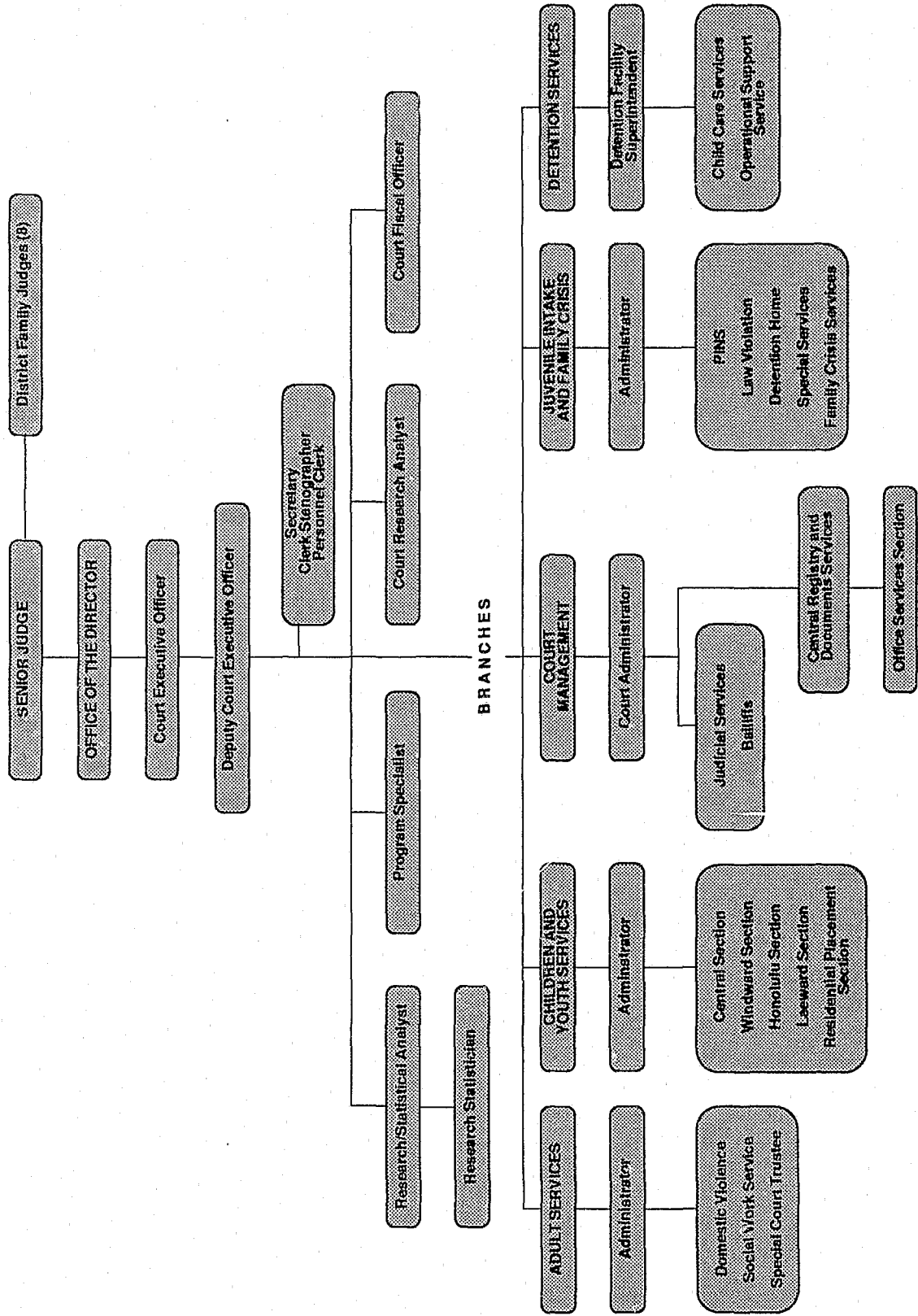
**FAMILY COURT COMPOSITION AND WORKLOAD**

Over time the programmatic components developed as follows:

- ***Juvenile Intake and Family Crisis Services Branch***  
Designed to provide immediate services to juveniles and their families with the hope of diverting them from the Judicial process.
- ***Children and Youth Services Branch***  
Responsible for the supervision of all juveniles adjudicated by the Court for law violations or status offenses.
- ***Detention Services Branch***  
Charged with the provision of 24-hour residential care for certain juveniles.
- ***Adult Services Branch***  
Designed to provide a variety of services to reduce or ameliorate adult family problems.

The programmatic components of the Family Court are managed by the Office of the Family Court Director, in conjunction with the Senior Judge who is the ultimate head of the Family Court. Those four programmatic branches are supported by Court Management Services which supplies close clerical and administrative support to the Judicial component. The organization of the Family Court is illustrated in Figure 1.2.

FIGURE 1.2  
**FIRST CIRCUIT FAMILY COURT: ORGANIZATIONAL CHART**





**FAMILY COURT COMPOSITION AND WORKLOAD**

The Family Court is a combination of organizational structures (Judicial and programmatic), formal and informal processes, and legal and social service approaches.

During the analysis of the Family Court, it became increasingly clear that the Judicial component (the Court) is by reason of its legal powers, necessarily in the dominant or central position in the Family Court System. It is not just another agency or office, but rather the main focus, forum and organizing element of the System. For this reason, the effectiveness and efficiency of the Court itself is particularly critical. Virtually every other family-related service derives its mandate, or at least some element of its process, from the timetable, information and form requirements, scheduling practices, or orders of the Court.

Determining whether the Court was, in fact, successful in dealing with its workload became an essential component of the analysis.

## FAMILY COURT COMPOSITION AND WORKLOAD

## FAMILY COURT WORKLOAD

The workload of the Court, the essential purpose of the Court's Judicial and programmatic structures, is analyzed below. First, the main case types with which the Court must deal are enumerated, then a brief review of relevant population statistics is provided. This is followed by an examination of the basic indicators of Court activity, specifically filings and dispositions. These are presented as a basis for the analysis and discussion which will occur in the next chapter.

## Case Types

The Family Court jurisdiction covers the following main categories:

- **Juvenile Cases**  
Includes minors charged with violations of law as well as those referred for behavioral problems and actions involving abuse and neglect.
- **Marital Actions**  
Includes such matters as divorces, annulments, separations, and the enforcement of family support orders.
- **Adoptions and Paternities**  
Pertains to the establishment of paternal responsibility and the entering of support judgments.
- **Involuntary Commitments**  
Pertains to both mentally defective and mentally ill persons.

**FAMILY COURT COMPOSITION AND WORKLOAD**

- ***Adult Criminal Cases***

Includes violations of criminal statutes involving abuse of a spouse or child.

These basic case types generate a variety of proceeding types. A representative (but not exhaustive) list would include: detention home hearings, arraignments, plea hearings, order to show cause hearings, non-jury trials, jury trials (adult criminal only), sentencings, dispositions, review proceedings, temporary restraining order hearings, support enforcement hearings and adoption hearings.

Over the years of the Family Court's existence, there have been occasional changes in the Court's jurisdiction and responsibility with respect to certain specific case types, but the general categories have remained constant. The changes that have occurred, coupled with increased procedural requirements, have been perceived as further complicating the Court's work.

**Population Growth**

The main factor affecting Family Court workload has been a significant increase in the population of Honolulu County during the past few years, from 631,600 in 1970 to 833,500 in 1987. As Table 1.1 indicates this is an average 1.6 percent per-year growth, and represents an average yearly increase of about 11,876 people.

While estimates of future population growth anticipate some slowing of this rate, the projected increase is still expected to produce 975,100 residents by 2005. This growth is expected to continue its impact on the Court's workload as increases in population generally drive even greater increases in caseload growth.

Table 1.1  
POPULATION ANALYSIS AND FORECASTS, 1970-2005  
STATE OF HAWAII AND HONOLULU COUNTY

Year	State of Hawaii Population	Number Per Year	Percent Per Year	Honolulu County Population	Number Per Year	Percent Per Year
Historical Population ==>						
1970	771,600	—	—	631,600	—	—
1971	801,600	30,000	3.9%	654,600	23,000	3.6%
1972	828,300	26,700	3.3%	674,700	20,100	3.1%
1973	851,600	23,300	2.8%	691,400	16,700	2.5%
1974	868,000	16,400	1.9%	707,600	16,200	2.3%
1975	886,000	18,000	2.1%	718,600	11,000	1.6%
1976	904,200	18,200	2.1%	728,300	9,700	1.3%
1977	918,300	14,100	1.6%	737,000	8,700	1.2%
1978	931,600	13,300	1.4%	742,600	5,600	0.8%
1979	953,300	21,700	2.3%	756,000	13,400	1.8%
1980	968,900	15,600	1.6%	764,800	8,800	1.2%
1981	980,600	11,700	1.2%	768,800	4,000	0.5%
1982	997,800	17,200	1.8%	778,700	9,900	1.3%
1983	1,019,500	21,700	2.2%	793,400	14,700	1.9%
1984	1,037,200	17,700	1.7%	802,400	9,000	1.1%
1985	1,051,500	14,300	1.4%	811,100	8,700	1.1%
1986	1,069,700	18,200	1.7%	822,300	11,200	1.4%
1987	1,087,900	18,200	1.7%	833,500	11,200	1.4%
Average 1970-1987 =		18,606	2.0%	11,876		1.6%
Projected Population ==>						
1990	1,142,500	18,200	1.7%	867,100	11,200	1.3%
1995	1,228,900	17,280	1.5%	915,900	9,760	1.1%
2000	1,294,200	13,060	1.1%	945,400	5,900	0.6%
2005	1,359,500	13,060	1.0%	975,100	5,940	0.6%
Average 1990-2005 =		15,400	1.3%	8,200		0.9%

Source: Department of Business and Economic Development, State of Hawaii, July 1987.

Figures based on resident population.

## FAMILY COURT COMPOSITION AND WORKLOAD

**Caseload Statistics**

The most fundamental measure of the demand for Judicial services is filing activity. Over the last several years, as the population has increased, there have been substantial increases in Family Court filings as well. Table 1.2 shows that while from 1975 to 1984 the increases were gradual, from 1984 to the present they were much more dramatic. In the last 4 years total filings have increased by 9,500 cases or at an average yearly rate of about 14 percent. This was due in part to increased adult criminal complaints, children's law violations and status offenses, and particularly as a result of children's supplemental proceedings.

One of the side effects of the increase of original and supplemental filings in the Court is the resulting proliferation of a variety of supplemental proceedings. Each original proceeding may generate one or more supplemental proceedings, so a rapid increase in filings will engender ever larger numbers of total proceedings governing such issues as visitation rights, custody, payment of child support, and so on.

Table 1.2 also analyzes the disposition (or termination) activity of the Family Court. While the increase in filings was somewhat paralleled by an increase in the actual number of dispositions, the disposition rate, the difference between filings and dispositions expressed as a percentage, sagged steadily from 102 percent in FY 1974-1975 to 79 percent in FY 1981-1982. This disparity created a backlog of cases which even recent higher rates of disposition have yet to eliminate.

Throughout the charted time period, the Court has experienced a fluctuating rate of Judicial effectiveness. This can be most clearly seen in the terminations per judge, where rates vary from as few as 1,363 terminations per Judge in FY 1982-1983 to as many as 2,564 per Judge in FY 1986-1987. This will be the subject of further discussion and analysis in the following chapter.

The analysis of the Family Court's historic workload confirmed the perception cited in the Introduction that the Court was not keeping pace with caseload increases.

Table 1.2  
FIRST CIRCUIT - FAMILY COURT FILINGS AND JUDGESHIPS  
HISTORICAL ANALYSIS, 1975-1987

FIRST CIRCUIT	1974-75	1975-76	1976-77	1977-78	1978-79	1979-80	1980-81	1981-82	1982-83	1983-84	1984-85	1985-86	1986-87	1975-87 Average
Total Family Filings	13,166	14,198	15,753	16,487	17,146	17,389	16,817	18,404	16,983	19,752	21,591	24,064	26,544	
- Marital Actions	4,612	5,303	5,671	6,207	6,333	6,567	6,027	6,110	5,448	5,684	5,619	5,466	5,372	
- Adoptions	633	578	549	555	612	582	532	519	595	534	549	498	496	
- Paternal/Paternity	43	231	592	386	682	429	744	1,404	864	1,059	727	644	999	
- Miscellaneous	198	444	784	1,023	1,042	1,318	1,435	1,518	1,575	1,924	1,764	1,933	2,079	
- Criminal Action	26	30	30	35	39	57	72	93	104	144	160	245	622	
- Adult Referrals	524	529	532	616	574	548	411	332	303	576	1,698	1,953	2,043	
- Children Referrals	5,210	4,859	5,017	4,926	5,169	4,967	4,911	5,279	5,441	5,521	6,686	7,410	7,965	
- Supplemental	1,920	2,224	2,581	2,739	2,695	2,921	2,685	3,149	2,653	4,310	4,388	5,915	6,968	
Total Terminations	13,394	13,229	14,609	15,273	16,038	15,650	14,242	14,630	15,016	19,164	20,142	26,098	30,517	17,539
Pending at End	7,125	8,094	9,241	10,455	11,563	13,302	15,877	19,651	21,618	22,206	23,655	21,621	17,647	15,543
Disposition Rate	102%	93%	93%	93%	94%	90%	85%	79%	88%	97%	93%	108%	115%	95%
Number of FTE Judges (1)	7.00	7.00	7.25	7.30	7.20	8.00	7.83	9.44	11.02	13.30	13.20	13.70	11.90	
Filings Per Judge	1,881	2,028	2,173	2,258	2,381	2,174	2,148	1,950	1,541	1,485	1,636	1,756	2,231	1,972
Terminations Per Judge	1,913	1,890	2,015	2,092	2,228	1,956	1,819	1,550	1,363	1,441	1,526	1,905	2,564	1,866
Judges Per 100,000 Pop.	0.97	0.96	0.98	0.98	0.95	1.05	1.02	1.21	1.39	1.66	1.63	1.67	1.43	1.22
Filings Per 1,000 Pop.	6.42	7.28	7.69	8.36	8.38	8.59	7.84	7.85	6.87	7.08	6.93	6.65	6.45	7.41
Honolulu Co. Population	718,600	728,300	737,000	742,600	756,000	764,800	768,800	778,700	793,400	802,400	811,400	822,300	833,500	

Notes:

(1) The First Circuit was the only circuit in which Circuit and District Court Judges were specifically assigned Family Court cases. The total shown included per diem judges.

Source: The Judiciary, State of Hawaii: Annual Reports (FY 1972-73 to FY 1986-87);

Carter Goble Associates, Inc., May 1988.

## **OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS**

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**OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS**

Chapter One described the general mission, organization, and workload of the First Circuit Family Court. This chapter presents an overview of the methodology utilized in analyzing the Family Court; cites some adjudicatory goals; analyzes existing operational problems and systemic causes of problems; and offers some preliminary conclusions for improvement.

It should be noted that although the process is described as highly sequential, the actual planning was both more spontaneous and more integrated. As focus and goals were developing, specific problems were being analyzed. And as conclusions were emerging, actions aimed at eliminating problems were already being implemented and refined.

The sequential planning and preliminary conclusions of this chapter formed the basis for the Comprehensive Operational Plan developed in Chapter Three.



**OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS****PLANNING METHODOLOGY AND FOCUS**

The planning methodology employed in the Operational Analysis of the Family Court was sequential in nature, proceeding from the general to the specific. First, a general focus for the planning process had to be identified, as no eight-month effort could hope to address all of the areas of interest in such a complex system. Second, once a general focus had been identified, specific goals for the system had to be developed. Third, once specific goals were developed, existing problems and causes of problems could be examined in the light of those goals. Finally, with a focused analysis of existing problems, creative solutions could be developed in the form of a detailed operational plan.

In addition to being sequential, the planning methodology relied very heavily on an interactive and consensus-building approach. It was generally recognized that problems existed in the operation of the Family Court, but there was wide diversity of opinion on the causes of the problems, and consequently, on the potential solutions available to the Family Court.

In order to promote an environment in which consensus could be reached on focus, goals, problems/causes, and a specific operational plan, two task forces were created. One of the task forces consisted of the Judiciary; the other consisted of the administrative staff.

Early in the project, the Consultant began regular meetings with all the full-time judges of the First Circuit Family Court. The Honorable Betty Vitousek, Senior Judge of the First Circuit Family Court, was instrumental in the creation of this group and in the provision of early leadership in its deliberations. After her retirement, the Honorable Daniel Heely was appointed acting Senior Judge and assumed the direction of the

OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS

group. It met regularly to evaluate, analyze, reflect, and make important policy decisions.

The Administrative Task Force was composed of the administrators of the Family Court Programs, led by the Administrative Director, Ken Ling. To these individuals fell the responsibility for articulating system detail, explaining procedural rationale, examining administrative practice, and evaluating the system impact of mutually-agreed changes.

Both of these groups spent hours each month in careful deliberation. Brainstorming techniques were employed to promote interaction, and the contributions of each individual, and of each group, were carefully incorporated into the analysis.

Very early in the analytical process, it was determined that the greatest number of perceived deficiencies in the operation of the Family Court related to the adjudicatory aspects of the Court's mission. As described in the Introduction, a number of the issues were interrelated. A lack of uniformity and excessive complexity caused: a highly ideosyncratic approach to case scheduling and disposition, paperwork snarls, poor morale, and ultimately, an inability to timely resolve a steadily growing caseload.

A focus on organizational and procedural elements impacting the adjudicatory functions of the Family Court became the primary thrust of the planning effort. The planning participants concluded that the balance between the adjudicatory and social service functions of the Family Court could best be maintained by a clearer definition of roles and relationships. The primary role of many of the support elements of the Family Court was readily defined as service-related. Examples include Domestic Violence and Social Work Services, Children and Youth Services, and Juvenile Intake and Family Crisis Services.

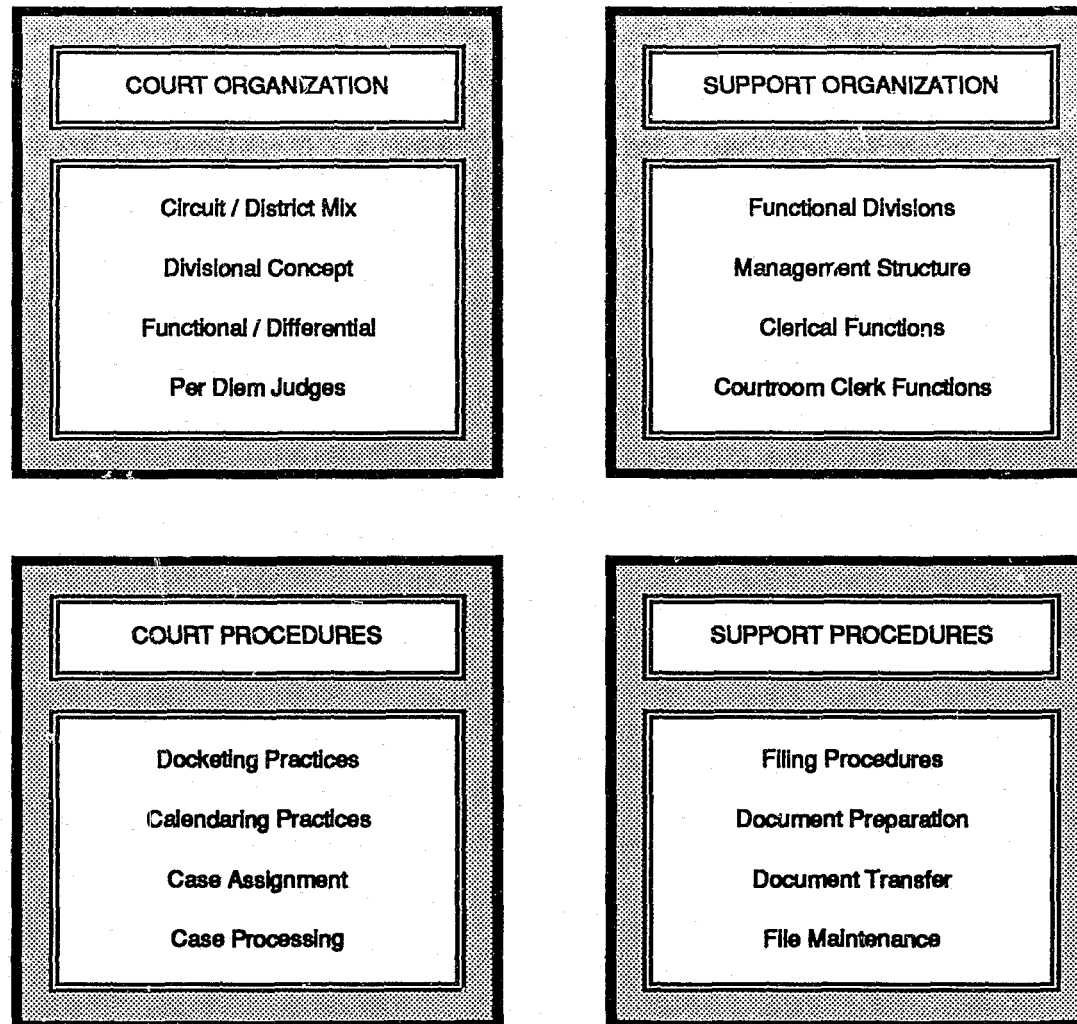
The primary role of the Court was defined as adjudicatory. Although the Court (as distinct from the various support elements of the Family Court) acts as the focal point for many service-related activities, the primary mission of the Court remains the timely resolution of disputes. It was concluded that a sharper focus on the Court's adjudicatory

**OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS**

role would best enable the Court to respond to existing problems and to cope with future caseload increases. With that focus defined, specific goals could be identified to support the Court's primary role in the timely resolution of disputes.

In order to delineate the specific organizational and procedural elements of the Court which could bear on both general focus and on the development of specific goals, Figure 2.1, entitled Comprehensive Operational Analysis, was generated. In the months of analysis which followed, the general focus on adjudication, and the particular focus on organizational and procedural elements impacting adjudication, laid the foundation for the development of a comprehensive operational plan.

Figure 2.1  
**COMPREHENSIVE OPERATIONAL ANALYSIS**



Source: Carter Goble Associates, Inc., May 1988.

OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS

ADJUDICATORY GOALS

During the early part of the planning process, as effort was focused on the organizational and procedural aspects of the Court's adjudicatory mission, five primary goals emerged:

- *The Court should hear and dispose of cases in a timely and expeditious manner.*
- *The Court should control the pace of litigation.*
- *While respecting individual judicial discretion, the Court should be essentially uniform in its practices and procedures.*
- *The Court should set, and adhere to, specific standards for time-to-disposition.*
- *The Court should make a sustained effort to effectively and efficiently utilize resources.*

It is sometimes difficult to precisely distinguish between an abstract philosophical principle and an objective goal. The five goals articulated during the planning process certainly contain elements of fundamental judicial philosophy. However, it was concluded that identifying and articulating them as specific goals would provide a firm basis for the consideration of problems and solutions which was to follow.

The first goal, that the Court should hear and dispose of cases in a timely and expeditious manner, is fundamental to the Court's mission. 'Justice delayed is justice denied,' is one often stated way of expressing the fundamental principle. Chief Justice Lum expressed the principle to the Hawaii State Bar Association in November of 1984 when he stated, "We all know that justice may be meted out in a fair and conscientious

OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS

manner, but if we fail to deliver it in a timely, expeditious manner as well, it is not justice at all."

The Court has inherent mechanisms available for legitimately delaying cases not ripe for litigation. But an inability to appropriately respond to the full docket of cases pending before the Court strikes to the heart of the Court's mission to resolve disputes.

The second goal is a corollary of the first. In order to ensure that cases are heard and disposed in a timely and expeditious manner, the Court must first take the responsibility to control the pace of litigation. The planning participants concluded that a *laissez faire* attitude on the part of the Court with respect to the pace of litigation, inherently bred lack of uniformity and delay in the handling of cases.

The third goal was designed to promote uniformity in the System, both for the purpose of ensuring the timely resolution of disputes which is the Court's primary mission, and for the purpose of ensuring fair, consistent, and predictable treatment for participants in the adjudicatory process. It was concluded that greater consistency and predictability would benefit judges and administrative personnel as well as attorneys, litigants, and other Family Court participants.

The fourth goal, that of setting and attaining specific time-to-disposition standards, was intended to provide tangible substance to the Court's primary mission. The Court had, at various times in its history, endorsed time-to-disposition standards. However, it was concluded that a fresh commitment to standards developed by the judges and administrative staff would help to ensure the concentration and dedication required to attain the standards.

The final goal, to effectively and efficiently utilize resources, was critical to the ultimate success of the operational planning effort. Like most organizations, the Family Court had been automatically responding to an increasing workload with increasing personnel resources. No matter how many Per Diem Judges, Court clerks or other staff were made available, the perception that the Court was understaffed persisted. Commitment

**OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS**

to the goal of more effectively and efficiently utilizing resources enabled the Court to conscientiously examine ways to streamline functions and to minimize complexity, rather than to look first to personnel growth as a means of resolving increased caseloads.

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ANALYSIS OF OPERATIONAL PROBLEMS

Once focused adjudicatory goals had been developed, specific problems in Family Court operations were analyzed. Although a number of specific problems were addressed, three overriding problems emerged. They were:

- Excessive time in the resolution of cases.
- Inefficient use of Judicial and Administrative resources.
- Internal and external frustration with workloads and the mechanisms for dealing with them.

In essence, the Court was not succeeding in its primary mission of timely resolving its increasing caseload. And the resources being brought to bear on the caseload were not being used efficiently. Partly as a result of that, and for other reasons as well, the frustration level of judges, administrative staff, attorneys, and other Family Court participants was high. Analysis was directed at defining the nature and general magnitude of the three major problems.

**Excessive time in the resolution of cases (delay).** The public and Bar perception that it took inordinately long to resolve even fairly routine matters in the Family Court was a source of genuine concern to the Judiciary. As specific analysis focused on this problem, three things became apparent.

First, average terminations per judge within the First Circuit varied widely from year-to-year. And average terminations per judge for the First Circuit as a whole were typically significantly lower than for the Family Courts of the other three Circuits. The latter finding was particularly disturbing as centralized and consolidated Court operations are



## OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS

generally more, rather than less efficient in resolving caseloads. This was an indicator of delay, as widely fluctuating disposition rates, and significantly lower disposition rates than would be expected, were producing a backlog as more and more cases were added to the System from 1984 to 1988.

The second observation regarding delay was that the Court had no regularly employed, and reliable, mechanism for measuring delay. There was an Age of Pending Cases Report produced twice a year, which was widely believed to be inaccurate. This report, with potential format modifications, contained the information necessary to measure delay. But information was not presented in a way that the Court could appropriately track changes in patterns of delay or overall conformance to standards. And the fact that the Court was not able to measure delay, taken with increasing backlogs, was additional *prima facie* evidence of a growing problem.

The third observation involved using the Age of Pending Cases Report referred to in the preceding paragraph. A modification of the report format, showing age categories for Family Court cases, and the percentage of cases falling into each category, enabled the Court to obtain a holistic view of the Court's performance with respect to delay, and to compare that performance to other jurisdictions around the Country. Table 2.1 illustrates the age of pending cases for the First Circuit Family Court of Hawaii, and Table 2.2 shows the same with a comparison state, for the five year period from 1983 to 1987.

Table 2.1 shows a detailed breakdown, by case type, of age status for the First Circuit. Table 2.2 compares the total age of cases for the First Circuit to a similar total for the State of South Carolina. South Carolina was chosen for comparison purposes for two reasons. First, the composition of the South Carolina Family Court is very similar to (even modeled upon) the Hawaii Family Court. Second, the South Carolina System meets national time-to-disposition standards.

Table 2.1  
FIRST CIRCUIT FAMILY COURT  
AGE OF PENDING CASES BY CASE CATEGORY

Case Category	Years					Average of 1983-1987
	1983	1984	1985	1986	1987	
<b>MARITAL ACTIONS</b>						
0-6 Months	27.5%	25.6%	26.5%	28.5%	41.0%	29.8%
6-12 Months	14.7%	14.4%	16.7%	13.7%	21.5%	16.2%
12-18 Months	12.5%	9.7%	12.9%	12.8%	15.1%	12.6%
18-24 Months	9.1%	7.3%	9.8%	13.2%	5.8%	9.0%
24+ Months	36.2%	43.1%	34.0%	31.8%	16.6%	32.3%
<b>ADULT REFERRALS</b>						
0-6 Months	48.0%	93.6%	86.5%	92.0%	68.2%	77.6%
6-12 Months	4.1%	5.7%	12.9%	7.8%	25.5%	11.2%
12-18 Months	3.5%	0.7%	0.7%	0.3%	6.3%	2.3%
18-24 Months	2.3%	0.0%	0.0%	0.0%	0.0%	0.5%
24+ Months	42.1%	0.0%	0.0%	0.0%	0.0%	8.4%
<b>CHILDREN'S REFERRALS</b>						
0-6 Months	58.9%	64.4%	72.4%	67.2%	70.1%	66.6%
6-12 Months	14.1%	11.1%	13.9%	11.4%	10.9%	12.3%
12-18 Months	8.8%	7.5%	6.0%	10.6%	7.3%	8.0%
18-24 Months	5.2%	5.4%	3.6%	4.7%	3.3%	4.5%
24+ Months	13.1%	11.6%	4.0%	6.0%	8.4%	8.6%
<b>SUPPLEMENTAL PROCEEDINGS</b>						
0-6 Months	12.9%	18.0%	14.6%	18.5%	27.5%	18.3%
6-12 Months	13.6%	14.4%	14.3%	12.4%	20.0%	14.9%
12-18 Months	15.2%	10.6%	12.1%	9.0%	10.6%	11.5%
18-24 Months	10.4%	8.1%	8.7%	7.8%	6.0%	8.2%
24+ Months	47.9%	49.0%	50.3%	52.4%	35.9%	47.1%
<b>FIRST CIRCUIT COURT TOTAL</b>						
0-6 Months	26.9%	27.7%	26.5%	29.9%	39.4%	30.1%
6-12 Months	15.2%	13.6%	14.5%	12.4%	16.4%	14.4%
12-18 Months	13.0%	8.9%	11.9%	9.8%	9.5%	10.6%
18-24 Months	8.3%	7.2%	8.2%	8.7%	5.2%	7.5%
24+ Months	38.7%	42.7%	38.9%	39.2%	29.5%	37.4%

Source: Report # JACA1J1R, First Circuit Court;  
Carter Goble Associates, Inc., June 1988.

**Table 2.2**  
**AGE OF PENDING CASES**  
**STATE COMPARISON BETWEEN HAWAII AND SOUTH CAROLINA**

Year	Age of Pending Cases					
	0-6 Months		6-12 Months		12+ Months	
	Hawaii	South Carolina	Hawaii	South Carolina	Hawaii	South Carolina
1983	27%	86%	42%	99%	58%	1%
1984	28%	92%	41%	100%	59%	--
1985	27%	91%	41%	100%	59%	--
1986	30%	95%	42%	100%	58%	--
1987	39%	96%	56%	100%	44%	--
<b>AVERAGE</b>	<b>30%</b>	<b>92%</b>	<b>44%</b>	<b>100%</b>	<b>56%</b>	<b>0%</b>

Family Court Caseload		
Year	Hawaii	South Carolina
1983	16,983	59,655
1984	19,752	62,413
1985	21,591	61,824
1986	24,064	63,781
1987	26,544	71,260

Source: Carter Goble Associates, Inc., June 1988.

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Although there is some question about the accuracy of the Hawaii figures, Table 2.2 shows the nature and general magnitude of the problem. In the First Circuit Family Court, in 1987, only 56 percent of the total Family Court cases were disposed within 12 months. Nearly half were older than one year. By comparison, for the same year in South Carolina, 96 percent of the cases (and a much larger caseload) were disposed within 6 months and 100 percent were disposed within one year.

Clearly, there was significant delay in resolving cases in the First Circuit Family Court. And without concentrated attention, a steadily increasing caseload could only exacerbate the problem.

**Inefficient use of Judicial and administrative resources.** There were a number of indications that the Court was not using its resources efficiently. One of the most obvious indicators was discussed above -- significantly and consistently lower disposition rates than would have been expected. A second indicator was the reliance on Per Diem Judges to assist in the routine daily business of the Court. In 1985-86 for instance, 4.7 full-time equivalents were used by the First Circuit Family Court. That is slightly more than 50 percent of the statutory Judicial complement of nine. In 1986-87 there were 2.9 full-time equivalent Per Diem Judges used.

Several specific instances of inefficiency became apparent during the analysis.

- **Division of Judicial responsibility.** Judges were hearing a wide variety of case types with little central organization in assignment. There were three principal problems associated with the existing division of responsibility:
  - First, the wide distribution of case types provided opportunity for substantial variation in Judicial handling and disposition of cases.
  - Second, an excessive variation in mixture of case and proceeding types promoted complex and counter-productive scheduling practices.

## OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS

- Third, the individualistic assignment of case and proceeding types limited the flexible use of manpower and reduced the Court's ability to concentrate resources.

The inefficient division of responsibility on the Judicial side was matched on the Court Management or administrative side. Clerks found themselves working on a wide variety of case types. Their effectiveness was diluted by this and by the accumulation of extraneous tasks discussed below.

- **Judicial scheduling practices.** The existing scheduling practices were highly individualistic. Each judge had an assigned caseload with a wide mix of case types. As a result, on any given day, it was difficult to focus on methods for expediting particular types of cases. It was also unusual for judges to share caseloads, and consequently, to maximize efficiency if one judge's calendar broke down. Table 2.3 illustrates a typical weekly calendar for the Family Court. It may be noted that:
  - There is a marked lack of continuity in any individual calendar line. Similar case types are often widely separated.
  - Most calendar allocations are for half-days only.
  - Case types are widely distributed among the Judges.

Of particular note is the distribution and lack of continuity in the handling of FC-CR (Family Court-Criminal) cases which are a growing part of the caseload. The failure to schedule consecutive calendars was diminishing the likelihood of trial, and therefore, the incentive for timely plea activity. It was concluded that the lack of continuity and predictability in scheduling had strongly contributed to the reliance on Per Diem Judges. It had also strongly contributed to delays in disposing cases.

Table 2.3  
FAMILY COURT CALENDAR SCHEDULE  
AUGUST 1988

JUDGE	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
ABE	AM: TRI; ca PM: DH	AM: ca PM: DH EC: UD	AM: ca PM: UPA(DC)	AM: OSC (P) PM: Queens EC: Adoption	AM: ADMIN
CHOY	***** CIRCUIT COURT THROUGH OCTOBER 28, 1988 *****				
LANCE	AM: OSC (P) PM: nc	AM: Juv Cal PM: ca	AM: TFC? OSC PM: ca	ALL DAY: Juv SS Cal	AM: Adoption
LUKE	ALL DAY: Juv Cal Waivers (DC)	ALL DAY: Juv Cal (DC)	ALL DAY: Guardianship	AM: Juv SS PM: ca	AM: UPA (SE)
MANUIA	ALL DAY: Juv Cal Waivers	ALL DAY: Juv SS Cal	AM: OSC (P) PM: ca	TFC? Juv Cal- All Day; Waivers	AM: nc
NAKAGAWA	ALL DAY: Juv Cal	AM: OSC (P) PM: ca	ALL DAY: Calendar Call	ALL DAY: Juv Cal	AM: TFC? UPA Cal
TOWN	ALL DAY: Juv SS	AM: ca PM: TRO Cal	AM: FC-CR A&P TRO PM: ca	AM: OSC PM: ca	AM: FC-CR
WONG	AM: FC-CR A&P PM: TRO Cal	ALL DAY: Juv SS TFC?	ALL DAY: Juv SS	AM: FC-CR A&P TRO PM: DH	AM: FC-CR A&P
ENGLE		AM: URES(I)(LL) EC: CD	ALL DAY: FC-CR	AM: HSH (LL) EC: CD	AM: FC-CR PM: DH
GOULD	ALL DAY: Juv SS Cal TFC? (LL)	ALL DAY: FC-CR A&P		ALL DAY: Juv Cal Waivers (DC)	AM: UPA (DC)
LIM	PM: UD				
LOOMIS					
SMITH		PM: URES (R)(LL) EC: CD	AM: Cal Call (DC) PM: UD	PM: TRO Cal EC: CD	AM: Juv SS

Source: First Circuit Family Court, August 1988.

## OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS

- **Excessive clerical review.** Court clerks were engaging in an extensive review of documents submitted to the Court. This document review was concluded to be an inappropriate and inefficient use of the Court clerks' time. What had begun as a limited effort to insure that valuable Judicial time was not spent in hearing certain specialized matters which lacked required documents, had grown into a comprehensive screening activity entirely beyond either the original intent or the current need. Documents were screened and returned to attorneys for issues involving technical sufficiency, precise wording, even for color of ink for signatures. And like many of the interrelated problems of the Family Court, the inefficient use of the Court clerks' time was contributing to the perception of an unmanageable caseload, and breeding delay and frustration with the System.
- **Excessive minute form preparation.** Another example of inefficient use of existing personnel concerned the preparation of minute forms. The minutes were originally intended to be an outline summary of a Court proceeding, supplementing the official transcript of record. Over the years, however, an elaborate system had evolved for the completion of minutes. The minutes, originally a single-page outline (and in some jurisdictions merely a check-off form) had grown, in some cases, into a nearly verbatim transcript of the proceeding. As a formal tape-recorded transcript of record was already required, this duplication of function was seriously wasting the out-of-Court time of the Court clerks. It was believed that Court clerks required two days out of Court for every day in Court, principally in order to transcribe minutes of proceedings. As a result, there were occasions when insufficient Judicial calendars could be set due to the unavailability of Court clerks. This also contributed to the perception that the Court was understaffed.

**Internal and external frustration with workloads and mechanisms.** Public frustration with the Family Court had been documented in newspaper articles and legislative hearings. But equally serious was the internal concern, among judges and administrative staff, that the Court would eventually be submerged by its workload. Morale within the Family Court was low, even though idealism for the dual missions of the Court remained high.

**OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS**

A number of factors had combined to create the internal and external frustrations. Delay in resolving cases, lack of consensus regarding the mission of the Court, lack of uniformity, and inefficiencies in utilizing existing resources, all contributed to the perception that the Court was being inundated by its workload, and contributed to the overall frustration of Family Court participants.

As the planning participants evaluated the three major problems cited above, one of the principal difficulties lay in distinguishing among problems, symptoms of problems, and causes of problems. The three major problems were highly interrelated. For instance, inefficiency, in addition to being a problem in itself, was one of the principal causes of delay. And both inefficiency and delay were among the causes of frustration with the Court.

Accepting the difficulty of distinguishing among problems, symptoms, and causes, the planning process, nevertheless, concentrated on the three problems cited above as the primary ones that the Court needed to address in order to attain its goals and to improve both its image and operating environment. The section which follows analyzes the underlying causes of the problems discussed above.



**OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS****ANALYSIS OF SYSTEMIC CAUSES**

There were four factors that had been commonly perceived as accounting for the operational difficulties confronting the Family Court. They were:

- Growth
- Law and Jurisdictional Changes
- Space Shortages
- Lack of Personnel Resources

During a comprehensive process of evaluation involving meetings with individual judges, administrative personnel, and members of the Bar, and involving several intensive discussions with the two task forces, it became clear that the commonly perceived causes of disorganization and delay did not offer a complete perspective of the problem. Although growth, changing legal requirements, and space constraints, particularly impacted the adjudicatory process and to some extent morale, an emphasis on those as the chief causes of the Court's operational problems begged the question of the internal capacity of the Court's own organization, personnel, and procedures to face new challenges and to adapt to adverse circumstances.

It was concluded that although the Court could do little to control externally-imposed workload growth or change, and little to immediately ameliorate space shortages, it could nevertheless do a great deal internally to cope with those external pressures and to achieve its adjudicatory goals.

**OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS**

The planning participants identified four systemic factors which were believed to have adversely affected the operation of the Family Court. These four internal factors were considered more directly responsible for the delay, inefficiency, morale, and other problems than any combination of external factors. The four factors were:

- Lack of unified focus
- Lack of unified approach
- Excessive complexity
- Excessive reliance on increased manpower to resolve workload growth

The first factor adversely impacting the adjudicatory functions of the Family Court was the lack of a common focus. That lack of a unified focus on the adjudicatory mission of the Court had been one of the chief impediments to improvement. Once a common focus was accepted and goals were developed, the factor was largely eliminated.

In addition to a lack of consistent agreement on the primary mission of the Court, and partly as a result of that lack of agreement, there had been very little in the way of a unified approach to the problems besetting the Family Court. Scheduling and hearing practices were highly individualistic, and Court-generated policies, in memorandum form, tended to address individual situations or piecemeal elements of the System. As with the first factor, the lack of a unified approach to adjudicatory issues bred other problems, such as excessive complexity of process and procedure and an inefficient use of personnel. And also like the first factor, this one was largely self-correcting with a direct focus on the adjudicatory mission of the Court, and on a series of identifiable goals. The commitment to a unified focus and to a unified approach by the Judiciary and the administrative staff was absolutely critical to the success of the operational planning effort.

**OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS**

The third internal factor causing significant operational difficulties was excessive complexity. Resulting from a lack of unified focus and approach, the Court had too many narrowly-defined or even conflicting policies. There were too many internal reviews of documents, too many precise specifications which had to be met in particular circumstances, and too many procedural hurdles which litigants had to pass in order to move a case from filing to disposition. Reducing complexity in the Court required a series of specific remedial measures and a substantial amount of self-discipline from both the Judiciary and administrative offices.

The fourth factor, an excessive reliance on increased manpower to resolve workload growth, had evolved from the first three factors and had, in turn, adversely affected the System. It was stated earlier that the natural organizational response to increased workload demands is to seek additional personnel resources. This is both reasonable and inevitable. There is a limit to what can be accomplished with existing resources. In the case of the Family Court, however, the ready availability of Per Diem Judges reduced the incentive to examine internal solutions. And the use of several Per Diem Judges exacerbated the problems of a lack of unified focus, a lack of unified approach, and excessive complexity, as more judges, all individuals with their own perceptions and practices, were added to the equation. In addition, regardless of the individual contributions made by the Per Diem Judges, their sustained use put a strain on the other resources of the Family Court, particularly the Court clerks, and further contributed to the perception that the Family Court lacked sufficient support staff to accomplish its adjudicatory mission.

These four systemic factors, (in conjunction with external growth, legal changes, and space constraints), had been primarily responsible for inhibiting the Family Court in effectively and efficiently accomplishing its adjudicatory mission -- to timely resolve disputes.

**OPERATIONAL ANALYSIS AND PRELIMINARY CONCLUSIONS****PRELIMINARY CONCLUSIONS**

The previous section noted the difficulty in precisely distinguishing problems from causes. Similarly, there are descriptive difficulties in precisely distinguishing goals from the solutions developed to attain them. The five adjudicatory goals set at the beginning of the Chapter also contain aspects of solutions to the operational problems of the Family Court. Consequently, the first item on the list which follows is also one of the adjudicatory goals. The recommendations listed form the basis of the Comprehensive Operational Plan developed in Chapter Three.

- Development of firm time-to-disposition standards.
- Development of comprehensive and consistent procedures for scheduling and disposing cases.
- Development of firm trial dates and reduction in continuances.
- Development of a Trial Court Administrator position to manage adjudicatory aspects of Court mission.
- Elimination/revision/consolidation of administrative memoranda.
- Functional reorganization of Judicial responsibilities/schedules.
- Functional reorganization of Court clerk responsibilities/assignments.
- Revision of rules concerning the dismissal of inactive cases.
- Development of enhanced Age of Pending Cases Reports.

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- Enhanced information collection via revision of docket sheets.
- Elimination/revision/consolidations of forms, minute orders.

The measures illustrated above, taken as a whole, were believed to offer a significant opportunity to enhance the operation of the Family Court.

## **COMPREHENSIVE OPERATIONAL PLAN**

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**3**

## COMPREHENSIVE OPERATIONAL PLAN

As previously noted, the planning process employed in the Operational Analysis of the Family Court was dynamic. Events and conclusions which are described as methodologically sequential in order to facilitate understanding were actually far more fluid during the operational planning process. The frustration which had characterized the Court, generally turned to enthusiasm as increased attention was devoted to a uniform focus and a uniform approach. Consequently, as viable solutions were developed and substantive recommendations were offered by the Judiciary, the administrative staff, and the Consultant, no time was lost in developing consensus and implementing the changes.

The Comprehensive Operational Plan which follows is, therefore, substantially implemented as of the writing of this report. In fact, two one-week spot-checks of dispositions since the major elements of the Plan went into effect in October, 1988, indicate that disposition rates have increased by 50 percent. After only a few months of operational change, it appears that the Court is already very close to eliminating existing backlogs and to achieving currency in its caseload.

The specific plan components are illustrated in recommendation format in three major sections:

- *Caseload Management*
- *Court Organization and Process*
- *Administrative Organization and Process*

The last section of the chapter provides an interim progress report and two ongoing recommendations.

## COMPREHENSIVE OPERATIONAL PLAN

**CASELOAD MANAGEMENT**

The initial lack of focus on the timely disposition of cases had created an environment in which special concentration on caseload management was warranted. The following specific recommendations were intended to provide the management tools necessary to reduce delay.

**Recommended that the Court adopt nationally recognized time-to-trial standards and an implementation schedule.**

During the deliberation regarding this recommendation, the Consultant presented for consideration the standards promulgated by the American Bar Association and the National Conference of Trial Court Judges. After considerable discussion, the Family Court Judiciary accepted these standards, but asked the Consultant to develop target incremental standards to enable a smooth and measured transition. These were prepared and subsequently adopted by the Court. Tables 3.1 through 3.3 present the following:

- The Court's performance *vis-a-vis* standard as of July 31, 1987,
- the target standard, and
- incremental standards.

These are presented for each of the Court's main case types.

As a supplement to these standards, two other documents were prepared and adopted. First, was a list of model case termination goals (Table 3.4) showing the usual



**COMPREHENSIVE OPERATIONAL PLAN**

processing time to be expected for various case types in order to achieve overall standards. Second, (Table 3.5) illustrates a definition of terminations intended to eliminate confusion and to standardize the counting and reporting process.

These processing guidelines were intended to aid the Court in eliminating unwarranted and unnecessary delay. They were not intended to restrict the legitimate time requirements of any particular case coming before the Family Court.

Table 3.1 AGE OF PENDING CASES AND TIME-TO-TERMINATION STANDARDS MARITAL ACTIONS			
MARITAL ACTIONS	Age of Pending Cases		
	0-3 Months	0-6 Months	0-12 Months
Report Dated: July 31, 1987	N/A	41.0%	62.4%
TARGET STANDARDS	70%	95%	100%
INCREMENTAL STANDARDS			
January 1989	30%	55%	70%
July 1989	40%	65%	80%
January 1990	50%	75%	85%
July 1990	60%	85%	90%
January 1991	65%	90%	95%
July 1991	70%	95%	100%

Source: Carter Goble Associates, Inc., June 1988.

<b>Table 3.2</b> <b>AGE OF PENDING CASES AND TIME-TO-TERMINATION STANDARDS</b> <b>CHILDREN REFERRALS</b>			
CHILDREN REFERRALS	Age of Pending Cases		
	0-3 Months	0-6 Months	0-12 Months
Report Dated: July 31, 1987	N/A	70.1%	81.0%
<b>TARGET STANDARDS*</b>	100%	--	--
<b>INCREMENTAL STANDARDS</b>			
January 1989	70%	90%	100%
July 1989	90%	100%	--
January 1990	100%	--	--
* Note: Abuse and Neglect cases should be terminated within 90 days; Law Violations and Status Offenses should be 100% within 45 days.			

Source: Carter Goble Associates, Inc., June 1988.

<p align="center"><b>Table 3.3</b>  <b>AGE OF PENDING CASES AND TIME-TO-TERMINATION STANDARDS</b>  <b>ADULT REFERRALS/MISCELLANEOUS</b></p>			
ADULT REFERRALS/ MISCELLANEOUS	Age of Pending Cases		
	0-3 Months	0-6 Months	0-12 Months
Report Dated: July 31, 1987	N/A	56.2%	66.8%
<b>TARGET STANDARDS*</b>			
Misdemeanor (0-1 Months - 90%)	100%	--	--
Felony	90%	98%	100%
<b>INCREMENTAL STANDARDS</b>			
January 1989	60%	75%	90%
July 1989	75%	85%	95%
January 1990	85%	95%	98%
July 1990	90%	98%	100%
<p>* Note: The above standards apply to all cases except the following:</p> <p>(1) Involuntary Commitment and Civil Domestic Abuse cases should be 100% within 30 days.</p> <p>(2) Guardianship/Incapacitated Persons cases should be 100% within 90 days.</p>			

Source: Carter Goble Associates, Inc., June 1988.

**Table 3.4**  
**MODEL CASE TERMINATION GOALS**

The model case should be terminated within the following time periods:

**MARITAL ACTIONS**

Uncontested Simple Issues	3 Months
Contested/Complex Issues	6 Months
Exceptionally Complex Issues	12 Months

**CHILDREN REFERRALS**

Law Violations/Status Offenses	45 Days
Abuse and Neglect	3 Months

**ADULT REFERRALS/MISCELLANEOUS**

Involuntary Commitment and Civil Domestic Abuse	30 Days
Guardianship/Incapacitated Persons	3 Months
Misdeameanors	3 Months
Routine Felonies	3 Months
Complex Felonies	6 Months
Exceptionally Complex Felonies	12 Months

Source: Carter Goble Associates, Inc., July 1988.

**Table 3.5**  
**TERMINATION OF FAMILY COURT FILINGS**

Termination of case for reporting purposes is recommended to coincide with the filing of a dismissal or with the filing of an order of the Court which addresses the original cause for action, regardless of continuing jurisdiction or review.

**EXAMPLES**

Marital Action	Divorce Decree
Criminal Action	Sentence of the Court
Adoption/Custody	Order Awarding Adoption/Custody
Abuse and Neglect	Order Adopting First Service Plan
Involuntary Commitment	Commitment or Denial of Commitment
Guardianship	Appointment of Guardian
Supplemental	Order, Modification or Dismissal Which Covers All Filed Issues

Source: Carter Goble Associates, Inc., July 1988.

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**Recommended that the Court endorse a more stringent dismissal rule for cases lacking activity.**

In the Family Court, as in many jurisdictions, there developed an inventory of cases which though open (technically active) had not had any substantive activity for an extended period of time. These cases remained on the Court's pending caseload and created an obstacle to delay reduction and a false impression of the Court's workload. It was concluded that cases should not be permitted to age indefinitely without action or progress toward resolution. Matters should either move forward or be dropped from the Court's inventory.

Hawaii Rules of Court currently permit dismissal of those cases which have been open 12 months without activity. The Consultant recommended, and the Court endorsed, a more stringent rule which would permit the dismissal action after four months of inactivity. The proposed rule, and a potential continuance rule, are presented in Figure 3.1.

Figure 3.1  
**AUTOMATIC DISMISSAL POLICY**

**Rule 1**

- a) Whenever a case has been filed in the Family Court and no action has been taken for four (4) months, the administrative staff of the Family Court shall terminate the case with leave to restore only upon the written order of the Senior Judge obtained after written application is made and good cause shown why the case should be reinstated as a pending case.
- b) Action for purposes of this Rule shall be defined as a pleading, motion, response, affidavit, or information filed with the Court, or as a hearing held before the Court.

**Rule 2**

- a) Whenever a case has been filed with the Family Court for more than eight (8) months without having been continued, tried, or otherwise terminated, the administrative staff of the Family Court shall terminate the case with leave to restore.
- b) No Family Court case may be continued beyond eight (8) months from the date of filing except by written order of the Senior Judge upon a showing of good cause.
- c) Any case terminated pursuant to paragraph a) above shall be restored only upon written order of the Senior Judge, obtained after written application is made and good cause shown why the case should be reinstated as a pending case, and provided that the order restoring the case shall set the case for trial and final disposition at a date and time certain.

Source: Carter Goble Associates, Inc., July 1988.



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**Recommended that the Court require monthly Age of Pending Cases Reports.**

As noted earlier, the Family Court has never received reports which provide a suitable framework for its case management activities. This recommendation encouraged the Court to require Court Management Services to provide regular monthly reports to the Senior Judge regarding the filing and disposition activity of each division, the pending caseload of each division, and the age of that caseload by percentage within the following time categories:

0	-	3	months
3	-	6	months
6	-	9	months
9	-	12	months
12	-	24	months
24+			months

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**COURT ORGANIZATION AND PROCESS**

In order for the Court to reach its case processing objectives, a number of enhancements to its organization and process were recommended.

**Recommended that the Court adopt a divisional organization structure to simplify its division of responsibility and enhance its ability to process the various case types.**

As noted in the operational analysis, the Court's division of responsibility had been complicated and subjectively determined. This recommendation was directed at a clearer, more predictable allocation of resources. Its major elements were as follows:

- Divide the caseload into three divisions:
  - Domestic
  - Juvenile
  - Special (to include URESDA, TRO, Adoptions, Guardianships, Foster Care reviews and Adult Criminal)
- Develop a judicial team approach to each division.
- Allocate Full-Time Judges to the divisions on a proportional bases.
- Assign needed Per Diem Judges in support of divisions with particular focus on maintaining currency of trial calendars.

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This division concept closely parallels the common practice of most major jurisdictions and offers the best opportunity for the development of consistent and expeditious handling of the various case types. In addition, the concept allows the implementation of the following recommendation.

**Recommended that each division operate a master calendar approach to case scheduling.**

Under the present system, each Family Court Judge has had responsibility for scheduling his or her own individual mix of case types and proceedings. This recommended modification has the following elements:

- Maintain one calendar for each division.
- Divide the division into high volume/short duration and low volume/long duration proceeding types.
- Establish a standard motions calendar in each division with one Judge dealing with all continuances.

This change would substantially improve the overall pace of processing by grouping similar types of proceedings in similar types of cases, and allowing them to be systematically and uniformly handled by the division Judicial team.

The acceptance by the Court of these first two recommendations led to the preparation by the Consultant of an implementation schedule and outline. This outline, presented to the Court in August, is illustrated in Figure 3.2.

Figure 3.2  
**FIRST CIRCUIT FAMILY COURT CASEFLOW MANAGEMENT  
IMPLEMENTATION RECOMMENDATIONS**

The Senior Judge should issue an order setting forth the purpose of the caseflow management plan and specifically creating the recommended divisions, assigning Judges to the divisional teams and setting the implementation schedule.

The purpose of the management plan is to improve the effectiveness and efficiency of justice in the First Circuit Family Court by:

- \* Streamlining organization
- \* Reducing complexity
- \* Simplifying operations and procedures
- \* Minimizing delay

The recommended implementation schedule is as follows:

- \* Immediate creation of divisions and appointment of Judicial teams
- \* September 1 - Implementation of transition calendar and Judicial team takeover of existing divisional calendars
- \* October 1 - Implementation of model calendars

Immediately subsequent to the implementation order, Court Management should present to the Senior Judge a report including, but not limited to, the following:

- \* A plan for the consolidation of case types with division specific personnel
- \* A review of any anticipated problems with the implementation and use of the model calendars and recommended solutions to those problems
- \* A flow chart of anticipated case process by division

Immediately subsequent to appointment, the Judicial teams should meet: (recommendation - during the week of August 22nd)

- \* To review, modify if necessary, and adopt the model schedules or calendars to be implemented October 1 (subject to approval of the Senior Judge)
- \* To develop judicial assignments within the model calendars
- \* To develop judicial assignments within the transition calendars

Figure 3.2 (Continued)  
**FIRST CIRCUIT FAMILY COURT CASEFLOW MANAGEMENT  
IMPLEMENTATION RECOMMENDATIONS**

On September 1, all Judges should relinquish their various calendar assignments to those Judges into whose division those calendars fall and be prepared to undertake calendars of proceedings related to their own division assignment.

It is believed that no September settings will require rescheduling. All calendars should be covered, not necessarily by the Judges originally assigned, but by those whose divisional team is responsible.

The purpose of the one month transition calendar is to permit time for the following activities:

- \* Redistribution of cases by Court Management to division-specific staff
- \* Meetings by the Judicial teams to adopt information rules for division operation
- \* Notification of all agencies and services related to the Court of the anticipated changes
- \* Notification to the Bar of intended changes
- \* Changes in procedure by Court staff and services to facilitate and accomplish the plan

Each division should operate from one central calendar.

All proceedings scheduled for October 1 or after should conform to the model calendars.

All proceedings set after October 1 should be absorbed by the division Judge responsible for that proceeding type.

It is recommended that individual Judicial assignments to divisions be changed approximately every six months. This rotation should be arranged so that not all Judges in a division are moved at the same time. The purpose of this staggered rotation is to preserve continuity of experience and practice within the division.

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**Recommended that the Administrative Memos be purged, reorganized and updated.**

In order to insure that the rules governing the operation of the Court are current, the Consultant recommended that a wholesale review and purging of the Administrative Memos be undertaken. As a supplement to this effort, the Consultant suggested that a somewhat different format be considered to enhance the force of the directives, and to conform more closely to the common practice of other jurisdictions. Rather than being called Administrative Memos, which carries a somewhat advisory connotation, it is recommended that they be called Administrative Rules or Orders, and that they be given an official reference number and be organized by subject with an appropriate index for ready reference. Additionally, they should be formally promulgated to the Bar and be amended by a formal process.

**Recommended that a bench book or uniform practices manual be developed and maintained for each Family Court division.**

One of the most important characteristics of an expeditious Court process is predictability. This can only be achieved by the cooperation of the individual Judges and the adoption of uniform guidelines for process elements. These might apply to the Court itself, to Court Management, or to the Bar. Items which might be included in such a manual are listed in Figure 3.3.

Figure 3.3  
**RECOMMENDATIONS FOR UNIFORM PRACTICES**

1. Continuance policy.
2. Attorney presentation of all witness and exhibit lists -- sanctions if not followed.
3. Court or Bar preparation of "Findings."
4. Motions to consolidate:
  - \* must be in writing;
  - \* must be heard by Senior Judge who rules on the consolidation and assigns to a division;
  - \* must have pending matters in both cases;
  - \* must show good cause.
5. Follow-up process on attorney orders:
  - \* standard time;
  - \* automatic rule to show cause for non-compliance.
6. Instruction on handling attorney orders not signed by both sides.
7. Pre-hearing file delivery to judges scheduled by division.

Source: Carter Goble Associates, Inc., September 1988.

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**Recommended that the Court Institute specific delay reduction activities.**

The reorganization of the Court into divisions, while expected to enhance productivity, was not by itself sufficient to ensure achievement of the Court's processing goals. This would require the implementation of a number of other activities. These could not all be identified since each Court must find those which most effectively suit its needs, but might include such things as:

- Uniform Motions Calendar.
- Early calendar call for trial weeks (two weeks in advance).
- Increased reliance on alternative means of dispute resolution, such as mediation and Special Master.
- Firm continuance policy.
- Requiring attorneys to furnish prepared orders in all routine motions and at time of trial in contested marital cases.
- Impact calendars utilizing Per Diem Judges.
- Early identification of complex cases.
- Accelerated docket programs.

**Recommended that the Court reduce its reliance on Per Diem Judges for routine matters.**

The original intent of allocating Per Diem Judges was that they would be useful in attacking case backlogs and assisting during vacation, sick leave, and Judicial



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conferences. It is recommended that the Court return to the original intent. Reliance on Per Diem Judges for routine matters has had a detrimental rather than beneficial effect on the Court's overall productivity. The use of Per Diems should be limited, except when expressly needed during Judicial absence, to activities directly related to enhancing System disposition rates. For instance, special or impact trial calendars of particular case types, in addition to the Court's regular existing trial calendar, might serve to substantially heighten settlement activity, as well as resulting in more case trials. This would serve to eliminate current backlogs, and, over time, permit the Court to function effectively with minimal Per Diem assistance.

**COMPREHENSIVE OPERATIONAL PLAN****SUPPORT ORGANIZATION AND PROCESS**

The Family Court Judiciary can not function adequately without efficient support from Court Management services. The following recommendations were intended to improve the operation and process of that component and to enhance its service to the Judiciary and to the public.

**Recommended that the Family Court appoint a professional Trial Court Administrator.**

The Court is in need of a professional caseload manager. As noted in the suggested job description presented in Figure 3.4, this person should not only be able to review and evaluate statistical data, but to continue the process of identifying case management goals, and devising and implementing strategies for minimizing delay. Most importantly, the person would have day-to-day responsibility to implement and manage action programs to improve case management and Judicial System productivity.

**Recommended that the Court clerks be reorganized to coincide with the Judicial divisions.**

Just as judicial processing can be simplified and streamlined by the creation of divisions, clerical responsibilities can as well. Rather than having each person responsible for knowing the procedures related to every case type, the separation of Court clerks into divisions allows specialization of responsibility and offers the best opportunity to provide competent and consistent support to the Court. The distribution of clerks among the divisions should be systematically determined by the complexity and volume of work associated with each division.

Figure 3.4  
**JOB DESCRIPTION: Trial Court Administrator**  
**State of Hawaii, First Circuit Family Court**

The position of Trial Court Administrator of the Family Court of the First Judicial Circuit of Hawaii is intended to provide the Court with professional caseload management. The person filling this position should be able not only to review and evaluate statistical data, but to identify case management goals, devise strategies for minimizing delay, and build consensus for those objectives and strategies. Most importantly, the person in this position must be able to implement and manage action programs to improve case movement and Judicial System productivity.

**Representative Tasks:**

- \* Identify case management goals and objectives.
- \* Review and assess adequacy of all available caseload reports.
- \* Develop revised or additional reporting requirements necessary to a comprehensive understanding of the Court's productivity.
- \* Review and evaluate Court scheduling practices.
- \* Identify scheduling delays.
- \* Assist Judges in developing effective scheduling practices and optimum schedules.
- \* Conduct ongoing analysis of case movement.
- \* Identify other case processing delays.
- \* Recommend and implement process changes to improve productivity.
- \* Develop and recommend case processing guidelines.
- \* Maintain ongoing evaluation of case processing guidelines.
- \* Refine case processing guidelines as necessary.
- \* Advise Judges of status in meeting case processing guidelines.
- \* Develop method for early identification of complex or problem cases.
- \* Develop strategies for expediting complex or problem litigation.
- \* Analyze existing and proposed legislation, rules and procedures for impact on Court productivity.
- \* Identify and implement appropriate alternative methods of dispute resolution.
- \* Assist Court in developing a strategic Case Management Plan.
- \* Manage the Court's strategic Case Management Plan.
- \* Develop public and Bar support for Court's strategic Case Management Plan.

Source: Carter Goble Associates, Inc., August 1988.

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This arrangement offers excellent training opportunities as well. New clerks can become proficient in the procedures related to one case at a time, and then be rotated to another division to further their knowledge, maintain their interest, and promote long-term retention and usefulness.

**Recommended that excessive reviews be eliminated.**

The recognition that this was one of the chief causes of Family Court complexity and delay required that immediate action be taken to curtail the practice. A process to identify appropriate subjects and levels of review was undertaken, and was followed by a directive from the Senior Judge eliminating those determined to be unnecessary or not properly the province of clerical personnel. It was recognized for example, that orders and stipulations which have been accepted and signed by both attorneys in a matter should not be reviewed for substance by Court clerks, but should be accepted on their face. Errors, if any, should be subsequently adjudicated through normal process.

**Recommended that clerical tasks be simplified and prioritized.**

Throughout the analysis and planning, it had been repeatedly apparent that a considerable amount of clerical work had lost its usefulness and was simply unnecessary. Clerical responsibilities had become unfocused and had multiplied in response to both increased case complexity and various administrative requirements. Re-establishing order and eliminating wasteful practices was the goal of this recommendation.

The principle focus of the recommendation was the elimination of the extensive Minute writing practices explained in the last chapter. Achieving this objective could save out-of-Court time, increase clerical availability for in-Court activities, and maximize the use of clerical personnel for productive and useful tasks.

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**Recommended that forms be streamlined and/or consolidated where possible.**

The operational analysis noted the diversity, multiplicity and occasional redundancy of the Court's forms. It was thought advisable to streamline and consolidate these as much as possible. For instance, the Court Minute forms and the Court's orders in many cases contained exactly the same information. It was suggested that these might be combined into a single form serving both functions.

A complete list of forms for revision was not made, but it was recommended that attention to form efficiency be an important long-term improvement activity.

The full implementation of these five recommendations was anticipated to dramatically improve the ability of Court Management to support the Court and to result in a more efficient use of staff and financial resources.

**COMPREHENSIVE OPERATIONAL PLAN****INTERIM PROGRESS AND ONGOING RECOMMENDATIONS**

The preceding sections have presented recommendations aimed at the Court's caseload management, its organization and process, and its support service management and process. Action in all of these areas has been initiated and is proceeding. A progress report prepared by the Consultant in October, 1988 noted the following:

- Divisions have been set.
- Division Judges have been assigned and have assumed specific calendar responsibilities.
- Team coordinators have been identified and are being briefed.
- Team members' responsibilities are generally complete. Before-Court, in-Court, and after-Court duties are listed.
- Preliminary definition of team coordinator duties has been prepared.
- Follow-up procedure on attorney prepared orders has been set.
- Master calendar control has been vested with each team coordinator.
- Procedure and timetable for inventory, together with completion and transfer of division files from non-division clerks to coordinating clerks has been established.
- Items for unified Judicial policies have been identified.
- Process for approving form changes has been settled.

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- Judicial teams have produced the first draft of division practices.
- Judicial teams are meeting to develop uniform practices for divisions.
- A forms-review Judge has been appointed.
- Directives have been issued:
  - limiting clerical review of documents, and
  - restricting Minute entries.

Since October the Court has developed a full-time Trial Court Administrator who has begun monitoring disposition rates. As described in the Introduction to this chapter, it appears that dispositions have significantly increased.

The Court has recently completed a major purge of Administrative Memos, as recommended, which has resulted in 47 deletions and substantial revisions, amendments and updates.

Finally, it is reported that Divisional Benchbooks, documenting uniform trial court practices, are nearly complete and will be available in April, 1989.

In order to maintain the substantial progress which the Court has achieved, two ongoing recommendations are listed.

**Recommended that the Court regularly evaluate its case management performance.**

The need for focus and attention to caseload management never ends. It must become a vital ongoing part of the Court's agenda. The Family Court must remain committed to

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the five goals identified in Chapter 2. It should not only engage in monthly review of the relevant data, but should schedule as part of its yearly conference, an update and critique of its disposition activity and its age of pending cases. In this way the priority of these issues will be maintained and the Court's commitment to efficiency will be continued.

**Recommended that the Family Court continue to identify opportunities for simplification and efficiency and to take action to achieve them.**

Paralleling the effort to maintain focus on effective and efficient processing should be the continuing effort to examine and refine all aspects of operation and practice. Circumstances change, laws change, public demands change, and System participants change. Providing flexible responses to System change and growth is a constant challenge of Judicial System management.