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Jourt Coordination of Family Cases

H. TED RUBIN Senior Staff Attorney Institute for Court Management of the National Center for State Courts

and

VICTOR EUGENE FLANGO Senior Staff Associate National Center for State Courts

National Center for State Courts State Justice Institute





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Court Coordination of Family Cases

Advisory Committee Members

Suzanne Alliegro District Administrator Ramsey County Courthouse Room 1000 St. Paul, Minnesota 55102-1623

Ulysses B. Hammond *Executive Officer* Courts of the District of Columbia 500 Indiana Avenue NW Room 1500 Washington, DC 20001

Honorable Edward V. Healey, Jr. Family Court Judge 75 Massasoit Avenue Cranston, Rhode Island 02905

Honorable Daniel G. Heely *Presiding Judge* Family Court Division Circuit Court 777 Punchbowl Street Honolulu, Hawaii 96813 Honorable Stephen B. Herrell Judge Circuit Court Multnomah County Courthouse Portland, Oregon 97204

Bonnie Hommrich Family Services District Manager Department of Social Services Cabinet for Human Resources 908 West Broadway Louisville, Kentucky 40203

Bobbie Tillmon Mallory Attorney at Law 10960 Wilshire Boulevard Sulte 2210 Los Angeles, California 90024

Professor Merril Sobie Pace University Glass Law School 78 North Broadway White Plains, New York 10603

Court Coordination of Family Cases Project Staff

National Center for State Courts

H. Ted Rubin Senior Staff Attorney

> Carol Flango Staff Associate

Kent Pankey Staff Attomey

Pamela Petrakis Project Secretary Victor E. Flango Senior Staff Associate

Thomas Hafemeister Staff Attorney

> Michael Haas Staff Attorney

Christine Ortiz Project Secretary

National Center for Juvenile Justice

Hunter Hurst Director Ellen Nimick Research Associate

Hunter Hurst IV Research Assistant

Contributing Authors

Chapter 3 Linda Ridge Court Operation Manager Superior Court, King County Seattle, Washington Chapter 4 Hunter Hurst *Director* National Center for Juvenile Justice

State Justice Institute

Richard Van Duizend Project Officer Gary Albrecht Project Evaluator University of Illinois School of Public Health

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Jourt Coordination of Family Cases

Introduction

NE FUNDAMENTAL CONCLUSION OF "FAMILIES IN COURT: A National Symposium" was that child and family-related proceedings are "distinctively different" from other court proceedings. Accordingly, court structure and court procedures should integrate diverse sources of information to ensure that judges and other court officials are aware of different cases involving the same family. One recommendation stressed that court processes coordinate multiple issues involving the same family regardless of whether or not the courts were organized into specialized family courts or as family divisions of general jurisdiction courts (National Council of Juvenile and Family Court Judges, 1989).

This research explores the basic assumptions underlying the treatment of family matters in court. This study examines families that come to court for divorce, delinquency, or child abuse and neglect and asks how many have been to court before on a family-related matter. No one has systematically examined the incidence of families who have previously been to court on another family-related case, or the nature of these cases. There are simply not enough data to determine the number of cases involving one family being filed concurrently or consecutively in different courts.

The threshold question is simply the frequency with which cases involving the same family require court involvement. This question is critically important because it will determine the justification for a coordinated approach to cases involving families. If each family had one of its members involved in court action only once during a lifetime, there would be no benefit to consolidating all cases involving the family in one court, or in designing recordkeeping systems to report on other cases involving the family. On the other hand, if families are likely to be involved in court actions on many related matters, coordination is not only preferable but essential. For example, a tragedy could result if a divorce court judge unknowingly awarded custody to a parent who had a juvenile court history of abusing that child.

Note that the term *related cases* is defined as involvement of one or more family members with one or more of the casetypes described above—not *recidivism*, or the repeated involvement of the same individual in the same type of case. So, for example, there are myriad studies of the recidivism of

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delinquent juveniles (Palmer 1991, Snyder 1988, Shannon 1982, Hamparian et al. 1978, Wolfgang, Figlio, and Sellin 1972), but repeated offenses of a delinquent are not counted as related cases here. A divorce of a delinquent's parents or delinquency of a sibling, however, would be regarded as a related case.

If it is determined that the incidence of related cases is sufficient to warrant the establishment of procedures to coordinate cases involving the family, the second question is which types of cases tend to occur together and which types tend to appear in isolation. Here again, procedures should accommodate cases most likely to occur together, while being mindful of the sequence with which cases must be heard. For example, it may be more important to settle custody issues before granting a divorce even if divorce and custody issues tend to occur together.

Cases involving the family include (1) cases involving juveniles (delinquency, status offenses, dependency, abuse and neglect); (2) marriage dissolution; (3) paternity and child support; (4) adoption; (5) domestic violence protection orders, and (6) intrafamily misdemeanor offenses (Rubin and Gallas 1989:25-62). In most states, these six types of cases are heard in several levels of courts or in several different divisions of the same court. In this time of emphasis on family values, many people are asking why the handling of cases involving the family is so fragmented. Does the separation of responsibility for cases involving the family among courts or court divisions imply a lesser importance on some matters involving the family?

To some extent, it could be argued that all cases involving family members are related, but in the context here emphasis is placed on cases in which knowledge of related cases would help judges make the decision in a case now before the court. For example, why would the fact that a father was sued for breach of contract last year be relevant to a child's current burglary offense? Although they are related cases, must the judge who heard an uncontested divorce ten years ago now hear a delinquency case of a divorced couple?

Research on the concept of related cases is difficult because different operational definitions of a related case may yield different results. Consequently, project staff decided to triangulate the measures, that is, use three different methods of identifying related cases: interviews with knowledgeable court personnel, a survey of court litigants, and a search of court records. To the extent that the separate measures converge, more confidence is gained that the elusive concept of related cases can indeed be measured (see Figure 1).

The study as a whole will determine how well evidence from the three different measures (court personnel interviews, client survey, and case records)

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Figure 1 The Research Design

Methods	Court Personnel	Client Survey	Court Records	National Court Survey		
Unit of Judges, court Analysis: administrators, and other court personnel		Individual litigants	Case jackets	Survey of 150 court locations		
Techniques:	Interviews with court personnel	Questionnaire survey distributed by judges	Examination of individual records	Mailed survey		
Major Goals:	1. Perceived number of times related cases occur.	1. Number of times families have been to court on related matters.	1. Number of times related cases occur.	1. To determine representativeness of findings from the three-site analysis.		
	2. Practices designed to identify related cases.	2. Assessment of whether knowledge of related cases would have helped.	 2. Nature of infor - mation in case files: Availability Quality Use 	2. To identify promising practices and procedures that help integrate case processing.		
	3. Procedures designed to coordinate related cases.					
Major Hypotheses:	1. Court personnel will have an accurate perception of the types of cases that occur together.	1. Related cases occur in patterns.	1. Related cases occur in patterns.	 Integration of cases varies by type of court, number of judges, and level of automation. 		
		2. Knowledge of related cases would have helped in present case.	2. Unless specific provisions are made, it will be difficult to identify related cases from court records.	2. Communication among courts is facilitated by a unified court struc- ture, but court struc- ture is not sufficient		
				to ensure integrated treatment of related cases. Family courts are more likely to have developed		

converge to identify the proportion of related cases. To what extent are court personnel aware of the related cases involving the family? Are their perceptions consistent with the evidence from court records and client responses? To what extent are related cases reported by clients identifiable from court records? Conclusions drawn from research in three sites, however, may not be applicable to the nation as a whole. Consequently, a survey of personnel in 150 court locations was undertaken to determine the extent to which lessons learned in those three courts could be generalized to the nation as a whole.

The third research question, which is dependent upon the answer to the first two questions, is whether steps short of fundamental reorganization can adequately address the concerns that have led some to advocate a family court. Specifically, can information about families be provided and coordinated among courts, and between courts and social service agencies, so that information about families is available to judges when they need it, regardless of court structure?

The first chapter discusses the results of an intensive study of three sites: Hudson County, New Jersey; Fairfax County, Virginia; and Salt Lake County, Utah. Each was chosen to exemplify a different type of court structure in an effort to maximize the likelihood of finding disparate court methods of achieving coordination. The second chapter presents the results of a survey of 150 court locations throughout the country to identify mechanisms of case coordination used nationwide. The third chapter catalogs current efforts in the states to improve case coordination, and the fourth chapter gives the implications of the research for legislation. The concluding chapter reviews implications of this research for courts.

<u>Chapter 1</u>

Has This Family Been to Court Before? Research Findings from Three Sites

.\. The Call for Improved Court Coordination of Child and Family Legal Proceedings

There is a flurry of new interest in improving the ways courts handle family-related cases. Family-related cases include juvenile delinquency and child abuse and neglect matters, which are the primary stock in trade of the juvenile court; the voluminous divorce or dissolution cases associated with domestic relations courts or divisions of general jurisdiction trial courts; an expansive caseload of domestic violence proceedings; and child support, custody, and visitation matters that are often linked with out-of-wedlock relationships.

The renewed interest arises from such occurrences as

- The substantial growth of overall family-related court work load and its preemption of a very substantial array of judicial resources (National Center for State Courts 1992).
- The fact that courts have become the decision makers of last resort for various problems, notably those involving the family. In many instances, people turn to courts because there is simply no other method of obtaining needed services. Courts then become service coordinators, matching the needs of individuals to the services available in the community.
- Not only is there seemingly no end to family-related cases coming to the courts, but these cases often seem to have no ending. Courts must supervise cases after disposition and coordinate service delivery among social service agencies over which they have no continuing authority. Federal and state mandates compel review hearings of children in foster care so that permanency planning or the lack of such planning may receive regular judicial attention. For example, courts are involved in reviewing foster care placements (600,000 children in 1991) and that obligation continues as long as the children are in care. Another example is the continuing attention required by child support cases. Myriad child support orders result in defaults and lead to enforcement proceedings;

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new hearings to update earlier award amounts have become common. Couples often reappear with new domestic abuse charges and juveniles with new delinquency offenses. And this is not to mention the epidemic of crack-addicted babies. Law enforcement statistics reveal extensive intrafamilial and relationship-partner offenses, many of which involve intervention by family or juvenile courts as well as by criminal courts (Desky 1992).

- The legal and social service professionals who work or collaborate in these settings often have reform instincts and seek a better world for the family clients (Edwards 1987, 1992).
- The media are interested in portraying the human interest stories of those litigants who seek and do not obtain an expected court outcome. Portrayals also focus on the inabilities of state courts to protect and assist family members.
- Groups that construct and revise national standards for trial courts, state task forces that envision the future of courts (Judicial Council of Virginia), bar associations, and citizen organizations have decried the way courts seem to fragment the handling of family matters and have proposed changes in court structure or judicial assignments to make the courts more user-friendly.
- The recent prominent attention to child sexual abuse violations has brought an awareness that allegations or occurrences of sexual abuse within a family may bring family members concurrently into the criminal court, into the divorce court on a custody dispute, and into the juvenile court with a child protection effort. Two or even three judges may be involved with this family at the same time. Different custody awards may be issued.

B. Family Courts: The Ultimate in Case Coordination

1. Are Specialized Family Courts Needed?

Conceding the need for coordination of cases involving the same family, the question becomes whether a specialized family court is the solution. All national standards' groups of the past two decades have urged the creation of family court divisions within general trial courts (Institute of Judicial Administration-American Bar Association 1980, National Advisory Committee 1977, American Bar Association 1974, National Advisory Commission 1973). The most comprehensive response to the need for coordination among the various cases involving family members has been the creation of a family court to nandle a wide array of matters relating to the family. The family court solution

combines juvenile courts and domestic relations courts (Pound 1959). The family court might include jurisdiction over such other family-related casetypes as criminal offenses within a family and child and adult mental-retardation/ illness-commitment procedures. A family court may include child adoption as well as domestic-violence-restraining orders, both of which today are not always the responsibility of juvenile or domestic relations courts (e.g., Hawaii). Because the family court is perceived as the ultimate in case coordination, it will be used as the standard for assessing other means of case coordination.

Arguments for a family court are based on the assumption that families come back to court frequently, that multiple cases can be coordinated to advantage, and that this frequency and benefit justify the stress and upheaval likely to accompany reorganization to improve service delivery. Advocates of a family court have a case. First is organizational coherence. Matters that are pertinent to the welfare and interest of a family should be heard in one place. If all cases involving the family are heard in one place, the community at large and the legal community know where to go. But, this principle, too, has limitations. Assuming for the moment agreement that related cases involving the family should be heard in the same court, the question remains how much of a relationship is necessary to justify the assignment procedures and recordkeeping to assign a new case involving a family to a judge who heard a previous case involving another member of the same family? Even the most ardent advocate of family courts would not argue that family court jurisdiction should include every type of case that involves a family member. For example, auto accidents or disputed wills that involve conflicts and suits between family members should be heard in traditional civil courts.

Second is the necessity of having courts coordinate services available to the family. Specialized approaches are needed to link services with families. Both judicial decisions and social services should be based on coordinated information obtained from court and social service agency records. Providing services earlier in the life of a case may mitigate the number of problems that appear later, frequently reducing later court intervention in family affairs. (Senate Task Force 1990:3).

Creation of a family court is a major change that necessarily affects the jurisdiction of other courts. Some contend that the goals for such an organizational restructuring are romantic rather than practical and question whether such an extreme change will attain the coordination needed to serve the families. Others contend that specialized family courts are unnecessary. They suggest judges can obtain the skills required to handle family matters in a six-months-to-one-year assignment. For example, what special expertise is needed to grant a divorce to a childless couple, married a year with no property to divide? Moreover, any judge can be roused in the middle of the night to approve a domestic violence protection order and, preferably, this should be

a lower-court judge or magistrate who is used to handling emergency matters. Since assignment rotations are a hallmark of a general jurisdiction court, why should family cases be different? After all, some judges hear personal injuries in the morning and burglaries in the afternoon. The administration of a comprehensive family court, particularly in large cities, is difficult, and getting good judges to sit in these courts is no easy task. Many judges prefer not to deal with both the charged emotions inherent in intrafamily disputes and the lack of services available to families. Moreover, service on juvenile or domestic relations courts has not been viewed as a particular asset to a judge's career. Judicial burnout is believed to be strong in juvenile, domestic relations, and family courts. Workdays are long, and judges are then expected to participate in local and state committees that meet after-hours. Nonetheless, many judges prefer to sit on these difficult benches because they believe they are making valuable contributions to public welfare.

2. One Family/One Judge

If a family court concept promotes coordination, what are the advantages and limitations of having litigants come before the same judge? A precept underlying the family court is the doctrine of one family/one judge (Institute of Judicial Administration-American Bar Association 1980). The premise is the judge's knowledge of particular families will lead to informed and enlightened decisions. In reality, the judge's previous contact with a family member may have been very brief and, thus, not helpful to the current case. At the opposite extreme is the judge who knows the family so well from so many proceedings that he or she may prejudge a case. A motion to recuse an all-too-knowing judge is a solution for courts with long-term specialized judges. In many assignments, courts have paid attention to the wishes of their judges. What weight should be given to the preferences of litigants about coming before a familiar judge?

The one-family/one-judge concept reflects the ideal of having the same judge hear a wide array of family-related matters over a lengthy period of time. This assumes families frequently return to court on related matters and that the same judge will be on the same bench a few years later. If these assumptions are true, the case for a family court is strengthened. If family members come to court once on just one matter, the argument is less compelling. If families essentially reappear in court only for domestic relations matters but not for traditional juvenile court matters, or vice versa, then the present structure of separate courts with communication between the courts or court divisions can logically be retained. In this scenario, even in an existing family court, domestic relations or juvenile judges could specialize with only occasional assignments to hear other cases. Advocates of the one-family/one-judge position stress the virtues of continuity of the judicial hearing officer. A contrary view contends that continuity leads to prejudgments and reduces judicial objectivity. Some say the continuous service of probation officers and social workers is more important than continuity of judges, while others stress the need for judicial continuity. Court management officials indicate continuity is desirable, though difficult to achieve because of the need to schedule long trials and other matters that intrude upon a judge's availability to meet again with the same family.

The issues outlined above are considered in this chapter. Before resuming discussion of these issues, including the importance of continuity, the three research settings will be described briefly.

C. The Research Sites

This research was conducted at three sites: Hudson County (Jersey City), New Jersey; Fairfax County (Fairfax), Virginia; and Salt Lake County (Salt Lake City), Utah. A different court organization for handling family-related matters is used in each of these sites.

1. Hudson County, New Jersey

Hudson County is the smallest of New Jersey's 21 counties and the most densely populated. The superior court is the court of general jurisdiction and is divided into four divisions: civil, family, general equity, and criminal. Voters approved a constitutional amendment to establish a family court on November 8, 1983, and the enabling legislation was passed December 20, 1983. The legislation merged the previously separate juvenile and domestic relations court into the superior court and established family parts, which are now known as family divisions. Family division jurisdiction is broad and includes the major juvenile and domestic relations matters. The chief justice and state court administrator have taken a strong interest in defining what a family division might be and in evaluating the performance of family divisions. An assistant state court administrator for family division matters and support staff devote their energies to making these court divisions run smoothly. Further, local family division administrators assist the presiding judge of each family division with management responsibilities. The state court office has developed an advanced information system, Family Automated Case Tracking System (FACTS), that now provides information to a local court on prior case filings involving the same family members. It provides a statewide on-line inquiry capability as to the history of a family. FACTS is a case management system for the family division and juvenile probation. The family division in Hudson County participates in FACTS, and the presiding judge chairs the statewide FACTS automation committee.

The Superior Court of Hudson County has 28 judges. Six are assigned to the family division, which also has an additional full-time judicial equivalent in the form of two "recall judges" who hear certain domestic violence, support enforcement, and contested "nondissolution" matters. In New Jersey, nondissolution cases generally involve paternity, child custody, visitation, and/or child support determinations concerning children whose parents have not been married, but they could involve married couples who seek these remedies without seeking dissolution of the marriage. Elsewhere in this book these matters are referred to as "separate from divorce."

Family division judges in Hudson County are assigned to three-year stints, though certain judges continue this assignment for more prolonged periods. Two judges hear the bulk of dissolution and nondissolution matters. Calendaring is set up so that a family previously before one of these judges will be routed back before this same judge on a subsequent case. For example, if the earlier matter was nondissolution and the mother subsequently marries and now comes in for a divorce, the case will go before the judge who heard the prior matter. But if the new case is her son's delinquency, the case instead will be routed to a different (delinquency) judge.

Three judges hear delinquency cases. If a delinquent's younger sibling is the subject of an abuse and neglect concern, the sibling's case is not routed to the older brother's judge, even though the FACTS computer can provide this link. Further, reoffending juveniles are assigned to the public defender who represented them previously, but this defender rotates among the three judges and so the probability that the same judge who heard this offender before will hear the offender again is only one in three.

2. Fairfax County, Virginia

Fairfax County is a populous suburb of Washington, D.C. The circuit court, with 13 judges, is the trial court of general jurisdiction. The circuit court has had exclusive jurisdiction over divorces, affirmation or annulment of marriage, separate maintenance, and change of name and adoptions (Code of Virginia §§20-96, 8.01-217, and 63.1-221); it also hears felony crimes against children and other family members.

Virginia has a separate statewide juvenile and domestic relations court, much like New Jersey had until 1983. Fairfax County has five juvenile and domestic relations court judges. The juvenile and domestic relations district court is not a court of record and has jurisdiction over most child and family-related cases in Virginia, (Code of Virginia §16.1-24); e.g., child abuse and neglect, delinquency, parentage determinations and child support enforcement matters, domestic violence protection orders, rnisdemeanor prosecutions relating to crimes against family members, civil mental illness procedures for juveniles and adults, and custody, visitation, and support matters not related to a divorce. Fairfax County was one of three urban sites in what became a six-site Virginia family court experiment (Family Court Pilot Project, 1992).

In Fairfax County, 96 percent of circuit court divorce matters are heard not by judges but by commissioners-in-chancery. These are private attorneys appointed to serve a quasi-judicial role; their services are paid for by the parties. Judges review commissioner recommendations and hear all contests. While 10 of the 13 circuit judges hear emergency motions, just 3 of the 13 judges hear the contested matters. Nor is there provision for judicial hearing officer continuity in the juvenile and domestic relations district court. Calendaring there works from a daily docket call handled by one judge who transfers ready cases to the other 4 judges while hearing certain short matters himself. Accordingly, the chance that the judge who heard an abuse and neglect case's temporary custody hearing will hear the adjudicatory hearing on this case, or the chance that the judge who heard the adjudicatory hearing will hear a later dispositional hearing, is only one in five. Delinquency cases are similarly scheduled: the judge who has free time gets the next case. This approach to judicial hearings is uncommon in the juvenile court world that, characteristically, assigns children or juveniles to the same judge for preliminary, adjudicatory, dispositional matters, and any subsequent activities on this case. This court's intake department attaches to a case file a notice, derived from its automation system, of other cases that have involved this family member or other family members in this court. However, the judges do not normally review the companion family files.

There has been long-term interest in a revised court structure that would merge the family-related jurisdictions of these courts into a new, separate family court (Judicial Council of Virginia, *The 1983-1986 Comprehensive Judicial Plan* 20 (1983)). The proposal was opposed strongly by circuit court judges.¹ The legislative compromise was a two-year family court experiment. Pilot courts began operating under the program January 1, 1990, and ceased to accept new cases as of December 31, 1991. This study was conducted during this time period.

The enabling legislation placed jurisdiction and responsibility for child and family-related court issues in one court, a family court. The pilot family

¹ Comment to research staff by Chief Judge Richard Jamborsky, circuit court, Fairfax County, Virginia, April 19, 1991.

courts (actually juvenile and domestic relations district courts with expanded authority) were authorized to hear not only all cases normally within the jurisdiction of those courts but also suits for divorce or for annulling or affirming a marriage that were referred to them by the designated circuit courts. The designated circuit courts were required to refer to the family courts no less than 20 percent nor more than 50 percent of those actions to the family courts. Either party to a divorce, annulment, or affirmation suit filed in the circuit court had the right to object to the referral of the case to the family court. With the addition of these casetypes and adoption, all traditional family law matter will be in the jurisdiction of the family court.

Key members of the judiciary and court management staffs of both Fairfax courts were well known to project staff and pledged full cooperation with the project, which had been endorsed by the state court administrator, although these courts' ultimate ability to obtain completed client surveys was disappointing. Accordingly, data developed for the evaluation of the pilot family court project, in which the co-project director of this study participated, will be used to supplement the divorce data not obtained from circuit court.

3. Salt Lake County, Utah

Utah maintains the sole separate statewide juvenile court system in the United States. Throughout Utah, specially appointed juvenile court judges hear exclusively the traditional work load—essentially child abuse and neglect and juvenile delinquency matters. This court also hears certain adoptions. The district court, the trial court of general jurisdiction, hears a broad range of domestic relations concerns including divorce, domestic violence protection orders, and nondivorce child-custody-related matters as well as intrafamily felony offenses. This court system was selected because it represents the dominant American method of handling families in court; i.e., domestic relations matters are in one court or court division and child protection and juvenile delinquency matters are in another.

The district court in Salt Lake County makes no systematic effort to bring any family member before the judge or commissioner who heard a prior case involving that family. In the juvenile court, however, the principle is one family/one judge. Not only does the same child or juvenile go back before the same judge, but so will a sibling of that child or juvenile go before the same judge as well, regardless of whether this case or the prior case was abuse and neglect or delinquency.

The selection of Salt Lake County had other advantages. The first is a series of laws that provide for coordination of family cases. For example, one statute transfers contested custody, support, or visitation aspects of a divorce

from the district court to the juvenile court when the child (or children) of the parties is already within the jurisdiction of the juvenile court (Utah Code Ann. §78-3a-17(3)). A second statute provides for optional transfers of these cases when the child (or children) is not known to the juvenile court (Utah Code Ann. §78-3a-17(4)). Utah's Code of Judicial Administration sets forth that in abuse and neglect cases the county attorney is to file notices in both these courts stating whether there is a related matter in the other court (Utah Code of Judicial Administration Rules 41-901 and 41-902). If there is a related matter between the criminal division and the juvenile court, the county attorney shall coordinate the prosecution of both cases (Utah Code Ann. §78-3a-64). The code further requires that private attorneys filing domestic matters where custody of children is at issue shall inform the court whether cases concerning these children are also active in the juvenile court (Utah Code of Judicial Administration Rule 41-901). In another forward-looking law, the legislature now provides that the district court may issue protective orders for children living in the home of an adult who has filed for protection orders (Utah Code Ann. §30-3-5.6). Earlier, only the juvenile court had authority to order protection for children; now the district court can provide joint protection orders for adults and children in one proceeding. A further reason for selecting Utah is this state's recognized efforts to strengthen families through extensive social services and other supportive efforts. Besides, the Utah statewide juvenile information system has long been regarded as the best (or among the best) in the country.

The proposed study was officially supported by the state court administrator. The juvenile court in Salt Lake City has a long history of opening its corridors to research studies (Rubin 1972), and the district court offered full cooperation. The district court has 14 judges and three commissioners. The commissioners, attorneys who serve as quasi-judicial hearing officers, hear the bulk of divorce matters, except for contests. Further, they issue domestic violence protection orders and handle paternity cases. All 14 district court judges may be assigned a contested divorce-related matter. No judge specializes in this work load. The juvenile court is a four-judge, one-commissioner court.

D. The Research Methods and Findings

Because of the measurement problems inherent in estimating the degree to which family members are involved in court, three separate measures were used at the three sites. Multiple measures, if they converge, will result in morecredible findings than any single measure.

- 1. Interviews conducted with court officials at three urban sites with different court structures. Officials were asked to estimate the frequency with which families returned to court on other family-related matters.
- 2. Surveys completed by adult clients of these three courts who were engaged in 1) divorce proceedings that involved children, or 2) whose child or children were the subject of child abuse and neglect, or 3) juvenile delinquency proceedings. A judge at the close of a hearing described to the clients the court's participation in a national research project regarding families in court and asked them to accept a survey form from a courtroom clerk, take a moment to complete it, and return it to the clerk. The survey form asked the clients to check off other family-related proceedings they had been engaged in during the past five years. These forms were offered at whatever stage in the court process the hearing took place.
- 3. Examinations of court records for the same three casetypes at these three sites. The record search sought information on other family-related cases involving courts.

1. Interview Results

Structured interviews were conducted at each site with a range of juvenile and family justice officials: judges; public attorneys who present or defend cases; private attorneys, particularly those carrying divorce matters; probation managers; public child protective services staff members; child support enforcement officials; police officers; and court clerks. Knowing that hard data would be obtained in these courts regarding families' court appearances, staff asked these officials to estimate the percentage of families now in court that had been to court concerning another family-related matter within the past five years,

Only about four persons at each site ventured an estimate of the percentage of parties engaged in a particular type of case who may have experienced another family-related matter. Because different persons made different estimates based on their knowledge of different casetypes, the results are heuristic rather than conclusive. On methodological grounds, these impressions may not be worth reporting, except that perceptions of court officials, regardless of whether they are accurate, are often the bases for decisions affecting families. If the premises of the decisions are faulty, e.g., the types of cases for which families have been to court before, the decisions are likely to be flawed. In that context, the perceptions of court officials take on greater importance.

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Table 1 Estimates of Casetypes

	Divorce	Child Abuse/ Neglect	Juvenile Delinquency
Hudson	43%	30%	45%
Fairfax	13%	68%	23%
Salt Lake	9%	54%	17%
Average of Three Sites	22%	51%	28%

Officials' Estimates of Casetypes that Had Other Family-related Cases in the Past Five Years

Hudson County interviewees estimated that the highest percentage of related cases are assoc¹ated with divorce and delinquency matters and the lowest percentage with abuse and neglect cases. Two Jersey City police officials estimated that 85-90 percent of delinquent juveniles have a delinquent sibling; but this estimate was not included in Table 1 because it did not refer to the involvement of all family members.

Hudson County has a high number of nondissolution cases, such as child custody, support, and visitation determinations, compared with the number of divorces the court grants. Reportedly, marriage as a precedent to childbearing is less common in this county compared with other communities, and accordingly, judges hear fewer divorces. Clearly, they have fewer abuse and neglect cases than expected because New Jersey places fundamental responsibility for reviewing the cases of children removed from their homes into foster care with child placement review boards appointed by the court. Combined with the children's agency practice of relying on parental or relative consent to a voluntary placement, fewer than 30 abuse and neglect cases are initiated formally before this court each year, and only 72 cases are active at any stage of court proceedings.

Overall, across three sites, abuse and neglect cases are perceived to have the highest percentage of family-related cases filed, significantly outdistancing both delinquency and divorce cases. What are the other family-related matters these officials contend occur in conjunction with the three primary casetypes studied here?

These officials were asked what other casetypes tended to cluster divorce, abuse and neglect, and delinquency filings. Officials at all three sites described three sets of casetype clusters they believed were most common:

- Child abuse and neglect cases with juvenile delinquency cases
- Child abuse and neglect cases with divorce cases
- Divorce cases with domestic violence petitions

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Invariably, both abuse and neglect and delinquency cases are structured into the jurisdiction of today's juvenile or family courts (Rubin and Gallas 1989). Typically, a petitioner for a divorce who also seeks domestic violence protection may obtain joint relief from the same court or court division; the court in which the protection is sought frequently is not the same court that grants a divorce petition. Further, judges who hear abuse and neglect cases rarely hear divorces, since the divorce jurisdiction is usually part of another unit of the court or of a different court. The question is whether the two types of cases are closely enough related to warrant having one judge hear both cases involving the same family.

At least one official at two of three sites reported other casetypes that occur together:

- Divorce and child custody/support/visitation separate from divorce
- Juvenile delinquency and divorce
- Juvenile delinquency and child custody/support/visitation separate from divorce
- Abuse and neglect and domestic violence petitions
- Abuse and neglect and child custody/support/visitation separate from divorce
- Abuse and neglect and criminal abuse of children

The cluster of casetypes that involved children's matters that arise separate from divorce were reported almost exclusively by Hudson County. Fairfax County and Hudson County reported an association between divorce and matters separate from divorce. Where this occurs, one parent may have been involved both with divorce and a proceeding to obtain support for another child who was not a product of this marriage, or a child of the divorced parties may have been involved with a child support matter, or the former husband may have been a respondent in an out-of-wedlock birth case. These types of matters are typically heard in the same court.

Other sets of cases, however, are not usually heard by the same judge or in the same court division or even the same court. Relationship among cases is essential to determining what case information is needed in casefiles.

2. Client Survey Information

The Sample. The second way of determining how frequently litigants in divorce, delinquency, or child abuse or neglect had been in court on other family-related matters was simply to ask them. The plan was to ask judges to obtain 450 completed questionnaires at each site: 150 from parties in divorce proceedings who had children, 150 from parents involved in child abuse and

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	CALGAR		compies	ion by	ouscippe	and bit	*			
	Divorce		Child Divorce Abuse/Neglect			Juve Deling		То	Totals	
	N	%	N	%	N	%	N	%		
Hudson	136	42	32	10	159	48	327	100		
Fairfax	26	24	21	19	62	57	109	100		
Salt Lake	205	54	31	8	147	38	383	100		
Totals	367	45	84	10	368	45	819	100		

Table 2Client Survey Completion by Casetype and Site

neglect cases, and 150 from parents of juveniles charged with delinquent offenses. A judge (divorce commissioners assisted in Salt Lake County) asked court clients to participate in the survey. A court clerk distributed the questionnaire, which was returned either to the court clerk directly or placed in a return box. The methodology was innovative, quite probably the first time judges have been asked to improve the rate of survey response by having court clients complete the questionnaires. Staff believed this extra step was needed because the response to survey questionnaires is notoriously low and because some litigants may perceive the questions about prior court involvement, especially for offenses such as delinquency and child abuse or neglect, to be sensitive. Consequently, personal contact in the distribution was deemed necessary.

The plan worked best in Hudson County and Salt Lake County, where sufficient numbers of responses were received for all types of cases (see Table 2). One reason for the success in Hudson County was that judges asked litigants to participate in the survey. Another reason was that an employee was assigned to hand out the questionnaires, translate the questions for people not able to comprehend the questionnaire, and collect the responses. This procedure worked flawlessly in that all persons approached did in fact respond. In Salt Lake County, the four juvenile court judges discussed the questionnaire with clients involved in delinquency and abuse and neglect proceedings. The courtroom clerks handed out the surveys as the clients exited; completed surveys were returned to a clerk in the central juvenile court office. When necessary, the courtroom clerk also assisted the clients in completing the surveys. The methodology was least effective in Fairfax County, where individual judges or their clerks, rather than a separate court employee, distributed the questionnaires and where the atmosphere was more charged because of the research being done on the Virginia Family Court Pilot Project.

In delinquency and child abuse/neglect cases, only one questionnaire per family was distributed. In divorce cases, each spouse that was present was given an opportunity to complete a questionnaire, though only one response, selected randomly from the 67 sets of divorcing husbands and wives who each completed a form, was tabulated.²

Note that Table 2 shows the number of completed responses upon which the analysis is based. It does *not* show response rates, which ranged from 100 percent in Hudson County to approximately 50 percent in Fairfax Court.

Although representative of the parties involved, the absolute number of child abuse and neglect cases is small. In Hudson County, the 32 responses represented 100 percent of these cases that came to court during the period the sample was taken (July 1-November 1, 1991). The court's active reliance on a child placement review board and the state agency's reliance upon voluntary placements severely curbs the number of these cases filed with the court. In Fairfax County, approximately 40 child abuse and neglect cases were heard during the period of the survey, and the response rate was approximately 50 percent of the population that could have completed the survey form. The number of survey forms provided for child abuse and neglect cases in Salt Lake County was greater than the number of forms returned, indicating that some parents did not return completed forms to the juvenile clerk's office.

The divorce sample was adequate in Hudson and Salt Lake counties. The limited number of divorcing party responses in Fairfax County was due to the decision not to provide survey forms to the scores of attorneys who serve as commissioners-in-chancery and hear the rank-and-file divorce proceedings for the circuit court. The circuit court judges hear only contested divorce-related matters, and those only infrequently. Judges preferred not to distribute questionnaires to litigants they believed would be emotionally distraught following a hearing. Consequently, no responses were received from circuit court divorce litigants. Because juvenile and domestic relations judges, in their role as experimental family court judges, were assigned 20 percent of the divorce cases, they were only asked to distribute 20 percent of the 150 divorce questionnaires. The 26 completed divorce surveys, all from the Fairfax County Juvenile and Domestic Relations District Court, represented half of the divorce cases the court was assigned during the sample period.

Related Cases. Considering all completed responses together, a third of all parties indicated they had been involved in another family-related proceed-

² In divorce cases, two spouses were often present. Rather than choosing one spouse to receive the questionnaire, both were given the opportunity to respond. This presented somewhat of a dilemma for analysis, however. It could be argued that two questionnaires should be included in the analysis because spouses may have very different histories of contact with courts. On the other hand, it could be argued that using two questionnaires in some divorce cases and not in others would skew the results. Both positions have merit, but the conservative solution of using only one questionnaire per case was chosen.

ing during the past five years. On the surface, the finding that 34 percent of families reported prior court involvement justifies the call for case coordination. Even this figure is probably an underestimate if some respondents preferred not to list prior court contacts.

The proportion of parents who reported involvement in other familyrelated cases varied both by type of case and by sites. Parents of delinquent youngsters reported the highest frequency of companion cases, 42 percent; parents involved in abuse and neglect proceedings listed the next highest frequency of 35 percent; parties engaged in divorce proceedings reported the lowest, 25 percent (see Table 3).

The frequency of related cases was highest in Fairfax County (48 percent) but that might be an artifact of the small sample of cases. Comparable figures for other sites were 41 percent in Salt Lake County and 21 percent in Hudson County.

Fortunately, we can obtain some indication of the proportion of related cases incident to a divorce from the Virginia family court experiment. An initial sample found very few related cases, perhaps because the survey only asked about litigation pending at the time. A proper evaluation required an expanded "time window" to capture related cases filed before, during, and after the divorce. Therefore, a separate supplemental survey was conducted of related cases initiated from January 1, 1988 (the date the automatic tracking system came on line), through December 31, 1991. This involved manually pulling the divorce file, extracting the names of the parties and children, and cross-checking those names for related cases in the court index for the period in question. Of the 802 divorce cases in the supplemental survey, 160, or 20 percent, had one or more related cases. Of the 167 divorce cases in the supplemental survey from Fairfax, 17, or 10 percent, had one or more related cases. This finding strengthens the argument made earlier that the 34 percent is probably an underestimate of related cases. Fairfax County divorces had fewer related cases associated with them than did divorces in other sites.

One aspect of the supplemental sample has implications for further research. Our research covered only past cases related to divorce. The Virginia research shows that filing for divorce does not end court contact, especially for couples with children. Approximately a quarter of the related cases occurred *after* the divorce.

Before examining how cases involving the family are interrelated, local court officials' estimates should be compared with court clients' reports on the actual frequency of involvement with other family-related cases during the past five years. Court officials' estimates correlated exactly, in the aggregate, with client survey listings; both measures indicated that 34 percent of families had been to court on related matters (see Table 4). The official's estimates of the frequency of related cases was lower than client estimated with respect to

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		Hu	dson Cou	inty			Fa	irfax Cou	nty	
	Invol	ved	Not Inv	olved		Invol	ved	Not Inv	oived	
	N	%	N	%	Total	N	%	N	%	Total
Divorce	27	20	109	80	136	13	50	13	50	26
Child Abuse/Neglect	5	16	27	84	32	9	43	12	57	21
Juvenile Delinquency	37	23	122	77	159	30	48	32	52	62
Totals	69	21	258	80	327	52	48	57	52	109
		Salt	Lake Co	unty		Th	ree Site	s Combin	ed	
	Invol	ved	Not Inv	olved		Invol	ved	Not Inv	olved	•
	N	%	N	%	Total	N	%	N	%	• •
Divorce	52	25	153	75	205	92	25	275	75	
Child Abuse/Neglect	15	48	16	52	31	29	35	55	65	
Juvenile Delinguency	89	61	58	39	147	156	42	212	58	
Totals	156	41	227	59	383	277	34	1542	66	

Table 3 Party Involved in Other Family-related Proceedings by Casetype and Site as Reported in Client Surveys

divorce and delinquency. Court officials' estimates of the frequency of companion cases associated with child abuse and neglect actions were higher than estimates made by litigants. Estimates of court officials in Fairfax County and Salt Lake County were lower than estimates of Hudson County officials.

Types of Related Cases by Casetype and by Site. Sixty-six percent of litigants completing the survey reported that the present case was their first contact with courts. The 34 percent of families (277 court clients) involved in other family-related cases were often involved in more than one case. The 92 divorce respondents with prior court involvement reported a total of 147 related cases. The 29 abuse and neglect respondents reported 34 related cases, and the 156 delinquency respondents reported involvement in 237 related cases (see Table 5).

Parties in court for divorce reported prior court involvement in divorcerelated cases—custody, support, or visitation cases separate from divorce. These types of proceedings are usually held in the same court or court division, except in Fairfax County.

Divorce respondents' reports of 13 prior domestic assault proceedings are noteworthy; one out of every seven divorce respondents who had other cases reported a prior court contact relating to domestic assault. The assumption is

Table 4

	Divo	xce	Child and N		Delinq	uency	All C	8368
	Officials' Estimates (%)	Cilents' Reports (%)	Officials' Estimates (%)	Cilents' Reports (%)	Officials' Estimates (%)	Clients' Reports (%)	Officials' Estimates (%)	Cilents' Reports (%)
Hudson	43	20	30	16	45	23	39	21
Fairfax	13	50	68	43	23	48	35	48
Salt Lake	9	25	54	48	17	61	27	41
Averag n of Three Sites	22	25	51	35	28	42	34	34

Officials' Estimates Compared with Client Survey Listings of Casetypes that Had Other Family-related Cases in the Past Five Years

that the prior hearing concerned the issuance of a domestic violence protection order. While domestic assaults are often associated with temporary restraining orders issued at an early stage of a divorce proceeding, the survey form had asked respondents to report only *other cases*, not earlier proceedings in the same case.

Just 5 of the 92 divorce respondents who reported a companion case cited a child abuse and neglect action. However, parents involved in child abuse proceedings who cited companion cases most often reported a juvenile delinquency proceeding (9 of the 29 respondents), or custody, support, or visitation matters separate from divorce (6 of the 29 respondents), or domestic assault (6 of the 29 respondents). Despite the limitations of the number of child abuse and neglect cases in the research sample, policymakers should consider the linkage between these several types of actions. Characteristically, jurisdiction over abuse and neglect and delinquency proceedings are centered in the same court or court division. A survey of 150 court locations found that a judge or hearing officer who handled a child's abuse or neglect case would hear a sibling abuse or neglect case if it occurred within a year ("often" 53 percent or "sometimes" 34 percent) (see Table 17 on page 45).

Of the 277 respondents who reported prior court involvement of family members, 16 reported a prior abuse or neglect proceeding, and 10 respondents recorded a prior criminal child abuse proceeding. Policymakers may still want to consider whether the abuse and neglect and intrafamily criminal cases might be better coordinated between the juvenile or family courts and criminal courts. Some of the family courts, such as those in Hawaii and Delaware, have jurisdiction over both civil and criminal child abuse.

The third primary casetype, juvenile delinquency, is very strongly associated with other delinquent offenses. Undoubtedly, the prior related delinquency case(s) involved either the youth whose parents are again present

			Casetyp	^ 8			
	Divorce		Child Ab and Negl		Juvenile Delin		
Related Cases							Totals
Divorce with Custody, Support, or Visitation Total	Hudson Fairfax Salt Lake	11 4 26 41	Hudson Fairfax Salt Lake	4	Hudson Fairfax Salt Lake	4 4 13 21	66
Divorce without Custody, Support, or Visitation Total	Hudson Fairfax Salt Lake	7 3 6 16	Hudson Fairfax Salt Lake	0	Hudson Fairfax Salt Lake	1 6 7	23
Custody/Support/ Visitation (Separate from Divorce) Total	Hudson Fairfax Salt Lake	13 8 19 40	Hudson Fairlax Salt Lake	1 3 2 6	Hudson Fairfax Salt Lake	2 7 6 15	61
Domestic Assault	Hudson Fairfax Salt Lake	6 2 5 13	Hudson Fairlax Salt Lake	1 5 - 6	Hudson Fairlax Salt Lake	1 10 11	30
Child Abuse and Neglect Total	Hudson Fairfax Salt Lake	2 3 5	Hudson Fairfax Salt Lake	1 - 4 5	Hudson Fairfax Salt Lake	1 5 6	16
Child Abuse in Criminal Court Total	Hudson Fairiax Salt Lake	2 3 5	Hudson Fairfax Salt Lake	-	Hudson Fairfax Salt Lake	55	10
Termination of Parental Rights Total	Hudson Fairfax Salt Lake	1 2 3	Hudson Fairfax Salt Lake	0	Hudson Fairfax Salt Lake	- - 3 3	6
Adoption Total	Hudson Fairfax Salt Lake	1 5 6	Hudson Fairfax Salt Lake	0	Hudson Fairfax Salt Lake	1 1 3 5	11
Juvenile Delinquency Total	Hudson Fairfax Salt Lake	2 2 4	Hudson Fairfax Salt Lake	1 1 7 9	Hudson Fairfax Salt Lake	54 20 56 130	143
Child in Need of Supervision/Services (CHINS) Total	Hudson Fairfax Salt Lake	1	Hudson Fairfax Salt Lake	1	Hudson Fairfax Salt Lake	8 2 4 14	16

Table 5Type of Cases by Casetype and Site as Reported in Client Surveys

continued on next page

			Casety	005			
	Divor	Child Abuse Divorce and Neglect			Juvenile Delir		
Related Cases							Totals
Mental Health/Mental	Hudson	-	Hudson	-	Hudson	3	
Retardation Hearing	Fairfax	1	Fairfax	-	Fairfax	•	
	Salt Lake	-	Salt Lake	1	Salt Lake	4	
Total	1	1		1			9
Other	Hudson	3	Hudson	1	Hudson	-	1
	Fairfax	÷ 1	Fairfax	-	Fairfax	6	
	Salt Lake	8	Salt Lake	1	Salt Lake	7	
Total		12		2	1	13	27
Totals		147		34		237	418

Table 5 (continued) Type of Cases by Casetype and Site as Reported in Client Surveys

in court or a sibling of this youth. That delinquency cases are related to other cases of delinquency was apparent at all three study sites.

Nine percent of parents of delinquent juveniles reported a prior related child in need of supervision/services (CHINS) proceeding involving one of their children. Juvenile or family courts have jurisdiction over CHINS offenses.

Parents of delinquent juveniles acknowledged little prior involvement with abuse and neglect proceedings while, as stated earlier, parents engaged in abuse and neglect cases were more likely to also have been involved in delinquency cases.

Few respondents reported court involvement in such family cases as termination of parental rights, adoption, and mental health/mental retardation proceedings.

Locations of Related Cases. One implicit assumption of a family court is that most families remain in one location and would be able to return to the same court on other family-related matters. Most court clients who reported prior court contact for themselves or members of their families (75 percent) did indeed return to the same court (see Table 6). Of the types of cases requiring multiple visits to courts, juvenile delinquency and children in need of supervision cases are most likely to be brought before the same court, and domestic assault or violence cases are least likely to be brought in the same court. Other findings indicate that domestic violence cases in Hudson County and Salt Lake County are sometimes filed in lower courts. It is more difficult to share information systematically on a related case from a different court located in the same community than from another division of one's own

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	In This	Court	In Other Court in the County	In Other Court in the State	In Other Court in Different State	Totals
Casetypes	N	%	N	N	N	
Divorce with Custody, Support, or Visitation	38	57	14	6	8	66
Divorce without Custody, Support, or Visitation	18	78	3	. 1	1	23
Custody, Support, or Visitation (separate from divorce)	43	70	9	5	4	61
Domestic Assault	.17	52	12	0	1 -	30
Child Abuse and Neglect	12	75	4	0	0	16
Child Abuse in Criminal Court	7	70	2	1	0	10
Termination of Parental Rights	4	66	2	0	Q	6
Adoption	9	82	·. • 1	0	5 1	11
Juvenile Delinquency	131	93	3	7	2	143
Child in Need of Supervision/Services (CHINS)	15	94	1	0	• 0	16
Mental Health/Mental Retardation Hearing	8	89	1	. 0	0	9
Other	10	59	15	1	1	27
Totals	312	75%	67 16%	21 5%	18 4%	418

Table 6 Location of Related Cases—All Cases

court. Accordingly, court administrators seeking to improve handling of cases involving families must develop ways to coordinate across courts and to share information on related cases. Coordination with courts located elsewhere in the state is even more difficult. Only 5 percent of related cases, according to client reports, occurred elsewhere within the state, and another 4 percent occurred in different states. If this frequency of court use within the same location is typical, then the investment of time and resources for coordinating cases that affect families is justified.

3. Court Record Information

The research design provided for an examination of 150 divorce, child abuse and neglect, and juvenile delinquency files at each site. Paper files, automated files, or both were examined for references to other cases. If a record Chapter 1. Has This Family Been to Court Before? • 27

	Divorce	Child Abuse and Neglect	Juvenile	Totals
Hudson	116	26	114	256
Fairlax	149	155	152	456
Salt Lake	149	148	143	440
Totals	414	329	409	1,152

Table 7Case Records Searched by Casetype and Site

showed a related case, that file was also pulled, and information from the second file or third, etc., was examined for other case references. Consequently, staff reviewed not only the 1,152 case files drawn for the sample, but files for related cases as well.

A premise of this research project is that judges can make better decisions on a current case if they have information about related cases involving the family. Information about other cases is pertinent and not barred by due process considerations at both preadjudicatory and postdispositional levels of court processing. A search of the court records was necessary to learn what information about related cases is available to a judge hearing a particular case. A further purpose was to ascertain the sources of a case file's reference to related cases, such as a probation department's predisposition report or a custody evaluation prepared for a contested custody matter in a divorce proceeding. A third research interest was to compare the number of companion cases listed in client surveys with references to companion cases listed in court files. Findings from the court record search would help establish the validity of client surveys as a research method (see Table 7 for a list of the original case records examined by casetype at the three sites.)

The original research design made no provision to link court records to survey questionnaires because 1) sufficient information necessary to identify cases may not be contained on the court records and 2) the considerable increase in the amount of data collection time needed to track down specific cases. The project advisory committee, however, encouraged staff to try to link where possible these two methods of obtaining information about related cases. The sample of court records in Hudson County was based upon cases identified in the client survey. Because information necessary to identify cases was not available from all surveys, the number of court records searched is somewhat less than the number of surveys returned (372 were returned). In other words, linking surveys to court records in Hudson County resulted in the examination of fewer court files (256) than would have occurred if separate samples were taken. In the other sites, random samples of records were taken to supplement cases identified through client surveys. For example, in Fairfax

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	Div	Divorce		l Abuse leglect	= -	venilø quency	Т	otals
	%	N	%	N	%	N	%	N
Hudson	16	19	42	11	30	34	25	64
Fairfax	3	5	70	108	41	62	38	175
Salt Lake	_28	41	63	93	71	101	53	235
Totals	16	65	64	212	48	197	41	474

Table 8 Proportion of Case Files with Other Related Cases as Shown by Court Records

County, 60 client surveys from delinquency cases had sufficient identifying information to enable staff to search those particular 60 records. In addition, a random sample of 85 other delinquency case files (where a youth had been adjudicated and a predisposition report prepared) was taken to bring the total sample size to 145. Docket numbers were recorded on all Salt Lake County divorce survey forms, and these 149 matching records were examined. Case numbers were not reported for the abuse and neglect or delinquency client surveys, however, and accordingly, random samples of court records were drawn.

Number of Related Cases. The data obtained from the 1,152 record searches revealed that 474, or 41 percent, of case files for three casetypes examined had one or more references to other court cases involving the same family during the past five years.

The proportion of related cases varied by casetype, ranging from an average of the 64 percent for abuse and neglect cases to an average of 16 percent for divorce cases (see Table 8). Divorcing couples had the smallest proportion of related cases. One reason for this is that some related cases, such as custody, may take place after the divorce and so are not yet recorded. A second is that some couples divorce before they have children or while children are too young for some types of related cases, e.g., delinquency.³ Finally, the Fairfax sample of divorce cases is inadequate. A more scientifically selected sample conducted as part of the Virginia family court experiment found that only 10 percent of the divorces in Fairfax had related cases—half of the average of related cases for other sites in Virginia. When the full sample of 802 divorce cases was examined, 20 percent (160) had an average of 4 other cases associated with them, considering both cases initiated before and after the divorce. One

³ Weisbrod's research (1981:18) on delinquents found that only 3 percent of her sample of 1,891 were 10 years old or younger. Most were 14 or 15 years old.

reason for the low percentage of related cases may be the unusually high percentage of "double-income, no-kids" families in Fairfax County. Divorces in Salt Lake County were most likely to have related cases associated with them.

Abuse and neglect cases in both Fairfax and Hudson counties had the highest proportion of related cases associated with them. The proportion of related cases in Salt Lake was also very high, but masked by the unusually high proportion of cases related to delinquency. Utah does handle some matters in court, e.g., tobacco violations, in court that would not be brought to court in other states. Salt Lake County has the highest proportion of related cases for all casetypes in the sample, but even so, the high proportion of related cases is out of line with those found in the other two sites and with results of other research. For example, in a study of delinquency in four boroughs of New York City, Weisbrod (1981: 23) found 32 percent of the children had prior dealings with the family court.

Court Records and Client Survey. Comparing the proportion of related cases measured by court clients' surveys and by a search of court records reveals that the two sources of information correlate quite well. The related cases converged particularly well in Hudson County where the explicit effort was made to search the court records of clients who completed the survey. More related cases were found in court records than the surveys completed by court clients, except in divorce cases. Here again, divorce records are unlikely to refer to other cases involving the family in Fairfax County because most family matters there are heard in juvenile and domestic relations court, while divorces are heard in circuit court. It does not come as a surprise that in the sensitive area of child abuse and neglect court records revealed more related cases than clients reported on their questionnaires. Court records and client surveys converged pretty well in delinquency cases.

That divorce survey forms overall, and Fairfax County survey forms⁴ in particular, recorded more related cases than were found in court record searches was somewhat puzzling. Parties to a divorce reported a large number of their related cases (43 percent, see Table 9) took place in other courts; the record search was confined to the three project sites where just 57 percent of the related cases to the divorce took place. This may be one reason why the number of cases related to divorce was fewer when court records were used as

⁴ The record search found just five cases with related cases in the 149 divorce records searched in Fairfax County. Note should be made of the separate research undertaking of divorce proceedings in the experimental Fairfax County Family Court in which the project codirector was engaged. The search found 10 percent (17 of 167) of these cases had companion cases.

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	Divorce		Cl Abuse/l	hlid Neglect	Juvenile Delinquency		Totala	
	Client Reports %	Court Records %	Cilent Reports	Court Records %	Cilent Reports	Court Records	Cilent Reports %	Court Records %
Hudson	20	16	16	42	23	30	21	25
Fairfax	50	3	43	70	48	- 41	48	38
Salt Lake	25	28	48	63	61	71	41	53
Totals	25	16	35	64	42	48	34	41

Table 9 Proportion of Related Cases—Client Survey Responses Compared with Court Record Examination

a source. For that mason, perhaps even abuse and neglect families had more related cases than the court record search revealed (64 percent).

Another possible reason for the paucity of cases related to divorce may be that court clients, despite instructions to the contrary, may have reported repeated instances of the same case involving the same family member. Court records not only show that a family had been to court on these three matters, but could also indicate that there may have been multiple separate instances of domestic violence. These data were available from court records, but are not reported here.

Court records show that many litigants had multiple court involvements for different family matters. To some extent, the number of related cases depends upon how courts count cases and when the action was brought. For example, a child custody matter brought in conjunction with a marriage dissolution might be counted as one divorce case, but a child custody matter heard before or after the divorce would be counted as a separate case. In the former instance, court records would show no related cases, but in the latter court records would show a case related to the divorce. With that caveat, Table 10 shows that families that have been to court on related matters have been to court several times. Recalling that the majority (59 percent based upon court records) of litigants come to court only once, many of the 41 percent of families with prior court contact have been to court on other matters twice before (more precisely, an average of 1.68 times). Another way to look at this is that for every 100 litigants that come to court for a family-related matter, 59 will be in court for the first time. The 41 families with prior court contact will have been involved with 69 separate related cases (41 x 1.68). The numbers of related cases vary by site as well as casetype. Salt Lake County has the highest proportion of multiple cases overall and Hudson County the lowest.

Families of children involved in delinquency and abuse and neglect proceedings most often had been to court before on other matters affecting the family. Divorcing parties had the fewest prior family-related cases in all sites.

County	One	Two	Three	Four	Five	Cases with Related Cases	Number of Related Cases	Ratio of Related Cases to Number of Related Cases
			11100				Casca	
Hudson							·	
Divorce	15	4	• .	•	•	19	23	1.21
Child Abuse/Neglect	6	4	1	. •	. •	11	17	1,55
Delinquency	24	- 8	2	٠	. •	34	46	1,35
					Totals	64	86	1.34
Fairfax	1989 (1994) (1994)						· · · · · · · · · · · · · · · · · · ·	
Divorce	5		•	•		5	5	1.00
Child Abuse/Neglect	56	32	11	6	3	108	192	1.78
Delinquency	38	16	6	2	•	62	96	1,67
					Totals	175	293	1.67
Salt Lake					:			
Divorce	21	16	3	1	-	41	66	1.61
Child Abuse/ Neglect	59	19	9	6	0	93	148	1.59
Delinquency	42	32	16	7	3	101	205	2.0
	-			•	Totals	235	419	1.78
Totals of Three Sites						474	798	1,68

Table 10 Number of Related Cases by Casetype and Site from Court Records

Types of Related Cases. For what reasons did families with prior court involvement come to court?⁵ Court records show juvenile delinquency, the casetype with the largest proportion of related cases, was most commonly linked to prior CHINS or divorce (79 and 74 cases, respectively). Other family-related cases associated with delinquencies are the prior delinquency involving a sibling (56 cases) or a prior abuse and neglect case involving a sibling (47 cases, see Table 11).

Examination of court records revealed that child abuse and neglect cases were most likely to be associated with divorce and child custody cases. Divorce

⁵ The data collection form used with the record search had several differences from the client survey form in regard to the types of other cases that could be listed. Slight variations were made to fit better with local terminologies and work loads. For example, child abuse in criminal court was replaced by an intrafamily criminal category since this latter, more encompassing jurisdictional classification characterized the Fairfax County juvenile and domestic relations courts and would capture more cases than the more limited child abuse in criminal court category. Mental health/mental retardation hearings were dropped as a data collection category since they were rarely listed on client surveys. Case classifications related to domestic relations matters, whether part of a divorce proceeding or separate from divorce, were broken into additional categories for the record search, since court records could show the exact characteristic of the action.

Table 11

	Divorce	Child Abuse/ Neglect	Delinquency	Totals
Divorce	23	74	74	171
Spousal Support	3	0	1	4
Custody	6	78	33	117
Child Support	8	7	9	24
Visitation	2	.11	1	14
Domestic Assault	42	21	12	75
Child Abuse and Neglect	4	58	47	109
Intrafamily Criminal	2	31	27	60
Termination of Parental Rights	0	6	0	6
Adoption	5	2	8	15
Juvenile Delinquency	3	45	56	104
Child in Need of Supervision/Services (CHINS)	0	24	79	103
Totals	98	357	347	802

Divorce, Abuse and Neglect, and Delinquency Cases and Their Relationship to Other Casetypes from Court Records

cases were most associated with domestic assault in Hudson and Salt Lake counties. Because the Fairfax sample was inadequate for repsons noted above, it might be interesting to note that in the separate sample of divorce records gathered as part of the Virginia Family Court Pilot Project, child custody and child support were cases most associated with divorce, followed by intrafamily criminal offenses.

If one tabulated the types of the related cases in a way that most closely resembled the jurisdiction of either 1) traditional juvenile courts (abuse and neglect, termination of parental rights, adoption, delinquency, CHINS) or 2) divorce courts and other courts (divorce, spousal support, custody, child support, visitation, domestic assault, intrafamily criminal), 55 percent of cases related to delinquency cases would be in juvenile courts and 45 percent in divorce or other courts. A similar breakdown for abuse and neglect cases shows 38 percent of related cases in juvenile courts and 62 percent in the divorce or other court category. Abuse and neglect cases, accordingly, show a strong link with divorce-related matters. Conversely, just 12 percent of the cases related to divorces fell into the traditional juvenile court jurisdiction.

Contrary to the expectations of court officials, child abuse and neglect cases were not most likely to be associated with juvenile delinquency cases, but were associated with custody separate from divorce or with divorce (78 and 74 cases, respectively). Further, intrafamily criminal proceedings were more likely to be associated with child abuse and neglect cases than with delin-

quency or divorce cases. Divorce is most highly associated with domestic assault (42 cases) and a prior divorce (23 cases).

Hudson County data show that the companion cases of divorcing parties and of abuse and neglect families fall essentially into the domestic relations sphere. Abuse and neglect families in Fairfax County were characterized by other abuse and neglect cases and numerous custody-related proceedings. Salt Lake County delinquency families often experienced an earlier divorce or a prior CHINS proceeding (see Table 12). The high frequency of prior divorces experienced by both abuse and neglect and delinquency families in Salt Lake County suggests a linkage that has implications for court structure and procedure.

E. Summary and Conclusions

Regardless of the methodology used, a significant proportion of families appearing in court for divorce, child abuse and neglect, or delinquency had been to court for another family-related matter during the previous five years. This general conclusion is true regardless of the variations in the proportion of related cases by site and casetypes. Child abuse and neglect and delinquency families were more likely to have prior court contact than families involved in a divorce proceeding.

Overall estimates are fairly close considering all three casetypes and all three sites. Court records showed the most related cases. It is possible that client survey reports were underestimated since court clients were asked to list prior events over a five-year span. Some clients may have preferred not to list certain types of cases, e.g., child abuse or neglect, that required previous court involvement. Officials' intuitive estimates were not overly disparate with the two more systematic measures, although they most significantly underestimated the extent of the companion cases that involved delinquency families.

The cases in which families had been to court on other family-related matters tended to cluster. Families in court for delinquency, if they had been to court before, would most likely have been involved in a CHINS case or divorce and had frequent previous involvement with the delinquency of another child or with abuse and neglect. Abuse and neglect is most highly associated with custody separate from divorce, and with divorce. Prior cases of divorcing parties involved either domestic assault or a prior divorce. These classifications transcend the traditional domestic relations or a juvenile-child distinction.

Court officials' estimates of related cases, as well as court clients' estimates, were slightly lower than court records indicated, which suggests that

	Hudson County			:	Fairfax Count	y	Salt Lake County			Totais
	Divorce	Child Abuse and Neglect	Delinquency	Divorce	Child Abuse and Neglect	Delinquency	Divorce	Child Abuse and Neglect	Delinquency	· .
Divorce	3	0	0 -	0	0	13	20	74	61	171
Spousal Support	- 1.	0	1	0	0	0	2	· 0	0	4
Custody	1	7	12	0	66	20	5	5	1	117
Child Support	6	3	6	0	3	1	2	· · · • • · ·	2	24
Visitation	1	0	0	0	10	1	1	1	0	14
Domostic Assault	- 7	4	5	4	13	6	31	4	1	75
Child Abuse and Neglect	1	1	3	0	47	14	3	10	30	109
Intrafamily Criminal	0	0	0	0	26	18	2	5	9	60
Termination of Parental Rights	0	1	0	0	3 =	.0	0	2	0	6
Adoption	0	0	0	5	2	6	0	0	2	15
Juvenile Delinquency	3	1	. 11	Ó	14	7	0	30	38	104
CHINS	0	0	8	0	8	10	0	16	61	103
Totals	23	17	46	9	192	96	66	205	148	802

Table 12Related Cases and Their Relationship to Other Casetypes from Court Records

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the need to coordinate cases is stronger than has been perceived by court officials. The evidence is very strong here that the proportion of dysfunctional families who come to court for divorce, abuse and neglect, or delinquency is large enough to justify efforts to coordinate these matters.

Judicial hearing officer continuity is advanced in only two court units: the so-called dissolution and nondissolution section of the family court division in Hudson County and in the juvenile court in Salt Lake County. In the former, the FACTS system informs the court of related cases; the calendaring system targets the new case before the judge who heard the old case if the new case is of the same casetype, domestic relations or juvenile, as the prior case; and the judicial assignment system provides a minimum of three years' continuity for a judge assigned to this division so that family members have a reasonable chance of appearing before the judge who sat earlier on a companion case. Salt Lake County's juvenile court judges are appointed exclusively to this bench; the information system prompts awareness of related cases, and the calendaring system assigns the same child and his/her brothers and sisters back before the same judge regardless of whether the matter is an abuse and neglect or delinquency proceeding. Yet both of these courts are constrained in dealing with the family. The Hudson County dissolution and nondissolution section judges do not hear delinquency, abuse and neglect, and certain other types of matters that fall within the jurisdiction of the court's family division. The Utah juvenile court is constrained because it is a separate court and while it hears a small number of divorce-related custody, support, and visitation matters transferred to it by the district court, it does not have routine access to district court files in conjunction with its abuse and neglect and delinquency work loads. The other sections of the Hudson County court and the district court in Utah make no pretense of case coordination.

The circuit court in Fairfax County, which until the recent experiment was the sole divorce court, basically transfers its divorce work load to private attorneys who are designated commissioners-in-chancery and are compensated privately by the divorcing parties for this service. There is certain specialization in this court since just 3 of the 13 judges hear the contested divorce-related matters that are not heard by the commissioners. The juvenile and domestic relations court is not organized for judicial officer continuity. Indeed, there is no norm for a dispositional hearing to be heard by the same judge who heard the adjudicatory hearing. Cases involving child abuse and neglect are likely to have one judge for the temporary custody hearing, a second for the adjudicatory hearing, and a third judge for the disposition. Despite an advanced information system that incorporates a routine procedure for alerting judges to the existence of other related cases, such information is used sparingly if at all by the judiciary. The data make a case for the incorporation of a domestic violence protection order function in the court that grants divorces and separate-fromdivorce orders. These proceedings occur with sufficient frequency that they should be part of the general domestic relations work load of a court, as is done in Hudson County. Often the province of a lower trial court, protection orders preferably should initiate in or be transferred over to the court of domestic relations following a first hearing.

Do the data suggest that delinquency and abuse and neglect proceedings should be joined with the domestic relations work load into a particular court division or court? That the families associated with these casetypes so often seek divorce or separate-from-divorce remedies recommends at the most a joinder of these jurisdictions into a court division or court, and at the least that information regarding these different casetypes be routinely transmitted to the judge or hearing officer conducting the present proceeding.

Reorganizing courts into family divisions is no easy task. While spirited interest in accomplishing such an objective is expansive today, courts should not undertake reorganization without a careful definition of what they want to accomplish and how this will be implemented. Seemingly there is merit in placing the bulk of family-related matters in one court or court division, but this is only the beginning. Extensive thought needs to be given to the types of jurisdictions included, such as intrafamily criminal offenses, mental health/ mental retardation proceedings, and other probate-type forms of jurisdiction. Domestic violence protection orders, probably, belong in family court, but this presents issues of coverage since judges of general jurisdiction courts are less available than judges of lower courts for hearing these emergency matters.

The ongoing interest in having courts better serve families will increase as new software technologies provide the means to coordinate cases if a court so chooses. Software exists that enables courts to be aware of prior or concurrent proceedings related to the same family and to pursue greater judicial hearing officer continuity. Those courts that do not alter their current structure should systematically transmit information regarding related cases so that the judicial hearing officer is informed regarding the other proceedings and what their effect may be on the present issue and pending decision. Either way, families will benefit from improved court coordination. Merely establishing a family court or a family division that has sites in one location does not guarantee coordination; poor communication can occur within family courts. Moreover, coordination with social service agencies, mental health agencies and other court divisions is needed even in family courts.

Chapter 2

Court Coordination of Family Cases: A National Survey

HE NATIONAL CENTER FOR STATE COURTS AND THE NATIONAL Center for Juvenile Justice have been engaged in an effort, funded by the State Justice Institute, to examine how often the same families come to court on various family-related cases. If cases involving children and their families are one-time events that are settled in one court visit, then efforts to consolidate court procedures to serve families more efficiently are unnecessary. If some families are so dysfunctional as to require repeated visits to courts on several types of related cases, such as marriage dissolution, child abuse or neglect, custody disputes, child support, and juvenile delinquency, then efforts to coordinate court procedures or even create family divisions or family courts are warranted. Intensive research in three sites revealed that the majority of families involved with courts come to court only once. The minority of families who are frequent users of court services, however, do generate a disproportionate number of cases over an extended period of time. Many of these family members have been to court on family-related matters two or three times.

Having established the need for procedures to handle related cases, the question becomes how can court procedures be organized to handle related cases. For example, should all matters affecting the family be centralized? Should states that already have a family court specialize internally so that some judges concentrate on delinquency cases, others handle divorce cases, and still others issue domestic-violence-restraining orders? Intensive research in three sites provided staff with much knowledge about how cases involving the family interrelate, but did not enable staff to determine the extent to which conclusions drawn from three sites are applicable to other courts. Consequently, a survey of 150 court locations throughout the country was undertaken to obtain a deeper understanding of how family-related cases are handled throughout the country and to identify innovative practices and procedures used to handle multiple cases involving the same family.

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A. The Survey

The three sites selected for intensive study had to be large enough to generate sufficient cases for analysis. Consequently, the candidates for on-site research were all counties with large populations: Hudson County, New Jersey; Fairfax County, Virginia; and Salt Lake County, Utah. The 150 court locations that would receive questionnaires were drawn from a list of the more populous counties in the United States. Jurisdictions smaller than 300,000 were selected only if necessary to increase the geographic representativeness of the sample. For example, the largest counties in Montana and Wyoming, states with no counties greater than 300,000 in population, were also selected.

Questionnaires were mailed to two officials in each of the 150 court locations. A court location may have been either one court or two different courts or court divisions located in the same community. An attempt was made to obtain opinions not only from different courts, but also from people occupying different roles in the court system. For example, if the first questionnaire was sent to a juvenile court judge, a second would be sent to an administrator or to a domestic relations judge in a general jurisdiction court. The types of officials surveyed were judges, referees, court administrators, chief probation officers/directors of juvenile services, court mediators/ conciliators, and social service directors.

Because no single national list of court officials who handle family cases exists, names and addresses were obtained from membership lists of the National Council of Juvenile and Family Court Judges, the National Association for Court Management, the Association of Family and Conciliation Courts, the Probation and Parole Directory of the American Correctional Association, the National Center for State Courts' list of domestic relations judges, the National Center for Juvenile Justice's list of juvenile probation officers, and individuals who attended Institute for Court Management juvenile justice training workshops. These lists of names were supplemented by having staff members contact professional acquaintances in certain court locations to obtain additional names. The results should be generalizable to court jurisdictions serving populations of over 300,000 or more. To the extent that these lists are incomplete, however, the sample is unrepresentative because all court officials did not have an equal chance of being included. Furthermore, the names were not selected randomly from the available lists. The sample was purposive in that once the locations were selected, people at each site known by research staff to be familiar with child and family proceedings were chosen, when possible. Our objective was not to assess the state of knowledge of court officials about procedures designed to promote coordination of cases involving the family, but to identify the different types of coordination used. Indeed, the survey itself not only informed staff of efforts made to coordinate cases

involving the same family but also announced our interest in case coordination.

Some questionnaires sent to inappropriate respondents were forwarded to an appropriate person within the court system and included in the analysis. Responses were received to 201 of the 300 questionnaires sent out. Six of these were returned as inappropriate either because their court did not exercise jurisdiction over family cases, or because the respondents no longer served in a capacity where they would be aware of coordination among cases. Accordingly, the analysis is thus based upon the 195 questionnaires received by May 1, 1992. At least 1 questionnaire was received from each state, and no more than 12 questionnaires were received from any one state (12 each were received from California and Pennsylvania).

B. Information on Related Cases

1. Importance of Knowing About Related Cases

The threshold questions for this research were how important is it to know whether family members are currently involved in related court cases. or if they were previously involved in court cases? If that assumption of importance, upon which this research was based, was not confirmed, then there is much less reason to learn how cases involving the family are related to each other. Nearly all respondents agreed that it is important to know about related cases involving the family. Seventy-one percent of the respondents believe that it is very important that judges and court administrators be informed of current court actions, and 62 percent of the court officials said it was very important to know about previous court actions involving the family (see Table 13). All respondents from states with family courts considered coordination very important. Eighty percent (112) of the respondents who said that it was very important to know about current related cases involving family members also said that it is very important to know about previous related cases. Only 3 of the 195 respondents asserted that it was not important to know about current related cases involving a family, while 8 stated that it was important to know about previous court actions.

2. Sources of Information on Related Cases

If it is important to know about cases involving family members of the party currently before the court, how do judges or hearing officers obtain information about related cases? An examination of court records in each of the three sites revealed that information about the family was available in

How Important is it to Know?	Family Memi Involved in C	ers Previously Court Action		
	N	%	N	%
Very Important	139	71	120	62
Somewhat Important	53	27	66	34
Not Important	3	2	8	4
Totals	195	100	194	100

Table 13 Importance of Knowing About Related Cases

Table 14Sources of Information on Related Cases

	0	Iten	Sometimes		Rarely		Never		Totals	
	N	%	N	%	N	%	N	%	N	
Automated Case Tracking	23	13	25	14	34	19	94	53	176	
Police Reports	10	5	47	26	84	46	39	21	180	
Case Files	48	25	93	49	36	19	12	6	189	
Lawyers for the Litigants	33	18	106	56	44	23	6	3	189	
Litigants Themselves	38	20	110	59	37	20	3	2	188	
Intake Officers	59	31	89	47	27	14	14	7	189	
Social Service Agency Reports	46	25	109	58	28	15	5	3	188	
Probation Reports	88	46	87	46	11	6	4	2	190	

court automated information systems, prior court orders, probation department predisposition reports, social service agency reports, psychological reports, and child custody evaluations. Table 14 and Figure 2 show the most frequently used sources reported by survey respondents. When the responses of "often" and "sometimes" are combined, probation reports, followed by social service agency reports, the litigants themselves, and intake officers, are the most frequently used sources of information on related cases. Considering the "often" responses alone, probation reports, intake officers, case files, and social service agency reports are the most often used source of information on related cases. Probation investigations and reports (I & R), or "social history investigations," are a fertile source of information about family members of persons involved with courts. Clearly, probation department employees, including intake officers, are the most important sources of information on related cases involving the family. Chapter 2. Court Coordination of Family Cases: A National Survey • 41

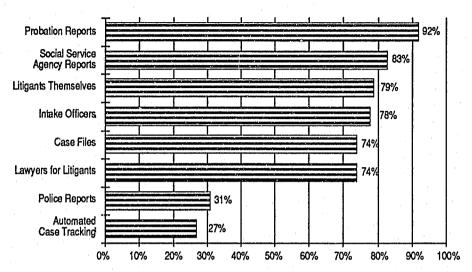


Figure 2 Sources of Information on Related Cases

When asked to comment on the way a judge or hearing officer learns about related cases, 177 respondents gave the following 246 answers:

Source	Times Mentioned
 Probation reports or probation officers 	51
Litigants	42
Lawyers	36
 Social service agency reports 	28
Intake officers	24
Case files	21
 Automated case tracking 	18
Police reports	3
Other sources	23

Respondents who mentioned probation reports most often cited either the reports themselves or the probation officers, but one respondent mentioned risk assessment instruments. Respondents who cited litigants listed litigants' comments and family members' disclosures to court or intake workers. Another respondent said, "Most often counsel brings it up, otherwise it's pure luck." Social service agency reports included reports from court

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Table 15 Comparision of Information on Related Cases: National Survey, Officials' Estimates, and Court Records

	Proportion of Related Cases National Survey				
	Mean	N	Officials' Estimates	Clients' Surveys	Court Records
Child Abuse and Neglect	40%	162	51%	35%	64%
Juvenile Delinquency	34%	172	28%	42%	48%
Divorce	24%	132	22%	25%	16%

appointed special advocates (CASA) or guardians ad litem. Information from case files included everything from a review of the court's family files to a crossreferencing of civil case files with cases on the family docket. Some respondents mentioned ways of learning about related cases that did not easily fit into the categories used above. For example, judges or hearing officers may recognize the names or be acquainted with the family, or they might receive information from a "conversation over coffee."

3. Types of Related Cases Involving the Family

How often are divorce, child abuse and neglect, or juvenile delinquency cases likely to be associated with other cases involving the family? Intensive research in three sites revealed that overall estimates of the number of related cases were relatively consistent, regardless of whether the estimates were made by court officials or court clients or found in court records. If anything, officials tended to underestimate the proportion of related cases. To that extent, estimates provided in a national survey can be expected to be conservative (see Table 15).

National survey respondents estimated that 40 percent of the families who come to court on a child abuse or neglect matter are likely to be involved in other court actions, either past or pending, involving the family. The smaller percentage of related cases in divorce may be attributed to the belief that for some families, divorce is a one-shot event and their only court contact. If children of the divorcing parties are young, they are unlikely to be involved in delinquent activities.

Despite the fluctuations in percentages, respondents to the national survey, as well as estimates made by court officials and court records at three sites, agree that child abuse and neglect cases are the most likely to involve related cases. Only the self-reports of court clients placed the proportion of related cases smaller for child abuse and neglect. Not only were these client responses based upon a small number of cases, but people in court for child abuse and neglect have an incentive to fail to recall previous allegations of this socially repugnant offense. Underestimates of abuse and neglect by court clients may have affected the rank of order of juvenile delinquency, which all other indicators considered the next most likely casetype to have related cases associated with it. All sources were remarkably close in their estimates concerning divorce cases: that between one out of four and one out of five divorce cases are likely to involve participants who have been to court before on a related matter.

Which types of family-related cases are likely to occur with each of these three types of cases mentioned above? In the three study sites, child abuse or neglect cases were most associated with divorce and delinquency by court officials, with delinquency or domestic assault by litigants, and with divorce and child custody in court records. When asked the same questions in the national survey, court respondents said child abuse or neglect cases would be likely to occur with divorce (18 percent), juvenile delinquency (15 percent), another instance of child abuse or neglect (either a prior offense involving the same child or an offense against a sibling, 15 percent).

Court officials at the three sites linked delinquency with divorce as well as with custody/support/visitation matters separate from divorce. Court clients at the three sites linked delinquency to other delinquent acts, including delinquency by siblings, whereas court records also show a relationship between delinquency, prior delinquent acts, and status offenses as well as divorce. The national survey showed juvenile delinquency to be most associated with divorce (27 percent), child abuse and neglect (22 percent), and juvenile delinquency (13 percent).

Twenty-two percent of the respondents expected to find a prior history of child abuse and neglect in a delinquent's past, but only 13 percent expected to find delinquency associated with a child abuse and neglect case. The reason for this may be the age of the children involved. Delinquents are usually older than abuse and neglect victims and may have been abused in the past, whereas younger victims of child abuse are not likely to be delinquents at the time an abuse or neglect case is filed.

Court officials at the three sites expected divorces to be the most related to domestic violence petitions; court clients at three sites associated divorce with a prior divorce or with custody, support, or visitation proceedings separate from divorce; and court records showed a strong linkage between divorce and domestic assault. Twenty-three percent of the respondents to the national survey expected divorces to involve either a custody dispute or a child abuse and neglect case. Sixteen percent of the respondents associated divorce with domestic violence.

	Table	16
Calen	daring	Practices

Case Assigned to Same Judge or Hearing Officer of Case:		Of	en	Sometimes		Rarely		Never	
		N	%	N	%	<u>N</u>	%	N	%
8.	Involves the Same Person	82	43	57	30	43	23	8	4
Ъ,	Involves Another Member of the Family	54	28	77	40	53	27	8	4

C. Calendaring and Assignment Practices

An effort is more frequently made to assign the same person to a judge or hearing officer who heard that person's previous case than it is to ensure that members of the party's family also go before the same judge (see Table 16). About a quarter of the respondents said that they rarely made an attempt to assign new cases to a judge who heard either previous cases involving the same litigant or cases involving members of the litigant's family.

Calendaring approaches vary by casetype. Judges or hearing officers who adjudicated a juvenile delinquent almost invariably enter the dispositional order (see Table 17). It is also likely that if a delinquent reoffends within a year, a serious effort is made to schedule the new offense before the judge or hearing officer who heard the previous case. A similar effort is made for siblings of child abuse and neglect victims. On the other hand, it is rare that a child abuse and neglect case will be scheduled before the same judge or hearing officer who entered the divorce and custody order. Little effort is made to assure judicial hearing officer continuity between domestic violence protection orders and divorce or between divorce and child abuse and neglect.

Although these findings have implications for the one-family/one-judge concept, some caveats should be considered. First, continuity of the judge may be less important to the family than continuity of lawyers, probation officers, or social workers. Second, some judges do not want repeated contact with the same family, especially in delinquency cases, because they fear that prior knowledge of family history may influence their decision and deny the case a fair hearing. Third, continuity as a common practice is incompatible with the principle of rotating judicial assignments among a variety of casetypes.

Nonetheless, the demands on a juvenile court or family court judge have led many (Edwards 1992: 1-45) to believe that a minimum term is necessary for a judge to gain the understanding necessary to be effective. How long should judges serve on juvenile, domestic relations, or family courts? Of the 107 respondents who answered this question, 10 percent said 1 year, 16 percent said 2 years, 16 percent said 3 years, 15 percent said 4 years, 9 percent Chapter 2. Court Coordination of Family Cases: A National Survey • 45

		Often Sometimes		Rarely			ver		
								-	
		<u> </u>	%	<u>N</u>	%	<u>N</u>	<u>%</u>	<u>N</u>	%
8.	The judge or hearing officer who adjudicated a juvenile delinquent also enters the dispositional orders for this youth.	173	94	11	6	1		0	•
b.	The judge or hearing officer who nandled a delinquent juvenile's initial offense one year ago will hear his/her new offense.	90	49	80	44	13	7	1	•
C.	The judge or hearing officer who handled a child's abuse and neglect case will hear the same child's delinquent offense that occurs later.	.65	36	75	41	39	21	4	2
d,	The judge or hearing officer who handled a child's abuse and neglect case will hear his/her sibling's abuse and neglect case that occurs one year later.	97	53	63	34	22	12	1	-
θ,	The judge or hearing officer who issued a domestic violence protective order will hear a divorce petition initiated one year later by the same person.	25	16	55	35	48	30	31	20
۴.	The judge or hearing officer who heard a divorce and entered permanent orders will hear a motion to modify custody and support filed by one of the parties one year later.	77.	48	48	30	25	16	10	6
g.	The judge or hearing officer who entered a divorce and custody order will hear later allegations under the juvenile code that one parent abused or neglected this child.	21	12	44	26	50	30	- 54	32

Table 17 Calendaring Practices by Casetypes

said 5 years, and 14 percent said 6 years. Other answers ranged from 7 years to 25 years, with one respondent saying judges should serve there "as long as they can stand it."

Because most of the respondents to the survey were not judges, the responses of judges were analyzed separately. Fewer than half (33 of 77) of the judges who completed survey questionnaires answered this question, but of those that did, 12 percent favored one-year terms, 21 percent favored two years, and 15 percent preferred either three or four years. The remaining third of the respondents (12 judges) preferred longer assignments. Interestingly enough, the judges split nearly equally in terms of those who preferred longer assignments than they had currently, those who preferred shorter terms, and those who believed their current terms of assignment to be ideal. Not

surprisingly, judges serving one- or two-year assignments preferred longer periods, and judges assigned for longer than ten years preferred shorter assignments to juvenile, domestic relations, or family courts. Of the seven judges in six-year assignments, four said that this period of time was too short, one said too long, and the remaining two said it was about right. Survey respondents clearly favor lengthier assignments than now occur in some jurisdictions.

D. Increasing Coordination

Satisfaction with the current ability of courts to coordinate cases involving the same family ranged from very satisfied (14 percent) to satisfied (42 percent) to not satisfied (42 percent). Satisfaction was higher among respondents from states that have an established family court, but did not differ according to whether the respondent was a judge, court administrator, probation officer, or other court employee.

In response to the question "Briefly describe or reference any local procedure or program designed to improve the coordination of social services to families involved in a court proceeding," 140 people listed formal court programs, such as family crisis intervention units or victim assistance programs; programs to represent children in court, such as CASAs, guardians ad litem, and trained professional volunteers; foster care review boards; serious habitual offenders programs; and diversion programs, such as teen court or a multi-door dispute resolution program. Other respondents listed moreinformal practices, such as sharing family case history files, colocating family and juvenile courts, holding joint meetings between courts and social service agencies, mediating custody and visitation disputes, using probation officers to coordinate services, and offering intensive in-home counseling.

When asked to reference more-formal procedures to promote coordination of cases involving family members, 118 respondents cited statutes or court rules that would improve calendaring practices, coordination, records management, and organization.

Calendaring

- Establish a policy to bring family members before the same judge regardless of casetype.
- Establish individual dockets to allow the same hearing officer to receive any petition filed on a family member and conduct any subsequent hearings.
- Assign divorce cases and domestic violence protection orders to one judge and merge the files.

Coordination

- Create interagency coordination teams.
- Establish a centralized screening oversight team that includes representatives from the courts, corrections, human services, and public health.
- Assign cases involving family members to the same counselor in the incourt service unit.

Records Management

- Require a unique family file number be assigned to each family.
- Require attorneys to list other cases dealing with the family that are filed in another court or court division.
- Require the court clerk to cross-reference dependency and delinquency cases.

Organization

- Implement a family court.
- Create a family division.

When asked about plans to improve coordination of family related cases, respondents gave the following responses.

Calendaring

- Consider keeping one judge for each family in abuse cases.
- Use a master calendar system with one family.

Coordination

- Use automated case tracking
- Implement parental education sessions for all custody cases.
- Establish a connection between court information system and the social service agency information system.
- Conduct more joint training sessions with other agencies.

Records Management

- Upgrade and extend computer system and software.
- Reclassify juvenile matters from criminal cases to family cases.
- Establish a cross-index that automatically references existing cases.

Organization

- Develop a centralized family court administrator's office.
- Establish a family court study committee.
- Implement a mediation program.
- Colocate at one facility instead of two.

On a more pessimistic note, one respondent said, "It's a dream—we are putting out fires and can't assign personnel to fire prevention."

E. Conclusions

Clearly, a large minority of court officials are not satisfied with the ability of courts to coordinate cases involving the same family. A more familyoriented court approach to cases that involve family members might mean that 1) a particular judge hears more of the cases that involve a particular family, 2) judges have information about the prior file or concurrent cases involving the family when a determination of the present case is made, or 3) courts effectively coordinate various social services that may be beneficial for a family.

1. Calendaring

Courts need to evaluate programs and practices designed to promote coordination of cases involving families. First is a decision with respect to which cases require continuity of judges. Under which conditions is it important to assign a judge who heard a prior case involving a family to hear a new matter involving the same family? The benefits of continuity are clear when the same judge that heard a divorce dispute is assigned a motion to modify or enforce custody and child support arrangements. On the other hand, what benefit would there be to having the same judge who granted a divorce decree to a couple several years ago (as a result of a joint petition that was uncontested) hear the delinquency petition of that couple's child now?

This research has shown that delinquency cases are most often related to prior delinquent offenses or delinquency of a sibling and divorce. The relationship between delinquency and other cases involving the family is tenuous. Accordingly, there is less need to coordinate other court actions involving family matters with delinquency.

Consideration needs to be given to providing judges who hear divorces with complete information on past incidents of domestic violence. Divorces that do not involve children are essentially disputes over property. From this perspective, separating these divorces from other cases involving the family and placing them in a general jurisdiction court with tort and contract cases, as is done in four states, makes some sense. Divorces that do involve children, most often young children, need to have related issues of child support and custody decided, so it is an organizational advantage to have all matters involving the family, including divorce, in the same court. The discussion over continuity should extend to other court officials who come in contact with the family, most notably prosecutors, public defenders, contract attorneys who represent parties in these particular courts, guardians ad litem, probation officers, and child protective service workers. For example, a guardian ad litem can be appointed to represent the child in the juvenile division, represent the same child who is involved as a victim in the criminal division, and represent the same child if there is a custody concern in the domestic relations sphere. Presiding judges may want to encourage lengthier appointments to promote continuity.

2. Coordination

More statutes and supreme court rules should be enacted that promote coordination. Other states should adopt the Utah provision that mandates public and private attorneys to file notice with a court when the family or the children are known to be engaged in other family-related cases. Similar local rules can be created also. The Uniform Child Custody Jurisdiction Act requires that parties and attorneys initiating a new action involving custody or support inform the court about the status of any prior actions that involve these children in another domestic relations or juvenile court. These types of provisions for information exchange, however, need to be monitored to ensure that notifications are indeed made.

Court systems should review their particular authority to consolidate cases. (Ruben and Gallas 1989: 48-54) State and local rules of court can provide for coordination, if not consolidation, of certain proceedings, e.g., custody proceedings, that are filed in different divisions of a court or in different courts.

Courts should improve coordination with probation and social service agencies, both to provide information that will aid judicial determination and to encourage coordination in the delivery of services to families.

3. Records Management

This survey makes it clear that courts must mandate systematic information on related cases affecting the family. An overwhelming number of judges and court officials believe related-case information is crucial. The next step is to articulate this position as a priority for courts. Court officials also need to convey the importance of this type of information to probation departments, the single most important source of information on related cases involving the family. Conversely, probation department officials might consider checking criminal court records for child support deficiencies or domestic-violencerestraining orders. Software programs need to be designed to promote coordination by informing court officials about prior contact with the family, regardless of where the previous cases were heard. A judge should be aware not only of related cases in the same court but of related cases in nearby courts as well. Communication among various court and social service information systems is necessary to ensure coordination. For example, linkage with jail and prison systems information can inform a judge that a father is not paying child support because he is incarcerated. Conversely, information on custody status of children would enable a criminal judge sentencing a mother to make provision for her to stay informed about her children. To ensure that decision makers have access to relevant information concerning families involved in court proceedings, it may sometimes be necessary to modify confidentiality laws to facilitate sharing information.

4. Organization

This research has shown that coordination among court cases involving the family is essential. The establishment of family courts or family divisions of general jurisdiction courts has been the primary mechanism promoted to achieve coordination. Establishing family courts that bring various types of cases involving the family into one setting facilitates, but does not guarantee, coordination. All courts need to design the flow of information, judicial assignments, calendaring procedures, and recordkeeping systems to address the needs of families who return to courts on several related matters. Coordination is something that must be planned *regardless* of the court organization used to handle cases involving the family. Services should be coordinated, either by a court or by one social service agency assigned to take the lead. Services may include using members of the extended family to provide support and services not available through agencies.

Chapter 3

State Developments

T PRESENT, SEVERAL STATES ARE IMPLEMENTING FAMILY CASE coordination efforts within their court systems. Family case coordination, as applied by these courts, ranges from consolidation of an array of juvenile court and domestic relations matters into a family court or family division of a trial court to retaining current court structure but furnishing information regarding a family's past or concurrent cases to a judge who is hearing a family member's current case. Family case coordination is seen as advantageous since it can

- Equip the courts with the information needed to address family problems as a whole.
- Improve the quality of judicial decisions by providing a context of other family-related problems and circumstances.
- Facilitate greater enforcement of other court orders, treatment requirements, etc.—those that cometimes fall through the cracks in a fragmented system.
- Use a "systems approach" to complex problems faced by families involved in the justice system and promote consistent enforcement and administration of services among court-related agencies, other service providers, and the courts.

The state action summaries presented below were developed as a result of telephone interviews conducted with court officials who are engaged in these efforts.¹ Coordination of cases involving the family is the ultimate goal

¹ The following court officials, provided information that is described in the summaries: Suzanne Alliegro, district court administrator, St. Paul, Minnesota; Kathy Smith, human resources division manager, superior court, San Jose, California; Ed Ricks, family division administrator, Superior Court for the District of Columbia; Debble Casseaux, administrative office of the courts, Tallahassee, Florida; Chuck Short, assistant court administrator, district court, Las Vegas, Nevada; Thomas J. Lehner, state court administrator, Montpelier, Vernont; Adele Keller, administrative office of the ccurts, Trenton, New Jersey; Lelia Hopper, Supreme Court of Virginia, Richmond, Virginia; and Judge Richard Fitzgerald, district court, Louisville, Kentucky.

of each of these programs, so the programs are described under these headings: A. Newly Established Family Courts; B. Experiments with Family Courts; and C. Refinements in Existing Family Courts. Successes and pitfalls of the various programs are noted, as well as ideas for future programs.

A. Newly Established Family Courts

Nevada. In 1991 the Nevada legislature approved the establishment of a family court division of the district court (court of general jurisdiction) in counties of 100,000 population or more. (See Senate Bill 395.) This family division will have original and exclusive jurisdiction in matters previously falling within the domain of the court's domestic division; namely, dissolution, custody, support, and guardianship, among others. Juvenile matters previously heard within the juvenile division of the court now will be heard by the family division.

The Nevada legislature authorized county commissioners to raise property taxes, which they did to provide for family court facilities and additional costs needed to set up the division. These funds, combined with strong community and county support, have produced an elaborate plan to effect this change in Clark County (Las Vegas), Nevada's most populous county. Senate Bill 395 also established a family court division in the district court that serves Washoe County (Reno).

The primary objective of the Clark County program is to establish not simply a family division, but a judicial-social services network to address the needs of the family as a whole. The goal is to make proceedings within the family division as nonadversarial as possible and to create and further develop innovative family-related support programs to complement the decisions and findings of fact within the court.

To accomplish this, funds from the sales tax overwrite in Clark County will be used to design, plan, and build a 150,000-square-foot Family Court Service Center, which will house the family division of the court as well as numerous county, state, and nonprofit offices geared toward providing services to families. Courtrooms will be set-up in a nontraditional, "friendly" environmental style and provided with audio-video equipment. The building will include such services as a child care facility, a cafeteria, and a specially designated bus stop.

To coordinate family-related information, a computer system mutually accessible with the district court is planned within the division. The system will include a "family database" with an identification number assigned to each family as well as to each individual child and adult affected by the court proceeding. All social service and other agencies involved with the family and its individual members will also have access to the database and will be required to contribute information on their contact with each family member, thus providing decision makers with a wealth of cross-referenced information on all parties involved in disputes.

The family division will, at the outset, include a divisional presiding judge who serves a two-year term (with the opportunity to renew for another term) and six judges. The judges who serve will run for specific seats within the family division and will serve six-year terms. (These seats will be staggered with terms of the rest of the district court's judges, who also serve six-year terms; some officials believe that some family division judges may choose to run for district court seats when that election comes due in four years.) The goal is to institute the one-family/one-judge concept, if case volume permits.

The operations of the Family Court Service Center will be overseen by a "family board" composed of three family division judges and two county commissioners, who will set policy for the system.

The Reno-based National Judicial College has agreed to add a one-week course for family division judges to its general jurisdiction courses.

Vermont. Before a restructuring effort in October 1990, family-related matters in Vermont were heard in either of two courts: the district court or the superior court. For example, juvenile delinquency and mental health/ retardation cases were heard within the district court, while divorces, child support, and custody cases fell within the jurisdiction of the superior court. Domestic violence cases were heard in both courts, depending on whether they were civil or criminal matters.

In October 1990 a family court was created by statute that consolidated most family-related proceedings within a separately structured family court with statewide 'urisdiction. Casetypes falling within the family court's jurisdiction include dissolution, custody, child support, delinquency, abuse and neglect (although any district or superior court judge can issue orders for emergency protection), paternity, mental health, and noncriminal domestic violence (see Vermont Statutes Annotated, Judiciary, chapter 10, section 454 statute for a complete list). Appeals from the family court go to the supreme court, thus making the family court equivalent to the district and superior courts in its route of appeal.

Judges in Vermont are appointed to the district and superior courts for six-year terms and are retained through election by the legislature. These district and superior court judges rotate into the family court every 12-18 months. The prototypical family court is composed of a presiding judge, two assistant judges, and a magistrate (who hears only child support cases).

Attempts are being made for one judge to hear all proceedings regarding a given family; however, this is not easy to achieve in a small system. For instance, a judge may have ex parte knowledge of a family and, therefore, may need to recuse himself or herself from hearing a matter that involves a child of this family.

Although some court officials believe that the new family court has greatly facilitated coordination of family-related matters, it is not without its problems. The new family court was created in times of budget cuts, thus making the transition to the new system more difficult.

Two conditions were noted that may well require supplemental resources for the court. One is a trend toward more pro se divorces with its concomitant need for more information/education for pro se litigants.

The second concern is the increasing number of child support modifications. The family court structure in Vermont established the magistrate system for hearing these requests, and the number of modification hearings requested has doubled since the establishment of this system. Tough economic times are a likely critical factor contributing to this increase. Vermont officials report that courts have managed to keep abreast of the modifications, staying within the federal child support enforcement guidelines. In addition, the legislature has authorized an additional magistrate position to help alleviate this growing volume.

Vermont has made a preliminary effort to include case managers in each family court. Case managers can greatly aid in coordination of family-related cases by serving as "brokers" between the court, families, and various community resources, including social services and mediation. Case managers now serve in several of Vermont's family courts and may become an integral part of operations within all the state's family courts if budgets permit.

B. Experiments with Family Courts

Virginia. A description of the Virginia Family Court experiment is contained in Chapter 1. Over the past several years, Virginia has undertaken the legislative compromise of a pilot project in several counties to explore revisions in case-handling efforts. The project's term was from January 1990 through December 1991. A substantial evaluation component was used. Ten of the district and circuit courts, representing a mix of rural and urban areas, were involved in the experimental project in which juvenile and domestic relations district court judges were authorized to hear 20 percent of the divorces. Appeals of these cases were authorized to go directly to the state's intermediate court of appeals, instead of the normal route of de novo appeals to the circuit court.

At the conclusion of the pilot project term, the project's advisory committee prepared a "Report on the Family Court Pilot Project" for the review

of the Judicial Council of Virginia. Five primary recommendations were outlined in the report:

- 1. There should be one trial court with comprehensive jurisdiction over child and family-related legal issues.
- 2. Wherever possible, the adversarial nature of legal practices and procedures in the resolution of family law conflicts should be reduced. Litigants should have available dispute resolution methods, which reduce hostility, address the underlying causes of the dispute, promote cooperation and communication, and restore a sense of control to the parties.
- 3. The use of commissioners-in-chancery in family law matters should be limited and ultimately abolished.
- 4. Trial court decisions in child and family-related cases should be made on the record with an appeal as a matter of right to the court of appeals. The right of a trial de novo on appeal in such cases should be abolished.
- 5. A comprehensive court that adjudicates all family law cases should be easily accessible, affordable, user-friendly, and expeditious for all who desire and are required to use it.

California. In 1991, the superior court in Santa Clara County was restructured in part (via local court rule and action of the presiding judge) to form what is called a human resources division. This division is itself separated into four subsections: 1) family law, 2) delinquency, 3) dependency, and 4) probate, mental health, guardianships, and adoptions.

Judges are assigned by the court's presiding judge and rotate on a yearly basis. The division is administered by a divisional presiding judge and manager.

Case coordination is hindered by the lack of an automated case-tracking system to identify parties involved in multiple family-related proceedings. Add to this that each subsection within the human resources division employs a different calendaring system, and the result is that the identification of overlapping cases is largely hit or miss. However, the county received a grant from the state's judicial council for a child victim/witness project, and a portion of these funds will be used to create a database identifying children involved in multiple proceedings. This database will provide useful information for coordination of the division's efforts and has potential for expansion to include adults involved in family-related proceedings as well. Supplemented with the information provided by the establishment of a case-tracking system, the division aims to develop procedural guidelines and coordination mechanisms to enable one judge to hear matters relating to a single family. The extent of overlap with regard to family members returning to court for multiple proceedings is unknown, and the merits of the one-family/one-judge concept are still being assessed.

A factor further complicating effective coordination efforts in family matters in the county is that the human resource division's four subsections are located at four different sites. This certainly adds to an already difficult coordination problem caused by the lack of a computerized cross-referenced database.

The difficulties encountered in the Santa Clara program illustrate the problems that can result when structural/organizational changes precede design/development of coordination and information exchange mechanisms that are essential to fully effective systemwide change.

Sacramento County has become the second California court to create a human resources division.

Jefferson County (Louisville), Kentucky. A cross-court family court was established in Louisville by local rule in 1991 on the recommendation of a legislative task force. Dissolution, adoption, and termination of parental rights cases from the circuit court of general jurisdiction were combined with abuse and neglect, paternity, and domestic violence casetypes from the district court. Delinquency cases (district court) were not included in the pilot family court except for misdemeanor charges against a youth who had been committed to the state executive agency due to abuse and neglect or for a status offense. Three circuit and three district court judges were cross-certified as special judges of the other court to administer the family court's jurisdiction.

A court guideline promotes the principle of "one judge, one staff, one family" with as few exceptions as possible. Accordingly, each family court judge hears every type of case within the family court's jurisdiction. Further, procedures provide for consolidated hearings when the same evidence is the basis for separate cases such as 1) an abuse trial and 2) a divorce case that involves custody and visitation. Consistent with this overall approach, the same attorney guardian ad litem from a previous case is reassigned to the same child, or a sibling of the same child, in a later case. Another court objective is to maximize the use of nonadversarial methods of family dispute resolution, such as mediation and counseling.

A family support worker is assigned to each judge to enhance the referral of families to appropriate resources. These workers often provide direct services to families through immediate negotiation on issues, such as visitation and child support disputes, and monitor court orders. The judges have set aside an hour on the second Friday of each month to meet with agency representatives who wish to be placed on this agenda. The court uses a 14-person advisory committee to provide recommendations. There are subcommittees on abuse and neglect, emergency protective orders, paternity, status offenses, and administration.

Ramsey County (St. Paul), Minnesota. In this jurisdiction, separate family and juvenile divisions operate within the structure of the general jurisdiction trial court, known as the district court. Casetypes heard within the family division include dissolution, child support, and (civil) domestic violence. Judges rotate in and out of this division annually. Referees also assist with noncontested trials and other matters. Casetypes falling within the jurisdiction of the juvenile division include child abuse/neglect, delinquency, adoptions, and termination of parental rights. Judges rotate into the juvenile division every two to three years. Referees also serve in this division. Intrafamily offenses are heard in the criminal division of the general trial court. Family case coordination has largely been effected by local court rules.

For some time, the district court has been looking at the possibility of merging the family and juv@nile divisions, creating a separate "family court" outside the realm of the district court. At this time, however, the court's focus has been redirected toward more formally structuring and facilitating better coordination between the family and juvenile divisions, and between these two divisions and the trial court in general. Court officials believe that structural changes and consolidation efforts alone will not necessarily bring about better handling of family-related issues; rather, greater attention to coordination of family cases and information sharing between all relevant agencies is needed.

Among the coordination efforts the court is initiating is a procedure to retain a family-related case within the division where the first family case was filed. Accordingly, if the first case was in the juvenile division, a family's subsequent divorce would be heard in the juve nile division rather than in the domestic relations division. The court will endeavor to initiate the one-family/ one-judge concept in which all matters related to members of a particular family will be heard by the same judge. Improvements in family case tracking are also planned by attaching a "family identification number" to cases within the computer system so that the same identification number will be used whenever a particular family member is involved in subsequent family-related cases.

Florida. In 1990 the Florida legislature statutorily established the Commission on Family Courts to accomplish three primary tasks: 1) develop specific guidelines for the implementation of a family law division within each

judicial circuit; 2) provide recommendations for statutory, rule, and organizational changes; and 3) recommend necessary support services (see the Report of the Commission on Family Courts, September 12, 1991, No. 77,623).

In Florida a family law division is not what is generally referred to as a family court. The family law division consolidates the range of domestic relations casetypes and adoptions but does not incorporate—though it may—the traditional juvenile court jurisdictions of abuse and neglect and delinquency.

With regard to the implementation of a family law division, the commission recommended that individual circuit courts provide for their establishment by local rule, and felt no need for legislative action. This allows each circuit to maintain a level of flexibility in designing a structure providing for individual counties' needs. Local jurisdictions should, however, develop these plans in accordance with currently available local resources, as well as an alternate plan for division functioning were the program funded by the state at some point. Recommended jurisdiction for the family law division includes the following casetypes: dissolution, custody, support (URESA), domestic violence, adoptions, paternity, name changes, and modifications. Individual circuits were prompted to consider the inclusion of abuse and neglect and delinquency matters as well. It was also recommended that all matters affecting one family be assigned to a single judge, who would be appointed by the chief judge for a term of at least two years. The stressful and difficult nature of the assignment for the family law division was acknowledged in the report, and accordingly, in jurisdictions with only one judge, judges might divide duties on a half-time basis.

The commission urged coordination of service delivery, perhaps by the designation of an administrative judge within the circuit to oversee this function. Consultation with the bar in the operation of the division was urged as well.

Services essential to a well-functioning family law division include courtconnected mediation; domestic violence assistance programs; guardians ad litem to represent dependent children in contested custody cases; home assessment services; sufficient staff to operate enforcement of support services; and case coordination/receptionist staff.

It was also recommended that the state's supreme court designate three diverse circuits for family law divisions and that complete funding of the programs be targeted for the 1992 legislative session. If successful, the model family law division would be emulated throughout the state.

The commission also recommended education and training for all judges assigned to family law divisions, preferably before their assumption of their duties, and for judges to participate in family mediation training as well. The commission report's conclusions section notes that because of more expeditious, effective delivery of justice, "the public will be better served in most instances by the establishment of a family division."

C. Refinements in Existing Family Courts

Washington, D.C. The District of Columbia's unified superior court includes a statutorily created family division, which was established in 1971. Casetypes falling within the auspices of this division include adoptions; termination of parental rights; family-related domestic violence; habeas corpus involving a child; custody/support; paternity; mental health and retardation (adult and child); juvenile delinquency and abuse and neglect; marriages; and matters involving the council for child abuse and neglect.

A presiding judge oversees the division, and judges rotate on nine-month terms. The division holds to the one-family/one-judge philosophy in juvenile cases—the judge hearing an initial matter involving a juvenile will retain jurisdiction in subsequent proceedings involving the youth, even if the judge has since rotated back into a civil/criminal division assignment within superior court.

An individual calendaring program has been instituted within the division for assignment of juvenile delinquency, abuse and neglect, and domestic relations cases. The program, reportedly, has greatly enhanced the efficiency and effectiveness with which these matters are handled.

One trend that affects case handling is the rapidly increasing volume of abuse and neglect cases. The division is striving to better coordinate the "dualsystem" of domestic violence actions, which fall within jurisdiction of either the criminal or the family divisions. The court hopes to implement an enhanced ability to cross-reference parties by accessing the family division automated information system, from the point of marriage and beyond.

New Jersey. A 1983 constitutional amendment provided for the establishment of a family division within the New Jersey court system, merging the previously separate juvenile and domestic relations court into the superior court. Family divisions were thus established within all judicial circuits, each overseen by a family division presiding judge and division administrator. The division maintains jurisdiction over the following matters: delinquency, abuse and neglect, domestic violence, "juvenile-family crisis" (status offense), support, custody, dissolution, paternity, and adoption.

The purpose of this restructuring/merging effort was twofold: 1) to improve and elevate the status of court system handling of family-related

matters and 2) to avoid fragmentation of family-related cases by enhancing judicial continuity through more-coordinated and informed decision making.

Spawned by New Jersey implementation efforts, a State Justice Institutefunded pilot project within Monmouth County sought to expand implementation of its tenets and those of the administrative office of courts' 1983 "Model Family Court Plan." The project aimed to achieve a "holistic approach" in handling family-related matters. Integral to this objective was a shift among practitioners from a specialist to a generalist approach, as specialization was viewed to be a barrier to full realization of the objectives of a family court.

The project instituted the concept of "regionalized integrated case management teams," with three teams organized among regional boundaries within the county. Each team was composed of a regional judge, professional and clerical staff (including probation officers serving as case managers), a team leader, and a court coordinator (who serves as a liaison between the court, parties and attorneys, agencies, and the team). The teams were to be responsible for handling all system-related matters involving families from beginning to end, including interviewing, screening, recommending alternatives, investigating, and monitoring.

The administrative office had developed a Family Automated Case Tracking System (FACTS), which aided this reorganization effort. The system provides information to the court regarding prior filings involving the same family, and also includes a "case history file." This system is viewed as essential to coordination of case management efforts.

Among the conclusions emerging from the county's ground-breaking project was the recognition that the one-family/one-judge concept may not be viable in practice. Additional judge resources are essential to lessen burnout and to relieve the burdens on a single judge. It was also acknowledged that regional teams need to possess some specific skills in order for the approach to be fully effective; among these are excellent communication skills and comfort with/investment in the team approach to problem solving.

D. Conclusions

Through their own attempts to consolidate family-related matters, states and courts are discovering that many factors contribute to the overall effectiveness of their efforts. These include:

1. Organization of a family division within the general jurisdiction trial court or elevation of a family division to court status equal to that of the

general jurisdiction trial court. Included in this effort is placement of appeals within the intermediate appellate or supreme court and judges/ staff specifically trained in issues particular to the area of family law.

- 2. Implementation of an effective management information system, or case-tracking system. This involves the assignment of identification numbers to families as well as to individual parties; ability to cross-reference actions; useful nature of data entered in case files; and accessibility of information/data to all actors in the system.
- 3. Enhanced coordination with outside agencies, taking a "systems approach" to the resolution of family-related disputes.
- 4. Commitment of court leadership to the overall effort.
- 5. Achievement of a balance between the need for continuity of judges serving in the division and the recognition of the stressful nature of the judicial assignment to this division.
- 6. Promotion of cooperation among judicial, executive, and legislative bodies in designing change and providing adequate funding for implementation.
- 7. Development of clearly delineated administrative guidelines and local rules, spelling out program objectives and coordination procedures.

It is evident from these state experiences that several of these components are interdependent. For example, structural changes consolidating family matters alone will not necessarily facilitate effective coordination. If this operational coordination is achieved, families stand a much better chance of receiving not only justice but dignified, informed treatment in the process.

Chapter 4

Implications for Legislation in Court Coordination of Family Cases

N THE SUNSHINE OF THE FIFTIES, THE NATIONAL PROBATION AND Parole Association (later to become the National Council on Crime and L Delinquency), the National Council of Juvenile Court Judges (later to become the National Council of Juvenile and Family Court Judges), and the U.S. Children's Bureau engaged in a unique collaboration to produce the Standard Family Court Act. The purpose was to provide guidance for states that were interested in developing family courts. It seemed a quite logical direction to take since the U.S. Children's Bureau had taken the lead in 1923 in developing the Standard Juvenile Court Act. The National Probation Association, which was a precursor of the National Council on Crime and Delinquency, collaborated in the development of that first Standard Juvenile Court Act, and the National Council of Juvenile Court Judges joined these two organizations in revising the original act in 1949 and 1959. The Standard Juvenile Court Act had been referenced by most state legislatures for guidance in drafting juvenile codes, and by 1951, when the state of Wyoming adopted its juvenile code, every state in the Union had legislation that authorized the establishment of juvenile courts.

However, as each of these organizations had observed, family courts had a certain cachet in some states, even before the juvenile court movement became firmly entrenched. In 1914, in Cincinnati, Ohio, a family court with jurisdiction in children's and families' cases was established as a division of Hamilton County Court of Common Pleas. With that beginning, such courts sprouted in places like Des Moines, Iowa; St. Louis, Missouri; Omaha, Nebraska; Portland, Oregon; Gulfport, Mississippi; and Baton Rouge, Louisiana, among others. Since all three of these organizations had been involved in providing technical assistance and guidance from time to time on the establishment of such courts, it seemed natural for them to lend their collective resources to the development of a model act for family courts.

After the Standard Family Court Act in 1959, there was a brief flurry of legislative activity that resulted in the creation of statewide family courts—first, in the state of Rhode Island in 1961, then New York in 1962, and three

years later in Hawaii in 1965. Over the next three decades, these states were followed by Delaware, South Carolina, New Jersey, Vermont, and Connecticut in passing legislation that created statewide family courts. During the same period, Pennsylvania, New Mexico, and Nevada passed legislation that permitted but did not require the establishment of statewide family courts. Pennsylvania, in 1972, moved to establish family courts in the large urban jurisdictions of Pittsburgh and Philadelphia. Nevada is following a similar course in Las Vegas and Reno. Although New Mexico has enabling legislation, it has not implemented any family courts.

A. Why Integrate Child and Family Legal Proceedings?

The underlying rationale of the original family court model act was framed as follows: "The purpose of a family court ... is to protect and safeguard family life in general, and family units in particular, by affording to family members all possible help in resolving their justiciable problems and conflicts arising from their inter-personal relationships, in a single court with one specially-qualified staff, under one leadership, with a common philosophy and purpose, working as a unit, with one set of family records all in one place, under the direction of one or more specially-qualified judges."¹ The tribal elders who created that elaborate statement of purpose also observed that traditional adversary procedures for resolving intrafamilial conflicts have a tendency to "fan the flames" and intensify hostilities between members of the family. Consequently, it was better for all concerned to compose differences and resolve conflicts than to engage in courtroom battles. The original act talked about serving the "best interests of the family unit" and preserving the marriage, if possible.

At the time, that seemed to be a quite worthy and valid purpose for family courts because the model family was that of a man and woman living in statesanctioned marriage, with the man as primary wage earner and the woman as home manager and child rearer. Today, less than 10 percent of U.S. households resemble this classical model. The traditional family is long deceased. Today, sociologists talk about blended families, hotel families, same-gender families, surrogate families, collective families, and contract families, with new prototypes being generated and abandoned on a regular basis. No-fault divorce, which was once thought to be one of our more significant social

¹ Committee on the Standard Family Court Act of the National Council on Crime and Delinquency in cooperation with the National Council of Juvenile and Family Court Judges and the U.S. Children's Bureau, Standard Family Court Act at 10 (National Council on Crime and Delinquency 1959).

achievements, has paled in significance as we have moved on to such achievements as children divorcing parents, parents divorcing children, and increasingly prevalent awards of joint and multiple custody, palimony, galimony, and surrogate parents, in an ever-richer and ever-bubbling family stew. It is probably significant that no one has had the audacity to draft a model family court act since 1975, and only Robert Mnookin (1971) has had the temerity to write a legal treatise that examines the total relationship of child, family, and state. Clearly, our need to get a handle on family matters is one of the driving forces behind legislative efforts to integrate child and family legal proceedings.

The more rapid the evolution of families, the more compelling and urgent the case becomes to develop a single forum for hearing family conflicts. We have traditionally viewed the states' mandate to protect the more vulnerable among us, especially children, as being a sound reason to integrate child and family legal proceedings, but, beginning in the mid-sixties, we also began to understand that wives and mothers were frequent victims of abuse by husbands and fathers, so intrafamily violence has become—in the eighties and nineties—another compelling reason to establish a single forum for child and family legal proceedings. In many ways, our lack of dispatch in responding to domestic violence issues within court systems has put a damper on the development of family courts because many of those involved in the domestic violence movement no longer trust those who have designed courts to protect children to design courts to protect women.

Deeply embedded in the rationale for integrating child and family legal proceedings is the notion that having one forum hear all child and family matters is a much more efficient way of administering justice. This assumption stems in part from the belief that a tribunal with a complete view of all of the family's legal problems can deliver more prompt and informed justice. Historically, this belief has presumed that a single tribunal will enable the retention of interested qualified judiciary to provide both leadership for the court and to assure continuity in hearing a single family's case and that a management information system, which contains the entire family's legal records in a single database, will result in increased managerial efficiencies within the court.

B. Solutions Suggested by Existing Legislation

State legislatures in integrating child and family legal proceedings have usually addressed issues of jurisdiction, structure, court procedure, and administrative support, with the issues of court jurisdiction and court structure receiving the lion's share of the action.

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1. Jurisdiction

Most states that have developed legislation aimed at increasing the coordination and integration of child and family proceedings have proceeded from the assumption that if a single court or a single division of general trial court has all of the relevant family jurisdiction, the result will be an enhanced integration of child and family proceedings. And in some jurisdictions, such as Hawaii, that assumption is valid. However, in other places, such as the District of Columbia, the simple act of placing all of the relevant family jurisdiction in a single division of the general trial court has done very little to improve coordination. Legislation created a family division of the general trial court in Pittsburgh, but the family division then divided itself into three parts: juvenile, civil, and the orphan's division, where each subdivision continued to operate as they had before the consolidation, with the exception that the presiding judiciary from each of the subdivisions within the family division meets with the presiding judge of the family division periodically. There is no systematic cross-indexing of records or sharing of case information and very little case consolidation among the three subdivisions of the family division.

In the view of most students of integrated proceedings in child and family matters, the jurisdictions that should be coordinated include delinquency, child in need of supervision, neglect and abuse, dependency, custody, guardianship, adoption, termination of legal parent-child relationships, emancipation of minors, mental health commitments for juveniles and adults, interstate compacts for juveniles and adults, intrafamily criminal offenses (adults against adults, adults against children, children against children), criminal neglect, child support, contributing to the delinquency or neglect of children, spousal support, alimony, divorce, separation, annulment, paternity, and URESA. Few states have achieved this minimum level of coordination. The states of Hawaii and New Jersey most closely approximate the perceived ideal of integrated jurisdiction, but neither of these state family courts has jurisdiction over the abuse of elders by children or the administration of children's estates—elements of family jurisdiction thought by some to be critical to integration of child and family legal proceedings.

2. Structure

The authors of model legislation, professional standards, and advocates of the integration of child and family legal proceedings in general agree that (1) the court that hears child and family matters should be a court of the highest general trial jurisdiction and (2) that it is preferable to place the integrated child and family jurisdiction within a division of the general trial court. However, only Hawaii, New Jersey, Connecticut, Vermont, and Nevada have come close to achieving that ideal. There are 12 other states where all of the relevant jurisdiction is in the general trial court, but it is not consolidated within one division. And while the experts' advice is to create a family division of the general trial court and imbue it with all relevant family jurisdiction, the state of Rhode Island, which has not followed that advice but rather created a separate family court at the highest trial level, seems to have enjoyed success with its arrangement. New York, on the other hand, which created a separate statewide family court, has not fared as well partly because the New York family court lacks critical pieces of the family court jurisdiction such as divorce, and adoption is shared with the surrogate trial court.

Delaware, which also created a separate statewide family court, has enjoyed reasonable success but has suffered image and status problems from the beginning because the family court is a statutory court not specifically mandated by the Delaware Constitution. This circumstance places the court on an unequal footing with the state's general trial courts when it comes time for appropriations.

Historically, a scattering of states have created juvenile and domestic relations courts as a means of coordinating jurisdiction over the child and family. Typically, these courts have jurisdiction over delinquency, abuse, neglect, custody, and support but not over divorce and dissolution of property. Virginia, which is experimenting with family courts in several jurisdictions, is typical of states with this form of court organization, and while such an approach has advantages, such as having most of the relevant jurisdiction over children and a mandate to act in their interest, such courts typically lack status and do not compete well for resources. The judiciary in such courts are not compensated at the same level as those in general trial courts, and in Virginia, the juvenile and domestic relations court go to the general trial court for hearing de novo, further diminishing the standing of the court in the legal hierarchy.

Other states have, from time to time, experimented with children's courts. Essentially, children's courts are juvenile courts with expanded jurisdiction over children; New Mexico is an example of a state with this type of court, as is Colorado. Where the typical juvenile court has jurisdiction over delinquency, abuse, neglect, dependency, and related issues, such as termination of the parent-child relationship, children's courts typically also have jurisdiction over child support, paternity, adoption, and mental health commitment proceedings for children.

3. Procedure

Typically, court procedures flow from rules developed by state supreme courts, an accumulation of legal opinions interpreting state statutes, or both. This situation arises in part because most state constitutions vest rule-making authority in the state's highest court rather than in the legislature. There are exceptions to this rule, such as the state of Louisiana where the legislature and the supreme court both have rule-making power. This tradition notwithstanding, an increasing number of state legislatures have passed legislation aimed at streamlining the procedure for handling child and family matters. For example, when a criminal offense is filed, the New York Criminal Code requires the clerk of court to notify the family court if there is a family offense proceeding in the family court. However, for this provision to be actualized, the same act must be alleged in both courts.

The Colorado Children's Code requires the general trial court to certify questions of legal custody to the juvenile court in divorce and custody cases if a petition involving the same child is pending in juvenile court or if continuing jurisdiction has been previously acquired by the juvenile court. That same statute also enables the district court to request the juvenile court to make recommendations pertaining to guardianship or legal custody and enables the juvenile court to subsequently take jurisdiction in a case involving any child who may be the subject of a divorce and custody proceeding in the general trial court if that child subsequently comes within the jurisdiction of the juvenile court.

Utah has similar legislation that permits the general trial court to transfer any divorce and custody proceeding to the juvenile court and mandates such transfer if the general trial court becomes aware, during the divorce and custody proceeding, that the juvenile court has an abuse and neglect proceeding pending involving the same child or children. The Utah legislature also requires that in any case where the state files a criminal action alleging child abuse that the state also file a protective proceeding regarding the victim of the child abuse in the juvenile court. All of these statutes have one aim: the increased coordination of court jurisdiction over children and families.

The Utah statutes typify approaches that legislatures may take to increase case coordination. However, they are not perfect. For example, the Utah statute requires counsel for plaintiff and defendant in divorce and custody cases to notify the court if other actions involving the children have been filed, but the court has no means of knowing whether counsel is complying with such requirements. Moreover, the permissive statute that permits the general trial court judges to transfer any divorce and custody case to the juvenile court opens the way for the general trial court to "dump undesirable cases" on the juvenile court, thereby exacerbating communication problems between the two courts rather than achieving case coordination. The statute that requires the filing of a protective proceeding in child abuse cases when a criminal action has been filed provides no guidance on which proceeding is to be heard first—creating a dilemma for the juvenile court, which often feels compelled to act expeditiously on the protection order, thereby permitting the prosecutor to "go fishing" in the protective proceeding to aid criminal prosecution. These dilemmas notwithstanding, Utah's legislature has more or less pioneered the legislative trail to improve coordination of legal proceedings involving the child and family.

4. Administrative Support and Resources

If courts are to integrate proceedings involving children and families, they must have a means of becoming aware that there is a need to coordinate proceedings in a specific case. The resources required to achieve this awareness are many, but none is more critical than sound management information systems that permit a court to identify quickly other proceedings that may be under way in other courts when a case appears in a juvenile and family court. Again, Utah has been one of the leaders in this regard. Utah has, for the past 20 years, had a state-of-the-art statewide management information system for its juven¹⁷ for the that enables the court system to search promptly for any prior cate that management information system that can be used within that court to search for prior cases of divorce and custody proceedings involving the family, but there is no interface between these two systems that permits a search across courts.

New Jersey has recently implemented a statewide information system that will eventually contain the total legal record of any family's court experience in child and family proceedings. New Jersey's system is by no means an accomplished feat yet, but it is an ambitious step in the direction that other states will need to take if courts are to have available the information required to achieve effective coordination of child and family legal matters.

Courts not only need information to integrate proceedings, they need efficient access to substantive resources. If courts seem fragmented in their approach to children and families, public administrative agencies go them one better. Even though the needs of children and families do not lend themselves to neat categorization, legislatures often find it necessary to categorize the funding of substantive services to facilitate administration. As a consequence, the integration of legal proceedings becomes only the first step in the state's attempt to improve service for children and families. However, state legislatures are also beginning to integrate the provision of services. Tennessee has passed legislation that enables the juvenile court to order that a child's case be managed by an interdepartmental case management team rather than relying on a single agency to negotiate needed services with other agencies. When the court makes such a disposition, the interdepartmental team has authority to arrange services needed by the child as directed by the court in all cases except those involving the need for special education services. Apparently, Tennessee state laws, and federal statutes governing the delivery of special education services, preclude the use of interdepartmental case management teams for children requiring special education services.

C. Actions that Seem Logical for Legislatures

1. Information Systems

There is no greater administrative need in juvenile and family courts than soundly conceived and implemented management information systems. The technology has been within economic reach for some time, but legislatures have been slow to enable courts to develop management information systems. Some of the reasons are apparent. Records can disable as well as enable. When records are electronically encoded, it becomes almost impossible to expunge them. In courts of law, electronic records are for information only; they cannot serve as the actual record of court proceedings, but they can become a social liability for the record subject. Then there is the matter of unauthorized access to electronic records. We read daily of creative thieves and pranksters breaking into databases, stealing enormous sums of money, destroying valuable records, infecting records with viruses, and generally causing havoc. But perhaps the greatest problem with records of all typesespecially electronic records-is lack of accuracy. At times it seems almost impossible to create official records that are updated and changed as required, but, in fact, it can be done. None of these impediments should be minimized, but neither should they be used to discourage legislation that supports the development of management information systems, especially systems to coordinate child and family legal proceedings.

A state does not need to create an integrated family court to develop a management information system to track cases and orders involving the same family in all its courts. Though no state currently has a management information system that can assist in accomplishing complete case coordination, New Jersey—as mentioned earlier—is striving for that goal. Other state legislatures are beginning to respond to the problem. Nevada, in passing its new family court legislation, authorized an administrative assessment in the cases of persons found guilty of a misdemeanor or the violation of municipal ordinances. Courts can use a portion of this administrative assessment to

improve the administration, including the acquisition of computers, and a portion of the assessment is dedicated to the development of a uniform system for judicial records in Nevada. Idaho's domestic violence code requires that law enforcement agencies develop the capacity to electronically disseminate protection orders to all agencies within the state. This is a small but vital step in coordinating family cases, and one that only legislatures can take.

2. Judicial Education

Most states make some provision for the training and continuing education of the judiciary; however, few states mandate specialized training for juvenile and family court judges and appropriate the necessary funds to accomplish the mandate. This circumstance persists even in states that have created family courts. At times, it seems that legislatures do not realize that judges do not become competent by winning an election or gaining an appointment to the bench. They must receive education in their specialized assignments and that education must be continuous. Some states, such as California, have begun to address the need for specialized training of juvenile and family court judges by developing court rules to require such training. In Nevada, the legislation creating family courts in Reno and Las Vegas makes explicit provision for specialized training of new family court and juvenile court judges in that state but does not contain any provision for continuing that specialized education beyond that provided for new judges.

It hardly seems worth the effort to establish specialized courts or to make special efforts to coordinate family cases without the ability to achieve full specialization of the judiciary. However, this goal requires more than training; it requires the ability to assure that the judge has the assignment for a sufficient period of time to gain the experience and knowledge required to discharge the duties without burning out or becoming an uncontrollable power broker. Many states have sought to deal with burnout and power accumulation by routinely rotating the judiciary throughout the full array of general trial court jurisdiction. This approach assures that judges are generally educated, usually neutralizes the power buildup, and sometimes helps with burn out-but not always. But the price paid by regular rotation of the judiciary is a heavy one. It not only precludes the development of accumulation of specialized knowledge, it kills the potential for leadership and resource development. A better arrangement might consist of the appointment or election of specialized family court judges, with a system of planned, short-duration rotations to other calendars on an annual or semiannual basis, buttressed by a strong judicial oversight commission and a set of career incentives for the judiciary. Some of these matters are open to legislative remedy.

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3. Substantive Services

As important as the procedural coordination of family cases may be, and it is important, it pales in significance to the importance of the effective. coordination of substantive services ordered by the court. The fragmentation and unplanned duplication of child and family services for family members who are the subject of a court order is a bottomless, perverse, and polymorphous pit. Legislatures create omnibus human service agencies, but they do not deal satisfactorily with the issue of separate funding streams. As a consequence, the structural amalgamation of human services creates bureaucratic impediments and does very little to coordinate the flow of services. Even in the best of circumstances, adult protective services-where they exist-are not coordinated with child protection services. URESA records, are not available to anyone except URESA officials. Juvenile records are confidential, sometimes even to those with a compelling need to know. In some states, such as New Jersey, the same is true of divorce records. Foster care has money to provide temporary out-of-home placement, but no money that can be used to turn on the heat so the children won't have to be removed. Delinquent youth can only be served in facilities that house delinguent youth. Children cannot be served in agencies that serve adult criminals. Depending on what time of the year it is, persons with developmental disabilities must be provided with separate accommodations, or they cannot be provided with special accommodations. And the list almost seems endless.

Again, this is an area where legislatures can be of substantial assistance to courts hearing family matters, not by structurally reorganizing services but by integrating funding streams and making it possible to serve families in the way needs arise, rather than the way government happens to be organized. The state of Kentucky, among others, has made significant strides in the past two years in accomplishing this goal and, in the community of Louisville, is also experimenting with the assignment of a family social worker to each family court judge to determine whether this is a viable means of coordinating service delivery in family court matters.

4. Alternatives to Adversarial Process

Adversarial process is a system that gets at the truth by employing adversaries to conceal the truth. In today's language, trial lawyers are *spin doctors*. They succeed or fail to the extent that they can create the illusion of innocence for their clients and the appearance of guilt for their adversary's client. This decision-making process takes an inordinate toll on the participants in divorce and custody squabbles, abuse/neglect proceedings, family

violence, visitation, child support, and most family matters that come before the court. Adversarial process not only fans the flames of conflict at the very point that all rationality cries for a conciliatory action, it typically leaves plaintiff and defendant feeling cheated because they never get to "tell their story." So even the explation that comes from venting one's spleen is denied by adversarial process. This tendency has been long recognized but seldom effectively addressed. The use of mediation in divorce and custody cases has grown in this country in the past ten years, and the research evaluating the use of mediation—especially in divorce and custody—is quite encouraging, but its use is still meager in terms of its potential. Such is the frustration with the adversarial process in family matters that the Nevada legislature recently mandated that "the family court shall wherever practicable and appropriate, encourage the resolution of disputes before the court through non-adversarial methods or other alternatives to traditional methods of resolution of disputes" (Senate Bill 395, p. 2). The legislature did not specify any particular form of conflict resolution but left no doubt that it intended for the court to be innovative in its search for alternative decision-making methods. Neither did it appropriate any resources to document the efficacy of alternative decision making, but such action is clearly within the purview of legislatures, and the time is right.

Concluding Observation

The need to coordinate court actions in family cases is compelling. A few of the means by which legislatures may address these needs have been presented herein, but the needs are deep and the opportunities are myriad, constrained only by our vision and will.

<u>Epilogue</u>

D ORTY-TWO PERCENT OF THE RESPONDENTS TO A NATIONAL SURVEY of court officials in 150 court locations reported dissatisfaction with case coordination in matters affecting the family. There is no comparable information on how satisfied families are with court responses to multiple problems, but problems can arise when families are involved in more than one type of case in more than one court or court division. At least, the potential for multiple court visits and conflicting orders is present when different courts handle related cases. Moreover, legal problems of families not resolved at the time of first contact with the court may escalate into more severe problems down the line. This is not to encourage unrealistic expectations of what courts can do to resolve family problems, because certainly court resources and social service agency resources are severely limited almost everywhere. It does mean that either courts or a designated social service agency may need to take the lead in coordinating services so that scarce resources can be applied most efficiently.

Given this statement of the problem, what has this research shown? The following questions and answers summarize this project's findings.

Are there a sufficient number of related cases involving families to warrant the effort necessary to coordinate cases? The answer is yes, regardless of which method of estimating related cases is used. Overall, court officials estimated that a third of the divorce, abuse and neglect, and delinquency cases would have one or more related cases, whereas the search of court records found the percentage of related cases to be even higher (41 percent). The national survey of courts showed estimates of the proportion of related cases ranged from 24 percent for divorce to 40 percent for child abuse and neglect. Obviously, the number of related cases will depend upon how relationships are defined and how far back in time the search is pursued. In any event, there are enough different cases involving families in court to justify court efforts to identify related cases involving the same family. The research presented here, however useful, only begins to shed light on the number of cases that involve one family that are alled concurrently or consecutively in domestic relations, juvenile, family, or criminal courts.

Which related cases occur together? Client surveys in the three sites revealed that child custody, support, or visitation, whether in conjunction with divorce or separate from divorce, were the most likely to occur together. Court records in the same three sites also showed that divorce cases were related to domestic assaults and to prior divorces. The national survey respondents linked divorce cases to child custody, abuse or neglect, and domestic violence cases.

Abuse and neglect cases were most associated with delinquency, custody/support/visitation separate from divorce, and domestic assault in the three-site client survey, and with child custody, divorce, and either prior abuse and neglect or abuse and neglect of a sibling in court records. The national survey found abuse and neglect cases most likely to occur with divorce, delinquency, or another instance of abuse and neglect.

Delinquency cases were most associated with other instances of delinquency, including delinquency of a sibling, in the three-site client survey and with a child in need of supervision/services, divorce, and related delinquencies in the court records. Respondents to the national survey linked delinquency with divorce, abuse and neglect, and related delinquencies.

When should related cases be heard by the same judge who heard other cases involving the family? Obviously, it would be preferable to have the same judge who hears the divorce hear the related custody, visitation, and child support matters, whether or not they are consolidated into one case. Custody and child support are pressing matters, which may need to be decided before a final divorce decree is entered.

Other relationships are not nearly as clear. Is it necessary to have a judge who granted an uncontested divorce to a young couple ten years ago hear a delinquency case involving their child? The issue of whether or not litigants prefer the same judge to hear related cases involving the family is certainly an issue in need of further research. Before evaluating this concept of judicial continuity further, research is necessary on the importance *litigants* place on appearing before the same judge. If continuity is not perceived as a benefit by court clients, perhaps attention can be devoted to other ways of having courts provide services to families.

What is the proper balance between tenure on the bench sufficient to promote experience in family law and tenure long enough to promote burnout? The ABA Standards (Section 1.11(b), 1990:10) favor a unified trial

court with a specialized family division to achieve specialization and favor periodic rotation to prevent specialized divisions from becoming a preserve of individual judges. Rotation is also valuable to provide some variety to judicial work, yet many courts are only able to keep pace with their enormous caseloads by the high degree of expertise gained through specialization in family law. In his interviews with 14 judges, Hurst (1991) found that rotation raised perspectives for judges, accorded juvenile and family jurisdiction equal stutus with other jurisdictions, and had some value in preventing "dynasties." On the other hand, rotation had an equal number of shortcomings, including the "no one in charge" syndrome; discouragement of career specialization; disincentive to training; less continuity in dealing with probation officers, lawyers, prosecutors, and social workers; and disadvantages for the judiciary in the competition for fiscal resources. Judge respondents to the national survey preferred a two-, three-, or four-year term of office. Courts should review their approaches to judicial assignments to the juvenile, domestic relations, or family courts so that assignments are made for at least 12 months and preferably for 24 months. The Senate Task Force in Family Relations Court (1990:5) in California recommended that incentives be created to encourage judges to serve three-year assignments. Medium and larger-size trial courts that use generalist judges and have no specialized division should designate judicial specialists so that family matters have a better chance of being heard by the same judge and that this judge's acquired knowledge of the problems of this work load can be used to facilitate judicial system improvement.

How does the balance between judicial rotation and specialization affect the one-family/one-judge concept? Except in courts with very long terms of office, it is simply not possible to have cases related to the family heard by the same judge that heard a previous case involving the family. Moreover, the one-family/one-judge concept is complicated further in courts where judges sit in multiple locations and by families that move frequently.

The continuity issue extends beyond judges to other court officials that have contact with the family. A number of juvenile courts and domestic relations courts use referees, masters, commissioners, or other judicial hearing officers to hear certain causes in these courts, frequently subject to judicial review or appeal. These officials, within the restrictions of their roles and responsibilities, can be scheduled to hear causes that involve different family members and to hear different hearings at different stages of a proceeding that involve the same family members. The continuity concern applies also to prosecutors, public defenders, contract attorneys who represent parties in these particular courts, guardians ad litem, probation officers, and child protective service workers. For example, one St. Paul, Minnesota, prosecutor is responsible for all child abuse and neglect cases in the juvenile division and oversees the attorneys who prosecute the criminal charges that involve the same children as victims in the criminal division. A guardian ad litem can be appointed to represent the child in the juvenile division, represent the same child who is involved as a victim in the criminal division, and represent the same child if there is a custody concern in a domestic relations matter. Who is assigned from these offices to these courts and the durations of their assignments is pertinent to the continuity issue. Presiding judges should review the assignment schemes of these agencies and encourage lengthier appointments.

What coordination of cases can be accomplished without changing court structure? It is clear that court coordination of cases involving the family is necessary. Nearly all respondents to a national survey stressed the importance of knowing about prior cases involving the same family member and related cases involving other family members. Coordination can be encouraged by court rule or statute, by changing recordkeeping procedures, and by liaison with service-providing agencies.

Court Rules or Statutes. Court systems should review their particular authority to consolidate cases. (Rubin and Gallas 1989: 48-54). State-level and local rules of court can provide for coordination if not consolidation of certain proceedings, e.g., custody proceedings that are filed in different divisions of a court or in different courts.

More statutes and supreme court rules should be enacted similar to the Utah provision that mandates transfer of child custody, support, and visitation issues from the divorce court to the juvenile court when the child is known to the latter. The Utah provision that mandates that public and private attorneys must file notice with a court when the family or the children are known to be engaged in other family-related causes should be modeled elsewhere. Similar local rules can be created also. The Uniform Child Custody Jurisdiction Act requires that parties and attorneys inform the court of other domestic relations or juvenile court actions. Attorneys have informed project research staff that they would comply better with these requirements if they were monitored more regularly and effectively by the judges.

States should consider implementation of a statute similar to the California Welfare and Institutions Code §355.7 that provides that testimony of a parent, guardian, or another person who has custody of a child who is subject to a child abuse and neglect proceeding shall not be admissible as evidence in any other action or proceeding (see also *Ir. re Katrina L.*, 247 Cal. Rptr. 754 (1988)). This type of provision removes the opportunity for a party to obtain a continuance in the abuse and neglect proceeding in juvenile court while a criminal proceeding is pending since the juvenile court testimony will not compromise the right against self-incrimination. California Rule 307 allows a judge "to sit for all purposes in those small percentage of cases where there's overlap and the judge can settle those issues" (Hugh M. Isaac, director of family court services, Senate Task Force on Family Relations Court 1990:20).

Recordkeeping. An automated system should alert judges each time families return to court on a related matter to ensure that all matters can be decided by well-informed judges with the minimum number of court visits by families, thus reducing the potential for conflicting judgments. All courts need to examine the feasibility of linking family case information to related cases involving family members. For example, abuse and neglect and juvenile delinquency are sufficiently related to divorce and to custody, support, and visitation matters separate from divorce to justify the interaction of these casetypes. Stronger coordination of divorce, separate from divorce, and domestic violence protection proceedings may also be profitable. If these different casetypes now are heard in different courts, the feasibility of accessing family record information across courts should be assessed. While not easy to achieve, the automated system is vital to information retrieval and 'o judicial case assignment.

Information on intrafamily criminal assaults should be shared as needed. This means linking juvenile and family court records to criminal court and corrections information systems. Communication must go both ways. Judges need to be informed of related cases involving the family, and presentence reports may need to include information on the status of children and make provision for visitation by a sentenced mother. In some states, confidentiality laws may need to be modified to permit the sharing of information while still protecting the privacy of families.

Liaison with Social Service Agencies. Courts should improve coordination with probation departments and social service agencies. Either courts or one of the social service agencies need to take the lead in coordinating services to the family. A number of community agencies may be engaged with different family members. The different agency representatives involved should be encouraged to coordinate their actions and provide information to the other professionals regarding their case activities. A court that coordinates hearings that involve different family members will be more interested in bringing these agencies together to encourage their coordination of service delivery. The concept of one family/one probation officer or one family/one social worker may also need to be explored further.

Should States Without Family Courts Create Them? The purpose of this research was to determine how courts could better serve families, regardless of how the courts were organized. Many of the coordination mechanisms outlined in this report are applicable to all courts. Certainly family courts promote coordination, promote better decisions, are desirable to the extent that they keep judges informed of cases involving family members, facilitate service by encouraging coordination with social service and probation agencles, and reduce the potential for conflicting orders or multiple court visits by family members. The promise offered by the research is that improvements in coordination of cases involving the family can be achieved in *all* courts.



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